



# Topline

Newsletter of the Tennessee Medical Association

Issue  
11  
Sept./Oct. 2021

## New "Appropriate Prescribing in Tennessee: 2021-2022" Course

Page 4.

### What's Inside



#### Recap: October Meeting of the Board of Trustees

Review the most recent decisions made by TMA's Board of Trustees.  
**Page 3.**



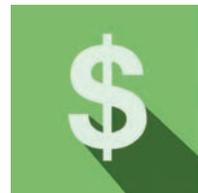
#### NAM Bicentennial Anniversary Gala

We highlight the elegant event that took place in early October.  
**Page 5.**



#### New Court Ruling Involving APRNs and PAs

A new ruling clarifies who is responsible for furnishing patient medical records.  
**Page 6.**



#### Membership Dues Reminder

Renew your membership for 2021 before the end of this year.  
**Page 4.**

# FROM the PRESIDENT

Thank you for the privilege of serving as president of our Tennessee Medical Association over these last few months. Time has passed quickly, but we have been hard at work for our members. I am pleased to share news of our progress with you.

My chief goal has been to increase membership in our physician-led organization. We have experienced recent success taking our TMA message to decision makers across our state. We are pleased to report that a number of medical practices have committed to memberships for all their physicians resulting in positive membership gains for our TMA. We remain optimistic that the groundwork has been laid for additional opportunities to bear fruit in the coming months.

These new group partnerships will reward those practices with ongoing consultation locally and with TMA on key legislative and regulatory issues, and they will also enhance our grassroots offerings as hundreds of Tennessee physicians gain an outlet to make their voices heard through our TMA and their local medical societies. We remain committed to delivering value by engaging with these new members and creating a collaborative partnership with the organizations that have decided to support our TMA.

These groups understand that state laws directly affect physicians' practice environment and that regulatory changes can sometimes undermine our practice of medicine. We believe doctors need a single, unified voice under which to operate while the rest of health care competes for special interests. It is difficult to win alone or in small groups – disparate, competing voices are not nearly as impactful as one that is

unified. That's why membership in TMA is so important.

Our TMA Board of Trustees recently reviewed and updated rules by which committees operate and how members are selected for service on those committees. Our BOT also voted to allow two members per region to serve on the Membership Committee effective immediately. This will allow our TMA members to take a more active role in the recruitment of our physician colleagues and provide exposure to the many benefits of organized medicine in our state. There simply is no better appeal than a physician-to-physician conversation about the importance of organized medicine. Nominations are also being sought for regional and statewide leadership positions within our TMA. You may learn more by visiting [TNmed.org/elections](https://TNmed.org/elections).

Our BOT also reviewed a tentative budget for 2022 indicating a five-percent increase in revenues and similar increases in expenditures. Our estimated expense budget is about \$3.5 million.

Let us all take a moment to remember that our TMA and our local medical societies offer us an opportunity to express not just the frustrations, but also and especially the successes that we experience in our respective day-to-day practice environments.

We should all keep in mind the important role we play as individuals and as TMA in advancing the practice environment in our state. It is up to us to get involved and make a difference for our profession and our patients.



Ronald Kirkland, MD | 2021-2022 President

## Two TMA Members Recognized with Service Awards



On August 9, TMA presented **Dr. Jerry Thompson** with an award for his many years of service and dedication to TMA. Dr. Thompson served on TMA committees for nine years, from April 2012 through May 2021, beginning as Chairman of the Insurance

Committee and ending his tenure as Chairman of the Membership & Recruitment Committee. Dr. Thompson was instrumental in helping TMA implement discounts for large groups. He will be retiring from practice at the end of the year. We appreciate Dr. Thompson's many years of membership and dedication to TMA, and wish him the best as he transitions into retirement.

On August 10, **Dr. Charles Leonard** was presented with an Appreciation of Service plaque by TMA President **Dr. Ron Kirkland** at the Lakeway Medical Society meeting in Morristown, TN. The plaque—signed by Dr. Kirkland, TMA CEO **Russ Miller** and Chair of the Board of Trustees **Dr. James W. Cates**—listed the multiple TMA committee appointments that Dr. Leonard has held since 2003, and his most recent role as the Vice Speaker of the House of Delegates from 2018 to 2021. We thank Dr. Leonard for his participation and service; he exemplifies a physician leader and has TMA's most sincere gratitude.



Top: Dr. Jerry Thompson with his award. • Above: Dr. Charles Leonard receives a plaque from TMA President Dr. Ron Kirkland.

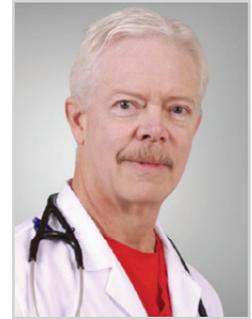
# TMA Board of Trustees Quarterly Meeting Recap

The TMA Board of Trustees held its quarterly meeting on Oct. 2 at the TMA offices in Nashville. Traditionally, our fall meeting is a time to solidify directives for the coming legislative year and set our preliminary budget for the new year. In addition, your Board of Trustees addressed:

- **New committee process:** The Board reviewed and updated rules by which committees are managed and how members are selected for service. This information will be shared with component medical society leadership.
- **Adding additional members to the Membership Committee:** The Board voted to allow two members per region to serve on the Membership Committee effective immediately. If you are interested in being considered for this committee, contact **Amy Campoli** at [amy.campoli@tnmed.org](mailto:amy.campoli@tnmed.org).
- **Diversity within TMA and professional membership associations:** **Mr. Shaka Mitchell** met with Board members to discuss personal perspective on common situations, emphasizing how one person's perspective might differ from another's, and that by having greater diversity of leadership, our organizations can better represent our members.
- **Elections for 2022:** Nominations are being sought for regional and statewide leadership positions within TMA. The Nominating Committee will convene in November to ratify the slate for TMA President-Elect, regional trustee members and judicial councilors. Visit [TNmed.org/elections](https://tnmed.org/elections)
- **Pain management via telemedicine:** The Board voted

not to support a request to petition the governor to extend an executive order allowing pain patients to be treated by telemedicine.

- **Bylaw Amendment 6-21:** This resolution was referred to the Board. After consideration and debate, the Board voted not to adopt the resolution as referred. The resolution dealt with a proposed Bylaws change which would have adjusted the number of members needed for a region to receive an additional seat on the TMA Board.
- **2022 Budget:** The Board reviewed a tentative budget for 2022 indicating a five-percent increase in revenues and similar increases in expenditures as we expect a return to more normal operations in the legislature and with member events. The estimated expense budget is about \$3.5 million.



James Cates, MD  
Chair, TMA Board of Trustees



Ron Kirkland, MD  
President, TMA

Thank you for your membership and support of organized medicine in our state. The next TMA Board of Trustees meeting will take place in January 2022. Please contact the board with any questions at [membership@tnmed.org](mailto:membership@tnmed.org).

---

## Benefits renewal season is quickly approaching & TMA can help!

Benefits season is upon us. It's wise to perform a comprehensive review of your benefits plans annually. **TMA can assist with your small and large group health plans, disability insurance, and retirement plans.**

Capitalize on the stability and strength of a large number of covered individuals in **TMA's Captive Group Health Plan** compared to a fully-insured alternative. Our **401(k) Member Retirement Plan** allows you to save on program fees and reduce administrative burden by eliminating an annual audit, shifting plan trustee duties, and having a dedicated 3(30) fiduciary. Safe harbor provisions maximize physician savings and streamline administration. There is complete flexibility in plan design and profit sharing, and financial planners are available to advise you.

Please give us the opportunity to provide a quote. Chances

are, we can save you money. Contact [memberservices@tnmed.org](mailto:memberservices@tnmed.org) with questions or for more information.

### Help patients save money on prescriptions

TMA helps your patients get the best possible pricing on medications with Tennessee Drug Card, a consumer discount program for brand and generic prescriptions. Accepted at 68,000 pharmacies nationwide, this program uses LOWEST PRICE LOGIC to guarantee the best deals on prescriptions (the lower of a discount off Average Wholesale Price (AWP), discount off MAC Pricing, or Pharmacy Promotional/Retail price).

To get a coupon, patients can go to [tennesseedrugguard.com](https://tennesseedrugguard.com) and choose whether to receive the coupon via text or email. Then, they can either save or print the coupon. Coupons can be used immediately and no personal information is required. Questions? Email [memberservices@tnmed.org](mailto:memberservices@tnmed.org).

# New "Appropriate Prescribing in Tennessee: 2021-2022" Course

TMA has updated its proprietary, accredited online prescribing course to include a new video with updated, current information and revised course materials.

Tennessee state law requires all physicians renewing a medical license in 2022 to have completed two hours of prescribing CME during the calendar years 2020 or 2021. The BME approves of this course.

The "Appropriate Prescribing in Tennessee: 2021-2022" course is accredited for a maximum of 2 AMA PRA Category 1 Credit(s)<sup>™</sup> (Enduring), by the Accreditation Council for Continuing Medical Education (ACCME) to provide continuing medical education. This program is for physicians and all others on a healthcare team who are licensed to prescribe medication for pain, and features **Michael Baron, MD, MPH, DFASAM**.

"Dr. Baron is one of the foremost authorities in Tennessee on appropriate prescribing and proper pain management," says **Dennis Higdon, MD**, chair of TMEF. "For years he has been an educator, and shared his knowledge with physicians on this important subject. In this new, comprehensive presentation he provides vital information every physician should know."

Below are some of the topics that have been updated or newly introduced in the course:

- Information about carfentanyl
- Controlled Substance Monitoring Database (CSMD) statistics
- Morphine Milligram Equivalent (MME) statistics
- Information regarding pregnant women
- The Tennessee Professional Screening Questionnaire (TN-PSQ) data



Tennessee Medical Foundation Medical Director Michael Baron, MD is board certified in Anesthesiology, Psychiatry and Addiction Medicine, and has published original research showing that chronic opioid use increased chronic pain scores.

"Dr. Baron's decades of commitment to physician education of proper pain management has made him one of Tennessee's foremost authorities," says **Adrian Rodriguez, MD**, TMA board member and chair of the Education Committee. "That dedication is evident in this presentation, which provides vital information and data every physician should hear."

TMA's proprietary, accredited online course costs \$49 for TMA members and \$99 for non-members. It is available 24/7 at [TNmed.org/prescribing](https://tnmed.org/prescribing). For questions regarding CME, contact **Kathleen Caillouette** at [Kathleen@tnmed.org](mailto:Kathleen@tnmed.org).

**Dangers of Fentanyl**

- Direct substitute for heroin or opioid addiction
- Dose require for euphoric effect also induces respiratory depression
- Requires an "accurate cut" which is almost impossible clandestinely.
- Utilized as cutting agent for Heroin, Methamphetamine, Cocaine and counterfeit
- Physical Characteristics present significant hazards

TMA Source: Tennessee Bureau of Investigation

## Renew Your TMA Membership for 2021

Because of you, the TMA membership has grown to more than 9,000 members who share a commitment to promoting safe and effective medical care for our patients, and control a persuasive voice with state government and regulatory agencies.

TMA remains the largest, most active, most respected and most influential professional organization for physicians in Tennessee, proudly representing all doctors from all specialties.

We need your continued support through your membership. Please take time to renew for 2022 before Dec. 31 by going to [TNmed.org/renew](https://tnmed.org/renew). You may also learn more about TMA's biggest achievements on your behalf by visiting [TNmed.org/wins](https://tnmed.org/wins).

We are proud to advocate for you to protect and improve the healthcare landscape in our state. Thank you for your membership.

# Nashville Academy of Medicine Celebrates Bicentennial Anniversary in Style

*Written by Rebecca Leslie, CEO of NAM*

On the first Saturday in October, the Schermerhorn Symphony Center in Nashville was illuminated with a touch of glamour and celebration not seen in roughly two years. The Nashville Academy of Medicine welcomed hundreds of physicians and their guests to a bicentennial gala benefiting the Medical Foundation of Nashville and honoring 200 years of physicians serving Nashville.

The halls were adorned with displays of antique medical memorabilia, photos, manuscripts and archives from the history of the Nashville Academy of Medicine. A silent auction took place throughout the beginning of the evening. When cocktail hour ended, guests were ushered into Laura Turner Concert Hall for an elegant dinner complete with a string quartet and illuminated reminders of the 200th anniversary.

**Robin Williams, MD**, NAM board chair; **Nicole Schlechter, MD**, NAM president; **Ralph Atkinson, MD**, MFN board chair; and **Christopher Ott, MD**, MFN board vice-chair, addressed the audience to honor distinguished guests, shared the history and accomplishments of the organization, and lead in the celebrations of the evening. Guests danced the night away to

the songs of the renowned Jimmy Church Band, and ended the evening with a toast to honor the history and the future of the Nashville Academy of Medicine and its physician members.

Below: TMA Leaders and their wives, left to right – Yarnell Beatty, Liz Beatty, Ron Kirkland, MD, Carol Kirkland, Susan Miller, Russ Miller, Connie Cates, and James Cates, MD. • Bottom Left: NAM and MFN Leaders, left to right – Rebecca Leslie, Ralph Atkinson, MD, Nicole Schlechter, MD, Christopher Ott, MD, and Robin Williams, MD. • Bottom Right: Dinner in Laura Turner Concert Hall at the Schermerhorn Symphony Center.



## IN MEMORIAM

**We offer our prayers and deep gratitude for all passing members. Their positive impact on their patients and profession will last forever.**

**A. Austin Jones, III, MD**, age 68, of the Upper Cumberland Medical Society on July 22, 2021.

**Walter Capote, MD**, age 32, of the Chattanooga-Hamilton County Medical Society on August 4, 2021.

**Clifton W. Emerson, MD**, age 75, of the Nashville Academy of Medicine on August 10, 2021.

**Billy Tillman Hall, MD**, age 93, of the Montgomery County Medical Society on August 13, 2021.

**Ronald G. Blankenbaker, MD**, age 79, of the Chattanooga-Hamilton County Medical Society on August 27, 2021.

**Andrew Herron Miller, MD**, age 96, of the Nashville Academy of Medicine on September 1, 2021.

**Robert Moore Fisher, MD**, age 84, of the Memphis Medical Society on September 17, 2021.

**Calvin Vere Morgan, Jr., MD**, age 84, of the Washington-Unicoi-Johnson County Medical Association on September 23, 2021.

# Court Rules APRNs and PAs Have Duty to Furnish Records to Collaborating Physician

A Davidson County Chancery Court ruling now clarifies that it is the responsibility of APRNs and PAs who collaborate with physicians to furnish medical records to the collaborating physician for patient visits triggering required medical record review and sign-off by the collaborating physician.

The case arose when a **physician appealed licensure disciplinary action by the Tennessee Board of Medical Examiners (BME)**. The physician was reprimanded and assessed civil penalties based on a finding by the BME of four instances where two patients' medical charts were not reviewed by the collaborating physician within 10 days of visits when controlled drugs were prescribed. BME rules require that 100 percent charts be signed off on by the collaborating physician if a controlled drug prescription is issued by their collaborating APRN or PA.

At the hearing of the case, the physician defended by arguing that his APRN, with whom he collaborated remotely, failed to make him aware that the medical records needed to be reviewed or furnish him with the charts. The BME essentially held the collaborating physician to a strict liability standard, finding the physician in violation even though the panel hearing the case could not articulate what the doctor could have done differently to receive the charts for review. There was uncontroverted evidence that the collaborating physician had protocols and instructions regarding chart reviews, but for whatever reason they were not followed by the APRN.

The chart review violations were reversed by the Chancellor on appeal, as was a \$500 civil penalty assessed against the doctor. The parties have 60 days in which to appeal the case to the Court of Appeals. TMA filed an amicus curiae brief in the case in support of the physician, arguing that collaborating APRNs and PAs have a duty to timely furnish charts requiring 100 percent review. Otherwise, physicians would be reluctant to collaborate with mid-level providers if chart review protocols are not followed. In a situation like this one, where collaboration was remote, how would the doctor even know the patient received a controlled drug unless the APRN made him aware and furnished the chart? **Physicians should not have to face reportable licensure actions for omissions beyond their reasonable control.**

As it stands pending any appeal, this is a very positive result for Tennessee physicians. The decision clarifies a point of law never addressed previously by the BME in rule. No more will physicians be held strictly liable for the failure of their collaborating mid-levels to furnish charts to their collaborating physician of patients the mid-levels treat that trigger mandatory chart review by the collaborating physician. Without strict liability in this regard, physicians will have less liability risk for collaborating with mid-level providers. They will be more willing to serve in collaborating roles with APRNs and PAs knowing they will not face discipline from their licensing board for omissions by their mid-levels that they cannot reasonably control.

## Are your death certificates *a disaster?*

Check out our free online training.

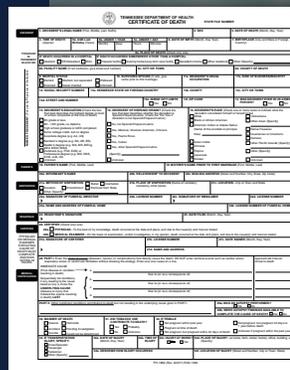
Improving Medical Death Certification in Tennessee, including:

- **Part 1:** Medical Examiner Jurisdiction, Cause and Manner of Death, and Death Certification
- **Part 2:** Guidance for Certification of Disaster-Related Death



Visit [www.tnmed.org/TMA/Education/Improving\\_Medical\\_Death\\_Certification\\_CME](http://www.tnmed.org/TMA/Education/Improving_Medical_Death_Certification_CME) or scan QR code.

The Tennessee Medical Association is accredited by the Accreditation Council for Continuing Medical Education (ACCME) to provide continuing medical education for physicians. Tennessee Medical Association designates this live activity for a maximum of **AMA PRA Category 1 Credit(s)**<sup>™</sup>. Physicians should claim only the credit commensurate with the extent of their participation in the activity.



Earn CME credits!



# Legal Briefs

## BME Adopts COVID Misinformation Policy; Could Subject MDs to Discipline

Effective Sept. 21, 2021, the Tennessee Board of Medical Examiners (BME) adopted a policy whereby medical doctors could risk having their medical licenses disciplined for generating or spreading “misinformation or disinformation” about COVID-19 vaccines. Discipline could include revocation or suspension of one’s medical license. The BME goes on to state that physicians “have an ethical and professional responsibility to practice medicine in the best interests of their patients and must share information that is factual, scientifically grounded and consensus-driven for the betterment of public health.”

The policy emanated from the Board of Directors of the Federation of State Medical Boards (FSMB), of which the BME is a member. The Tennessee Board of Osteopathic Examination is also a member of the FSMB but as of October 8, the Board’s website did not include the policy.

TMA’s position on COVID-19 vaccines is that, currently the best method of preventing infection and severe COVID disease—hospital, ventilator, disability or death—is vaccination. We therefore strongly recommend vaccination for all eligible persons age 12 or older. While it is true that a vaccinated individual can still contract COVID-19, the risk of severe permanently debilitating, or deadly, disease is reduced dramatically.

## President Biden Mandates Vaccines in Most Health Facilities

The Biden-Harris Administration will require COVID-19 vaccination of staff within all Medicare and Medicaid-certified facilities to protect both them and patients from the virus and its Delta variant. The Centers for Medicare & Medicaid Services (CMS), in collaboration with the CDC, announced on Sept. 9 that emergency regulations requiring vaccinations for nursing home workers will be expanded to include hospitals, dialysis facilities, ambulatory surgical settings, and home health agencies, among others, as a condition for participating in the Medicare and Medicaid programs. Facilities across the country should make efforts now to get health care staff vaccinated to make sure they are in compliance when the rule takes effect.

TMA does not interpret this mandate to apply to private medical offices. Go to [cms.gov](https://www.cms.gov) for CMS’s list of affected types of facilities. According to the administration, the mandate is based on the continued and growing spread of the virus in health care settings, especially in parts of the U.S. with higher incidence of COVID-19. CMS is developing an Interim Final Rule with Comment Period that will be issued in October. Visit [cms.gov/newsroom](https://www.cms.gov/newsroom) to read the full press release.

## TOSHA COVID-19 Plan

Tennessee OSHA (TOSHA) issued an emergency rule, COVID-19

Occupational Safety and Health Standards, that was effective on Aug. 24. The rule requires most medical practices to develop and implement a COVID-19 plan. TMA enhanced a template plan provided by OSHA to make the plan development process easier for members. Visit our Coronavirus Resource Center page at [TNmed.org/coronavirus](https://www.tnmed.org/coronavirus) to access *TMA’s Enhancements to OSHA Model for COVID-19 2021 Plan*.

## No Surprises Act – Federal Law on Balance Billing

Congress passed the No Surprises Act (NSA) in Dec. 2020 as part of the Consolidated Appropriations Act (page 1577). It is effective on Jan. 1, 2022 and will apply to all insurance plans (including ERISA plans) except for Medicare, Medicaid and TRICARE. These three plans already prohibit balance billing of patients by a healthcare provider. Rules to provide detail on the implementation of the NSA were published in the Federal Register on July 13, 2021. These rules have been codified in the Code of Federal Regulations at 45 C.F.R. § 149.10 to § 149.450.

The NSA prohibits balance billing for the following: Emergency Services at an Out-Of-Network Facility; Non-Emergency Services from a Non-Participating Provider at a Participating Facility; and Air Ambulance Services. TMA is planning a series of articles to discuss these rules and the impact on physician practices. These articles will cover topics such as services at out-of-network facilities and in-network facilities by out-of-network providers, required patient notices and consents, out-of-network rate paid by insurance plan, independent dispute resolution and the good faith estimate. If you have any questions, contact [legal@tnmed.org](mailto:legal@tnmed.org) or 615-460-1645.

## Laws Impacting a Physician’s Practice

There are many state and federal laws that may require a practice to take an action or make a report. It is a good idea for a practice to review this topic to be sure it is in compliance with these requirements. Go to [TNmed.org/lawguide](https://www.tnmed.org/lawguide) and look for the topic titled, *Laws Impacting Physician Practice*.

## Continuing Medical Education (CME)

Physicians who renew their Tennessee medical license in 2022 must complete the 40 hours of CME required by the Board of Medical Examiners (BME) by Dec. 31, 2021. The BME requirement includes a two-hour prescribing practices course with instruction in controlled substance prescribing and the treatment guidelines developed by the Department of Health on opioids, benzodiazepines, barbiturates and carisoprodol, and may include such other topics as medicine addiction, risk management tools and other topics.

TMA offers a proprietary, accredited proper prescribing course that meets all BME requirements for physicians and their prescribing staff. Learn more at [TNmed.org/prescribing](https://www.tnmed.org/prescribing). Contact the TMA legal department at [legal@tnmed.org](mailto:legal@tnmed.org) with any questions regarding CME compliance.



701 Bradford Avenue  
Nashville, TN 37204

ADDRESS SERVICE REQUESTED

**SVMIC**

Move forward with us at [www.svmic.com](http://www.svmic.com)

When a problem occurs, you need a proactive partner that can navigate unforeseen challenges and help you solve the tough legal issues that come with practicing medicine. In our collaborative claims process, our in-house attorneys and our roster of local defense attorneys help you – our valued members – to be ready for what lies ahead.

**We have your back, so you can move forward.**