

Tenn. Code Ann. § 63-1-164

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[TN - Tennessee Code Annotated](#) > [Title 63 Professions Of The Healing Arts](#) > [Chapter 1 Division of Health Related Boards](#) > [Part 1 General Provisions](#)

63-1-164. Restrictions and limitations on treating patient with opioids. [Effective until July 1, 2023.]

(a) As used in this section:

(1) "Alternative treatments" includes, but is not limited to, treatments such as chiropractic care, physical therapy, nonopioid medicinal drugs or drug products, occupational therapy, acupuncture, interventional procedures or treatments, and other such treatments that relieve pain without the use of opioids;

(2) "Encounter" means a single visit where an opioid is administered or an opioid prescription is issued or dispensed;

(3) "Healthcare practitioner" means a person licensed under this title who has the authority to prescribe or dispense controlled substances in the course of professional practice;

(4) "ICD-10 code" means the code established in the International Classification of Diseases, Tenth Revision, Clinical Modification (ICD-10-CM) adopted by the federal centers for medicare and medicaid services, or the code used in any successor classification system adopted by the federal centers for medicare and medicaid services, that corresponds to the diagnosis of the condition being treated;

(5)

(A) "Informed consent" means consent voluntarily given in writing by the patient or the patient's legal representative after sufficient explanation and disclosure by the healthcare practitioner of the subject matter involved to enable the person whose consent is sought to make a knowing and willful decision. This explanation and disclosure by the healthcare practitioner to the patient or the patient's legal representative before consent may be obtained must include, at a minimum:

(i) Adequate information to allow the patient or the patient's legal representative to understand:

(a) The risks, effects, and characteristics of opioids, including the risks of physical dependency and addiction, misuse, and diversion;

(b) What to expect when taking an opioid and how opioids should be used; and

(c) Reasonable alternatives to opioids for treating or managing the patient's condition or symptoms and the benefits and risks of the alternative treatments;

(ii) A reasonable opportunity for questions by the patient or patient's legal representative;

(iii) Discussion and consideration by the patient or the patient's legal representative and the healthcare practitioner of whether the patient should take an opioid medication; and

(iv) If the patient is a woman of childbearing age and ability, information regarding neonatal abstinence syndrome and specific information regarding how to access contraceptive services in the community. For purposes of this section, childbearing age is between the ages of fifteen (15) and forty-four (44);

(B) Nothing in subdivision (a)(5)(A) limits other requirements imposed on healthcare practitioners by law or applicable licensing authority;

(6) "Morphine milligram equivalent dose" means the morphine milligram equivalent calculation for the amount of a prescribed opioid, multiplied by the days of treatment;

(7) "Palliative care" means specialized treatment for patients facing serious illness, which focuses on providing relief of suffering through a multidisciplinary approach in order to maximize quality of life for the patient. As used in this subdivision (a)(7), "serious illness" means a health condition that carries a high risk of mortality and negatively impacts a patient's daily bodily functions; and

(8) "Treat" means prescribe, dispense, or administer.

(b) Except as provided in this section, a healthcare practitioner shall not treat a patient with more than a three-day supply of an opioid and shall not treat a patient with an opioid dosage that exceeds a total of one hundred eighty (180) morphine milligram equivalent dose. A healthcare practitioner shall not be required to include an ICD-10 code on any prescription for an opioid of a three-day supply or less and an opioid dosage of less than one hundred eighty (180) morphine milligram equivalent.

(c)

(1) A patient shall not be treated with an opioid more frequently than every ten (10) days; provided, however, that if the patient has an adverse reaction to an opioid, a healthcare practitioner may treat a patient with a different opioid within a ten-day period under the following circumstances:

(A) The healthcare practitioner is employed by the same practice that initially treated the patient with the opioid that caused the adverse reaction;

(B) The healthcare practitioner personally evaluates the patient, assesses the patient's adverse reaction, and determines a different course of treatment is more medically appropriate;

(C) The healthcare practitioner confirms with the dispenser that the remainder of the initial prescription has been cancelled by the dispenser;

(D) The healthcare practitioner counsels the patient to appropriately destroy any remaining opioids that were previously dispensed to the patient; and

(E) The healthcare practitioner's treatment of the patient conforms to the requirements of this section.

(2) Notwithstanding subdivision (c)(1), where the treatment provided by a healthcare practitioner is prescribing an opioid, the healthcare practitioner may authorize the prescription to be dispensed by partial fill by placing "partial fill" or "PF" on the prescription.

(d)

(1)

(A) A healthcare practitioner may treat a patient with more than a three-day supply of an opioid if the healthcare practitioner treats the patient with no more than one (1) prescription for an opioid per encounter and:

(i) Personally conducts a thorough evaluation of the patient;

(ii) Documents consideration of non-opioid and non-pharmacologic pain management strategies and why the strategies failed or were not attempted;

(iii) Includes the ICD-10 code for the primary disease in the patient's chart, and on the prescription when a prescription is issued; and

(iv) Obtains informed consent and documents the reason for treating with an opioid in the chart.

(B) A healthcare practitioner who is dispensing pursuant to a prescription written by another healthcare practitioner for more than a three-day supply of an opioid is not required to satisfy subdivisions (d)(1)(A)(i)-(iv) when filling a prescription that contains an ICD-10 code; provided, that the healthcare practitioner shall not dispense more than one (1) prescription for an opioid to a patient per encounter.

(2) If a healthcare practitioner treats a patient with more than a three-day supply of an opioid, the healthcare practitioner may treat the patient with no more than a ten-day supply and with a dosage that does not exceed a total of a five hundred (500) morphine milligram equivalent dose.

(3) Notwithstanding subdivision (d)(2), in rare cases where the patient has a condition that will be treated by a procedure that is more than minimally invasive and sound medical judgment would determine the risk of adverse effects from the pain exceeds the risk of the development of a substance use disorder or overdose event, a healthcare practitioner may treat a patient with up to a thirty-day supply of an opioid and with a dosage that does not exceed a total of a twelve hundred (1200) morphine milligram equivalent dose.

(4) Notwithstanding subdivision (d)(2), in rare cases after trial and failure of reasonable, appropriate, and available non-opioid treatments for the pain condition or documenting the contraindication, inefficacy, or intolerance of non-opioid treatments, where medical necessity and sound medical judgment would determine the risk of adverse effects from the pain exceeds the risk of the development of a substance use disorder or overdose event, a healthcare practitioner may treat a patient with up to a thirty-day supply of an opioid and with a dosage that does not exceed a total of a one thousand two hundred (1,200) morphine milligram equivalent dose. The healthcare practitioner must include the phrase "medical necessity" on the prescription for any prescription issued pursuant to this subdivision (d)(4).

(e) The restrictions of this section do not apply to the following; provided, that where a prescription is issued pursuant to this subsection (e), the prescription contains the ICD-10 code for the primary disease documented in the patient's chart and the word "exempt":

(1) The treatment of patients who are undergoing active cancer treatment, undergoing palliative care treatment, or are receiving hospice care;

(2) The treatment of patients with a diagnosis of sickle cell disease;

(3) The administration of opioids directly to a patient during the patient's treatment at any facility licensed under title 68, chapter 11, or any hospital licensed under title 33, chapter 2, part 4;

(4) Prescriptions issued by healthcare practitioners who are:

(A) Pain management specialists, as that term is defined in § 63-1-301, or who are collaborating with a pain management specialist in accordance with § 63-1-306(a)(3); provided, that the patient receiving the prescription is personally assessed by the pain management specialist, or by the advanced practice registered nurse or physician assistant collaborating with the pain management specialist; or

(B) Treating patients in an outpatient setting of a hospital exempt under § 63-1-302(2) that holds itself out to the public as a pain management clinic.

(5) The treatment of patients who have been treated with an opioid daily for ninety (90) days or more during the three hundred sixty-five (365) days prior to April 15, 2018, or those who are subsequently treated for ninety (90) days or more under one (1) of the exceptions listed in subdivision (d)(4) or this subsection (e);

(6) The direct administration of, or dispensing of, methadone for the treatment of an opioid use disorder to a patient who is receiving treatment from a healthcare practitioner practicing under 21 U.S.C. § 823(g)(1);

(7) The treatment of a patient for opioid use disorder with products that are approved by the U.S. food and drug administration for opioid use disorder by a healthcare practitioner under 21 U.S.C. § 823(g)(2);

(8) The treatment of a patient with a product that is an opioid antagonist and does not contain an opioid agonist; or

(9) The treatment of a patient who has suffered a severe burn or major physical trauma and for whom sound medical judgment would determine the risk of adverse effects from the pain exceeds the risk of the development of a substance use disorder or overdose event. As used in this subdivision (e)(9), "severe burn" means an injury sustained from thermal or chemical causes resulting in second degree or third degree burns. As used in this subdivision (e)(9), "major physical trauma" means a serious injury sustained due to blunt or penetrating force which results in serious blood loss, fracture, significant temporary or permanent impairment, or disability.

(f)

(1) The commissioner of health, in consultation with the regulatory boards created pursuant to this title that license healthcare practitioners, shall study and analyze the impact and effects of the restrictions and limitations set forth in this section. No later than November 1, 2021, the commissioner shall issue a report relative to the impact and effects of the restrictions and limitations to the governor, the health and welfare committee of the senate, and the health committee of the house of representatives. The report may include recommendations for revisions to the restrictions on the prescription of opioids.

(2) The commissioner shall include as part of the report required by subdivision (f)(1) an analysis of the impact of the COVID-19 pandemic on the following:

(A) The lawful, prescribed usage of opioids in this state;

(B) The unlawful diversion of opioids in this state;

(C) The ability of the department to collect data to determine the impacts and effects of the restrictions and limitations established by this section; and

(D) Whether the impacts and effects that were sought to be achieved through the implementation of the restrictions and limitations of this section are achievable by July 1, 2023.

(g) This section applies only to the treatment of human patients.

(h) This section does not apply to opioids approved by the food and drug administration to treat upper respiratory symptoms or cough. However, a healthcare practitioner shall not treat a patient with more than a fourteen-day supply of such an opioid.