

New TN Prescribing Laws 2018 Legislative Update



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Public Chapter 1039: Requirements for Prescribing, Dispensing and Reporting Opioids

Amends **TCA 53-10-303** by establishing the morphine milligram equivalent calculation for an opioid drug contained in Schedules II-V

Effective 7/1/18

"Morphine milligram equivalent dose" means the morphine milligram equivalent calculation for the amount of a prescribed opioid, multiplied by the days of treatment;" added to Title 63, Chapter 1 Part 1

Public Chapter 1039: Requirements for Prescribing, Dispensing and Reporting Opioids

- **Amends TCA 53-10-305 by adding:** New criteria to submit to the control database
- (L) The ICD-10 code for any prescription that contains an ICD-10 code; provided, that this *shall not be mandatory prior to January 1, 2019*, for a dispenser who has not updated the dispenser's software system to enable submission of ICD-10 codes;
 - "ICD-10 code" means the code established in the International Classification of Diseases, that corresponds to the diagnosis of the condition being treated;
- (M) *A value signifying opioid treatment is occurring pursuant to a medical necessity* under [§ 63-1-164](#) for any prescription containing the words "medical necessity." The value will be determined by the committee and published through the committee's website;
- Effective 7/1/18

Public Chapter 1039: Requirements for Prescribing, Dispensing and Reporting Opioids

- Amends **TCA 53- 10-310 (e)(1)** by directing healthcare practitioners to check the controlled substance database prior to prescribing controlled substances, **at the beginning of a new episode of treatment, prior to the issuance of each new prescription for the controlled substance for the first ninety (90) days of a new episode of treatment, and shall check the controlled substance database every 6 months when that prescribed controlled substance remains part of the treatment** (check database every 6 months instead of annually).
- New episode is defined as a prescription from the prescribing healthcare professional that has not been prescribed within the **previous six months**.
(Previously one year)

Public Chapter 1039: Requirements for Prescribing, Dispensing and Reporting Opioids

- Amends **TCA 53- 10-310 (e) (2)** by directing healthcare practitioners to check the controlled substance database for controlled substances **prior to prescribing at the beginning of a new episode of treatment at that practice site and every 6 months** (as opposed to annually) and for the duration of time the controlled substance is dispensed to that patient.

Public Chapter 1039: Requirements for Prescribing, Dispensing and Reporting Opioids

- Deletes TCA 53-10-310 (e)(6)(B) in its entirety, (was an exception to checking the controlled database for healthcare professionals in a particular specialty that determined a low potential for abuse by patients receiving treatment in that medical specialty).
- Amends TCA 53-10-310 (e)(6)(C) by changing the exception to checking the database from a 7 day treatment period to 3 day treatment period.

Public Chapter 1039:

63-1-164. Restrictions on patient treatment involving the use of opioids; exceptions; exemptions

- Adds new language to Title 63, Chapter 1 Part 1
- 63-1-164 (Tentatively). Restrictions on patient treatment involving the use of opioids; exceptions; exemptions
- "Informed Consent"
 - The risks, effects and characteristics of opioids, including the risks of physical dependency and addiction, misuse and diversion
 - What to expect when taking an opioid and how they should be used
 - Reasonable alternatives to opioids for treating or managing the patient's condition
 - 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);

Public Chapter 1039:

63-1-164. Restrictions on patient treatment involving the use of opioids; exceptions; exemptions

- 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 certain circumstances.

Public Chapter 1039:

63-1-164. Restrictions on patient treatment involving the use of opioids; exceptions; exemptions

- A healthcare practitioner may treat a patient more than once within ten (10) days; provided, that the healthcare practitioner shall not dispense an opioid in an amount that exceeds the greater of:
 - A five-day supply per encounter; or
 - Half of the total prescribed amount.

May dispense remainder in a subsequent encounter

- Shall not be mandatory prior to January 1, 2019 (for a dispenser that has not updated their software system).

Public Chapter 1039:

63-1-164. Restrictions on patient treatment involving the use of opioids; exceptions; exemptions

- 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 a one hundred eighty (180) morphine milligram equivalent dose

Public Chapter 1039:

63-1-164. Restrictions on patient treatment involving the use of opioids; exceptions; exemptions

- (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.

Public Chapter 1007

- **TCA 63-1-159** (b)(1) A prescription for a controlled substance may be partially filled if:
 - (A) The partial fill is requested by the patient or the practitioner who wrote the prescription; and
 - (B) The total quantity dispensed through partial fills pursuant to subdivision (b)(1)(A) does not exceed the total quantity prescribed for the original prescription.
- Effective 5/21/2018

Public Chapter 112

- Amends TCA, Title 63, Chapter 1, Part 4
- The commissioner of mental health and substance abuse services, in collaboration with the commissioner of health, shall develop recommended nonresidential treatment guidelines for the use of buprenorphine that can be used by prescribers in this state as a guide for caring for patients with an opioid use disorder in a nonresidential setting .

Public Chapter 1059

- Amends TCA 53
- The commissioner of mental health and substance abuse services shall convene a working group to examine the potential impact of authorizing advance practice nurses and physician assistants in this state to prescribe buprenorphine containing products for the treatment of opioid use disorder and any potentially appropriate clinical settings for any such prescribing authority.
- Effective 5/21/18

Public Chapter 674

- Amends TCA 53-11-311 by adding subsection D
- b)(1) Any prescription for buprenorphine mono or for buprenorphine without use of naloxone for the treatment of substance use disorder shall only be permitted to a patient who is:
 - A) Pregnant; (B) A nursing mother; (C) Has a documented history of an adverse reaction or hypersensitivity to naloxone; or
- (D) Directly administered the buprenorphine mono or buprenorphine without use of naloxone by a healthcare provider, acting within the healthcare provider's scope of practice, for the treatment of substance use disorder pursuant to a medical order or prescription order from a licensed physician provided, however, that it is not dispensed to a patient in a manner that would permit it to be administered away from the premises on which it is dispensed. Effective 4/2018

Public Chapter 864

- Amends TCA 71-5-19 by adding:
- The Bureau of TennCare shall promulgate rules to promote the safe and responsible coverage of opioids for TennCare members who have the TennCare pharmacy benefit. The rules must, at a minimum, address prior authorization requirements for opioid prescriptions, as determined by the bureau, to reduce the development of opioid dependency and addiction. For women of child-bearing age, when prior authorization is required for an opioid prescription, the rules must require the provider to submit information regarding pregnancy status, contraceptive use, and the provision of counseling regarding the risks of becoming pregnant while receiving opioid medication. The information regarding pregnancy status and contraceptive use may, when appropriate, be based on self-reporting by the patient.

On or before January 1, 2019, the bureau shall report to both the health and welfare committee of the senate and the health committee of the house of representatives. Effective 5/2018

Public Chapter 901

- Amends 53-11-308 by adding

Prior to prescribing more than a three-day supply of an opioid or an opioid dosage that exceeds a total of a one hundred eighty (180) morphine milligram equivalent dose to a woman of childbearing age (15-44), a prescriber shall:

- (A) Advise the patient of the risk associated with opioid use during pregnancy;
- (B) Counsel the patient on appropriate and effective forms of birth control; and
- (C) Offer information about the availability of free or reduced cost birth control to the patient.
- Effective 7/2018

Public Chapter 995

- Amends TCA 39-13-210- Felony Murder by adding subsection 3
- (2) A killing of another that results from the unlawful distribution of any Schedule I or Schedule II drug, when the drug is the proximate cause of the death of the user.
- (3) A killing of another by unlawful distribution or unlawful delivery or unlawful dispensation of fentanyl or carfentanil, when those substances alone, or in combination with any substance scheduled as a controlled substance by the Tennessee Drug Control Act of 1989, including controlled substance analogs, is the proximate cause of the death of the user.
- Effective 7/2018

Public Chapter 483- Effective 6/2017

- Amends TCA 68-1-128- High Risk Prescribers
 - The Department of Health will identify the top 50 prescribers of Controlled Substances and top 20 prescribers of buprenorphine products. This amendment directs the department to identify high-risk prescribers based on clinical outcomes, including patient overdoses.
 - Providers determined to be high-risk prescribers pursuant to this subdivision shall be subject to selected chart review and investigation by the department, the department shall submit the high-risk prescriber's information to the board that issued the prescriber's license for appropriate action.

Public Chapter 483- Effective 6/2017

TCA 61-1-805

- On or before January 15, 2018, the commissioner of health, in consultation with the perinatal advisory committee and with the assistance of relevant state agencies, shall report to the health committee of the house of representatives and the health and welfare committee of the senate concerning the following aspects of births involving neonatal abstinence syndrome and opioid use by women of childbearing age for the last 2 available fiscal years or calendar years, as may be available:
 - (1) From data available to the Bureau of TennCare , Managed Care Organizations participating in the TennCare program, the Department of health, District and County Health Departments, and the Department of Children's Services,