Public Chapter 124

TN TOGETHER CHANGES

PARTIAL FILL MANDATE FOR OPIOIDS: This newly-enacted law changes the mandate on pharmacists to partially fill opioids, to being optional at the discretion of the prescriber or patient.

Previous Language in TCA 63-1-164 (c)(2):

(A) Notwithstanding subdivision (c)(1), where the treatment provided by a healthcare practitioner is dispensing an opioid, the 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:

- *(i) A five-day supply per encounter; or*
- *(ii) Half of the total prescribed amount.*

(B) The healthcare practitioner may dispense the remainder in a subsequent encounter.

(C) The partial fill requirements of this subdivision (c)(2) shall not be mandatory prior to January 1, 2019, for a dispenser who has not updated the dispenser's software system.

New Language in TCA 63-1-164 (c)(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.*

What does this change mean for pharmacists?

TN Together mandated that pharmacists must partial fill opioid prescriptions for up to 5 days, or no more than half the prescribed quantity. The newly-enacted law removes the requirement for pharmacists to partial fill opioids, and partial filling of opioids is now optional at the discretion of the prescriber, if the prescriber writes "partial fill" or "PF" on the prescription. Pharmacists may now dispense the full quantity of opioids that are prescribed. However, pharmacists should note that the existing day supply limits and Morphine Milligram Equivalents (MME) for 3-day, 10-day, and 30-day prescriptions still apply.

OPIOID PRESCRIPTIONS FOR SURGERY: This newly-enacted law changes the day supply and MME limit for prescriptions written for "Surgery".

Previous Language in TCA 63-1-164 (d)(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 **twenty-day supply of an opioid and with a dosage that does not exceed a total of an eight hundred fifty (850) morphine milligram equivalent dose**.*

New Language in TCA 63-1-164 (d)(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****.*

What does this change mean for pharmacists?

TN Together limited opioids prescribed for surgery to a 20-day supply and a limit of 850 MME for surgery, identified by prescribers as procedures that are more than minimally invasive. This newly-enacted law adjusts the day supply and MME limit for surgery for up to 30 days and a cap of 1200 MME, which is consistent with the "medical necessity" limit that currently exists in law.

OPIOID-CONTAINING COUGH SYRUPS: This newly-enacted law adds an exemption for opioids which are FDA-approved to treat upper respiratory symptoms or cough and prescribed for no more than fourteen (14) days.

Added Language in TCA 63-1-164:

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.

What does this change mean for pharmacists?

TN Together did not exempt opioids approved for upper respiratory symptoms or cough. This newly-enacted law creates an exemption for opioids approved by the FDA to treat upper respiratory symptoms or cough (including cough syrups containing codeine or hydrocodone) prescribed for 14 days or less. The newly-enacted law establishes that these opioids are not subject to the requirements of TN Together, including the ICD-10 code requirements or MME limits. However, any opioids not approved for upper respiratory symptoms or cough or prescribed for more than 14 days are subject to the requirements of TN Together.

ELECTRONIC PRESCRIBING OF ALL CONTROLLED SUBSTANCES: This newly-enacted law changes the electronic prescribing requirements to include all schedules II-V by January 1, 2021.

Previous Language in TCA 63-1-160:

(c) Subject to subsection (d) of this section, ***on or after January 1, 2020****, any prescription for a* ***Schedule II controlled substance*** *shall be issued as an electronic prescription from the person issuing the prescription to a pharmacy. The name, address, and telephone number of the collaborating physician of an advanced practice registered nurse or physician assistant shall be included on the electronic prescription.*

New Language in TCA 63-1-160:

*(c) Subject to subsection (d), **on or after January 1, 2021**, any prescription for **a Schedule II, III, IV, or V controlled substance** issued by a prescriber who is authorized by law to prescribe the drug must be issued as an electronic prescription from the person issuing the prescription to a pharmacy. The name, address, and telephone number of the collaborating physician of an advanced practice registered nurse or physician assistant must be included on electronic prescriptions issued by an advance practice registered nurse or physician assistant.*

What does this change mean for pharmacists?

TN Together required all schedule II controlled substances to be electronically prescribed by January 1, 2020. In 2018, the federal government enacted H.R. 6 (SUPPORT for Patients and Communities Act), which requires all schedules of controlled substances to be electronically prescribed for Medicare patients by January 1, 2021. Tennessee's newly-enacted law delays the previous electronic prescribing compliance deadline of January 1, 2020, for schedule II controlled substances, and aligns Tennessee law with federal law requiring all schedules of controlled substances to be electronically prescribed by January 1, 2021. This change does not affect the existing electronic prescribing exemptions in TCA 63-1-160.

CLARIFYING LANGUAGE FOR "EXEMPT" PRESCRIPTIONS: This newly-enacted law changes the definitions for several categories of "Exempt" prescriptions.

Previous Language in TCA 63-1-164 (d)(3):

(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 or palliative cancer treatment or who are receiving hospice care**;*
…
*(9) The treatment of a patient who has suffered a severe burn or major physical trauma**, as those terms are defined by the controlled substance database committee by rule and adopted by the licensing boards created pursuant to title 63,** 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.*

New Language in TCA 63-1-164 (d)(3):

(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**;*
…
(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.***

What does this change mean for pharmacists?

TN Together established several different categories for "Exempt" prescriptions. However, several of these "Exempt" categories were unclear or vague. The newly-enacted law better clarifies two specific sections in the "Exempt" category for prescribers.

NO ICD-10 CODE ON 3 DAY / 180 MME PRESCRIPTIONS: This newly-enacted law establishes that prescriptions for no more than three (3) days or less than 180 MME do not require an ICD-10 code.

Previous Language in TCA 63-1-164 (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 a one hundred eighty (180) morphine milligram equivalent dose.

New Language in TCA 63-1-164 (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.***

What does this change mean for pharmacists?

TN Together did not require opioid prescriptions for three (3) days or less and no more than 180 MME to have an ICD-10 code. However, conflicting interpretations of the law led to default requirements that all opioid prescriptions must contain an ICD-10 code. This newly-enacted law explicitly states that opioid prescriptions written for no more than three (3) days and no more than 180 MME do not require an ICD-10 code.

OTHER CHANGES:

Establishes a quality improvement committee and review process for healthcare practitioners.

Establishes definitions for “palliative care” and “serious illness”.

- "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.
- "Serious illness" means a health condition that carries a high risk of mortality and negatively impacts a patient's daily bodily functions.

PARTIAL FILL AUTHORIZATION LAW

EXPIRATION DATES FOR SUBSEQUENT FILLS: This newly-enacted law clarifies the expiration dates for subsequent fills of partially filled controlled substances.

Previous language in TCA 63-1-163:

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.
(2) If a partial fill is made, the pharmacist shall retain the original prescription at the pharmacy where the prescription was first presented and the partial fill dispensed.
*(3) Any subsequent fill shall occur at the pharmacy that initially dispensed the partial fill. Any subsequent fill shall be filled **within thirty (30) days from issuance** of the original prescription.*

New language in TCA 63-1-163:

(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.
(2) If a partial fill is made, the pharmacist shall retain the original prescription at the pharmacy where the prescription was first presented and the partial fill dispensed.
*(3) Any subsequent fill must occur at the pharmacy that initially dispensed the partial fill. Any subsequent fill must be filled **within six (6) months from issuance of the original prescription, unless federal law requires it to be filled within a shorter timeframe.***

What does this change mean for pharmacists?

TN Together established a requirement that any subsequent fill of a partially filled controlled substance must be filled within thirty (30) days from issuance of the original prescription. However, the federal government, through enactment of the Comprehensive Addiction and Recovery Act (CARA) of 2016, and the Drug Enforcement Administration (DEA), have established different expiration dates for subsequent fills of partially filled controlled substances. These expiration dates vary depending on the schedule of the controlled substance and the patient's condition being treated. Tennessee's newly-enacted law allows for different expiration dates for partially filled opioids and other controlled substances based on the schedule of the controlled substance and the patient's condition being treated.

- Current DEA rules on partial fills of Controlled Substances in Schedules III-V: up to 6 months from the date of issuance of the original prescription.
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PRORATING OF COST-SHARING AND CO-PAYMENTS FOR PARTIAL FILLS: This newly-enacted law removes provisions in the previous law which required prorating of a patient's cost-sharing and co-payment for partial fills of controlled substances.

Deleted language in TCA 63-1-163:

(d) (1) A person who presents a prescription for a partial fill for an opioid pursuant to this section is required to pay the prorated portion of cost sharing and copayments.

(e) (1) A person who presents a prescription for a partial fill pursuant to this section for a controlled substance other than an opioid is required to pay the prorated portion of cost sharing and copayments.

What does this change mean for pharmacists?

TN Together required pharmacists to collect a prorated portion of the patient's cost-sharing and co-payment for partial fills of opioids and other controlled substances. This newly-enacted law removes the requirement for pharmacists to collect a prorated cost-sharing or co-payment from patients for each partial fill. However, the pharmacist's ability to collect an additional dispensing fee for each partial fill was not removed.

PHARMACY DISPENSING SOFTWARE VENDORS: This newly-enacted law establishes that all pharmacy dispensing software vendors operating in Tennessee must update their software systems to allow for partial filling of controlled substances by January 1, 2021.

Added language in TCA 63-1-163:

By January 1, 2021, all pharmacy dispensing software vendors operating in this state shall update their dispensing software systems to allow for partial filling of controlled substances pursuant to this section.

What does this change mean for pharmacists?

TN Together required pharmacists to partial fill opioid prescriptions, but one of the primary issues identified by members prior to implementation of the law was the inability of pharmacy dispensing software systems to properly handle and process partial fills for opioids and other controlled substances. This newly-enacted law establishes a deadline for pharmacy dispensing software vendors to update their systems and allow for partial filling of opioids and other controlled substances.