IMPORTANT OPIOID UPDATE!
Governor Haslam’s Opioid Reform Bill

Earlier this year, Governor Bill Haslam announced that his TN Together [bit.ly/2HhvU3z] prescription drug abuse prevention legislation was his top legislative priority. With this announcement, Governor Haslam and many members of the Tennessee General Assembly sent a clear and resounding message to all Tennesseans, as well as to health care providers, that opioid reform is coming. This legislation encompasses broad-sweeping reforms related to three major components: prevention, treatment and law enforcement. In the prevention arm, major changes are being proposed related to the prescribing and dispensing of opioid medications. These proposed opioid changes will affect many providers and patients in Tennessee.

TPA recognizes and appreciates our pharmacists and pharmacy team members for the work you do every day to ensure that patients receive the essential care and medications they need. As the medication experts, pharmacists are on the front lines ensuring that medication therapies are both appropriate and medically necessary, but we are also placed in a tough position on this issue. We utilize our professional judgment every single day to make clinical decisions about whether or not prescriptions written by prescribers are medically appropriate, including prescriptions for opioids. Thanks to the support of TPA members and legislators, pharmacists are protected by law when using our professional judgment to refuse to fill a prescription for a legend drug (including an opioid) [bit.ly/2oTbJnk] when that prescription lacks therapeutic value or is not for a legitimate medical purpose.

TPA members have always been first to the table offering solutions to combat prescription drug abuse. The pharmacy community supported the implementation of the Controlled Substance Monitoring Database (CSMD) back in 2002, and since that time, TPA and our members have worked to enact legislation which increases patient access to pharmacist-provided naloxone therapy [bit.ly/2HzzoV], expands patient access to pharmacy-based drug disposal options [bit.ly/2txffbY], and enhances criminal penalties for pharmacy robberies involving controlled substances [bit.ly/2Ft9UPh], as well as many others. TPA member pharmacists and pharmacy team members are, and always have been, part of the solution.

Governor Haslam’s proposed TN Together legislation seeks to establish new laws limiting the prescribing and dispensing of opioids. The legislation is focused on restricting opioid prescribing and dispensing for new ("opioid-naive") patients in an attempt to prevent patients from progressing to opioid dependence or exacerbating the disease of addiction. The TN Together legislative proposal seeks to rein in the bad actors and is not intended to proactively police health care providers who are doing the right thing. With that said, enactment of this legislation would fundamentally change how prescribers and pharmacists prescribe, manage, and dispense prescriptions for opioid medications.

TPA staff, working with members of the TPA Legislative and Regulatory Policy Committee and the TSHP ad hoc Legislative Committee, have been heavily engaged in discussions with the Governor’s administration and state legislators in order to find a legislative solution that strikes an appropriate balance between legitimate patient access, overly burdensome regulations, and enhanced penalties for bad actors. As a result, the legislation as currently amended is much less burdensome for pharmacists than originally proposed. This can be seen in the chart on the following page.

This legislation is currently being considered by the Tennessee General Assembly. TPA urges all members to review the specific elements included in the Governor's most recent amended proposal, shown in the right-hand column below. Members are also encouraged to contact your state legislators regarding any specific comments you may have about the Governor’s amended proposal.

Other Key Provisions Being Considered in the Amended TN Together Legislation:

Pharmacist Anti-Gag Clause: Voids agreements which limit the pharmacists’ ability to discuss any issue related to the dispensing of a controlled substance, including risks, effects, and characteristics of the controlled substance; what to expect and how the controlled substance should be used; reasonable alternatives to controlled substance; and any applicable cost sharing for a controlled substance or any amount an individual would pay for a controlled substance if that individual were paying cash.

Enhanced Prescriber Penalties: Abuse of "medical necessity" for inappropriate opioid prescribing results in the loss of prescribing rights for the prescriber for five (5) years, at a minimum.

Effective Date: TPA is concerned about the ability of insurers and pharmacy software systems to handle the large number of changes proposed in this legislation by July 1, 2018.

MME Limits: The 40 morphine milligram equivalent (MME) daily dose limit is still being evaluated.

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## Evolution of Governor Haslam’s TN Together Legislation

<table>
<thead>
<tr>
<th>Specific Provisions</th>
<th>Original TN Together Legislation</th>
<th>Amended TN Together Legislation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dispenser Checks (Currently required at initial dispensing and every 12 months)</td>
<td>Prior to dispensing an opioid or a benzodiazepine the first time that human patient is dispensed a controlled substance at that practice site</td>
<td>Prior to dispensing an opioid or a benzodiazepine the first time that human patient is dispensed a controlled substance at that practice site <strong>(no change to current law)</strong></td>
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<td></td>
<td>At least once every six (6) months for that human patient after the initial dispensing, for the duration of time the controlled substance is dispensed to that patient</td>
<td>At least once <strong>every six (6) months</strong> for that human patient after the initial dispensing, for the duration of time the controlled substance is dispensed to that patient <strong>(no change to current law)</strong></td>
</tr>
<tr>
<td></td>
<td>Prior to dispensing pursuant to any prescription with written instructions indicating the earliest date on which the prescription can be filled</td>
<td>Required dispenser checks for prescriptions with fill dates <strong>removed</strong></td>
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<tr>
<td>Definitions of Patients</td>
<td>Creates new definitions for “Acute Care Patient” and “Opioid Naïve”</td>
<td>Definitions <strong>removed</strong></td>
</tr>
<tr>
<td>Patient Documentation Requirements</td>
<td>Establishes prescriber and pharmacist documentation requirements, including informed consent and reasons for prescribing opioids</td>
<td>Pharmacists <strong>removed</strong> from informed consent and other required documentation</td>
</tr>
<tr>
<td>Prescription Limits for New Opioid Patients (Partial Fill Restrictions)</td>
<td>Initial opioid prescriptions for opioid naïve patients limited to 5-day supply</td>
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<td>Practitioner may issue an opioid naïve patient a second opioid prescription simultaneous to the issuance of an initial prescription, with written instructions on the prescription stating that the earliest date on which a prescription may be filled is five (5) days from issuance and the latest date is ten (10) days from issuance</td>
<td></td>
</tr>
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<td>Prescription Requirements</td>
<td>Initial opioid prescriptions for opioid naïve patients limited to 5-day supply</td>
<td></td>
</tr>
</tbody>
</table>
| | Simultaneous additional 5-day prescription may be written and can be filled between days 5 and 10 after the initial prescription was issued | **3-Day Supply or Less:** Partial fill restrictions do not apply  
**Non-Exempt Opioid Prescriptions:** Must be either filled with a 5-day supply or partially filled with no more than half the prescribed day supply limits  
- Up to 10 days (non-exempt)  
- Up to 20 days (surgery)  
- Up to 30 days (medical necessity)  
**Exempt Medical Condition Opioid Prescriptions:** Partial fill restrictions do not apply |
| Morphine Milligram Equivalent (MME) Limits | Limits the dosage of an opioid prescribed to an opioid naïve patient or acute care patient to not more than 40 morphine milligram equivalents (MME) per day | **All Non-Exempt Opioid Prescriptions:**  
40 morphine milligram equivalent (MME) daily limits included for all prescriptions which are not for Exempt Medical Conditions  
**Exempt Medical Conditions:**  
No MME daily limits on prescriptions |
| Exempt Medical Conditions |  | **Malignant pain and cancer treatment**  
**Hospice care**  
**Administration in a licensed health care facility**  
**Patients seen by pain management specialists**  
**Methadone, buprenorphine, or naltrexone** |
|                      | **Active or palliative cancer treatment**  
**Hospice care**  
**Diagnosis of Sickle Cell**  
**Inpatients of a licensed healthcare facility**  
**Patients seen by pain management specialists**  
**Patients treated with opioid for 90 days or more in the last year OR who are subsequently treated for 90 days or more**  
**Patients on methadone, buprenorphine, or naltrexone**  
**Severe burns or major physical trauma** |