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More States Pass Opioid Prescribing Limit Laws—Congress Also Weighs In

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Drug overdose deaths continue to rise. Deaths in 2017, the latest year data is available, reached 70,237, a significant increase over 2016. Deaths involving any opioid increased to 47,600. The one area of hope was a slight decrease in overdose deaths due to prescription opioids. [CDC](#)

As opioid-related deaths continue to

plague states across the country, more states are looking to limit prescribing of opioids for acute pain. The 2017 data on prescription opioid deaths indicates that the prescribing limits and the attention being paid to the dangers of opioids may be having some effect

2019 State Legislation

Two states have passed new opioid prescribing limit laws, and one state has passed a law imposing a stricter time limit. (Click on the bill number to see the latest version of the bill.)

- **Montana** passed [HB 86](#), limiting the initial opioid prescription for an opioid naive patient to a seven-day supply.
 - An opioid naive patient is described as a patient who has not been prescribed any opioid for the past 90 days.
 - Patients receiving the opioid to treat chronic pain, pain associated with cancer or palliative care are excluded from the limit.
 - Also excluded are patients receiving an opioid to treat opioid abuse or dependence.
 - The bill was signed by the Governor on March 21, and goes into effect on October 1, 2019.
- The **Wyoming** Governor signed [SF 46](#) on February 28, 2019.
 - This new law will limit opioid prescriptions for opioid naive patients in acute pain situations to a seven-day supply.
 - Wyoming defines an opioid naive patient as an individual who has not received an opioid in the past 45 days.
 - This new law goes into effect on July 1, 2019.
- The **Tennessee** legislature passed [SB 810](#), limiting the initial opioid prescription for acute pain to a three-day supply and a total of 180 morphine milligram equivalents in that three-day period.
 - The bill also added an exception for individuals in palliative care to the exceptions for cancer and hospice care.
 - The new restrictions go into effect on July 1, 2019.

There are several more states with legislation still moving through the process but have not yet passed.

- **Illinois** [SB 1900](#) would limit initial prescriptions for acute pain to a seven-day supply. The bill is still in the Senate.
- **Minnesota** [HF 400](#) is a comprehensive bill addressing the opioid crisis in the North Star State. One section of the bill would limit opioids to a seven-day supply for acute pain for adults and five days for children. The bill passed the House and passed the Senate with amendments. As of this writing, the bill has been assigned to a conference committee to reach an agreement.
- **Missouri** introduced [HB 642](#) in January. The bill instructs the Department of Health to develop regulations that would require prescribers follow the CDC guidelines when prescribing opioids. The bill has not had a hearing and doesn't look like it will move before their session ends on May 17th.
- **New York** is considering [SB 2053](#), a bill that would change the prescribing limit for opioids from a seven-day supply to a three-day supply. The bill was referred to the Senate Health Committee but has not yet had a hearing.
- **New York** is also considering [SB 332](#). This bill would restrict the prescribing of opioids to minors to a seven-day supply and would require a signed informed consent form from a parent or guardian. This bill has also been referred to the Health Committee and awaits a hearing.
- The **North Dakota** House heard debate on [HB 1063](#), a bill that would have limited opioids to a seven-day supply and no greater than 90 morphine milligram equivalents per day. The bill failed on a floor vote 44-49.
- **Rhode Island** is also considering [H 5537](#), an opioid prescribing limit bill. It would limit opioids to a seven-day supply for an initial prescription. Exceptions to the limit would include chronic pain, pain associated with cancer or palliative care, or opioids used to treat substance abuse disorders. The doctor may also exceed the limit if, in their professional judgment, a longer supply is needed to adequately treat

the pain. The bill is awaiting a hearing in the House Committee.

- The **Texas** House Public Health Committee heard testimony of [HB 1866](#) on April 8th. The bill was substituted in committee and passed out with a favorable recommendation. The original bill limited an initial prescription of opioids for acute pain to a seven-day supply. The bill awaits further action in the House.
- The **Vermont** Department of Health adopted regulations that imposed a tiered level of prescribing limits for opioids in March. [HB 174](#) has been introduced to codify prescribing limits for opioids. The law, as proposed, would be less restrictive than the rule adopted in March. The law would impose a seven-day supply limit on opioids for acute pain, and would also limit opioids to an average morphine milligram equivalent of 50 per day during those seven days. The bill is awaiting a hearing in the House.

Interestingly, there are a couple of bills running that would reverse the tide on opioid prescribing limits.

- Maine [LD 500](#) would change the opioid limit for chronic pain patients over 63 years of age from 30 days to six months. The bill is awaiting action in the Senate.
- In New York, [AB 102](#) (companion bill [SB 4500](#)) would require insurers to provide coverage for opioids for as long as they were prescribed and would prohibit any prior authorization requirements for opioids. Each bill is awaiting action in its respective body.

Congressional Action

Congress is also weighing in on the opioid crisis. [S 419](#) would require the FDA to revoke the approval for one opioid pain reliever for each new opioid pain reliever approved. The bill was introduced in February and referred to the Committee on Health, Education, Labor, and Pensions, where it is awaiting action.

Other Action

There are quite a number of states with bills running that would require warning labels or special caps on opioid prescription bottles. And many states are also considering bills that would require patient agreements or informed consent when an opioid is prescribed. Clearly, the opioid crisis continues to be of major concern for policymakers across the country. We will continue to actively monitor the various pieces of legislation as they move through their respective legislative bodies across the country.

For any questions about this alert, or other legislative or regulatory matters, please contact Brian Allen, Vice President of Government Affairs, at Brian.Allen@mitchell.com or at 801.903.5754.



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