

FACTSHEET: Texas' Oversight of Opioid Prescribing and Monitoring of Opioid Use

POLICIES AND PROCEDURES

State laws, regulations, guidance, and policies related to oversight of opioid prescribing and monitoring of opioid use (e.g., policies for prescribing opioids).

State-wide Laws, Regulations, and Guidance Related to Opioids

- The Texas Controlled Substances Act is found in the State's Health and Safety Code, Title 6, Subtitle C, Chapter 481 and defines the State Board of Pharmacy's role in identifying harmful prescribing behaviors by requiring:
 - Healthcare providers to access the Texas Prescription Drug Monitoring Program (PDMP) before prescribing or dispensing controlled substances.
 - Requiring the Board to consult with regulatory agencies and develop indicators for levels of prescriber or patient activity that suggest potentially harmful prescribing patterns, drug diversion, or abuse may be occurring.
- In 2017, the Texas State legislature passed Senate Bill 315, which strengthened the ability of the Texas Medical Board to regulate the prescribing of opioids and other controlled substances by physicians and their delegates. The legislature determined that inspections and investigations conducted by the board, including the board's use of subpoenas for immediate production, inspection, and copying of medical and billing records, are necessary to adequately regulate the prescribing of opioids and other controlled substances in order to protect the public health and welfare.
- 22 Texas Administrative Code (TAC) section 170.3 sets criteria for the evaluation and treatment of patients for chronic pain. The code requires the physician to discuss with the patient or patient's guardian the risks and benefits of the use of controlled substances for the treatment of chronic pain; potential side effects and how to manage them; adverse effects; and the potential for dependence, addiction, tolerance, and withdrawal.
- 22 TAC 195.2 requires pain management clinics to be certified by the Texas Medical Board.

This factsheet shows Texas' responses to our questionnaire covering five categories related to opioids:

- Policies and Procedures
- Data Analytics
- Outreach
- Programs
- Other

This information is current as of November 2018. See page 11 for a list of State entities involved with the oversight of opioid prescribing and monitoring of opioid use. See page 12 for a glossary of terms used in this factsheet.



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- 1TAC section 354.1877(b)(1) requires fee for service Medicaid to refill prescriptions only after 75 percent or more of the previous prescription is used. For a drug that has been determined to be subject to abuse or overuse (i.e., opioids), a higher refill threshold may be required.

Medicaid Policies Related to Opioids

- Texas Health and Human Services Commission (HHSC) strategies to address opioid abuse include adopting a Medicaid Preferred drug list to deter use of certain opioids associated with harm or misuse by listing products as non-preferred; promoting use of drugs such as Naloxone to treat opioid overdose; and providing Medicaid coverage of non-pharmacological treatment, such as physical therapy, chiropractic, and cognitive behavioral therapy. In addition, non-opioid prescriptions are also a covered medical benefit.
- In January 2018, HHSC implemented morphine equivalent dose (MED) limitations, which measures a patient's total use of opioids across all prescriptions; phases-in implementation to mitigate withdrawal for patients; and tapers down by January 2019 to a maximum MED of 90 milligrams, to align with Centers for Disease Control and Prevention recommendations.
- Managed Care Organizations (MCOs) have also implemented opioid refill edits into their process. MCO utilization edits vary by plan.
- Several Medicaid substance use disorder treatment policy changes are planned for implementation on January 1, 2019, including permitting Drug Addiction Treatment Act waived Nurse Practitioners and Physicians' Assistants to prescribe buprenorphine, as permitted under the Comprehensive Addiction and Recovery Act (CARA). As a result of these changes, the State hopes to increase access to care by increasing the number of available providers who can prescribe buprenorphine. In addition, adding Sublocade as a payable benefit provides Medicaid members with another treatment option under the medication assisted treatment (MAT) benefit.

Laws, Regulations, and Guidance on Prescription Drug Monitoring Program Data

- The PDMP is used to collect and monitor patient prescription history for practitioners. Access to the prescription data is statutorily restricted. State regulatory boards have access, and PDMP data is shared with law enforcement, State agencies, and other States for analysis. Statistical PDMP data is available to the general public as part of Texas Health Data, an interactive public data system at http://healthdata.dshs.texas.gov/TX_PMP.



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- Texas House Bill 2561, effective September 1, 2017, requires Texas-licensed pharmacies to report all dispensed controlled substances records to the PDMP no later than the next business day after the prescription is filled. Beginning September 1, 2019, pharmacists and prescribers will be required to check the patient's PDMP history before dispensing or prescribing opioids and other controlled substances.

Laws, Regulations, and Guidance Related to Treatment

- 25TAC, Part 1, Chapter 229, Subchapter J, and Federal regulations (42 CFR Part 8) set the minimum standards for narcotic treatment centers, including limitations on the drugs to be used and the prescriber and operational requirements, as well as inspections, monitoring, and enforcement.
- Texas adopted the Federation of State Medical Boards office-based opioid treatment (OBOT) policies in 2013. This policy provides model guidelines for use by the Texas Medical Board in regulating OBOT programs.

Laws, Regulations, and Guidance on Naloxone

- Effective September 1, 2015, the Texas Health and Safety Code Chapter 483, Subchapter E established guidelines for the prescription of opioid antagonists. The law allows opioid antagonists (i.e., Naloxone) to be prescribed either directly or by a standing order to a person at risk of an opioid-related drug overdose, or to a family member, friend, or other person in a position to assist a person at risk of experiencing an opioid-related overdose. This provision allows:
 - Organizations, such as nonprofits and drug treatment centers, operating under a standing order to distribute Naloxone to those who might be able to use it to save lives.
 - Any person to possess Naloxone, even if the person does not have a prescription for it.
 - Any person who acts in good faith and with reasonable care to administer Naloxone to another person who the person believes is suffering an opioid-related overdose. Anyone who does so is immune from criminal prosecution, civil liability, and sanction under professional licensing statutes.
- 22TAC section 170.6 established guidelines for the prescription of opioid antagonists and for identifying persons at risk of an opioid-related overdose.



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DATA ANALYTICS

Data analysis that the State performs related to opioid prescribing and monitoring of opioid use (e.g., analyzing data to determine the number of opioid prescriptions written by providers to detect high-prescribing providers).

- HHSC's Office of Inspector General (HHSC-OIG) Data and Technology Division analysts developed an algorithm that looks at outpatient pharmacy claims for opioid prescriptions that are disproportionately prescribed by non-pain providers participating in the Medicaid program. The algorithm allows HHSC-OIG to analyze the data by pharmacy, provider, and beneficiary, including total number of prescriptions filled, total dollars paid, percentage of total filled prescriptions, and other factors. All outliers that are identified through the algorithm by the HHSC-OIG are provided to the Medicaid Program Integrity Division for investigative review or to the Audit Division for audit consideration.
- Texas operates a Drug Utilization Review (DUR) implemented by the Vendor Drug Program (VDP). The VDP conducts prospective DURs to ensure appropriate and medically necessary drugs are prescribed to people enrolled in Medicaid. The VDP also conducts retrospective reviews of prescription drug claims that help identify prescribing patterns and outliers to clinically-accepted prescribing practices or guidelines. Retrospective reviews of opioids use include opioid use during pregnancy, Naloxone for opioid-related overdose, methadone overdose risk prevention, benzodiazepine anxiolytics, controlled sedative hypnotics, and opioid prescribing in adults. In response to DUR findings, HHSC may:
 - Provide outreach to providers to inform of and recommend best practices;
 - List drugs as non-preferred;
 - Implement DUR programs that include prospective clinical prior authorizations, retrospective DURs, and other utilization management tools, including Centers for Disease Control and Prevention opioid prescribing recommendations; and
 - Refer providers to the HHSC-OIG or regulatory board, in the case of significant issues.
- MCO contracts require DURs. MCOs work with the VDP to coordinate responses to opioid use. MCOs have taken a comprehensive approach to prevention, early intervention, treatment, and recovery. These strategies include:
 - Implementing DUR programs that include prospective clinical prior authorizations, retrospective DURs, and other utilization management tools, including Centers for Disease Control and Prevention opioid prescribing recommendations.
 - Provide access to Medicaid substance use disorder treatment and care coordination for members.
 - Provide education to pharmacies, prescribers, and members.



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- Collaborate with community non-profits, criminal justice organizations, law enforcement, and maternity care centers to provide social services for clients.
- Make referrals to the HHSC-OIG for the Lock-In program.
- In 2017, HHSC added two new quality measures (use of opioids at high dose and use of opioids from multiple providers) to their data information tracking system. Results of these measures are calculated annually at the program and MCO level and shared with the MCOs for use in quality improvement activities and are reported publicly on the Texas Healthcare Learning Collaborative portal (thlcportal.com).
- Texas' External Quality Review Organization (EQRO) prepared a report examining opioid quality measures using Medicaid administrative and pharmacy claims for calendar year 2016. As part of the report, the EQRO examined opioid-related deaths and emergency department visits in Texas and Texas Medicaid. The EQRO presented its findings from this report at the annual Texas Medicaid/CHIP Managed Care Quality Forum in September 2018. This report builds on prior EQRO work presented at the 2017 Quality Forum in a session on "The Opioid Epidemic and Texas Medicaid Efforts to Reduce Prescription Opioid Abuse and Overutilization."

OUTREACH

Outreach that the State provides related to preventing potential opioid abuse and misuse (e.g., opioid-related training for providers).

Outreach to Providers

- HHSC Texas Health Steps Online Provider Education provides optional opioid-related training for health care providers. Some examples include:
 - *Reducing Opioid Use in Texas*: Provides an overview of the opioid epidemic and counsels physicians about steps they can take to reduce opioid use in Texas, including:
 - Access to primary resources on opioid information—primary source to understand scope of the programs offered;
 - Educational trainings in communities to professionals about opioids;
 - Opioid overdose prevention; and
 - Treatment opportunities available in Texas for drug dependence and recovery support for Texans affected by opioid use.
 - *Limiting Adolescent Access to Opioids*: Provides pediatricians and other primary care providers with guidance on how to restrict adolescent access to opioids and help prevent young people from misusing these medications.



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- The HHSC Behavioral Health Services Texas Targeted Opioid Response (TTOR) program, through the Substance Abuse and Mental Health Services Administration (SAMHSA) grant funds, allows HHSC to expand prevention and treatment efforts that promote recovery and early intervention for populations identified as high risk for opioid use disorders. This program enhances outreach and education for the public, provides training to enhance workforce, and targets individuals at risk of developing opioid use disorders, or a potential overdose, while increasing access to enhanced recovery-oriented treatment. Since its inception in May 2017, the TTOR has:
 - Printed and distributed the Center for Disease Control's Guideline for Prescribing Opioids for Chronic Pain to healthcare and other professionals during conferences.
 - Funded free online continuing education courses for opioid harm reduction and overdose prevention for pharmacists, prescribers, and social workers.
 - Funded overdose prevention and response training, which includes distribution of Naloxone. Approximately 1,900 Texans attended trainings, and nearly 6,500 doses of Naloxone were distributed. University of Texas School of Pharmacy's Operation Naloxone reports monthly overdose reversals to HHSC. Overdose reversal tracking is conducted in partnership with the Texas Overdose Naloxone Initiative. Over a period of 17 months, 182 lives were confirmed saved as a direct result of HHSC training and dissemination strategies.
 - In coordination with SAMHSA, co-developed and disseminated training to Substance Abuse Prevention providers and other stakeholders. This training defined the opioid overdose problem at the National and State levels, risk and protective factors contributing to opioid misuse and overdose, and appropriate primary prevention strategies to reduce overdose based on community conditions. Trainings were held across the State with 419 professionals in attendance.
 - Developed a PDMP marketing strategy to increase prescriber utilization.
- HHSC Behavioral Health Services is in the process of partnering with a third party to develop a training program to educate community pharmacies on the harms of prescription misuse, strategies to safely dispose of or store medication, and how to access treatment services.

Outreach to Patients

- HHSC Behavioral Health Services implements primary substance misuse prevention services throughout the State regardless of insurance status. These services are funded by the SAMHSA Substance Abuse Prevention and the Treatment Block Grant (SABG) and Strategic Prevention Framework Partnerships for Success Grant. The Substance Abuse Prevention program has prioritized underage drinking, marijuana use, and prescription drug misuse as areas of focus.



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- Youth Prevention Education (YPE), which educates youth in first through twelfth grade using an evidence-based curriculum. YPE is designed to reach multiple audiences: the general population, ages 6 to 18; subgroups determined to be at-risk for substance use disorder, ages 6 to 18; and individuals who are experiencing early signs of substance use disorder and other related behavioral issues, ages 11 to 21.
- Prevention Resource Centers provide substance use information, related behavioral health data, and other community resources within each of the HHSC Health Regions to children, youth, and adult populations.

PROGRAMS

State programs related to opioids (e.g., opioid-use-disorder treatment programs).

Prevention Programs

- Community Coalition Partnerships implement evidence-based environmental strategies with a primary focus on changing policies and social norms in communities for youth and adult populations. Examples include installing permanent prescription drug drop-boxes, hosting prescription drug take-back events, implementing prescription drug disposal policies within various organizations, and disseminating medication disposal pouches. During prescription drug take-back events held from May 2017 to April 2018, prevention providers distributed over 65,000 pouches and 75,000 Texans received messaging about the dangers of opioid misuse. Over 13,000 pounds of medication were disposed in the first year of the TTOR program initiative.

Detection Programs

Lock-In Program

- Texas' Lock-In Program operates under 1TAC, Part 15, Chapter 354, Subchapter K. The Lock-In Program restricts Medicaid recipients and managed care members who are receiving duplicative, excessive, or conflicting health care services, including drugs, to a single provider or pharmacy. Based on the recipient's prior history, the Lock-In restriction is assigned for 36 months, 60 months, or lifetime. As of June 2018, there were 1,496 recipients in the Lock-In program.
- The Lock-in Program may identify recipients with opioid-seeking behavior, abuse, or misuse by the following criteria:
 - seven or more overlapping or duplicative controlled substance prescriptions from two or more unaffiliated prescribers.
 - overlapping or duplicative opioid treatment for 6 weeks (or longer) from two or more unaffiliated prescribers.



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- treatment that exceeds the therapeutic daily Morphine Equivalent Dose (MED).
 - any prescription combination with abuse potential (opioids, benzodiazepines, sedative hypnotics, or muscle relaxers)
 - four or more emergency room visits resulting in an opioid prescription.
 - an emergency room visit or hospitalization due to a suicide attempt, poisoning or overdose of drugs or medications, or a diagnosis of alcohol or drug abuse (including non-therapeutic, recreational, or illegal drug use).
 - two or more occurrences of violating a pain contract with the same prescriber or with different prescriber(s).
 - a conviction for a crime related to restricted medications within the past year (e.g., forgery, theft, distribution, or Medicaid fraud).
- The Lock-In Program benefits Texas by preventing the abuse and misuse of the Medicaid program by monitoring recipients' pharmacy utilization and establishes better communication within the treatment team. This results in fewer emergency room visits and hospitalizations by avoiding overdoses and undesirable side effects. The Lock-in restriction prevents excessive use of opioids and results in cost avoidance in health care costs. Cost avoidance averages approximately \$2,500 annually per patient, compared to the 12 months prior to the assignment of the Lock-In restriction.
 - The Lock-In Program collaborates with MCOs to periodically revise and update criteria to identify recipients who may be at risk for opioid abuse. In April 2017, additional criteria were added as a result of this collaboration. MCOs were surveyed in April 2018, and additional criteria is currently under consideration.

Opioid Use Disorder Treatment Programs

- MAT services are primarily provided by Opioid Treatment Programs (OTPs), covered under Medicaid as well as Federal grants including SAMHSA's State Targeted Response, State Opioid Response, and SABG administered by the State. MAT includes use of Food and Drug Administration (FDA) approved medications (methadone, buprenorphine, and naltrexone) for opioid use disorder and other behavioral services such as individual and group counseling. Buprenorphine and naltrexone may also be prescribed by physicians and physician extenders outside of an OTP.
- Texas currently has 92 licensed opioid treatment programs providing MAT services. The licensing process includes coordination with SAMHSA, the Drug Enforcement Agency, and a Federally-approved accreditation entity. The OTP program operates under 25TAC, Part 1, Chapter 229, Subchapter J. OTPs receive additional oversight and technical assistance from the Statewide Opioid Treatment Authority through HHSC's Substance Abuse Compliance Group.



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- HHSC has three initiatives related to MAT that focus on workforce development, agency transformations, and patient support.
 - Medication Assisted Recovery Support Endorsement (MARS) is a peer-initiated and peer-based recovery support project with satellite programs across the United States. Texas HHSC trains recovery coaches to work with MAT patients. The curricula include MAT education as well as content for developing a supportive peer community while helping medication-free programs to integrate MAT into their other services. Through the Addiction Technology Transfer Center, HHSC will track the training participant completion data as endorsements for peer-based recovery support services. In this layer of infrastructure development, HHSC seeks to cultivate acceptance for medication assisted recovery within the communities that surround the OTPs and Office-Based Treatment for opioid use disorders.
 - The MAT Advocate Certification is for all mid-level practitioners, licensed professionals, para-professionals, and provisionally licensed professionals serving in the TTOR funded programs. A MAT advocate is someone who supports quality medication assisted treatment, which places each individual patient first and delivers treatment with dignity and respect. This component of workforce development also cultivates acceptance for medication assisted recovery within the communities that surround MAT providers but may also pertain to the patients and staff of MAT providers.
 - The Beyond MARS Training Implementation Team will work with OTP programs to replicate the MARS model of structured peer recovery support and education. Project MARS is designed to provide peer recovery support to persons whose recovery from opiate addiction is assisted by medication. The goal of the training is to prepare the agencies for the use of recovery support services and recovery coaches. Embedding recovery coaches within these agencies will enable the following:
 - Enhance patient engagement with MAT services;
 - Bridge and reinforce opioid focused recovery supports within the State funded continuum; and
 - Fold MAT providers into the Recovery-Oriented System of Care transformation.
- The Neonatal Abstinence Syndrome (NAS) program, funded by the 84th Legislative Session, aims to reduce the incidence, severity, and costs associated with NAS in Texas. This program takes a multi-pronged approach to addressing NAS by:
 - Increasing targeted outreach services to engage women earlier in care;
 - Increasing availability of intervention and substance use disorder treatment services to pregnant and postpartum women to improve birth outcomes;
 - Educating and coordinating with the medical community to collaborate and integrate care; and
 - Funding research components to better utilize funds and resources of hospital and community partners, and



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- Implementing specialized programs to reduce the severity of NAS.
- The Statewide Pregnancy Stabilization Center, Pregnant, Postpartum Women (NAS-PPW) became operational in August 2016 and allows pregnant women to enter a single substance use disorder treatment and recovery program that can address all their needs by providing a full continuum of care for themselves and their children. This program serves families residing in areas of the State that may not be able to provide the care opioid-dependent pregnant women require.
- The State also expanded substance use disorder treatment services designated for pregnant and postpartum women who have exhausted their pregnancy-related Medicaid coverage to allow for a seamless transition and to avoid any disruption in their opioid treatment services. This new approach integrates State funded pregnant, postpartum intervention program services into opioid treatment. A total of 152 pregnant or postpartum women have been enrolled into State funded MAT services.
- The Federal SABG Grant covers substance abuse prevention, intervention, and treatment, including but not limited to opioids. Medicaid claims paid where Opioid Use Disorder is the primary diagnosis runs in the \$15 million per year range.
- HHSC Behavioral Health Services (BHS) Office of Decision Support conducts an annual survey of methadone clients receiving SAMHSA SABG funded MAT services. BHS has established performance targets for substance abuse prevention and treatment providers for MAT on clients' abstinence, one-year retention, and employment. BHS provides technical assistance to providers who fail to meet their targets. Medicaid managed care outcomes are evaluated by Texas' EQRO.

OTHER

Other State activities related to opioids that are not covered by the other categories in this factsheet.

- On October 23, 2017, Texas established The House Select Committee on Opioids and Substance Abuse. The committee was established to “develop and present concrete principles and action items to reduce the scourge of opioids in Texas and to provide legislative solutions to address these issues. . . .”
- Texas receives annual funding of \$27.4 million from SAMHSA through the Texas Targeted Opioid Response program, this funding is set to expire April 30, 2019. Texas also receives annual funding of \$800,000 through a First Responders CARA grant. HHSC was recently awarded \$46.2 million in funding from SAMHSA to reduce unmet treatment need and overdose death.



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TEXAS STATE ENTITIES

Texas Health and Human Services Commission: HHSC manages programs that promote and protect public health, administers Medicaid/CHIP coverage for Texas residents, and funds substance abuse prevention, intervention, treatment, and recovery programs.

Texas Healthcare Learning Collaborative: Based on initiatives from the 83rd Legislative Session, the THLC portal fosters collaboration among internal and external stakeholders to improve the quality of care and cost effectiveness of the Texas Medicaid system.

Texas House Select Committee on Opioids and Substance Abuse: The 13-member select committee examines how the opioid crisis and substance use in general are affecting the State.

Texas Medical Board: The mission of the TMB is to protect and enhance the public's health, safety, and welfare by establishing and maintaining standards of excellence used in regulating the practice of medicine and ensuring quality health care for the citizens of Texas through licensure, discipline, and education.

Texas State Board of Pharmacy: TSBP promotes, preserves, and protects the public health, safety, and welfare by fostering the provision of quality pharmaceutical care to the citizens of Texas through the regulation of the practice of pharmacy, the operation of pharmacies, and the distribution of prescription drugs in the public interest.



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GLOSSARY OF TERMS

medication assisted treatment: Treatment for opioid use disorder combining the use of FDA approved medications (methadone, buprenorphine, or naltrexone) with counseling and behavioral therapies.

morphine equivalent dose: The amount of milligrams of morphine an opioid dose is equal to when prescribed.

naloxone: An opioid antagonist. A prescription drug that can reverse the effects of an opioid overdose and can be life-saving if administered in time. The drug is sold under the brand names Narcan and Evzio.

nonpharmacologic pain management: Management of pain without medications, such as the use of acupuncture or mindfulness-based therapy.

opiate antagonist: Opiate antagonist drugs such as naloxone are used in the treatment of opioid dependence and in the reversal of an opioid overdose.

opioids: Natural or synthetic chemicals that interact with opioid receptors on nerve cells in the body and brain and reduce the intensity of pain signals and feelings of pain. This class of drugs includes the illegal drug heroin; synthetic opioids, such as fentanyl; and pain medications available legally by prescription, such as oxycodone, hydrocodone, codeine, and morphine. Opioid pain medications are generally safe when taken for a short time and as prescribed by a doctor, but because they produce euphoria in addition to pain relief, they can be misused.

opioid refill edit: Requirements that must be met before an opioid prescription is filled. For example, the requirement that a certain percentage or more of the previous prescription is used before a refill will be made.

opioid use disorder: A problematic pattern of opioid use that causes significant impairment or distress. A diagnosis is based on specific criteria, such as unsuccessful efforts to cut down or control use, or use resulting in social problems and a failure to fulfill obligations at work, school, or home, among other criteria.

Prescription Drug Monitoring Program: A State-run electronic database that tracks controlled substance prescriptions. A PDMP helps providers identify patients at risk of opioid misuse, abuse, or overdose due to overlapping prescriptions, high dosages, or co-prescribing of opioids with benzodiazepines.

