



## Accurate Clinic

2401 Veterans Memorial Blvd. Suite 16  
Kenner, LA 70062 - 4799  
Phone: 504.472.6130 Fax: 504.472.6128  
[www.AccurateClinic.com](http://www.AccurateClinic.com)

**Eric Ehlenberger MD**

## DEA Actions - Legal Grounds for Lawsuits

*There are several legal and advocacy avenues that could form the basis for legal action..*

### Potential Legal Grounds for Lawsuits

- **Civil Rights and ADA Violations:** Denials of prescribed medications may violate the **Americans with Disabilities Act (ADA)** and other federal civil rights laws. This could be a primary basis for patient-led litigation (p. 3).
- **Duty to Dispense:** There is a growing push for laws establishing a **pharmacy's duty to dispense** lawful prescriptions without undue delay. Violations of such state-level requirements could provide grounds for legal challenges (p. 3).
- **Settlement Agreement Reviews:** Litigants could request a review of opioid settlement agreements by state attorneys general to remove provisions that hinder legitimate medication access (p. 3).
- **Interference with Medical Practice:** Restrictions may be challenged on the basis that they inappropriately interfere with the **practice of medicine** and the physician-patient relationship (pp. 2-3).

### Recommended Strategy for Proceeding

*A multi-step collaborative approach to mounting a coordinated legal or advocacy challenge:*

1. **Document Patient Harm:** Collect detailed records of patients unable to access medications, including documentation of increased pain, ER visits, or transitions to illicit substances (p. 2).
2. **File Formal Complaints:** Direct complaints to the **HHS Office for Civil Rights**, State Boards of Pharmacy, and State Medical Boards to build a regulatory record of the harm caused (p. 3).
3. **Engage Professional and Advocacy Groups:** Work with **patient advocacy organizations**, pain medicine societies (like ASCO or ASAM), and civil rights groups to coordinate the challenge (p. 3).
4. **Strengthen Clinical Records:** Ensure all prescriptions include clear documentation of medical necessity, diagnosis codes, and individualized treatment plans to prove they are for "legitimate medical purposes" (p. 3).
5. **Utilize Federal Guidance:** Use the **2022 CDC Clinical Practice Guideline** as evidence that these restrictive policies contradict official federal recommendations for flexible, patient-centered care (pp. 1, 3).

***The DEA is currently forcing pharmacies to refuse to dispense opioids to patients who live more than 50 miles from the pharmacy. This action is broadly based and does not guide the pharmacist to take individual patient considerations into account. Does this action by the DEA violate the ADA or other federal civil rights laws?***

While the Drug Enforcement Administration (DEA) has not officially issued a nationwide "50-mile rule" in federal regulations, it has utilized "red flag" guidance that treats patients traveling long distances—often cited as 50 miles or more—as a suspicion of diversion. Pharmacy chains and individual pharmacists, fearing DEA registration revocation, have implemented blanket policies refusing to fill such prescriptions, raising significant concerns regarding violations of the Americans with Disabilities Act (ADA) and other federal civil rights laws.

### ***Does this violate the ADA?***

**The ADA prohibits discrimination on the basis of disability, which includes individuals with chronic pain or Opioid Use Disorder (OUD) who are in stable treatment.**

- **Blanket Denials:** Legal experts and patient advocates argue that blanket policies—such as automatically refusing to fill prescriptions for anyone living more than 50 miles away without individual assessment—constitute illegal discrimination under the ADA because they fail to provide reasonable accommodations for patients in rural or underserved areas.
- **The "Red Flag" Problem:** The DEA has historically treated long-distance travel, cash payments, and certain drug combinations as "red flags" that require investigation. However, a U.S. District Court judge recently pointed out that these "red flags" are not hard stops but rather opportunities for investigation, and using them to deny service to legitimate patients may be unlawful.
- **"Cowardly" Care:** Some pharmacists have reportedly implemented these, as one Reddit post described, to avoid professional risk, which can lead to situations where patients are denied necessary medication simply based on geography, violating the ADA.

### **Other Legal and Regulatory Context**

- **HHS Action:** The Department of Health and Human Services (HHS) Office for Civil Rights (OCR) has been urged to declare these blanket denials as violations of the ADA.
- **Fifth Circuit Ruling:** In Feb 2026, the U.S. Court of Appeals for the Fifth Circuit ruled that the DEA overstepped its authority in punishing a pharmacy for filling prescriptions, suggesting the "corresponding responsibility" of a pharmacist does not include acting as a law enforcement agent overriding doctor's orders.
- **Legitimate Medical Need:** The DEA itself has expressed concern that legitimate patients are unable to get their prescriptions filled due to these actions.

**Conclusion on Discrimination** While the DEA argues it is trying to curb opioid diversion, the application of rigid, distance-based, "one-size-fits-all" policies—without regard for individual patient circumstances or medical necessity—is increasingly viewed as a form of discrimination that prevents people with disabilities from accessing necessary care.

***Patients facing such denials are encouraged to file complaints with the HHS Office for Civil Rights.***

***The DEA is currently forcing pharmacies to limit the dispensing of more than #120 short acting opioids tablets per month, even when the physician prescribes #180. This action is broadly based and does not guide the pharmacist to take individual patient considerations into account. Does this action by the DEA violate the Americans with Disabilities Act (ADA) or other federal civil rights laws?***

Whether the Drug Enforcement Administration's (DEA) pressure on pharmacies to limit dispensing of short-acting opioids to #120 tablets per month—regardless of the physician's prescription for #180—violates federal law is a subject of active legal debate, litigation, and significant concern among patient advocates. While the DEA states it does not directly dictate pharmacy dispensing, its enforcement of Aggregate Production Quotas (APQ) and "red flag" investigations creates practical, systemic limits that may conflict with the Americans with Disabilities Act (ADA) and other civil rights protections.

### **Arguments for Potential ADA/Civil Rights Violations**

- **Discrimination Against Chronic Pain Patients:** The ADA prohibits discrimination on the basis of disability, which includes chronic pain that substantially limits major life activities. Blanket, non-individualized policies that force pharmacists to cut medication dosages without considering a patient's specific medical history may constitute discrimination.
- **"Blanket Policies" and Lack of Individualized Care:** The Department of Justice (DOJ) has indicated that "blanket policies"—rules that apply to all patients without consideration of individual circumstances—are illegal if they deny necessary care to individuals with disabilities.
- **"Regarded As" Disabled:** The ADA protects individuals who are "regarded as" having a disability. Patients on legitimate, high-dose opioid therapy might be unfairly targeted by these policies, facing discrimination based on their perceived need for medication.
- **Impact on Vulnerable Populations:** Such policies have been reported to disproportionately harm patients with chronic, debilitating pain, sometimes leaving them unable to find pharmacists willing to fill legitimate, doctor-prescribed medication.

### **DEA and Federal Position**

- **"Corresponding Responsibility":** The DEA maintains that pharmacists have a "corresponding responsibility" to ensure prescriptions are for a legitimate medical purpose. The agency denies directly setting these numerical limits, arguing that pharmacists and pharmacies are responsible for their own compliance with the Controlled Substances Act (CSA).
- **Focus on Diversion:** The DEA justifies these actions as necessary to reduce the diversion of opioids into the illicit market.
- **Legal Challenges:** Recent court rulings, including from the Fifth Circuit, have begun to reject the DEA's longstanding, broad interpretation of a pharmacist's "corresponding responsibility," potentially signaling a shift in how these policies are legally viewed.

### **Other Potential Legal Violations**

- **Controlled Substances Act (CSA):** While the CSA empowers the DEA to set production quotas, it also allows for legitimate medical treatment.
- **State Law Conflicts:** In many states, regulations require pharmacists to use their clinical judgment, which conflicts with following a non-individualized, across-the-board, or "blanket" limit imposed by a pharmacy chain in response to DEA pressure.

*Note: This information is for educational purposes based on current reporting and does not constitute legal advice. Individuals experiencing issues with access to medication may have legal grounds to pursue complaints with the DOJ or through private lawsuits.*