



Accurate Clinic

2401 Veterans Memorial Blvd. Suite16
Kenner, LA 70062 - 4799
Phone: 504.472.6130 Fax: 504.472.6128
www.AccurateClinic.com

Eric Ehlenberger MD

What is the legality of the current DEA actions pressurizing pharmacies regarding a 50 mile policy and a quantity limitation of opioids?

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.

The Drug Enforcement Administration (DEA) and federal law do not currently mandate a universal 120-tablet limit for opioid prescriptions. However, the practices you describe—blanket limits on pill counts that ignore individual medical necessity—are central to ongoing legal debates and lawsuits regarding the **Americans with Disabilities Act (ADA)** and the **Rehabilitation Act of 1973**.

Legal Challenges and Civil Rights Considerations

Whether these actions violate federal civil rights laws is a complex question currently being litigated in various courts.

- **Discrimination Claims:** Plaintiffs in several cases argue that blanket opioid limits constitute **disability discrimination** by creating a "one-size-fits-all" barrier that prevents disabled individuals with chronic pain from accessing medically necessary care.
- **Individual Assessment vs. Blanket Policy:** Courts, including the **Fifth Circuit**, have recently pushed back on the DEA's interpretation of a pharmacist's "corresponding responsibility," suggesting that strict adherence to "red flags" cannot override individualized medical judgment without proper justification.
- **The ADA and Opioid Use Disorder (OUD):** The Department of Justice (**DOJ**) has clarified that the ADA protects individuals taking legally prescribed medication for OUD. Similar principles are often invoked by chronic pain advocates to argue that patients using opioids for pain management are also a protected class.

Why Pharmacies Impose These Limits

Most current quantity limits are driven by **state laws** or **pharmacy-level compliance strategies** rather than direct DEA mandates.

- **State Restrictions:** At least 39 states have enacted their own limits on opioid prescriptions, often capping them by day supply or dosage (MME).
- **"Red Flag" Systems:** Pharmacies often implement internal caps (like 120 tablets) to avoid triggering DEA automated monitoring systems, which might flag high-volume dispensing as a sign of diversion.
- **Liability Avoidance:** Major pharmacy chains have adopted strict dispensing policies to protect themselves from massive opioid-related lawsuits, even if these policies conflict with a doctor's specific order.

Seeking Recourse or Information

If you believe these practices are violating your rights, you can explore the following:

- **File an ADA Complaint:** You can file a formal complaint with the Department of Justice Civil Rights Division if you believe a pharmacy is discriminating based on disability.
- **HHS Office for Civil Rights:** Complaints regarding health care services can also be directed to the HHS OCR.
- **Patient Advocacy:** Organizations like the National Council on Independent Living often track these policy issues and their impact on the chronic pain community.