

## **Army Prohibits Use of Prescription Drugs 6 Months after Exp. Date**

By Greg T. Rinckey

Soldiers need to start paying closer attention to the dispense date on their prescription drugs. Their military careers could be in jeopardy if they use prescription pills more than six months after the dispense date and then test positive in a urinalysis.

The U.S. Army is implementing changes to Medical Command (MEDCOM) regulation 40-51 (Medical Review Officers and Review of Positive Urinalysis Drug Testing Results) according to an Army report

. Earlier this year, the Office of the Surgeon General outlined the changes for this six-month prescription drug usage limitation in ALARACT 062/2011

With roughly a third of the Army on prescription medications, this change is anything but minor. Soldiers used to get off the hook when a urinalysis came back positive by showing they were prescribed a controlled substance within a year. Now, a determination of “no legitimate use” can be made against Soldiers if their prescription is more than six months past the dispense date.

Under this amended regulation, medical providers cannot write prescriptions for most controlled substances, such as Percocet and Oxycontin, exceeding a 30-day supply. However, in cases involving chronic symptoms, providers can prescribe up to five refills.

The implementation of this cap comes as prescription drug abuse is becoming a bigger problem in the Army. It accounted for 18 percent of illicit drug use in force during the 2009 fiscal year, according to the Army’s July 2010 Health Promotion, Risk Reduction, and Suicide Prevention Report

. This report recommended limiting the appropriate use of prescription drugs to one year, partly as an effort to improve garrison discipline. Federal regulations, however, require such prescriptions to be filled within six months from when they are written, according to the ALARACT message.

The consequences for abusing prescription drugs are severe. Commanders are required to initiate separation procedures for Soldiers with positive urinalyses for illicit drug use. This initiation, however, does not necessarily mean a discharge is imminent. An administrative separation is only mandatory when a soldier twice tests positive for illicit drug use, barring any retention recommendations from an administrative board or intervention by a first general officer in the chain of command.

During this fiscal year, the Army expects 3,000 Soldiers to test positive for illicit drug use for the second or third time, according to the health report. Service members who test positive

usually have the option of demanding a court-martial rather than accepting non-judicial punishment under Article 15 of the Uniform Code of Military Justice. At court-martial, a Soldier can be represented by a military law attorney.

Greg T. Rinckey

, a former military and federal attorney, is managing partner of Tully Rinckey PLLC. He concentrates his practice on military law

, federal employment and discrimination litigation

and national security clearance mitigation

. He can be reached at [grinckey@fedattorney.com](mailto:grinckey@fedattorney.com)

.