

# **REGULATION** **RULE** 5 - LONG-TERM-CARE FACILITIES

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## **05-00—NURSING HOME CONSULTANTS**

### **05-00-0001—DEFINITIONS**

#### **(a) Consultant pharmacist in charge**

~~A nursing home consultant pharmacist in charge, means a pharmacist who assumes the ultimate responsibility to ensure adherence to all laws and regulations concerning pharmacy services in a nursing home.~~

~~The consultant pharmacist in charge is required to perform a majority of the consultative services provided in the nursing home and must abide by, pharmacy law and regulations, and the policy and procedures of the nursing home.~~

#### **(b) Consultant pharmacist at large**

~~A nursing home consultant pharmacist at large is a pharmacist who practices as a consultant in one or more homes to assist the consultant pharmacist in charge.~~

#### **(c) Consultant pharmacist shall mean consultant pharmacist in charge and consultant pharmacist at large collectively. (Reg. Revised 02/11/2003 and 7/10/2009)**

#### Consultant pharmacist

A consultant pharmacist means a pharmacist who assumes the ultimate responsibility to ensure adherence to all laws and regulations concerning pharmacy services in for a nursing home or other facility requiring consultant pharmacist services. The consultant pharmacist is required to perform the consultative services provided in the nursing home or other facility and must abide by, pharmacy law and rules, and the policy and procedures of the facility.

### **05-00-0002— GENERAL REQUIREMENTS**

#### **(a) Any pharmacist desiring to serve as a consultant pharmacist for a nursing home or other facility shall submit an application on a form provided by the Board of Pharmacy and secure a nursing home consultant permit which shall be posted must post a copy of their Arkansas Pharmacist License in the facility home(s) for which he or she is consulting.**

#### **(b) Before a pharmacist can be licensed as a consultant pharmacist, he or she must satisfactorily complete a test on requirements developed by the Board to measure the knowledge of pharmaceutical duties and responsibilities in a nursing home and certify that he or she has read and understands these regulations and will abide by them.**

#### **(c) For renewal of a nursing home consultant pharmacist permit, it is required that, in addition to the continuing education required for all pharmacists, consultant pharmacists shall annually obtain three (3) hours of continuing education specifically related to his/her role as a consultant in a nursing home. Each consultant pharmacist shall report this continuing education on the renewal form approved by the Board. (Reg. Revised 02/11/2003, 11/1/2007 and 7/10/2009)**

### **05-00-0003—RESPONSIBILITIES**

Consultant pharmacists in a facility nursing home are involved in the following areas of pharmaceutical care which include drug storage, distribution and utilization in that facility nursing home:

(a) Supervision of Services

- (1) The consultant pharmacist(s) shall develop, coordinate, and supervise all pharmaceutical services. The consultant pharmacist for the ~~facility-nursing home~~ must ensure that pharmacist consultation is available on a 24-hours-per-day, 7-days-per-week basis. Consultant pharmacists shall devote a sufficient number of hours based upon the needs of the facility, during regularly scheduled visits to carry out these responsibilities.
- (2) Consultant pharmacists shall assist the ~~facility-nursing home~~ in developing procedures to ensure the provision of emergency drugs, and shall report to the Board of Pharmacy any pharmacy refusing to provide medication for the pharmacy's regular patients in the ~~facility nursing home~~ on a 24-hours-per-day, 7-days-per-week basis.
- (3) The consultant pharmacist(s) shall provide written consultation on compliance with federal and state laws governing legend drugs (including controlled substances).
- (4) The consultant pharmacist(s) shall be knowledgeable of all laws and regulations pertaining to ~~the facility-nursing home~~ and shall communicate with the state agencies involved with enforcement and regulation of ~~the facility-nursing home~~.
- (5) The consultant pharmacist(s) shall spend sufficient time to evaluate discontinued or other unused medication for destruction or donation, ~~destroy unused medication not intended for donation~~, check entries in a bound, numbered controlled drugs book, process unused medication for donation as provided in ACA § 17-92-1101 et seq. and Board Regulation 04-07-0006, and make general observations at the nursing stations.
- (6) ~~An individualized resident record~~ Records shall indicate the day the consultant pharmacist(s) visited the home, a brief statement of purpose, finding, and actions.

(b) Control and accountability of all legend drugs (including controlled substance)

- (1) The consultant pharmacist develops written procedures for control and accountability of all drugs and biologicals throughout the facility and supervises the implementation of these procedures.
- (2) Only approved drugs and biologicals are used in the facility and shall be dispensed in compliance with federal and state laws. Records of receipt and disposition of all controlled drugs shall be maintained in sufficient detail to enable an accurate reconciliation. The consultant pharmacist shall determine that drug records are in order and that an account of all controlled drugs is maintained and reconciled.
- (3) The consultant pharmacist(s) shall establish procedures to ensure that:
  - (A) All legend drugs and controlled substances must be stored in a secured location and appropriately locked.
  - (B) Proper records of receipt and administration of controlled drugs must be maintained for review by the consultant pharmacist.
  - (C) Non-controlled legend drugs.
    - (i) Drugs to be destroyed shall be handled in accordance with state and federal requirements.
    - (ii) Drugs to be donated. The consultant pharmacist shall cause all drugs that are designated for donation to charitable clinics licensed by the Board under Regulation 04-03-0004 and ACA § 17-92-1101 et seq., to be processed in accordance with Board Regulation 04-07-0006.
  - (D) Controlled drugs shall be handled in accordance with state and federal requirements.

(c) Patient Drug Regimen Review

- (1) The primary duty of the consultant pharmacist(s) to the patients' concerns is to apply his or her expertise on drugs to the patient's specific situation.
- (2) State and federal regulations shall be the minimum standards for an adequate drug regimen review.
- (3) Additionally, the consultant pharmacist shall routinely review each patient's ~~chart~~ medical records and:
  - (A) Ascertain that patient history and drug utilization is being properly recorded.
  - (B) Review drug usage (including O.T.C. and prescriptions).
  - (C) Review patient compliance with drug regimen.
  - (D) Review drug allergies or sensitivities.
  - (E) Determine whether the patient is predisposed to side effects due to disease, illness, or age.
  - (F) Determine whether potential exists for significant drug interaction.
  - (G) Develop procedures to monitor patients' records for signs that indicate abuse or misuse of drugs by the patient or individuals.
  - (H) Make recommendations regarding drug therapy to the physician, nurse or other persons involved in the patient's care.
  - (I) Communicate to the facility, procedures that ensure adequate pharmacy services are available for emergencies that might develop in the ~~facility-nursing-home~~ for a specific patient.
  - (J) Promote pharmacists' ability and knowledge to all persons involved in patient care and to offer assistance in solving specific problems relating to patient drug regimen.
- (4) A consultant pharmacist(s) shall quarterly in ICF/MR and assisted living (level II) facilities and monthly in nursing homes, review each patient's medication record, consult with and provide a written report of findings to the director of nursing or the patient's physician
- (d) Labeling of drugs and biologicals and proper storage
  - (1) All legend drugs (including controlled substances) on the premises of a nursing home except for the emergency kit maintained pursuant to Board regulations 05-00-0004 and 05-00-0005, shall be stored under lock pursuant to Arkansas Department of Health regulations, and always be in a properly labeled container as dispensed upon a prescription by the pharmacy of the patient's choice.
  - (2) It is the duty of the consultant pharmacist(s) to ascertain that medications are properly labeled, properly stored, refrigerated when needed, expiration dates routinely checked, and that appropriate accessory and cautionary instructions are on all medications when required.
- (e) Quality assurance and patient assessment committee
  - (1) A consultant pharmacist(s) shall be a member of the quality assurance and patient assessment committee (or its equivalent) and make official reports to this committee as often as needed to ensure quality pharmaceutical care.
  - (2) The consultant pharmacist shall ensure that there are written policies and procedures for safe and effective drug therapy, distribution, control, and use.
  - (3) The policies and procedures shall include and are not limited to:
    - (A) Stop order policies or other methods to ensure appropriateness of continued drug therapy.
    - (B) Maintaining the contents of the emergency kit in compliance with Board regulation 05-00-0005.

- (C) Policies for the safe procurement, storage, distribution, and use of drugs and biologicals.  
(10/9/80, Reg. Revised 2/17/82, 6/25/83, 10/12/93, 02/11/2003, 6/23/05, 7/10/2009 and 8/1/2018)

**05-00-0004—EMERGENCY KITS FOR LONG-TERM-CARE AND OTHER APPROVED INSTITUTIONAL FACILITIES**

- (a) With recognition of D.E.A.'s statement of policy regarding emergency kits for long-term-care facilities and other law applicable to non-controlled legend drugs, the following regulation is adopted to permit controlled substances and non-controlled legend drugs to be stored in emergency kits in long-term-care facilities in Arkansas.

**Requirements**

- (1) All contents of the emergency kit will be provided by one pharmacy designated by the long-term-care facility. This pharmacy must be properly registered with D.E.A.
  - (2) The emergency kit shall be properly sealed, stored, and accessible only to authorized personnel.
  - (3) The emergency kit contents shall only be administered by authorized personnel acting on order of a physician in compliance with 21 CFR 1306.11 and 21 CFR 1306.21.
  - (4) The categories of drugs that may be contained in an emergency kit are identified in Board regulation 05-00-0005. The contents of the kit shall be determined by the medical director, director of nurses and consultant pharmacist at the long-term-care facility. Any exceptions to the established standard categories must be approved by the Board of Pharmacy. A list of contents shall be kept in the kit.
  - (5) The facility's licensed consultant pharmacist shall be responsible for maintaining the nursing home's emergency kit contents in compliance with Board regulation 05-00-0005 and the facility's licensed consultant pharmacist shall check the kit monthly for outdated drugs, etc.
  - (6) All drugs administered from the kit will be replaced within 72 hours by the designated provider pharmacy based on a prescription for the patient to whom the drugs were administered.
  - (7) Violation of this regulation 05-00-0001 through 05-00-0005 shall be just cause for the Board to impose appropriate disciplinary action.
  - (8) Emergency kit drugs shall be of such a nature that the absence of such drugs would detrimentally affect the health of the patient.
  - (9) Before an out of state pharmacy may supply an emergency kit to an Arkansas long-term care facility, it must provide an affidavit on a form supplied by the Board that it will comply with Arkansas law regarding emergency kits. If applicable, an out of state pharmacy will also be subject to reciprocal restrictions as are imposed by its home state on out of state pharmacies. (10/14/1981 and 7/27/2011)
- (b) Recognizing the emergency and or unanticipated need for certain legend (non-controlled) drugs to be available to nurses employed by Arkansas licensed home health agencies, an Arkansas licensed pharmacy may provide certain medications under the following conditions:
- (1) A written contract must exist between the Arkansas licensed home health agency and the Arkansas licensed pharmacy, and this must be available for review by the Board of Pharmacy upon request.
  - (2) The legend drugs remain the property of, and under the responsibility of, the Arkansas licensed pharmacy.

- (3) All medications shall be administered only on physician's orders and any medication administered from the nurse's supply must be recorded as a prescription by the pharmacy prior to the pharmacy's replacement of the drug in the emergency supply.
- (4) All medication records must be maintained as required by law, and out of date drugs must be properly destroyed by the pharmacy.
- (5) The emergency supply may be carried by each nurse or an emergency kit may be provided for each patient's home.
- (6) Careful patient planning shall be a cooperative effort between the pharmacy and the nursing agency to make all medications available and this emergency supply shall only be used for emergency or unanticipated needs and shall not become a routine source or supply.
- (7) Only the following medications can be supplied for emergency use by licensed home health agencies under this paragraph by the pharmacy in sufficient but limited quantities:
  - (A) Heparin flush: pediatric (one strength)
  - (B) Heparin flush: adult (one strength)
  - (C) Sterile water for injection: small volume
  - (D) Sodium chloride for injection: small volume
  - (E) Adrenalin (epinephrine) injection: single dose only
  - (F) Benadryl (diphenhydramine) injection : single dose only

Note: For heparin, adrenaline and benadryl, all patients shall have a precalculated dose.

- (G) If a container is opened and partially used, the unused portion shall be immediately discarded.
- (8) The pharmacy is responsible to ensure compliance with this regulation, and any abuse or misuse of the intent of this regulation shall be immediately reported to the Board of Pharmacy.
- (9) The pharmacy and the agency shall develop policy and procedures to address storage conditions for medications. (Revised 10/12/93, 10/14/97, 02/11/2003, 6/23/05, 7/10/2009 and 8/1/2018)

#### **05-00-0005—DRUG CATEGORIES FOR EMERGENCY KITS IN LONG-TERM CARE FACILITIES**

The following is a list of categories of drugs which are acceptable in emergency kits in long-term-care facilities in accordance with this regulation of the Arkansas State Board of Pharmacy. The Board shall set guidelines for specific quantities of approved medications which will be reviewed biennially or periodically as needed. The provision or presence of an emergency kit in long-term care facilities does not waive the requirements of board regulation 04-00-0006 which requires any pharmacy providing prescription drugs to one or more patients in a nursing home or other institution to provide emergency prescription services for those patients and to provide information to the nursing home or institution indicating how the pharmacists can be reached after pharmacy hours. In every instance where injectables are indicated, only single-dose injectables are acceptable.

- (a) Analgesics, controlled drugs
- (b) Anti-Infectives
- (c) Anticholinergics
- (d) Anticoagulant
- (e) Antidiarrheals
- (f) Antihistamine Injectables

- (g) Antinauseants
- (h) Antipsychotic injectables
- (i) Anti-hyperglycemics
- (j) Anxiolytics
- (k) Cardiac life support medications
- (l) Coagulants
- (m) Corticosteroids
- (n) Hypoglycemics
- (o) Seizure control medications
- (p) Large volume parenterals
- (q) Poison control
- (r) Respiratory medications
- (s) GI Medications
- (t) Other medications as approved by the Board

(Revised 02/11/2003, 11/1/2007, 7/10/2009, 7/22/2015 and 8/1/2018)

**05-00-0006—DRUG CATEGORIES FOR EMERGENCY KITS IN HOSPICE CARE FACILITIES.**

The following is a list of categories of drugs which are acceptable in emergency kits in licensed in-patient hospice facilities in accordance with this regulation of the Arkansas State Board of Pharmacy. The Board shall set guidelines for specific quantities of approved medications which will be reviewed periodically. The provision or presence of an emergency kit in an in-patient hospice facility does not waive the requirements of board regulation 04-00-0006 which requires any pharmacy providing prescription drugs to one or more patients in a nursing home or other institution to provide emergency prescription services for those patients and to provide information to the nursing home or institution indicating how the pharmacists can be reached after pharmacy hours.

- (a) Analgesics, controlled drugs
  - (b) Antihistamine Injectables
  - (c) Antinauseants
  - (d) Antipsychotic Medications
  - (e) Anxiolytics
  - (f) Seizure control medications
  - (g) Corticosteroids
  - (h) Anticholinergic medications
  - (i) Opioid antagonist
  - (j) Other medications as approved by the Board
- (5/31/2014, Revised 7/22/2015)

**05-00-0007—DRUG CATEGORIES FOR EMERGENCY KITS IN CRISIS STABILIZATION UNITS.**

The following is a list of categories of drugs which are acceptable in emergency kits for facilities that are certified by the Arkansas Department of Human Services as a Crisis

Stabilization Unit (CSU). The Board shall set guidelines for specific quantities of approved medications which will be reviewed periodically. The provision or presence of an emergency kit in a Crisis Stabilization Unit does not waive the requirements of board regulation 04-00-0006 which requires any pharmacy providing prescription drugs to one or more patients in a nursing home or other institution to provide emergency prescription services for those patients and to provide information to the nursing home or institution indicating how the pharmacists can be reached after pharmacy hours.

- (a) Analgesics, controlled drugs
  - (b) Antihistamine Injectables
  - (c) Antinauseants
  - (d) Antipsychotic Medications
  - (e) Anxiolytics
  - (f) Cardiac life support medications
  - (g) Injectable seizure control medications
  - (h) Anticholinergic medications
  - (i) Opioid antagonist
  - (j) Other medications as approved by the Board
- (Adopted 8/1/2018)



State of Arkansas  
93rd General Assembly  
Regular Session, 2021

# A Bill

HOUSE BILL 1174

By: Representative Boyd  
By: Senator Bledsoe

## For An Act To Be Entitled

AN ACT TO ELIMINATE THE NURSING HOME CONSULTANT  
PHARMACIST PERMIT AND THE DISEASE STATE MANAGEMENT  
CREDENTIAL; AND FOR OTHER PURPOSES.

## Subtitle

TO ELIMINATE THE NURSING HOME CONSULTANT  
PHARMACIST PERMIT AND THE DISEASE STATE  
MANAGEMENT CREDENTIAL.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 17-92-101(2), concerning the definition of  
"credentialing" relating to pharmacists and pharmacies, is amended to read as  
follows:

(2) "Credentialing" means the issuance of or approval by the  
Arkansas State Board of Pharmacy of a credential issued to a pharmacist by an  
agency approved by the Arkansas State Board of Pharmacy certifying that the  
pharmacist has met the standards of competency established by the Arkansas  
State Board of Pharmacy for ~~disease state management or other~~ pharmacy  
services necessitating a credential;

SECTION 2. Arkansas Code § 17-92-108(a)(9), concerning fees charged by  
the Arkansas State Board of Pharmacy, is repealed.

~~(9)(A) The fee for issuance of and the reinstatement of a  
nursing home consultant pharmacist permit shall not exceed thirty-five  
dollars (\$35.00).~~





~~(B) The fee for the renewal of a nursing home consultant pharmacist permit shall not exceed thirty five dollars (\$35.00) per year;~~

SECTION 3. Arkansas Code § 17-92-310(a)(1)(A), concerning failure to renew a license, permit, or credential with the Arkansas State Board of Pharmacy, is amended to read as follows:

(a)(1)(A) All retail pharmacy permits, out-of-state pharmacy permits, specialty pharmacy permits, ~~nursing home consultant pharmacist permits,~~ and pharmacist licenses shall expire on December 31 of the first odd-numbered year following the date of issuance.

SECTION 4. Arkansas Code § 17-92-310(b), concerning failure to renew a license, permit, or credential with the Arkansas State Board of Pharmacy, is amended to read as follows:

(b) The penalty for late payment of renewal for pharmacists, pharmacies, wholesaler/manufacturer of legend drugs and controlled substances, hospital, and institutional, ~~and nursing home consultant~~ permits shall be as listed in § 17-92-108, and if renewal remains unpaid ~~on~~ by April 1 of ~~any~~ the year, the license shall be void.

SECTION 5. Arkansas Code § 17-92-316(a) and (b), concerning credentials required for professional pharmacy services, are amended to read as follows:

(a)(1) The Arkansas State Board of Pharmacy may provide by rule for credentialing and approval of pharmacists to practice ~~disease state management and any other~~ pharmacy services determined by the board to require a credential.

(2)(A) The credentials may be issued by agencies approved by the board to pharmacists who qualify ~~pursuant to~~ as a result of meeting the minimum competencies, standards, objectives, and qualifications determined by the board.

(B) However, a credential shall not authorize the pharmacist to practice credentialed pharmacy ~~service~~ services in Arkansas until after the board has determined that the credentialed pharmacist meets the minimum competencies, standards, objectives, and qualifications determined by the board.

(b) The board shall adopt rules necessary and appropriate to implement the credentialing and the board's approval of pharmacists to practice ~~disease state management and other~~ credentialed pharmacy services, including:

(1) Identification of areas of credentialed pharmacy services;

(2) Identification of the minimum competencies, standards, objectives, and qualifications necessary for a credential and the board's approval to practice in each area of credentialed pharmacy service;

(3) Identification of the standards for qualifying an agency to issue credentials for areas of pharmacy services;

(4) The procedure and standards, which may include a practical examination, for the board's review and approval of a credential and determination of a pharmacist's qualifications to practice ~~disease state management or other~~ credentialed pharmacy service services;

(5) The conversion of a credential previously issued by the board for the practice of ~~disease state management or other~~ pharmacy service services to a credential issued by an approved credentialing agency; and

(6) Continuing professional education and other measures to maintain pharmacists' continuing competency in ~~disease state management and other~~ credentialed pharmacy services.

SECTION 6. Arkansas Code § 17-92-412 is amended to read as follows:

17-92-412. Nursing home consultant ~~permit~~ pharmacist.

(a)(1) ~~The Arkansas State Board of Pharmacy shall provide for the issuance of nursing home consultant permits by rule.~~

(2) ~~The A nursing home~~ consultant pharmacist-in-charge and the nursing home administrator shall be jointly responsible to ensure that a ~~valid permit~~ pharmacist license is posted at the facility at all times.

(b) The ~~board~~ Arkansas State Board of Pharmacy shall set by rule the standards by which the controlled and legend drugs and devices will be maintained in the nursing home or long-term care facility.

(c) The consultant ~~pharmacist-in-charge~~ pharmacist, in conjunction with the nursing home administrator and director of nurses, shall ensure the proper control and accountability, storage, and proper utilization of drugs and other legend devices dispensed to patients residing in the facility according to board standards as well as ~~those~~ standards established by state and federal guidelines

APPROVED: 2/4/21