Pharmacy Laws and Regulations in Texas: Recent Updates to the Texas Pharmacy Act and the Texas Board of Pharmacy Rules

EDUCATIONAL OBJECTIVES

Upon completion of this activity, participants should be able to:

1. Explain continuing pharmacy education requirements for Texas pharmacists and pharmacy technicians for relicensure, including content-specific requirements for pharmacists
2. Name at least 3 recent changes to the Texas Pharmacy Act and the Texas Board of Pharmacy Rules
3. Identify the requirements for pharmacists supplying insulin on an emergency basis in Texas
4. Discuss new requirements that pharmacy benefit managers must follow and changes to their audit procedures.

Post-test/Rationale

1. Pharmacists seeking relicensure in Texas currently must complete continuing education programs that include:
   A. 3 hours (0.3 CEU) every 2 years related to pain management best practices, alternative treatments, and multimodal approaches
   B. 1 hour (0.1 CEU) every 2 years related to Texas pharmacy laws or rules***
   C. 1 hour (0.1 CEU) every year related to mental health awareness
   D. 2 hours (0.2 CEU) every year related to approved procedures for prescribing and monitoring controlled substances
   E. Unsure

Rationale: B. Pharmacists in Texas must complete 1 hour of continuing education related to Texas pharmacy and rules in the 2-year renewal period. Pain management continuing education requirements are for 2 hours every 2 years, not 3 hours. Mental health awareness continuing education requirements currently are for 1 hour every 2 years, not annually. Prescribing and monitoring continuing education requirements are for 2 hours every 2 years, not annually.

2. Collaborative practice agreements:
   A. Create a formal relationship between a pharmacist and prescriber allowing the prescriber to delegate certain patient care functions to the pharmacist***
   B. Are not implemented in the majority of states in the United States
   C. Commonly exclude ordering laboratory tests
   D. Are used primarily when the pharmacist can be reimbursed for services
   E. Unsure

Rationale: A. Collaborative practice agreements (CPAs) create a formal relationship between a pharmacist and a prescriber, who usually is a physician but can be a nurse practitioner, a physician assistant, or another prescriber. The CPA allows the prescriber to delegate certain patient care functions to the pharmacist, in addition to the pharmacist's typical scope of

practice, under negotiated conditions within the agreement. Ordering and interpreting laboratory tests is a commonly delegated function within a CPA. Using CPAs can improve patient access to care, health outcomes, and care coordination. CPAs have grown and legislation or regulations for pharmacist practice CPAs exist in all U.S. states except Delaware. CPAs are widely used regardless of pharmacist reimbursement, for example in federally qualified health centers. Payment reform is being increasingly addressed in state legislation.

3. All of the following changes to Texas laws and regulations may contribute to expanded use of collaborative practice agreements except:
   A. Allowing prescribers to engage in collaborative practice agreements with all qualified and trained pharmacists
   B. Including pharmacists in federally qualified health centers to sign prescription drug orders for dangerous drugs
   C. Excluding pharmacists from the list of health care providers***
   D. Prohibiting health plans and pharmacy benefit managers (PBMs) from denying reimbursement to pharmacists for covered services provided by other health professionals
   E. Unsure

Rationale: C. When pharmacists are included in the state's list of health care providers, an insurer may not discriminate against pharmacists for payment or reimbursement for services performed in the scope of that pharmacist's license if the same services or procedures are provided and covered by another listed health care practitioner. The new amendment allowing all qualified and trained pharmacists to engage in CPAs expands the number of pharmacists who may provide these services, increasing patient access. Patients who use federally qualified health centers may now have expanded access to pharmacist-provided services under CPAs. Pharmacist-provided clinical services are more sustainable when reimbursement exists for providing them. In Texas, HB 3441 addresses this by prohibiting health plans and PBMs from denying reimbursement to pharmacists for covered services provided by other health professionals.

4. In 2021, medication therapy management services to Medicaid patients were expanded to:
   A. Cover patients who are older than 65 years of age
   B. Make Texas the first state to provide these services to Medicaid beneficiaries
   C. Expand reimbursement to pharmacists
   D. Be implemented by the Texas Health and Human Services Commission***
   E. Unsure

Rationale: D. The Texas Health and Human Services Commission (HHSC) must collaborate with managed care organizations to implement MTM services with a goal of lower costs and reducing adverse drug events for recipients. It expands services beyond Medicare Part D for all patients. Texas joins 11 states who had some form of Medicaid coverage for pharmacist-provided medication management services as of March 2020.

5. During the 2021 legislative session of the Texas legislature, patient access to insulin was improved by
   A. Prohibiting health plans and PBMs from imposing a cost-sharing requirement on a patient for short-acting insulin that exceeds $25 per prescription for a 90-day supply
   B. Authorizing pharmacists to provide an emergency 30-day refill of insulin or insulin-related supplies or equipment***

C. Allowing PBMs to exclude some therapeutic categories of insulin to lower costs
D. Requiring the new Texas Cares program to reimburse pharmacists for emergency insulin and insulin-related supplies and equipment prescriptions
E. Unsure

Rationale: B. HB 1935 authorizes pharmacists to provide an emergency 30-day refill of insulin or insulin-related supplies or equipment, an extension of the previously allowed 72-hour supply. Health benefit plans and PBMs are required to reimburse pharmacies for providing these refills, not the forthcoming Texas Cares Program. SB 827 prohibits health benefit plans and PBMs (subject to TDI oversight) from imposing a cost-sharing requirement on a patient for all insulins that exceed $25 per prescription for a 30-day, not 90-day, supply. PBMs must also include at least 1 insulin from each therapeutic class on their formularies.

6. To provide a 30-day emergency supply of insulin or insulin-related supplies or equipment, pharmacists must:
A. Make at least 3 unsuccessful attempts to contact the patient's prescriber
B. Conduct a patient assessment that includes testing blood glucose
C. Request documentation that the patient was previously prescribed insulin or insulin-related supplies***
D. Supply a 30-day supply or greater for insulin-related supplies depending on package size
E. Unsure

Rationale: C. Prior use documentation must be provided to the pharmacist and a notation made in the patient record about the visit about what documentation was used. The pharmacist must make a "reasonable attempt" to contact the patient's prescriber and assess the patient to determine if the emergency supply is appropriate; specific details are left to the pharmacist's professional judgment. Supplies provided must be the lesser quantity of a 30-day supply or the smallest available package.

7. During the 2021 Texas legislative session, reforms of PBM-related practices as contained in HB 1763, HB 1919, and HB 1455, allows all the following except:
A. PBMs can conduct wholesaler audits of the pharmacy's claims from another PBM or health plan***
B. Local pharmacies can mail and deliver prescriptions for PBM patients upon their request
C. PBM contracts handled through a pharmacy services administrative organization can be accessed by pharmacies
D. Avoid retaliatory actions against pharmacies by PBMs when they lodge appeals or complaints because of new legal protections
E. Unsure

Rationale: A. HB 1455 prohibits PBMs from conducting wholesaler audits on a pharmacy's claims from another PBM or health plans. It also contains audit protections for the pharmacy when the correct drug is dispensed from a subunit or multiple of the drug purchased by the pharmacist or pharmacy as supported by the wholesale invoice. HB 1763 provides protections for pharmacies allowing the mail/delivery of prescriptions when the patient requests it, ensures they can access PBM contracts through pharmacy services administrative organizations, and allows them to lodge appeals and complaints without PBM retaliation.

8. Under current laws and regulations in Texas, PBMs are allowed to:

A. Steer patients to pharmacies they own through patient-specific messaging and providing reduced cost-sharing
B. Reimburse affiliated community and mail-service pharmacies at a higher rate than other pharmacies in their network
C. Reduce the amount they reimburse pharmacies for claims weeks or more after the transaction at the point-of-sale
D. Require prior authorizations for medication and services even when they have been submitted by a provider 5 times in the prior 3 years and they were approved half the time***
E. Unsure

Rationale: D. HB 3459 exempts physicians and other providers from PA requirements for a medication or particular health services if they have submitted at least 5 PA requests for the same medication or service in the previous year and 80% of the PAs were approved by the health benefit plan. All the other choices have actions that PBMs are prohibited from taking because of the reforms passed in HB 1763 and HB 1919.

9. Pharmacists now must address safe disposal of Schedule II medications by:
A. Providing a written notice on the safe disposal of controlled substances when the pharmacy is an authorized disposal site
B. Providing a written notice on the safe disposal of controlled substances when the pharmacy provides at no cost to the patient a mail-in pouch for drug disposal or chemicals to render the drugs unusable
C. Emailing the patient when a documented request is made for disposal information in an electronic format***
D. Including in a written notice a list of locations within 25 miles where prescription drugs are accepted for disposal
E. Unsure

Rationale: C. Written notices about safe disposal may be sent electronically, including via e-mail, when the patient or their agent requests an electronic format and the request is documented. The written notice must include information on locations where Schedule II controlled substance prescription drugs are accepted for safe disposal, or alternatively provide the address of an TSBP website that links to a searchable database of disposal locations; no geographic requirement is imposed. A pharmacy does not have to provide a written notice if they are authorized to take back those drugs for disposal, regularly accepts those drugs for safe disposal, or provides at no cost to the patient either a mail-in pouch to dispose of the drugs or chemicals to render the unused drugs unusable.

10. In December 2020, ratios of pharmacists to support personnel changed by increasing the:
A. Pharmacist-to-pharmacy technician ratio in community pharmacies to 1:6 from 1:3
B. Pharmacist-to-pharmacy technician ratio to 1:6 from 1:4 in nuclear pharmacies***
C. Pharmacist-to-pharmacist intern ratio to 1:8
D. Pharmacist-to-pharmacist intern ratio to 1:10 from 1:8 in central prescription drug or medication order processing pharmacies
E. Unsure

Rationale: B. The pharmacist-to-pharmacy technician ratio was increased to 1:6 from 1:4 in nuclear and community pharmacies. The pharmacist-to-pharmacist intern ratio was eliminated,

as was the former 1:8 ratio of pharmacist-to-pharmacy technician in central prescription drug or medication order processing pharmacies.