

# ARKANSAS REGISTER

## Proposed Rule Cover Sheet



Secretary of State  
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500 Woodlane Street, Suite 026  
Little Rock, Arkansas 72201-1094  
(501) 682-5070  
[www.sos.arkansas.gov](http://www.sos.arkansas.gov)



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Name of Department \_\_\_\_\_

Agency or Division Name \_\_\_\_\_

Other Subdivision or Department, If Applicable \_\_\_\_\_

Previous Agency Name, If Applicable \_\_\_\_\_

Contact Person \_\_\_\_\_

Contact E-mail \_\_\_\_\_

Contact Phone \_\_\_\_\_

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Name of Rule \_\_\_\_\_

Newspaper Name \_\_\_\_\_

Date of Publishing \_\_\_\_\_

Final Date for Public Comment \_\_\_\_\_

Location and Time of Public Meeting \_\_\_\_\_

## **REGULATION****RULE** **9** —**PHARMACEUTICAL CARE/PATIENT COUNSELING**

### **09-00: PATIENT COUNSELING**

#### **09-00-0001--PATIENT INFORMATION, DRUG USE EVALUATION, AND PATIENT COUNSELING**

The intent of this regulation is to improve pharmaceutical care by defining basic standards of care. Pharmacy care/pharmaceutical care is defined as the responsible provision of drug therapy for the purpose of achieving definite outcomes that improve a patient's quality of life. These outcomes are: (1) cure of disease, (2) elimination or reduction of a patient's symptomatology, (3) arresting or slowing a disease process, or (4) preventing a disease or symptomatology.

Pharmaceutical care (clinical pharmacy) involves four major functions on behalf of the patient: (1) identifying potential and actual drug-related problems, (2) resolving actual drug related problems, (3) preventing potential drug-related problems, and (4) optimizing patient therapy outcomes. It is recognized that the patient might be best served if medication is not provided.

##### (a) Patient information (profile)

In order to effectively counsel patients, the pharmacist must, through communication with the patient or caregiver, make a reasonable effort to obtain, record, and maintain the following information for each patient. It is recognized that most of this can be obtained using pharmacy technicians and designed forms, etc.

- (1) Name, address, telephone number;
- (2) Date of birth (age);
- (3) Gender;
- (4) Medical history
  - (A) Significant patient health problems known to the pharmacist;
  - (B) Prescription drug reactions/prescription drug allergies;
  - (C) List of prescription medications and legend drug administration devices known to the pharmacist.
- (5) Transitory patients or situations where the pharmacy will only provide medication one time

In obtaining patient information, if the pharmacist knows or is informed by the patient that this is a one-time situation, the pharmacist may forego the above requirement to record and maintain the information.

##### (6) Pharmacist comments

##### (b) Drug use evaluation for new and refill prescriptions

Drug use evaluation or drug utilization review includes the following activities:

- (1) The pharmacist shall evaluate the prescription or medication order for:
  - (A) Reasonable dose and route of administration;
  - (B) Reasonable directions for use.
- (2) The pharmacist shall evaluate medication orders and patient information for:

- (A) Duplication of therapy - is the patient taking the same or similar medication(s)?;
  - (B) Prescription drug-prescription drug interactions;
  - (C) Proper utilization (over or underutilization);
  - (D) Known drug allergies.
- (3) Drug-drug contraindications as defined by the Board. (Is this medication contraindicated with another medication the patient is taking?)
- (4) It is recognized that the ultimate decision to use the medication or not use the medication rests with the physician who has more complete patient information. It is the pharmacist's responsibility to monitor the patient's medication therapy in the areas addressed in this regulation and inform the physician of the suspected problem.
- (5) If a problem is suspected and the physician is informed, the pharmacist shall document the process.
- (c) Patient counseling.
- (1) A pharmacist shall counsel the patient or caregiver "face to face" if the patient or caregiver is in the pharmacy. If not, a pharmacist shall make a reasonable effort to counsel the patient or caregiver;
- (2) Alternative forms of patient information may be used to supplement, but not replace face-to-face patient counseling;
- (3) Patient counseling, as described herein, shall also be required for outpatients of hospitals and institutions when medications are dispensed on discharge from the hospital or institution.
- (4) Patient counseling as described in this regulation shall not be required for inpatients of a hospital or institution where a nurse or other licensed health care professional is authorized to administer the medication. However, the pharmacist shall provide drug therapy counseling it is when professionally deemed to be appropriate and when medications are provided by the pharmacy, and when a pharmacist is on duty and a patient is discharged from the hospital or institution.
- (5) The pharmacist shall maintain and make available to all patients appropriate patient-oriented reference materials USP-DI or *Facts and Comparisons Patient Drug Facts* or an equivalent or better publication as determined by the Board.
- (6) It is recognized that the ultimate decision to not provide patient counseling rests with the physician. If the physician in specific instances (blanket requests not accepted) requests that information NOT be provided to the patient and gives reason, the pharmacist should honor that request in almost all instances.
- (d) "Patient counseling" shall mean the effective communication by the pharmacist of information, as defined in this act to the patient or caregiver, in order to improve therapeutic outcome by encouraging proper use of prescription medications and drug delivery devices.
- (1) For original prescription medication orders, (excluding renewed or updated prescriptions the patient has been recently taking) and orders for legend devices, specific areas of counseling shall include:
- (A) Name and general description of the medication dispensed, i.e. antibiotic, antihistamine, blood pressure medicine, etc.

- (B) Name, general description and directions for use of drug delivery devices, i.e., insulin syringes, morphine pump, etc.
  - (C) Explanation of route of administration, dosage, times of administration, and continuity of therapy;
  - (D) Special directions for storage as deemed necessary by the pharmacist;
  - (E) If the drug has been determined to have a significant side effect by the Board of Pharmacy, the patient shall be properly counseled to the extent deemed necessary by the pharmacist.
  - (F) When the prescription drug dispensed has a significant side effect, if taken with over-the-counter drugs, the pharmacist should counsel the patient about that interaction. (Example: coumadin with aspirin )
  - (G) If the prescription medication is significantly affected by food or diet, the pharmacist should so advise the patient. (Example: tetracycline with milk or food)
  - (H) The pharmacist shall inform the patient or caregiver that he/she is available to answer questions about medications or general health information.
- (2) Refills--On refills the pharmacist shall present the opportunity for the patient or caregiver to ask questions. However, counseling on refills is not required except when needed in the professional judgment of the pharmacist.

(d) Drug interactions – significant side effects

Recognizing that a pharmacist cannot be expected to recognize all possible drug interactions and also recognizing that the pharmacist and the patient do not have time to explain the numerous side effects of drugs, the pharmacy shall maintain a computer program which will identify significant drug interactions. (These are drugs with side effects which may be managed most effectively if the patient is aware of the specific side effect and what to do if it occurs.) The pharmacist in charge will be responsible for assuring that the computer system adequately flags and warns the pharmacist of any occurrence of significant drug interactions or significant side effects. (If a pharmacy was in business before September 1, 1997, and at that time, did not have a computer system, said pharmacy may substitute *Patient Drug Facts* or other drug interaction manuals to reference drug interactions and side effects for effective patient counseling. This method should only be used until such time as the pharmacy acquires an adequate computer program as described in this section.) The pharmacist will be responsible for counseling the patient on these interactions with verbal and, where appropriate, written information. (2/12/91, 2/10/98, 07/15/2004)

**09-00-0002—PRESCRIPTION ORDERS TO ADMINISTER MEDICATION AND/OR IMMUNIZATIONS**

Except as limited by these rules [or Arkansas statutes](#) §17-92-101, an Arkansas licensed pharmacist, [intern or pharmacy technician](#) has the ability to administer medications [they have been trained to administer](#).

~~Authority to administer medications/immunizations:~~

~~(1) An Authority to Administer is a written protocol, as defined in ACA § 17-92-101, from a practitioner for administration by a pharmacist of an approved medication or immunization.~~

- ~~(2) Pharmacists may provide pharmaceutical care to patients seven (7) years of age and older by administering medications or immunizations to an eligible patient upon receiving an Authority to Administer or a valid prescription order by a practitioner so authorized to prescribe such medications or immunizations as provided in ACA § 17-92-101(16)(A)(i). After completing the course of study described in (b)(5)(B) — (E) of this section, licensed interns, as defined by Regulation 02-01-0003 (a), may provide pharmaceutical care to patients seven (7) years of age and older by administering medications or immunizations to an eligible patient, under the supervision of an appropriately licensed pharmacist with an Authority to Administer and in accordance with Regulations 02-01-004 and 02-01-0005(h).~~
- ~~(2) An Authority to Administer, once granted, is valid for a time period not to exceed one (1) year unless such an order is invalidated by the practitioner granting the authority.~~
- ~~(3) An Authority to Administer is valid only for the pharmacist meeting the requirements set forth by the Arkansas State Board of Pharmacy and is not transferable.~~
- ~~(4) Unless otherwise specifically authorized by the Board, a person must possess a Certification for the Authority to Administer Medications/Immunizations issued by the Board to be qualified to accept an Authority to Administer. Certification for the credential (Authority to Administer Medications/Immunizations) will be issued to pharmacists who:~~
- ~~(A) obtain and maintain a license to practice pharmacy issued by the Arkansas State Board of Pharmacy;~~
  - ~~(B) successfully complete a Board approved course of study, examination, and certification consisting of a training program that includes the current guidelines and recommendations of the Centers of Disease Control and Prevention. The course of study should include, at a minimum:
    - ~~(i) basic immunology, including the human immune response;~~
    - ~~(ii) the mechanism of immunity, adverse effects, dose, and administration schedule of available vaccines and approved medication/immunization;~~
    - ~~(iii) how to handle an emergency situation in the event one should arise as a result of the administration of the medication /immunization;~~
    - ~~(iv) how to persuade patients to be immunized and options for record keeping for patients that do get immunized;~~
    - ~~(v) how to administer subcutaneous, intradermal, and intramuscular injection; and~~
    - ~~(vi) record keeping requirements for these medications as required by law or regulation.~~~~
  - ~~(C) obtain supervised instructions on the physical administration of vaccines during such course of study and certification;~~
  - ~~(D) obtain and maintain current certification in Cardiopulmonary Resuscitation (CPR) or Basic Cardiac Life Support (BCLS), these certification courses must contain a live component where proficiency is tested; and~~
  - ~~(E) successful completion of the above described course of study may be accomplished by:
    - ~~(i) successfully completing the Board approved course of study in a College of Pharmacy curriculum; or~~~~

- (ii) successfully completing an American Council of Pharmaceutical Education (ACPE) Certificate Program of not less than twelve (12) hours on the course of study described in paragraph (b)(5)(B) above.
  - ~~(F) The College of Pharmacy or the provider of said course of study shall provide participants a certificate of completion. A copy of said certificate shall be mailed to the Board of Pharmacy offices and placed in the pharmacist's permanent file.~~
  - ~~(5) Pharmacists who complete items (A) through (E) of section (5) above may apply to the Board for a Certification for the Authority to Administer Medications/Immunizations. The certificate is valid until the pharmacist's license expires. The certificate shall be displayed in the pharmacy at which the pharmacist is working, and may be renewed when the pharmacist renews his or her license biennially after demonstrating continuing competency for certification.~~
  - ~~(6) Continuing competency for certification for Authority to Administer must be maintained. A minimum of two (2) of the thirty (30) hour requirement for continuing education, each biennium, must be dedicated to this area of practice. In addition, the pharmacist must maintain a current certificate in cardiopulmonary resuscitation (CPR) or basic cardiac life support (BCLS).~~
  - ~~(7) An Authority to Administer order shall meet the following requirements:
    - (A) must properly identify the practitioner issuing the order;
    - (B) must identify the medication or vaccine covered in any such order;
    - (C) must identify the medication or vaccine administered, site of the administration, dose administered, identity of pharmacist administering the dose; and
    - (D) must bear the date of the original order.~~
  - ~~(e) Record keeping: Pharmacists shall maintain the following information for a minimum of two years:
    - (1) Authority to Administer
    - (2) Signed Patient Consent Form containing at least the following information
      - (a) Name of Patient
      - (b) Description of the medication or vaccine
      - (c) Description of the risks and possible side effects of the medication or vaccine
      - (d) Lot number of the medication or vaccine
      - (e) Expiration date of the medication or vaccine
      - (f) Date of administration~~
- (Revised 07/15/2004, 03/14/2006, 7/5/2007, 7/27/2011 and 12/1/2017)

## ~~09-01: DISEASE STATE MANAGEMENT~~

### ~~09-01-0001 DISEASE STATE MANAGEMENT~~

~~The purpose of this regulation is to provide standards for the maintenance of records of a pharmacist engaged in the provision of disease state management as authorized in §17-92-101 (16) and §17-92-205 (a).~~

- ~~(a) Definitions. The following words and terms, when used in this regulation, shall have the following meanings, unless the context clearly indicates otherwise:
  - (1) "Act" means the Arkansas Pharmacy Practice Act
  - (2) "Board" means the Arkansas State Board of Pharmacy~~

- ~~(3) “Confidential record” means any health-related record maintained by a pharmacy or pharmacist such as a patient medication record, prescription drug order, or medication order.~~
- ~~(4) “Disease state management” means the performance of specific acts of disease state management delegated to a pharmacist for an individual patient by an authorized practitioner through written protocol. (Disease state management shall not include the selection of drug products not prescribed by the practitioner, unless the drug product is named in the practitioner initiated protocol.)~~
- ~~(5) “Written protocol” means a practitioner's order, standing medical order, standing delegation order, or other order or protocol as defined by rule of the Arkansas State Medical Board under the Medical Practice Act.~~
- ~~(A) A written protocol must contain at a minimum the following:~~
- ~~(i) A statement identifying the individual practitioner(s) authorized to prescribe drugs and responsible for the delegation of disease state management;~~
  - ~~(ii) A statement identifying the individual pharmacist(s) authorized to dispense drugs and to engage in disease state management delegated by the practitioner;~~
  - ~~(iii) A statement identifying the types of disease state management decisions that the pharmacist is authorized to make which shall include:
    - ~~(a) A statement of the ailments or diseases involved, drugs, and types of drug therapy management authorized; and~~
    - ~~(b) A specific statement of the procedures, decision criteria, or plan the pharmacist shall follow when exercising disease state management authority~~~~
  - ~~(iv) A statement of the activities the pharmacist shall follow in the course of exercising disease state management authority, including the method for documenting decisions made and a plan for communication or feedback to the authorizing physician concerning specific decisions made. Documentation shall be recorded within a reasonable time of each intervention and may be performed on the patient medication record, patient medical chart, or in a separate log book; and~~
  - ~~(v) A statement that describes appropriate mechanisms and time schedule for the pharmacist to report to the physician monitoring the pharmacist's exercise of delegated disease state management and the results of the disease state management.~~
- ~~(B) A standard protocol may be used, or the attending practitioner may develop a disease state management protocol for the individual patient. If a standard protocol is used, the practitioner shall record, what deviations if any, from the standard protocol are ordered for that patient;~~
- ~~(C) Maintenance of records:~~
- ~~(i) Every patient record required to be kept under this regulation shall be kept by the pharmacist and be available, for at least two (2) years from the date of such record, for inspecting and copying by the Board or its representative and to other authorized local, state, or federal law enforcement or regulatory agencies.~~

- ~~(ii) Patient records may be maintained in an alternative data retention system, such as a data processing system or direct imaging system provided:
  - ~~(a) The records maintained in the alternative system contain all of the information required on a manual record; and~~
  - ~~(b) The data processing system is capable of producing a hard copy of the record upon the request of the Board, its representative, or other authorized local, state, or federal law enforcement or regulatory agencies.~~~~
- ~~(D) Written protocol:
  - ~~(i) A copy of the written protocol and any patient-specific deviations from the protocol shall be maintained by the pharmacist and available for inspection by a Board Inspector upon request.~~
  - ~~(ii) Written protocols, including standard protocols, any patient-specific deviations from a standard protocol, and any individual patient protocol, shall be reviewed by the practitioner and pharmacist at least annually and revised, if necessary. Such review shall be documented in the pharmacist's records. Documentation of all services provided to the patient, by the pharmacist, shall be reviewed by the physician on the schedule established in the protocol.~~
  - ~~(iii) Any protocol from a practitioner shall be maintained in the pharmacy and available for inspection by a Board Inspector upon request.~~~~
- ~~(E) Confidentiality:
  - ~~(i) A pharmacist shall provide adequate security to prevent indiscriminate or unauthorized access to confidential records. If confidential health information is not transmitted directly between a pharmacy and a practitioner, but is transmitted through a data communication device, the confidential health information may not be accessed or maintained by the operator of the data communication device unless specifically authorized to obtain the confidential information by this regulation.~~
  - ~~(ii) Confidential records are privileged and may be released only to:
    - ~~(a) the patient or the patient's agent;~~
    - ~~(b) practitioners and other pharmacists when, in the pharmacist's professional judgment, such release is necessary to protect the patient's health and well-being;~~
    - ~~(c) other persons, the Board, or other state or federal agencies authorized by law to receive such information;~~
    - ~~(d) a law enforcement agency engaged in investigation of suspected violations of the Controlled Substances Act; or~~
    - ~~(e) a person employed by any state agency which licenses a practitioner as defined in the Act if such person is engaged in the performance of the person's official duties.~~~~
  - ~~(iii) This regulation shall not affect or alter the provisions relating to the confidentiality of the physician-patient communication as specified in the Medical Practice Act.~~~~

~~(Adopted 8/19/99)~~



**~~09-01-0003—QUALIFICATIONS, RESOURCES, AND RECORD KEEPING REQUIRED FOR PRACTICING DISEASE STATE MANAGEMENT IN ARKANSAS.~~**

- ~~(a) To practice disease state management a pharmacist must:~~
- ~~(1) be a licensed pharmacist in the State of Arkansas~~
  - ~~(2) complete requirements for a credential as established by a Board of Pharmacy approved organization.~~
- ~~(b) Resource requirements for the provision of disease state management services shall include—but are not limited to the following:~~
- ~~(1) Maintain a distinct area that provides privacy for the provision of disease state management services;~~
  - ~~(2) Maintain references that include a current copy/edition of applicable national practice guidelines and such other resources as may be necessary for the provision of optimal care;~~
  - ~~(3) Maintain devices, supplies, furniture, and equipment as may be needed for the provision of optimal care.~~
- ~~(c) Record keeping requirements for disease state management.~~  
The pharmacist shall record, maintain, and transfer data essential to the continuity of care and consistent with all applicable state and federal laws and regulations; and these records and all related files shall be available to the Arkansas State Board of Pharmacy inspectors and professional staff upon request. Additionally, a transferable pharmaceutical care record is to be maintained and is to include:
- ~~(1) The written request for consultation from the patient or physician;~~
  - ~~(2) The physician approved protocol and/or patient care plan, which is to recognize all concomitant diseases and the patient’s complete medication history/profile;~~
  - ~~(3) Pharmacy progress notes; and,~~
  - ~~(4) Laboratory data.~~
- ~~(Adopted 8/19/99, Revised 11/12/2009)~~

**~~09-01-0004—MINIMUM COMPETENCIES AND STANDARDS~~**

- ~~(a) Minimum competencies for pharmaceutical care in all disease state management areas:~~
- ~~(1) The pharmacist shall be capable of identifying and accessing the patient’s current health status, health-related needs and problems, and desired therapeutic outcomes.~~
  - ~~(2) The pharmacist shall be capable of implementing, and evaluating a pharmaceutical care plan that assures the appropriateness of the patient’s medication(s), dosing regimens, dosage forms, routes of administration, and delivery systems.~~
  - ~~(3) The pharmacist shall be capable of communicating appropriate information to the patient and/or caregiver and other health care professionals regarding prescription or non-prescription medications and/or medical devices, disease states, or medical conditions, and the maintenance of health and wellness.~~
  - ~~(4) The pharmacist shall be capable of monitoring and documenting the patient’s progress toward identified endpoints and outcomes of the pharmaceutical care plan and shall intervene when appropriate.~~
- ~~(Adopted 8/19/99, Revised 11/12/2009)~~

~~09-01-0005 — NOTIFICATION OF CREDENTIAL IN DISEASE STATE  
MANAGEMENT REQUIRED:~~

~~Every pharmacist who receives a credential in disease state management from a Board approved organization must provide a copy of the credential to the Board of Pharmacy office. The Board of Pharmacy will notify any party requesting notification that the pharmacist is so qualified.~~

~~(Adopted 8/19/99, Revised 8/2001, 07/2004, 11/12/2009)~~



# Arkansas State Board of Pharmacy

322 South Main Street, Suite 600 Little Rock, AR 72201

P: 501.682.0190 F: 501.682.0195

asbp@arkansas.gov • www.pharmacyboard.arkansas.gov

John Clay Kirtley, Pharm.D., Executive Director



November 12, 2021

Arkansas Secretary of State  
500 Woodlane St.  
Little Rock, AR 72201

Re: Arkansas State Board of Pharmacy

## RULE 9 - PHARMACEUTICAL CARE/PATIENT COUNSELING

To Whom it May Concern,

The above listed rule will tentatively be discussed in a public hearing on Tuesday, December 14, 2021 at 9:00 AM, at the Arkansas State Board of Pharmacy, 322 South Main St., Suite 600, Little Rock, AR 72201. I am including information for this regulation change to include:

- This Cover letter
- Summary of Substantive Changes for each proposed change
- Public Notice for hearing
- Mark-Up Copy of each Rule

If you have any additional questions regarding this matter then please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink that reads "John Clay Kirtley".

John Clay Kirtley, Pharm.D.  
Executive Director



# Arkansas State Board of Pharmacy

322 South Main Street, Suite 600 Little Rock, AR 72201

P: 501.682.0190 F: 501.682.0195

asbp@arkansas.gov • www.pharmacyboard.arkansas.gov

John Clay Kirtley, Pharm.D., Executive Director



Proposed Rule

## RULE 9 - PHARMACEUTICAL CARE/PATIENT COUNSELING

### Summary of Proposed Changes

Proposed changes will update language due to changes in statute pursuant to Act 63 of 2021, Act 406 of 2021 and Act 407 of 2021.

These changes will do the following:

1. Remove the disease state management endorsement process on the pharmacist license in accordance with Act 63 of 2021.
2. Remove language in conflict with and in addition to updated statutory language as shown in Act 406 of 2021 reflecting the ability of pharmacists to prescribe, administer, deliver, distribute, or dispense vaccines, immunizations, and medications to treat adverse reactions to administered vaccines as outlined in statute.
3. Update language to reflect that pharmacy technicians may administer vaccines and immunizations they have been trained to administer as outlined in Act 407 of 2021.

If you have any additional questions regarding this matter, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink that reads "John Clay Kirtley".

John Clay Kirtley, Pharm.D.  
Executive Director

## John Kirtley

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**From:** legalads@arkansasonline.com  
**Sent:** Thursday, November 11, 2021 8:29 AM  
**To:** John Kirtley  
**Subject:** Re: Full Run AD - Proposed Rule Changes for Public Notice

Will run Fri 11/12, Sat 11/13, and Sun 11/14.

Thank you.

Gregg Sterne, Legal Advertising  
Arkansas Democrat-Gazette  
legalads@arkansasonline.com

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**From:** "John Kirtley" <John.Kirtley@arkansas.gov>  
**To:** legalads@arkansasonline.com  
**Cc:** "Jennifer Burgin (Board of Pharmacy)" <Jennifer.Burgin@arkansas.gov>, "Lana Whitmore" <Lana.Whitmore@arkansas.gov>, "Brenda McCrady" <Brenda.McCrady@arkansas.gov>, "Luke Daniel" <luke.daniel@arkansas.gov>  
**Sent:** Wednesday, November 10, 2021 11:31:10 AM  
**Subject:** Full Run AD - Proposed Rule Changes for Public Notice

I am attaching a word document for a public notice to be posted for 3 consecutive days starting this Friday, November 12th. This is our public notice regarding proposed rule changes that will be discussed next month. Please let me know if you have any questions. Please let me know that this has been processed.

Our billing contact is:

Lana Whitmore  
Chief Fiscal Officer  
Arkansas State Board of Pharmacy  
322 South Main Street, Suite 600  
Little Rock, AR 72201

John Clay Kirtley, Pharm.D.  
Executive Director  
Arkansas State Board of Pharmacy  
322 South Main Street, Suite 600  
Little Rock, AR 72201  
Phone: 501-682-0190  
Fax: 501-682-0195  
[John.Kirtley@arkansas.gov](mailto:John.Kirtley@arkansas.gov)



## PUBLIC NOTICE

On Tuesday, December 14, 2021 at 9:00 AM, the Arkansas State Board of Pharmacy will hold a public hearing in the Arkansas State Board of Pharmacy Offices, 322 South Main, Suite 600, Little Rock, AR 72201. The following rule changes will be considered:

### RULE 1 - GENERAL OPERATIONS

Proposed changes will update language regarding expedited licensing for qualified individuals to match requirements in Act 135 of 2021.

### RULE 5 - LONG TERM-CARE FACILITIES

Proposed changes will remove the nursing home consultant permit endorsement requirement on the pharmacist license to practice in this area in accordance with Act 63 of 2021.

### RULE 9 - PHARMACEUTICAL CARE/PATIENT COUNSELING

Proposed changes will remove the disease state management endorsement process on the pharmacist license in accordance with Act 63 of 2021, remove language in conflict with and in addition to updated statutory language as shown in Act 406 of 2021 reflecting the ability of pharmacists to prescribe, administer, deliver, distribute, or dispense vaccines, immunizations, and medications to treat adverse reactions to administered vaccines as outlined in statute and will update language to reflect that pharmacy technicians may administer vaccines and immunizations they have been trained to administer as outlined in Act 407 of 2021.

Public comments will be accepted until the conclusion of the public hearing. A copy of the proposed rule changes and instructions to participate in the meeting can be obtained through our website at <http://www.pharmacyboard.arkansas.gov/pharmacy-lawbook> by calling (501) 682-0190, writing:

Arkansas State Board of Pharmacy  
322 South Main Street, Suite 600  
Little Rock, AR 72201,

or by emailing the Board of Pharmacy at [asbp@arkansas.gov](mailto:asbp@arkansas.gov)

**REGULATION RULE 9 —PHARMACEUTICAL CARE/PATIENT COUNSELING****09-00: PATIENT COUNSELING****09-00-0001--PATIENT INFORMATION, DRUG USE EVALUATION, AND PATIENT COUNSELING**

The intent of this regulation is to improve pharmaceutical care by defining basic standards of care. Pharmacy care/pharmaceutical care is defined as the responsible provision of drug therapy for the purpose of achieving definite outcomes that improve a patient's quality of life. These outcomes are: (1) cure of disease, (2) elimination or reduction of a patient's symptomatology, (3) arresting or slowing a disease process, or (4) preventing a disease or symptomatology.

Pharmaceutical care (clinical pharmacy) involves four major functions on behalf of the patient: (1) identifying potential and actual drug-related problems, (2) resolving actual drug related problems, (3) preventing potential drug-related problems, and (4) optimizing patient therapy outcomes. It is recognized that the patient might be best served if medication is not provided.

**(a) Patient information (profile)**

In order to effectively counsel patients, the pharmacist must, through communication with the patient or caregiver, make a reasonable effort to obtain, record, and maintain the following information for each patient. It is recognized that most of this can be obtained using pharmacy technicians and designed forms, etc.

- (1) Name, address, telephone number;
- (2) Date of birth (age);
- (3) Gender;
- (4) Medical history
  - (A) Significant patient health problems known to the pharmacist;
  - (B) Prescription drug reactions/prescription drug allergies;
  - (C) List of prescription medications and legend drug administration devices known to the pharmacist.
- (5) Transitory patients or situations where the pharmacy will only provide medication one time

In obtaining patient information, if the pharmacist knows or is informed by the patient that this is a one-time situation, the pharmacist may forego the above requirement to record and maintain the information.

**(6) Pharmacist comments****(b) Drug use evaluation for new and refill prescriptions**

Drug use evaluation or drug utilization review includes the following activities:

- (1) The pharmacist shall evaluate the prescription or medication order for:
  - (A) Reasonable dose and route of administration;
  - (B) Reasonable directions for use.
- (2) The pharmacist shall evaluate medication orders and patient information for:

- (A) Duplication of therapy - is the patient taking the same or similar medication(s)?;
  - (B) Prescription drug-prescription drug interactions;
  - (C) Proper utilization (over or underutilization);
  - (D) Known drug allergies.
- (3) Drug-drug contraindications as defined by the Board. (Is this medication contraindicated with another medication the patient is taking?)
- (4) It is recognized that the ultimate decision to use the medication or not use the medication rests with the physician who has more complete patient information. It is the pharmacist's responsibility to monitor the patient's medication therapy in the areas addressed in this regulation and inform the physician of the suspected problem.
- (5) If a problem is suspected and the physician is informed, the pharmacist shall document the process.
- (c) Patient counseling.
- (1) A pharmacist shall counsel the patient or caregiver "face to face" if the patient or caregiver is in the pharmacy. If not, a pharmacist shall make a reasonable effort to counsel the patient or caregiver;
- (2) Alternative forms of patient information may be used to supplement, but not replace face-to-face patient counseling;
- (3) Patient counseling, as described herein, shall also be required for outpatients of hospitals and institutions when medications are dispensed on discharge from the hospital or institution.
- (4) Patient counseling as described in this regulation shall not be required for inpatients of a hospital or institution where a nurse or other licensed health care professional is authorized to administer the medication. However, the pharmacist shall provide drug therapy counseling it is when professionally deemed to be appropriate and when medications are provided by the pharmacy, and when a pharmacist is on duty and a patient is discharged from the hospital or institution.
- (5) The pharmacist shall maintain and make available to all patients appropriate patient-oriented reference materials USP-DI or *Facts and Comparisons Patient Drug Facts* or an equivalent or better publication as determined by the Board.
- (6) It is recognized that the ultimate decision to not provide patient counseling rests with the physician. If the physician in specific instances (blanket requests not accepted) requests that information NOT be provided to the patient and gives reason, the pharmacist should honor that request in almost all instances.
- (d) "Patient counseling" shall mean the effective communication by the pharmacist of information, as defined in this act to the patient or caregiver, in order to improve therapeutic outcome by encouraging proper use of prescription medications and drug delivery devices.
- (1) For original prescription medication orders, (excluding renewed or updated prescriptions the patient has been recently taking) and orders for legend devices, specific areas of counseling shall include:
- (A) Name and general description of the medication dispensed, i.e. antibiotic, antihistamine, blood pressure medicine, etc.



- (B) Name, general description and directions for use of drug delivery devices, i.e., insulin syringes, morphine pump, etc.
  - (C) Explanation of route of administration, dosage, times of administration, and continuity of therapy;
  - (D) Special directions for storage as deemed necessary by the pharmacist;
  - (E) If the drug has been determined to have a significant side effect by the Board of Pharmacy, the patient shall be properly counseled to the extent deemed necessary by the pharmacist.
  - (F) When the prescription drug dispensed has a significant side effect, if taken with over-the-counter drugs, the pharmacist should counsel the patient about that interaction. (Example: coumadin with aspirin )
  - (G) If the prescription medication is significantly affected by food or diet, the pharmacist should so advise the patient. (Example: tetracycline with milk or food)
  - (H) The pharmacist shall inform the patient or caregiver that he/she is available to answer questions about medications or general health information.
- (2) Refills--On refills the pharmacist shall present the opportunity for the patient or caregiver to ask questions. However, counseling on refills is not required except when needed in the professional judgment of the pharmacist.

(d) Drug interactions – significant side effects

Recognizing that a pharmacist cannot be expected to recognize all possible drug interactions and also recognizing that the pharmacist and the patient do not have time to explain the numerous side effects of drugs, the pharmacy shall maintain a computer program which will identify significant drug interactions. (These are drugs with side effects which may be managed most effectively if the patient is aware of the specific side effect and what to do if it occurs.) The pharmacist in charge will be responsible for assuring that the computer system adequately flags and warns the pharmacist of any occurrence of significant drug interactions or significant side effects. (If a pharmacy was in business before September 1, 1997, and at that time, did not have a computer system, said pharmacy may substitute *Patient Drug Facts* or other drug interaction manuals to reference drug interactions and side effects for effective patient counseling. This method should only be used until such time as the pharmacy acquires an adequate computer program as described in this section.) The pharmacist will be responsible for counseling the patient on these interactions with verbal and, where appropriate, written information. (2/12/91, 2/10/98, 07/15/2004)

**09-00-0002—PRESCRIPTION ORDERS TO ADMINISTER MEDICATION AND/OR IMMUNIZATIONS**

Except as limited by these rules [or Arkansas statutes](#) §17-92-101, an Arkansas licensed pharmacist, [intern or pharmacy technician](#) has the ability to administer medications [they have been trained to administer](#).

~~Authority to administer medications/immunizations:~~

- ~~(1) An Authority to Administer is a written protocol, as defined in ACA § 17-92-101, from a practitioner for administration by a pharmacist of an approved medication or immunization.~~

- ~~(2) Pharmacists may provide pharmaceutical care to patients seven (7) years of age and older by administering medications or immunizations to an eligible patient upon receiving an Authority to Administer or a valid prescription order by a practitioner so authorized to prescribe such medications or immunizations as provided in ACA § 17-92-101(16)(A)(i). After completing the course of study described in (b)(5)(B) — (E) of this section, licensed interns, as defined by Regulation 02-01-0003 (a), may provide pharmaceutical care to patients seven (7) years of age and older by administering medications or immunizations to an eligible patient, under the supervision of an appropriately licensed pharmacist with an Authority to Administer and in accordance with Regulations 02-01-004 and 02-01-0005(h).~~
- ~~(2) An Authority to Administer, once granted, is valid for a time period not to exceed one (1) year unless such an order is invalidated by the practitioner granting the authority.~~
- ~~(3) An Authority to Administer is valid only for the pharmacist meeting the requirements set forth by the Arkansas State Board of Pharmacy and is not transferable.~~
- ~~(4) Unless otherwise specifically authorized by the Board, a person must possess a Certification for the Authority to Administer Medications/Immunizations issued by the Board to be qualified to accept an Authority to Administer. Certification for the credential (Authority to Administer Medications/Immunizations) will be issued to pharmacists who:~~
- ~~(A) obtain and maintain a license to practice pharmacy issued by the Arkansas State Board of Pharmacy;~~
- ~~(B) successfully complete a Board approved course of study, examination, and certification consisting of a training program that includes the current guidelines and recommendations of the Centers of Disease Control and Prevention. The course of study should include, at a minimum:~~
- ~~(i) basic immunology, including the human immune response;~~
- ~~(ii) the mechanism of immunity, adverse effects, dose, and administration schedule of available vaccines and approved medication/immunization;~~
- ~~(iii) how to handle an emergency situation in the event one should arise as a result of the administration of the medication /immunization;~~
- ~~(iv) how to persuade patients to be immunized and options for record keeping for patients that do get immunized;~~
- ~~(v) how to administer subcutaneous, intradermal, and intramuscular injection; and~~
- ~~(vi) record keeping requirements for these medications as required by law or regulation.~~
- ~~(C) obtain supervised instructions on the physical administration of vaccines during such course of study and certification;~~
- ~~(D) obtain and maintain current certification in Cardiopulmonary Resuscitation (CPR) or Basic Cardiac Life Support (BCLS), these certification courses must contain a live component where proficiency is tested; and~~
- ~~(E) successful completion of the above described course of study may be accomplished by:~~
- ~~(i) successfully completing the Board approved course of study in a College of Pharmacy curriculum; or~~

- (ii) successfully completing an American Council of Pharmaceutical Education (ACPE) Certificate Program of not less than twelve (12) hours on the course of study described in paragraph (b)(5)(B) above.
  - ~~(F) The College of Pharmacy or the provider of said course of study shall provide participants a certificate of completion. A copy of said certificate shall be mailed to the Board of Pharmacy offices and placed in the pharmacist's permanent file.~~
  - ~~(5) Pharmacists who complete items (A) through (E) of section (5) above may apply to the Board for a Certification for the Authority to Administer Medications/Immunizations. The certificate is valid until the pharmacist's license expires. The certificate shall be displayed in the pharmacy at which the pharmacist is working, and may be renewed when the pharmacist renews his or her license biennially after demonstrating continuing competency for certification.~~
  - ~~(6) Continuing competency for certification for Authority to Administer must be maintained. A minimum of two (2) of the thirty (30) hour requirement for continuing education, each biennium, must be dedicated to this area of practice. In addition, the pharmacist must maintain a current certificate in cardiopulmonary resuscitation (CPR) or basic cardiac life support (BCLS).~~
  - ~~(7) An Authority to Administer order shall meet the following requirements:
    - ~~(A) must properly identify the practitioner issuing the order;~~
    - ~~(B) must identify the medication or vaccine covered in any such order;~~
    - ~~(C) must identify the medication or vaccine administered, site of the administration, dose administered, identity of pharmacist administering the dose; and~~
    - ~~(D) must bear the date of the original order.~~~~
  - ~~(e) Record keeping: Pharmacists shall maintain the following information for a minimum of two years:
    - ~~(1) Authority to Administer~~
    - ~~(2) Signed Patient Consent Form containing at least the following information
      - ~~(a) Name of Patient~~
      - ~~(b) Description of the medication or vaccine~~
      - ~~(c) Description of the risks and possible side effects of the medication or vaccine~~
      - ~~(d) Lot number of the medication or vaccine~~
      - ~~(e) Expiration date of the medication or vaccine~~
      - ~~(f) Date of administration~~~~~~
- ~~(Revised 07/15/2004, 03/14/2006, 7/5/2007, 7/27/2011 and 12/1/2017)~~

## ~~09-01: DISEASE STATE MANAGEMENT~~

### ~~09-01-0001 DISEASE STATE MANAGEMENT~~

~~The purpose of this regulation is to provide standards for the maintenance of records of a pharmacist engaged in the provision of disease state management as authorized in §17-92-101 (16) and §17-92-205 (a).~~

- ~~(a) Definitions. The following words and terms, when used in this regulation, shall have the following meanings, unless the context clearly indicates otherwise:
  - ~~(1) "Act" means the Arkansas Pharmacy Practice Act~~
  - ~~(2) "Board" means the Arkansas State Board of Pharmacy~~~~

- (3) ~~“Confidential record” means any health-related record maintained by a pharmacy or pharmacist such as a patient medication record, prescription drug order, or medication order.~~
- (4) ~~“Disease state management” means the performance of specific acts of disease state management delegated to a pharmacist for an individual patient by an authorized practitioner through written protocol. (Disease state management shall not include the selection of drug products not prescribed by the practitioner, unless the drug product is named in the practitioner initiated protocol.)~~
- (5) ~~“Written protocol” means a practitioner's order, standing medical order, standing delegation order, or other order or protocol as defined by rule of the Arkansas State Medical Board under the Medical Practice Act.~~
- (A) ~~A written protocol must contain at a minimum the following:~~
- ~~(i) A statement identifying the individual practitioner(s) authorized to prescribe drugs and responsible for the delegation of disease state management;~~
  - ~~(ii) A statement identifying the individual pharmacist(s) authorized to dispense drugs and to engage in disease state management delegated by the practitioner;~~
  - ~~(iii) A statement identifying the types of disease state management decisions that the pharmacist is authorized to make which shall include:
    - ~~(a) A statement of the ailments or diseases involved, drugs, and types of drug therapy management authorized; and~~
    - ~~(b) A specific statement of the procedures, decision criteria, or plan the pharmacist shall follow when exercising disease state management authority~~~~
  - ~~(iv) A statement of the activities the pharmacist shall follow in the course of exercising disease state management authority, including the method for documenting decisions made and a plan for communication or feedback to the authorizing physician concerning specific decisions made. Documentation shall be recorded within a reasonable time of each intervention and may be performed on the patient medication record, patient medical chart, or in a separate log book; and~~
  - ~~(v) A statement that describes appropriate mechanisms and time schedule for the pharmacist to report to the physician monitoring the pharmacist's exercise of delegated disease state management and the results of the disease state management.~~
- (B) ~~A standard protocol may be used, or the attending practitioner may develop a disease state management protocol for the individual patient. If a standard protocol is used, the practitioner shall record, what deviations if any, from the standard protocol are ordered for that patient;~~
- (C) ~~Maintenance of records:~~
- ~~(i) Every patient record required to be kept under this regulation shall be kept by the pharmacist and be available, for at least two (2) years from the date of such record, for inspecting and copying by the Board or its representative and to other authorized local, state, or federal law enforcement or regulatory agencies.~~

- ~~(ii) Patient records may be maintained in an alternative data retention system, such as a data processing system or direct imaging system provided:
    - ~~(a) The records maintained in the alternative system contain all of the information required on a manual record; and~~
    - ~~(b) The data processing system is capable of producing a hard copy of the record upon the request of the Board, its representative, or other authorized local, state, or federal law enforcement or regulatory agencies.~~~~
  - ~~(D) Written protocol:
    - ~~(i) A copy of the written protocol and any patient-specific deviations from the protocol shall be maintained by the pharmacist and available for inspection by a Board Inspector upon request.~~
    - ~~(ii) Written protocols, including standard protocols, any patient specific deviations from a standard protocol, and any individual patient protocol, shall be reviewed by the practitioner and pharmacist at least annually and revised, if necessary. Such review shall be documented in the pharmacist's records. Documentation of all services provided to the patient, by the pharmacist, shall be reviewed by the physician on the schedule established in the protocol.~~
    - ~~(iii) Any protocol from a practitioner shall be maintained in the pharmacy and available for inspection by a Board Inspector upon request.~~~~
  - ~~(E) Confidentiality:
    - ~~(i) A pharmacist shall provide adequate security to prevent indiscriminate or unauthorized access to confidential records. If confidential health information is not transmitted directly between a pharmacy and a practitioner, but is transmitted through a data communication device, the confidential health information may not be accessed or maintained by the operator of the data communication device unless specifically authorized to obtain the confidential information by this regulation.~~
    - ~~(ii) Confidential records are privileged and may be released only to:
      - ~~(a) the patient or the patient's agent;~~
      - ~~(b) practitioners and other pharmacists when, in the pharmacist's professional judgment, such release is necessary to protect the patient's health and well-being;~~
      - ~~(c) other persons, the Board, or other state or federal agencies authorized by law to receive such information;~~
      - ~~(d) a law enforcement agency engaged in investigation of suspected violations of the Controlled Substances Act; or~~
      - ~~(e) a person employed by any state agency which licenses a practitioner as defined in the Act if such person is engaged in the performance of the person's official duties.~~~~
    - ~~(iii) This regulation shall not affect or alter the provisions relating to the confidentiality of the physician-patient communication as specified in the Medical Practice Act.~~~~
- ~~(Adopted 8/19/99)~~

**09-01-0003—QUALIFICATIONS, RESOURCES, AND RECORD KEEPING REQUIRED FOR PRACTICING DISEASE STATE MANAGEMENT IN ARKANSAS.**

- (a) ~~To practice disease state management a pharmacist must:~~
- ~~(1) be a licensed pharmacist in the State of Arkansas~~
  - ~~(2) complete requirements for a credential as established by a Board of Pharmacy approved organization.~~
- (b) ~~Resource requirements for the provision of disease state management services shall include—but are not limited to the following:~~
- ~~(1) Maintain a distinct area that provides privacy for the provision of disease state management services;~~
  - ~~(2) Maintain references that include a current copy/edition of applicable national practice guidelines and such other resources as may be necessary for the provision of optimal care;~~
  - ~~(3) Maintain devices, supplies, furniture, and equipment as may be needed for the provision of optimal care.~~
- (c) ~~Record keeping requirements for disease state management.~~  
The pharmacist shall record, maintain, and transfer data essential to the continuity of care and consistent with all applicable state and federal laws and regulations; and these records and all related files shall be available to the Arkansas State Board of Pharmacy inspectors and professional staff upon request. Additionally, a transferable pharmaceutical care record is to be maintained and is to include:
- ~~(1) The written request for consultation from the patient or physician;~~
  - ~~(2) The physician approved protocol and/or patient care plan, which is to recognize all concomitant diseases and the patient’s complete medication history/profile;~~
  - ~~(3) Pharmacy progress notes; and,~~
  - ~~(4) Laboratory data.~~
- ~~(Adopted 8/19/99, Revised 11/12/2009)~~

**09-01-0004—MINIMUM COMPETENCIES AND STANDARDS**

- (a) ~~Minimum competencies for pharmaceutical care in all disease state management areas:~~
- ~~(1) The pharmacist shall be capable of identifying and accessing the patient’s current health status, health-related needs and problems, and desired therapeutic outcomes.~~
  - ~~(2) The pharmacist shall be capable of implementing, and evaluating a pharmaceutical care plan that assures the appropriateness of the patient’s medication(s), dosing regimens, dosage forms, routes of administration, and delivery systems.~~
  - ~~(3) The pharmacist shall be capable of communicating appropriate information to the patient and/or caregiver and other health care professionals regarding prescription or non-prescription medications and/or medical devices, disease states, or medical conditions, and the maintenance of health and wellness.~~
  - ~~(4) The pharmacist shall be capable of monitoring and documenting the patient’s progress toward identified endpoints and outcomes of the pharmaceutical care plan and shall intervene when appropriate.~~
- ~~(Adopted 8/19/99, Revised 11/12/2009)~~

~~09-01-0005 — NOTIFICATION OF CREDENTIAL IN DISEASE STATE  
MANAGEMENT REQUIRED:~~

~~Every pharmacist who receives a credential in disease state management from a Board approved organization must provide a copy of the credential to the Board of Pharmacy office. The Board of Pharmacy will notify any party requesting notification that the pharmacist is so qualified.~~

~~(Adopted 8/19/99, Revised 8/2001, 07/2004, 11/12/2009)~~