SEC. 242.601. MEDICATION ADMINISTRATION.
(a) An institution must establish medication administration procedures.

(b) The medication administration procedures must comply with this subchapter and the rules adopted by the board under Section 242.608.


Sec. 242.602. PHARMACIST SERVICES.
(a) An institution shall:

(1) employ a licensed pharmacist responsible for operating the institution's pharmacy; or

(2) contract, in writing, with a licensed pharmacist to advise the institution on ordering, storage, administration, and disposal of medications and biologicals and related recordkeeping.

(b) The institution shall allow residents to choose their pharmacy provider from any pharmacy that is qualified to perform the services.

Added by Acts 1997, 75th Leg., ch. 1159, Sec. 1.30, eff. Sept. 1, 1997.

Sec. 242.603. STORAGE AND DISPOSAL OF MEDICATIONS.
(a) An institution shall store medications under appropriate conditions of sanitation, temperature, light, moisture, ventilation, segregation, and security.

(b) The institution shall properly dispose of:

(1) any medication that is discontinued or outdated, except as provided by Subsection (c); and

(2) any medication in a container with a worn or illegible label or missing a label.

(c) A discontinued medication that has not been destroyed must be reinstated if reordered.

(d) An institution shall release the medications of a resident who is transferred directly to another institution or who is discharged to home to the new institution or to the resident or resident’s next
of kin or guardian, as appropriate. The institution may release a medication to a resident only on
the written or verbal authorization of the attending physician.

Leg., ch. 198, Sec. 2.62, eff. Sept. 1, 2003.

Sec. 242.604. REPORTS OF MEDICATION ERRORS AND ADVERSE REACTIONS.

An institution's nursing staff must report medication errors and adverse reactions to the resident's
physician in a timely manner, as warranted by an assessment of the resident's condition, and
record the errors and reactions in the resident's clinical record.

Added by Acts 1997, 75th Leg., ch. 1159, Sec. 1.30, eff. Sept. 1, 1997.

Sec. 242.605. MEDICATION REFERENCE SOURCES.

An institution shall maintain updated medication reference texts or sources. If the institution has a
resident younger than 18 years of age, these texts or sources must include information on pediatric
medications, dosages, sites, routes, techniques of administration of medications, desired effects, and
possible side effects.

Added by Acts 1997, 75th Leg., ch. 1159, Sec. 1.30, eff. Sept. 1, 1997.

Sec. 242.606. PERMITS TO ADMINISTER MEDICATION.

A person may not administer medication to a resident unless the person:

(1) holds a license under state law that authorizes the person to administer medication; or

(2) holds a permit issued under Section 242.610 and acts under the authority of a person who holds
a license under state law that authorizes the person to administer medication.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Redesignated from V.T.C.A, Health and Safety

SEC. 242.607. EXEMPTIONS FOR NURSING STUDENTS AND MEDICATION AIDE TRAINEES.

(a) Sections 242.606 and 242.614 do not apply to:

(1) a graduate nurse holding a temporary permit issued by the Texas Board of Nursing;

(2) a student enrolled in an accredited school of nursing or program for the education of registered
nurses who is administering medications as part of the student's clinical

(3) a graduate vocational nurse holding a temporary permit issued by the Texas Board of Nursing;
(4) a student enrolled in an accredited school of vocational nursing or program for the education of vocational nurses who is administering medications as part of the student's clinical experience; or

(5) a trainee in a medication aide training program approved by the department under this subchapter who is administering medications as part of the trainee's clinical experience.

(b) The administration of medications by persons exempted under Subdivisions (1) through (4) of Subsection (a) is governed by the terms of the memorandum of understanding executed by the department and the Texas Board of Nursing.


Acts 2007, 80th Leg., R.S., Ch. 889, Sec. 69, eff. September 1, 2007.

Sec. 242.608. RULES FOR ADMINISTRATION OF MEDICATION.

The board by rule shall establish:

(1) minimum requirements for the issuance, denial, renewal, suspension, emergency suspension, and revocation of a permit to administer medication to a resident;

(2) curricula to train persons to administer medication to a resident;

(3) minimum standards for the approval of programs to train persons to administer medication to a resident and for rescinding approval; and

(4) the acts and practices that are allowed or prohibited to a permit holder.


Sec. 242.609. TRAINING PROGRAMS TO ADMINISTER MEDICATION.

(a) An application for the approval of a training program must be made to the department on a form and under rules prescribed by the board.

(b) The department shall approve a training program that meets the minimum standards adopted under Section 242.608. The department may review the approval annually.


Sec. 242.610. ISSUANCE AND RENEWAL OF PERMIT TO ADMINISTER MEDICATION.
(a) To be issued or to have renewed a permit to administer medication, a person shall apply to the department on a form prescribed and under rules adopted by the board.

(b) The department shall prepare and conduct, at the site of the training program, an examination for the issuance of a permit. The results of the examination shall be reported in accordance with Section 242.6101.

(c) The department shall require a permit holder to satisfactorily complete a continuing education course approved by the department for renewal of the permit.

(d) Subject to Subsections (h)-(m), the department shall issue a permit or renew a permit to an applicant who:

1. meets the minimum requirements adopted under Section 242.608;
2. successfully completes the examination or the continuing education requirements; and
3. pays a nonrefundable application fee determined by the board.

(e) Except as provided by Subsection (g), a permit is valid for one year and is not transferable.

(f) The department may issue a permit to an employee of a state or federal agency listed in Section 242.003(a)(6)(B).

(g) The board by rule may adopt a system under which permits expire on various dates during the year. For the year in which the permit expiration date is changed, the department shall prorate permit fees on a monthly basis so that each permit holder pays only that portion of the permit fee that is allocable to the number of months during which the permit is valid. On renewal of the permit on the new expiration date, the total permit renewal fee is payable.

(h) A person who is otherwise eligible to renew a permit may renew an unexpired permit by paying the required renewal fee to the department before the expiration date of the permit. A person whose permit has expired may not engage in activities that require a permit until the permit has been renewed.

(i) A person whose permit has been expired for 90 days or less may renew the permit by paying to the department a renewal fee that is equal to 1-1/2 times the normally required renewal fee.

(j) A person whose permit has been expired for more than 90 days but less than one year may renew the permit by paying to the department a renewal fee that is equal to two times the normally required renewal fee.

(k) A person whose permit has been expired for one year or more may not renew the permit. The person may obtain a new permit by complying with the requirements and procedures, including the examination requirements, for obtaining an original permit.

(l) A person who was issued a permit in this state, moved to another state, currently holds a valid permit or license issued by the other state, and has been in practice in that state for the two years preceding the date of application may obtain a new permit without reexamination. The person
must pay to the department a fee that is equal to two times the normally required renewal fee for the permit.

(m) Not later than the 30th day before the date a person’s permit is scheduled to expire, the department shall send written notice of the impending expiration to the person at the person’s last known address according to the records of the department.


Sec. 242.6101. RESULTS OF EXAMINATION FOR ISSUANCE OF PERMIT.

(a) Not later than the 30th day after the date a person takes an examination for the issuance of a permit under this subchapter, the department shall notify the person of the results of the examination.

(b) If the examination is graded or reviewed by a testing service:

(1) the department shall notify the person of the results of the examination not later than the 14th day after the date the department receives the results from the testing service; and

(2) if notice of the examination results will be delayed for longer than 90 days after the examination date, the department shall notify the person of the reason for the delay before the 90th day.

(c) The department may require a testing service to notify a person of the results of the person’s examination.

(d) If requested in writing by a person who fails an examination for the issuance of a permit administered under this subchapter, the department shall furnish the person with an analysis of the person’s performance on the examination.

Added by Acts 2003, 78th Leg., ch. 1169, Sec. 16, eff. Sept. 1, 2003.

Sec. 242.611. FEES FOR ISSUANCE AND RENEWAL OF PERMIT TO ADMINISTER MEDICATION.

The board shall set the fees in amounts reasonable and necessary to recover the amount projected by the department as required to administer its functions. Except as otherwise provided by Section 242.610, the fees may not exceed:

(1) $25 for a combined permit application and examination fee; and

(2) $15 for a renewal permit application fee.
Sec. 242.612. VIOLATION OF PERMITS TO ADMINISTER MEDICATION.

(a) The board shall revoke, suspend, or refuse to renew a permit or shall reprimand a permit holder for a violation of this subchapter or a rule of the board adopted under this subchapter. In addition, the board may suspend a permit in an emergency or rescind training program approval.

(b) Except as provided by Section 242.613, the procedure by which the department takes a disciplinary action and the procedure by which a disciplinary action is appealed are governed by the department’s rules for a formal hearing and by Chapter 2001, Government Code.

(c) The board may place on probation a person whose permit is suspended. If a permit suspension is probated, the board may require the person:

(1) to report regularly to the department on matters that are the basis of the probation;

(2) to limit practice to the areas prescribed by the board; or

(3) to continue or review professional education until the person attains a degree of skill satisfactory to the board in those areas that are the basis of the probation.

Sec. 242.613. EMERGENCY SUSPENSION OF PERMITS TO ADMINISTER MEDICATION.

(a) The department shall issue an order to suspend a permit issued under this subchapter if the department has reasonable cause to believe that the conduct of the permit holder creates an imminent danger to the public health or safety.

(b) An emergency suspension is effective immediately without a hearing on notice to the permit holder.

(c) If requested in writing by a permit holder whose permit is suspended, the department shall conduct a hearing to continue, modify, or rescind the emergency suspension.

(d) The hearing must be held not earlier than the 10th day or later than the 30th day after the date on which the hearing request is received.
(e) The hearing and an appeal from a disciplinary action related to the hearing are governed by the department’s rules for a formal hearing and Chapter 2001, Government Code.


Sec. 242.614. ADMINISTRATION OF MEDICATION; CRIMINAL PENALTY.

(a) A person commits an offense if the person knowingly administers medication to a resident and the person:

(1) does not hold a license under state law that authorizes the person to administer medication; or

(2) does not hold a permit issued by the department under this subchapter.

(b) An offense under this section is a Class B misdemeanor.


RULE §19.1207 PRESCRIPTION OF PSYCHOACTIVE MEDICATION

(a) In this section, the following words and terms have the following meanings, unless the context clearly indicates otherwise:

(1) Medication-related emergency--A situation in which it is immediately necessary to administer medication to a resident to prevent:

(A) imminent probable death or substantial bodily harm (emotional or physical) to the resident; or

(B) imminent physical or emotional harm to another because of threats, attempts, or other acts the resident overtly or continually makes or commits.

(2) Psychoactive medication--A medication prescribed for the treatment of symptoms of psychosis or other severe mental or emotional disorders and used to exercise an effect on the central nervous system to influence and modify behavior, cognition, or affective state when treating the symptoms of mental illness. The term includes the following categories when used as described by this subdivision:

(A) anti-psychotics or neuroleptics;

(B) antidepressants;

(C) agents for control of mania or depression;

(D) anti-anxiety agents;
(E) sedatives, hypnotics, or other sleep-promoting drugs; and

(F) psychomotor stimulants.

(b) A person may not administer a psychoactive medication to a resident who does not consent to the prescription unless:

(1) the resident is having a medication-related emergency; or

(2) the person authorized by law to consent on behalf of the resident has consented to the prescription.

(c) Consent to the prescription of psychoactive medication given by a resident, or by a person authorized by law to consent on behalf of the resident, is valid only if:

(1) the consent is given voluntarily and without coercive or undue influence;

(2) the person who prescribes the medication, or that person’s designee, provides the resident and, if applicable, the person authorized by law to consent on behalf of the resident, with the following information in a single document identified as being for the purpose of consent to treatment with psychoactive medication:

(A) the specific condition to be treated;

(B) the beneficial effects on that condition expected from the medication;

(C) the probable clinically significant side effects and risks associated with the medication, as reported in widely available pharmacy databases or the manufacturer’s package insert; and

(D) the proposed course of the medication;

(3) the resident and, if appropriate, the person authorized by law to consent on behalf of the resident, are informed in writing that consent may be revoked; and

(4) the consent is evidenced in the resident’s clinical record by a signed form prescribed by the facility, or by a statement of the person who prescribes the medication or that person’s designee, that documents consent was given by the appropriate person and the circumstances under which the consent was obtained.

(A) Consent is valid until:

(i) consent is withdrawn; or

(ii) the practitioner has discontinued the medication.

(B) For purposes of this rule, a medication will be considered to be discontinued if therapy has been suspended for more than 70 days. If the suspended therapy is resumed within the 70-day period, an oral explanation of side effects should be documented in the clinical record.

(d) The Health and Safety Code, Chapter 313, Consent to Medical Treatment, provides guidance on treatment decisions when a resident is comatose, incapacitated, or otherwise mentally or physically incapable of communication. An ethics committee also may prove helpful in such situations.
(e) A resident's refusal to consent to receive psychoactive medication must be documented in the resident's clinical record.

(f) If a person prescribes psychoactive medication to a resident without the resident's consent because the resident is having a medication-related emergency:

(1) the person must document the necessity of the order in the resident's clinical record in specific medical or behavioral terms; and

(2) treatment of the resident with the psychoactive medication must be provided in the manner, consistent with clinically appropriate medical care, least restrictive of the resident's personal liberty.

(g) A physician, or a person designated by the physician, is not liable for civil damages or an administrative penalty and is not subject to disciplinary action for a breach of confidentiality of medical information for a disclosure of the information provided under subsection (c)(2) made by the resident, or the person authorized by law to consent on behalf of the resident, that occurs while the information is in the possession or control of the resident or the person authorized by law to consent on behalf of the resident.

Source Note: The provisions of this §19.1207 adopted to be effective July 1, 2002, 27 TexReg 4362
RULE §19.1501 PHARMACY SERVICES

A licensed-only facility must assist the resident in obtaining routine drugs and biologicals and make emergency drugs readily available, or obtain them under an agreement described in §19.1906 of this title (relating to Use of Outside Resources). A Medicaid-certified facility must provide routine and emergency drugs and biologicals to its residents, or obtain them under an agreement described in §19.1906 of this title (relating to Use of Outside Resources). See also §19.901(12) and (13) of this title (relating to Quality of Care) for information concerning drug therapy and medication errors.

(1) Methods and procedures. The facility may permit unlicensed personnel to administer drugs, but only under the general supervision of a licensed nurse. The unlicensed individual must be a nursing student, a medication aide student, or a medication aide with a current permit issued by the Texas Department of Human Services.

(2) Accuracy in service delivery. A facility must provide pharmaceutical services (including procedures that assure the accurate acquiring, receiving, dispensing, and administering of all drugs and biologicals) to meet the needs of each resident.

(3) Service consultation. The facility must employ or obtain the services of a pharmacist, currently licensed by the Texas State Board of Pharmacy and in good standing, who:

(A) provides consultation on all aspects of the provision of pharmacy services in the facility;

(B) establishes a system of records of receipt and disposition of all controlled drugs in sufficient detail to enable an accurate reconciliation;

(C) determines that drug records are in order and that an account of all controlled drugs is maintained and periodically reconciled; and

(D) adheres to requirements in §19.1503 of this title (relating to Additional Supervision and Consultation Requirements).

(4) Drug regimen review.

(A) The drug regimen of each resident must be reviewed at least once a month by a licensed pharmacist. The consultant pharmacist’s drug regimen review must be maintained in the resident’s clinical record.

(B) The pharmacist must report any irregularities to the attending physician and the director of nursing, and these reports must be acted upon.

(5) Labeling of drugs and biologicals. Drugs and biologicals used in the facility must be labeled in accordance with currently accepted professional principals and in compliance with the Texas State Board of Pharmacy Laws and Regulations, §291, including the appropriate accessory and cautionary instructions and the expiration date when applicable.
(6) Storage of drugs and biologicals.

(A) In accordance with state and federal laws, the facility must store all drugs and biologicals in locked compartments under proper temperature controls and permit only authorized personnel to have access to the keys.

(B) The facility must provide separately locked, permanently affixed compartments for storage of controlled drugs, listed in Schedule II of the Comprehensive Drug Abuse Prevention and Control Act of 1976, and of other drugs subject to abuse, except when the facility uses single-unit-package drug distribution systems in which the quantity stored is minimal and a missing dose can be readily detected (see §19.1509 of this title (relating to Controlled Substances)).

Source Note: The provisions of this §19.1501 adopted to be effective May 1, 1995, 20 TexReg 2054; amended to be effective July 1, 2002, 27 TexReg 5524

RULE §19.1502 CHOICE OF PHARMACY PROVIDER

(a) Unless the facility is paying for the drugs and biologicals, the resident’s choice of pharmacy provider and any changes in his choice must be recorded on appropriate forms maintained by the facility.

(b) A Medicaid-certified facility must have written agreements with its provider pharmacies that define required services. These agreements will not be considered to abridge the resident’s freedom of choice of pharmacy services when they require labeling, packaging, and a drug-distribution system according to facility policy. The drug-distribution system must be accessible to all pharmacies willing to meet the distribution system requirements. The agreements must require the following:

(1) that the resident’s pharmacy services be provided by a pharmacy on a 24-hour basis for emergency medications; and

(2) that the resident’s medications be delivered to the facility on a timely and reasonable basis.

(c) The resident's choice of pharmacy provider must be in accordance with §19.406(c) of this title (relating to Free Choice).

Source Note: The provisions of this §19.1502 adopted to be effective May 1, 1995, 20 TexReg 2054.

RULE §19.1503 ADDITIONAL SUPERVISION AND CONSULTATION REQUIREMENTS

(a) The facility must provide pharmaceutical services under the responsibility and direction of the consultant pharmacist and the director of nursing.

(b) The facility must ensure that notes on the monthly visits by the consulting pharmacist are entered in the resident’s clinical record.
(c) The number of hours per month the consultant pharmacist devotes to the pharmaceutical services for ordering, storage, administration, disposal, recordkeeping (documentation) of drugs and medications, and drug regimen review must be sufficient to meet the needs of the residents.

(d) A record of consultant pharmacist services, consultations, and recommendations for pharmacy procedure must be maintained at the facility.

Source Note: The provisions of this §19.1503 adopted to be effective May 1, 1995, 20 TexReg 2054.

RULE §19.1504 DRUG SECURITY

(a) The facility must establish procedures for storing and disposing of drugs and biologicals in accordance with federal, state, and local laws.

(b) When not in use, a medication cart must be secured in a designated area.

(c) Small multiple-dose drug containers which are placed into another container must be labeled in a manner so that, if the two containers become separated, the small drug container still has a strip label attached containing the name of the resident and the prescription number.

(d) Self-administered medications may be kept in a locked cabinet in the resident's room. When medications are self-administered, the facility remains responsible for medication security, accurate information, and medication compliance.

(e) The facility must store each resident's drugs in their original containers.

(f) The facility must store medications under appropriate conditions of sanitation, temperature, light, moisture, ventilation, segregation, and security.

(g) Medications of deceased residents, medications that have passed the expiration date, and medications that have been discontinued must be securely stored and reconciled. These medications must be disposed of according to federal and state laws or rules on a quarterly basis. Discontinued drugs may be reinstated if reordered prior to destruction. These medications cannot be given to a family member or representative.

(h) When the directions for administration of a resident's medication have changed, but the existing supply of medication can still be administered accurately, the medication must not be destroyed. The facility must affix a change-of-direction ancillary sticker or similar system and use the remaining medication. The medication label must be updated at the time of next dispensing.

Source Note: The provisions of this §19.1504 adopted to be effective May 1, 1995, 20 TexReg 2054; amended to be effective September 1, 2003, 28 TexReg 6939

RULE §19.1506 DRUG ORDERS

(a) All drugs must be prescribed by the resident's physician or consulting physician, dentist, podiatrist, or other individual allowed by law to prescribe. If drug orders are verbal, they must be taken by a licensed nurse, pharmacist, physician assistant or a physician, and immediately recorded
and signed by the person receiving the order. All drug orders must be counter-signed by the prescriber and returned to the chart in a timely manner.

(b) The facility may permit verbal orders for Schedule II drugs only in an emergency.

(c) Medications must be ordered and reordered on a timely basis so that no resident misses a dose.

(d) The facility must have written policies and procedures for stopping the administration of drugs.

Source Note: The provisions of this §19.1506 adopted to be effective May 1, 1995, 20 TexReg 2054.

RULE §19.1507 DRUG RELEASE

(a) Medications must be released to residents only on the written or verbal authorization of the attending physician. When a resident is transferred directly to another nursing facility or discharged to home, the resident’s medications must be released to the new facility or to the resident or his family, respectively.

(b) If a resident is leaving the facility on a furlough, enough prescription drugs to last throughout the furlough must be released. The facility must inventory Schedule II, III, and IV drugs in and out. Nonschedule drugs should be listed by name. The pharmacist must handle any division of the prescription, and all information on the original prescription label must appear on the furlough medication supply.

Source Note: The provisions of this §19.1507 adopted to be effective May 1, 1995, 20 TexReg 2054.

RULE §19.1508 DRUG ADMINISTRATION

(a) The facility must establish drug administration procedures to ensure that:

(1) drugs to be administered are checked against the physician’s orders;

(2) the resident is identified before the administration of a drug;

(3) each resident has an individual medication record, where the dose of drug administered is properly recorded by the person who administered the drug;

(4) drugs and biologicals are prepared and administered by the same person, except under unit-of-use package distribution systems and as outlined in §19.418 of this title (relating to Self-Administration of Drugs); and

(5) drugs prescribed for one resident must not be administered to any other person.

(b) The facility nursing staff must report drug errors and adverse drug reactions to the resident’s physician in a timely manner, as warranted by an assessment of the resident’s condition, and record them in the resident’s record. An incident report must be completed in accordance with §19.1923 of this title (relating to Incident or Accident Reporting). Medication errors include, but are not limited to, administering the wrong medication, administering at the wrong time, administering
the wrong dosage strength, administering by the wrong route, omitting a medication, and/or administering to the wrong resident.

(c) Nursing facilities must have current medication reference texts or sources, including information on pediatric medications, dosages, sites, routes, techniques of drug administration, desired effects, and possible side effects, if facilities have pediatric residents.

(d) A licensed nurse may exercise professional judgment in the crushing of a medication, providing that the medication is not a time-released or enteric coated medication.

(1) If there is any question about crushing a medication for a resident, the licensed nurse must check with the treating physician, dispensing pharmacist, or consultant pharmacist.

(2) The crushed medication should be administered as soon as feasible once it has been added to another substance.

Source Note: The provisions of this §19.1508 adopted to be effective May 1, 1995, 20 TexReg 2054.

RULE §19.1509 CONTROLLED SUBSTANCES
The facility must adhere to the following procedures governing the use of drugs covered by the Controlled Substances Act:

(1) a separate record must be maintained for each drug covered by Schedules II, III, and IV of the Controlled Substances Act, Health and Safety Code, Chapter 481;

(2) the record for each drug must contain the prescription number, name, and strength of drug, date received by the facility, date and time administered, name of resident, dose, physician's name, signature of person administering dose, and original amount dispensed with the balance verifiable by drug inventory at every shift change; and

(3) Schedule V drugs are exempt from the requirements in paragraphs (1) and (2) of this section.

Source Note: The provisions of this §19.1509 adopted to be effective May 1, 1995, 20 TexReg 2054.

RULE §19.1510 EMERGENCY MEDICATION KITS
Stocks of inventoried emergency medications may be kept in facilities.

(1) Emergency medication kits must be maintained in compliance with 22 TAC §291.20(b) (relating to Remote Pharmacy Services), with the exception of emergency medication kits in veterans homes, as defined by Natural Resources Code, §164.002. In veterans homes, a United States Department of Veterans Affairs pharmacy or another federally operated pharmacy may maintain emergency medication kits.

(2) Facilities must have contracts with the pharmacy that provides the emergency medication kit. The contract must outline the services to be provided by the pharmacy
and the responsibilities and accountabilities of each party in fulfilling the terms of the contract in compliance with federal and state laws and regulations.

Source Note: The provisions of this §19.1510 adopted to be effective May 1, 1995, 20 TexReg 2054; amended to be effective October 15, 1998, 23 TexReg 10496; amended to be effective May 1, 2002, 27 TexReg 1534; amended to be effective September 1, 2003, 28 TexReg 6939