



PERSONAL INJURY PHARMACY · TEXAS

2026 REPORT

The Texas LOP Pharmacy Documentation Standard

What defense counsel attacks in pharmacy specials, what Texas law now lets them discover, and the ten elements a medication record needs to hold up.

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Executive summary

Pharmacy charges are a small line on most Texas personal injury damages models and are challenged out of proportion to their size. Since 2021, defense counsel can discover a provider's negotiated rates, controvert a \$18.001 affidavit with a billing auditor, and still contest reasonableness at trial even without a counteraffidavit. A medication record that shows only a drug name and a price does not survive that review. This report sets out the ten elements a Letter of Protection pharmacy record needs, why each one matters under current Texas law, and what case managers should check before a referral goes out.

244,534

PEOPLE INJURED IN TEXAS
CRASHES, 2025 (TxDOT)

17,420

SUSTAINED SERIOUS
INJURIES, 2025 (TxDOT)

2 yrs

MINIMUM TEXAS
PHARMACY
RECORD RETENTION (22 TAC
§291.34)

10

ELEMENTS IN THE
DOCUMENTATION
STANDARD

Five findings

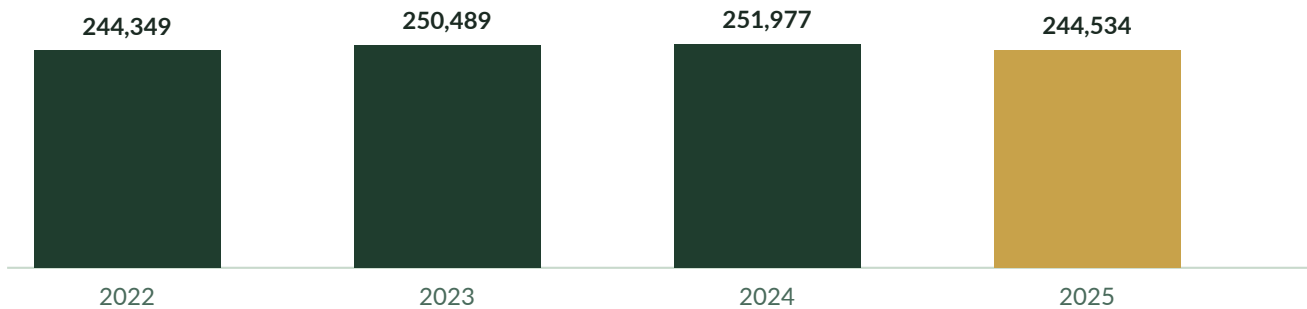
- **Reasonableness is the first attack, not necessity.** Under *In re Allstate* (Tex. 2021), a defendant can put a plaintiff to proof on the reasonableness of every charge, and a nurse or billing auditor qualifies to do it. Lump-sum pharmacy statements are the easiest target on the specials sheet.
- **The LOP itself is in play.** *In re K & L Auto Crushers* and *In re ExxonMobil* (Tex. 2021) made a provider's negotiated rates and its financial interest under a Letter of Protection discoverable. A pharmacy that cannot explain how a charge was set is a liability to the case.
- **The 2025 Legislature came within a conference committee of codifying all of it.** SB 30 died, but its disclosure requirements, itemized provider statements and mandatory production of every LOP, describe where Texas practice is heading. Records built to that standard now will not need rebuilding later.
- **The chain from prescriber to patient is where most pharmacy records break.** Prescriber verification, pharmacist identification, and delivery confirmation are routinely missing from retail printouts, and each missing link is a credibility argument against the whole line.
- **Operationally, firms report the same three problems with pharmacy providers:** slow or absent customer service when a client needs help, no follow-up on refills and discontinuations, and records that have to be chased down at a counter instead of arriving with the fill.

SECTION 1

The scale of the problem

Texas injury volume is large and steady. The Texas Department of Transportation counted 244,534 people injured in motor vehicle traffic crashes in 2025, with 17,420 of them seriously injured and 3,769 killed. The four-year trend is flat at roughly a quarter-million injuries a year. Every one of those injured people is a potential claimant, and nearly all of them will be prescribed something in the first weeks after the crash.

Persons injured in Texas motor vehicle traffic crashes, by year



Source: TxDOT, Texas Motor Vehicle Traffic Crash Facts, calendar years 2022–2025.

Prescription medication is the most universal element of post-injury care and the least documented. Emergency departments and urgent care clinics discharge soft-tissue injury patients with short courses of non-steroidal anti-inflammatories, muscle relaxants, and analgesics; treating physicians continue, adjust, and discontinue those medications over the course of care. The published evidence for whiplash-associated disorders consistently puts simple analgesics and NSAIDs first-line, with muscle relaxants and other agents added case by case, which means the typical LOP medication profile is a changing list of three to six medications over several months, not a single fill.

That changing list is exactly what a pharmacy record has to capture. A one-time statement cannot show that a muscle relaxant was discontinued when physical therapy began, that an NSAID was switched after a GI complaint, or that a refill was authorized by the treating provider rather than requested by the patient. Those details are what tie the pharmacy specials to the medical narrative, and they are what defense reviewers look for.

SECTION 2

The legal environment in 2026

Four developments define how pharmacy specials are tested in Texas courts today. None of them is pharmacy-specific; all of them apply to pharmacy charges with full force.

Paid or incurred (CPRC §41.0105; Haygood v. De Escabedo, 2011)

Recovery of medical expenses is limited to amounts actually paid or incurred by or on behalf of the claimant. Under a Letter of Protection nothing has been paid, so the full charge is "incurred" and remains admissible, but only if the plaintiff can carry the burden of showing it is reasonable. That burden is the opening defense counsel uses.

Affidavits and counteraffidavits (CPRC §18.001; In re Allstate Indemnity Co., 2021)

Section 18.001 lets a plaintiff prove the reasonableness and necessity of medical charges by affidavit instead of live expert testimony. In In re Allstate the Texas Supreme Court held that a registered nurse with billing and coding experience is qualified to serve a counteraffidavit on reasonableness, that the counteraffidavit need only give reasonable notice of what is contested, and, most importantly, that §18.001 is not an exclusionary rule: a defendant who never serves a counteraffidavit can still challenge reasonableness and necessity at trial. The practical result is that a §18.001 affidavit from a pharmacy streamlines proof but no longer settles it. The underlying record has to be able to stand on its own.

LOP discovery (In re K & L Auto Crushers and In re ExxonMobil Corp., 2021)

The Court held that a provider treating under a Letter of Protection has invested itself in the outcome of the litigation, and that the provider's negotiated rates for the same services, and the LOP arrangement itself, are relevant and discoverable when narrowly requested. In the K & L case the defense later showed the LOP agreements to the jury and obtained a defense verdict. For a pharmacy this means two things: its usual and customary pricing must be something it can produce and defend, and the LOP must be on file and consistent with how the account was actually handled.

Business records (Tex. R. Evid. 803(6), 902(10))

Pharmacy records come into evidence as business records, typically through a custodian's affidavit served at least fourteen days before trial. The affidavit is only as good as the records attached to it. A records custodian cannot cure a dispensing log that has no pharmacist identified, or a statement with no quantities, by swearing to it.

What SB 30 signaled

Senate Bill 30 (89th Legislature, 2025) would have limited evidence of health care expenses to amounts paid plus defined benchmarks, required every provider statement offered into evidence to itemize each service or supply, and required claimants to disclose every Letter of Protection related to the action. It passed the Senate, passed the House in amended form, and died in conference committee on the last day of the

session. Current law is unchanged, but the bill had the votes in both chambers in some form, and the itemization and disclosure provisions drew the least opposition. A pharmacy record built to those requirements today costs nothing extra and is insulated if a version of the bill returns in 2027.

SECTION 3

Where pharmacy specials get attacked

Reviewing how pharmacy charges are contested in practice, the challenges group into six patterns. The table pairs each with the record element that answers it.

Defense challenge	What it sounds like	What answers it
Reasonableness of charge	"This pharmacy charged three times what a retail pharmacy charges for the same generic."	Per-fill itemization at the pharmacy's usual and customary price, with quantity and days' supply shown so the math is visible; a pricing basis the pharmacy can explain.
Necessity / relation to injury	"Nothing ties this prescription to the collision. It could be for anything."	Prescriber name, license and prescription date on every fill; date of injury carried on the record; medication consistent with the treating provider's plan of care.
Chain of custody	"Who verified this prescription? Who dispensed it? Did the patient ever receive it?"	Pharmacist verification with the verifying pharmacist identified; dispensing pharmacist on the log; delivery confirmation with date and address.
Timeline	"The patient was discharged from treatment in March and the pharmacy kept filling through June."	A dispensing log that shows every fill, refill, change and discontinuation, matched against treatment dates.
Custodian / affidavit defects	"The affidavit doesn't identify the custodian, the records aren't the originals, the dates don't match."	Records produced from the pharmacy's system of record with a 902(10) affidavit prepared by the pharmacy, not reconstructed by the firm.
Financial interest	"The pharmacy only gets paid if the plaintiff wins. Its records are advocacy."	The LOP on file, licensure documented, charges set on the same basis for every patient, and a pharmacist available to testify to the practice.

Two of these patterns deserve emphasis. Reasonableness is the attack that In re Allstate made nearly cost-free for the defense, since a billing auditor's counteraffidavit requires no physician and no reliability hearing. And chain of custody is the attack that most retail pharmacy printouts cannot answer at all, because retail systems were never designed to record who verified a prescription with the prescriber or where a delivery was signed for. A record that answers those two patterns answers most of what a defense reviewer will raise.

SECTION 4

The ten-element documentation standard

Every LOP fill should generate a record containing the following. The list is deliberately short; a case manager can check it against any pharmacy's output in five minutes.

1. Client identification

What it is. Client name, date of birth, and date of injury as stated on the Letter of Protection.

Why it matters. Ties the fill to the claim and the claimant. A record without the date of injury cannot be matched to the case without extrinsic evidence.

2. Prescriber and prescription

What it is. Prescriber name, license number, prescription date, and the prescription itself for every medication.

Why it matters. Establishes necessity by connecting the medication to a treating provider's order. Required for a valid prescription under 22 TAC §291.34 in any event.

3. Pharmacist verification

What it is. Confirmation that the prescription was verified with the prescriber, with the verifying pharmacist identified by name and license.

Why it matters. Closes the first link in the chain and creates a witness. A pharmacist who called the prescriber can testify to it.

4. Medication detail

What it is. Name, strength, dosage form, quantity, and days' supply for each fill.

Why it matters. Makes the charge auditable and the therapy traceable. Days' supply is what allows a reviewer to see that refills were timely rather than stockpiled.

5. Itemized charge

What it is. Charge per fill at the pharmacy's usual and customary price, with a running total across the LOP.

Why it matters. Answers reasonableness directly. Lump sums invite a counteraffidavit; itemized charges at a stated, consistent price basis can be defended.

6. Dispensing log

What it is. Every fill, refill, dosage change, substitution, and discontinuation on the LOP, in date order, with the dispensing pharmacist.

Why it matters. Answers the timeline attack. The log is the document that shows the pharmacy stopped when the prescriber stopped.

7. Delivery confirmation

What it is. Ship date, delivery date, delivery address, and carrier confirmation for every shipped fill; signature where obtained.

Why it matters. Proves the patient received the medication. Without it the defense can argue the charge is for product never used.

8. Compounding record

What it is. For any compounded preparation, the prescriber's formulation order and the compounding record with ingredients and lot.

Why it matters. Compounded topicals draw the most reasonableness scrutiny of any pharmacy charge. The formulation order is what shows the prescriber chose it.

9. Licensure and the LOP

What it is. The pharmacy's Texas State Board of Pharmacy license and the executed Letter of Protection on file.

Why it matters. Pre-empts the financial-interest attack by disclosing the arrangement, and establishes the records come from a licensed, regulated source.

10. Business records affidavit

What it is. A custodian's affidavit under Tex. R. Evid. 902(10), prepared by the pharmacy on request, with a §18.001 affidavit where the firm wants one.

Why it matters. Gets the record into evidence without live testimony, and does so from the entity that created it.

SECTION 5

The regulatory floor, and why it is not enough

Texas pharmacy rules already require more record-keeping than most attorneys realize. Under 22 TAC §291.34 a Class A pharmacy must keep every required record for at least two years, produce it to the Board within 72 hours on request, verify that each prescription is valid before dispensing, and retain the original prescription record in a retrievable form. The Texas Controlled Substances Act adds reporting and record requirements for scheduled drugs.

That floor is designed for regulatory inspection, not litigation. It guarantees the pharmacy has a prescription on file and can produce it; it does not require the pharmacy to record delivery, to identify the verifying pharmacist on an attorney-facing statement, to itemize at a stated price basis, or to keep records beyond two years. Personal injury cases routinely run longer than two years from first fill to trial. A pharmacy that retains only what the Board requires may have lawfully destroyed the record by the time the case is set.

The documentation standard in Section 4 therefore adds four things to the regulatory baseline: attorney-facing itemization, delivery proof, pharmacist identification on every record, and retention for the life of the matter rather than two years. The first three are matters of system design; the fourth is a policy the pharmacy has to adopt deliberately.

SECTION 6

What we see in practice

LoneStar Injury Rx has served Texas personal injury firms under Letters of Protection for about two years, working with firms and their case managers across the state. The patterns below are general observations from that work, not statistics, and are offered because they recur.

What arrives incomplete

Referral packets most often come in missing one of four things: the date of injury (so the fill cannot be tied to the claim), a current delivery address (so the medication cannot ship), a named case-manager contact at the firm (so records have no one to go to), or an LOP that has not been signed by the attorney of record. None of these is the client's fault and all of them are avoidable with a one-page intake sheet, which is why one is included in Section 7.

What firms say about pharmacy providers

When firms describe why they moved a client's prescriptions, the complaint is rarely about price. It is about service: a client who could not reach anyone when a refill ran out, no follow-up when a prescriber changed a medication, and records that had to be requested, chased, and re-requested at demand time. Case managers describe pharmacy records as the specials line they spend the most time on relative to its dollar value.

“The pharmacy line is small. The time it takes to make it defensible is not. The fix is to have the record arrive with the fill, not to reconstruct it at demand.”

— LoneStar Injury Rx pharmacy team

What a pharmacist can add

A pharmacist who reviews each LOP prescription before dispensing creates documentation that does not otherwise exist: interaction and duplicate-therapy checks, a call to the prescriber when a quantity or direction is unclear, and a note when a medication is discontinued. Each of those is a dated entry by a licensed professional. In a deposition, they are the difference between a pharmacy that filled what it was sent and a pharmacy that exercised judgment.

SECTION 7

Case-manager intake checklist

Before a prescription goes to any LOP pharmacy, confirm the following is in the packet. Each item maps to a documentation element in Section 4.

Item	Why	Element
Client full name and date of birth	Identification on every record	1
Date of injury, as it appears on the LOP	Ties fills to the claim	1
Executed Letter of Protection signed by the attorney of record	Required before any fill is billed to the LOP	9
Prescription(s) with prescriber name, license, and date	Establishes necessity; required for dispensing	2
Prescriber office phone and fax	Allows pharmacist verification	3
Client delivery address and phone; preferred delivery window	Allows shipment and delivery confirmation	7
Known allergies and current medications	Pharmacist review; interaction screening	3
Firm case-manager name, email, phone	Where every record is sent	6, 10
Firm's preferred records cadence (per fill / monthly / at demand)	Sets delivery of statements and logs	5, 6
Any treating-provider discharge or change notice, as it occurs	Keeps the dispensing log consistent with the treatment timeline	6

A fillable version of this intake sheet is available from LoneStar Injury Rx for any firm, whether or not it refers patients to the program.

SECTION 8

About this report

Method

This report draws on the published opinions of the Supreme Court of Texas cited in Section 2; the Texas Civil Practice and Remedies Code and Rules of Evidence; 22 Texas Administrative Code Chapter 291; the Texas Department of Transportation's annual Crash Facts publications for 2022 through 2025; the legislative record of SB 30 (89th Legislature); peer-reviewed literature on pharmacological management of whiplash-associated disorders; and the operational experience of the LoneStar Injury Rx pharmacy team. Observations in Section 6 are qualitative. No patient-level data was used.

About LoneStar Injury Rx

LoneStar Injury Rx is the personal injury pharmacy program of Greenhouse Pharmacy, an independent pharmacy in Houston licensed by the Texas State Board of Pharmacy. The program accepts Letters of Protection from Texas personal injury attorneys, fills prescriptions quickly after receiving the LOP and a valid prescription, delivers to all 254 Texas counties, and sends the documentation described in Section 4 to the firm with every fill. Each firm is assigned one liaison. Sample records and the intake sheet are available on request.

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Disclaimers

This report is provided for general information to Texas legal professionals and is not legal advice. Case law and statutes are summarized; readers should consult the primary sources. LoneStar Injury Rx provides pharmacy services only. Billing under a Letter of Protection is subject to the terms of the LOP. Fulfillment times are typical and measured from receipt of both the LOP and a valid prescription. Nothing in this report is a guarantee of any outcome.

Sources

- Tex. Civ. Prac. & Rem. Code §§18.001, 18.002, 41.0105.
- Tex. R. Evid. 803(6), 902(10).
- Haygood v. De Escabedo, 356 S.W.3d 390 (Tex. 2011).
- In re Allstate Indemnity Co., No. 20-0071 (Tex. May 7, 2021).
- In re K & L Auto Crushers, LLC, 627 S.W.3d 239 (Tex. 2021).
- In re ExxonMobil Corp., No. 20-0849 (Tex. Nov. 19, 2021) (per curiam).
- In re North Cypress Medical Center Operating Co., 559 S.W.3d 128 (Tex. 2018).
- S.B. 30, 89th Leg., R.S. (Tex. 2025) (engrossed; House committee substitute; died in conference).
- 22 Tex. Admin. Code §291.34 (Records, Class A pharmacy).
- Texas Department of Transportation, Texas Motor Vehicle Traffic Crash Facts, Calendar Years 2022, 2023, 2024, 2025.
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- RECOVER Injury Research Centre (Univ. of Queensland), evidence summaries on medication in whiplash-associated disorders.