

SHORT TITLE: Physician assistants; granting physician assistants  
certain prescriptive authority under specified conditions.  
Effective date.

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

SENATE BILL NO. 1069

By: Robinson

AS INTRODUCED

An Act relating to physician assistants; amending 59 O.S. 1991, Section 353.1, as last amended by Section 1, Chapter 186, O.S.L. 1996, Sections 2 and 3, Chapter 289, O.S.L. 1993, as amended by Sections 1 and 2, Chapter 47, O.S.L. 1997, and Section 6, Chapter 289, O.S.L. 1993 (59 O.S. Supp. 1997, Sections 353.1, 519.2, 519.3 and 519.6), which relate to the Oklahoma Pharmacy Act and the Physician Assistant Act; amending 63 O.S. 1991, Sections 2-101 and 2-312, as last amended by Sections 10 and 13, Chapter 250, O.S.L. 1997 (63 O.S. Supp. 1997, Sections 2-101 and 2-312), which relate to the Uniform Controlled Dangerous Substances Act; modifying definitions; granting physician assistants certain prescriptive authority under specified conditions; prohibiting physician assistants from dispensing drugs and providing limited authority for requesting, receiving, signing for, and distributing professional samples; conforming language; repealing Section 5, Chapter 289, O.S.L. 1993, as amended by Section 4, Chapter 47, O.S.L. 1997 (59 O.S. Supp. 1997, Section 519.5), which relates to temporary authorization to practice as a physician assistant; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 59 O.S. 1991, Section 353.1, as last amended by Section 1, Chapter 186, O.S.L. 1996 (59 O.S. Supp. 1997, Section 353.1), is amended to read as follows:

Section 353.1 For the purposes of the Oklahoma Pharmacy Act, Section 353 et seq. of this title:

1. "Pharmacy" means a place regularly licensed by the Oklahoma State Board of Pharmacy in which prescriptions, drugs, medicines, chemicals and poisons are compounded or dispensed;
2. "Pharmacist" means a person registered by the Oklahoma State Board of Pharmacy to engage in the practice of pharmacy;
3. "Drugs" means all medicinal substances and preparations recognized by the United States Pharmacopoeia and National Formulary, or any revision thereof, and all substances and preparations intended for external and internal use in the cure, diagnosis, mitigation, treatment or prevention of disease in humans and all substances and preparations, other than food, intended to affect the structure or any function of the body of a human;
4. "Medicine" means any drug or combination of drugs which has the property of curing, preventing, treating, diagnosing or mitigating diseases, or which is used for that purpose;
5. "Poison" means any substance which when introduced into the system, either directly or by absorption, produces violent, morbid or fatal changes, or which destroys living tissue with which such substance comes into contact;
6. "Chemical" means any medicinal substance, whether simple or compound or obtained through the process of the science and art of chemistry, whether of organic or inorganic origin;

7. "Prescription" means and includes any order for drug or medical supplies written or signed, or transmitted by word of mouth, telephone or other means of communication by a licensed practitioner of allopathic or osteopathic medicine, including physician assistants under the supervision of a licensed physician, dentistry, ~~osteopathy,~~ optometry certified by the Board of Examiners in Optometry, podiatry, or veterinary medicine, licensed by law to prescribe such drugs and medical supplies intended to be filled, compounded, or dispensed by a pharmacist;

8. "Filled prescription" means a packaged prescription medication to which a label has been affixed, which shall contain such information as is required by the Oklahoma Pharmacy Act;

9. "Nonprescription drugs" means medicines or drugs which are sold without a prescription and which are prepackaged for use by the consumer and labeled in accordance with the requirements of the statutes and regulations of this state and the federal government. Such items shall also include medical and dental supplies, and bottled or nonbulk chemicals which are sold or offered for sale to the general public, if such articles or preparations meet the requirements of the Federal Food, Drug and Cosmetic Act, 21 U.S.C.A., Section 321 et seq.;

10. "Hospital" means any institution licensed by this state for the care and treatment of patients;

11. "Person" means every individual, copartnership, corporation or association, unless the context otherwise requires;

12. "Board" or "State Board" means the Oklahoma State Board of Pharmacy;

13. "Administer" means the direct application of a drug, whether by injection, inhalation, ingestion or any other means, to the body of a patient;

14. "Dispense" includes sell, distribute, leave with, give away, dispose of, deliver, or supply;

15. "Wholesaler" or "Distributor" means a person engaged in the business of distributing dangerous drugs or medicines at wholesale to pharmacies, hospitals, practitioners, government agencies, or other lawful drug outlets permitted to sell or use drugs or medicines;

16. "Dangerous drug", "legend drug" or "prescription drug" means a drug which, under federal law, is required, prior to being dispensed or delivered, to be labeled with either of the following statements: (i) "Caution: Federal law prohibits dispensing without prescription", or (ii) "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian", or a drug which is required by any applicable federal or state law or regulation to be dispensed on prescription only or is restricted to use by practitioners only;

17. "Manufacturer" means a person engaged in the manufacturing of drugs;

18. "Practice of pharmacy" means:

- a. the interpretation and evaluation of prescription orders,
- b. the compounding, dispensing, and labeling of drugs and devices, except labeling by a manufacturer, packer or distributor of nonprescription drugs and commercially packaged legend drugs and devices,
- c. the participation in drug selection and drug utilization reviews,
- d. the proper and safe storage of drugs and devices and the maintenance of proper records thereof,
- e. the responsibility for advising by counseling and providing information, where professionally necessary or where regulated, of therapeutic values, content, hazards and use of drugs and devices,

- f. the offering or performing of those acts, services, operations, or transactions necessary in the conduct, operation, management and control of a pharmacy, and
- g. the provision of those acts or services that are necessary to provide pharmaceutical care;

19. "Drug outlet" means all pharmacies, wholesalers, manufacturers, or wherever dangerous drugs are stored, and facilities which are engaged in dispensing, delivery or distribution of dangerous drugs;

20. "Manufacturing" means the production, preparation, propagation, compounding, conversion, or processing of a device or a drug, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical or biological synthesis and includes any packaging or repackaging of the substances or labeling or relabeling of its container, and the promotion and marketing of such drugs or devices. The term "manufacturing" also includes the preparation and promotion of commercially available products from bulk compounds for resale by pharmacies, practitioners or other persons;

21. "Assistant pharmacist" means any person presently licensed as an assistant pharmacist in the State of Oklahoma by the Board pursuant to Section 353.10 of this title and for the purposes of this act shall be considered the same as a pharmacist, except where otherwise specified;

22. "Packager" means any person, firm, or corporation, except a pharmacy, who transfers dangerous drugs including but not limited to compressed medical gases from one container to another of any type;

23. "Continuing professional education" means professional, pharmaceutical education in the general areas of the socioeconomic and legal aspects of health care; the properties and actions of drugs and dosage forms; and the etiology, characteristics and therapeutics of the diseased state;

24. "Accredited program" means those seminars, classes, meetings, work projects and other educational courses approved by the Board for purposes of continuing professional education;

25. "Supervising physician" means an individual holding a current license to practice as a physician from the State Board of Medical Licensure and Supervision, pursuant to the provisions of Section 481 et seq. of this title, or the State Board of Osteopathic Examiners, pursuant to the provisions of Section 620 et seq. of this title, who supervises an advanced practice nurse as defined in Section 567.3a of this title, and who is not in training as an intern, resident, or fellow. To be eligible to supervise an advanced practice nurse, such physician shall remain in compliance with the rules promulgated by the State Board of Medical Licensure and Supervision or the State Board of Osteopathic Examiners; and

26. "Compounding" means the preparation, mixing, assembling, packaging, or labeling of a drug or device:

- a. as the result of a practitioner's prescription drug order or initiative based on the practitioner/patient/pharmacist relationship in the course of professional practice, or
- b. for the purpose of, or incident to, research, teaching, or chemical analysis and not for sale or dispensing.

Compounding also includes the preparation of drugs or devices in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns.

SECTION 2. AMENDATORY Section 2, Chapter 289, O.S.L. 1993, as amended by Section 1, Chapter 47, O.S.L. 1997 (59 O.S. Supp. 1997, Section 519.2), is amended to read as follows:

Section 519.2 As used in the Physician Assistant Act:

1. "Board" means the State Board of Medical Licensure and Supervision;

2. "Committee" means the Physician Assistant Committee;

3. "Health care services" means services which require training in the diagnosis, treatment and prevention of disease, including the use and administration of drugs, and which are performed by physician assistants under the supervision and at the direction of physicians. Such services include:

- a. initially approaching a patient of any age group in a patient care setting to elicit a detailed history, performing a physical examination, delineating problems and recording the data,
- b. assisting the physician in conducting rounds in acute and long-term inpatient care settings, developing and implementing patient management plans, recording progress notes and assisting in the provision of continuity of care in other patient care settings,
- c. ordering, performing or interpreting, at least to the point of recognizing deviations from the norm, common laboratory, radiological, cardiographic and other routine diagnostic procedures used to identify pathophysiologic processes,
- d. ordering or performing routine procedures such as injections, immunizations, suturing and wound care, and managing simple conditions produced by infection, trauma or other disease processes,
- e. assisting in the management of more complex illness and injuries, which may include assisting surgeons in the conduct of operations and taking initiative in performing evaluation and therapeutic procedures in response to life-threatening situations,
- f. instructing and counseling patients regarding compliance with prescribed therapeutic regimens, normal growth and development, family planning,



emotional problems of daily living and health maintenance, and

- g. facilitating the referral of patients to the community's health and social service agencies when appropriate;

4. "Patient care setting" means a physician's office, clinic, hospital, nursing home, extended care facility ~~or a~~ patient's home, ambulatory surgical center or any other setting authorized by the supervising physician;

5. "Physician assistant" means a health care professional, qualified by academic and clinical education and licensed by the State Board of Medical Licensure and Supervision, to provide health care services in any patient care setting at the direction and under the supervision of a physician or group of physicians;

6. "Physician Assistant Drug Formulary" means a list of drugs and other medical supplies, approved by the State Board of Medical Licensure and Supervision after consultation with the State Board of Pharmacy, for which physician assistants are permitted to ~~transmit written and oral prescriptions~~ prescribe and order ~~on behalf~~ under the direction of their supervising physicians;

7. "Remote patient care setting" means an outpatient clinic or physician's office that qualifies as a Rural Health Clinic, Federally Qualified Health Center, other nonprofit community-based health center, or other patient care setting approved by the State Board of Medical Licensure and Supervision, and which provides service to a medically underserved population, as defined by the appropriate government agency;

8. "Supervising physician" means an individual holding a license as a physician from the State Board of Medical Licensure and Supervision or the State Board of Osteopathic Examiners, who supervises physician assistants; and

9. "Supervision" means overseeing and accepting the responsibility for the health care services performed by a physician assistant.

SECTION 3. AMENDATORY Section 3, Chapter 289, O.S.L. 1993, as amended by Section 2, Chapter 47, O.S.L. 1997 (59 O.S. Supp. 1997, Section 519.3), is amended to read as follows:

Section 519.3 A. There is hereby created the Physician Assistant Committee, which shall be composed of seven (7) members. Two members of the Committee shall be physician assistants appointed by the State Board of Medical Licensure and Supervision from a list of qualified individuals submitted by the Oklahoma Academy of Physician Assistants. One member shall be a physician appointed by the Board from its membership. One member shall be a physician appointed by the Board from a list of qualified individuals submitted by the Oklahoma State Medical Association and who is not a member of the Board. One member shall be a physician appointed by the State Board of Osteopathic Examiners from its membership. One member shall be a physician appointed by the State Board of Osteopathic Examiners from a list of qualified individuals submitted by the Oklahoma Osteopathic Association and who is not a member of said board. One member shall be a licensed pharmacist appointed by the Board of Pharmacy.

B. The term of office for each member of the Committee shall be five (5) years. Provided, of those members initially appointed to the Committee by the Board, two shall serve three-year terms and two shall serve five-year terms, as designated by the Board; of those members initially appointed to the Committee by the State Board of Osteopathic Examiners, one shall serve a two-year term and one shall serve a four-year term, as designated by said board; and the member initially appointed by the Board of Pharmacy shall serve a five-year term.

C. The Committee shall meet at least quarterly. At the initial meeting of the Committee, members shall elect a chair. The chair shall represent the Committee at all meetings of the Board. Four members shall constitute a quorum for the purpose of conducting official business of the Committee.

D. The State Board of Medical Licensure and Supervision is hereby granted the power and authority to promulgate rules, which are in accordance with the provisions of Section 519.1 et seq. of this title, governing the requirements for licensure as a physician assistant, as well as to establish standards for training, approve institutions for training, and regulate the standards of practice of a physician assistant after licensure, including the power of revocation of a license.

E. The State Board of Medical Licensure and Supervision is hereby granted the power and authority to investigate all complaints, hold hearings, subpoena witnesses and initiate prosecution concerning violations of Section 519.1 et seq. of this title. When such complaints involve physicians licensed by the State Board of Osteopathic Examiners, the State Board of Osteopathic Examiners shall be officially notified of such complaints.

F. 1. The Committee shall advise the Board on matters pertaining to physician assistants, including, but not limited to:

- a. educational standards required to practice as a physician assistant,
- b. licensure requirements required to practice as a physician assistant,
- c. methods and requirements to assure the continued competence of physician assistants after licensure,
- d. the drugs and other medical supplies for which physician assistants are permitted to ~~transmit~~ prescriptions prescribe and order on behalf under the direction of their supervising physicians,

- e. the grounds for revocation or suspension of a license for a physician assistant,
- f. education and experience requirements to receive approval to practice in remote patient care settings, and
- g. all other matters which may pertain to the practice of physician assistants.

2. The Committee shall review and make recommendations to the Board on all applications for licensure as a physician assistant and all applications to practice which shall be approved by the Board. When considering applicants for licensure, to establish standards of training or approve institutions for training, the Committee shall include the Director, or designee, of all Physician Assistant educational programs conducted by institutions of higher education in the state as members.

3. The Committee shall assist and advise the Board in all hearings involving physician assistants who are deemed to be in violation of Section 519.1 et seq. of this title or the rules of the Board.

SECTION 4. AMENDATORY Section 6, Chapter 289, O.S.L. 1993 (59 O.S. Supp. 1997, Section 519.6), is amended to read as follows:

Section 519.6 A. No health care services may be performed by a physician assistant unless a current application to practice, jointly filed by the supervising physician and physician assistant, is on file with and approved by the State Board of Medical Licensure and Supervision. The application shall include a description of the physician's practice, methods of supervising and utilizing the physician assistant, and names of alternate supervising physicians who will supervise the physician assistant in the absence of the primary supervising physician.

B. The supervising physician need not be physically present nor be specifically consulted before each delegated patient care service is performed by a physician assistant, so long as the supervising physician and physician assistant are or can be easily in contact with one another by radio, telephone or other means of telecommunication. In all patient care settings, the supervising physician shall provide appropriate methods of supervising the health care services provided by the physician assistant including:

- a. being responsible for the formulation or approval of all orders and protocols, whether standing orders, direct orders or any other orders or protocols, which direct the delivery of health care services provided by a physician assistant, and periodically reviewing such orders and protocols,
- b. regularly reviewing the health care services provided by the physician assistant and any problems or complications encountered,
- c. being available physically or through direct telecommunications for consultation, assistance with medical emergencies or patient referral, and
- d. being on-site to provide medical care to patients a minimum of one-half (1/2) day per week. Additional on-site supervision may be required at the recommendation of the Physician Assistant Committee and approved by the Board.

C. In patients with newly diagnosed chronic or complex illnesses, the physician assistant shall contact the supervising physician within forty-eight (48) hours of the physician assistant's initial examination or treatment and schedule the patient for appropriate evaluation by the supervising physician as directed by the physician.

D. A physician assistant ~~acts as the agent~~ under the direction of the a supervising physician and may transmit prescribe written and oral prescriptions and orders ~~for, but not dispense, drugs and medical supplies,~~. The physician assistant may prescribe drugs, including controlled medications in Schedules III through V pursuant to Section 2-312 of Title 63 of the Oklahoma Statutes, and medical supplies and services as delegated by ~~and on behalf of~~ the supervising physician and as approved by the State Board of Medical Licensure and Supervision after consultation with the State Board of Pharmacy on the Physician Assistant Drug Formulary; ~~provided, however, the provisions of this subsection shall not prohibit the dispensing of drugs as authorized in subsections D and E of Section 355.1 of this title.~~ Physician assistants may not dispense drugs, but may request, receive, and sign for professional samples and may distribute professional samples to patients.

E. A physician assistant may perform health care services in any patient care setting in which the supervising physician routinely and regularly provides health care services. A physician assistant may provide health care services in remote patient care settings when such settings are under the medical direction of the supervising physician and when such facilities are located in a medically underserved area as designated by the appropriate governmental agency.

F. A physician assistant shall obtain approval from the State Board of Medical Licensure and Supervision prior to practicing in remote patient care settings. Such approval requires documented experience in providing a comprehensive range of primary care services, ~~under responsible~~ the direction of a supervising physician supervision, for at least one (1) year prior to practicing in such settings and such other requirement as the Board may require. The Board is granted the authority to waive this requirement for those

applicants possessing equivalent experience and training as recommended by the Committee.

G. In patient care settings, the facility shall post public notice that the physician assistant is delivering care under the ~~supervision~~ direction of ~~the responsible~~ a supervising physician. Such public notice shall bear the names of the physician assistant and the supervising physician or physicians.

SECTION 5. AMENDATORY 63 O.S. 1991, Section 2-101, as last amended by Section 10, Chapter 250, O.S.L. 1997 (63 O.S. Supp. 1997, Section 2-101), is amended to read as follows:

Section 2-101. As used in the Uniform Controlled Dangerous Substances Act, Section 2-101 et seq. of this title:

1. "Administer" means the direct application of a controlled dangerous substance, whether by injection, inhalation, ingestion or any other means, to the body of a patient, animal or research subject by:

- a. a practitioner (or, in the presence of the practitioner, by the authorized agent of the practitioner), or
- b. the patient or research subject at the direction and in the presence of the practitioner;

2. "Agent" means a peace officer appointed by and who acts in behalf of the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control or an authorized person who acts on behalf of or at the direction of a person who manufactures, distributes, dispenses, prescribes, administers or uses for scientific purposes controlled dangerous substances but does not include a common or contract carrier, public warehouser or employee thereof, or a person required to register under the Uniform Controlled Dangerous Substances Act;

3. "Board" means the Advisory Board to the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;

4. "Bureau " means the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;

5. "Coca leaves" includes cocaine and any compound, manufacture, salt, derivative, mixture or preparation of coca leaves, except derivatives of coca leaves which do not contain cocaine or ecgonine;

6. "Commissioner" or "Director" means the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;

7. "Control" means to add, remove or change the placement of a drug, substance or immediate precursor under the Uniform Controlled Dangerous Substances Act;

8. "Controlled dangerous substance" means a drug, substance or immediate precursor in Schedules I through V of the Uniform Controlled Dangerous Substances Act, Section 2-101 et seq. of this title;

9. "Counterfeit substance" means a controlled substance which, or the container or labeling of which without authorization, bears the trademark, trade name or other identifying marks, imprint, number or device or any likeness thereof of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed or dispensed the substance;

10. "Deliver" or "delivery" means the actual, constructive or attempted transfer from one person to another of a controlled dangerous substance, whether or not there is an agency relationship;

11. "Dispense" means to deliver a controlled dangerous substance to an ultimate user or human research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling or compounding necessary to prepare the substance for such distribution.

"Dispenser" is a practitioner who delivers a controlled dangerous substance to an ultimate user or human research subject;



12. "Distribute" means to deliver other than by administering or dispensing a controlled dangerous substance;

13. "Distributor" means a commercial entity engaged in the distribution or reverse distribution of narcotics and dangerous drugs and who complies with all regulations promulgated by the federal Drug Enforcement Administration and the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;

14. "Drug" means articles:

- a. recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them,
- b. intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals,
- c. other than food, intended to affect the structure or any function of the body of man or other animals, and
- d. intended for use as a component of any article specified in this paragraph;

provided, however, the term "drug" does not include devices or their components, parts or accessories;

15. "Drug-dependent person" means a person who is using a controlled dangerous substance and who is in a state of psychic or physical dependence, or both, arising from administration of that controlled dangerous substance on a continuous basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects, or to avoid the discomfort of its absence;

16. "Home care agency" means any sole proprietorship, partnership, association, corporation, or other organization which administers, offers, or provides home care services, for a fee or

pursuant to a contract for such services, to clients in their place of residence;

17. "Home care services" means skilled or personal care services provided to clients in their place of residence for a fee;

18. "Hospice" means a centrally administered, nonprofit or profit, medically directed, nurse-coordinated program which provides a continuum of home and inpatient care for the terminally ill patient and the patient's family. Such term shall also include a centrally administered, nonprofit or profit, medically directed, nurse-coordinated program if such program is licensed pursuant to the provisions of this act. A hospice program offers palliative and supportive care to meet the special needs arising out of the physical, emotional and spiritual stresses which are experienced during the final stages of illness and during dying and bereavement. This care is available twenty-four (24) hours a day, seven (7) days a week, and is provided on the basis of need, regardless of ability to pay. "Class A" Hospice refers to Medicare certified hospices. "Class B" refers to all other providers of hospice services;

19. "Imitation controlled substance" means a substance that is not a controlled dangerous substance, which by dosage unit appearance, color, shape, size, markings or by representations made, would lead a reasonable person to believe that the substance is a controlled dangerous substance. In the event the appearance of the dosage unit is not reasonably sufficient to establish that the substance is an "imitation controlled substance", the court or authority concerned should consider, in addition to all other factors, the following factors as related to "representations made" in determining whether the substance is an "imitation controlled substance":

- a. statements made by an owner or by any other person in control of the substance concerning the nature of the substance, or its use or effect,

- b. statements made to the recipient that the substance may be resold for inordinate profit,
- c. whether the substance is packaged in a manner normally used for illicit controlled substances,
- d. evasive tactics or actions utilized by the owner or person in control of the substance to avoid detection by law enforcement authorities,
- e. prior convictions, if any, of an owner, or any other person in control of the object, under state or federal law related to controlled substances or fraud, and
- f. the proximity of the substances to controlled dangerous substances;

20. "Immediate precursor" means a substance which the Director has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used, or likely to be used, in the manufacture of a controlled dangerous substance, the control of which is necessary to prevent, curtail or limit such manufacture;

21. "Laboratory" means a laboratory approved by the Director as proper to be entrusted with the custody of controlled dangerous substances and the use of controlled dangerous substances for scientific and medical purposes and for purposes of instruction;

22. "Manufacture" means the production, preparation, propagation, compounding or processing of a controlled dangerous substance, either directly or indirectly by extraction from substances of natural or synthetic origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis. "Manufacturer" includes any person who packages, repackages or labels any container of any controlled dangerous substance, except practitioners who dispense or compound prescription orders for delivery to the ultimate consumer;

23. "Marihuana" means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture or preparation of such plant, its seeds or resin, but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of such plant which is incapable of germination;

24. "Medical purpose" means an intention to utilize a controlled dangerous substance for physical or mental treatment, for diagnosis, or for the prevention of a disease condition not in violation of any state or federal law and not for the purpose of satisfying physiological or psychological dependence or other abuse;

25. "Mid-level practitioner" means an advanced practice nurse as defined and within parameters specified in Section 567.3a of Title 59 of the Oklahoma Statutes;

26. "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

- a. opium, coca leaves and opiates,
- b. a compound, manufacture, salt, derivative or preparation of opium, coca leaves or opiates,
- c. cocaine, its salts, optical and geometric isomers, and salts of isomers,
- d. ecgonine, its derivatives, their salts, isomers and salts of isomers, and
- e. a substance, and any compound, manufacture, salt, derivative or preparation thereof, which is chemically identical with any of the substances referred to in

subparagraphs a through d of this paragraph, except that the words "narcotic drug" as used in Section 2-101 et seq. of this title shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine;

27. "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under the Uniform Controlled Dangerous Substances Act, the dextrorotatory isomer of 3-methoxy-n-methyl-morphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms;

28. "Opium poppy" means the plant of the species *Papaver somniferum* L., except the seeds thereof;

29. "Peace officer" means a police officer, sheriff, deputy sheriff, district attorney's investigator, investigator from the Office of the Attorney General, or any other person elected or appointed by law to enforce any of the criminal laws of this state or of the United States;

30. "Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity;

31. "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing;

32. "Practitioner" means:

- a. (1) a medical doctor or osteopathic physician,
- (2) a dentist,
- (3) a podiatrist,
- (4) an optometrist,
- (5) a veterinarian,

(6) a physician assistant under the supervision of a licensed medical doctor or osteopathic physician,

(7) a scientific investigator, or

~~(7)~~ (8) any other person,

licensed, registered or otherwise permitted to prescribe, distribute, dispense, conduct research with respect to, use for scientific purposes or administer a controlled dangerous substance in the course of professional practice or research in this state, or

b. a pharmacy, hospital, laboratory or other institution licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to, use for scientific purposes or administer a controlled dangerous substance in the course of professional practice or research in this state;

33. "Production" includes the manufacture, planting, cultivation, growing or harvesting of a controlled dangerous substance;

34. "State" means the State of Oklahoma or any other state of the United States;

35. "Ultimate user" means a person who lawfully possesses a controlled dangerous substance for the person's own use or for the use of a member of the person's household or for administration to an animal owned by the person or by a member of the person's household;

36. "Drug paraphernalia" means all equipment, products and materials of any kind which are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body, a controlled dangerous substance in

violation of the Uniform Controlled Dangerous Substances Act including, but not limited to:

- a. kits used or intended for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled dangerous substance or from which a controlled dangerous substance can be derived,
- b. kits used or intended for use in manufacturing, compounding, converting, producing, processing or preparing controlled dangerous substances,
- c. isomerization devices used or intended for use in increasing the potency of any species of plant which is a controlled dangerous substance,
- d. testing equipment used or intended for use in identifying, or in analyzing the strength, effectiveness or purity of controlled dangerous substances,
- e. scales and balances used or intended for use in weighing or measuring controlled dangerous substances,
- f. diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used or intended for use in cutting controlled dangerous substances,
- g. separation gins and sifters used or intended for use in removing twigs and seeds from, or in otherwise cleaning or refining, marihuana,
- h. blenders, bowls, containers, spoons and mixing devices used or intended for use in compounding controlled dangerous substances,
- i. capsules, balloons, envelopes and other containers used or intended for use in packaging small quantities of controlled dangerous substances,

- j. containers and other objects used or intended for use in parenterally injecting controlled dangerous substances into the human body,
- k. hypodermic syringes, needles and other objects used or intended for use in parenterally injecting controlled dangerous substances into the human body, and
- l. objects used or intended for use in ingesting, inhaling or otherwise introducing marihuana, cocaine, hashish or hashish oil into the human body, such as:
  - (1) metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls,
  - (2) water pipes,
  - (3) carburetion tubes and devices,
  - (4) smoking and carburetion masks,
  - (5) roach clips, meaning objects used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand,
  - (6) miniature cocaine spoons and cocaine vials,
  - (7) chamber pipes,
  - (8) carburetor pipes,
  - (9) electric pipes,
  - (10) air-driven pipes,
  - (11) chillums,
  - (12) bongs, or
  - (13) ice pipes or chillers;

provided, however, the term "drug paraphernalia" shall not include separation gins intended for use in preparing tea or spice, clamps used for constructing electrical equipment, water pipes designed for ornamentation or pipes designed for smoking tobacco;



37. "Synthetic controlled substance" means a substance that is not a controlled dangerous substance, but is a substance that produces a like or similar physiological or psychological effect on the human central nervous system that currently has no accepted medical use in treatment in the United States and has a potential for abuse. The court or authority concerned with establishing that the substance is a synthetic controlled substance should consider, in addition to all other factors, the following factors as related to "representations made" in determining whether the substance is a synthetic controlled substance:

- a. statements made by an owner or by any other person in control of the substance concerning the nature of the substance, its use or effect,
- b. statements made to the recipient that the substance may be resold for an inordinate profit,
- c. prior convictions, if any, of an owner or any person in control of the substance, under state or federal law related to controlled dangerous substances, and
- d. the proximity of the substance to any controlled dangerous substance;

38. "Tetrahydrocannabinols" means all substances that have been chemically synthesized to emulate the tetrahydrocannabinols of marihuana;

39. "Isomer" means the optical isomer, except as used in subsection C of Section 2-204 of this title and paragraph 4 of subsection A of Section 2-206 of this title. As used in subsection C of Section 2-204 of this title, "isomer" means the optical, positional or geometric isomer. As used in paragraph 4 of subsection A of Section 2-206 of this title, the term "isomer" means the optical or geometric isomer; and

40. "Hazardous materials" means materials, whether solid, liquid or gas, which are toxic to human, animal, aquatic or plant

life, and the disposal of which materials is controlled by state or federal guidelines.

SECTION 6. AMENDATORY 63 O.S. 1991, Section 2-312, as last amended by Section 13, Chapter 250, O.S.L. 1997 (63 O.S. Supp. 1997, Section 2-312), is amended to read as follows:

Section 2-312. A. A physician, podiatrist, optometrist or a dentist who has complied with the registration requirements of the Uniform Controlled Dangerous Substances Act, Section 2-101 et seq. of this title, in good faith and in the course of such person's professional practice only, may prescribe and administer controlled dangerous substances, or may cause the same to be administered by medical or paramedical personnel acting under the direction and supervision of the physician, podiatrist, optometrist or dentist, and only may dispense controlled dangerous substances pursuant to the provisions of Sections 355, 355.1 and 355.2 of Title 59 of the Oklahoma Statutes.

B. A veterinarian who has complied with the registration requirements of the Uniform Controlled Dangerous Substances Act, Section 2-101 et seq. of this title, in good faith and in the course of the professional practice of the veterinarian only, and not for use by a human being, may prescribe, administer, and dispense controlled dangerous substances and may cause them to be administered by an assistant or orderly under the direction and supervision of the veterinarian.

C. An advanced practice nurse who is recognized to prescribe by the Oklahoma Board of Nursing as an advanced registered nurse practitioner, clinical nurse specialist or certified nurse-midwife, who is subject to medical direction by a supervising physician, pursuant to Section 567.3a of Title 59 of the Oklahoma Statutes, and who has complied with the registration requirements of the Uniform Controlled Dangerous Substances Act, in good faith and in the course

of professional practice only, may prescribe and administer Schedule III, IV and V controlled dangerous substances.

D. An advanced practice nurse who is recognized to order, select, obtain and administer drugs by the Oklahoma Board of Nursing as a certified registered nurse anesthetist pursuant to Section 1 of this act and who has complied with the registration requirements of the Uniform Controlled Dangerous Substances Act, in good faith and in the course of such practitioner's professional practice only, may order, select, obtain and administer Schedules II through V controlled dangerous substances in a preanesthetic preparation or evaluation; anesthesia induction, maintenance or emergence; or postanesthesia care setting only. A certified registered nurse anesthetist may order, select, obtain and administer such drugs only during the perioperative or periobstetrical period.

E. A physician assistant who is recognized to prescribe by the State Board of Medical Licensure and Supervision under the medical direction of a supervising physician, pursuant to subsection D of Section 519.6 of Title 59 of the Oklahoma Statutes, and who has complied with the registration requirements of the Uniform Controlled Dangerous Substances Act, in good faith and in the course of professional practice only, may prescribe and administer Schedule III, IV, and V controlled dangerous substances.

SECTION 7. REPEALER Section 5, Chapter 289, O.S.L. 1993, as amended by Section 4, Chapter 47, O.S.L. 1997 (59 O.S. Supp. 1997, Section 519.5), is hereby repealed.

SECTION 8. This act shall become effective November 1, 1998.

46-2-2307

WHT