

EHB 2460

THE STATE SENATE  
Monday, March 31, 2008

ENGROSSED

House Bill No. 2460

As Amended

ENGROSSED HOUSE BILL NO. 2460 - By: Schwartz and Roan of the House and Lamb of the Senate.

[ public health and safety - the Uniform Controlled Dangerous Substances Act - effective date ]

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

SECTION 1. AMENDATORY 63 O.S. 2001, Section 2-303, as last amended by Section 61, Chapter 5, O.S.L. 2004 (63 O.S. Supp. 2007, Section 2-303), is amended to read as follows:

Section 2-303. A. The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall register an applicant to manufacture, distribute, dispense, prescribe, administer or use for scientific purposes controlled dangerous substances included in Schedules I through V of Section 2-101 et seq. of this title unless the Director determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

- 1. Maintenance of effective controls against diversion of particular controlled dangerous substances and any Schedule I or II substance compounded therefrom into other than legitimate medical,

1 scientific or industrial channels, including examination of the  
2 fitness of his or her employees or agents to handle dangerous  
3 substances;

4 2. Compliance with applicable state and local law;

5 3. ~~Prior conviction record of applicant under federal or state~~  
6 ~~laws relating to the manufacture, distribution or dispensing of such~~  
7 ~~substances~~ Has been found guilty of, entered a plea of guilty or  
8 nolo contendere to a charge under the Uniform Controlled Dangerous  
9 Substances Act or any other state or federal law relating to any  
10 substance defined herein as a controlled dangerous substance or any  
11 felony under the laws of any state or the United States;

12 4. Furnishing by the applicant false or fraudulent material  
13 information in any application filed under Section 2-101 et seq. of  
14 this title;

15 5. Past experience in the manufacture, distribution,  
16 dispensing, prescribing, administering or use for scientific  
17 purposes of controlled dangerous substances, and the existence in  
18 the establishment of effective controls against diversion;

19 6. Denial, suspension or revocation of the applicant's federal  
20 registration to manufacture, distribute or dispense controlled  
21 dangerous substances as authorized by federal law; and

22 7. Such other factors as may be relevant to and consistent with  
23 the public health and safety.

1 Nothing herein shall be deemed to require individual licensed  
2 pharmacists to register under the provisions of the Uniform  
3 Controlled Dangerous Substances Act.

4 B. Registration granted under subsection A of this section  
5 shall not entitle a registrant to manufacture, distribute, dispense,  
6 prescribe, administer or use for scientific purposes controlled  
7 dangerous substances in Schedule I or II other than those specified  
8 in the registration.

9 C. Practitioners shall be registered to dispense, prescribe,  
10 administer or use for scientific purposes substances in Schedules II  
11 through V if they are authorized to carry on their respective  
12 activities under the laws of this state. A registration application  
13 by a practitioner who wishes to conduct research with Schedule I  
14 substances shall be accompanied by evidence of the applicant's  
15 federal registration to conduct such activity and shall be referred  
16 to the Medical Research Commission for advice. The Medical Research  
17 Commission shall promptly advise the Director concerning the  
18 qualifications of each practitioner requesting such registration.  
19 Registration for the purpose of bona fide research or of use for  
20 scientific purposes with Schedule I substances by a practitioner  
21 deemed qualified by the Medical Research Commission may be denied  
22 only on a ground specified in subsection A of Section 2-304 of this  
23 title or if there are reasonable grounds to believe that the

1 applicant will abuse or unlawfully transfer such substances or fail  
2 to safeguard adequately such applicant's supply of such substances  
3 against diversion from legitimate medical or scientific use.

4 D. 1. The Director shall initially permit persons to register  
5 who own or operate any establishment engaged in the manufacture,  
6 distribution, dispensing, prescribing, administering or use for  
7 scientific purposes of any controlled dangerous substances prior to  
8 June 4, 1991, and who are registered or licensed by the state. Fees  
9 for registration under this section shall be as follows:

10	Practitioners and		
11	mid-level		
12	practitioners	\$70.00	per year
13			of
14			registration
15	Home Care Agencies,		
16	Hospices & Home		
17	Care Services	\$70.00	annually
18	Distributors	\$100.00	annually
19	Manufacturers	\$200.00	annually
20	Manufacturer, Wholesaler, or		
21	Distributor of drug products		
22	containing pseudoephedrine or		
23	phenylpropanolamine	\$100.00	annually

1           2. A registrant shall be required to pay double the amount of  
2 the above-listed fee for any renewal of registration received more  
3 than sixty (60) days late.

4           3. A Ten Dollar (\$10.00) fee shall be charged for a duplicate  
5 registration certificate.

6           E. Compliance by manufacturers and distributors with the  
7 provisions of the Federal Controlled Substances Act, 21 U.S.C.,  
8 Section 801 et seq., respecting registration, excluding fees, shall  
9 be deemed sufficient to qualify for registration under this act.

10           SECTION 2.           AMENDATORY           63 O.S. 2001, Section 2-309, is  
11 amended to read as follows:

12           Section 2-309. A. 1. Except for dosages medically required  
13 for a period not to exceed forty-eight (48) hours which are  
14 administered by or on direction of a practitioner, other than a  
15 pharmacist, or medication dispensed directly by a practitioner,  
16 other than a pharmacist, to an ultimate user, no controlled  
17 dangerous substance included in Schedule II, which is a prescription  
18 drug as determined under regulation promulgated by the Board of  
19 Pharmacy, may be dispensed without the written prescription of a  
20 practitioner; provided, that, in emergency situations, as prescribed  
21 by the Board of Pharmacy by regulation, such drug may be dispensed  
22 upon oral prescription reduced promptly to writing and filed by the

1 pharmacist in a manner to be prescribed by rules and regulations of  
2 the Director.

3 2. The transmission of written prescription by practitioner to  
4 dispensing pharmacy by facsimile or electronic transmission with  
5 electronic signature is permitted only under the following  
6 conditions:

7 a. for Schedule II drugs, the original prescription must  
8 be presented and verified against the facsimile at the  
9 time the substances are actually dispensed, and the  
10 original document must be properly annotated and  
11 retained for filing, except:

12 (1) home infusion pharmacy may consider the facsimile  
13 to be a "written prescription" as required by  
14 this act and as required by Title 21 U.S.C.,  
15 Section 829(a). The facsimile copy of the  
16 prescription shall be retained as an original  
17 prescription, and it must contain all the  
18 information required by this act and 21 CFR,  
19 Section 1306.05(a), including date issued, the  
20 patient's full name and address, and the  
21 practitioner's name, address, DEA registration  
22 number, and signature. The exception to the  
23 regulations for home infusion/IV therapy is

1 intended to facilitate the means by which home  
2 infusion pharmacies obtain prescriptions for  
3 patients requiring the frequently modified  
4 parenteral controlled release administration of  
5 narcotic substances, but does not extend to the  
6 dispensing of oral dosage units of controlled  
7 substances, and

8 (2) the same exception is granted to patients in Long  
9 Term Care facilities (LTCF), which are filled by  
10 and delivered to the facility by a dispensing  
11 pharmacy, and

12 b. for drugs in Schedules III and IV, a facsimile copy of  
13 a written, signed prescription transmitted directly by  
14 the prescribing practitioner to the pharmacy can serve  
15 as an original prescription.

16 3. Prescriptions shall be retained in conformity with the  
17 requirements of this section and Section 2-307 of this title. No  
18 prescription for a Schedule II substance may be refilled.

19 B. 1. Except for dosages medically required for a period not  
20 to exceed forty-eight (48) hours which are administered by or on  
21 direction of a practitioner, other than a pharmacist, or medication  
22 dispensed directly by a practitioner, other than a pharmacist, to an  
23 ultimate user, no controlled dangerous substance included in

1 Schedule III or IV, which is a prescription drug as determined under  
2 regulation promulgated by the Board of Pharmacy, may be dispensed  
3 without a written or oral prescription.

4 2. A written or oral prescription for a controlled dangerous  
5 substance in Schedule III or IV may not be filled or refilled more  
6 than six (6) months after the date thereof or be refilled more than  
7 five times after the date of the prescription, unless renewed by the  
8 practitioner.

9 C. No controlled dangerous substance included in Schedule V may  
10 be distributed or dispensed other than for a legitimate medical or  
11 scientific purpose.

12 D. Except for dosages medically required for a period not to  
13 exceed forty-eight (48) hours which are administered by or on  
14 direction of a practitioner, other than a pharmacist, or medication  
15 dispensed directly by a practitioner, other than a pharmacist, to an  
16 ultimate user, tincture opium camphorated, commonly known as  
17 paregoric, may not be dispensed without a written or oral  
18 prescription. The refilling of a prescription for paregoric shall  
19 be unlawful unless permission is granted by the prescriber, either  
20 written or oral.

21 E. Whenever it appears to the Director that a drug not  
22 considered to be a prescription drug under existing state law or  
23 regulation of the Board of Pharmacy should be so considered because

1 of its abuse potential, he shall so advise the Board of Pharmacy and  
2 furnish to him all available data relevant thereto.

3 F. "Prescription", as used herein, means a written or oral  
4 order by a practitioner to a pharmacist for a controlled dangerous  
5 substance for a particular patient, which specifies the date of its  
6 issue, and the full name and address of the patient; if the  
7 controlled dangerous substance is prescribed for an animal, the  
8 species of the animal; the name and quantity of the controlled  
9 dangerous substance prescribed; the directions for use; the name and  
10 address of the owner of the animal and, if written, the signature of  
11 the practitioner.

12 G. No person shall solicit, dispense, receive or deliver any  
13 controlled dangerous substance through the mail, unless the ultimate  
14 user is personally known to the practitioner and circumstances  
15 clearly indicate such method of delivery is in the best interest of  
16 the health and welfare of the ultimate user.

17 SECTION 3. AMENDATORY 63 O.S. 2001, Section 2-309B, as  
18 last amended by Section 1, Chapter 81, O.S.L. 2007 (63 O.S. Supp.  
19 2007, Section 2-309B), is amended to read as follows:

20 Section 2-309B. For the purposes of the Anti-Drug Diversion  
21 Act:

22 1. "Bureau" means the Oklahoma State Bureau of Narcotics and  
23 Dangerous Drugs Control;

1           2. "Dispenser" means a person who distributes a Schedule II  
2 controlled dangerous substance, but does not include a licensed  
3 hospital pharmacy or a licensed nurse or medication aide who  
4 administers such a substance at the direction of a licensed  
5 physician;

6           3. "Dispenser's registration number" means the dispenser's  
7 Oklahoma Bureau of Narcotics and Dangerous Drugs Control  
8 registration number or, in the case of a pharmacist, the National  
9 Association of Boards of Pharmacy number for the pharmacy where the  
10 dispensation is made;

11          4. "Exception report" means an output of data indicating  
12 Schedule II controlled dangerous substance dispensation which is  
13 outside expected norms for a prescriber practicing a particular  
14 specialty or field of health care, for a dispenser doing business in  
15 a particular location, or for a recipient;

16          5. "Recipient's identification number" means the unique number  
17 contained on a recipient's valid passport, military identification  
18 card, driver license, or valid identification card issued pursuant  
19 to Section 6-105 of Title 47 of the Oklahoma Statutes or similar  
20 statute of another state if the recipient is not a resident of the  
21 State of Oklahoma, or, if the recipient is less than eighteen (18)  
22 years old and has no such identification, the unique number  
23 contained on the recipient's parent's or guardian's valid passport,

1 military identification card, driver license, or valid  
2 identification card issued pursuant to Section 6-105 of Title 47 of  
3 the Oklahoma Statutes or similar statute of another state if the  
4 parent or guardian is not a resident of the State of Oklahoma, or,  
5 if the controlled dangerous substance is obtained for an animal, the  
6 unique number contained on the animal owner's valid driver license,  
7 or valid identification card issued pursuant to Section 6-105 of  
8 Title 47 of the Oklahoma Statutes or similar statute of another  
9 state if the owner is not a resident of the State of Oklahoma; and

10 6. "Registrant" means a person, persons, corporation or other  
11 entity who has been issued by the Director of the Oklahoma State  
12 Bureau of Narcotics and Dangerous Drugs Control a registration  
13 pursuant to Section 2-302 of this title; and

14 7. "State" means any state, territory, or possession of the  
15 United States, the District of Columbia, or foreign nation.

16 SECTION 4. This act shall become effective November 1, 2008.

17 COMMITTEE REPORT BY: COMMITTEE ON HEALTH & HUMAN RESOURCES, dated  
18 3-27-08 - DO PASS, As Amended.