

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 1119

By: Sykes of the Senate

3 and

4 Terrill and Cox of the
5 House

6
7
8 (Uniform Controlled Dangerous Substances Act -

9 registration - definitions -

10 effective date)

11
12
13 AMENDMENT NO. 1. Strike the stricken title, enacting clause and
14 entire bill and insert

15 "(Uniform Controlled Dangerous Substances Act -

16 registration - definitions - effective date -

17 emergency)

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20 SECTION 1. AMENDATORY 63 O.S. 2001, Section 2-103, as
21 last amended by Section 1, Chapter 359, O.S.L. 2008 (63 O.S. Supp.
22 2008, Section 2-103), is amended to read as follows:

23 Section 2-103. A. The Director shall be appointed by the
24 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control

1 Commission. The Director of Narcotics and Dangerous Drugs Control
2 on January 1, 1984, shall be initially appointed as Director. The
3 succeeding Director shall, at the time of the appointment, have a
4 Bachelor's Degree from an accredited college or university and at
5 least five (5) ~~years~~ years of experience in drug law enforcement.
6 The Director may appoint necessary assistants, agents, and other
7 personnel to perform the work of the office and may prescribe their
8 titles and duties and fix their compensation, other than the
9 salaries established in subsection A of Section 2-103a of this
10 title, pursuant to Merit System rules. The Director may appoint
11 employees to the positions of Chief of Law Enforcement Information
12 and Technology, Public Information/Education Officer, Training
13 Officer, Program ~~Administrator~~ Administrators, Grants Administrator,
14 Criminal Analysts, Legal Secretary, and Typist Clerk/Spanish
15 Transcriptionists. ~~Said~~ The positions shall be unclassified and
16 exempt from the rules and procedures of the Office of Personnel
17 Management, except leave regulations. The office of the Director
18 shall be located at a suitable place in Oklahoma City, Oklahoma.

19 B. 1. Agents appointed by the Director shall have the powers
20 of peace officers generally; provided, the Director may appoint
21 special agents, who shall be unclassified employees of the state, to
22 meet specific investigatory need. Special agents shall not be
23 required to meet the age and educational requirements as specified
24 in this section.

1 2. Agents appointed on and after November 1, 1998, shall be at
2 least twenty-one (21) years of age and shall have a Bachelor's
3 Degree from an accredited college or university.

4 3. Each entering agent, with the exception of special agents,
5 shall be required to serve one (1) year in a probationary status as
6 a prerequisite to being placed on permanent status.

7 C. Agents appointed pursuant to the provisions of this section
8 shall have the responsibility of investigating alleged violations
9 and shall have the authority to arrest those suspected of having
10 violated the provisions of the Uniform Controlled Dangerous
11 Substances Act.

12 D. A commissioned employee of the Oklahoma State Bureau of
13 Narcotics and Dangerous Drugs Control shall be entitled to receive
14 upon retirement by reason of length of service, the continued
15 custody and possession of the sidearm and badge carried by such
16 employee immediately prior to retirement.

17 E. A commissioned employee of the Bureau may be entitled to
18 receive, upon retirement by reason of disability, the continued
19 custody and possession of the sidearm and badge carried by such
20 employee immediately prior to retirement upon written approval of
21 the Director.

22 F. Custody and possession of the sidearm and badge of a
23 commissioned employee killed in the line of duty may be awarded by
24 the Director to the spouse or next of kin of the deceased employee.

1 G. Custody and possession of the sidearm and badge of a
2 commissioned employee who dies while employed at the Oklahoma State
3 Bureau of Narcotics and Dangerous Drugs Control may be awarded by
4 the Director to the spouse or next of kin of the deceased employee.

5 H. Any Director appointed on or after July 1, 2003, shall be
6 eligible to participate in either the Oklahoma Public Employees
7 Retirement System or in the Oklahoma Law Enforcement Retirement
8 System and shall make an irrevocable election in writing to
9 participate in one of the two retirement systems.

10 SECTION 2. AMENDATORY 63 O.S. 2001, Section 2-303, as
11 last amended by Section 1, Chapter 273, O.S.L. 2008 (63 O.S. Supp.
12 2008, Section 2-303), is amended to read as follows:

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

21 1. Maintenance of effective controls against diversion of
22 particular controlled dangerous substances and any Schedule I or II
23 substance compounded therefrom into other than legitimate medical,
24 scientific or industrial channels, including examination of the

1 fitness of his or her employees or agents to handle dangerous
2 substances;

3 2. Compliance with applicable state and local law;

4 3. Has been found guilty of, entered a plea of guilty or nolo
5 contendere to a charge under the Uniform Controlled Dangerous
6 Substances Act or any other state or federal law relating to any
7 substance defined herein as a controlled dangerous substance or any
8 felony under the laws of any state or the United States;

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

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

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

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

21 Nothing herein shall be deemed to require individual licensed
22 pharmacists to register under the provisions of the Uniform
23 Controlled Dangerous Substances Act.

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

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

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

7	Practitioners and		
8	mid-level		
9	practitioners	\$70.00	
10		<u>\$140.00</u>	per year
11			of
12			registration

13	Home Care Agencies,		
14	Hospices & Home		
15	Care Services	\$70.00	
16		<u>\$140.00</u>	annually

17	Distributors	\$100.00	
18		<u>\$300.00</u>	annually

19	Manufacturers	\$200.00	
20		<u>\$500.00</u>	annually

21	Manufacturer, Wholesaler, or		
22	Distributor of drug products		
23	containing pseudoephedrine or		
24	phenylpropanolamine	\$100.00	

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

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

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

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

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

20 5. "Recipient" means the person for whom a prescription is
21 prescribed and who is the lawful intended ultimate user;

22 6. "Recipient's agent" means a person who is authorized by the
23 ultimate user to pick up the recipient's medication and deliver it

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1 to the recipient or a person who claims a prescription other than
2 the person to whom the medication is prescribed;

3 7. "Recipient's identification number" and "recipient's agent's
4 identification number" means the unique number contained on a
5 ~~recipient's~~ valid passport, military identification card, driver
6 license, or ~~valid~~ identification card issued to a recipient pursuant
7 to Section 6-105 of Title 47 of the Oklahoma Statutes or similar
8 statute of another state if the recipient is not a resident of the
9 State of Oklahoma, or, if the recipient is less than eighteen (18)
10 years old and has no such identification, the unique number
11 contained on ~~the recipient's parent's or guardian's~~ a valid
12 passport, military identification card, driver license, or ~~valid~~
13 identification card issued to the recipient's parent or guardian
14 pursuant to Section 6-105 of Title 47 of the Oklahoma Statutes or
15 similar statute of another state if the parent or guardian is not a
16 resident of the State of Oklahoma, or, if the controlled dangerous
17 substance is obtained for an animal, the unique number contained on
18 the animal owner's valid driver license, or ~~valid~~ identification
19 card issued pursuant to Section 6-105 of Title 47 of the Oklahoma
20 Statutes or similar statute of another state if the owner is not a
21 resident of the State of Oklahoma. Nonresident drug outlets
22 registered pursuant to the Oklahoma Pharmacy Act and resident drug
23 outlets defined in Section 353.1 of Title 59 of the Oklahoma
24 Statutes are exempt from the picture identification requirement if

1 the nonresident and resident drug outlets have obtained the
2 identification of the patient through the prescription benefit plan
3 of the patient;

4 ~~6.~~ 8. "Registrant" means a person, persons, corporation or
5 other entity who has been issued by the Director of the Oklahoma
6 State Bureau of Narcotics and Dangerous Drugs Control a registration
7 pursuant to Section 2-302 of this title; and

8 ~~7.~~ 9. "State" means any state, territory, or possession of the
9 United States, the District of Columbia, or foreign nation.

10 SECTION 5. AMENDATORY 63 O.S. 2001, Section 2-309C, as
11 last amended by Section 3, Chapter 128, O.S.L. 2005 (63 O.S. Supp.
12 2008, Section 2-309C), is amended to read as follows:

13 Section 2-309C. A. A dispenser of a Schedule II, III, IV or V
14 controlled dangerous substance, except Schedule V substances that
15 contain any detectable quantity of pseudoephedrine, its salts or
16 optical isomers, or salts of optical isomers shall transmit to a
17 central repository designated by the Oklahoma State Bureau of
18 Narcotics and Dangerous Drugs Control using the American Society for
19 Automation in Pharmacy's (ASAP) Telecommunications Format for
20 Controlled Substances version designated in rules by the Oklahoma
21 State Bureau of Narcotics and Dangerous Drugs Control, the following
22 information for each dispensation:

- 23 1. Recipient's name, ~~when feasible to submit;~~
24 2. Recipient's address;

- 1 3. Recipient's date of birth;
- 2 4. Recipient's identification number;
- 3 ~~3.~~ 5. National Drug Code number of the substance dispensed;
- 4 ~~4.~~ 6. Date of the dispensation;
- 5 ~~5.~~ 7. Quantity of the substance dispensed;
- 6 ~~6.~~ 8. Prescriber's United States Drug Enforcement Agency
7 registration number; ~~and~~
- 8 ~~7.~~ 9. Dispenser's registration number; and
- 9 10. Other information as required by administrative rule.

10 B. The information required by this section shall be
11 transmitted:

12 1. ~~On an electronic device which is compatible with the~~
13 ~~receiving device of the central repository or by computer diskette,~~
14 ~~magnetic tape, CD ROM or in~~ In a format or other media designated
15 acceptable by the Oklahoma State Bureau of Narcotics and Dangerous
16 Drugs Control; and

17 2. Within ~~thirty (30) days~~ twenty-four (24) hours of the time
18 that the substance is dispensed. Beginning January 1, 2012, all
19 information shall be submitted on a real-time log.

20 C. The provisions of subsection B of this section shall not
21 apply to a nonresident drug outlet registered pursuant to the
22 Oklahoma Pharmacy Act or to a resident drug outlet as defined in
23 Section 353.1 of Title 59 of the Oklahoma Statutes if the
24 nonresident or resident drug outlet mails or delivers a controlled

1 substance to a patient or client. Nonresident and resident drug
2 outlets shall transmit the information required in this section
3 within seven (7) days of the date that the controlled substance is
4 dispensed.

5 D. Willful failure to transmit accurate information as required
6 by this section shall be a misdemeanor punishable, upon conviction,
7 by not more than one (1) year in the county jail, or by a fine of
8 not more than One Thousand Dollars (\$1,000.00), or by both such
9 imprisonment and fine, or administrative action may be taken
10 pursuant to Section 2-304 of this title.

11 ~~D.~~ E. The Director of the Bureau shall have the authority to
12 allow paper submissions on ~~the universal claim~~ a form designated by
13 the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control,
14 if the dispenser has an appropriate hardship.

15 ~~E.~~ F. The Oklahoma State Bureau of Narcotics and Dangerous
16 Drugs Control is authorized, by any funds available to it, to
17 implement a real-time electronic logbook to monitor the sale of
18 Schedule V products containing any detectable quantity of
19 pseudoephedrine, its salts or optical isomers, or salts of optical
20 isomers. Dispensers of such pseudoephedrine products shall report
21 all such sales electronically pursuant to rules promulgated by the
22 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control. The
23 reporting requirements of this title do not apply to any lawful sale
24 of a Schedule V product containing any detectable quantity of

1 pseudoephedrine, its salts or optical isomers, or salts of optical
2 isomers, until such time that:

3 1. The Oklahoma State Bureau of Narcotics and Dangerous Drugs
4 Control implements a statewide real-time logbook that authorizes
5 purchases and records purchaser information statewide; and

6 2. The Oklahoma State Bureau of Narcotics and Dangerous Drugs
7 Control adopts rules for the reporting of sales of Schedule V
8 product containing any detectable quantity of pseudoephedrine, its
9 salts or optical isomers, or salts of optical isomers.

10 SECTION 6. This act shall become effective July 1, 2009.

11 SECTION 7. It being immediately necessary for the preservation
12 of the public peace, health and safety, an emergency is hereby
13 declared to exist, by reason whereof this act shall take effect and
14 be in full force from and after its passage and approval."

15 Passed the House of Representatives the 23rd day of April, 2009.

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Presiding Officer of the House of
Representatives

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20 Passed the Senate the ____ day of _____, 2009.

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23 _____
Presiding Officer of the Senate

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