

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 SENATE BILL NO. 1119

By: Sykes of the Senate

and

6 Terrill and Cox of the
7 House

8
9 COMMITTEE SUBSTITUTE

10 (Uniform Controlled Dangerous Substances Act -
11 registration - definitions - effective date -
12 emergency)

13
14
15
16 SECTION 1. AMENDATORY 63 O.S. 2001, Section 2-103, as
17 last amended by Section 1, Chapter 359, O.S.L. 2008 (63 O.S. Supp.
18 2008, Section 2-103), is amended to read as follows:

19 Section 2-103. A. The Director shall be appointed by the
20 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control
21 Commission. The Director of Narcotics and Dangerous Drugs Control
22 on January 1, 1984, shall be initially appointed as Director. The
23 succeeding Director shall, at the time of the appointment, have a
24 Bachelor's Degree from an accredited college or university and at

1 least five (5) ~~years~~ years of experience in drug law enforcement.
2 The Director may appoint necessary assistants, agents, and other
3 personnel to perform the work of the office and may prescribe their
4 titles and duties and fix their compensation, other than the
5 salaries established in subsection A of Section 2-103a of this
6 title, pursuant to Merit System rules. The Director may appoint
7 employees to the positions of Chief of Law Enforcement Information
8 and Technology, Public Information/Education Officer, Training
9 Officer, Program ~~Administrator~~ Administrators, Grants Administrator,
10 Criminal Analysts, Legal Secretary, and Typist Clerk/Spanish
11 Transcriptionists. ~~Said~~ The positions shall be unclassified and
12 exempt from the rules and procedures of the Office of Personnel
13 Management, except leave regulations. The office of the Director
14 shall be located at a suitable place in Oklahoma City, Oklahoma.

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

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

24

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

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

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

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

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

22 G. Custody and possession of the sidearm and badge of a
23 commissioned employee who dies while employed at the Oklahoma State
24

1 Bureau of Narcotics and Dangerous Drugs Control may be awarded by
2 the Director to the spouse or next of kin of the deceased employee.

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

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

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

19 1. Maintenance of effective controls against diversion of
20 particular controlled dangerous substances and any Schedule I or II
21 substance compounded therefrom into other than legitimate medical,
22 scientific or industrial channels, including examination of the
23 fitness of his or her employees or agents to handle dangerous
24 substances;

1 2. Compliance with applicable state and local law;

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

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

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

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

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

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

22 B. Registration granted under subsection A of this section
23 shall not entitle a registrant to manufacture, distribute, dispense,
24 prescribe, administer or use for scientific purposes controlled

1 dangerous substances in Schedule I or II other than those specified
2 in the registration.

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

21 D. 1. The Director shall initially permit persons to register
22 who own or operate any establishment engaged in the manufacture,
23 distribution, dispensing, prescribing, administering or use for
24 scientific purposes of any controlled dangerous substances prior to

1 June 4, 1991, and who are registered or licensed by the state. Fees
2 for registration under this section shall be as follows:

3 Practitioners and
4 mid-level
5 practitioners \$70.00
6 \$140.00 per year
7 of
8 registration

9 Home Care Agencies,
10 Hospices & Home
11 Care Services \$70.00
12 \$140.00 annually

13 Distributors \$100.00
14 \$300.00 annually

15 Manufacturers \$200.00
16 \$500.00 annually

17 Manufacturer, Wholesaler, or
18 Distributor of drug products
19 containing pseudoephedrine or
20 phenylpropanolamine \$100.00
21 \$300.00 annually

22 2. A registrant shall be required to pay double the amount of
23 the above-listed fee for any renewal of registration received more
24 than ~~sixty (60)~~ thirty (30) days late.

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

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

7 SECTION 3. AMENDATORY 63 O.S. 2001, Section 2-308, is
8 amended to read as follows:

9 Section 2-308. Controlled dangerous substances in Schedules I
10 and II shall be distributed only by a registrant to another
11 registrant pursuant to an order form obtained from the United States
12 ~~Attorney General~~ Drug Enforcement Administration. Compliance with
13 the provisions of the Federal Controlled Substances Act respecting
14 order forms shall be deemed compliance with this section. This
15 section shall not apply to dispensing as defined by this act, nor to
16 distribution otherwise authorized by this act.

17 SECTION 4. AMENDATORY 63 O.S. 2001, Section 2-309B, as
18 last amended by Section 3, Chapter 273, O.S.L. 2008 (63 O.S. Supp.
19 2008, 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;

24

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 State 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" means the person for whom a prescription is
17 prescribed and who is the lawful intended ultimate user;

18 6. "Recipient's agent" means a person who is authorized by the
19 ultimate user to pick up the recipient's medication and deliver it
20 to the recipient or a person who claims a prescription other than
21 the person to whom the medication is prescribed;

22 7. "Recipient's identification number" and "recipient's agent's
23 identification number" means the unique number contained on a
24 ~~recipient's~~ valid passport, military identification card, driver

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

23 ~~6-~~ 8. "Registrant" means a person, persons, corporation or
24 other entity who has been issued by the Director of the Oklahoma

1 State Bureau of Narcotics and Dangerous Drugs Control a registration
2 pursuant to Section 2-302 of this title; and

3 ~~7.~~ 9. "State" means any state, territory, or possession of the
4 United States, the District of Columbia, or foreign nation.

5 SECTION 5. AMENDATORY 63 O.S. 2001, Section 2-309C, as
6 last amended by Section 3, Chapter 128, O.S.L. 2005 (63 O.S. Supp.
7 2008, Section 2-309C), is amended to read as follows:

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

- 18 1. Recipient's name, ~~when feasible to submit;~~
- 19 2. Recipient's address;
- 20 3. Recipient's date of birth;
- 21 4. Recipient's identification number;
- 22 ~~3.~~ 5. National Drug Code number of the substance dispensed;
- 23 ~~4.~~ 6. Date of the dispensation;
- 24 ~~5.~~ 7. Quantity of the substance dispensed;

1 ~~6.~~ 8. Prescriber's United States Drug Enforcement Agency
2 registration number; and

3 ~~7.~~ 9. Dispenser's registration number; and

4 10. Other information as required by administrative rule.

5 B. The information required by this section shall be
6 transmitted:

7 1. ~~On an electronic device which is compatible with the~~
8 ~~receiving device of the central repository or by computer diskette,~~
9 ~~magnetic tape, CD-ROM or in~~ In a format or other media designated
10 acceptable by the Oklahoma State Bureau of Narcotics and Dangerous
11 Drugs Control; and

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

15 C. The provisions of subsection B of this section shall not
16 apply to a nonresident drug outlet registered pursuant to the
17 Oklahoma Pharmacy Act or to a resident drug outlet as defined in
18 Section 353.1 of Title 59 of the Oklahoma Statutes if the
19 nonresident or resident drug outlet mails or delivers a controlled
20 substance to a patient or client. Nonresident and resident drug
21 outlets shall transmit the information required in this section
22 within seven (7) days of the date that the controlled substance is
23 dispensed.

24

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

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

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

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

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

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

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

13

14 52-1-7777 GRS 04/13/09

15

16

17

18

19

20

21

22

23

24