

ENROLLED SENATE  
BILL NO. 1119

By: Sykes of the Senate

and

Terrill, Cox and Roan of  
the House

An Act relating to the Uniform Controlled Dangerous Substances Act; amending 63 O.S. 2001, Sections 2-103, as last amended by Section 1, Chapter 359, O.S.L. 2008, 2-303, as last amended by Section 1, Chapter 273, O.S.L. 2008, 2-308, 2-309B, as last amended by Section 3, Chapter 273, O.S.L. 2008 and 2-309C, as last amended by Section 3, Chapter 128, O.S.L. 2005 (63 O.S. Supp. 2008, Sections 2-103, 2-303, 2-309B and 2-309C), which relate to director, registration, order forms, definitions and dispensers of controlled dangerous substances; authorizing appointment of certain employees to specified positions; increasing certain fees; decreasing certain time period; modifying entity required to dispense certain forms; modifying definitions; requiring transmission of certain information; modifying format and required time period for certain transmission; providing an effective date; and declaring an emergency.

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

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

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

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

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

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

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

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

D. A commissioned employee of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall be entitled to receive

upon retirement by reason of length of service, the continued custody and possession of the sidearm and badge carried by such employee immediately prior to retirement.

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

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

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

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

SECTION 2. AMENDATORY 63 O.S. 2001, Section 2-303, as last amended by Section 1, Chapter 273, O.S.L. 2008 (63 O.S. Supp. 2008, 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, scientific or industrial channels, including examination of the

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

2. Compliance with applicable state and local law;

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

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

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

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

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

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

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

C. Practitioners shall be registered to dispense, prescribe, administer or use for scientific purposes substances in Schedules II through V if they are authorized to carry on their respective activities under the laws of this state. A registration application by a practitioner who wishes to conduct research with Schedule I

substances shall be accompanied by evidence of the applicant's federal registration to conduct such activity and shall be referred to the Medical Research Commission for advice. The Medical Research Commission shall promptly advise the Director concerning the qualifications of each practitioner requesting such registration. Registration for the purpose of bona fide research or of use for scientific purposes with Schedule I substances by a practitioner deemed qualified by the Medical Research Commission may be denied only on a ground specified in subsection A of Section 2-304 of this title or if there are reasonable grounds to believe that the applicant will abuse or unlawfully transfer such substances or fail to safeguard adequately such applicant's supply of such substances against diversion from legitimate medical or scientific use.

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

Practitioners and mid-level practitioners	<del>\$70.00</del>	
	<u>\$140.00</u>	per year
		of
		registration
Home Care Agencies, Hospices & Home Care Services	<del>\$70.00</del>	
	<u>\$140.00</u>	annually
Distributors	<del>\$100.00</del>	
	<u>\$300.00</u>	annually
Manufacturers	<del>\$200.00</del>	

	<u>\$500.00</u>	annually
Manufacturer, Wholesaler, or Distributor of drug products containing pseudoephedrine or phenylpropanolamine	<del>\$100.00</del>	
	<u>\$300.00</u>	annually

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

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

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

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

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

SECTION 4. AMENDATORY 63 O.S. 2001, Section 2-309B, as last amended by Section 3, Chapter 273, O.S.L. 2008 (63 O.S. Supp. 2008, Section 2-309B), is amended to read as follows:

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

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

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

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

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

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

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

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

resident of the State of Oklahoma, or, if the controlled dangerous substance is obtained for an animal, the unique number contained on the animal owner's valid driver license, or ~~valid~~ identification card issued pursuant to Section 6-105 of Title 47 of the Oklahoma Statutes or similar statute of another state if the owner is not a resident of the State of Oklahoma. Nonresident drug outlets registered pursuant to the Oklahoma Pharmacy Act and resident drug outlets defined in Section 353.1 of Title 59 of the Oklahoma Statutes are exempt from the picture identification requirement if the nonresident and resident drug outlets have obtained the identification of the patient through the prescription benefit plan of the patient;

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

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

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

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

1. Recipient's name, ~~when feasible to submit;~~
2. Recipient's address;
3. Recipient's date of birth;

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

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

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

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

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

D. Willful failure to transmit accurate information as required by this section shall be a misdemeanor punishable, upon conviction, by not more than one (1) year in the county jail, or by a fine of not more than One Thousand Dollars (\$1,000.00), or by both such

imprisonment and fine, or administrative action may be taken pursuant to Section 2-304 of this title.

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

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

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

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

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

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

Passed the Senate the 21st day of May, 2009.

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Presiding Officer of the Senate

Passed the House of Representatives the 22nd day of May, 2009.

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Presiding Officer of the House  
of Representatives