

SB 1119

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THE STATE SENATE  
Monday, February 23, 2009

Senate Bill No. 1119  
As Amended

SENATE BILL NO. 1119 - By: Sykes of the Senate and Terrill and Cox of the House.

[ Uniform Controlled Dangerous Substances Act - registration - definitions - 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 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

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.

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.

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	<del>\$70.00</del>	<u>\$140.00</u>	per year
10				of
11				registration
12	Home Care Agencies,			
13	Hospices & Home			
14	Care Services	<del>\$70.00</del>	<u>\$140.00</u>	annually
15	Distributors	<del>\$100.00</del>	<u>\$300.00</u>	annually
16	Manufacturers	<del>\$200.00</del>	<u>\$500.00</u>	annually
17	Manufacturer, Wholesaler, or			
18	Distributor of drug products			
19	containing pseudoephedrine or			
20	phenylpropanolamine	<del>\$100.00</del>	<u>\$300.00</u>	annually

21 2. A registrant shall be required to pay double the amount of  
22 the above-listed fee for any renewal of registration received more  
23 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 2.           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 3.           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;

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" 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

1 ~~recipient's~~ valid passport, military identification card, driver  
2 license, or ~~valid~~ identification card issued to a recipient pursuant  
3 to Section 6-105 of Title 47 of the Oklahoma Statutes or similar  
4 statute of another state if the recipient is not a resident of the  
5 State of Oklahoma, or, if the recipient is less than eighteen (18)  
6 years old and has no such identification, the unique number  
7 contained on ~~the recipient's parent's or guardian's~~ a valid  
8 passport, military identification card, driver license, or ~~valid~~  
9 identification card issued to the recipient's parent or guardian  
10 pursuant to Section 6-105 of Title 47 of the Oklahoma Statutes or  
11 similar statute of another state if the parent or guardian is not a  
12 resident of the State of Oklahoma, or, if the controlled dangerous  
13 substance is obtained for an animal, the unique number contained on  
14 the animal owner's valid driver license, ~~or valid~~ identification  
15 card issued pursuant to Section 6-105 of Title 47 of the Oklahoma  
16 Statutes or similar statute of another state if the owner is not a  
17 resident of the State of Oklahoma;

18 ~~6-~~ 8. "Registrant" means a person, persons, corporation or  
19 other entity who has been issued by the Director of the Oklahoma  
20 State Bureau of Narcotics and Dangerous Drugs Control a registration  
21 pursuant to Section 2-302 of this title; and

22 ~~7-~~ 9. "State" means any state, territory, or possession of the  
23 United States, the District of Columbia, or foreign nation.

1 SECTION 4. AMENDATORY 63 O.S. 2001, Section 2-309C, as  
2 last amended by Section 3, Chapter 128, O.S.L. 2005 (63 O.S. Supp.  
3 2008, Section 2-309C), is amended to read as follows:

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

- 14 1. Recipient's name, ~~when feasible to submit;~~
- 15 2. Recipient's address;
- 16 3. Recipient's date of birth;
- 17 4. Recipient's identification number;
- 18 ~~3-~~ 5. National Drug Code number of the substance dispensed;
- 19 ~~4-~~ 6. Date of the dispensation;
- 20 ~~5-~~ 7. Quantity of the substance dispensed;
- 21 ~~6-~~ 8. Prescriber's United States Drug Enforcement Agency  
22 registration number; ~~and~~
- 23 ~~7-~~ 9. Dispenser's registration number; and

1        10. Other information as required by administrative rule.

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

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

9        2. Within ~~thirty (30) days~~ twenty-four (24) hours of the time  
10 that the substance is dispensed. Beginning August 1, 2011, all  
11 information shall be submitted on a real-time log.

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

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

22        E. The Oklahoma Bureau of Narcotics and Dangerous Drugs Control  
23 is authorized, by any funds available to it, to implement a real-

1 time electronic logbook to monitor the sale of Schedule V products  
2 containing any detectable quantity of pseudoephedrine, its salts or  
3 optical isomers, or salts of optical isomers. Dispensers of such  
4 pseudoephedrine products shall report all such sales electronically  
5 pursuant to rules promulgated by the Oklahoma Bureau of Narcotics  
6 and Dangerous Drugs Control. The reporting requirements of this  
7 title do not apply to any lawful sale of a Schedule V product  
8 containing any detectable quantity of pseudoephedrine, its salts or  
9 optical isomers, or salts of optical isomers, until such time that:

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

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

17 SECTION 5. This act shall become effective November 1, 2009.

18 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-18-09 - DO  
19 PASS, As Amended and Coauthored.