

1 **SENATE FLOOR VERSION**

2 March 1, 2012

3 As Amended

4 SENATE BILL NO. 1179

5 By: Stanislawski and Ivester of
6 the Senate

7 and

8 Derby of the House

9 **[Uniform Controlled Dangerous Substances Act -
10 electronic prescribing - fines - effective date]**

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

12 SECTION 1. AMENDATORY 63 O.S. 2011, Section 2-309, is
13 amended to read as follows:

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

4 2. Electronic prescribing may be utilized for Schedules II,
5 III, IV, and V, subject to the requirements set forth in 21 CFR,
6 Section 1311 et seq.

7 3. The transmission of written prescription by practitioner to
8 dispensing pharmacy by facsimile or electronic transmission with
9 electronic signature is permitted only under the following
10 conditions:

11 a. for Schedule II drugs, the original prescription must
12 be presented and verified against the facsimile at the
13 time the substances are actually dispensed, and the
14 original document must be properly annotated and
15 retained for filing, except:

16 (1) home infusion pharmacy may consider the facsimile
17 to be a "written prescription" as required by
18 ~~this act~~ Section 2-101 et seq. of this title and
19 as required by Title 21 U.S.C., Section 829(a).
20 The facsimile copy of the prescription shall be
21 retained as an original prescription, and it must
22 contain all the information required by ~~this act~~
23 Section 2-101 et seq. of this title and 21 CFR,
24 Section 1306.05(a), including date issued, the

1 patient's full name and address, and the
2 practitioner's name, address, DEA registration
3 number, and signature. The exception to the
4 regulations for home infusion/IV therapy is
5 intended to facilitate the means by which home
6 infusion pharmacies obtain prescriptions for
7 patients requiring the frequently modified
8 parenteral controlled release administration of
9 narcotic substances, but does not extend to the
10 dispensing of oral dosage units of controlled
11 substances, and

12 (2) the same exception is granted to patients in Long
13 Term Care facilities (LTCF), which are filled by
14 and delivered to the facility by a dispensing
15 pharmacy, and

16 (3) an electronic prescription with electronic
17 signature may serve as an original prescription,
18 subject to the requirements set forth in 21 CFR,
19 Section 1311 et seq., and

20 b. for drugs in Schedules III and IV, a facsimile copy of
21 a written, signed prescription transmitted directly by
22 the prescribing practitioner to the pharmacy can serve
23 as an original prescription. Electronic prescribing
24 may be utilized for Schedules III and IV subject to

1 the same requirements as set forth in 21 CFR, Section
2 1311 et seq.

3 ~~3.~~ 4. Prescriptions shall be retained in conformity with the
4 requirements of this section and Section 2-307 of this title. No
5 prescription for a Schedule II substance may be refilled.

6 B. 1. Except for dosages medically required for a period not
7 to exceed forty-eight (48) hours which are administered by or on
8 direction of a practitioner, other than a pharmacist, or medication
9 dispensed directly by a practitioner, other than a pharmacist, to an
10 ultimate user, no controlled dangerous substance included in
11 Schedule III or IV, which is a prescription drug as determined under
12 regulation promulgated by the Board of Pharmacy, may be dispensed
13 without a written or oral prescription.

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

19 C. No controlled dangerous substance included in Schedule V may
20 be distributed or dispensed other than for a legitimate medical or
21 scientific purpose.

22 D. Except for dosages medically required for a period not to
23 exceed forty-eight (48) hours which are administered by or on
24 direction of a practitioner, other than a pharmacist, or medication

1 dispensed directly by a practitioner, other than a pharmacist, to an
2 ultimate user, tincture opium camphorated, commonly known as
3 paregoric, may not be dispensed without a written or oral
4 prescription. The refilling of a prescription for paregoric shall
5 be unlawful unless permission is granted by the prescriber, either
6 written or oral.

7 E. Whenever it appears to the Director that a drug not
8 considered to be a prescription drug under existing state law or
9 regulation of the Board of Pharmacy should be so considered because
10 of its abuse potential, ~~he~~ the Director shall so advise the Board of
11 Pharmacy and furnish to ~~him~~ the Board all available data relevant
12 thereto.

13 F. "Prescription", as used herein, means a written or oral
14 order by a practitioner to a pharmacist for a controlled dangerous
15 substance for a particular patient, which specifies the date of its
16 issue, and the full name and address of the patient; if the
17 controlled dangerous substance is prescribed for an animal, the
18 species of the animal; the name and quantity of the controlled
19 dangerous substance prescribed; the directions for use; the name and
20 address of the owner of the animal and, if written, the signature of
21 the practitioner.

22 G. No person shall solicit, dispense, receive or deliver any
23 controlled dangerous substance through the mail, unless the ultimate
24 user is personally known to the practitioner and circumstances

1 clearly indicate such method of delivery is in the best interest of
2 the health and welfare of the ultimate user.

3 SECTION 2. AMENDATORY 63 O.S. 2011, Section 2-309C, is
4 amended to read as follows:

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

- 16 1. Recipient's and recipient's agent's name;
- 17 2. Recipient's and recipient's agent's address;
- 18 3. Recipient's and recipient's agent's date of birth;
- 19 4. Recipient's and recipient's agent's identification number;
- 20 5. National Drug Code number of the substance dispensed;
- 21 6. Date of the dispensation;
- 22 7. Quantity of the substance dispensed;
- 23 8. Prescriber's United States Drug Enforcement Agency
24 registration number;

1 9. Dispenser's registration number; and

2 10. Other information as required by administrative rule.

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

5 1. In a format or other media designated acceptable by the
6 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control; and

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

10 C. When a prescription is written or dispensed to a resident of
11 a nursing home or a person who is under the care of a hospice
12 program licensed pursuant to the provisions of the Oklahoma Hospice
13 Licensing Act who does not have an identification card issued by the
14 state or another form of a recipient identification number pursuant
15 to Section 2-309B of this title, a Social Security number may be
16 used for the purpose of complying with the reporting requirements
17 provided for in this section.

18 D. The provisions of subsection B of this section shall not
19 apply to a nonresident drug outlet registered pursuant to the
20 Oklahoma Pharmacy Act or to a resident drug outlet as defined in
21 Section 353.1 of Title 59 of the Oklahoma Statutes if the
22 nonresident or resident drug outlet mails or delivers a controlled
23 substance to a patient or client. Nonresident and resident drug
24 outlets shall transmit the information required in this section

1 within seven (7) days of the date that the controlled substance is
2 dispensed.

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

9 F. The Director of the Bureau shall have the authority to allow
10 paper submissions on a form designated by the Oklahoma State Bureau
11 of Narcotics and Dangerous Drugs Control, if the dispenser has an
12 appropriate hardship.

13 G. The Oklahoma State Bureau of Narcotics and Dangerous Drugs
14 Control is authorized, by any funds available to it, to implement a
15 real-time electronic logbook to monitor the sale of nonprescription
16 Schedule V products containing any detectable quantity of
17 pseudoephedrine, its salts or optical isomers, or salts of optical
18 isomers. Dispensers of such pseudoephedrine products shall report
19 all such sales electronically pursuant to rules promulgated by the
20 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control.

21 H. The Oklahoma State Bureau of Narcotics and Dangerous Drugs
22 Control shall have the authority to adopt rules for the reporting of
23 sales of Schedule V product containing any detectable quantity of
24

1 pseudoephedrine, its salts or optical isomers, or salts of optical
2 isomers.

3 SECTION 3. This act shall become effective November 1, 2012.

4 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-29-12 - DO
5 PASS, As Amended and Coauthored.

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