STATE OF OKLAHOMA

2nd Session of the 53rd Legislature (2012)

SENATE BILL 1179 By: Stanislawski

AS INTRODUCED

An Act relating to the Uniform Controlled Dangerous Substances Act; amending 63 O.S. 2011, Sections 2-309 and 2-309C, which relate to prescriptions and dispensers of certain controlled dangerous substances; authorizing electronic prescribing under certain circumstances; requiring dispensers of certain controlled dangerous substances to transmit certain recipient's agent's information; amending 63 O.S. 2011, Section 2-329, which relates to drug cleanup fines; making certain cleanup fines optional; modifying such fines; making such fines apply to certain violations; redirecting the transfer of such fines collected from the OSBI Revolving Fund to the Bureau of Narcotics Revolving Fund; and providing an effective date.

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

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

Section 2-309. A. 1. Except for dosages medically required for a period not to exceed forty-eight (48) hours which are administered by or on direction of a practitioner, other than a pharmacist, or medication dispensed directly by a practitioner, other than a pharmacist, to an ultimate user, no controlled

dangerous substance included in Schedule II, which is a prescription drug as determined under regulation promulgated by the Board of Pharmacy, may be dispensed without the written prescription of a practitioner; provided, that, in emergency situations, as prescribed by the Board of Pharmacy by regulation, such drug may be dispensed upon oral prescription reduced promptly to writing and filed by the pharmacist in a manner to be prescribed by rules and regulations of the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control.

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

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

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

(1) home infusion pharmacy may consider the facsimile to be a "written prescription" as required by ~~this act~~ Section 2-101 et seq. of this title and

as required by Title 21 U.S.C., Section 829(a). The facsimile copy of the prescription shall be retained as an original prescription, and it must contain all the information required by ~~this act~~ Section 2-101 et seq. of this title and 21 CFR, Section 1306.05(a), including date issued, the patient's full name and address, and the practitioner's name, address, DEA registration number, and signature. The exception to the regulations for home infusion/IV therapy is intended to facilitate the means by which home infusion pharmacies obtain prescriptions for patients requiring the frequently modified parenteral controlled release administration of narcotic substances, but does not extend to the dispensing of oral dosage units of controlled substances, ~~and~~

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

(3) an electronic prescription with electronic signature may serve as an original prescription,

subject to the requirements set forth in 21 CFR, Section 1311 et seq., and

b. for drugs in Schedules III and IV, a facsimile copy of a written, signed prescription transmitted directly by the prescribing practitioner to the pharmacy can serve as an original prescription. Electronic prescribing may be utilized for Schedules III and IV subject to the same requirements as set forth in 21 CFR, Section 1311 et seq.

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

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

2. A written or oral prescription for a controlled dangerous substance in Schedule III or IV may not be filled or refilled more than six (6) months after the date thereof or be refilled more than

five times after the date of the prescription, unless renewed by the practitioner.

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

D. Except for dosages medically required for a period not to exceed forty-eight (48) hours which are administered by or on direction of a practitioner, other than a pharmacist, or medication dispensed directly by a practitioner, other than a pharmacist, to an ultimate user, tincture opium camphorated, commonly known as paregoric, may not be dispensed without a written or oral prescription. The refilling of a prescription for paregoric shall be unlawful unless permission is granted by the prescriber, either written or oral.

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

F. "Prescription", as used herein, means a written or oral order by a practitioner to a pharmacist for a controlled dangerous substance for a particular patient, which specifies the date of its issue, and the full name and address of the patient; if the

controlled dangerous substance is prescribed for an animal, the species of the animal; the name and quantity of the controlled dangerous substance prescribed; the directions for use; the name and address of the owner of the animal and, if written, the signature of the practitioner.

G. No person shall solicit, dispense, receive or deliver any controlled dangerous substance through the mail, unless the ultimate user is personally known to the practitioner and circumstances clearly indicate such method of delivery is in the best interest of the health and welfare of the ultimate user.

SECTION 2. AMENDATORY 63 O.S. 2011, 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 including any compound mixture or preparation containing any detectable quantity of pseudoephedrine, its salts or optical isomers, or salts of optical isomers when dispensed pursuant to a valid prescription 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 <u>and recipient's agent's</u> name;

2. Recipient's and recipient's agent's address;

3. Recipient's and recipient's agent's date of birth;

4. Recipient's and recipient's agent's identification number;

5. National Drug Code number of the substance dispensed;

6. Date of the dispensation;

7. Quantity of the substance dispensed;

8. Prescriber's United States Drug Enforcement Agency registration number;

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

2. Within 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. When a prescription is written or dispensed to a resident of a nursing home or a person who is under the care of a hospice program licensed pursuant to the provisions of the Oklahoma Hospice Licensing Act who does not have an identification card issued by the state or another form of a recipient identification number pursuant to Section 2-309B of this title, a Social Security number may be

used for the purpose of complying with the reporting requirements provided for in this section.

D. 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.

E. 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.

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

G. 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 nonprescription

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.

H. The Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall have the authority to adopt 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 3. AMENDATORY 63 O.S. 2011, Section 2-329, is amended to read as follows:

Section 2-329. A. In addition to any fine or imprisonment imposed under ~~Section 10 of this act~~ Section 2-328 of this title, the following drug cleanup fine ~~shall~~ may be imposed:

1. Up to Ten Thousand Dollars ($10,000.00) for violations described in subsection A of ~~Section 10 of this act~~ Section 2-328 of this title or Section 2-401 of this title; and

2. Up to One Hundred Thousand Dollars ($100,000.00) for violations described in subsections C, D or E of ~~Section 10 of this act~~ Section 2-328 of this title.

B. All fines collected under this section shall be transferred to the ~~OSBI Revolving Fund~~ Bureau of Narcotics Revolving Fund,

pursuant to ~~Section 150.19a of Title 74 of the Oklahoma Statutes~~ Section 2-107 of this title.

SECTION 4. This act shall become effective November 1, 2012.

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