

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 1821

6 By: Griffin

7 COMMITTEE SUBSTITUTE

8 An Act relating to the Anti-Drug Diversion Act;
9 amending 63 O.S. 2011, Section 2-309D, as last
10 amended by Section 1, Chapter 162, O.S.L. 2013 (63
11 O.S. Supp. 2013, Section 2-309D), which relates to
12 central repository information; permitting access to
13 certain information by certain persons; permitting
14 disclosure of certain information for certain
15 investigations; removing certain exemption from
16 certain obligations; requiring certain persons to
17 verify and review certain information; requiring
18 Director of Oklahoma State Bureau of Narcotics and
19 Dangerous Drugs Control to provide access to central
20 repository information by certain persons; requiring
21 maintenance of certain records; providing that access
22 to certain information not alter medical standards of
23 care; providing immunity to certain persons from
24 certain liability; providing enforcement for certain
violations; prohibiting certain requirements for
hospice or end-of-life care; and providing an
effective date.

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

SECTION 1. AMENDATORY 63 O.S. 2011, Section 2-309D, as
last amended by Section 1, Chapter 162, O.S.L. 2013 (63 O.S. Supp.
2013, Section 2-309D), is amended to read as follows:

1 Section 2-309D. A. The information collected at the central
2 repository pursuant to the Anti-Drug Diversion Act shall be
3 confidential and shall not be open to the public. Access to the
4 information shall be limited to:

5 1. Peace officers certified pursuant to Section 3311 of Title
6 70 of the Oklahoma Statutes who are employed as investigative agents
7 of the Oklahoma State Bureau of Narcotics and Dangerous Drugs
8 Control;

9 2. The United States Drug Enforcement Administration Diversion
10 Group Supervisor;

11 3. The executive director or chief investigator, as designated
12 by each board, of the following state boards:

- 13 a. Board of Podiatric Medical Examiners,
- 14 b. Board of Dentistry,
- 15 c. State Board of Pharmacy,
- 16 d. State Board of Medical Licensure and Supervision,
- 17 e. State Board of Osteopathic Examiners,
- 18 f. State Board of Veterinary Medical Examiners,
- 19 g. Oklahoma Health Care Authority,
- 20 h. Department of Mental Health and Substance Abuse
21 Services, and
- 22 i. State Board of Health;

23 provided, however, that the executive director or chief investigator
24 of each of these boards shall be limited to access to information

1 relevant to licensees of the employing board of such executive
2 director or chief investigator;

3 4. A multicounty grand jury properly convened pursuant to the
4 Multicounty Grand Jury Act; ~~and~~

5 5. The Department of Mental Health and Substance Abuse Services
6 and the State Department of Health for statistical, research,
7 substance abuse prevention or educational purposes, provided that
8 the consumer's confidentiality is not compromised; and

9 6. At the discretion of the Director of the Oklahoma State
10 Bureau of Narcotics and Dangerous Drugs Control, medical
11 practitioners and their staff who are employed by the federal
12 government in this state.

13 B. This section shall not prevent the disclosure, at the
14 discretion of the Director of the Oklahoma State Bureau of Narcotics
15 and Dangerous Drugs Control, of investigative information to peace
16 officers and investigative agents of federal, state, county or
17 municipal law enforcement agencies, district attorneys and the
18 Attorney General in furtherance of criminal, civil or administrative
19 investigations or prosecutions within their respective
20 jurisdictions, and to registrants in furtherance of efforts to guard
21 against the diversion of controlled dangerous substances.

22 C. This section shall not prevent the disclosure, at the
23 discretion of the Director of the Oklahoma State Bureau of Narcotics
24 and Dangerous Drugs Control, of statistical information gathered

1 from the central repository to the general public which shall be
2 limited to types and quantities of controlled substances dispensed
3 and the county where dispensed.

4 D. Any unauthorized disclosure of any information collected at
5 the central repository provided by the Anti-Drug Diversion Act shall
6 be a misdemeanor. Violation of the provisions of this section shall
7 be deemed willful neglect of duty and shall be grounds for removal
8 from office.

9 E. ~~Notwithstanding the provisions of subsection B of this~~
10 ~~section, registrants shall have no requirement or obligation to~~
11 ~~access or check the information in the central repository prior to~~
12 ~~dispensing or administering medications or as part of their~~
13 ~~professional practices~~ Prior to prescribing or authorization of a
14 refill of any controlled dangerous substance, registrants or members
15 of their medical or administrative staff shall access and verify the
16 information in the central repository. Such information shall be
17 reviewed by the registrant to assess medical necessity and the
18 possibility that the person may be unlawfully obtaining prescription
19 drugs in violation of the Uniform Controlled Dangerous Substances
20 Act. The Director of the Oklahoma State Bureau of Narcotics and
21 Dangerous Drugs Control shall provide adequate means and procedures
22 allowing access to central repository information for registrants
23 lacking direct computer access. A record of compliance with these
24 prescriptive requirements shall be placed in the medical file of the

1 individual for whom the prescription is provided. Any subsequent
2 disclosure of that information to the individual for whom the
3 prescription is provided, either orally or through production of
4 medical records, shall not constitute an authorized disclosure of
5 central repository information. Such duty to access and check shall
6 not alter or otherwise amend appropriate medical standards of care.
7 Registrants shall not be liable for any claim for damages for
8 reporting the drug-seeking behavior of an individual following a
9 check of the information in the central repository pursuant to this
10 title. Violation of this duty shall be enforced, as appropriate,
11 through administrative action taken pursuant to Section 2-304 of
12 this title. Registrants shall not be liable to any person for any
13 claim of damages as a result of accessing or failing to access the
14 information in the central repository and no lawsuit may be
15 predicated thereon.

16 1. There shall be no requirement to access and check the
17 information in the central repository for prescriptions for hospice
18 or end-of-life care.

19 2. Nothing herein shall be construed to relieve a registrant
20 from any duty to monitor and report the sales of certain products
21 pursuant to subsection E of Section 2-309C of this title.

22 F. Information regarding nonfatal overdoses, other than
23 statistical information as required by Section 2-106 of this title,
24 shall be completely confidential. Access to this information shall

1 be strictly limited to the Director of the Oklahoma State Bureau of
2 Narcotics and Dangerous Drugs Control or designee, the Chief Medical
3 Examiner, and the registrant that enters the information.
4 Registrants shall not be liable to any person for a claim of damages
5 for information reported pursuant to the provisions of Section 2-105
6 of this title.

7 SECTION 2. This act shall become effective November 1, 2014.

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