

1 **SENATE FLOOR VERSION**

2 February 10, 2014

3 SENATE BILL NO. 1243

By: Standridge of the Senate

4 and

5 Derby of the House

6
7
8 An Act relating to nursing homes; amending 63 O.S.
9 2011, Section 2-302, which relates to registration
10 requirements; requiring nursing homes to obtain
11 certain registrations; removing certain exemption;
12 amending 63 O.S. 2011, Section 2-303, which relates
13 to regulation of controlled substances; expanding
14 scope of certain fees; amending 63 O.S. 2011, Section
15 2-315, which relates to disposal of controlled
16 substances; requiring certain facilities to submit
17 certain information to the Oklahoma State Bureau of
18 Narcotics and Dangerous Drugs Control; and providing
19 an effective date.

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

21 SECTION 1. AMENDATORY 63 O.S. 2011, Section 2-302, is
22 amended to read as follows:

23 Section 2-302. A. Every person who manufactures, distributes,
24 dispenses, prescribes, administers or uses for scientific purposes
any controlled dangerous substance within this state, or who
proposes to engage in the manufacture, distribution, dispensing,
prescribing, administering or use for scientific purposes of any
controlled dangerous substance within this state shall obtain a

1 registration issued by the Director of the Oklahoma State Bureau of
2 Narcotics and Dangerous Drugs Control, in accordance with rules
3 promulgated by the Director. Persons registered by the Director
4 under Section 2-101 et seq. of this title to manufacture,
5 distribute, dispense, or conduct research with controlled dangerous
6 substances may possess, manufacture, distribute, dispense, or
7 conduct research with those substances to the extent authorized by
8 their registration and in conformity with the other provisions of
9 this article. Every wholesaler, manufacturer or distributor of any
10 drug product containing pseudoephedrine or phenylpropanolamine, or
11 their salts, isomers, or salts of isomers shall obtain a
12 registration issued by the Director of the Oklahoma State Bureau of
13 Narcotics and Dangerous Drugs Control in accordance with rules
14 promulgated by the Director and as provided for in Section 2-332 of
15 this title.

16 B. Out-of-state pharmaceutical suppliers who provide controlled
17 dangerous substances to individuals within this state shall obtain a
18 registration issued by the Director of the Oklahoma State Bureau of
19 Narcotics and Dangerous Drugs Control, in accordance with rules
20 promulgated by the Director; provided that this provision shall not
21 apply to wholesale distributors who ship controlled dangerous
22 substances to pharmacies or other entities registered within this
23 state in accordance with rules promulgated by the Director.

24

1 C. Manufacturers, distributors, home care agencies, hospices,
2 home care services, nursing homes and scientific researchers shall
3 obtain a registration annually. Other practitioners shall obtain a
4 registration for a period to be determined by the Director that will
5 be for a period not less than one (1) year nor more than three (3)
6 years.

7 D. Every trainer or handler of a canine controlled dangerous
8 substances detector who, in the ordinary course of such trainer's or
9 handler's profession, desires to possess any controlled dangerous
10 substance, annually, shall obtain a registration issued by the
11 Director for a fee of Seventy Dollars (\$70.00). Such persons shall
12 be subject to all applicable provisions of Section 2-101 et seq. of
13 this title and such applicable rules promulgated by the Director for
14 those individuals identified in subparagraph a of paragraph 32 of
15 Section 2-101 of this title. Persons registered by the Director
16 pursuant to this subsection may possess controlled dangerous
17 substances to the extent authorized by their registration and in
18 conformity with the other provisions of this article.

19 E. The following persons shall not be required to register and
20 may lawfully possess controlled dangerous substances under the
21 provisions of Section 2-101 et seq. of this title:

22 1. An agent, or an employee thereof, of any registered
23 manufacturer, distributor, dispenser or user for scientific purposes
24 of any controlled dangerous substance, if such agent is acting in

1 the usual course of such agent's or employee's business or
2 employment;

3 2. Any person lawfully acting under the direction of a person
4 authorized to administer controlled dangerous substances under
5 Section 2-312 of this title;

6 3. A common or contract carrier or warehouse, or an employee
7 thereof, whose possession of any controlled dangerous substance is
8 in the usual course of such carrier's or warehouse's business or
9 employment;

10 4. An ultimate user or a person in possession of any controlled
11 dangerous substance pursuant to a lawful order of a practitioner;

12 5. An individual pharmacist acting in the usual course of such
13 pharmacist's employment with a pharmacy registered pursuant to the
14 provisions of Section 2-101 et seq. of this title;

15 ~~6. A nursing home licensed by this state;~~

16 ~~7.~~ Any Department of Mental Health and Substance Abuse Services
17 employee or any person whose facility contracts with the Department
18 of Mental Health and Substance Abuse Services whose possession of
19 any dangerous drug, as defined in Section 353.1 of Title 59 of the
20 Oklahoma Statutes, is for the purpose of delivery of a mental health
21 consumer's medicine to the consumer's home or residence; and

22 ~~8.~~ 7. Registered nurses and licensed practical nurses.

23 F. The Director may, by rule, waive the requirement for
24 registration or fee for registration of certain manufacturers,

1 distributors, dispensers, prescribers, administrators, or users for
2 scientific purposes if the Director finds it consistent with the
3 public health and safety.

4 G. A separate registration shall be required at each principal
5 place of business or professional practice where the applicant
6 manufactures, distributes, dispenses, prescribes, administers, or
7 uses for scientific purposes controlled dangerous substances.

8 H. The Director is authorized to inspect the establishment of a
9 registrant or applicant for registration in accordance with rules
10 promulgated by the Director.

11 I. No person engaged in a profession or occupation for which a
12 license to engage in such activity is provided by law shall be
13 registered under this act unless such person holds a valid license
14 of such person's profession or occupation.

15 J. Registrations shall be issued on the first day of November
16 of each year. Registrations may be issued at other times, however,
17 upon certification of the professional licensing board.

18 K. The licensing boards of all professions and occupations to
19 which the use of controlled dangerous substances is incidental shall
20 furnish a current list to the Director, not later than the first day
21 of October of each year, of the persons holding valid licenses. All
22 such persons except persons exempt from registration requirements
23 under subsection E of this section shall be subject to the
24 registration requirements of Section 2-101 et seq. of this title.

1 L. The licensing board of any professional defined as a mid-
2 level practitioner shall notify and furnish to the Director, not
3 later than the first day of October of each year that such
4 professional holds a valid license, a current listing of individuals
5 licensed and registered with their respective boards to prescribe,
6 order, select, obtain and administer controlled dangerous
7 substances. The licensing board shall immediately notify the
8 Director of any action subsequently taken against any such
9 individual.

10 M. Beginning November 1, 2010, each registrant that prescribes,
11 administers or dispenses methadone shall be required to check the
12 prescription profile of the patient on the central repository of the
13 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control.

14 SECTION 2. AMENDATORY 63 O.S. 2011, Section 2-303, is
15 amended to read as follows:

16 Section 2-303. A. The Director of the Oklahoma State Bureau of
17 Narcotics and Dangerous Drugs Control shall register an applicant to
18 manufacture, distribute, dispense, prescribe, administer or use for
19 scientific purposes controlled dangerous substances included in
20 Schedules I through V of Section 2-101 et seq. of this title unless
21 the Director determines that the issuance of such registration is
22 inconsistent with the public interest. In determining the public
23 interest, the following factors shall be considered:

24

1 1. Maintenance of effective controls against diversion of
2 particular controlled dangerous substances and any Schedule I or II
3 substance compounded therefrom into other than legitimate medical,
4 scientific or industrial channels, including examination of the
5 fitness of his or her employees or agents to handle dangerous
6 substances;

7 2. Compliance with applicable state and local law;

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

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

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

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

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

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

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

9 C. Practitioners shall be registered to dispense, prescribe,
10 administer or use for scientific purposes substances in Schedules II
11 through V if they are authorized to carry on their respective
12 activities under the laws of this state. A registration application
13 by a practitioner who wishes to conduct research with Schedule I
14 substances shall be accompanied by evidence of the applicant's
15 federal registration to conduct such activity and shall be referred
16 to the Medical Research Commission for advice. The Medical Research
17 Commission shall promptly advise the Director concerning the
18 qualifications of each practitioner requesting such registration.
19 Registration for the purpose of bona fide research or of use for
20 scientific purposes with Schedule I substances by a practitioner
21 deemed qualified by the Medical Research Commission may be denied
22 only on a ground specified in subsection A of Section 2-304 of this
23 title or if there are reasonable grounds to believe that the
24 applicant will abuse or unlawfully transfer such substances or fail

1 to safeguard adequately such applicant's supply of such substances
2 against diversion from legitimate medical or scientific use.

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

9 Practitioners and mid-level

10 practitioners	\$140.00	per year
		of registration

12 Home Care Agencies, Hospices

13 ~~&~~, Home Care Services and

14 <u>Nursing Homes</u>	\$140.00	annually
-------------------------	----------	----------

15 Distributors	\$300.00	annually
-----------------	----------	----------

16 Manufacturers	\$500.00	annually
------------------	----------	----------

17 Manufacturer, Wholesaler, or

18 Distributor of drug products

19 containing pseudoephedrine

20 or phenylpropanolamine	\$300.00	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 thirty (30) days late.

24

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 3. AMENDATORY 63 O.S. 2011, Section 2-315, is
8 amended to read as follows:

9 Section 2-315. A. Except as otherwise provided by law, any
10 person required to obtain an annual registration pursuant to Section
11 2-302 of this title, or any group home, or residential care home as
12 defined by Section 1-820 of this title shall submit for destruction
13 all controlled dangerous substances which are out of date, which are
14 unwanted, unused or which are abandoned by their owner at their
15 facility due to death or other circumstances.

16 B. All controlled dangerous substances described in subsection
17 A of this section shall be submitted to the Oklahoma City laboratory
18 of the Oklahoma State Bureau of Investigation, along with all
19 required information on forms provided by the Oklahoma State Bureau
20 of Investigation, to the Oklahoma State Bureau of Narcotics and
21 Dangerous Drugs Control, to the federal Drug Enforcement
22 Administration, to a duly registered reverse distributor, or to the
23 original registered supplier or their registered agent. When any
24 such substance is transported by private contract or common carrier

1 or United States Postal Service for the purpose of destruction, the
2 sender shall require a receipt from such private contract or common
3 carrier or United States Postal Service, and such receipt shall be
4 retained as a permanent record by the sender.

5 C. Controlled dangerous substances submitted to the Oklahoma
6 State Bureau of Investigation pursuant to the provisions of this
7 section shall be destroyed pursuant to the procedures provided in
8 subsection A of Section 2-508 of this title.

9 Controlled dangerous substances submitted to any distributors,
10 reverse distributors or their original registered suppliers pursuant
11 to the provisions of this section shall be destroyed by incineration
12 so as to make the substance absolutely unusable for human purposes.
13 An official record listing the property destroyed, the location of
14 destruction and disposal, and the name and title of the person
15 supervising the destruction and disposal shall be submitted to the
16 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control and
17 the federal Drug Enforcement Administration office located nearest
18 the destruction site.

19 D. The Office of the Chief Medical Examiner is hereby
20 authorized to perform on-site incineration of all controlled
21 dangerous substances which are obtained in the discharge of the
22 official duties of the Chief Medical Examiner. Any record relating
23 to destruction of a controlled dangerous substance shall be
24 maintained as required by the state or federal government and shall

1 be available for inspection by appropriate state or federal
2 government regulatory agencies.

3 E. This section shall constitute a part of the Uniform
4 Controlled Dangerous Substances Act.

5 SECTION 4. This act shall become effective November 1, 2014.

6 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
7 February 10, 2014 - DO PASS
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24