ENGROSSED HOUSE AMENDMENT
TO
ENGROSSED SENATE BILL NO. 848 By: Rader of the Senate

and

Echols of the House

[opioid drugs - continuing education - pharmacist discretion - unprofessional conduct - central repository - prescription limits and rules - repealer - codification - ~~emergency~~]

AMENDMENT NO. 1. Delete the stricken title, enacting clause and entire bill and replace with:

"An Act relating to opioid drugs; amending 59 O.S. 2011, Section 145.1, as amended by Section 4, Chapter 185, O.S.L. 2013 (59 O.S. Supp. 2018, Section 145.1), which relates to continuing education requirements for podiatrists; requiring certain continuing education; amending 59 O.S. 2011, Section 328.41, as last amended by Section 11, Chapter 151, O.S.L. 2018 (59 O.S. Supp. 2018, Section 328.41), which relates to continuing education requirements for dentists; requiring certain continuing education; amending Section 3, Chapter 234, O.S.L. 2017 (59 O.S. Supp. 2018, Section 353.20.2), which relates to pharmacist discretion; requiring pharmacist to fill certain prescriptions to specified dose; amending 59 O.S. 2011, Section 509, as amended by Section 2, Chapter 175, O.S.L. 2018 (59 O.S. Supp. 2018, Section 509), which relates to definition of unprofessional conduct; modifying prescribing limit authorization; amending 59 O.S. 2011, Section 519.8, which relates to license renewal for physician assistants;

requiring certain continuing medical education; amending 59 O.S. 2011, Section 604, which relates to required attendance on educational or postgraduate programs for optometrists; requiring certain education; updating statutory language; amending 59 O.S. 2011, Section 641, which relates to educational programs for osteopathic physicians; requiring licensees to receive certain education; amending 59 O.S. 2011, Section 698.7, which relates to powers and duties of State Board of Veterinary Medical Examiners; requiring certain continuing education; amending 63 O.S. 2011, Section 2-101, as last amended by Section 3, Chapter 175, O.S.L. 2018 (63 O.S. Supp. 2018, Section 2-101), which relates to definitions used in the Uniform Controlled Dangerous Substances Act; modifying certain definitions; amending 63 O.S. 2011, Section 2-302, as amended by Section 1, Chapter 251, O.S.L. 2018 (63 O.S. Supp. 2018, Section 2-302), which relates to registration requirements for certain persons; deleting retroactive applicability; modifying reporting requirements; amending 63 O.S. 2011, Section 2-309D, as last amended by Section 4, Chapter 175, O.S.L. 2018 (63 O.S. Supp. 2018, Section 2-309D), which relates to central repository; modifying certain grounds for disciplinary action; amending Section 5, Chapter 175, O.S.L. 2018 (63 O.S. Supp. 2018, Section 2-309I), which relates to prescription limits and rules for opioid drugs; modifying applicability; requiring notated information on certain prescriptions; modifying prescription limits for certain persons; modifying required assessment; requiring Insurance Department to make certain evaluation and submit report by date certain; requiring the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control to submit report to the Legislature; providing for report requirements; updating statutory references; repealing Section 6, Chapter 175, O.S.L. 2018, which relates to Insurance Department's prescription limits evaluations; and providing for codification.

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

SECTION 1. AMENDATORY 59 O.S. 2011, Section 145.1, as amended by Section 4, Chapter 185, O.S.L. 2013 (59 O.S. Supp. 2018, Section 145.1), is amended to read as follows:

Section 145.1 A. Sixty (60) hours of continuing education shall be required for renewal of an individual license to practice podiatric medicine in this state. This must be obtained in the two-year period immediately preceding the two-year period for which the license is to be issued. Such continuing education shall include not less than two (2) hours of education in pain management or two (2) hours of education in opioid use or addiction, unless the licensee has demonstrated to the satisfaction of the Board of Podiatric Medical Examiners that the licensee does not currently hold a valid federal Drug Enforcement Administration registration number. The continuing education required by this section shall be any of the following:

1. Education presented by an organization approved by the Council on Continuing Education of the American Podiatric Medical Association;

2. A national, state or county podiatric medical association meeting approved by the Board ~~of Podiatric Medical Examiners~~;

3. Hospital-sponsored scientific programs approved by the Board; or

4. Six (6) hours of continuing education credit may be obtained by attending meetings and hearings of the Board.

At least thirty (30) hours of the required sixty (60) hours must be obtained in this state.

B. Any practitioner not so satisfying the Board of the fulfillment of the continuing education requirements required by subsection A of this section shall cease to be entitled to have such license renewed.

C. Any practitioner fully retired from the practice of podiatric medicine shall be exempt from compliance with the requirements imposed by subsection A of this section. However, upon resuming the practice of podiatric medicine, the individual shall fulfill such requirements which have accrued from ~~the effective date of this act~~ October 1, 1979, to the time of resumption of practice.

SECTION 2. AMENDATORY 59 O.S. 2011, Section 328.41, as last amended by Section 11, Chapter 151, O.S.L. 2018 (59 O.S. Supp. 2018, Section 328.41), is amended to read as follows:

Section 328.41 A. 1. On or before the last day of December of each year, every dentist, dental hygienist, dental assistant, oral maxillofacial surgery assistant and other licensee or permit holders previously licensed or permitted by the Board to practice in this state, with the exception of those listed in paragraph 2 of this subsection, shall submit a completed renewal application with information as may be required by the Board, together with an annual renewal fee established by the rules of the Board. Upon receipt of the annual renewal fee, the Board shall issue a renewal certificate

authorizing the dentist, dental hygienist, dental assistant, or oral maxillofacial surgery assistant to continue the practice of dentistry or dental hygiene, respectively, in this state for a period of one (1) year. Every license or permit issued by the Board shall begin on January 1 and expire on December 31 of each year.

2. Beginning July 1, 2017, resident and fellowship permits shall be valid from July 1 through June 30 of each year and dental student intern permits shall be valid from August 1 through July 31 of each year.

B. Continuing education requirements shall be due at the end of each three-year period ending in 2019 as follows:

1. Dentists shall complete sixty (60) hours. Such continuing education shall include not less than three (3) hours of education in pain management or three (3) hours of education in opioid use or addiction, unless the licensee has demonstrated to the satisfaction of the Board of Dentistry that the licensee does not currently hold a valid federal Drug Enforcement Administration registration number;

2. Hygienists shall complete thirty (30) hours;

3. Oral maxillofacial surgery assistants shall complete twelve (12) hours; and

4. Beginning in 2020, continuing education requirements shall be due at the end of each two-year period as follows:

a. dentists shall complete forty (40) hours,

b. hygienists shall complete twenty (20) hours,

c. OMS assistants shall complete eight (8) hours, and

d. dental assistants shall have two (2) hours of infection control.

C. Upon failure of a dentist, dental hygienist, dental assistant, or oral maxillofacial surgery assistant to pay the annual renewal fee within two (2) months after January 1, the Board shall notify the dentist, dental hygienist, dental assistant, or oral maxillofacial surgery assistant in writing by certified mail to the last-known mailing address of the dentist, dental hygienist, dental assistant, or oral maxillofacial surgery assistant as reflected in the records of the Board.

D. Any dentist, dental hygienist, dental assistant, or oral maxillofacial surgery assistant whose license or permit is automatically canceled by reason of failure, neglect or refusal to secure the renewal certificate may be reinstated by the Board at any time within one (1) year from the date of the expiration of the license, upon payment of the annual renewal fee and a penalty fee established by the rules of the Board. If the dentist, dental hygienist, dental assistant, or oral maxillofacial surgery assistant does not apply for renewal of the license or permit and pay the required fees within one (1) year after the license has expired, then the dentist, dental hygienist, dental assistant, or oral maxillofacial surgery assistant shall be required to file an application for and take the examination or other requirements

provided for in the State Dental Act or the rules promulgated by the Board before again commencing practice.

E. The Board, by rule, shall provide for the remittance of fees otherwise required by the State Dental Act while a dentist or dental hygienist is on active duty with any of the Armed Forces of the United States.

F. In case of a lost or destroyed license or renewal certificate and upon satisfactory proof of the loss or destruction thereof, the Board may issue a duplicate, charging therefor a fee established by the rules of the Board.

G. A dentist, dental hygienist, oral maxillofacial surgery assistant or dental assistant that is in good standing and not under investigation that notifies the Board in writing of a voluntary nonrenewal of license or requests retirement status shall have a right to renew or reinstate his or her license within five (5) years from the date of notice. The Board may require any training or continuing education requirements to be met prior to reinstatement.

H. A dentist, dental hygienist, oral maxillofacial dental assistant or dental assistant that has not had an active license or permit in excess of five (5) years shall be required to apply as a new applicant.

I. Any application for a license or permit that has remained inactive for more than one (1) year shall be closed.

SECTION 3. AMENDATORY Section 3, Chapter 234, O.S.L. 2017 (59 O.S. Supp. 2018, Section 353.20.2), is amended to read as follows:

Section 353.20.2 A. Unless the prescriber has specified on the prescription that dispensing a prescription for a maintenance medication in an initial amount followed by periodic refills is medically necessary, a pharmacist may exercise his or her professional judgment to dispense varying quantities of medication per fill-up to the total number of dosage units as authorized by the prescriber on the original prescription including any refills.

B. Subsection A of this section shall not apply to scheduled medications or any medications for which a report is required under the controlled substance database. Dispensing of medication based on refills authorized by the physician on the prescription shall be limited to no more than a ninety-day supply of the medication.

C. Upon receipt of a valid Schedule II opioid prescription issued pursuant to the provisions of Section 2-309I of Title 63 of the Oklahoma Statutes, a pharmacist shall fill the prescription to the specified dose, and shall not be permitted to fill a different dosage than what is prescribed. However, the pharmacist maintains the right not to fill the valid opioid prescription.

SECTION 4. AMENDATORY 59 O.S. 2011, Section 509, as amended by Section 2, Chapter 175, O.S.L. 2018 (59 O.S. Supp. 2018, Section 509), is amended to read as follows:

Section 509. The words "unprofessional conduct" as used in Sections 481 through 518.1 of this title are hereby declared to include, but shall not be limited to, the following:

1. Procuring, aiding or abetting a criminal operation;

2. The obtaining of any fee or offering to accept any fee, present or other form of remuneration whatsoever, on the assurance or promise that a manifestly incurable disease can or will be cured;

3. Willfully betraying a professional secret to the detriment of the patient;

4. Habitual intemperance or the habitual use of habit-forming drugs;

5. Conviction of a felony or of any offense involving moral turpitude;

6. All advertising of medical business in which statements are made which are grossly untrue or improbable and calculated to mislead the public;

7. Conviction or confession of a crime involving violation of:

a. the antinarcotic or prohibition laws and regulations of the federal government,

b. the laws of this state, or

c. State Board of Health rules;

8. Dishonorable or immoral conduct which is likely to deceive, defraud, or harm the public;

9. The commission of any act which is a violation of the criminal laws of any state when such act is connected with the physician's practice of medicine. A complaint, indictment or confession of a criminal violation shall not be necessary for the enforcement of this provision. Proof of the commission of the act while in the practice of medicine or under the guise of the practice of medicine shall be unprofessional conduct;

10. Failure to keep complete and accurate records of purchase and disposal of controlled drugs or of narcotic drugs;

11. The writing of false or fictitious prescriptions for any drugs or narcotics declared by the laws of this state to be controlled or narcotic drugs;

12. Prescribing or administering a drug or treatment without sufficient examination and the establishment of a valid physician-patient relationship;

13. The violation, or attempted violation, direct or indirect, of any of the provisions of the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, either as a principal, accessory or accomplice;

14. Aiding or abetting, directly or indirectly, the practice of medicine by any person not duly authorized under the laws of this state;

15. The inability to practice medicine with reasonable skill and safety to patients by reason of age, illness, drunkenness,

excessive use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this subsection the State Board of Medical Licensure and Supervision may, upon probable cause, request a physician to submit to a mental or physical examination by physicians designated by it. If the physician refuses to submit to the examination, the Board shall issue an order requiring the physician to show cause why the physician will not submit to the examination and shall schedule a hearing on the order within thirty (30) days after notice is served on the physician. The physician shall be notified by either personal service or by certified mail with return receipt requested. At the hearing, the physician and the physician's attorney are entitled to present any testimony and other evidence to show why the physician should not be required to submit to the examination. After a complete hearing, the Board shall issue an order either requiring the physician to submit to the examination or withdrawing the request for examination. The medical license of a physician ordered to submit for examination may be suspended until the results of the examination are received and reviewed by the Board;

16. a. Prescribing, dispensing or administering of controlled substances or narcotic drugs in excess of the amount considered good medical practice,

b. prescribing, dispensing or administering controlled substances or narcotic drugs without medical need in

accordance with pertinent licensing board standards, or

c. prescribing, dispensing or administering opioid drugs in excess of the maximum ~~dosage authorized under Section 5 of this act~~ limits authorized in Section 2-309I of Title 63 of the Oklahoma Statutes;

17. Engaging in physical conduct with a patient which is sexual in nature, or in any verbal behavior which is seductive or sexually demeaning to a patient;

18. Failure to maintain an office record for each patient which accurately reflects the evaluation, treatment, and medical necessity of treatment of the patient;

19. Failure to provide necessary ongoing medical treatment when a doctor-patient relationship has been established, which relationship can be severed by either party providing a reasonable period of time is granted; or

20. Failure to provide a proper and safe medical facility setting and qualified assistive personnel for a recognized medical act, including but not limited to an initial in-person patient examination, office surgery, diagnostic service or any other medical procedure or treatment. Adequate medical records to support diagnosis, procedure, treatment or prescribed medications must be produced and maintained.

SECTION 5. AMENDATORY 59 O.S. 2011, Section 519.8, is amended to read as follows:

Section 519.8 A. Licenses issued to physician assistants shall be renewed annually on a date determined by the State Board of Medical Licensure and Supervision. Each application for renewal shall document that the physician assistant has earned at least twenty (20) hours of continuing medical education during the preceding calendar year. Such continuing medical education shall include not less than one (1) hour of education in pain management or one (1) hour of education in opioid use or addiction.

B. The Board shall promulgate, in the manner established by its rules, fees for the following:

1. Initial licensure;

2. License renewal;

3. Late license renewal;

4. Application to practice; and

5. Disciplinary hearing.

SECTION 6. AMENDATORY 59 O.S. 2011, Section 604, is amended to read as follows:

Section 604. Every person holding a license to practice optometry in this state shall be required to present to the Board of Examiners in Optometry, not later than the thirtieth day of June of each year, satisfactory evidence that during the preceding twelve (12) months ~~said~~ the person attended not less than two (2) days of a

total of at least twelve (12) hours of educational or postgraduate programs approved by ~~said~~ the Board, or that ~~said~~ the person was prevented, because of sickness or any other reason acceptable to the Board, from attending ~~said~~ the educational or postgraduate program. Such education shall include not less than one (1) hour of education in pain management or one (1) hour of education in opioid use or addiction, unless the person has demonstrated to the satisfaction of the Board that the person does not currently hold a valid federal Drug Enforcement Administration registration number.

The filing of proof of attendance at educational programs or clinics shall be a condition precedent to the issuance of a renewal license. The Board may reinstate the license of ~~said~~ the licensee to practice optometry upon presentation of satisfactory proof of postgraduate study of a standard approved by ~~said~~ the examiners and payment of all fees due including a late reinstatement fee not to exceed three times the annual renewal fee.

SECTION 7. AMENDATORY 59 O.S. 2011, Section 641, is amended to read as follows:

Section 641. A. All persons legally licensed to practice osteopathic medicine in this state, on or before the first day of July of each year, shall apply to the secretary-treasurer of the Board, on forms furnished thereby, for a renewal certificate of registration entitling such licensee to practice osteopathic

medicine and surgery in Oklahoma during the next ensuing fiscal year.

B. Each application shall be accompanied by a renewal fee in an amount sufficient to cover the cost and expense incurred by the State Board of Osteopathic Examiners, for a renewal of the person's certificate to practice osteopathic medicine.

C. 1. In addition to the payment of the annual renewal fee each licensee applying for a renewal of the certificate shall furnish to the State Board of Osteopathic Examiners proof that the person has attended at least two (2) days of the annual educational program conducted by the Oklahoma Osteopathic Association, or its equivalent, as determined by the Board, in the fiscal year preceding the application for a renewal; provided, the Board may excuse the failure of the licensee to attend the educational program in the case of illness or other unavoidable casualty rendering it impossible for the licensee to have attended the educational program or its equivalent.

2. The Board shall require that the licensee receive not less than one (1) hour of education in pain management or one (1) hour of education in opioid use or addiction each year preceding an application for renewal of a license, unless the licensee has demonstrated to the satisfaction of the Board that the licensee does not currently hold a valid federal Drug Enforcement Administration

registration number. Such education may be held at the annual educational program referenced in paragraph 1 of this subsection.

D. The secretary of the State Board of Osteopathic Examiners shall send a written notice to every person holding a legal certificate to practice osteopathic medicine in this state, at least thirty (30) days prior to the first day of July each year, directed to the last-known address of the licensee, notifying the licensee that it will be necessary for the licensee to pay the renewal license fee as herein provided, and proper forms shall accompany the notice upon which the licensee shall make application for renewal of the certificate.

SECTION 8. AMENDATORY 59 O.S. 2011, Section 698.7, is amended to read as follows:

Section 698.7 The State Board of Veterinary Medical Examiners shall have the powers and it shall also be its duty to regulate the practice of veterinary medicine. In addition to any other powers placed on it by the Oklahoma Veterinary Practice Act or as otherwise provided by law, the Board shall have the power and duty to:

1. a. set standards for licensure or certification by examination and develop such examinations as will provide assurance of competency to practice, and

b. employ or enter into agreements with organizations or agencies to provide examinations acceptable to the Board or employ or enter into agreements with

organizations or agencies to provide administration, preparation or scoring of examinations;

2. Set fees;

3. Prescribe the time, place, method, manner, scope and subjects of examination for licensure;

4. Prepare or select, conduct or direct the conduct of, set minimum requirements for, and assure security of licensing and other required examinations;

5. a. issue or deny licenses and certificates and renewals thereof,

b. acquire information about and evaluate the professional education and training of applicants for licensure or certification; and accept or deny applications for licensure, certification or renewal of either licensure or certification based on the evaluation of information relating to applicant fitness, performance or competency to practice,

c. determine which professional schools, colleges, universities, training institutions and educational programs are acceptable in connection with licensure pursuant to the Oklahoma Veterinary Practice Act, and accept the approval of such facilities and programs by American-Veterinary-Medical-Association-accredited institutions in the United States and Canada,

d. require supporting documentation or other acceptable verifying evidence for any information provided the Board by an applicant for licensure or certification, and

e. require information on an applicant's fitness, qualification and previous professional record and performance from recognized data sources including, but not limited to, other licensing and disciplinary authorities of other jurisdictions, professional education and training institutions, liability insurers, animal health care institutions and law enforcement agencies;

6. Develop and use applications and other necessary forms and related procedures for purposes of the Oklahoma Veterinary Practice Act;

7. a. review and investigate complaints and adverse information about licensees and certificate holders,

b. conduct hearings in accordance with the Oklahoma Veterinary Practice Act and the Administrative Procedures Act, and

c. adjudicate matters that come before the Board for judgment pursuant to the Oklahoma Veterinary Practice Act upon clear and convincing evidence and issue final

decisions on such matters to discipline licensees and certificate holders;

8. a. impose sanctions, deny licenses and certificates and renewals thereof, levy reimbursement costs, seek appropriate administrative, civil or criminal penalties or any combination of these against those who violate examination security, who attempt to or who do obtain licensure or certification by fraud, who knowingly assist in illegal activities, or who aid and abet the illegal practice of veterinary medicine,

b. review and investigate complaints and adverse information about licensees and certificate holders,

c. discipline licensees and certificate holders,

d. institute proceedings in courts of competent jurisdiction to enforce Board orders and provisions of the Oklahoma Veterinary Practice Act,

e. (1) establish mechanisms for dealing with licensees and certificate holders who abuse or are dependent on or addicted to alcohol or other chemical substances, and enter into agreements, at its discretion, with professional organizations whose relevant procedures and techniques it has evaluated and approved for their cooperation or participation in the

rehabilitation of the licensee or certificate holder,

(2) establish by rules cooperation with other professional organizations for the identification and monitoring of licensees and certificate holders in treatment who are chemically dependent or addicted, and

f. issue conditional, restricted or otherwise circumscribed modifications to licensure or certification as determined to be appropriate by due process procedures and summarily suspend a license if the Board has cause to believe by clear and convincing evidence such action is required to protect public or animal health and safety or to prevent continuation of incompetent practices;

9. Promulgate rules of professional conduct and require all licensees and certificate holders to practice in accordance therewith;

10. Act to halt the unlicensed or illegal practice of veterinary medicine and seek administrative, criminal and civil penalties against those engaged in such practice;

11. Establish appropriate fees and charges to ensure active and effective pursuit of Board responsibilities;

12. Employ, direct, reimburse, evaluate and dismiss staff in accordance with state procedures;

13. Establish policies for Board operations;

14. Respond to legislative inquiry regarding those changes in, or amendments to, the Oklahoma Veterinary Practice Act;

15. Act on its own motion in disciplinary matters, administer oaths, issue notices, issue subpoenas in the name of the State of Oklahoma, including subpoenas for client and animal records, hold hearings, institute court proceedings for contempt or to compel testimony or obedience to its orders and subpoenas, take evidentiary depositions and perform such other acts as are reasonable and necessary under law to carry out its duties;

16. Use clear and convincing evidence as the standard of proof and issue final decisions when acting as trier of fact in the performance of its adjudicatory duties;

17. Determine and direct Board operating, administrative, personnel and budget policies and procedures in accordance with applicable statutes;

18. Promulgate uniform rules such as may be necessary for carrying out and enforcing the provisions of the Oklahoma Veterinary Practice Act and such as in its discretion may be necessary to protect the health, safety and welfare of the public;

19. Determine continuing education requirements. Such continuing education shall include not less than one (1) hour of

education in pain management or one (1) hour of education in opioid use or addiction annually, unless the licensee has demonstrated to the satisfaction of the Board that the licensee does not currently hold a valid federal Drug Enforcement Administration registration number;

20. Establish minimum standards for veterinary premises;

21. Establish standards for veterinary labeling and dispensing of veterinary prescription drugs and federal Food and Drug Administration-approved human drugs for animals which would conform to current applicable state and federal law and regulations;

22. Promulgate rules such as may be necessary for carrying out and enforcing provisions relating to certification of animal euthanasia technicians and approval of drugs to be used for euthanasia of animals in an animal shelter pursuant to the requirements of Section 502 of Title 4 of the Oklahoma Statutes;

23. Shall conduct a national criminal history records search for certified animal euthanasia technicians:

a. the applicant shall furnish the Board two completed fingerprint cards and a money order or cashier's check made payable to the Oklahoma State Bureau of Investigation,

b. the Board shall forward the fingerprint cards, along with the applicable fee for a national fingerprint criminal history records search, to the Bureau, and

c. the Bureau shall retain one set of fingerprints in the Automated Fingerprint Identification System (AFIS) and submit the other set to the Federal Bureau of Investigation (FBI) for a national criminal history records search;

24. Establish standards for animal chiropractic diagnosis and treatment. The standards shall include but not be limited to a requirement that a veterinarian who holds himself or herself out to the public as certified to engage in animal chiropractic diagnosis and treatment shall:

a. carry at least One Million Dollars ($1,000,000.00) of additional malpractice coverage to perform animal chiropractic diagnosis and treatment, and

b. have appropriate training in animal chiropractic diagnosis and treatment. The Veterinary Examining Board shall have the authority to establish educational criteria for certification standards in animal chiropractic diagnosis and treatment. The Veterinary Examining Board shall work in conjunction with the Board of Chiropractic Examiners to establish comparable standards for the practice of animal chiropractic diagnosis and treatment for both medical professions within thirty (30) days after the effective date of this act. The Board shall certify

any licensed veterinarian wishing to engage in animal chiropractic diagnosis and treatment who meets the standards established by the Board pursuant to this paragraph. Upon request, the Board shall make available to the public a list of licensed veterinarians so certified; and

25. Perform such other duties and exercise such other powers as the provisions and enforcement of the Oklahoma Veterinary Practice Act may require.

SECTION 9. AMENDATORY 63 O.S. 2011, Section 2-101, as last amended by Section 3, Chapter 175, O.S.L. 2018 (63 O.S. Supp. 2018, Section 2-101), is amended to read as follows:

Section 2-101. As used in the Uniform Controlled Dangerous Substances Act:

1. "Administer" means the direct application of a controlled dangerous substance, whether by injection, inhalation, ingestion or any other means, to the body of a patient, animal or research subject by:

a. a practitioner (or, in the presence of the practitioner, by the authorized agent of the practitioner), or

b. the patient or research subject at the direction and in the presence of the practitioner;

2. "Agent" means a peace officer appointed by and who acts on behalf of the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control or an authorized person who acts on behalf of or at the direction of a person who manufactures, distributes, dispenses, prescribes, administers or uses for scientific purposes controlled dangerous substances but does not include a common or contract carrier, public warehouser or employee thereof, or a person required to register under the Uniform Controlled Dangerous Substances Act;

3. "Board" means the Advisory Board to the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;

4. "Bureau" means the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;

5. "Coca leaves" includes cocaine and any compound, manufacture, salt, derivative, mixture or preparation of coca leaves, except derivatives of coca leaves which do not contain cocaine or ecgonine;

6. "Commissioner" or "Director" means the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;

7. "Control" means to add, remove or change the placement of a drug, substance or immediate precursor under the Uniform Controlled Dangerous Substances Act;

8. "Controlled dangerous substance" means a drug, substance or immediate precursor in Schedules I through V of the Uniform

Controlled Dangerous Substances Act or any drug, substance or immediate precursor listed either temporarily or permanently as a federally controlled substance. Any conflict between state and federal law with regard to the particular schedule in which a substance is listed shall be resolved in favor of state law;

9. "Counterfeit substance" means a controlled substance which, or the container or labeling of which without authorization, bears the trademark, trade name or other identifying marks, imprint, number or device or any likeness thereof of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed or dispensed the substance;

10. "Deliver" or "delivery" means the actual, constructive or attempted transfer from one person to another of a controlled dangerous substance or drug paraphernalia, whether or not there is an agency relationship;

11. "Dispense" means to deliver a controlled dangerous substance to an ultimate user or human research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling or compounding necessary to prepare the substance for such distribution. "Dispenser" is a practitioner who delivers a controlled dangerous substance to an ultimate user or human research subject;

12. "Distribute" means to deliver other than by administering or dispensing a controlled dangerous substance;

13. "Distributor" means a commercial entity engaged in the distribution or reverse distribution of narcotics and dangerous drugs and who complies with all regulations promulgated by the federal Drug Enforcement Administration and the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;

14. "Drug" means articles:

a. recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them,

b. intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals,

c. other than food, intended to affect the structure or any function of the body of man or other animals, and

d. intended for use as a component of any article specified in this paragraph;

provided, however, the term "drug" does not include devices or their components, parts or accessories;

15. "Drug-dependent person" means a person who is using a controlled dangerous substance and who is in a state of psychic or physical dependence, or both, arising from administration of that controlled dangerous substance on a continuous basis. Drug dependence is characterized by behavioral and other responses which

include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects, or to avoid the discomfort of its absence;

16. "Home care agency" means any sole proprietorship, partnership, association, corporation, or other organization which administers, offers, or provides home care services, for a fee or pursuant to a contract for such services, to clients in their place of residence;

17. "Home care services" means skilled or personal care services provided to clients in their place of residence for a fee;

18. "Hospice" means a centrally administered, nonprofit or profit, medically directed, nurse-coordinated program which provides a continuum of home and inpatient care for the terminally ill patient and the patient's family. Such term shall also include a centrally administered, nonprofit or profit, medically directed, nurse-coordinated program if such program is licensed pursuant to the provisions of ~~this act~~ the Uniform Controlled Dangerous Substances Act. A hospice program offers palliative and supportive care to meet the special needs arising out of the physical, emotional and spiritual stresses which are experienced during the final stages of illness and during dying and bereavement. This care is available twenty-four (24) hours a day, seven (7) days a week, and is provided on the basis of need, regardless of ability to pay.

"Class A" Hospice refers to Medicare certified hospices. "Class B" refers to all other providers of hospice services;

19. "Imitation controlled substance" means a substance that is not a controlled dangerous substance, which by dosage unit appearance, color, shape, size, markings or by representations made, would lead a reasonable person to believe that the substance is a controlled dangerous substance. In the event the appearance of the dosage unit is not reasonably sufficient to establish that the substance is an "imitation controlled substance", the court or authority concerned should consider, in addition to all other factors, the following factors as related to "representations made" in determining whether the substance is an "imitation controlled substance":

a. statements made by an owner or by any other person in control of the substance concerning the nature of the substance, or its use or effect,

b. statements made to the recipient that the substance may be resold for inordinate profit,

c. whether the substance is packaged in a manner normally used for illicit controlled substances,

d. evasive tactics or actions utilized by the owner or person in control of the substance to avoid detection by law enforcement authorities,

e. prior convictions, if any, of an owner, or any other person in control of the object, under state or federal law related to controlled substances or fraud, and

f. the proximity of the substances to controlled dangerous substances;

20. "Immediate precursor" means a substance which the Director has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used, or likely to be used, in the manufacture of a controlled dangerous substance, the control of which is necessary to prevent, curtail or limit such manufacture;

21. "Laboratory" means a laboratory approved by the Director as proper to be entrusted with the custody of controlled dangerous substances and the use of controlled dangerous substances for scientific and medical purposes and for purposes of instruction;

22. "Manufacture" means the production, preparation, propagation, compounding or processing of a controlled dangerous substance, either directly or indirectly by extraction from substances of natural or synthetic origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis. "Manufacturer" includes any person who packages, repackages or labels any container of any controlled dangerous

substance, except practitioners who dispense or compound prescription orders for delivery to the ultimate consumer;

23. "Marijuana" means all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture or preparation of such plant, its seeds or resin, but shall not include:

a. the mature stalks of such plant or fiber produced from such stalks,

b. oil or cake made from the seeds of such plant, including cannabidiol derived from the seeds of the marijuana plant,

c. any other compound, manufacture, salt, derivative, mixture or preparation of such mature stalks (except the resin extracted therefrom), including cannabidiol derived from mature stalks, fiber, oil or cake,

d. the sterilized seed of such plant which is incapable of germination,

e. for any person participating in a clinical trial to administer cannabidiol for the treatment of severe forms of epilepsy pursuant to Section 2-802 of this title, a drug or substance approved by the federal Food and Drug Administration for use by those participants,

f. for any person or the parents, legal guardians or caretakers of the person who have received a written certification from a physician licensed in this state that the person has been diagnosed by a physician as having Lennox-Gastaut Syndrome, Dravet Syndrome, also known as Severe Myoclonic Epilepsy of Infancy, or any other severe form of epilepsy that is not adequately treated by traditional medical therapies, spasticity due to multiple sclerosis or due to paraplegia, intractable nausea and vomiting, appetite stimulation with chronic wasting diseases, the substance cannabidiol, a nonpsychoactive cannabinoid, found in the plant Cannabis sativa L. or any other preparation thereof, that has a tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) and that is delivered to the patient in the form of a liquid,

g. any federal Food and Drug Administration-approved cannabidiol drug or substance, or

h. industrial hemp, from the plant Cannabis sativa L. and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis which shall not be grown anywhere in the

State of Oklahoma but may be shipped to Oklahoma pursuant to the provisions of subparagraph e or f of this paragraph;

24. "Medical purpose" means an intention to utilize a controlled dangerous substance for physical or mental treatment, for diagnosis, or for the prevention of a disease condition not in violation of any state or federal law and not for the purpose of satisfying physiological or psychological dependence or other abuse;

25. "Mid-level practitioner" means an advanced practice nurse as defined and within parameters specified in Section 567.3a of Title 59 of the Oklahoma Statutes, or a certified animal euthanasia technician as defined in Section 698.2 of Title 59 of the Oklahoma Statutes, or an animal control officer registered by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control under subsection B of Section 2-301 of this title within the parameters of such officer's duty under Sections 501 through 508 of Title 4 of the Oklahoma Statutes;

26. "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

a. opium, coca leaves and opiates,

b. a compound, manufacture, salt, derivative or preparation of opium, coca leaves or opiates,

c. cocaine, its salts, optical and geometric isomers, and salts of isomers,

d. ecgonine, its derivatives, their salts, isomers and salts of isomers, and

e. a substance, and any compound, manufacture, salt, derivative or preparation thereof, which is chemically identical with any of the substances referred to in subparagraphs a through d of this paragraph, except that the words "narcotic drug" as used in Section 2-101 et seq. of this title shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine;

27. "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under the Uniform Controlled Dangerous Substances Act, the dextrorotatory isomer of 3-methoxy-n-methyl-morphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms;

28. "Opium poppy" means the plant of the species Papaver somniferum L., except the seeds thereof;

29. "Peace officer" means a police officer, sheriff, deputy sheriff, district attorney's investigator, investigator from the

Office of the Attorney General, or any other person elected or appointed by law to enforce any of the criminal laws of this state or of the United States;

30. "Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity;

31. "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing;

32. "Practitioner" means:

a. (1) a medical doctor or osteopathic physician,

(2) a dentist,

(3) a podiatrist,

(4) an optometrist,

(5) a veterinarian,

(6) a physician assistant <u>or advanced practice registered nurse</u> under the supervision of a licensed medical doctor or osteopathic physician,

(7) a scientific investigator, or

(8) any other person,

licensed, registered or otherwise permitted to prescribe, distribute, dispense, conduct research with respect to, use for scientific purposes or administer a controlled dangerous substance in the course of professional practice or research in this state, or

b. a pharmacy, hospital, laboratory or other institution licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to, use for scientific purposes or administer a controlled dangerous substance in the course of professional practice or research in this state;

33. "Production" includes the manufacture, planting, cultivation, growing or harvesting of a controlled dangerous substance;

34. "State" means the State of Oklahoma or any other state of the United States;

35. "Ultimate user" means a person who lawfully possesses a controlled dangerous substance for the person's own use or for the use of a member of the person's household or for administration to an animal owned by the person or by a member of the person's household;

36. "Drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or fashioned specifically for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body, a controlled dangerous

substance in violation of the Uniform Controlled Dangerous Substances Act including, but not limited to:

a. kits used, intended for use, or fashioned specifically for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled dangerous substance or from which a controlled dangerous substance can be derived,

b. kits used, intended for use, or fashioned specifically for use in manufacturing, compounding, converting, producing, processing or preparing controlled dangerous substances,

c. isomerization devices used, intended for use, or fashioned specifically for use in increasing the potency of any species of plant which is a controlled dangerous substance,

d. testing equipment used, intended for use, or fashioned specifically for use in identifying, or in analyzing the strength, effectiveness or purity of controlled dangerous substances,

e. scales and balances used, intended for use, or fashioned specifically for use in weighing or measuring controlled dangerous substances,

f. diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and

lactose, used, intended for use, or fashioned specifically for use in cutting controlled dangerous substances,

g. separation gins and sifters used, intended for use, or fashioned specifically for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana,

h. blenders, bowls, containers, spoons and mixing devices used, intended for use, or fashioned specifically for use in compounding controlled dangerous substances,

i. capsules, balloons, envelopes and other containers used, intended for use, or fashioned specifically for use in packaging small quantities of controlled dangerous substances,

j. containers and other objects used, intended for use, or fashioned specifically for use in parenterally injecting controlled dangerous substances into the human body,

k. hypodermic syringes, needles and other objects used, intended for use, or fashioned specifically for use in parenterally injecting controlled dangerous substances into the human body,

l. objects used, intended for use, or fashioned specifically for use in ingesting, inhaling or

otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

(1) metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls,

(2) water pipes,

(3) carburetion tubes and devices,

(4) smoking and carburetion masks,

(5) roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand,

(6) miniature cocaine spoons and cocaine vials,

(7) chamber pipes,

(8) carburetor pipes,

(9) electric pipes,

(10) air-driven pipes,

(11) chillums,

(12) bongs, or

(13) ice pipes or chillers,

m. all hidden or novelty pipes, and

n. any pipe that has a tobacco bowl or chamber of less than one-half (1/2) inch in diameter in which there is any detectable residue of any controlled dangerous

substance as defined in this section or any other substances not legal for possession or use;

provided, however, the term "drug paraphernalia" shall not include separation gins intended for use in preparing tea or spice, clamps used for constructing electrical equipment, water pipes designed for ornamentation in which no detectable amount of an illegal substance is found or pipes designed and used solely for smoking tobacco, traditional pipes of an American Indian tribal religious ceremony, or antique pipes that are thirty (30) years of age or older;

37. a. "Synthetic controlled substance" means a substance:

(1) the chemical structure of which is substantially similar to the chemical structure of a controlled dangerous substance in Schedule I or II,

(2) which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled dangerous substance in Schedule I or II, or

(3) with respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially

similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled dangerous substance in Schedule I or II.

b. The designation of gamma butyrolactone or any other chemical as a precursor, pursuant to Section 2-322 of this title, does not preclude a finding pursuant to subparagraph a of this paragraph that the chemical is a synthetic controlled substance.

c. "Synthetic controlled substance" does not include:

(1) a controlled dangerous substance,

(2) any substance for which there is an approved new drug application,

(3) with respect to a particular person any substance, if an exemption is in effect for investigational use, for that person under the provisions of Section 505 of the Federal Food, Drug and Cosmetic Act, Title 21 of the United States Code, Section 355, to the extent conduct with respect to such substance is pursuant to such exemption, or

(4) any substance to the extent not intended for human consumption before such an exemption takes effect with respect to that substance.

d. Prima facie evidence that a substance containing salvia divinorum has been enhanced, concentrated or chemically or physically altered shall give rise to a rebuttable presumption that the substance is a synthetic controlled substance;

38. "Tetrahydrocannabinols" means all substances that have been chemically synthesized to emulate the tetrahydrocannabinols of marijuana;

39. "Isomer" means the optical isomer, except as used in subsections C and F of Section 2-204 of this title and paragraph 4 of subsection A of Section 2-206 of this title. As used in subsections C and F of Section 2-204 of this title, "isomer" means the optical, positional or geometric isomer. As used in paragraph 4 of subsection A of Section 2-206 of this title, the term "isomer" means the optical or geometric isomer;

40. "Hazardous materials" means materials, whether solid, liquid or gas, which are toxic to human, animal, aquatic or plant life, and the disposal of which materials is controlled by state or federal guidelines;

41. "Anhydrous ammonia" means any substance that exhibits cryogenic evaporative behavior and tests positive for ammonia;

42. "Acute pain" means pain, whether resulting from disease, accidental or intentional trauma or other cause, that the practitioner reasonably expects to last only a short period of time.

"Acute pain" does not include chronic pain, pain being treated as part of cancer care, hospice or other end-of-life care, or pain being treated as part of palliative care;

43. "Chronic pain" means pain that persists beyond the usual course of an acute disease or healing of an injury. "Chronic pain" may or may not be associated with an acute or chronic pathologic process that causes continuous or intermittent pain over months or years;

44. "Initial prescription" means a prescription issued to a patient who:

a. has never previously been issued a prescription for the drug or its pharmaceutical equivalent in the past year, or

b. requires a prescription for the drug or its pharmaceutical equivalent due to a surgical procedure or new acute event and has previously had a prescription for the drug or its pharmaceutical equivalent within the past year.

When determining whether a patient was previously issued a prescription for a drug or its pharmaceutical equivalent, the practitioner shall consult with the patient and review the medical record and prescription monitoring information of the patient;

45. "Patient-provider agreement" means a written contract or agreement that is executed between a practitioner and a patient,

prior to the commencement of treatment for chronic pain using ~~a Schedule II controlled substance or any~~ an opioid drug ~~which is a prescription drug,~~ as a means to:

a. explain the possible risk of development of physical or psychological dependence in the patient and prevent the possible development of addiction,

b. document the understanding of both the practitioner and the patient regarding the pain-management plan of the patient,

c. establish the rights of the patient in association with treatment and the obligations of the patient in relation to the responsible use, discontinuation of use, and storage of ~~Schedule II controlled dangerous substances~~ opioid drugs, including any restrictions on the refill of prescriptions or the acceptance of ~~Schedule II~~ opioid prescriptions from practitioners,

d. identify the specific medications and other modes of treatment, including physical therapy or exercise, relaxation or psychological counseling, that are included as a part of the pain-management plan,

e. specify the measures the practitioner may employ to monitor the compliance of the patient including, but not limited to, random specimen screens and pill counts, and

f. delineate the process for terminating the agreement, including the consequences if the practitioner has reason to believe that the patient is not complying with the terms of the agreement. Compliance with the "consent items" shall constitute a valid, ~~informal~~ informed consent for opioid therapy. The ~~provider~~ practitioner shall be held harmless from civil litigation for failure to treat pain if the event occurs because of nonadherence by the patient with any of the provisions of the patient-provider agreement;

46. "Serious illness" means a medical illness or physical injury or condition that substantially affects quality of life for more than a short period of time. "Serious illness" includes, but is not limited to, Alzheimer's disease or related dementias, lung disease, cancer, heart failure, renal failure, liver failure or chronic, unremitting or intractable pain such as neuropathic pain; and

47. "Surgical procedure" means a procedure that is performed for the purpose of structurally altering the human body by incision or destruction of tissues as part of the practice of medicine. This term includes the diagnostic or therapeutic treatment of conditions or disease processes by use of instruments such as lasers, ultrasound, ionizing, radiation, scalpels, probes or needles that cause localized alteration or transportation of live human tissue by

cutting, burning, vaporizing, freezing, suturing, probing or manipulating by closed reduction for major dislocations or fractures, or otherwise altering by any mechanical, thermal, light-based, electromagnetic or chemical means.

SECTION 10. AMENDATORY 63 O.S. 2011, Section 2-302, as amended by Section 1, Chapter 251, O.S.L. 2018 (63 O.S. Supp. 2018, Section 2-302), is amended to read as follows:

Section 2-302. A. Every person who manufactures, distributes, dispenses, prescribes, administers or uses for scientific purposes any controlled dangerous substance within or into 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 or into this state shall obtain a registration issued by the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, in accordance with rules promulgated by the Director. Persons registered by the Director under Section 2-101 et seq. of this title to manufacture, distribute, dispense, or conduct research with controlled dangerous substances may possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of this article. Every wholesaler, manufacturer or distributor of any drug product containing pseudoephedrine or phenylpropanolamine, or their salts, isomers, or salts of isomers shall obtain a

registration issued by the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control in accordance with rules promulgated by the Director and as provided for in Section 2-332 of this title.

B. Out-of-state pharmaceutical suppliers who provide controlled dangerous substances to individuals within this state shall obtain a registration issued by the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, in accordance with rules promulgated by the Director. This provision shall also apply to wholesale distributors who distribute controlled dangerous substances to pharmacies or other entities registered within this state in accordance with rules promulgated by the Director.

C. ~~Beginning January 1, 2019, every~~ Every manufacturer and distributor required to register under the provisions of this section shall provide ~~all data required pursuant to federal law, federal rules and regulations and 21 U.S.C., Section 827(d)(1)~~ information from the sale of controlled dangerous substances on a ~~quarterly~~ monthly basis to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control. Controlled dangerous substances in Schedule I shall be reported in accordance with rules promulgated by the Director. Reporting of controlled dangerous substances in Schedules II, III, IV and V shall include, but not be limited to:

1. The manufacturer's or distributor's name, address, phone number, DEA registration number and controlled dangerous substance registration number issued by the Bureau;

2. The name, address and DEA registration number of the entity to whom the controlled dangerous substance was sold;

3. The date of the sale of the controlled dangerous substance;

4. The name and National Drug Code of the controlled dangerous substance sold; and

5. The number of containers and the strength and quantity of controlled dangerous substances in each container sold.

D. The information maintained and provided pursuant to subsection C of this section shall be confidential and not open to the public. Access to the information shall, at the discretion of the Director, be limited to:

1. Peace officers certified pursuant to the provisions of Section 3311 of Title 70 of the Oklahoma Statutes who are employed as investigative agents of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control or the Office of the Attorney General;

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

3. A multicounty grand jury properly convened pursuant to the provisions of the Multicounty Grand Jury Act.

E. Manufacturers, distributors, home care agencies, hospices, home care services, and scientific researchers shall obtain a

registration annually. Other practitioners shall obtain a registration for a period to be determined by the Director that will be for a period not less than one (1) year nor more than three (3) years.

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

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

1. An agent, or an employee thereof, of any registered manufacturer, distributor, dispenser or user for scientific purposes of any controlled dangerous substance, if such agent is acting in the usual course of such agent's or employee's business or employment;

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

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

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

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

6. A nursing home licensed by this state;

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

8. Registered nurses and licensed practical nurses.

H. The Director may, by rule, waive the requirement for registration or fee for registration of certain manufacturers, distributors, dispensers, prescribers, administrators, or users for

scientific purposes if the Director finds it consistent with the public health and safety.

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

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

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

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

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

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

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

SECTION 11. AMENDATORY 63 O.S. 2011, Section 2-309D, as last amended by Section 4, Chapter 175, O.S.L. 2018 (63 O.S. Supp. 2018, Section 2-309D), is amended to read as follows:

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

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

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

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

a. Board of Podiatric Medical Examiners,

b. Board of Dentistry,

c. State Board of Pharmacy,

d. State Board of Medical Licensure and Supervision,

e. State Board of Osteopathic Examiners,

f. State Board of Veterinary Medical Examiners,

g. Oklahoma Health Care Authority,

h. Department of Mental Health and Substance Abuse Services,

i. Board of Examiners in Optometry,

j. Board of Nursing,

k. Office of the Chief Medical Examiner, and

l. State Board of Health;

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

5. Medical practitioners employed by the United States Department of Veterans Affairs, the United States Military, or other federal agencies treating patients in this state; and

6. At the discretion of the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, medical

practitioners and their staff, including those employed by the federal government in this state.

B. This section shall not prevent access, at the discretion of the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, to investigative information by peace officers and investigative agents of federal, state, county or municipal law enforcement agencies, district attorneys and the Attorney General in furtherance of criminal, civil or administrative investigations or prosecutions within their respective jurisdictions, designated legal, communications, and analytical employees of the Bureau, and to registrants in furtherance of efforts to guard against the diversion of controlled dangerous substances.

C. This section shall not prevent the disclosure, at the discretion of the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, of statistical information gathered from the central repository to the general public which shall be limited to types and quantities of controlled substances dispensed and the county where dispensed.

D. This section shall not prevent the disclosure, at the discretion of the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, of prescription-monitoring-program information to prescription-monitoring programs of other states provided a reciprocal data-sharing agreement is in place.

E. The Department of Mental Health and Substance Abuse Services and the State Department of Health may utilize the information in the central repository for statistical, research, substance abuse prevention, or educational purposes, provided that consumer confidentiality is not compromised.

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

G. 1. Registrants shall have access to the central repository for the purposes of patient treatment and for determination in prescribing or screening new patients. The patient's history may be disclosed to the patient for the purposes of treatment of information at the discretion of the physician.

2. a. Prior to prescribing or authorizing for refill, if one hundred eighty (180) days have elapsed prior to the previous access and check, of opiates, synthetic opiates, semisynthetic opiates, benzodiazepine or carisoprodol to a patient of record, registrants or members of their medical or administrative staff shall be required ~~until October 31, 2020,~~ to access the information in the central repository to assess medical necessity and the possibility that the patient

may be unlawfully obtaining prescription drugs in violation of the Uniform Controlled Dangerous Substances Act. The duty to access and check shall not alter or otherwise amend appropriate medical standards of care. The registrant or medical provider shall note in the patient file that the central repository has been checked and may maintain a copy of the information.

b. The requirements set forth in subparagraph a of this paragraph shall not apply:

(1) to medical practitioners who prescribe the controlled substances set forth in subparagraph a of this paragraph for hospice or end-of-life care, or

(2) for a prescription of a controlled substance set forth in subparagraph a of this paragraph that is issued by a practitioner for a patient residing in a nursing facility as defined by Section 1-1902 of this title, provided that the prescription is issued to a resident of such facility.

3. Registrants shall not be liable to any person for any claim of damages as a result of accessing or failing to access the

information in the central repository and no lawsuit may be predicated thereon.

4. The failure of a registrant to access and check the central repository as required under state or federal law or regulation ~~shall~~ may, after investigation, be grounds for the licensing board of the registrant to take disciplinary action against the registrant.

H. The State Board of Podiatric Examiners, the State Board of Dentistry, the State Board of Medical Licensure and Supervision, the State Board of Examiners in Optometry, the State Board of Nursing, the State Board of Osteopathic Examiners and the State Board of Veterinary Medical Examiners shall have the sole responsibility for enforcement of the provisions of subsection G of this section. Nothing in this section shall be construed so as to permit the Director of the State Bureau of Narcotics and Dangerous Drugs Control to assess administrative fines provided for in Section 2-304 of this title.

I. The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, or a designee thereof, shall provide a monthly list to the Directors of the State Board of Podiatric Examiners, the State Board of Dentistry, the State Board of Medical Licensure and Supervision, the State Board of Examiners in Optometry, the State Board of Nursing, the State Board of Osteopathic Examiners and the State Board of Veterinary Medical

Examiners of the top twenty prescribers of controlled dangerous substances within their respective areas of jurisdiction. Upon discovering that a registrant is prescribing outside the limitations of his or her licensure or outside of drug registration rules or applicable state laws, the respective licensing board shall be notified by the Bureau in writing. Such notifications may be considered complaints for the purpose of investigations or other actions by the respective licensing board. Licensing boards shall have exclusive jurisdiction to take action against a licensee for a violation of subsection G of this section.

J. Information regarding fatal and nonfatal overdoses, other than statistical information as required by Section 2-106 of this title, shall be completely confidential. Access to this information shall be strictly limited to the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control or designee, the Chief Medical Examiner, state agencies and boards provided in subsection A of this section, and the registrant that enters the information. Registrants shall not be liable to any person for a claim of damages for information reported pursuant to the provisions of Section 2-105 of this title.

K. The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall provide adequate means and procedures allowing access to central repository information for registrants lacking direct computer access.

L. Upon completion of an investigation in which it is determined that a death was caused by an overdose, either intentionally or unintentionally, of a controlled dangerous substance, the medical examiner shall be required to report the decedent's name and date of birth to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control. The Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall be required to maintain a database containing the classification of medical practitioners who prescribed or authorized controlled dangerous substances pursuant to this subsection.

M. The Oklahoma State Bureau of Narcotics and Dangerous Drugs is authorized to provide unsolicited notification to the licensing board of a pharmacist or practitioner if a patient has received one or more prescriptions for controlled substances in quantities or with a frequency inconsistent with generally recognized standards of safe practice or if a practitioner or prescriber has exhibited prescriptive behavior consistent with generally recognized standards indicating potentially problematic prescribing patterns. An unsolicited notification to the licensing board of the practitioner pursuant to this section:

1. Is confidential;

2. May not disclose information that is confidential pursuant to this section; and

3. May be in a summary form sufficient to provide notice of the basis for the unsolicited notification.

SECTION 12. AMENDATORY Section 5, Chapter 175, O.S.L. 2018 (63 O.S. Supp. 2018, Section 2-309I), is amended to read as follows:

Section 2-309I. A. A practitioner shall not issue an initial prescription for an opioid drug ~~which is a prescription drug~~ in a quantity exceeding a seven-day supply for treatment of acute pain for an adult patient, or a seven-day supply for treatment of acute pain for a patient under the age of eighteen (18) years old. Any opioid prescription for acute pain ~~pursuant to this subsection~~ shall be for the lowest effective dose of an immediate-release ~~opioid~~ drug and "acute pain" shall be notated on the face of the prescription by the practitioner. Any prescription for chronic pain pursuant to this section shall have "chronic pain" notated on the face of the prescription by the practitioner.

B. Prior to issuing an initial prescription ~~of a Schedule II controlled dangerous substance or any~~ for an opioid drug ~~that is a prescription drug~~ in a course of treatment for acute or chronic pain, a practitioner shall:

1. Take and document the results of a thorough medical history, including the experience of the patient with nonopioid medication and nonpharmacological pain-management approaches and substance abuse history;

2. Conduct, as appropriate, and document the results of a physical examination;

3. Develop a treatment plan with particular attention focused on determining the cause of pain of the patient;

4. Access relevant prescription monitoring information from the central repository pursuant to Section 2-309D of Title 63 of the Oklahoma Statutes;

5. Limit the supply of any opioid drug prescribed for acute pain to a duration of no more than seven (7) days as determined by the directed dosage and frequency of dosage; provided, however, upon issuing an initial prescription for acute pain pursuant to this section, the practitioner may issue one (1) subsequent prescription for an opioid drug in a quantity not to exceed seven (7) days if:

a. the subsequent prescription is due to a major surgical procedure or "confined to home" status as defined in 42 U.S.C., Section 1395n(a),

b. the practitioner provides the subsequent prescription on the same day as the initial prescription,

c. the practitioner provides written instructions on the subsequent prescription indicating the earliest date on which the prescription may be filled, otherwise known as a "do not fill until" date, and

d. the subsequent prescription is dispensed no more than five (5) days after the "do not fill until" date indicated on the prescription;

6. In the case of a patient under the age of eighteen (18) years old, enter into a patient-provider agreement with a parent or guardian of the patient; and

7. In the case of a patient who is a pregnant woman, enter into a patient-provider agreement with the patient.

C. No less than seven (7) days after issuing the initial prescription pursuant to subsection A of this section, the practitioner, after consultation with the patient, may issue a subsequent prescription for the drug to the patient in a quantity not to exceed seven (7) days, provided that:

1. The subsequent prescription would not be deemed an initial prescription under this section;

2. The practitioner determines the prescription is necessary and appropriate to the treatment needs of the patient and documents the rationale for the issuance of the subsequent prescription; and

3. The practitioner determines that issuance of the subsequent prescription does not present an undue risk of abuse, addiction or diversion and documents that determination.

D. Prior to issuing the initial prescription of ~~a Schedule II controlled dangerous substance or any~~ an opioid drug ~~that is a prescription drug~~ in a course of treatment for acute or chronic pain

and again prior to issuing the third prescription of the course of treatment, a practitioner shall discuss with the patient or the parent or guardian of the patient if the patient is under eighteen (18) years of age and is not an emancipated minor, the risks associated with the drugs being prescribed, including but not limited to:

1. The risks of addiction and overdose associated with opioid drugs and the dangers of taking opioid drugs with alcohol, benzodiazepines and other central nervous system depressants;

2. The reasons why the prescription is necessary;

3. Alternative treatments that may be available; and

4. Risks associated with the use of the drugs being prescribed, specifically that opioids are highly addictive, even when taken as prescribed, that there is a risk of developing a physical or psychological dependence on the controlled dangerous substance, and that the risks of taking more opioids than prescribed or mixing sedatives, benzodiazepines or alcohol with opioids can result in fatal respiratory depression.

The practitioner shall include a note in the medical record of the patient that the patient or the parent or guardian of the patient, as applicable, has discussed with the practitioner the risks of developing a physical or psychological dependence on the controlled dangerous substance and alternative treatments that may be available. The applicable state licensing board of the

practitioner shall develop and make available to practitioners guidelines for the discussion required pursuant to this subsection.

E. At the time of the issuance of the third prescription for ~~a prescription~~ an opioid drug, the practitioner shall enter into a ~~pain-management~~ patient-provider agreement with the patient.

F. When ~~a Schedule II controlled dangerous substance or any prescription~~ an opioid drug is continuously prescribed for three (3) months or more for chronic pain, with "chronic pain" notated on the prescription, the practitioner shall:

1. Review, at a minimum of every three (3) months, the course of treatment, any new information about the etiology of the pain, and the progress of the patient toward treatment objectives and document the results of that review;

2. ~~Assess~~ In the first year of the patient-provider agreement, assess the patient prior to every renewal to determine whether the patient is experiencing problems associated with ~~physical and psychological dependence~~ an opioid use disorder and document the results of that assessment;

3. Following one (1) year of compliance with the patient-provider agreement, the practitioner shall assess the patient at a minimum of every six (6) months;

4. Periodically make reasonable efforts, unless clinically contraindicated, to either stop the use of the controlled substance, decrease the dosage, try other drugs or treatment modalities in an

effort to reduce the potential for abuse or the development of ~~physical or psychological dependence~~ an opioid use disorder and document with specificity the efforts undertaken;

~~4.~~ 5. Review the central repository information in accordance with Section 2-309D of Title 63 of the Oklahoma Statutes; and

~~5.~~ 6. Monitor compliance with the ~~pain-management~~ patient-provider agreement and any recommendations that the patient seek a referral.

G. This section shall not apply to a prescription for a patient who is currently in active treatment for cancer, receiving hospice care from a licensed hospice or palliative care, or is a resident of a long-term care facility, or to any medications that are being prescribed for use in the treatment of substance abuse or opioid dependence.

H. Every policy, contract or plan delivered, issued, executed or renewed in this state, or approved for issuance or renewal in this state by the Insurance Commissioner, and every contract purchased by the Employees Group Insurance Division of the Office of Management and Enterprise Services, on or after ~~the effective date of this act~~ November 1, 2018, that provides coverage for prescription drugs subject to a copayment, coinsurance or deductible shall charge a copayment, coinsurance or deductible for an initial prescription of an opioid drug prescribed pursuant to this section that is either:

1. Proportional between the cost sharing for a thirty-day supply and the amount of drugs the patient was prescribed; or

2. Equivalent to the cost sharing for a full thirty-day supply of the ~~opioid~~ drug, provided that no additional cost sharing may be charged for any additional prescriptions for the remainder of the thirty-day supply.

I. Any ~~provider~~ practitioner authorized to prescribe ~~opioids~~ an opioid drug shall adopt and maintain a written policy or policies that include execution of a written agreement to engage in an informed consent process between the prescribing ~~provider~~ practitioner and qualifying opioid therapy patient. For the purposes of this section, "qualifying opioid therapy patient" means:

1. A patient requiring opioid treatment for more than three (3) months;

2. A patient who is prescribed benzodiazepines and opioids together for more than one twenty-four-hour period; or

3. A patient who is prescribed a dose of opioids that exceeds one hundred (100) morphine equivalent doses.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7402 of Title 36, unless there is created a duplication in numbering, reads as follows:

The Insurance Department shall evaluate the effect of the limits on prescriptions for opioid medication established by this act on the claims paid by health insurance carriers and the out-of-pocket

costs including copayments, coinsurance and deductibles paid by individual and group health insurance policyholders. On or before January 1, 2021, the Insurance Department shall submit a report on the evaluation, along with any recommended policy and regulatory options that will ensure costs for patients are not increased as a result of new prescribing limitations on the amounts of opioid medications, to the standing committees of the Legislature having jurisdiction over health and human services matters and over insurance and financial services matters. The Insurance Commissioner may adopt reasonable rules and regulations for the implementation and administration of the provisions of this subsection.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-112 of Title 63, unless there is created a duplication in numbering, reads as follows:

The Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall report to the standing committees of the Legislature having jurisdiction over health and human services matters and over occupational and professional regulation matters, no later than January 31, 2020, with progress on implementing the provisions of this act. The report shall contain, at a minimum, the following information:

1. Registration of prescribers and dispensers in the central repository pursuant to Section 2-309A et seq. of Title 63 of the Oklahoma Statutes;

2. Data regarding the checking and using of the central repository by data requesters;

3. Data from professional boards regarding the implementation of continuing education requirements for prescribers of opioid medication;

4. Effects on the prescriber workforce;

5. Changes in the numbers of patients taking more than one hundred (100) morphine milligram equivalents of opioid medication per day;

6. Data regarding the total quantity of opioid medications prescribed in morphine milligram equivalents;

7. Progress on electronic prescribing of opioid medication; and

8. Improvements to the central repository through the request for proposals process including feedback from prescribers, dispensers and applicable state licensing boards on those improvements.

SECTION 15. REPEALER Section 6, Chapter 175, O.S.L. 2018, is hereby repealed."

Passed the House of Representatives the 24th day of April, 2019.

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Presiding Officer of the House of Representatives

Passed the Senate the ____ day of _____, 2019.

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Presiding Officer of the Senate