

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 55th Legislature (2015)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1948

By: Cox

7
8 COMMITTEE SUBSTITUTE

9 An Act relating to public health and safety; amending
10 63 O.S. 2011, Section 2-304, which relates to denial,
11 revocation and suspension of certain licenses; making
12 references gender neutral; prohibiting director of
13 Oklahoma State Bureau of Narcotics and Dangerous
14 Drugs Control from assessing certain fee; amending 63
15 O.S. 2011, Section 2-309D, as last amended by Section
16 22, Chapter 293, O.S.L. 2014 (63 O.S. Supp. 2014,
17 Section 2-309D), which relates to central repository
18 information; expanding access to repository
19 information to certain persons; permitting registrant
20 access to certain information for certain purposes;
21 requiring registrants or staff to access central
22 repository prior to prescribing certain drugs;
23 requiring notation of repository access; providing
24 for exceptions; directing enforcement responsibility
25 to certain state agencies; requiring Director of
26 Oklahoma Bureau of Narcotics and Dangerous Drugs
27 Control to provide monthly list; and providing an
28 effective date.

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

30 SECTION 1. AMENDATORY 63 O.S. 2011, Section 2-304, is
31 amended to read as follows:

1 Section 2-304. A. A registration, pursuant to Section 2-303 of
2 this title, to manufacture, distribute, dispense, prescribe,
3 administer or use for scientific purposes a controlled dangerous
4 substance shall be limited, conditioned, denied, suspended or
5 revoked by the Director upon a finding that the registrant:

6 1. Has materially falsified any application filed pursuant to
7 ~~this act~~ the Uniform Controlled Dangerous Substances Act or required
8 by ~~this act~~ the Uniform Controlled Dangerous Substances Act;

9 2. Has been found guilty of, entered a plea of guilty, or
10 entered a plea of nolo contendere to a misdemeanor 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 3. Has had his or her federal registration retired, suspended,
14 or revoked by a competent federal authority and is no longer
15 authorized by federal law to manufacture, distribute, dispense,
16 prescribe, administer or use for scientific purposes controlled
17 dangerous substances;

18 4. Has failed to maintain effective controls against the
19 diversion of controlled dangerous substances to unauthorized persons
20 or entities;

21 5. Has prescribed, dispensed or administered a controlled
22 dangerous substance from schedules other than those specified in his
23 or her state or federal registration;

1 6. Has had a restriction, suspension, revocation, limitation,
2 condition, or probation placed on his or her professional license or
3 certificate or practice as a result of a proceeding pursuant to the
4 general statutes;

5 7. Is abusing or, within the past five (5) years, has abused or
6 excessively used drugs or controlled dangerous substances;

7 8. Has prescribed, sold, administered, or ordered any
8 controlled substance for an immediate family member, himself or
9 herself; provided that this shall not apply to a medical emergency
10 when no other doctor is available to respond to the emergency;

11 9. Has possessed, used, prescribed, dispensed or administered
12 drugs or controlled dangerous substances for other than legitimate
13 medical or scientific purposes or for purposes outside the normal
14 course of his or her professional practice;

15 10. Has been under the influence of alcohol or another
16 intoxicating substance which adversely affected the central nervous
17 system, vision, hearing or other sensory or motor functioning to
18 such degree the person was impaired during the performance of his or
19 her job; or

20 11. Has violated any federal law relating to any controlled
21 substances, any provision of the Uniform Controlled Dangerous
22 Substances Act, ~~Section 2-101 et seq. of this title~~, or any rules of
23 the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control.
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1 B. In the event the Director suspends or revokes a registration
2 granted under Section 2-303 of this title, all controlled dangerous
3 substances owned or possessed by the registrant pursuant to such
4 registration at the time of denial or suspension or the effective
5 date of the revocation order, as the case may be, may in the
6 discretion of the Director be impounded and preserved. No
7 disposition may be made of substances impounded and preserved until
8 the time for taking an appeal has elapsed or until all appeals have
9 been concluded unless a court, upon application therefor, orders the
10 sale of perishable substances and the deposit of the proceeds of the
11 sale with the court. Upon a revocation order becoming final, all
12 such controlled dangerous substances shall be forfeited to the
13 state.

14 C. The Drug Enforcement Administration shall promptly be
15 notified of all orders suspending or revoking registration and all
16 forfeitures of controlled dangerous substances.

17 D. In lieu of or in addition to any other remedies available to
18 the Director, if a finding is made that a registrant has committed
19 any act in violation of federal law relating to any controlled
20 substance, any provision of the Uniform Controlled Dangerous
21 Substances Act, ~~Section 2-101 et seq. of this title~~, or any rules of
22 the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control,
23 the Director is hereby authorized to assess an administrative
24 penalty not to exceed Two Thousand Dollars (\$2,000.00) for each such

1 act. The provisions of this subsection shall not apply to
2 violations of subsection G of Section 2-309D of this title. Nothing
3 in this section shall be construed so as to permit the Director of
4 the State Bureau of Narcotics and Dangerous Drugs Control to assess
5 administrative fines for violations of the provisions of subsection
6 G of Section 2-309D of this title.

7 SECTION 2. AMENDATORY 63 O.S. 2011, Section 2-309D, as
8 last amended by Section 22, Chapter 293, O.S.L. 2014 (63 O.S. Supp.
9 2014, Section 2-309D), is amended to read as follows:

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

14 1. Peace officers certified pursuant to Section 3311 of Title
15 70 of the Oklahoma Statutes who are employed as investigative agents
16 of the Oklahoma State Bureau of Narcotics and Dangerous Drugs
17 Control;

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

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

- 22 a. Board of Podiatric Medical Examiners,
- 23 b. Board of Dentistry,
- 24 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, and
i. Board of Examiners in Optometry,
j. Board of Nursing,
k. Office of the Chief Medical Examiner, and
l. State Board of Health;

~~provided, however, that the executive director or chief investigator
of each of these boards shall be limited to access to information
relevant to licensees of the employing board of such executive
director or chief investigator;~~

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

~~5. The Department of Mental Health and Substance Abuse Services
and the State Department of Health for statistical, research,
substance abuse prevention or educational purposes provided that the
consumer's confidentiality is not compromised~~ Medical practitioners
employed by the United States Veterans Affairs Administration, the
United States Military, or other federal agencies treating patients
in this state; and

1 6. At the discretion of the Director of the Oklahoma State
2 Bureau of Narcotics and Dangerous Drugs Control, medical
3 practitioners and their staff, including those employed by the
4 federal government in this state.

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

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

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

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

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

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

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

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

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

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

15 (2) for a prescription of a controlled substance set
16 forth in subparagraph a of this paragraph that is
17 issued by a practitioner for a patient residing
18 in a nursing facility as defined by Section 1-
19 1902 of this title, provided that the
20 prescription is issued to a resident of such
21 facility.

22 3. Registrants shall not be liable to any person for any claim
23 of damages as a result of accessing or failing to access the
24

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

3 G. H. The State Board of Podiatric Examiners, the State Board
4 of Dentistry, the State Board of Medical Licensure and Supervision,
5 the State Board of Examiners in Optometry, the State Board of
6 Nursing, the State Board of Osteopathic Examiners and the State
7 Board of Veterinary Medical Examiners shall have the sole
8 responsibility for enforcement of the provisions of subsection G of
9 this section. Nothing in this section shall be construed so as to
10 permit the Director of the State Bureau of Narcotics and Dangerous
11 Drugs Control to assess administrative fines provided for in Section
12 2-304 of this title.

13 I. The Director of the Oklahoma State Bureau of Narcotics and
14 Dangerous Drugs Control, or a designee thereof, shall provide a
15 monthly list to the Directors of the State Board of Podiatric
16 Examiners, the State Board of Dentistry, the State Board of Medical
17 Licensure and Supervision, the State Board of Examiners in
18 Optometry, the State Board of Nursing, the State Board of
19 Osteopathic Examiners and the State Board of Veterinary Medical
20 Examiners of the top twenty prescribers of controlled dangerous
21 substances within their respective areas of jurisdiction. Upon
22 discovering that a registrant is prescribing outside the limitations
23 of their licensure or outside of drug registration rules or
24 applicable state laws, the respective licensing board shall be

1 notified by the Bureau in writing. Such notifications may be
2 considered complaints for the purpose of investigations or other
3 actions by the respective licensing board. Licensing boards shall
4 have exclusive jurisdiction to take action against a licensee for a
5 violation of subsection G of this section.

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

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

20 L. Upon completion of an investigation in which it is
21 determined that a death was caused by an overdose, either
22 intentionally or unintentionally, of a controlled dangerous
23 substance, the medical examiner shall be required to report the
24 decedent's name and date of birth to the Oklahoma State Bureau of

1 Narcotics and Dangerous Drugs Control. The Oklahoma State Bureau of
2 Narcotics and Dangerous Drugs Control shall be required to maintain
3 a database containing the classification of medical practitioners
4 who prescribed or authorized controlled dangerous substances
5 pursuant to this subsection.

6 SECTION 3. This act shall become effective November 1, 2015.
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8 COMMITTEE REPORT BY: COMMITTEE ON ALCOHOL, TOBACCO, AND CONTROLLED
9 SUBSTANCES, dated 02/04/2015 - DO PASS, As Amended.
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