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**HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2  
STATE OF OKLAHOMA

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

4  
COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1948

5  
By: Cox

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**COMMITTEE SUBSTITUTE**

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9  
An Act relating to public health and safety; amending  
1 0 63 O.S. 2011, Section 2-304, which relates to denial,  
1 1 revocation and suspension of certain licenses; making  
1 2 references gender neutral; prohibiting director of  
1 3 Oklahoma State Bureau of Narcotics and Dangerous  
1 4 Drugs Control from assessing certain fee; amending 63  
1 5 O.S. 2011, Section 2-309D, as last amended by Section  
1 6 22, Chapter 293, O.S.L. 2014 (63 O.S. Supp. 2014,  
1 7 Section 2-309D), which relates to central repository  
1 8 information; expanding access to repository  
1 9 information to certain persons; permitting registrant  
2 0 access to certain information for certain purposes;  
2 1 requiring registrants or staff to access central  
2 2 repository prior to prescribing certain drugs;  
2 3 requiring notation of repository access; providing  
2 4 for exceptions; directing enforcement responsibility  
to certain state agencies; requiring Director of  
Oklahoma Bureau of Narcotics and Dangerous Drugs  
Control to provide monthly list; and providing an  
effective date.

2 5  
BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

2 6  
SECTION 1. AMENDATORY 63 O.S. 2011, Section 2-304, is  
2 7 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.

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.

1                   C. The Drug Enforcement Administration shall promptly be  
2                   notified of all orders suspending or revoking registration and all  
3                   forfeitures of controlled dangerous substances.

1                   D. In lieu of or in addition to any other remedies available to  
2                   the Director, if a finding is made that a registrant has committed  
3                   any act in violation of federal law relating to any controlled  
4                   substance, any provision of the Uniform Controlled Dangerous  
5                   Substances Act, ~~Section 2-101 et seq. of this title~~, or any rules of  
6                   the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control,  
7                   the Director is hereby authorized to assess an administrative  
8                   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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