

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

COMMITTEE SUBSTITUTE
FOR

HOUSE BILL NO. 2931

By: Mulready

COMMITTEE SUBSTITUTE

An Act relating to controlled dangerous substances; amending 63 O.S. 2011, Section 2-309, as last amended by Section 1, Chapter 323, O.S.L. 2013 (63 O.S. Supp. 2017, Section 2-309), which relates to the Uniform Controlled Dangerous Substances Act; requiring electronic prescribing for all scheduled drugs; providing exceptions; modifying time period for certain exception; deleting prohibition concerning hydrocodone refills and restrictions on dispensing or distributing Schedule V substances; deleting restrictions related to the dispensing of paregoric; modifying certain definition; directing counties with certain populations to comply with electronic prescription requirements by certain date; and providing an effective date.

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

SECTION 1. AMENDATORY 63 O.S. 2011, Section 2-309, as last amended by Section 1, Chapter 323, O.S.L. 2013 (63 O.S. Supp. 2017, Section 2-309), is amended to read as follows:

Section 2-309. A. 1. Except for dosages medically required for a period not to exceed forty-eight (48) hours which are

1 administered by or on direction of a practitioner, other than a
2 pharmacist, or medication dispensed directly by a practitioner,
3 other than a pharmacist, to an ultimate user, no controlled
4 dangerous substance included in Schedule II, which is a prescription
5 drug as determined under regulation promulgated by the Board of
6 Pharmacy, ~~may~~ shall be dispensed without ~~the written~~ an electronic
7 prescription of a practitioner; provided, that in emergency
8 situations, as prescribed by the Board of Pharmacy by regulation,
9 such drug may be dispensed upon oral prescription reduced promptly
10 to writing and filed by the pharmacist in a manner to be prescribed
11 by rules and regulations of the Director of the Oklahoma State
12 Bureau of Narcotics and Dangerous Drugs Control.

13 2. Electronic prescribing ~~may~~ shall be utilized for Schedules
14 II, III, IV, and V, subject to the requirements set forth in 21 CFR,
15 Section 1311 et seq.

16 3. ~~The transmission of written prescription by practitioner to~~
17 ~~dispensing pharmacy by facsimile or electronic transmission with~~
18 ~~electronic signature is permitted only under the following~~
19 ~~conditions:~~

20 a. ~~for Schedule II drugs, the original prescription must~~
21 ~~be presented and verified against the facsimile at the~~
22 ~~time the substances are actually dispensed, and the~~
23 ~~original document must be properly annotated and~~
24 ~~retained for filing, except:~~

~~(1) home infusion pharmacy may consider the facsimile to be a "written prescription" as required by Section 2-101 et seq. of this title and as required by Title 21 U.S.C., Section 829(a). The facsimile copy of the prescription shall be retained as an original prescription, and it must contain all the information required by Section 2-101 et seq. of this title and 21 CFR, Section 1306.05(a), including date issued, the patient's full name and address, and the practitioner's name, address, DEA registration number, and signature. The exception to the regulations for home infusion/IV therapy is intended to facilitate the means by which home infusion pharmacies obtain prescriptions for patients requiring the frequently modified parenteral controlled release administration of narcotic substances, but does not extend to the dispensing of oral dosage units of controlled substances,~~

~~(2) the same exception is granted to patients in Long Term Care facilities (LTCF), which are filled by and delivered to the facility by a dispensing pharmacy, and~~

1 ~~(3) an~~ An electronic prescription with electronic
2 signature may serve as an original prescription,
3 subject to the requirements set forth in 21 CFR,
4 Section 1311 et seq., ~~and~~

5 ~~b. for drugs in Schedules III and IV, a facsimile copy of~~
6 ~~a written, signed prescription transmitted directly by~~
7 ~~the prescribing practitioner to the pharmacy can serve~~
8 ~~as an original prescription. Electronic prescribing~~
9 ~~may be utilized for Schedules III and IV subject to~~
10 ~~the same requirements as set forth in 21 CFR, Section~~
11 ~~1311 et seq.~~

12 4. Prescriptions shall be retained in conformity with the
13 requirements of this section and Section 2-307 of this title. No
14 prescription for a Schedule II substance may be refilled.

15 5. The electronic prescription requirement provided for in this
16 section shall not apply to prescriptions for controlled dangerous
17 substances issued by any of the following:

- 18 a. a person licensed to practice veterinary medicine,
19 b. a practitioner who experiences temporary technological
20 or electrical failure or other extenuating
21 circumstance that prevents the prescription from being
22 transmitted electronically; provided, however, that
23 the practitioner documents the reason for this
24 exception in the medical record of the patient,

- c. a practitioner, other than a pharmacist, who dispenses directly to an ultimate user,
- d. a practitioner who orders a controlled dangerous substance to be administered in a state-certified and recognized hospital, nursing home, hospice facility, outpatient dialysis facility, residential care facility or correctional facility,
- e. a practitioner who writes a prescription to be dispensed by a pharmacy located on federal property, provided the practitioner documents the reason for this exception in the medical record of the patient, or
- f. a prescriber that has received a waiver or extension from the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control.

6. Electronic prescriptions shall not be utilized under the following circumstances:

- a. prescriptions that have complicated directions,
- b. prescriptions that have directions that exceed one hundred forty characters,
- c. compound prescriptions containing two or more commercially available products or two or more active pharmaceutical ingredients,

- d. compounded infusion prescriptions containing two or more commercially available products or two or more active pharmaceutical ingredients,
- e. prescriptions issued under approved research protocols,
- f. prescriptions that will be dispensed out-of-state, or
- g. if the practitioner determines that an electronic prescription cannot be issued in a timely manner and the condition of the patient is at risk.

7. A pharmacist who receives a written, oral or facsimile prescription shall not be required to verify that the prescription falls under one of the exceptions provided for in paragraph 6 of this subsection. Pharmacists may continue to dispense medications from otherwise valid written, oral or facsimile prescriptions that are consistent with current laws and regulations.

8. Practitioners must indicate in the health record of a patient that an exception to the electronic prescription requirement was utilized.

B. 1. Except for dosages medically required for a period not to exceed ~~forty-eight (48)~~ seventy-two (72) hours which are administered by or on direction of a practitioner, other than a pharmacist, or medication dispensed directly by a practitioner, other than a pharmacist, to an ultimate user, no controlled dangerous substance included in Schedule III or IV, which is a

1 prescription drug as determined under regulation promulgated by the
2 Board of Pharmacy, ~~may~~ shall be dispensed without ~~a written or oral~~
3 an electronic prescription.

4 2. ~~A written or oral~~ Any prescription for a controlled
5 dangerous substance in Schedule III ~~or~~, IV or V may not be filled or
6 refilled more than six (6) months after the date thereof or be
7 refilled more than five times after the date of the prescription,
8 unless renewed by the practitioner.

9 ~~3. A written or oral prescription for any product containing~~
10 ~~hydrocodone with another active ingredient shall not be refilled.~~

11 C. ~~No controlled dangerous substance included in Schedule V may~~
12 ~~be distributed or dispensed other than for a legitimate medical or~~
13 ~~scientific purpose.~~

14 D. ~~Except for dosages medically required for a period not to~~
15 ~~exceed forty-eight (48) hours which are administered by or on~~
16 ~~direction of a practitioner, other than a pharmacist, or medication~~
17 ~~dispensed directly by a practitioner, other than a pharmacist, to an~~
18 ~~ultimate user, tincture opium camphorated, commonly known as~~
19 ~~paregoric, may not be dispensed without a written or oral~~
20 ~~prescription. The refilling of a prescription for paregoric shall~~
21 ~~be unlawful unless permission is granted by the prescriber, either~~
22 ~~written or oral.~~

23 E. ~~Whenever it appears to the Director~~ of the Oklahoma State
24 Bureau of Narcotics and Dangerous Drugs Control that a drug not

1 considered to be a prescription drug under existing state law or
2 regulation of the Board of Pharmacy should be so considered because
3 of its abuse potential, the Director shall so advise the Board of
4 Pharmacy and furnish to the Board all available data relevant
5 thereto.

6 ~~F.~~ D. "Prescription", as used herein, means a written ~~or~~, oral
7 or electronic order by a practitioner to a pharmacist for a
8 controlled dangerous substance for a particular patient, which
9 specifies the date of its issue, and the full name and address of
10 the patient; and, if the controlled dangerous substance is
11 prescribed for an animal, the species of the animal; the name and
12 quantity of the controlled dangerous substance prescribed; the
13 directions for use; the name and address of the owner of the animal
14 and, if written, the signature of the practitioner.

15 ~~G.~~ E. No person shall solicit, dispense, receive or deliver any
16 controlled dangerous substance through the mail, unless the ultimate
17 user is personally known to the practitioner and circumstances
18 clearly indicate such method of delivery is in the best interest of
19 the health and welfare of the ultimate user.

20 F. Beginning November 1, 2018, the electronic prescription
21 requirement provided for in this section shall apply to all counties
22 having more than two hundred thousand (200,000) population according
23 to the latest Federal Decennial Census. All remaining counties
24 having less than two hundred thousand (200,000) population according

1 to the latest Federal Decennial Census shall comply with the
2 electronic prescription requirement provided for in this section on
3 or before November 1, 2019.

4 SECTION 2. This act shall become effective November 1, 2018.

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