HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2795

By: Downing, McCall, Sanders, West (Tammy), Russ, Blancett, Bush and Frix of the House

and

Griffin of the Senate

COMMITTEE SUBSTITUTE

An Act relating to public health and safety; amending 63 O.S. 2011, Sections 2-302 and 2-303, which relate to the Uniform Controlled Dangerous Substances Act; directing medical facility owners that prescribe certain drugs to patients on a monthly basis to register with the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control; providing for the registration of medical facility applicants; stating annual fee amount for medical facility registration; and providing an effective date.

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

SECTION 1. AMENDATORY 63 O.S. 2011, Section 2-302, 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 this state, or who proposes to engage in the manufacture, distribution, dispensing, prescribing, administering or use for scientific purposes of any controlled dangerous substance within this state shall obtain a 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; provided that this provision shall not apply to wholesale distributors who ship controlled dangerous substances to pharmacies or other entities registered within this state in accordance with rules promulgated by the Director.

C. Every person who owns in whole or in part a public or private medical facility for which a majority of patients are issued on a reoccurring monthly basis a prescription for opioids, benzodiazepines, barbiturates or carisoprodol, but not including suboxone or buprenorphine, shall obtain a registration issued by the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control.

D. Manufacturers, distributors, home care agencies, hospices, home care services, medical facility owners referred to in subsection C of this section 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.

~~D.~~ E. 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.

~~E.~~ F. 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.

~~F.~~ G. 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.

~~G.~~ H. 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.

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

~~I.~~ J. 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.

~~J.~~ K. 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.

~~K.~~ L. 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 ~~E~~ F of this section shall be subject to the registration requirements of Section 2-101 et seq. of this title.

~~L.~~ M. 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.

~~M.~~ N. 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 2. AMENDATORY 63 O.S. 2011, Section 2-303, is amended to read as follows:

Section 2-303. A. The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall register an applicant to own a medical facility as described in subsection C of Section 2-302 of this title, or to manufacture, distribute, dispense, prescribe, administer or use for scientific purposes controlled dangerous substances included in Schedules I through V of Section 2-101 et seq. of this title unless the Director determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

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

2. Compliance with applicable state and local law;

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

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

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

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

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

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

B. Registration granted under subsection A of this section shall not entitle a registrant to manufacture, distribute, dispense, prescribe, administer or use for scientific purposes controlled

dangerous substances in Schedule I or II other than those specified in the registration.

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

D. 1. The Director shall initially permit persons to register who own or operate any establishment engaged in the manufacture, distribution, dispensing, prescribing, administering or use for scientific purposes of any controlled dangerous substances prior to

June 4, 1991, and who are registered or licensed by the state. Fees for registration under this section shall be as follows:

Practitioners and mid-level practitioners	$140.00	per year of registration
Home Care Agencies, Hospices & Home Care Services	$140.00	annually
Medical Facility Owners	$300.00	annually
Distributors	$300.00	annually
Manufacturers	$500.00	annually
Manufacturer, Wholesaler, or Distributor of drug products containing pseudoephedrine or phenylpropanolamine	$300.00	annually

2. A registrant shall be required to pay double the amount of the above-listed fee for any renewal of registration received more than thirty (30) days late.

3. A Ten Dollar ($10.00) fee shall be charged for a duplicate registration certificate.

E. Compliance by manufacturers and distributors with the provisions of the Federal Controlled Substances Act, 21 U.S.C., Section 801 et seq., respecting registration, excluding fees, shall be deemed sufficient to qualify for registration under this act.

SECTION 3. This act shall become effective November 1, 2018.

COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 03/01/2018 - DO PASS, As Amended and Coauthored.