

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 56th Legislature (2018)

4 ENGROSSED SENATE
5 BILL NO. 937

By: Standridge of the Senate

and

Worthen of the House

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9 An Act relating to the Anti-Drug Diversion Act;
10 amending 63 O.S. 2011, Section 2-309D, as last
11 amended by Section 35, Chapter 210, O.S.L. 2016 (63
12 O.S. Supp. 2017, Section 2-309D), which relates to
13 central repository information and access; modifying
14 agency inclusions; and providing an effective date.

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

16 SECTION 1. AMENDATORY 63 O.S. 2011, Section 2-309D, as
17 last amended by Section 35, Chapter 210, O.S.L. 2016 (63 O.S. Supp.
18 2017, Section 2-309D), is amended to read as follows:

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

23 1. Peace officers certified pursuant to Section 3311 of Title
24 70 of the Oklahoma Statutes who are employed as investigative agents

1 of the Oklahoma State Bureau of Narcotics and Dangerous Drugs
2 Control;

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

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

- 7 a. Board of Podiatric Medical Examiners,
- 8 b. Board of Dentistry,
- 9 c. State Board of Pharmacy,
- 10 d. State Board of Medical Licensure and Supervision,
- 11 e. State Board of Osteopathic Examiners,
- 12 f. State Board of Veterinary Medical Examiners,
- 13 g. Oklahoma Health Care Authority,
- 14 h. Department of Mental Health and Substance Abuse
15 Services,
- 16 i. Board of Examiners in Optometry,
- 17 j. Board of Nursing,
- 18 k. Office of the Chief Medical Examiner, and
- 19 l. State Board of Health;

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

22 5. Medical practitioners employed by the United States
23 Department of Veterans Affairs, the United States Military, or other
24 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, tribal, county or municipal
9 law enforcement agencies, district attorneys and the Attorney
10 General in furtherance of criminal, civil or administrative
11 investigations or prosecutions within their respective
12 jurisdictions, designated legal, communications, and analytical
13 employees of the Bureau, and to registrants in furtherance of
14 efforts to guard against the diversion of controlled dangerous
15 substances.

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

22 D. This section shall not prevent the disclosure, at the
23 discretion of the Director of the Oklahoma State Bureau of Narcotics
24 and Dangerous Drugs Control, of prescription-monitoring-program

1 information to prescription-monitoring programs of other states
2 provided a reciprocal data-sharing agreement is in place.

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

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

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

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

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

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

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

17 (2) for a prescription of a controlled substance set
18 forth in subparagraph a of this paragraph that is
19 issued by a practitioner for a patient residing
20 in a nursing facility as defined by Section 1-
21 1902 of this title, provided that the
22 prescription is issued to a resident of such
23 facility.
24

1 3. Registrants shall not be liable to any person for any claim
2 of damages as a result of accessing or failing to access the
3 information in the central repository and no lawsuit may be
4 predicated thereon.

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

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

1 of his or her licensure or outside of drug registration rules or
2 applicable state laws, the respective licensing board shall be
3 notified by the Bureau in writing. Such notifications may be
4 considered complaints for the purpose of investigations or other
5 actions by the respective licensing board. Licensing boards shall
6 have exclusive jurisdiction to take action against a licensee for a
7 violation of subsection G of this section.

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

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

22 L. Upon completion of an investigation in which it is
23 determined that a death was caused by an overdose, either
24 intentionally or unintentionally, of a controlled dangerous

1 substance, the medical examiner shall be required to report the
2 decedent's name and date of birth to the Oklahoma State Bureau of
3 Narcotics and Dangerous Drugs Control. The Oklahoma State Bureau of
4 Narcotics and Dangerous Drugs Control shall be required to maintain
5 a database containing the classification of medical practitioners
6 who prescribed or authorized controlled dangerous substances
7 pursuant to this subsection.

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

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10 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC HEALTH, dated 03/27/2018 -
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