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February 8, 2018

By: Standridge

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

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

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

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

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

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

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

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

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

18 5. Medical practitioners employed by the United States
19 Department of Veterans Affairs, the United States Military, or other
20 federal agencies treating patients in this state; and

21 6. At the discretion of the Director of the Oklahoma State
22 Bureau of Narcotics and Dangerous Drugs Control, medical
23 practitioners and their staff, including those employed by the
24 federal government in this state.

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

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

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

23 E. The Department of Mental Health and Substance Abuse Services
24 and the State Department of Health may utilize the information in

1 the central repository for statistical, research, substance abuse
2 prevention, or educational purposes, provided that consumer
3 confidentiality is not compromised.

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

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

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

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

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

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

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

20 3. Registrants shall not be liable to any person for any claim
21 of damages as a result of accessing or failing to access the
22 information in the central repository and no lawsuit may be
23 predicated thereon.
24

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

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

1 actions by the respective licensing board. Licensing boards shall
2 have exclusive jurisdiction to take action against a licensee for a
3 violation of subsection G of this section.

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

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

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

1 a database containing the classification of medical practitioners
2 who prescribed or authorized controlled dangerous substances
3 pursuant to this subsection.

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

5 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY
6 February 8, 2018 - DO PASS
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