

**COMMITTEE AMENDMENT**

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB3766 \_\_\_\_\_  
Of the printed Bill  
Page \_\_\_\_\_ Section \_\_\_\_\_ Lines \_\_\_\_\_  
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by  
inserting in lieu thereof the following language:

**AMEND TITLE TO CONFORM TO AMENDMENTS**

Amendment submitted by: TJ Marti

Adopted: \_\_\_\_\_

\_\_\_\_\_  
Reading Clerk

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

PROPOSED COMMITTEE  
SUBSTITUTE  
FOR  
HOUSE BILL NO. 3766

By: Miller

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to public health and safety; amending 63 O.S. 2011, Section 2-309, as last amended by Section 1, Chapter 255, O.S.L. 2018 (63 O.S. Supp. 2019, Section 2-309), which relates to the Uniform Controlled Dangerous Substances Act; clarifying which medications are subject to electronic prescription requirements; providing exemption for certain dentists; authorizing electronic prescriptions to be utilized under certain circumstances; modifying internal statutory references; clarifying procedures related to the issuance of official prescription forms; changing entity responsible for reporting concerns related to certain nonprescription drugs; clarifying scope of definitions; 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 255, O.S.L. 2018 (63 O.S. Supp. 2019, 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 administered by or on direction of a practitioner, other than a

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

12 2. Electronic prescribing shall be utilized for Schedules II,  
13 III, IV, and V, medications that contain an opioid including  
14 tramadol or benzodiazepine or medications that are added to a list  
15 of prescription drugs considered to be addictive and a public health  
16 concern as determined by the State Board of Pharmacy, subject to the  
17 requirements set forth in 21 CFR, Section 1311 et seq.

18 3. An electronic prescription with electronic signature may  
19 serve as an original prescription, subject to the requirements set  
20 forth in 21 CFR, Section 1311 et seq.

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

1        5. The electronic prescription requirement provided for in this  
2 section shall not apply to prescriptions for ~~controlled dangerous~~  
3 ~~substances~~ medications specified in paragraph 2 of this subsection  
4 that are issued by any of the following:

- 5            a. a person licensed to practice veterinary medicine,
- 6            b. a practitioner who experiences temporary technological  
7                or electrical failure or other extenuating  
8                circumstance that prevents the prescription from being  
9                transmitted electronically; provided, however, that  
10              the practitioner documents the reason for this  
11              exception in the medical record of the patient,
- 12           c. a practitioner, other than a pharmacist, who dispenses  
13              directly to an ultimate user,
- 14           d. a practitioner who orders a controlled dangerous  
15              substance to be administered through an on-site  
16              pharmacy in:
  - 17                  (1) a hospital as defined in Section 1-701 of this  
18                      title,
  - 19                  (2) a nursing facility as defined in Section 1-1902  
20                      of this title,
  - 21                  (3) a hospice inpatient facility as defined in  
22                      Section 1-860.2 of this title,
  - 23                  (4) an outpatient dialysis facility,

1 (5) a continuum of care facility as defined in  
2 Section 1-890.2 of this title, ~~or~~

3 (6) a penal institution listed in Section 509 of  
4 Title 57 of the Oklahoma Statutes, or

5 (7) a dentist prescribing less than twenty  
6 medications specified in paragraph 2 of this  
7 subsection per month,

8 e. a practitioner who writes a prescription to be  
9 dispensed by a pharmacy located on federal property,  
10 provided the practitioner documents the reason for  
11 this exception in the medical record of the patient,  
12 or

13 f. a practitioner that has received a waiver or extension  
14 from his or her licensing board.

15 6. Electronic prescriptions ~~shall~~ may not be utilized under the  
16 following circumstances:

17 a. ~~compound~~ compounded prescriptions ~~containing two or~~  
18 ~~more commercially available products or two or more~~  
19 ~~active pharmaceutical ingredients,~~

20 b. compounded infusion prescriptions ~~containing two or~~  
21 ~~more commercially available products or two or more~~  
22 ~~active pharmaceutical ingredients,~~

23 c. prescriptions issued under approved research  
24 protocols, or

d. 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 the provisions of this act.

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

9. All prescriptions issued pursuant to ~~paragraphs~~ paragraph 5 and subparagraphs c and d of paragraph 6 of this subsection shall be issued on an official prescription form ~~provided~~ approved by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control.

10. a. Effective January 1, 2020, practitioners shall register with the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control ~~in order to be issued official prescription forms~~. Such registration shall include, but not be limited to, the primary address and the address of each place of business ~~to be imprinted on official prescription forms~~. Any change to a registered practitioner's registered address

1 shall be promptly reported to the practitioner's  
2 licensing board and the Bureau by the practitioner in  
3 a manner approved by the Bureau.

4 b. A practitioner's registration shall be without fee and  
5 subject to approval by the Bureau. Such registration  
6 shall be valid for a period of two (2) years and may  
7 be denied, suspended or revoked by the Bureau upon a  
8 finding by the Bureau or licensing board that the  
9 registered practitioner has had any license to  
10 practice a medical profession revoked or suspended by  
11 any state or federal agency.

12 c. Where the Bureau has revoked the registration of a  
13 registered practitioner, the Bureau may revoke or  
14 cancel any official prescription forms in the  
15 possession of the registered practitioner. Any  
16 revocation or any suspension shall require the  
17 registered practitioner to return all unused official  
18 prescription forms to the Bureau within fifteen (15)  
19 calendar days after the date of the written  
20 notification.

21 d. A practitioner that has had any license to practice  
22 terminated, revoked or suspended by a state or federal  
23 agency may, upon restoration of such license or  
24

1 certificate, register ~~to be issued official~~  
2 ~~prescription forms~~ with the Bureau.

3 11. a. ~~Except as provided in subparagraph f of this~~  
4 ~~paragraph, the Bureau shall issue official~~ Official  
5 ~~prescription forms free of charge only to registered~~  
6 ~~practitioners in this state. Such forms shall not be~~  
7 ~~transferable. The number of official prescription~~  
8 ~~forms issued to a registered~~ shall be purchased at the  
9 expense of the practitioner at any time shall be at  
10 the discretion of or the employer of the practitioner  
11 from a list of vendors approved by the Bureau.

12 b. Official prescription forms issued to a registered  
13 practitioner shall be imprinted ~~only~~ with the primary  
14 address and may include other addresses listed on the  
15 registration of the practitioner to identify the place  
16 or origin. Such prescriptions shall be sent only to  
17 the primary address of the registered practitioner.

18 c. Official prescription forms ~~issued to~~ of a ~~registered~~  
19 practitioner shall be used only by the practitioner ~~to~~  
20 ~~whom they are issued~~ designated on the official  
21 prescription form.

22 d. The Bureau may revoke or cancel official prescription  
23 forms in possession of registered practitioners when  
24



1 the license of such practitioner is suspended,  
2 terminated or revoked.

3 e. Official prescription forms of registered  
4 practitioners who are deceased or who no longer  
5 prescribe shall be returned to the Bureau at a  
6 designated address. If the registered practitioner is  
7 deceased, it is the responsibility of the registered  
8 practitioner's estate or lawful designee to return  
9 such forms.

10 f. The Bureau may issue official prescription forms to  
11 employees or agents of the Bureau and other government  
12 agencies for the purpose of preventing, identifying,  
13 investigating and prosecuting unacceptable or illegal  
14 practices by providers and other persons and assisting  
15 in the recovery of overpayments under any program  
16 operated by the state or paid for with state funds.  
17 Such prescription forms shall be issued for this  
18 purpose only to individuals who are authorized to  
19 conduct investigations on behalf of the Bureau or  
20 other government agencies as part of their official  
21 duties. Individuals and agencies receiving such  
22 prescription forms for this purpose shall provide  
23 appropriate assurances to the Bureau that adequate  
24 safeguards and security measures are in place to

1 prevent the use of such prescription forms for  
2 anything other than official government purposes.

3 12. a. Adequate safeguards and security measures shall be  
4 undertaken by registered practitioners holding  
5 official prescription forms to assure against the  
6 loss, destruction, theft or unauthorized use of the  
7 forms. Registered practitioners shall maintain a  
8 sufficient but not excessive supply of such forms in  
9 reserve.

10 b. Registered practitioners shall immediately notify the  
11 Bureau, in a manner designated by the Bureau, upon  
12 their knowledge of the loss, destruction, theft or  
13 unauthorized use of any official prescription forms  
14 issued to them, as well as the failure to receive  
15 official prescription forms within a reasonable time  
16 after ordering them from ~~the Bureau~~ a state-approved  
17 vendor.

18 c. Registered practitioners shall immediately notify the  
19 Bureau upon their knowledge of any diversion or  
20 suspected diversion of drugs pursuant to the loss,  
21 theft or unauthorized use of prescriptions.

22 B. 1. Except for dosages medically required for a period not  
23 to exceed seventy-two (72) hours which are administered by or on  
24 direction of a practitioner, other than a pharmacist, or medication

1 dispensed directly by a practitioner, other than a pharmacist, to an  
2 ultimate user, no ~~controlled dangerous substance included in~~  
3 ~~Schedule III or IV, which is a prescription drug~~ medication  
4 specified in paragraph 2 of subsection A of this section as  
5 determined under regulation promulgated by the State Board of  
6 Pharmacy, shall be dispensed without an electronic prescription,  
7 except as provided for in paragraphs 5 and 6 of subsection A of this  
8 section.

9 2. Any prescription for a controlled dangerous substance in  
10 Schedule III, IV or V may not be filled or refilled more than six  
11 (6) months after the date thereof or be refilled more than five  
12 times after the date of the prescription, unless renewed by the  
13 practitioner.

14 C. Whenever it appears to the Executive Director of the  
15 ~~Oklahoma State Bureau of Narcotics and Dangerous Drugs Control~~ Board  
16 of Pharmacy that a drug not considered to be a prescription drug  
17 under existing state law or regulation of the State Board of  
18 Pharmacy should be so considered because of its abuse potential, the  
19 Executive Director shall so advise the ~~Board of Pharmacy~~ Oklahoma  
20 State Bureau of Narcotics and Dangerous Drugs Control and furnish to  
21 the ~~Board~~ Bureau all available data relevant thereto.

22 D. 1. "Prescription", as used in this section, means a  
23 written, oral or electronic order by a practitioner to a pharmacist  
24 for a ~~controlled dangerous substance~~ medication specified in

1 paragraph 2 of subsection A of this section for a particular  
2 patient, which specifies the date of its issue, and the full name  
3 and address of the patient and, if the ~~controlled dangerous~~  
4 ~~substance~~ medication is prescribed for an animal, the species of the  
5 animal, the name and quantity of the ~~controlled dangerous substance~~  
6 medication prescribed, the directions for use, the name and address  
7 of the owner of the animal and, if written, the signature of the  
8 practitioner. When electronically submitted by a pharmacist or  
9 pharmacy, the full name of the patient may include the name and  
10 species of the animal.

11 2. "Registered practitioner", as used in this section, means a  
12 licensed practitioner duly registered with the Oklahoma State Bureau  
13 of Narcotics and Dangerous Drugs Control authorized to ~~be issued~~  
14 purchase official state prescription forms.

15 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 SECTION 2. This act shall become effective November 1, 2020.

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22 57-2-11235 GRS 02/23/20  
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