

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

COMMITTEE SUBSTITUTE  
FOR

HOUSE BILL NO. 3084

By: Hilbert

COMMITTEE SUBSTITUTE

An Act relating to public health; 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 prescriptions; providing exception to electronic prescription requirement; 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 pharmacist, or medication dispensed directly by a practitioner, other than a pharmacist, to an ultimate user, no controlled dangerous substance included in Schedule II, which is a prescription drug as determined under regulation promulgated by the Board of

1 Pharmacy, shall be dispensed without an electronic prescription of a  
2 practitioner; provided, that in emergency situations, as prescribed  
3 by the Board of Pharmacy by regulation, such drug may be dispensed  
4 upon oral prescription reduced promptly to writing and filed by the  
5 pharmacist in a manner to be prescribed by rules and regulations of  
6 the Director of the Oklahoma State Bureau of Narcotics and Dangerous  
7 Drugs Control.

8 2. Electronic prescribing shall be utilized for Schedules II,  
9 III, IV, and V, subject to the requirements set forth in 21 CFR,  
10 Section 1311 et seq.

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

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

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

- 20 a. a person licensed to practice veterinary medicine,
- 21 b. a practitioner who experiences temporary technological  
22 or electrical failure or other extenuating  
23 circumstance that prevents the prescription from being  
24 transmitted electronically; provided, however, that

- 1 the practitioner documents the reason for this  
2 exception in the medical record of the patient,
- 3 c. a practitioner, other than a pharmacist, who dispenses  
4 directly to an ultimate user,
- 5 d. a practitioner who orders a controlled dangerous  
6 substance to be administered through an on-site  
7 pharmacy in:
- 8 (1) a hospital as defined in Section 1-701 of this  
9 title,
- 10 (2) a nursing facility as defined in Section 1-1902  
11 of this title,
- 12 (3) a hospice inpatient facility as defined in  
13 Section 1-860.2 of this title,
- 14 (4) an outpatient dialysis facility,
- 15 (5) a continuum of care facility as defined in  
16 Section 1-890.2 of this title,
- 17 (6) a penal institution listed in Section 509 of  
18 Title 57 of the Oklahoma Statutes, or
- 19 (7) a county jail,
- 20 e. a practitioner who writes a prescription to be  
21 dispensed by a pharmacy located on federal property,  
22 provided the practitioner documents the reason for  
23 this exception in the medical record of the patient,  
24 or

1           f.    a practitioner that has received a waiver or extension  
2                from his or her licensing board.

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

5           a.    compound prescriptions containing two or more  
6                commercially available products or two or more active  
7                pharmaceutical ingredients,

8           b.    compounded infusion prescriptions containing two or  
9                more commercially available products or two or more  
10               active pharmaceutical ingredients,

11          c.    prescriptions issued under approved research  
12                protocols, or

13          d.    if the practitioner determines that an electronic  
14                prescription cannot be issued in a timely manner and  
15                the condition of the patient is at risk.

16       7.   A pharmacist who receives a written, oral or facsimile  
17 prescription shall not be required to verify that the prescription  
18 falls under one of the exceptions provided for in paragraph 6 of  
19 this subsection. Pharmacists may continue to dispense medications  
20 from otherwise valid written, oral or facsimile prescriptions that  
21 are consistent with the provisions of this act.

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

1       9. All prescriptions issued pursuant to paragraphs 5 and 6 of  
2 this subsection shall be issued on an official prescription form  
3 provided by the Oklahoma State Bureau of Narcotics and Dangerous  
4 Drugs Control.

5       10. a. Effective January 1, 2020, practitioners shall  
6 register with the Oklahoma State Bureau of Narcotics  
7 and Dangerous Drugs Control in order to be issued  
8 official prescription forms. Such registration shall  
9 include, but not be limited to, the primary address  
10 and the address of each place of business to be  
11 imprinted on official prescription forms. Any change  
12 to a registered practitioner's registered address  
13 shall be promptly reported to the practitioner's  
14 licensing board and the Bureau by the practitioner in  
15 a manner approved by the Bureau.

16       b. A practitioner's registration shall be without fee and  
17 subject to approval by the Bureau. Such registration  
18 shall be valid for a period of two (2) years and may  
19 be denied, suspended or revoked by the Bureau upon a  
20 finding by the Bureau or licensing board that the  
21 registered practitioner has had any license to  
22 practice a medical profession revoked or suspended by  
23 any state or federal agency.  
24

1 c. Where the Bureau has revoked the registration of a  
2 registered practitioner, the Bureau may revoke or  
3 cancel any official prescription forms in the  
4 possession of the registered practitioner. Any  
5 revocation or any suspension shall require the  
6 registered practitioner to return all unused official  
7 prescription forms to the Bureau within fifteen (15)  
8 calendar days after the date of the written  
9 notification.

10 d. A practitioner that has had any license to practice  
11 terminated, revoked or suspended by a state or federal  
12 agency may, upon restoration of such license or  
13 certificate, register to be issued official  
14 prescription forms.

15 11. a. Except as provided in subparagraph f of this  
16 paragraph, the Bureau shall issue official  
17 prescription forms free of charge only to registered  
18 practitioners in this state. Such forms shall not be  
19 transferable. The number of official prescription  
20 forms issued to a registered practitioner at any time  
21 shall be at the discretion of the Bureau.

22 b. Official prescription forms issued to a registered  
23 practitioner shall be imprinted only with the primary  
24 address and other addresses listed on the registration

1 of the practitioner. Such prescriptions shall be sent  
2 only to the primary address of the registered  
3 practitioner.

4 c. Official prescription forms issued to a registered  
5 practitioner shall be used only by the practitioner to  
6 whom they are issued.

7 d. The Bureau may revoke or cancel official prescription  
8 forms in possession of registered practitioners when  
9 the license of such practitioner is suspended,  
10 terminated or revoked.

11 e. Official prescription forms of registered  
12 practitioners who are deceased or who no longer  
13 prescribe shall be returned to the Bureau at a  
14 designated address. If the registered practitioner is  
15 deceased, it is the responsibility of the registered  
16 practitioner's estate or lawful designee to return  
17 such forms.

18 f. The Bureau may issue official prescription forms to  
19 employees or agents of the Bureau and other government  
20 agencies for the purpose of preventing, identifying,  
21 investigating and prosecuting unacceptable or illegal  
22 practices by providers and other persons and assisting  
23 in the recovery of overpayments under any program  
24 operated by the state or paid for with state funds.

1           Such prescription forms shall be issued for this  
2           purpose only to individuals who are authorized to  
3           conduct investigations on behalf of the Bureau or  
4           other government agencies as part of their official  
5           duties. Individuals and agencies receiving such  
6           prescription forms for this purpose shall provide  
7           appropriate assurances to the Bureau that adequate  
8           safeguards and security measures are in place to  
9           prevent the use of such prescription forms for  
10          anything other than official government purposes.

11        12.   a.   Adequate safeguards and security measures shall be  
12                undertaken by registered practitioners holding  
13                official prescription forms to assure against the  
14                loss, destruction, theft or unauthorized use of the  
15                forms. Registered practitioners shall maintain a  
16                sufficient but not excessive supply of such forms in  
17                reserve.

18               b.   Registered practitioners shall immediately notify the  
19                    Bureau, in a manner designated by the Bureau, upon  
20                    their knowledge of the loss, destruction, theft or  
21                    unauthorized use of any official prescription forms  
22                    issued to them, as well as the failure to receive  
23                    official prescription forms within a reasonable time  
24                    after ordering them from the Bureau.

1           c.   Registered practitioners shall immediately notify the  
2               Bureau upon their knowledge of any diversion or  
3               suspected diversion of drugs pursuant to the loss,  
4               theft or unauthorized use of prescriptions.

5       B.   1.   Except for dosages medically required for a period not  
6   to exceed seventy-two (72) hours which are administered by or on  
7   direction of a practitioner, other than a pharmacist, or medication  
8   dispensed directly by a practitioner, other than a pharmacist, to an  
9   ultimate user, no controlled dangerous substance included in  
10   Schedule III or IV, which is a prescription drug as determined under  
11   regulation promulgated by the Board of Pharmacy, shall be dispensed  
12   without an electronic prescription.

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

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

1 D. 1. "Prescription", as used in this section, means a  
2 written, oral or electronic order by a practitioner to a pharmacist  
3 for a controlled dangerous substance for a particular patient, which  
4 specifies the date of its issue, and the full name and address of  
5 the patient and, if the controlled dangerous substance is prescribed  
6 for an animal, the species of the animal, the name and quantity of  
7 the controlled dangerous substance prescribed, the directions for  
8 use, the name and address of the owner of the animal and, if  
9 written, the signature of the practitioner.

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

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

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