

1 ENGROSSED HOUSE  
2 BILL NO. 3084

By: Hilbert of the House

3 and

4 Leewright of the Senate

5  
6  
7 An Act relating to public health; amending 63 O.S.  
8 2011, Section 2-309, as last amended by Section 1,  
9 Chapter 255, O.S.L. 2018 (63 O.S. Supp. 2019, Section  
10 2-309), which relates to prescriptions; providing  
11 exception to electronic prescription requirement; and  
12 providing an effective date.

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

14 SECTION 1. AMENDATORY 63 O.S. 2011, Section 2-309, as  
15 last amended by Section 1, Chapter 255, O.S.L. 2018 (63 O.S. Supp.  
16 2019, Section 2-309), is amended to read as follows:

17 Section 2-309. A. 1. Except for dosages medically required  
18 for a period not to exceed forty-eight (48) hours which are  
19 administered by or on direction of a practitioner, other than a  
20 pharmacist, or medication dispensed directly by a practitioner,  
21 other than a pharmacist, to an ultimate user, no controlled  
22 dangerous substance included in Schedule II, which is a prescription  
23 drug as determined under regulation promulgated by the Board of  
24 Pharmacy, shall be dispensed without an electronic prescription of a  
practitioner; provided, that in emergency situations, as prescribed

1 by the Board of Pharmacy by regulation, such drug may be dispensed  
2 upon oral prescription reduced promptly to writing and filed by the  
3 pharmacist in a manner to be prescribed by rules and regulations of  
4 the Director of the Oklahoma State Bureau of Narcotics and Dangerous  
5 Drugs Control.

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

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

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

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

- 18 a. a person licensed to practice veterinary medicine,
- 19 b. a practitioner who experiences temporary technological  
20 or electrical failure or other extenuating  
21 circumstance that prevents the prescription from being  
22 transmitted electronically; provided, however, that  
23 the practitioner documents the reason for this  
24 exception in the medical record of the patient,

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

1       6. Electronic prescriptions shall not be utilized under the  
2 following circumstances:

- 3           a. compound prescriptions containing two or more  
4                commercially available products or two or more active  
5                pharmaceutical ingredients,
- 6           b. compounded infusion prescriptions containing two or  
7                more commercially available products or two or more  
8                active pharmaceutical ingredients,
- 9           c. prescriptions issued under approved research  
10               protocols, or
- 11           d. if the practitioner determines that an electronic  
12               prescription cannot be issued in a timely manner and  
13               the condition of the patient is at risk.

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

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

23       9. All prescriptions issued pursuant to paragraphs 5 and 6 of  
24 this subsection shall be issued on an official prescription form

1 provided by the Oklahoma State Bureau of Narcotics and Dangerous  
2 Drugs Control.

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

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

22 c. Where the Bureau has revoked the registration of a  
23 registered practitioner, the Bureau may revoke or  
24 cancel any official prescription forms in the

1 possession of the registered practitioner. Any  
2 revocation or any suspension shall require the  
3 registered practitioner to return all unused official  
4 prescription forms to the Bureau within fifteen (15)  
5 calendar days after the date of the written  
6 notification.

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

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

19 b. Official prescription forms issued to a registered  
20 practitioner shall be imprinted only with the primary  
21 address and other addresses listed on the registration  
22 of the practitioner. Such prescriptions shall be sent  
23 only to the primary address of the registered  
24 practitioner.

- 1 c. Official prescription forms issued to a registered  
2 practitioner shall be used only by the practitioner to  
3 whom they are issued.
- 4 d. The Bureau may revoke or cancel official prescription  
5 forms in possession of registered practitioners when  
6 the license of such practitioner is suspended,  
7 terminated or revoked.
- 8 e. Official prescription forms of registered  
9 practitioners who are deceased or who no longer  
10 prescribe shall be returned to the Bureau at a  
11 designated address. If the registered practitioner is  
12 deceased, it is the responsibility of the registered  
13 practitioner's estate or lawful designee to return  
14 such forms.
- 15 f. The Bureau may issue official prescription forms to  
16 employees or agents of the Bureau and other government  
17 agencies for the purpose of preventing, identifying,  
18 investigating and prosecuting unacceptable or illegal  
19 practices by providers and other persons and assisting  
20 in the recovery of overpayments under any program  
21 operated by the state or paid for with state funds.  
22 Such prescription forms shall be issued for this  
23 purpose only to individuals who are authorized to  
24 conduct investigations on behalf of the Bureau or

1 other government agencies as part of their official  
2 duties. Individuals and agencies receiving such  
3 prescription forms for this purpose shall provide  
4 appropriate assurances to the Bureau that adequate  
5 safeguards and security measures are in place to  
6 prevent the use of such prescription forms for  
7 anything other than official government purposes.

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

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

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

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

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

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

23           D. 1. "Prescription", as used in this section, means a  
24 written, oral or electronic order by a practitioner to a pharmacist

1 for a controlled dangerous substance for a particular patient, which  
2 specifies the date of its issue, and the full name and address of  
3 the patient and, if the controlled dangerous substance is prescribed  
4 for an animal, the species of the animal, the name and quantity of  
5 the controlled dangerous substance prescribed, the directions for  
6 use, the name and address of the owner of the animal and, if  
7 written, the signature of the practitioner.

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

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

17 SECTION 2. This act shall become effective November 1, 2020.  
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1 Passed the House of Representatives the 9th day of March, 2020.

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3 \_\_\_\_\_  
4 Presiding Officer of the House  
of Representatives

5 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2020.

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8 \_\_\_\_\_  
9 Presiding Officer of the Senate