

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 57th Legislature (2020)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3766

By: **Marti**

7
8 COMMITTEE SUBSTITUTE

9 An Act relating to public health and safety; amending
10 63 O.S. 2011, Section 2-309, as last amended by
11 Section 1, Chapter 255, O.S.L. 2018 (63 O.S. Supp.
12 2019, Section 2-309), which relates to the Uniform
13 Controlled Dangerous Substances Act; clarifying which
14 medications are subject to electronic prescription
15 requirements; providing exemption for certain
16 dentists; authorizing electronic prescriptions to be
17 utilized under certain circumstances; modifying
18 internal statutory references; clarifying procedures
19 related to the issuance of official prescription
20 forms; changing entity responsible for reporting
21 concerns related to certain nonprescription drugs;
22 clarifying scope of definitions; and providing an
23 effective date.

24 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

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

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

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

22 4. Prescriptions shall be retained in conformity with the
23 requirements of this section and Section 2-307 of this title. No
24 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

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

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

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

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

17 10. a. Effective January 1, 2020, practitioners shall
18 register with the Oklahoma State Bureau of Narcotics
19 and Dangerous Drugs Control ~~in order to be issued~~
20 ~~official prescription forms~~. Such registration shall
21 include, but not be limited to, the primary address
22 and the address of each place of business ~~to be~~
23 ~~imprinted on official prescription forms~~. Any change
24 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
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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 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 03/02/2020 - DO PASS,
23 As Amended and Coauthored.

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