

SENATE FLOOR VERSION

February 10, 2020

SENATE BILL NO. 1278

By: Rader of the Senate

and

Echols of the House

An Act relating to controlled dangerous substances; 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; adding exception; and declaring an emergency.

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 Pharmacy, shall be dispensed without an electronic prescription of a

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

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

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

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

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

- 19 a. a person licensed to practice veterinary medicine,
- 20 b. a practitioner who experiences temporary technological
21 or electrical failure or other extenuating
22 circumstance that prevents the prescription from being
23 transmitted electronically; provided, however, that
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- 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, or
- 17 (6) a penal institution listed in Section 509 of
18 Title 57 of the Oklahoma Statutes,
- 19 e. a practitioner who orders a controlled dangerous
20 substance to be administered through a hospice program
21 as defined in Section 1-860.2 of this title,
- 22 f. a practitioner who writes a prescription to be
23 dispensed by a pharmacy located on federal property,
24 provided the practitioner documents the reason for

1 this exception in the medical record of the patient,
2 or

3 ~~f.~~

4 g. a practitioner that has received a waiver or extension
5 from his or her licensing board.

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

8 a. compound prescriptions containing two or more
9 commercially available products or two or more active
10 pharmaceutical ingredients,

11 b. compounded infusion prescriptions containing two or
12 more commercially available products or two or more
13 active pharmaceutical ingredients,

14 c. prescriptions issued under approved research
15 protocols, or

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

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

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

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

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

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

1 practice a medical profession revoked or suspended by
2 any state or federal agency.

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

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

17 11. a. Except as provided in subparagraph f of this
18 paragraph, the Bureau shall issue official
19 prescription forms free of charge only to registered
20 practitioners in this state. Such forms shall not be
21 transferable. The number of official prescription
22 forms issued to a registered practitioner at any time
23 shall be at the discretion of the Bureau.
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- 1 b. Official prescription forms issued to a registered
2 practitioner shall be imprinted only with the primary
3 address and other addresses listed on the registration
4 of the practitioner. Such prescriptions shall be sent
5 only to the primary address of the registered
6 practitioner.
- 7 c. Official prescription forms issued to a registered
8 practitioner shall be used only by the practitioner to
9 whom they are issued.
- 10 d. The Bureau may revoke or cancel official prescription
11 forms in possession of registered practitioners when
12 the license of such practitioner is suspended,
13 terminated or revoked.
- 14 e. Official prescription forms of registered
15 practitioners who are deceased or who no longer
16 prescribe shall be returned to the Bureau at a
17 designated address. If the registered practitioner is
18 deceased, it is the responsibility of the registered
19 practitioner's estate or lawful designee to return
20 such forms.
- 21 f. The Bureau may issue official prescription forms to
22 employees or agents of the Bureau and other government
23 agencies for the purpose of preventing, identifying,
24 investigating and prosecuting unacceptable or illegal

1 practices by providers and other persons and assisting
2 in the recovery of overpayments under any program
3 operated by the state or paid for with state funds.
4 Such prescription forms shall be issued for this
5 purpose only to individuals who are authorized to
6 conduct investigations on behalf of the Bureau or
7 other government agencies as part of their official
8 duties. Individuals and agencies receiving such
9 prescription forms for this purpose shall provide
10 appropriate assurances to the Bureau that adequate
11 safeguards and security measures are in place to
12 prevent the use of such prescription forms for
13 anything other than official government purposes.

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

21 b. Registered practitioners shall immediately notify the
22 Bureau, in a manner designated by the Bureau, upon
23 their knowledge of the loss, destruction, theft or
24 unauthorized use of any official prescription forms

1 issued to them, as well as the failure to receive
2 official prescription forms within a reasonable time
3 after ordering them from the Bureau.

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

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

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

21 C. Whenever it appears to the Director of the Oklahoma State
22 Bureau of Narcotics and Dangerous Drugs Control that a drug not
23 considered to be a prescription drug under existing state law or
24 regulation of the Board of Pharmacy should be so considered because

1 of its abuse potential, the Director shall so advise the Board of
2 Pharmacy and furnish to the Board all available data relevant
3 thereto.

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

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

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

22 SECTION 2. It being immediately necessary for the preservation
23 of the public peace, health or safety, an emergency is hereby
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1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

3 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
4 February 10, 2020 - DO PASS
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