

1 ENGROSSED SENATE AMENDMENTS
TO
2 ENGROSSED HOUSE
BILL NO. 3073

By: Talley, Randleman, Bush,
3 Miller, Echols, Pittman and
Stinson of the House

4
and
5
Rader of the Senate

6
7
8 An Act relating to public health and safety; amending
63 O.S. 2021, Section 2-101, which relates to
9 definitions of the Uniform Controlled Dangerous
Substances Act; defining palliative care; amending 63
10 O.S. 2021, Section 2-309I, which relates to the Anti-
Drug Diversion Act; adding an exception; providing
11 statutory reference; and declaring an emergency.

12

13 AUTHOR: Add the following House Coauthor: Goodwin

14 AUTHOR: Add the following Senate Coauthors: Dugger, Matthews, and
Young

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16 AMENDMENT NO. 1. Page 1, line 24, through page 24, line 2, by
deleting Section 1 and renumbering subsequent
17 sections

18 AMENDMENT NO. 2. Page 29, lines 4 and 5, by deleting after the word
"care" on Line 4 and before the word "in" on Line
19 5, all new language

20 and amend the title to conform

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1 Passed the Senate the 25th day of April, 2022.

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3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2022.

7
8 _____
9 Presiding Officer of the House
10 of Representatives

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8 An Act relating to public health and safety; amending
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10 definitions of the Uniform Controlled Dangerous
11 Substances Act; defining palliative care; amending 63
12 O.S. 2021, Section 2-309I, which relates to the Anti-
13 Drug Diversion Act; adding an exception; providing
14 statutory reference; and declaring an emergency.

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

16 SECTION 1. AMENDATORY 63 O.S. 2021, Section 2-101, is
17 amended to read as follows:

18 Section 2-101. As used in the Uniform Controlled Dangerous
19 Substances Act:

20 1. "Administer" means the direct application of a controlled
21 dangerous substance, whether by injection, inhalation, ingestion or
22 any other means, to the body of a patient, animal or research
23 subject by:
24

1 a. a practitioner (or, in the presence of the
2 practitioner, by the authorized agent of the
3 practitioner), or

4 b. the patient or research subject at the direction and
5 in the presence of the practitioner;

6 2. "Agent" means a peace officer appointed by and who acts on
7 behalf of the Director of the Oklahoma State Bureau of Narcotics and
8 Dangerous Drugs Control or an authorized person who acts on behalf
9 of or at the direction of a person who manufactures, distributes,
10 dispenses, prescribes, administers or uses for scientific purposes
11 controlled dangerous substances but does not include a common or
12 contract carrier, public warehouser or employee thereof, or a person
13 required to register under the Uniform Controlled Dangerous
14 Substances Act;

15 3. "Board" means the Advisory Board to the Director of the
16 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;

17 4. "Bureau" means the Oklahoma State Bureau of Narcotics and
18 Dangerous Drugs Control;

19 5. "Coca leaves" includes cocaine and any compound,
20 manufacture, salt, derivative, mixture or preparation of coca
21 leaves, except derivatives of coca leaves which do not contain
22 cocaine or ecgonine;

23 6. "Commissioner" or "Director" means the Director of the
24 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;

1 7. "Control" means to add, remove or change the placement of a
2 drug, substance or immediate precursor under the Uniform Controlled
3 Dangerous Substances Act;

4 8. "Controlled dangerous substance" means a drug, substance or
5 immediate precursor in Schedules I through V of the Uniform
6 Controlled Dangerous Substances Act or any drug, substance or
7 immediate precursor listed either temporarily or permanently as a
8 federally controlled substance. Any conflict between state and
9 federal law with regard to the particular schedule in which a
10 substance is listed shall be resolved in favor of state law;

11 9. "Counterfeit substance" means a controlled substance which,
12 or the container or labeling of which without authorization, bears
13 the trademark, trade name or other identifying marks, imprint,
14 number or device or any likeness thereof of a manufacturer,
15 distributor or dispenser other than the person who in fact
16 manufactured, distributed or dispensed the substance;

17 10. "Deliver" or "delivery" means the actual, constructive or
18 attempted transfer from one person to another of a controlled
19 dangerous substance or drug paraphernalia, whether or not there is
20 an agency relationship;

21 11. "Dispense" means to deliver a controlled dangerous
22 substance to an ultimate user or human research subject by or
23 pursuant to the lawful order of a practitioner, including the
24 prescribing, administering, packaging, labeling or compounding

1 necessary to prepare the substance for such distribution.

2 "Dispenser" is a practitioner who delivers a controlled dangerous
3 substance to an ultimate user or human research subject;

4 12. "Distribute" means to deliver other than by administering
5 or dispensing a controlled dangerous substance;

6 13. "Distributor" means a commercial entity engaged in the
7 distribution or reverse distribution of narcotics and dangerous
8 drugs and who complies with all regulations promulgated by the
9 federal Drug Enforcement Administration and the Oklahoma State
10 Bureau of Narcotics and Dangerous Drugs Control;

11 14. "Drug" means articles:

- 12 a. recognized in the official United States Pharmacopeia,
13 official Homeopathic Pharmacopoeia of the United
14 States, or official National Formulary, or any
15 supplement to any of them,
- 16 b. intended for use in the diagnosis, cure, mitigation,
17 treatment or prevention of disease in man or other
18 animals,
- 19 c. other than food, intended to affect the structure or
20 any function of the body of man or other animals, and
- 21 d. intended for use as a component of any article
22 specified in this paragraph;

23 provided, however, the term "drug" does not include devices or their
24 components, parts or accessories;

1 15. "Drug-dependent person" means a person who is using a
2 controlled dangerous substance and who is in a state of psychic or
3 physical dependence, or both, arising from administration of that
4 controlled dangerous substance on a continuous basis. Drug
5 dependence is characterized by behavioral and other responses which
6 include a strong compulsion to take the substance on a continuous
7 basis in order to experience its psychic effects, or to avoid the
8 discomfort of its absence;

9 16. "Home care agency" means any sole proprietorship,
10 partnership, association, corporation, or other organization which
11 administers, offers, or provides home care services, for a fee or
12 pursuant to a contract for such services, to clients in their place
13 of residence;

14 17. "Home care services" means skilled or personal care
15 services provided to clients in their place of residence for a fee;

16 18. "Hospice" means a centrally administered, nonprofit or for-
17 profit, medically directed, nurse-coordinated program which provides
18 a continuum of home and inpatient care for the terminally ill
19 patient and the patient's family. Such term shall also include a
20 centrally administered, nonprofit or for-profit, medically directed,
21 nurse-coordinated program if such program is licensed pursuant to
22 the provisions of the Uniform Controlled Dangerous Substances Act.
23 A hospice program offers palliative and supportive care to meet the
24 special needs arising out of the physical, emotional and spiritual

1 stresses which are experienced during the final stages of illness
2 and during dying and bereavement. This care is available twenty-
3 four (24) hours a day, seven (7) days a week, and is provided on the
4 basis of need, regardless of ability to pay. "Class A" Hospice
5 refers to Medicare-certified hospices. "Class B" refers to all
6 other providers of hospice services;

7 19. "Imitation controlled substance" means a substance that is
8 not a controlled dangerous substance, which by dosage unit
9 appearance, color, shape, size, markings or by representations made,
10 would lead a reasonable person to believe that the substance is a
11 controlled dangerous substance. In the event the appearance of the
12 dosage unit is not reasonably sufficient to establish that the
13 substance is an "imitation controlled substance", the court or
14 authority concerned should consider, in addition to all other
15 factors, the following factors as related to "representations made"
16 in determining whether the substance is an "imitation controlled
17 substance":

- 18 a. statements made by an owner or by any other person in
19 control of the substance concerning the nature of the
20 substance, or its use or effect,
- 21 b. statements made to the recipient that the substance
22 may be resold for inordinate profit,
- 23 c. whether the substance is packaged in a manner normally
24 used for illicit controlled substances,

- d. evasive tactics or actions utilized by the owner or person in control of the substance to avoid detection by law enforcement authorities,
- e. prior convictions, if any, of an owner, or any other person in control of the object, under state or federal law related to controlled substances or fraud, and
- f. the proximity of the substances to controlled dangerous substances;

20. "Immediate precursor" means a substance which the Director has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used, or likely to be used, in the manufacture of a controlled dangerous substance, the control of which is necessary to prevent, curtail or limit such manufacture;

21. "Laboratory" means a laboratory approved by the Director as proper to be entrusted with the custody of controlled dangerous substances and the use of controlled dangerous substances for scientific and medical purposes and for purposes of instruction;

22. "Manufacture" means the production, preparation, propagation, compounding or processing of a controlled dangerous substance, either directly or indirectly by extraction from substances of natural or synthetic origin, or independently by means of chemical synthesis or by a combination of extraction and chemical

1 synthesis. "Manufacturer" includes any person who packages,
2 repackages or labels any container of any controlled dangerous
3 substance, except practitioners who dispense or compound
4 prescription orders for delivery to the ultimate consumer;

5 23. "Marijuana" means all parts of the plant Cannabis sativa
6 L., whether growing or not; the seeds thereof; the resin extracted
7 from any part of such plant; and every compound, manufacture, salt,
8 derivative, mixture or preparation of such plant, its seeds or
9 resin, but shall not include:

- 10 a. the mature stalks of such plant or fiber produced from
11 such stalks,
- 12 b. oil or cake made from the seeds of such plant,
13 including cannabidiol derived from the seeds of the
14 marijuana plant,
- 15 c. any other compound, manufacture, salt, derivative,
16 mixture or preparation of such mature stalks (except
17 the resin extracted therefrom), including cannabidiol
18 derived from mature stalks, fiber, oil or cake,
- 19 d. the sterilized seed of such plant which is incapable
20 of germination,
- 21 e. for any person participating in a clinical trial to
22 administer cannabidiol for the treatment of severe
23 forms of epilepsy pursuant to Section 2-802 of this
24 title, a drug or substance approved by the federal

Food and Drug Administration for use by those participants,

- f. for any person or the parents, legal guardians or caretakers of the person who have received a written certification from a physician licensed in this state that the person has been diagnosed by a physician as having Lennox-Gastaut syndrome, Dravet syndrome, also known as severe myoclonic epilepsy of infancy, or any other severe form of epilepsy that is not adequately treated by traditional medical therapies, spasticity due to multiple sclerosis or due to paraplegia, intractable nausea and vomiting, appetite stimulation with chronic wasting diseases, the substance cannabidiol, a nonpsychoactive cannabinoid, found in the plant *Cannabis sativa* L. or any other preparation thereof, that has a tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) and that is delivered to the patient in the form of a liquid,
- g. any federal Food-and-Drug-Administration-approved drug or substance, or
- h. industrial hemp, from the plant *Cannabis sativa* L. and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more

1 than three-tenths of one percent (0.3%) on a dry
2 weight basis which shall only be grown pursuant to the
3 Oklahoma Industrial Hemp Program and may be shipped
4 intrastate and interstate;

5 24. "Medical purpose" means an intention to utilize a
6 controlled dangerous substance for physical or mental treatment, for
7 diagnosis, or for the prevention of a disease condition not in
8 violation of any state or federal law and not for the purpose of
9 satisfying physiological or psychological dependence or other abuse;

10 25. "Mid-level practitioner" means an Advanced Practice
11 Registered Nurse as defined and within parameters specified in
12 Section 567.3a of Title 59 of the Oklahoma Statutes, or a certified
13 animal euthanasia technician as defined in Section 698.2 of Title 59
14 of the Oklahoma Statutes, or an animal control officer registered by
15 the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control
16 under subsection B of Section 2-301 of this title within the
17 parameters of such officer's duties under Sections 501 through 508
18 of Title 4 of the Oklahoma Statutes;

19 26. "Narcotic drug" means any of the following, whether
20 produced directly or indirectly by extraction from substances of
21 vegetable origin, or independently by means of chemical synthesis,
22 or by a combination of extraction and chemical synthesis:

23 a. opium, coca leaves and opiates,
24

- b. a compound, manufacture, salt, derivative or preparation of opium, coca leaves or opiates,
- c. cocaine, its salts, optical and geometric isomers, and salts of isomers,
- d. ecgonine, its derivatives, their salts, isomers and salts of isomers, and
- e. a substance, and any compound, manufacture, salt, derivative or preparation thereof, which is chemically identical with any of the substances referred to in subparagraphs a through d of this paragraph, except that the words "narcotic drug" as used in Section 2-101 et seq. of this title shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine;

27. "Opiate" or "opioid" means any Schedule II, III, IV or V substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. The terms do not include, unless specifically designated as controlled under the Uniform Controlled Dangerous Substances Act, the dextrorotatory isomer of 3-methoxy-n-methyl-morphinan and its salts (dextromethorphan). The terms do include the racemic and levorotatory forms;

1 28. "Opium poppy" means the plant of the species Papaver
2 somniferum L., except the seeds thereof;

3 29. "Palliative care" means patient-centered and family-focused
4 medical care that optimizes quality of life by anticipating,
5 preventing, and treating suffering caused by a medical illness or a
6 physical injury or condition that substantially affects the quality
7 of life of a patient. Palliative care includes, but is not limited
8 to:

- 9 a. addressing physical, emotional, social, and spiritual
10 needs,
- 11 b. facilitating patient autonomy and choice of care,
- 12 c. providing access to information,
- 13 d. discussing the goals of treatment for the patient and
14 treatment options including, when appropriate, hospice
15 care, and
- 16 e. managing pain and symptoms comprehensively.

17 Palliative care does not always include a requirement for hospice
18 care or attention to spiritual needs;

19 30. "Peace officer" means a police officer, sheriff, deputy
20 sheriff, district attorney's investigator, investigator from the
21 Office of the Attorney General, or any other person elected or
22 appointed by law to enforce any of the criminal laws of this state
23 or of the United States;

1 ~~30.~~ 31. "Person" means an individual, corporation, government
2 or governmental subdivision or agency, business trust, estate,
3 trust, partnership or association, or any other legal entity;

4 ~~31.~~ 32. "Poppy straw" means all parts, except the seeds, of the
5 opium poppy, after mowing;

6 ~~32.~~ 33. "Practitioner" means:

- 7 a. (1) a medical doctor or osteopathic physician,
8 (2) a dentist,
9 (3) a podiatrist,
10 (4) an optometrist,
11 (5) a veterinarian,
12 (6) a physician assistant or Advanced Practice
13 Registered Nurse under the supervision of a
14 licensed medical doctor or osteopathic physician,
15 (7) a scientific investigator, or
16 (8) any other person,
17 licensed, registered or otherwise permitted to
18 prescribe, distribute, dispense, conduct research with
19 respect to, use for scientific purposes or administer
20 a controlled dangerous substance in the course of
21 professional practice or research in this state, or
22 b. a pharmacy, hospital, laboratory or other institution
23 licensed, registered or otherwise permitted to
24 distribute, dispense, conduct research with respect

1 to, use for scientific purposes or administer a
2 controlled dangerous substance in the course of
3 professional practice or research in this state;

4 ~~33.~~ 34. "Production" includes the manufacture, planting,
5 cultivation, growing or harvesting of a controlled dangerous
6 substance;

7 ~~34.~~ 35. "State" means the State of Oklahoma or any other state
8 of the United States;

9 ~~35.~~ 36. "Ultimate user" means a person who lawfully possesses a
10 controlled dangerous substance for the person's own use or for the
11 use of a member of the person's household or for administration to
12 an animal owned by the person or by a member of the person's
13 household;

14 ~~36.~~ 37. "Drug paraphernalia" means all equipment, products and
15 materials of any kind which are used, intended for use, or fashioned
16 specifically for use in planting, propagating, cultivating, growing,
17 harvesting, manufacturing, compounding, converting, producing,
18 processing, preparing, testing, analyzing, packaging, repackaging,
19 storing, containing, concealing, injecting, ingesting, inhaling or
20 otherwise introducing into the human body, a controlled dangerous
21 substance in violation of the Uniform Controlled Dangerous
22 Substances Act including, but not limited to:

- 23 a. kits used, intended for use, or fashioned specifically
24 for use in planting, propagating, cultivating, growing

- or harvesting of any species of plant which is a controlled dangerous substance or from which a controlled dangerous substance can be derived,
- b. kits used, intended for use, or fashioned specifically for use in manufacturing, compounding, converting, producing, processing or preparing controlled dangerous substances,
 - c. isomerization devices used, intended for use, or fashioned specifically for use in increasing the potency of any species of plant which is a controlled dangerous substance,
 - d. testing equipment used, intended for use, or fashioned specifically for use in identifying, or in analyzing the strength, effectiveness or purity of controlled dangerous substances,
 - e. scales and balances used, intended for use, or fashioned specifically for use in weighing or measuring controlled dangerous substances,
 - f. diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or fashioned specifically for use in cutting controlled dangerous substances,

- g. separation gins and sifters used, intended for use, or fashioned specifically for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana,
- h. blenders, bowls, containers, spoons and mixing devices used, intended for use, or fashioned specifically for use in compounding controlled dangerous substances,
- i. capsules, balloons, envelopes and other containers used, intended for use, or fashioned specifically for use in packaging small quantities of controlled dangerous substances,
- j. containers and other objects used, intended for use, or fashioned specifically for use in parenterally injecting controlled dangerous substances into the human body,
- k. hypodermic syringes, needles and other objects used, intended for use, or fashioned specifically for use in parenterally injecting controlled dangerous substances into the human body,
- l. objects used, intended for use, or fashioned specifically for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

- (1) metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls,
 - (2) water pipes,
 - (3) carburetion tubes and devices,
 - (4) smoking and carburetion masks,
 - (5) roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand,
 - (6) miniature cocaine spoons and cocaine vials,
 - (7) chamber pipes,
 - (8) carburetor pipes,
 - (9) electric pipes,
 - (10) air-driven pipes,
 - (11) chillums,
 - (12) bongs, or
 - (13) ice pipes or chillers,
- m. all hidden or novelty pipes, and
- n. any pipe that has a tobacco bowl or chamber of less than one-half (1/2) inch in diameter in which there is any detectable residue of any controlled dangerous substance as defined in this section or any other substances not legal for possession or use;

1 provided, however, the term "drug paraphernalia" shall not include
2 separation gins intended for use in preparing tea or spice, clamps
3 used for constructing electrical equipment, water pipes designed for
4 ornamentation in which no detectable amount of an illegal substance
5 is found or pipes designed and used solely for smoking tobacco,
6 traditional pipes of an American Indian tribal religious ceremony,
7 or antique pipes that are thirty (30) years of age or older;

8 ~~37.~~

9 38. a. "Synthetic controlled substance" means a substance:

- 10 (1) the chemical structure of which is substantially
11 similar to the chemical structure of a controlled
12 dangerous substance in Schedule I or II,
13 (2) which has a stimulant, depressant, or
14 hallucinogenic effect on the central nervous
15 system that is substantially similar to or
16 greater than the stimulant, depressant or
17 hallucinogenic effect on the central nervous
18 system of a controlled dangerous substance in
19 Schedule I or II, or
20 (3) with respect to a particular person, which such
21 person represents or intends to have a stimulant,
22 depressant, or hallucinogenic effect on the
23 central nervous system that is substantially
24 similar to or greater than the stimulant,

1 depressant, or hallucinogenic effect on the
2 central nervous system of a controlled dangerous
3 substance in Schedule I or II.

4 b. The designation of gamma butyrolactone or any other
5 chemical as a precursor, pursuant to Section 2-322 of
6 this title, does not preclude a finding pursuant to
7 subparagraph a of this paragraph that the chemical is
8 a synthetic controlled substance.

9 c. "Synthetic controlled substance" does not include:

- 10 (1) a controlled dangerous substance,
11 (2) any substance for which there is an approved new
12 drug application,
13 (3) with respect to a particular person any
14 substance, if an exemption is in effect for
15 investigational use, for that person under the
16 provisions of Section 505 of the Federal Food,
17 Drug and Cosmetic Act, Title 21 of the United
18 States Code, Section 355, to the extent conduct
19 with respect to such substance is pursuant to
20 such exemption, or
21 (4) any substance to the extent not intended for
22 human consumption before such an exemption takes
23 effect with respect to that substance.

1 d. Prima facie evidence that a substance containing
2 salvia divinorum has been enhanced, concentrated or
3 chemically or physically altered shall give rise to a
4 rebuttable presumption that the substance is a
5 synthetic controlled substance;

6 ~~38.~~ 39. "Tetrahydrocannabinols" means all substances that have
7 been chemically synthesized to emulate the tetrahydrocannabinols of
8 marijuana;

9 ~~39.~~ 40. "Isomer" means the optical isomer, except as used in
10 subsections C and F of Section 2-204 of this title and paragraph 4
11 of subsection A of Section 2-206 of this title. As used in
12 subsections C and F of Section 2-204 of this title, "isomer" means
13 the optical, positional or geometric isomer. As used in paragraph 4
14 of subsection A of Section 2-206 of this title, the term "isomer"
15 means the optical or geometric isomer;

16 ~~40.~~ 41. "Hazardous materials" means materials, whether solid,
17 liquid or gas, which are toxic to human, animal, aquatic or plant
18 life, and the disposal of which materials is controlled by state or
19 federal guidelines;

20 ~~41.~~ 42. "Anhydrous ammonia" means any substance that exhibits
21 cryogenic evaporative behavior and tests positive for ammonia;

22 ~~42.~~ 43. "Acute pain" means pain, whether resulting from
23 disease, accidental or intentional trauma or other cause, that the
24 practitioner reasonably expects to last only a short period of time.

1 "Acute pain" does not include chronic pain, pain being treated as
2 part of cancer care, hospice or other end-of-life care, or pain
3 being treated as part of palliative care;

4 ~~43.~~ 44. "Chronic pain" means pain that persists beyond the
5 usual course of an acute disease or healing of an injury. "Chronic
6 pain" may or may not be associated with an acute or chronic
7 pathologic process that causes continuous or intermittent pain over
8 months or years;

9 ~~44.~~ 45. "Initial prescription" means a prescription issued to a
10 patient who:

- 11 a. has never previously been issued a prescription for
12 the drug or its pharmaceutical equivalent in the past
13 year, or
- 14 b. requires a prescription for the drug or its
15 pharmaceutical equivalent due to a surgical procedure
16 or new acute event and has previously had a
17 prescription for the drug or its pharmaceutical
18 equivalent within the past year.

19 When determining whether a patient was previously issued a
20 prescription for a drug or its pharmaceutical equivalent, the
21 practitioner shall consult with the patient and review the medical
22 record and prescription monitoring information of the patient;

23 ~~45.~~ 46. "Patient-provider agreement" means a written contract
24 or agreement that is executed between a practitioner and a patient,

1 prior to the commencement of treatment for chronic pain using an
2 opioid drug as a means to:

- 3 a. explain the possible risk of development of physical
4 or psychological dependence in the patient and prevent
5 the possible development of addiction,
- 6 b. document the understanding of both the practitioner
7 and the patient regarding the patient-provider
8 agreement of the patient,
- 9 c. establish the rights of the patient in association
10 with treatment and the obligations of the patient in
11 relation to the responsible use, discontinuation of
12 use, and storage of opioid drugs, including any
13 restrictions on the refill of prescriptions or the
14 acceptance of opioid prescriptions from practitioners,
- 15 d. identify the specific medications and other modes of
16 treatment, including physical therapy or exercise,
17 relaxation or psychological counseling, that are
18 included as a part of the patient-provider agreement,
- 19 e. specify the measures the practitioner may employ to
20 monitor the compliance of the patient including, but
21 not limited to, random specimen screens and pill
22 counts, and
- 23 f. delineate the process for terminating the agreement,
24 including the consequences if the practitioner has

1 reason to believe that the patient is not complying
2 with the terms of the agreement. Compliance with the
3 "consent items" shall constitute a valid, informed
4 consent for opioid therapy. The practitioner shall be
5 held harmless from civil litigation for failure to
6 treat pain if the event occurs because of nonadherence
7 by the patient with any of the provisions of the
8 patient-provider agreement;

9 ~~46.~~ 47. "Serious illness" means a medical illness or physical
10 injury or condition that substantially affects quality of life for
11 more than a short period of time. "Serious illness" includes, but
12 is not limited to, Alzheimer's disease or related dementias, lung
13 disease, cancer, heart failure, renal failure, liver failure or
14 chronic, unremitting or intractable pain such as neuropathic pain;
15 and

16 ~~47.~~ 48. "Surgical procedure" means a procedure that is
17 performed for the purpose of structurally altering the human body by
18 incision or destruction of tissues as part of the practice of
19 medicine. This term includes the diagnostic or therapeutic
20 treatment of conditions or disease processes by use of instruments
21 such as lasers, ultrasound, ionizing, radiation, scalpels, probes or
22 needles that cause localized alteration or transportation of live
23 human tissue by cutting, burning, vaporizing, freezing, suturing,
24 probing or manipulating by closed reduction for major dislocations

1 or fractures, or otherwise altering by any mechanical, thermal,
2 light-based, electromagnetic or chemical means.

3 SECTION 2. AMENDATORY 63 O.S. 2021, Section 2-309I, is
4 amended to read as follows:

5 Section 2-309I. A. A practitioner shall not issue an initial
6 prescription for an opioid drug in a quantity exceeding a seven-day
7 supply for treatment of acute pain. Any opioid prescription for
8 acute pain shall be for the lowest effective dose of an immediate-
9 release drug.

10 B. Prior to issuing an initial prescription for an opioid drug
11 in a course of treatment for acute or chronic pain, a practitioner
12 shall:

13 1. Take and document the results of a thorough medical history,
14 including the experience of the patient with nonopioid medication
15 and nonpharmacological pain-management approaches and substance
16 abuse history;

17 2. Conduct, as appropriate, and document the results of a
18 physical examination;

19 3. Develop a treatment plan with particular attention focused
20 on determining the cause of pain of the patient;

21 4. Access relevant prescription monitoring information from the
22 central repository pursuant to Section 2-309D of this title;

23 5. Limit the supply of any opioid drug prescribed for acute
24 pain to a duration of no more than seven (7) days as determined by

1 the directed dosage and frequency of dosage; provided, however, upon
2 issuing an initial prescription for acute pain pursuant to this
3 section, the practitioner may issue one (1) subsequent prescription
4 for an opioid drug in a quantity not to exceed seven (7) days if:

- 5 a. the subsequent prescription is due to a major surgical
6 procedure or "confined to home" status as defined in
7 42 U.S.C., Section 1395n(a),
- 8 b. the practitioner provides the subsequent prescription
9 on the same day as the initial prescription,
- 10 c. the practitioner provides written instructions on the
11 subsequent prescription indicating the earliest date
12 on which the prescription may be filled, otherwise
13 known as a "do not fill until" date, and
- 14 d. the subsequent prescription is dispensed no more than
15 five (5) days after the "do not fill until" date
16 indicated on the prescription;

17 6. In the case of a patient under the age of eighteen (18)
18 years, enter into a patient-provider agreement with a parent or
19 guardian of the patient; and

20 7. In the case of a patient who is a pregnant woman, enter into
21 a patient-provider agreement with the patient.

22 C. No less than seven (7) days after issuing the initial
23 prescription pursuant to subsection A of this section, the
24 practitioner, after consultation with the patient, may issue a

1 subsequent prescription for the drug to the patient in a quantity
2 not to exceed seven (7) days, provided that:

3 1. The subsequent prescription would not be deemed an initial
4 prescription under this section;

5 2. The practitioner determines the prescription is necessary
6 and appropriate to the treatment needs of the patient and documents
7 the rationale for the issuance of the subsequent prescription; and

8 3. The practitioner determines that issuance of the subsequent
9 prescription does not present an undue risk of abuse, addiction or
10 diversion and documents that determination.

11 D. Prior to issuing the initial prescription of an opioid drug
12 in a course of treatment for acute or chronic pain and again prior
13 to issuing the third prescription of the course of treatment, a
14 practitioner shall discuss with the patient or the parent or
15 guardian of the patient if the patient is under eighteen (18) years
16 of age and is not an emancipated minor, the risks associated with
17 the drugs being prescribed, including but not limited to:

18 1. The risks of addiction and overdose associated with opioid
19 drugs and the dangers of taking opioid drugs with alcohol,
20 benzodiazepines and other central nervous system depressants;

21 2. The reasons why the prescription is necessary;

22 3. Alternative treatments that may be available; and

23 4. Risks associated with the use of the drugs being prescribed,
24 specifically that opioids are highly addictive, even when taken as

1 prescribed, that there is a risk of developing a physical or
2 psychological dependence on the controlled dangerous substance, and
3 that the risks of taking more opioids than prescribed or mixing
4 sedatives, benzodiazepines or alcohol with opioids can result in
5 fatal respiratory depression.

6 The practitioner shall include a note in the medical record of
7 the patient that the patient or the parent or guardian of the
8 patient, as applicable, has discussed with the practitioner the
9 risks of developing a physical or psychological dependence on the
10 controlled dangerous substance and alternative treatments that may
11 be available. The applicable state licensing board of the
12 practitioner shall develop and make available to practitioners
13 guidelines for the discussion required pursuant to this subsection.

14 E. At the time of the issuance of the third prescription for an
15 opioid drug, the practitioner shall enter into a patient-provider
16 agreement with the patient.

17 F. When an opioid drug is continuously prescribed for three (3)
18 months or more for chronic pain, the practitioner shall:

19 1. Review, at a minimum of every three (3) months, the course
20 of treatment, any new information about the etiology of the pain,
21 and the progress of the patient toward treatment objectives and
22 document the results of that review;

23 2. In the first year of the patient-provider agreement, assess
24 the patient prior to every renewal to determine whether the patient

1 is experiencing problems associated with an opioid use disorder as
2 defined by the American Psychiatric Association and document the
3 results of that assessment. Following one (1) year of compliance
4 with the patient-provider agreement, the practitioner shall assess
5 the patient at a minimum of every six (6) months;

6 3. Periodically make reasonable efforts, unless clinically
7 contraindicated, to either stop the use of the controlled substance,
8 decrease the dosage, try other drugs or treatment modalities in an
9 effort to reduce the potential for abuse or the development of an
10 opioid use disorder as defined by the American Psychiatric
11 Association and document with specificity the efforts undertaken;

12 4. Review the central repository information in accordance with
13 Section 2-309D of this title; and

14 5. Monitor compliance with the patient-provider agreement and
15 any recommendations that the patient seek a referral.

16 G. 1. Any prescription for acute pain pursuant to this section
17 shall have the words "acute pain" notated on the face of the
18 prescription by the practitioner.

19 2. Any prescription for chronic pain pursuant to this section
20 shall have the words "chronic pain" notated on the face of the
21 prescription by the practitioner.

22 H. This section shall not apply to a prescription for a patient
23 ~~who:~~

24 1. Who has sickle cell disease;

1 2. Who is in treatment for cancer or receiving aftercare cancer
2 treatment,~~receiving;~~

3 3. Who is receiving hospice care from a licensed hospice,~~or;~~

4 4. Who is receiving palliative care, as such term is defined in
5 Section 2-101 of this title, in conjunction with a serious illness,
6 ~~or;~~

7 5. Who is a resident of a long-term care facility,~~or to;~~ or

8 6. For any medications that are being prescribed for use in the
9 treatment of substance abuse or opioid dependence.

10 I. Every policy, contract or plan delivered, issued, executed
11 or renewed in this state, or approved for issuance or renewal in
12 this state by the Insurance Commissioner, and every contract
13 purchased by the Employees Group Insurance Division of the Office of
14 Management and Enterprise Services, on or after November 1, 2018,
15 that provides coverage for prescription drugs subject to a
16 copayment, coinsurance or deductible shall charge a copayment,
17 coinsurance or deductible for an initial prescription of an opioid
18 drug prescribed pursuant to this section that is either:

19 1. Proportional between the cost sharing for a thirty-day
20 supply and the amount of drugs the patient was prescribed; or

21 2. Equivalent to the cost sharing for a full thirty-day supply
22 of the drug, provided that no additional cost sharing may be charged
23 for any additional prescriptions for the remainder of the thirty-day
24 supply.

1 J. Any practitioner authorized to prescribe an opioid drug
2 shall adopt and maintain a written policy or policies that include
3 execution of a written agreement to engage in an informed consent
4 process between the prescribing practitioner and qualifying opioid
5 therapy patient. For the purposes of this section, "qualifying
6 opioid therapy patient" means:

7 1. A patient requiring opioid treatment for more than three (3)
8 months;

9 2. A patient who is prescribed benzodiazepines and opioids
10 together for more than one twenty-four-hour period; or

11 3. A patient who is prescribed a dose of opioids that exceeds
12 one hundred (100) morphine equivalent doses.

13 K. Nothing in the Anti-Drug Diversion Act shall be construed to
14 require a practitioner to limit or forcibly taper a patient on
15 opioid therapy. The standard of care requires effective and
16 individualized treatment for each patient as deemed appropriate by
17 the prescribing practitioner without an administrative or codified
18 limit on dose or quantity that is more restrictive than approved by
19 the Food and Drug Administration (FDA).

20 SECTION 3. It being immediately necessary for the preservation
21 of the public peace, health or safety, an emergency is hereby
22 declared to exist, by reason whereof this act shall take effect and
23 be in full force from and after its passage and approval.

1 Passed the House of Representatives the 10th day of March, 2022.

2
3 _____
4 Presiding Officer of the House
of Representatives

5 Passed the Senate the ____ day of _____, 2022.

6
7 _____
8 Presiding Officer of the Senate