

2nd

OKLAHOMA STATE SENATE
CONFERENCE
COMMITTEE REPORT

May 20, 2022

Mr. President:

Mr. Speaker:

The Conference Committee, to which was referred

SB888

By: Standridge of the Senate and Marti of the House

Title: Controlled dangerous substances; providing for registration and regulation of pain management clinics; clarifying certain exception from electronic prescription requirements; requiring certain malpractice insurance; requiring reporting of certain deaths. Effective date.

together with Engrossed House Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the House recede from all Amendments.
2. That the attached Conference Committee Substitute be adopted.

Respectfully submitted,

SENATE CONFEREES:

Standridge

Rosino

Daniels

Simpson

Dossett (J.A.)

Young

Haste

HOUSE CONFEREES:

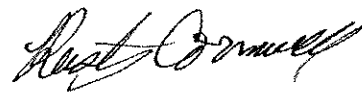
Conference Committee on Alcohol, Tobacco and Controlled Substances

Senate Action _____ Date _____ House Action _____ Date _____

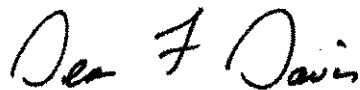
SB888 CCR2 (A)
HOUSE CONFEREES

Bennett, Forrest

Cornwell, Rusty



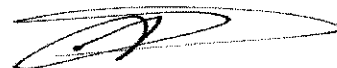
Davis, Dean



Echols, Jon

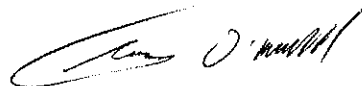
Fetgatter, Scott

Marti, T.J.



Nichols, Monroe

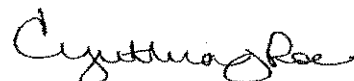
O'Donnell, Terry



Roberts, Dustin



Roe, Cynthia



STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

CONFERENCE COMMITTEE SUBSTITUTE

FOR ENGROSSED

SENATE BILL NO. 888

By: Standridge of the Senate

and

Marti of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to controlled dangerous substances; amending 63 O.S. 2021, Section 2-309, as last amended by Section 1, Chapter 259, O.S.L. 2021, which relates to electronic prescriptions; clarifying certain exception; amending 63 O.S. 2021, Section 2-309D, as last amended by Section 2 of Enrolled Senate Bill No. 1151 of the 2nd Session of the 58th Oklahoma Legislature, which relates to the central repository; requiring Oklahoma State Bureau of Narcotics and Dangerous Drugs Control to make certain determination upon certain notification; authorizing Bureau to report certain information to practitioner licensing boards; requiring certain health care providers and employers to carry specified malpractice insurance; defining terms; requiring pain management clinics to register with the Bureau; providing exemptions; stipulating registration procedures; requiring clinics to designate owner or administrator responsible for certain compliance; directing denial of registration for specified reasons; limiting period of suspension; requiring new registration application if clinic changes ownership; specifying responsibilities of licensed prescriber and designated administrator; providing facility and physical operations requirements; stipulating certain infection control requirements; providing certain quality assurance requirements; stipulating certain data collection and reporting requirements; requiring establishment of certain written policy; directing

1 certain investigation by Bureau; providing penalties;
2 directing promulgation of rules; providing certain
3 construction; amending 63 O.S. 2021, Section 942,
4 which relates to medical examiner reports; requiring
5 Chief Medical Examiner to furnish certain reports to
6 the Bureau; providing for codification; and providing
7 an effective date.

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

9 SECTION 1. AMENDATORY 63 O.S. 2021, Section 2-309, as
10 last amended by Section 1, Chapter 259, O.S.L. 2021, is amended to
11 read as follows:

12 Section 2-309. A. 1. Except for dosages medically required
13 for a period not to exceed forty-eight (48) hours which are
14 administered by or on direction of a practitioner, other than a
15 pharmacist, or medication dispensed directly by a practitioner,
16 other than a pharmacist, to an ultimate user, no controlled
17 dangerous substance included in Schedule II, which is a prescription
18 drug as determined under regulation promulgated by the Board of
19 Pharmacy, shall be dispensed without an electronic prescription of a
20 practitioner; provided, that in emergency situations, as prescribed
21 by the Board of Pharmacy by regulation, such drug may be dispensed
22 upon oral prescription reduced promptly to writing and filed by the
23 pharmacist in a manner to be prescribed by rules and regulations of
24 the Director of the Oklahoma State Bureau of Narcotics and Dangerous
Drugs Control.

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

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

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

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

- 13 a. a person licensed to practice veterinary medicine,
- 14 b. a practitioner who experiences temporary technological
15 or electrical failure or other extenuating
16 circumstance that prevents the prescription from being
17 transmitted electronically; provided, however, that
18 the practitioner documents the reason for this
19 exception in the medical record of the patient,
- 20 c. a practitioner, other than a pharmacist, who dispenses
21 directly to an ultimate user,
- 22 d. a practitioner who orders a controlled dangerous
23 substance to be administered through an on-site
24 pharmacy in:

- (1) a hospital as defined in Section 1-701 of this title,
 - (2) a nursing facility as defined in Section 1-1902 of this title,
 - (3) a hospice inpatient facility as defined in Section 1-860.2 of this title,
 - (4) an outpatient dialysis facility,
 - (5) a continuum of care facility as defined in Section 1-890.2 of this title, or
 - (6) a penal institution listed in Section 509 of Title 57 of the Oklahoma Statutes,
- e. a practitioner who orders a controlled dangerous substance to be administered through a hospice program as defined in Section 1-860.2 of this title including but not limited to a hospice program that provides outpatient services,
- f. a practitioner who writes a prescription to be dispensed by a pharmacy located on federal property, provided the practitioner documents the reason for this exception in the medical record of the patient, or
- g. a practitioner that has received a waiver or extension 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 section.

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
24

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. AMENDATORY 63 O.S. 2021, Section 2-309D, as
18 last amended by Section 2 of Enrolled Senate Bill No. 1151 of the
19 2nd Session of the 58th Oklahoma Legislature, is amended to read as
20 follows:

21 Section 2-309D. A. The information collected at the central
22 repository pursuant to the Anti-Drug Diversion Act shall be
23 confidential and shall not be open to the public. Access to the
24 information shall be limited to:

1 1. Peace officers certified pursuant to Section 3311 of Title
2 70 of the Oklahoma Statutes who are employed as investigative agents
3 of the Oklahoma State Bureau of Narcotics and Dangerous Drugs
4 Control;

5 2. The United States Drug Enforcement Administration Diversion
6 Group Supervisor;

7 3. The executive director or chief investigator, as designated
8 by each board, of the following state boards:

- 9 a. Board of Podiatric Medical Examiners,
- 10 b. Board of Dentistry,
- 11 c. Board of Pharmacy,
- 12 d. State Board of Medical Licensure and Supervision,
- 13 e. State Board of Osteopathic Examiners,
- 14 f. State Board of Veterinary Medical Examiners,
- 15 g. Oklahoma Health Care Authority,
- 16 h. Department of Mental Health and Substance Abuse
17 Services,
- 18 i. Board of Examiners in Optometry,
- 19 j. Oklahoma Board of Nursing,
- 20 k. Office of the Chief Medical Examiner, and
- 21 l. State Board of Health;

22 4. A multicounty grand jury properly convened pursuant to the
23 Multicounty Grand Jury Act;

1 5. Medical practitioners employed by the United States
2 Department of Veterans Affairs, the United States Military, or other
3 federal agencies treating patients in this state;

4 6. At the discretion of the Director of the Oklahoma State
5 Bureau of Narcotics and Dangerous Drugs Control, medical
6 practitioners and their staff including those employed by the
7 federal government in this state; and

8 7. The members of the Opioid Overdose Fatality Review Board for
9 the purpose of carrying out the duties prescribed by Section 2-1001
10 of this title.

11 B. This section shall not prevent access, at the discretion of
12 the Director of the Oklahoma State Bureau of Narcotics and Dangerous
13 Drugs Control, to investigative information by peace officers and
14 investigative agents of federal, state, tribal, county or municipal
15 law enforcement agencies, district attorneys and the Attorney
16 General in furtherance of criminal, civil or administrative
17 investigations or prosecutions within their respective
18 jurisdictions, designated legal, communications, and analytical
19 employees of the Bureau, and to registrants in furtherance of
20 efforts to guard against the diversion of controlled dangerous
21 substances.

22 C. This section shall not prevent the disclosure, at the
23 discretion of the Director of the Oklahoma State Bureau of Narcotics
24 and Dangerous Drugs Control, of statistical information gathered

1 from the central repository to the general public for statistical,
2 research, substance abuse prevention, or educational purposes,
3 provided that consumer confidentiality is not compromised.

4 D. This section shall not prevent the disclosure, at the
5 discretion of the Director of the Oklahoma State Bureau of Narcotics
6 and Dangerous Drugs Control, of prescription-monitoring-program
7 information to prescription-monitoring programs of other states
8 provided a reciprocal data-sharing agreement is in place.

9 E. The Department of Mental Health and Substance Abuse Services
10 and the State Department of Health may utilize the information in
11 the central repository for statistical, research, substance abuse
12 prevention, or educational purposes, provided that consumer
13 confidentiality is not compromised.

14 F. Any unauthorized disclosure of any information collected at
15 the central repository provided by the Anti-Drug Diversion Act shall
16 be a misdemeanor. Violation of the provisions of this section shall
17 be deemed willful neglect of duty and shall be grounds for removal
18 from office.

19 G. 1. Registrants shall have access to the central repository
20 for the purposes of patient treatment and to aid in the
21 determination in prescribing or screening new patients. The
22 physician or designee shall provide, upon request by the patient,
23 the history of the patient or the query history of the patient.
24

1 2. a. Prior to prescribing or authorizing for refill, if one
2 hundred eighty (180) days have elapsed prior to the
3 previous access and check, of opiates, synthetic
4 opiates, semisynthetic opiates, benzodiazepine or
5 carisoprodol to a patient of record, registrants or
6 members of their medical or administrative staff shall
7 be required to access the information in the central
8 repository to assess medical necessity and the
9 possibility that the patient may be unlawfully
10 obtaining prescription drugs in violation of the
11 Uniform Controlled Dangerous Substances Act. The duty
12 to access and check shall not alter or otherwise amend
13 appropriate medical standards of care. The registrant
14 or medical provider shall note in the patient file
15 that the central repository has been checked and may
16 maintain a copy of the information.

17 b. The requirements set forth in subparagraph a of this
18 paragraph shall not apply:

19 (1) to medical practitioners who prescribe the
20 controlled substances set forth in subparagraph a
21 of this paragraph for hospice or end-of-life
22 care, or

23 (2) for a prescription of a controlled substance set
24 forth in subparagraph a of this paragraph that is

1 issued by a practitioner for a patient residing
2 in a nursing facility as defined by Section 1-
3 1902 of this title, provided that the
4 prescription is issued to a resident of such
5 facility.

6 3. Registrants shall not be liable to any person for any claim
7 of damages as a result of accessing or failing to access the
8 information in the central repository and no lawsuit may be
9 predicated thereon.

10 4. The failure of a registrant to access and check the central
11 repository as required under state or federal law or regulation may,
12 after investigation, be grounds for the licensing board of the
13 registrant to take disciplinary action against the registrant.

14 H. The Board of Podiatric Medical Examiners, the Board of
15 Dentistry, the State Board of Medical Licensure and Supervision, the
16 Board of Examiners in Optometry, the Oklahoma Board of Nursing, the
17 State Board of Osteopathic Examiners and the State Board of
18 Veterinary Medical Examiners shall have the sole responsibility for
19 enforcement of the provisions of subsection G of this section.
20 Nothing in this section shall be construed so as to permit the
21 Director of the State Bureau of Narcotics and Dangerous Drugs
22 Control to assess administrative fines provided for in Section 2-304
23 of this title.
24

1 I. The Director of the Oklahoma State Bureau of Narcotics and
2 Dangerous Drugs Control, or a designee thereof, shall provide a
3 monthly list to the Directors of the Board of Podiatric Medical
4 Examiners, the Board of Dentistry, the State Board of Medical
5 Licensure and Supervision, the Board of Examiners in Optometry, the
6 Oklahoma Board of Nursing, the State Board of Osteopathic Examiners
7 and the State Board of Veterinary Medical Examiners of the top
8 twenty prescribers of controlled dangerous substances within their
9 respective areas of jurisdiction. Upon discovering that a
10 registrant is prescribing outside the limitations of his or her
11 licensure or outside of drug registration rules or applicable state
12 laws, the respective licensing board shall be notified by the Bureau
13 in writing. Such notifications may be considered complaints for the
14 purpose of investigations or other actions by the respective
15 licensing board. Licensing boards shall have exclusive jurisdiction
16 to take action against a licensee for a violation of subsection G of
17 this section.

18 J. Information regarding fatal and nonfatal overdoses, other
19 than statistical information as required by Section 2-106 of this
20 title, shall be completely confidential. Access to this information
21 shall be strictly limited to the Director of the Oklahoma State
22 Bureau of Narcotics and Dangerous Drugs Control or designee, the
23 Chief Medical Examiner, state agencies and boards provided in
24 subsection A of this section, and the registrant that enters the

1 information. Registrants shall not be liable to any person for a
2 claim of damages for information reported pursuant to the provisions
3 of Section 2-105 of this title.

4 K. The Director of the Oklahoma State Bureau of Narcotics and
5 Dangerous Drugs Control shall provide adequate means and procedures
6 allowing access to central repository information for registrants
7 lacking direct computer access.

8 L. Upon completion of an investigation in which it is
9 determined that a death was caused by an overdose, either
10 intentionally or unintentionally, of a controlled dangerous
11 substance, the medical examiner shall be required to report the
12 decedent's name and date of birth to the Oklahoma State Bureau of
13 Narcotics and Dangerous Drugs Control. The Oklahoma State Bureau of
14 Narcotics and Dangerous Drugs Control shall be required to maintain
15 a database containing the classification of medical practitioners
16 who prescribed or authorized controlled dangerous substances
17 pursuant to this subsection.

18 M. The Oklahoma State Bureau of Narcotics and Dangerous Drugs
19 Control is authorized to provide unsolicited notification to the
20 licensing board of a pharmacist or practitioner if a patient has
21 received one or more prescriptions for controlled substances in
22 quantities or with a frequency inconsistent with generally
23 recognized standards of safe practice. An unsolicited notification
24 to the licensing board of the practitioner pursuant to this section:

1 1. Is confidential;

2 2. May not disclose information that is confidential pursuant
3 to this section; and

4 3. May be in a summary form sufficient to provide notice of the
5 basis for the unsolicited notification.

6 N. Except as otherwise provided for in subsections A and B of
7 this section, any information collected at the central repository,
8 as outlined in Section 2-309C of this title, shall:

9 1. Be confidential by law and privileged;

10 2. Not be subject to the Oklahoma Open Records Act;

11 3. Not be subject to subpoena; and

12 4. Not be subject to discovery or admissible in evidence in any
13 private civil action.

14 O. Beginning January 1, 2024, upon receipt of a report from the
15 Chief Medical Examiner in which the cause of death or a contributing
16 factor to the death was determined to be one or more opioid drugs as
17 described in subsection B of Section 942 of this title, the Oklahoma
18 State Bureau of Narcotics and Dangerous Drugs Control shall search
19 the decedent in the central repository to determine if the decedent
20 had been prescribed one or more opioid drugs at any point in the
21 year prior to the death. Beginning January 1, 2024, if the Bureau
22 determines that the decedent had been prescribed one or more opioid
23 drugs at any point in the year prior to the death, the Bureau may
24 report the name of the prescribing practitioner to the

1 practitioner's licensing board and may report any other information
2 from the central repository requested by the licensing board
3 pertaining to the death for the purposes of investigation by the
4 licensing board.

5 SECTION 3. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 2-312.3 of Title 63, unless
7 there is created a duplication in numbering, reads as follows:

8 Any licensed practitioner as defined in Section 353.1 of Title
9 59 of the Oklahoma Statutes other than a veterinarian, or any health
10 care provider other than a licensed practitioner, who has the
11 authority to prescribe, dispense, or administer any controlled
12 dangerous substance under Section 2-312 of Title 63 of the Oklahoma
13 Statutes, or his or her employer on his or her behalf, shall carry
14 malpractice insurance or demonstrate proof of financial
15 responsibility in a minimum amount of One Million Dollars
16 (\$1,000,000.00) per occurrence and Three Million Dollars
17 (\$3,000,000.00) in the aggregate per year.

18 SECTION 4. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 2-1102 of Title 63, unless there
20 is created a duplication in numbering, reads as follows:

21 As used in this act:

22 1. "Chronic nonmalignant pain" means pain unrelated to cancer
23 which persists beyond the usual course of disease or the injury that
24

1 is the cause of the pain or more than ninety (90) calendar days
2 after surgery;

3 2. "Licensed prescriber" means a licensed practitioner as
4 defined in Section 353.1 of Title 59 of the Oklahoma Statutes other
5 than a veterinarian, or any health care provider other than a
6 licensed practitioner, who has the authority to prescribe any
7 controlled dangerous substance under Section 2-312 of Title 63 of
8 the Oklahoma Statutes; and

9 3. "Pain management clinic" or "clinic" means any publicly or
10 privately owned facility:

- 11 a. that engages in significant paid advertising in any
12 medium for any type of pain management services, and
- 13 b. where in any month over sixty percent (60%) of
14 patients who are not being seen for hospice or
15 palliative care are prescribed opioids,
16 benzodiazepines, barbiturates, or carisoprodol for the
17 treatment of chronic nonmalignant pain.

18 SECTION 5. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 2-1103 of Title 63, unless there
20 is created a duplication in numbering, reads as follows:

21 A. Each pain management clinic shall register with the Oklahoma
22 State Bureau of Narcotics and Dangerous Drugs Control unless:
23
24

1 1. The clinic is affiliated with an accredited medical school
2 at which training is provided for medical students, residents, or
3 fellows;

4 2. The clinic does not prescribe controlled dangerous
5 substances for the treatment of pain;

6 3. The clinic primarily treats hospice or palliative care
7 patients; or

8 4. A majority of the patients treated by the clinic are treated
9 for acute pain.

10 B. Each clinic location shall be registered separately
11 regardless of whether the clinic is operated under the same business
12 name or management as another clinic and each clinic location shall
13 be a permanent, fixed, physical address of operation.

14 C. As a part of registration, a clinic shall designate an owner
15 or administrator who is responsible for ensuring compliance with all
16 requirements related to registration and operation of the clinic
17 under this act. Within ten (10) calendar days after termination of
18 a designated administrator, the clinic shall notify the Bureau of
19 the identity of another designated administrator for that clinic.
20 Failing to have a designated administrator at the location of the
21 registered clinic may be the basis for a summary suspension of the
22 clinic registration certificate as described in this section.

1 D. The Bureau shall deny registration to any pain management
2 clinic owned by or with any contractual or employment relationship
3 with a licensed prescriber:

4 1. Whose Drug Enforcement Administration number has ever been
5 revoked;

6 2. Whose application for a license to prescribe, dispense, or
7 administer a controlled substance has been denied for disciplinary
8 action by the appropriate licensing board; or

9 3. Who has been convicted of or pleaded guilty or nolo
10 contendere to, regardless of adjudication, an offense that
11 constitutes a felony for receipt of illicit or diverted drugs
12 including a controlled substance listed in Schedule I, II, III, IV,
13 or V of the Uniform Controlled Dangerous Substances Act, in this
14 state, any other state, or the United States.

15 E. If the Bureau finds that a pain management clinic is owned,
16 directly or indirectly, by a person meeting any criteria listed in
17 subsection D of this section, the Bureau shall revoke the
18 certificate of registration previously issued by the Bureau. As
19 determined by rule, the Bureau may grant an exemption to denying a
20 registration or revoking a previously issued registration if more
21 than five (5) years have elapsed since adjudication. As used in
22 this section, the term "convicted" includes an adjudication of guilt
23 following a plea of guilty or nolo contendere or the forfeiture of a
24 bond when charged with a crime.

1 F. If the registration of a pain management clinic is revoked
2 or suspended, the designated administrator of the pain management
3 clinic, the owner or lessor of the pain management clinic property,
4 the manager, and the proprietor shall cease to operate the facility
5 as a pain management clinic as of the effective date of the
6 suspension or revocation.

7 G. If a pain management clinic registration is revoked or
8 suspended, the designated administrator of the pain management
9 clinic, the owner or lessor of the clinic property, the manager, or
10 the proprietor is responsible for removing all signs and symbols
11 identifying the premises as a pain management clinic.

12 H. If the clinic's registration is revoked, any person named in
13 the registration documents of the pain management clinic including
14 persons owning or operating the pain management clinic, shall not,
15 as an individual or as a part of a group, apply to operate a pain
16 management clinic for one (1) year after the date the registration
17 is revoked.

18 I. The period of suspension for the registration of a pain
19 management clinic shall be prescribed by the Bureau but shall not
20 exceed one (1) year.

21 J. A change of ownership of a registered pain management clinic
22 shall require submission of a new registration application.
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24

1 SECTION 6. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2-1104 of Title 63, unless there
3 is created a duplication in numbering, reads as follows:

4 A. A licensed prescriber shall not be employed or contracted by
5 or otherwise practice in a pain management clinic if the clinic is
6 not licensed by the Oklahoma State Bureau of Narcotics and Dangerous
7 Drugs Control under this act and registered with the Bureau under
8 Section 2-301 et seq. of Title 63 of the Oklahoma Statutes. A
9 licensed prescriber who qualifies to practice in a pain management
10 clinic pursuant to rules adopted by the appropriate licensing board
11 may continue to practice in a pain management clinic as long as the
12 licensed prescriber continues to meet the qualifications prescribed
13 in the rules. A licensed prescriber who violates this subsection is
14 subject to disciplinary action by the appropriate licensing board.

15 B. Only a licensed prescriber licensed in this state and
16 authorized to prescribe controlled dangerous substances under
17 Section 2-312 of Title 63 of the Oklahoma Statutes may prescribe a
18 controlled dangerous substance on the premises of a registered pain
19 management clinic and only to the extent allowed by Section 2-312 of
20 Title 63 of the Oklahoma Statutes. No person shall dispense any
21 Schedule II controlled dangerous substance on the premises of a pain
22 management clinic. The provisions of this subsection shall not be
23 construed to expand or otherwise modify the prescriptive authority
24 of any licensed prescriber.

1 C. A licensed prescriber shall perform a physical examination
2 of a patient on the same day that the licensed prescriber prescribes
3 a controlled substance to a patient at a pain management clinic.

4 D. A licensed prescriber authorized to prescribe controlled
5 dangerous substances who practices at a pain management clinic is
6 responsible for maintaining the control and security of his or her
7 prescription blanks and any other method used for prescribing
8 controlled dangerous substance pain medication. The licensed
9 prescriber shall notify, in writing, the Bureau within twenty-four
10 (24) hours following any theft or loss of a prescription blank or
11 breach of any other method for prescribing pain medication. The
12 provisions of this subsection shall not be construed to exempt a
13 licensed prescriber from any electronic prescription requirements
14 stipulated in Section 2-309 of Title 63 of the Oklahoma Statutes.

15 E. The designated administrator of a pain management clinic
16 shall notify the Bureau in writing of the date of termination of
17 employment within ten (10) calendar days after terminating his or
18 her employment with a pain management clinic that is required to be
19 registered pursuant to this act.

20 F. The owners of a pain management clinic are jointly
21 responsible for ensuring compliance with the following facility and
22 physical operations requirements:

23 1. A pain management clinic shall be located and operated at a
24 publicly accessible fixed location and shall:

- a. display a sign that can be viewed by the public that contains the clinic name, hours of operations, and a street address,
- b. have a publicly listed telephone number and a dedicated phone number to send and receive facsimiles,
- c. have a reception and waiting area,
- d. provide a restroom,
- e. have private patient examination rooms,
- f. have treatment rooms, if treatment is being provided to the patients, and
- g. display a printed sign located in a conspicuous place in the waiting room viewable by the public with the name and contact information of the clinic's designated administrator and the names of all licensed prescribers practicing in the clinic; and

2. This section does not excuse a licensed prescriber from providing any treatment or performing any medical duty without the proper equipment and materials as required by the standard of care. This section does not supersede the level of care, skill, or treatment recognized in general law related to health care licensure.

G. Each owner or designated administrator of a pain management clinic is responsible for ensuring compliance with infection

1 prevention and control requirements stipulated by the Occupational
2 Safety and Health Administration.

3 H. The designated administrator shall establish a quality
4 assurance program that includes the identification, investigation,
5 and analysis of the frequency and causes of adverse incidents to
6 patients. The designated administrator is responsible for ensuring
7 compliance with the quality assurance requirements.

8 I. The designated administrator is responsible for ensuring
9 compliance with the following data collection and reporting
10 requirements:

11 1. The designated administrator for each pain management clinic
12 shall report all significant adverse incidents to the Bureau; and

13 2. The designated administrator shall also report to the
14 Bureau, in writing, on a quarterly basis the following data:

15 a. the number of new and repeat patients seen and treated
16 at the clinic who are prescribed controlled dangerous
17 substance medications for the treatment of chronic,
18 nonmalignant pain,

19 b. the number of patients diagnosed with substance use
20 disorder,

21 c. the number of patients discharged due to drug
22 diversion, and

23 d. the number of patients treated at the clinic whose
24 domicile is located somewhere other than in this

1 state. A patient's domicile is the patient's fixed or
2 permanent home to which he or she intends to return
3 even though he or she may temporarily reside
4 elsewhere.

5 J. The data and reports specified in subsection I of this
6 section shall be accessible to each appropriate licensing board.

7 K. Each pain management clinic shall establish a written policy
8 and administrative process for transferring care of patients
9 diagnosed with a substance use disorder where appropriate for their
10 continued treatment. Each appropriate licensing board shall issue
11 guidance on best practices to ensure appropriate referral and
12 treatment of patients with a substance use disorder.

13 L. Upon referral by the appropriate licensing board, the Bureau
14 shall investigate suspected instances of drug diversion involving a
15 pain management clinic. Nothing in this act shall be construed to
16 restrict the appropriate licensing board from conducting its own
17 investigation into instances of suspected drug diversion.

18 SECTION 7. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 2-1105 of Title 63, unless there
20 is created a duplication in numbering, reads as follows:

21 A. The Oklahoma State Bureau of Narcotics and Dangerous Drugs
22 Control may impose an administrative fine on a clinic of up to One
23 Thousand Dollars (\$1,000.00) per violation for violating the
24

1 requirements of this act or the rules promulgated by the Bureau to
2 enforce this act.

3 B. Each day a violation continues after the date fixed for
4 termination of the violation as ordered by the Bureau constitutes an
5 additional, separate, and distinct violation.

6 C. The Bureau may impose a fine and, in the case of an owner-
7 operated pain management clinic, revoke or deny a pain management
8 clinic's registration if the clinic's owner or designated
9 administrator knowingly and intentionally misrepresents actions
10 taken to correct a violation.

11 D. An owner or designated administrator of a pain management
12 clinic who concurrently operates an unregistered pain management
13 clinic is subject to an administrative fine of One Thousand Dollars
14 (\$1,000.00) per day.

15 E. If the owner of a pain management clinic that requires
16 registration fails to apply to register the clinic upon a change of
17 ownership and operates the clinic under the new ownership, the owner
18 is subject to a fine of One Thousand Dollars (\$1,000.00).

19 SECTION 8. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 2-1106 of Title 63, unless there
21 is created a duplication in numbering, reads as follows:

22 The Oklahoma State Bureau of Narcotics and Dangerous Drugs
23 Control and all appropriate licensing boards shall promulgate such
24 rules as are necessary to implement the provisions of this act.

SECTION 9. AMENDATORY 63 O.S. 2021, Section 942, is

amended to read as follows:

Section 942. A. 1. Upon completion of an investigation, the medical examiner shall reduce his or her findings to writing upon the form supplied to the medical examiner which shall be promptly sent to the Chief Medical Examiner by mail.

2. If the medical examiner finds that the deceased had illicit, prescription or nonprescription drugs in his or her system at the time of death, the medical examiner shall document in his or her findings if the death was:

- a. a natural or accidental death with drug involvement,
- b. a homicide by drugs,
- c. a suicide by drug overdose, or
- d. a death with drug involvement, but the manner of death could not be determined.

3. A fatality shall not be considered a drug-related death unless the medical examiner determines that the drug or drugs present in the deceased materially contributed to the death.

B. Copies of reports shall be furnished by the Chief Medical Examiner to investigating agencies having official interest therein. Copies of reports shall also be furnished to the spouse of the deceased or any person within one degree of consanguinity of the deceased upon request and within five (5) business days of the request once the cause and manner of death have been determined and

1 the death certificate has been issued. Beginning January 1, 2024,
2 the Chief Medical Examiner shall furnish a copy of any report in
3 which the cause of death or a contributing factor to the death was
4 determined to be one or more opioid drugs to the Oklahoma State
5 Bureau of Narcotics and Dangerous Drugs Control for the purpose of
6 implementing the provisions of subsection 0 of Section 2-309D of
7 this title.

8 SECTION 10. This act shall become effective November 1, 2022.

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