

1 **SENATE FLOOR VERSION**

2 March 29, 2021

3 ENGROSSED HOUSE
4 BILL NO. 2676

By: Marti and Davis of the
House

5 and

6 Weaver and Bullard of the
7 Senate

8
9 An Act relating to public health and safety; amending
10 63 O.S. 2011, Section 2-309, as last amended by
11 Section 1, Chapter 255, O.S.L. 2018 (63 O.S. Supp.
12 2020, Section 2-309), which relates to the Uniform
13 Controlled Dangerous Substances Act; updating name of
14 agency; exempting certain practitioners from
15 electronic prescription requirements for controlled
16 dangerous substances; allowing for the utilization of
17 electronic prescriptions under certain circumstances;
18 modifying internal statutory references; requiring
19 practitioners to register with certain agency in
20 order to purchase prescription forms; removing fee
21 exemption and time period for valid registrations;
22 directing practitioners to purchase prescription
23 forms from list of approved vendors; allowing certain
24 content to be included on prescription forms;
expanding definition to allow for the inclusion of
certain information on electronic prescriptions;
clarifying authority of licensed practitioners to
purchase prescription forms; and providing an
effective date.

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

22 SECTION 1. AMENDATORY 63 O.S. 2011, Section 2-309, as
23 last amended by Section 1, Chapter 255, O.S.L. 2018 (63 O.S. Supp.
24 2020, Section 2-309), is amended to read as follows:

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

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

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

21 4. Prescriptions shall be retained in conformity with the
22 requirements of this section and Section 2-307 of this title. No
23 prescription for a Schedule II substance may be refilled.
24

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

- 4 a. a person licensed to practice veterinary medicine,
- 5 b. a practitioner who experiences temporary technological
6 or electrical failure or other extenuating
7 circumstance that prevents the prescription from being
8 transmitted electronically; provided, however, that
9 the practitioner documents the reason for this
10 exception in the medical record of the patient,
- 11 c. a practitioner, other than a pharmacist, who dispenses
12 directly to an ultimate user,
- 13 d. a practitioner who orders a controlled dangerous
14 substance to be administered through an on-site
15 pharmacy in:
 - 16 (1) a hospital as defined in Section 1-701 of this
17 title,
 - 18 (2) a nursing facility as defined in Section 1-1902
19 of this title,
 - 20 (3) a hospice inpatient facility as defined in
21 Section 1-860.2 of this title,
 - 22 (4) an outpatient dialysis facility,
 - 23 (5) a continuum of care facility as defined in
24 Section 1-890.2 of this title, or

- 1 (6) a penal institution listed in Section 509 of
2 Title 57 of the Oklahoma Statutes,
3 e. a practitioner who writes a prescription to be
4 dispensed by a pharmacy located on federal property,
5 provided the practitioner documents the reason for
6 this exception in the medical record of the patient,
7 ~~or~~
8 f. a practitioner that has received a waiver or extension
9 from his or her licensing board,
10 g. a practitioner who prescribes a controlled dangerous
11 substance for a supply that when taken as prescribed
12 would be consumed within seventy-two (72) hours, or
13 h. a practitioner who determines that an electronic
14 prescription cannot be issued in a timely manner and
15 the condition of the patient is at risk.

16 6. Electronic prescriptions ~~shall not~~ may be utilized under the
17 following circumstances:

- 18 a. ~~compound~~ compounded prescriptions ~~containing two or~~
19 ~~more commercially available products or two or more~~
20 ~~active pharmaceutical ingredients,~~
21 b. compounded infusion prescriptions ~~containing two or~~
22 ~~more commercially available products or two or more~~
23 ~~active pharmaceutical ingredients, or~~
24

1 c. prescriptions issued under approved research
2 protocols,~~or~~

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

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

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

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

19 10. a. ~~Effective January 1, 2020, practitioners~~ Practitioners
20 shall ~~register~~ be registered with the Oklahoma State
21 Bureau of Narcotics and Dangerous Drugs Control in
22 order to ~~be issued~~ purchase official prescription
23 forms. Such registration shall include, but not be
24 limited to, the primary address and the address of

1 each place of business to be imprinted on official
2 prescription forms. Any change to a registered
3 practitioner's registered address shall be promptly
4 reported to the practitioner's licensing board and the
5 Bureau by the practitioner in a manner approved by the
6 Bureau.

7 b. ~~A practitioner's registration shall be without fee and~~
8 ~~subject to approval by the Bureau. Such registration~~
9 ~~shall be valid for a period of two (2) years and may~~
10 ~~be denied, suspended or revoked by the Bureau upon a~~
11 ~~finding by the Bureau or licensing board that the~~
12 ~~registered practitioner has had any license to~~
13 ~~practice a medical profession revoked or suspended by~~
14 ~~any state or federal agency.~~

15 e. Where the Bureau has revoked the registration of a
16 registered practitioner, the Bureau may revoke or
17 cancel any official prescription forms in the
18 possession of the registered practitioner. Any
19 revocation or any suspension shall require the
20 registered practitioner to return all unused official
21 prescription forms to the Bureau within fifteen (15)
22 calendar days after the date of the written
23 notification.
24

1 ~~d.~~ c. A practitioner that has had any license to practice
2 terminated, revoked or suspended by a state or federal
3 agency may, upon restoration of such license or
4 certificate, register ~~to be issued official~~
5 ~~prescription forms~~ with the Bureau.

6 11. a. ~~Except as provided in subparagraph f of this~~
7 ~~paragraph, the Bureau shall issue official~~ Official
8 ~~prescription forms free of charge only to registered~~
9 ~~practitioners in this state. Such forms shall not be~~
10 ~~transferable. The number of official prescription~~
11 ~~forms issued to a registered~~ shall be purchased at the
12 expense of the practitioner at any time shall be at
13 ~~the discretion of~~ or the employer of the practitioner
14 from a list of vendors approved by the Bureau.

15 b. Official prescription forms issued to a registered
16 practitioner shall be imprinted ~~only~~ with the primary
17 address and may include other addresses listed on the
18 registration of the practitioner to identify the place
19 of origin. Such prescriptions shall be sent only to
20 the primary address of the registered practitioner.

21 c. Official prescription forms ~~issued to~~ of a registered
22 practitioner shall be used only by the practitioner ~~to~~
23 ~~whom they are issued~~ designated on the official
24 prescription form.

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

1 appropriate assurances to the Bureau that adequate
2 safeguards and security measures are in place to
3 prevent the use of such prescription forms for
4 anything other than official government purposes.

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

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

20 c. Registered practitioners shall immediately notify the
21 Bureau upon their knowledge of any diversion or
22 suspected diversion of drugs pursuant to the loss,
23 theft or unauthorized use of prescriptions.
24

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

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

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

22 D. 1. "Prescription", as used in this section, means a
23 written, oral or electronic order by a practitioner to a pharmacist
24 for a controlled dangerous substance for a particular patient, which

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

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

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

18 SECTION 2. This act shall become effective November 1, 2021.

19 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
20 March 29, 2021 - DO PASS
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