OKLAHOMA STATE SENATE
CONFERENCE
COMMITTEE REPORT

May 19, 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.

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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_____

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

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

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

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

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

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

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

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

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

a. a person licensed to practice veterinary medicine,

b. a practitioner who experiences temporary technological or electrical failure or other extenuating circumstance that prevents the prescription from being transmitted electronically; provided, however, that the practitioner documents the reason for this exception in the medical record of the patient,

c. a practitioner, other than a pharmacist, who dispenses directly to an ultimate user,

d. a practitioner who orders a controlled dangerous substance to be administered through an on-site 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 <u>including but not limited to a hospice program that provides outpatient services</u>,

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.

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

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

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

c. prescriptions issued under approved research protocols, or

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

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

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

9. All prescriptions issued pursuant to paragraphs 5 and 6 of this subsection shall be issued on an official prescription form

provided by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control.

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

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

c. Where the Bureau has revoked the registration of a registered practitioner, the Bureau may revoke or cancel any official prescription forms in the

possession of the registered practitioner. Any revocation or any suspension shall require the registered practitioner to return all unused official prescription forms to the Bureau within fifteen (15) calendar days after the date of the written notification.

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

11. a. Except as provided in subparagraph f of this paragraph, the Bureau shall issue official prescription forms free of charge only to registered practitioners in this state. Such forms shall not be transferable. The number of official prescription forms issued to a registered practitioner at any time shall be at the discretion of the Bureau.

b. Official prescription forms issued to a registered practitioner shall be imprinted only with the primary address and other addresses listed on the registration of the practitioner. Such prescriptions shall be sent only to the primary address of the registered practitioner.

c. Official prescription forms issued to a registered practitioner shall be used only by the practitioner to whom they are issued.

d. The Bureau may revoke or cancel official prescription forms in possession of registered practitioners when the license of such practitioner is suspended, terminated or revoked.

e. Official prescription forms of registered practitioners who are deceased or who no longer prescribe shall be returned to the Bureau at a designated address. If the registered practitioner is deceased, it is the responsibility of the registered practitioner's estate or lawful designee to return such forms.

f. The Bureau may issue official prescription forms to employees or agents of the Bureau and other government agencies for the purpose of preventing, identifying, investigating and prosecuting unacceptable or illegal practices by providers and other persons and assisting in the recovery of overpayments under any program operated by the state or paid for with state funds. Such prescription forms shall be issued for this purpose only to individuals who are authorized to conduct investigations on behalf of the Bureau or

other government agencies as part of their official duties. Individuals and agencies receiving such prescription forms for this purpose shall provide appropriate assurances to the Bureau that adequate safeguards and security measures are in place to prevent the use of such prescription forms for anything other than official government purposes.

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

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

c. Registered practitioners shall immediately notify the Bureau upon their knowledge of any diversion or

suspected diversion of drugs pursuant to the loss, theft or unauthorized use of prescriptions.

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

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

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

D. 1. "Prescription", as used in this section, means a written, oral or electronic order by a practitioner to a pharmacist

for a controlled dangerous substance for a particular patient, which specifies the date of its issue, and the full name and address of the patient and, if the controlled dangerous substance is prescribed for an animal, the species of the animal, the name and quantity of the controlled dangerous substance prescribed, the directions for use, the name and address of the owner of the animal and, if written, the signature of the practitioner.

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

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

SECTION 2. AMENDATORY 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, is amended to read as follows:

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

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

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

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

a. Board of Podiatric Medical Examiners,

b. Board of Dentistry,

c. Board of Pharmacy,

d. State Board of Medical Licensure and Supervision,

e. State Board of Osteopathic Examiners,

f. State Board of Veterinary Medical Examiners,

g. Oklahoma Health Care Authority,

h. Department of Mental Health and Substance Abuse Services,

i. Board of Examiners in Optometry,

j. Oklahoma Board of Nursing,

k. Office of the Chief Medical Examiner, and

l. State Board of Health;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Is confidential;

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

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

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

1. Be confidential by law and privileged;

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

3. Not be subject to subpoena; and

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

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

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

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

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

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

As used in this act:

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

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

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

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

a. that engages in significant paid advertising in any medium for any type of pain management services, and

b. where in any month over sixty percent (60%) of patients who are not being seen for hospice or palliative care are prescribed opioids, benzodiazepines, barbiturates, or carisoprodol for the treatment of chronic nonmalignant pain.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. A pain management clinic shall be located and operated at a 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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Oklahoma State Bureau of Narcotics and Dangerous Drugs Control and all appropriate licensing boards shall promulgate such 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

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

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

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