

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

SENATE BILL 1218

By: Bullard

AS INTRODUCED

An Act relating to controlled dangerous substances; directing State Board of Medical Licensure and Supervision and State Board of Osteopathic Examiners to create certain task forces for specified purpose; providing for membership, meetings, and travel reimbursement; stating powers and duties; directing boards to make certain determination upon receipt of investigative findings; authorizing and requiring boards to take certain actions pursuant to certain determination; amending 63 O.S. 2021, Section 2-304, which relates to denial, revocation, or suspension of registration to dispense, prescribe, or administer controlled dangerous substances; adding violation; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 504.1 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The State Board of Medical Licensure and Supervision shall create a task force for the purpose of investigating complaints pertaining to the prescription, dispensing, or administration of controlled dangerous substances by medical doctors.

1 B. 1. The membership of the task force shall consist of:

- 2 a. four physicians, each of whom shall be either a
3 medical doctor or doctor of osteopathy, at least one
4 of whom shall be board certified in pain management by
5 a national certification board approved by the Board
6 and, at least two of whom shall practice primarily in
7 a rural area,
8 b. one pharmacist licensed in this state,
9 c. one peace officer with experience investigating
10 alleged crimes relating to controlled dangerous
11 substance, and
12 d. one attorney licensed in this state.

13 2. One or more members of the task force may be an employee or
14 member of the Board. One or more members of the task force may be
15 members of the task force created by the State Board of Osteopathic
16 Examiners as provided by Section 3 of this act.

17 C. The task force shall have the following powers and duties
18 to:

19 1. Investigate all credible complaints submitted to the Board
20 pertaining to the prescription, dispensing, or administration of
21 controlled dangerous substances by medical doctors;

22 2. Issue subpoenas, interview witnesses, and inspect records,
23 medical facilities, and such other property of a licensee as may be
24 necessary to investigate complaints;

1 3. Submit findings of investigations to the Board, recommend a
2 determination by the Board as to whether the licensee named in the
3 complaint has violated any provision of state law pertaining to the
4 prescription, dispensing, or administration of controlled dangerous
5 substances including but not limited to paragraph 16 of Section 509
6 of Title 59 of the Oklahoma Statutes, and recommend disciplinary
7 action to the Board; and

8 4. Take such other action as may be necessary, not inconsistent
9 with state law, to carry out the powers and duties prescribed by
10 this subsection.

11 D. The task force may conduct meetings for the purpose of
12 carrying out its prescribed duties. Proceedings of the task force
13 shall be confidential and shall not be subject to the Oklahoma Open
14 Meeting Act or the Oklahoma Open Records Act.

15 E. Members of the task force shall not receive compensation;
16 provided, however, members of the task force may be reimbursed for
17 necessary travel expenses as provided by state law.

18 SECTION 2. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 504.2 of Title 59, unless there
20 is created a duplication in numbering, reads as follows:

21 Upon receipt by the State Board of Medical Licensure and
22 Supervision from the task force created under Section 1 of this act
23 of findings of investigations and recommendations regarding alleged
24 violations of state law by a licensee pertaining to the

1 prescription, dispensing, or administration of controlled dangerous
2 substances including but not limited to paragraph 16 of Section 509
3 of Title 59 of the Oklahoma Statutes, the Board shall determine
4 whether the licensee has violated any such provision of state law.
5 If the Board determines that the licensee has violated any such
6 provision of state law, the Board:

7 1. May take appropriate disciplinary action as provided by law;
8 and

9 2. Shall notify the Oklahoma State Bureau of Narcotics and
10 Dangerous Drugs Control of the determination of the Board, forward
11 investigative findings of the task force created in Section 1 of
12 this act to the Bureau, submit any other documents or information
13 involving the investigation to the Bureau upon request, and
14 recommend disciplinary action to the Bureau pertaining to the
15 registration of the licensee to prescribe, dispense, or administer
16 controlled dangerous substances.

17 SECTION 3. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 637.2 of Title 59, unless there
19 is created a duplication in numbering, reads as follows:

20 A. The State Board of Osteopathic Examiners shall create a task
21 force for the purpose of investigating complaints pertaining to the
22 prescription, dispensing, or administration of controlled dangerous
23 substances by doctors of osteopathy.

24 B. 1. The membership of the task force shall consist of:
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- a. four physicians, each of whom shall be either a doctor of osteopathy or a medical doctor, at least one of whom shall be board certified in pain management by a national certification board approved by the Board, and at least two of whom shall practice primarily in a rural area,
- b. one pharmacist licensed in this state,
- c. one peace officer with experience investigating alleged crimes relating to controlled dangerous substance, and
- d. one attorney licensed in this state.

2. One or more members of the task force may be an employee or member of the Board. One or more members of the task force may be members of the task force created by the State Board of Medical Licensure and Supervision as provided by Section 1 of this act.

C. The task force shall have the following powers and duties:

1. Investigate all credible complaints submitted to the Board pertaining to the prescription, dispensing, or administration of controlled dangerous substances by doctors of osteopathy;

2. Issue subpoenas, interview witnesses, and inspect records, medical facilities, and such other property of a licensee as may be necessary to investigate complaints;

3. Submit findings of investigations to the Board, recommend a determination by the Board as to whether the licensee named in the

1 complaint has violated any provision of state law pertaining to the
2 prescription, dispensing, or administration of controlled dangerous
3 substances including but not limited to subparagraph g of paragraph
4 2 of subsection A of Section 637 of Title 59 of the Oklahoma
5 Statutes, and recommend disciplinary action to the Board; and

6 4. Take such other action as may be necessary, not inconsistent
7 with state law, to carry out the powers and duties prescribed by
8 this subsection.

9 D. The task force may conduct meetings for the purpose of
10 carrying out its prescribed duties. Proceedings of the task force
11 shall be confidential and shall not be subject to the Oklahoma Open
12 Meeting Act or the Oklahoma Open Records Act.

13 E. Members of the task force shall not receive compensation;
14 provided, however, members of the task force may be reimbursed for
15 necessary travel expenses as provided by state law.

16 SECTION 4. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 637.3 of Title 59, unless there
18 is created a duplication in numbering, reads as follows:

19 Upon receipt by the State Board of Osteopathic Examiners from
20 the task force created under Section 3 of this act of findings of
21 investigations and recommendations regarding alleged violations of
22 state law by a licensee pertaining to the prescription, dispensing,
23 or administration of controlled dangerous substances including but
24 not limited to subparagraph g of paragraph 2 of subsection A of

1 Section 637 Title 59 of the Oklahoma Statutes, the Board shall
2 determine whether the licensee has violated any such provision of
3 state law. If the Board determines that the licensee has violated
4 any such provision of state law, the Board:

5 1. May take appropriate disciplinary action as provided by law;
6 and

7 2. Shall notify the Oklahoma State Bureau of Narcotics and
8 Dangerous Drugs Control of the determination of the Board, forward
9 investigative findings of the task force created in Section 3 of
10 this act to the Bureau, submit any other documents or information
11 involving the investigation to the Bureau upon request, and
12 recommend disciplinary action to the Bureau pertaining to the
13 registration of the licensee to prescribe, dispense, or administer
14 controlled dangerous substances.

15 SECTION 5. AMENDATORY 63 O.S. 2021, Section 2-304, is
16 amended to read as follows:

17 Section 2-304. A. A registration, pursuant to Section 2-303 of
18 this title, to manufacture, distribute, dispense, prescribe,
19 administer or use for scientific purposes a controlled dangerous
20 substance shall be limited, conditioned, denied, suspended or
21 revoked by the Director upon a finding that the registrant:

22 1. Has materially falsified any application filed pursuant to
23 the Uniform Controlled Dangerous Substances Act or required by the
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1 Uniform Controlled Dangerous Substances Act. It shall be unlawful
2 to knowingly and willfully:

- 3 a. make false statements, include false data or omit
4 material information on an application for a
5 registration with the Oklahoma State Bureau of
6 Narcotics and Dangerous Drugs Control, or
- 7 b. provide false data or omit material information in any
8 records or reports required by rule or law to be
9 created, maintained or submitted to the Bureau.

10 Any registrant or applicant for a registration or any official,
11 agent or employee of any registrant or applicant for a registration
12 who violates the provisions of this paragraph shall be guilty of a
13 misdemeanor and additionally subject to administrative action;

14 2. Has been found guilty of, entered a plea of guilty or
15 entered a plea of nolo contendere to a misdemeanor relating to any
16 substance defined herein as a controlled dangerous substance or any
17 felony under the laws of any state or the United States;

18 3. Has had his or her federal registration retired, suspended
19 or revoked by a competent federal authority and is no longer
20 authorized by federal law to manufacture, distribute, dispense,
21 prescribe, administer or use for scientific purposes controlled
22 dangerous substances;

1 4. Has failed to maintain effective controls against the
2 diversion of controlled dangerous substances to unauthorized persons
3 or entities;

4 5. Has prescribed, dispensed or administered a controlled
5 dangerous substance from schedules other than those specified in his
6 or her state or federal registration;

7 6. Has had a restriction, suspension, revocation, limitation,
8 condition or probation placed on his or her professional license or
9 certificate or practice as a result of a proceeding pursuant to the
10 general statutes;

11 7. Is abusing or, within the past five (5) years, has abused or
12 excessively used drugs or controlled dangerous substances;

13 8. Has prescribed, sold, administered or ordered any controlled
14 substance for an immediate family member, himself or herself;
15 provided that this shall not apply to a medical emergency when no
16 other doctor is available to respond to the emergency;

17 9. Has possessed, used, prescribed, dispensed or administered
18 drugs or controlled dangerous substances for other than legitimate
19 medical or scientific purposes or for purposes outside the normal
20 course of his or her professional practice;

21 10. Has been under the influence of alcohol or another
22 intoxicating substance which adversely affected the central nervous
23 system, vision, hearing or other sensory or motor functioning to
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1 such degree the person was impaired during the performance of his or
2 her job; ~~or~~

3 11. Has violated any federal law relating to any controlled
4 substances, any provision of the Uniform Controlled Dangerous
5 Substances Act or any rules of the Oklahoma State Bureau of
6 Narcotics and Dangerous Drugs Control; or

7 12. a. If the registrant is a medical doctor, has violated
8 any state law other than the Uniform Controlled
9 Dangerous Substances Act pertaining to the
10 prescription, dispensing, or administration of
11 controlled dangerous substances as determined by the
12 State Board of Medical Licensure and Supervision under
13 Section 2 of this act including but not limited to
14 paragraph 16 of Section 509 of Title 59 of the
15 Oklahoma Statutes, or

16 b. If the registrant is a doctor of osteopathy, has
17 violated any state law other than the Uniform
18 Controlled Dangerous Substances Act pertaining to the
19 prescription, dispensing, or administration of
20 controlled dangerous substances as determined by the
21 State Board of Osteopathic Examiners under Section 4
22 of this act including but not limited to subparagraph
23 g of paragraph 2 of subsection A of Section 637 of
24 Title 59 of the Oklahoma Statutes.

1 B. In the event the Director suspends or revokes a registration
2 granted under Section 2-303 of this title, all controlled dangerous
3 substances owned or possessed by the registrant pursuant to such
4 registration at the time of denial or suspension or the effective
5 date of the revocation order, as the case may be, may in the
6 discretion of the Director be impounded and preserved. No
7 disposition may be made of substances impounded and preserved until
8 the time for taking an appeal has elapsed or until all appeals have
9 been concluded unless a court, upon application therefor, orders the
10 sale of perishable substances and the deposit of the proceeds of the
11 sale with the court. Upon a revocation order becoming final, all
12 such controlled dangerous substances shall be forfeited to the
13 state.

14 C. The Drug Enforcement Administration shall promptly be
15 notified of all orders suspending or revoking registration and all
16 forfeitures of controlled dangerous substances.

17 D. In lieu of or in addition to any other remedies available to
18 the Director, if a finding is made that a registrant has committed
19 any act in violation of federal law relating to any controlled
20 substance, any provision of the Uniform Controlled Dangerous
21 Substances Act or any rules of the Oklahoma State Bureau of
22 Narcotics and Dangerous Drugs Control, the Director is hereby
23 authorized to assess an administrative penalty not to exceed Two
24 Thousand Dollars (\$2,000.00) for each such act. The provisions of

1 this subsection shall not apply to violations of subsection G of
2 Section 2-309D of this title. Nothing in this section shall be
3 construed so as to permit the Director of the Oklahoma State Bureau
4 of Narcotics and Dangerous Drugs Control to assess administrative
5 fines for violations of the provisions of subsection G of Section 2-
6 309D of this title.

7 SECTION 6. This act shall become effective November 1, 2022.

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