

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 HOUSE BILL 1082

By: Talley

4  
5  
6 AS INTRODUCED

7 An Act relating to public health and safety; amending  
8 63 O.S. 2021, Sections 2-101, as amended by Section  
9 4, Chapter 265, O.S.L. 2022 and 2-112 (63 O.S. Supp.  
10 2022, Section 2-101), which relate to the Uniform  
11 Controlled Dangerous Substances Act; adding  
12 definition; providing for the creation and posting of  
13 reports on public websites; requiring certain  
14 information be included in report; amending 63 O.S.  
15 2021, Section 2-309I, as amended by Section 1,  
16 Chapter 257, O.S.L. 2022 (63 O.S. Supp. 2022, Section  
17 2-309I), which relates to the Anti-Drug Diversion  
18 Act; clarifying process for obtaining informed  
19 consent from certain patients; providing restrictions  
20 when initiating investigations, disciplinary actions,  
21 civil or criminal penalties; and declaring an  
22 emergency.

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

24 SECTION 1. AMENDATORY 63 O.S. 2021, Section 2-101, as  
amended by Section 4, Chapter 265, O.S.L. 2022 (63 O.S. Supp. 2022,  
Section 2-101), is amended to read as follows:

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

1        1. "Administer" means the direct application of a controlled  
2 dangerous substance, whether by injection, inhalation, ingestion or  
3 any other means, to the body of a patient, animal or research  
4 subject by:

5            a. a practitioner (or, in the presence of the  
6 practitioner, by the authorized agent of the  
7 practitioner), or

8            b. the patient or research subject at the direction and  
9 in the presence of the practitioner;

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

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

21        4. "Bureau" means the Oklahoma State Bureau of Narcotics and  
22 Dangerous Drugs Control;

23        5. "Coca leaves" includes cocaine and any compound,  
24 manufacture, salt, derivative, mixture or preparation of coca

1 leaves, except derivatives of coca leaves which do not contain  
2 cocaine or ecgonine;

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

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

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

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

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

1 11. "Dispense" means to deliver a controlled dangerous  
2 substance to an ultimate user or human research subject by or  
3 pursuant to the lawful order of a practitioner, including the  
4 prescribing, administering, packaging, labeling or compounding  
5 necessary to prepare the substance for such distribution.

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

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

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

15 14. "Drug" means articles:

- 16 a. recognized in the official United States Pharmacopeia,  
17 official Homeopathic Pharmacopoeia of the United  
18 States, or official National Formulary, or any  
19 supplement to any of them,  
20 b. intended for use in the diagnosis, cure, mitigation,  
21 treatment or prevention of disease in man or other  
22 animals,  
23 c. other than food, intended to affect the structure or  
24 any function of the body of man or other animals, and

1 d. intended for use as a component of any article  
2 specified in this paragraph;  
3 provided, however, the term "drug" does not include devices or their  
4 components, parts or accessories;

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

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

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

20 18. "Hospice" means a centrally administered, nonprofit or for-  
21 profit, medically directed, nurse-coordinated program which provides  
22 a continuum of home and inpatient care for the terminally ill  
23 patient and the patient's family. Such term shall also include a  
24 centrally administered, nonprofit or for-profit, medically directed,

1 nurse-coordinated program if such program is licensed pursuant to  
2 the provisions of the Uniform Controlled Dangerous Substances Act.  
3 A hospice program offers palliative and supportive care to meet the  
4 special needs arising out of the physical, emotional and spiritual  
5 stresses which are experienced during the final stages of illness  
6 and during dying and bereavement. This care is available twenty-  
7 four (24) hours a day, seven (7) days a week, and is provided on the  
8 basis of need, regardless of ability to pay. "Class A" Hospice  
9 refers to Medicare-certified hospices. "Class B" refers to all  
10 other providers of hospice services;

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

22 a. statements made by an owner or by any other person in  
23 control of the substance concerning the nature of the  
24 substance, or its use or effect,

- 1           b. statements made to the recipient that the substance  
2           may be resold for inordinate profit,
- 3           c. whether the substance is packaged in a manner normally  
4           used for illicit controlled substances,
- 5           d. evasive tactics or actions utilized by the owner or  
6           person in control of the substance to avoid detection  
7           by law enforcement authorities,
- 8           e. prior convictions, if any, of an owner, or any other  
9           person in control of the object, under state or  
10          federal law related to controlled substances or fraud,  
11          and
- 12          f. the proximity of the substances to controlled  
13          dangerous substances;

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

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

24

1       22. "Manufacture" means the production, preparation,  
2 propagation, compounding or processing of a controlled dangerous  
3 substance, either directly or indirectly by extraction from  
4 substances of natural or synthetic origin, or independently by means  
5 of chemical synthesis or by a combination of extraction and chemical  
6 synthesis. "Manufacturer" includes any person who packages,  
7 repackages or labels any container of any controlled dangerous  
8 substance, except practitioners who dispense or compound  
9 prescription orders for delivery to the ultimate consumer;

10       23. "Marijuana" means all parts of the plant *Cannabis sativa*  
11 *L.*, whether growing or not; the seeds thereof; the resin extracted  
12 from any part of such plant; and every compound, manufacture, salt,  
13 derivative, mixture or preparation of such plant, its seeds or  
14 resin, but shall not include:

- 15           a. the mature stalks of such plant or fiber produced from  
16               such stalks,
- 17           b. oil or cake made from the seeds of such plant,  
18               including cannabidiol derived from the seeds of the  
19               marijuana plant,
- 20           c. any other compound, manufacture, salt, derivative,  
21               mixture or preparation of such mature stalks (except  
22               the resin extracted therefrom), including cannabidiol  
23               derived from mature stalks, fiber, oil or cake,



- 1 d. the sterilized seed of such plant which is incapable  
2 of germination,
- 3 e. for any person participating in a clinical trial to  
4 administer cannabidiol for the treatment of severe  
5 forms of epilepsy pursuant to Section 2-802 of this  
6 title, a drug or substance approved by the federal  
7 Food and Drug Administration for use by those  
8 participants,
- 9 f. for any person or the parents, legal guardians or  
10 caretakers of the person who have received a written  
11 certification from a physician licensed in this state  
12 that the person has been diagnosed by a physician as  
13 having Lennox-Gastaut syndrome, Dravet syndrome, also  
14 known as severe myoclonic epilepsy of infancy, or any  
15 other severe form of epilepsy that is not adequately  
16 treated by traditional medical therapies, spasticity  
17 due to multiple sclerosis or due to paraplegia,  
18 intractable nausea and vomiting, appetite stimulation  
19 with chronic wasting diseases, the substance  
20 cannabidiol, a nonpsychoactive cannabinoid, found in  
21 the plant *Cannabis sativa* L. or any other preparation  
22 thereof, that has a tetrahydrocannabinol concentration  
23 of not more than three-tenths of one percent (0.3%)  
24

1 and that is delivered to the patient in the form of a  
2 liquid,

3 g. any federal Food-and-Drug-Administration-approved drug  
4 or substance, or

5 h. industrial hemp, from the plant Cannabis sativa L. and  
6 any part of such plant, whether growing or not, with a  
7 delta-9 tetrahydrocannabinol concentration of not more  
8 than three-tenths of one percent (0.3%) on a dry-  
9 weight basis which shall only be grown pursuant to the  
10 Oklahoma Industrial Hemp Program and may be shipped  
11 intrastate and interstate;

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

17 25. "Mid-level practitioner" means an Advanced Practice  
18 Registered Nurse as defined and within parameters specified in  
19 Section 567.3a of Title 59 of the Oklahoma Statutes, or a certified  
20 animal euthanasia technician as defined in Section 698.2 of Title 59  
21 of the Oklahoma Statutes, or an animal control officer registered by  
22 the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control  
23 under subsection B of Section 2-301 of this title within the  
24

1 parameters of such officer's duties under Sections 501 through 508  
2 of Title 4 of the Oklahoma Statutes;

3 26. "Narcotic drug" means any of the following, whether  
4 produced directly or indirectly by extraction from substances of  
5 vegetable origin, or independently by means of chemical synthesis,  
6 or by a combination of extraction and chemical synthesis:

- 7 a. opium, coca leaves and opiates,
- 8 b. a compound, manufacture, salt, derivative or  
9 preparation of opium, coca leaves or opiates,
- 10 c. cocaine, its salts, optical and geometric isomers, and  
11 salts of isomers,
- 12 d. ecgonine, its derivatives, their salts, isomers and  
13 salts of isomers, and
- 14 e. a substance, and any compound, manufacture, salt,  
15 derivative or preparation thereof, which is chemically  
16 identical with any of the substances referred to in  
17 subparagraphs a through d of this paragraph, except  
18 that the words "narcotic drug" as used in Section 2-  
19 101 et seq. of this title shall not include  
20 decocainized coca leaves or extracts of coca leaves,  
21 which extracts do not contain cocaine or ecgonine;

22 27. "Opiate" or "opioid" means any Schedule II, III, IV or V  
23 substance having an addiction-forming or addiction-sustaining  
24 liability similar to morphine or being capable of conversion into a

1 drug having such addiction-forming or addiction-sustaining  
2 liability. The terms do not include, unless specifically designated  
3 as controlled under the Uniform Controlled Dangerous Substances Act,  
4 the dextrorotatory isomer of 3-methoxy-n-methyl-morphinan and its  
5 salts (dextromethorphan). The terms do include the racemic and  
6 levorotatory forms;

7 28. "Opium poppy" means the plant of the species *Papaver*  
8 *somniferum* L., except the seeds thereof;

9 29. "Palliative care" means patient-centered and family-focused  
10 medical care that optimizes quality of life by anticipating,  
11 preventing, and treating suffering caused by a medical illness or a  
12 physical injury or condition that substantially affects the quality  
13 of life of a patient. Palliative care includes, but is not limited  
14 to:

- 15 a. addressing physical, emotional, social, and spiritual  
16 needs,
- 17 b. facilitating patient autonomy and choice of care,
- 18 c. providing access to information,
- 19 d. discussing the goals of treatment for the patient and  
20 treatment options including, when appropriate, hospice  
21 care, and
- 22 e. managing pain and symptoms comprehensively.

23 Palliative care does not always include a requirement for hospice  
24 care or attention to spiritual needs. Palliative care may be

1 appropriate at any stage of a serious illness, not just at the end  
2 of one's life;

3 30. "Peace officer" means a police officer, sheriff, deputy  
4 sheriff, district attorney's investigator, investigator from the  
5 Office of the Attorney General, or any other person elected or  
6 appointed by law to enforce any of the criminal laws of this state  
7 or of the United States;

8 ~~30.~~ 31. "Person" means an individual, corporation, government  
9 or governmental subdivision or agency, business trust, estate,  
10 trust, partnership or association, or any other legal entity;

11 ~~31.~~ 32. "Poppy straw" means all parts, except the seeds, of the  
12 opium poppy, after mowing;

13 ~~32.~~ 33. "Practitioner" means:

- 14 a. (1) a medical doctor or osteopathic physician,  
15 (2) a dentist,  
16 (3) a podiatrist,  
17 (4) an optometrist,  
18 (5) a veterinarian,  
19 (6) a physician assistant or Advanced Practice  
20 Registered Nurse under the supervision of a  
21 licensed medical doctor or osteopathic physician,  
22 (7) a scientific investigator, or  
23 (8) any other person,  
24

1 licensed, registered or otherwise permitted to  
2 prescribe, distribute, dispense, conduct research with  
3 respect to, use for scientific purposes or administer  
4 a controlled dangerous substance in the course of  
5 professional practice or research in this state, or

6 b. a pharmacy, hospital, laboratory or other institution  
7 licensed, registered or otherwise permitted to  
8 distribute, dispense, conduct research with respect  
9 to, use for scientific purposes or administer a  
10 controlled dangerous substance in the course of  
11 professional practice or research in this state;

12 ~~33.~~ 34. "Production" includes the manufacture, planting,  
13 cultivation, growing or harvesting of a controlled dangerous  
14 substance;

15 ~~34.~~ 35. "State" means the State of Oklahoma or any other state  
16 of the United States;

17 ~~35.~~ 36. "Ultimate user" means a person who lawfully possesses a  
18 controlled dangerous substance for the person's own use or for the  
19 use of a member of the person's household or for administration to  
20 an animal owned by the person or by a member of the person's  
21 household;

22 ~~36.~~ 37. "Drug paraphernalia" means all equipment, products and  
23 materials of any kind which are used, intended for use, or fashioned  
24 specifically for use in planting, propagating, cultivating, growing,

1 harvesting, manufacturing, compounding, converting, producing,  
2 processing, preparing, testing, analyzing, packaging, repackaging,  
3 storing, containing, concealing, injecting, ingesting, inhaling or  
4 otherwise introducing into the human body, a controlled dangerous  
5 substance in violation of the Uniform Controlled Dangerous  
6 Substances Act including, but not limited to:

- 7 a. kits used, intended for use, or fashioned specifically  
8 for use in planting, propagating, cultivating, growing  
9 or harvesting of any species of plant which is a  
10 controlled dangerous substance or from which a  
11 controlled dangerous substance can be derived,
- 12 b. kits used, intended for use, or fashioned specifically  
13 for use in manufacturing, compounding, converting,  
14 producing, processing or preparing controlled  
15 dangerous substances,
- 16 c. isomerization devices used, intended for use, or  
17 fashioned specifically for use in increasing the  
18 potency of any species of plant which is a controlled  
19 dangerous substance,
- 20 d. testing equipment used, intended for use, or fashioned  
21 specifically for use in identifying, or in analyzing  
22 the strength, effectiveness or purity of controlled  
23 dangerous substances,

24

- 1 e. scales and balances used, intended for use, or  
2 fashioned specifically for use in weighing or  
3 measuring controlled dangerous substances,  
4 f. diluents and adulterants, such as quinine  
5 hydrochloride, mannitol, mannite, dextrose and  
6 lactose, used, intended for use, or fashioned  
7 specifically for use in cutting controlled dangerous  
8 substances,  
9 g. separation gins and sifters used, intended for use, or  
10 fashioned specifically for use in removing twigs and  
11 seeds from, or in otherwise cleaning or refining,  
12 marijuana,  
13 h. blenders, bowls, containers, spoons and mixing devices  
14 used, intended for use, or fashioned specifically for  
15 use in compounding controlled dangerous substances,  
16 i. capsules, balloons, envelopes and other containers  
17 used, intended for use, or fashioned specifically for  
18 use in packaging small quantities of controlled  
19 dangerous substances,  
20 j. containers and other objects used, intended for use,  
21 or fashioned specifically for use in parenterally  
22 injecting controlled dangerous substances into the  
23 human body,  
24



1 k. hypodermic syringes, needles and other objects used,  
2 intended for use, or fashioned specifically for use in  
3 parenterally injecting controlled dangerous substances  
4 into the human body,

5 l. objects used, intended for use, or fashioned  
6 specifically for use in ingesting, inhaling or  
7 otherwise introducing marijuana, cocaine, hashish or  
8 hashish oil into the human body, such as:

- 9 (1) metal, wooden, acrylic, glass, stone, plastic or  
10 ceramic pipes with or without screens, permanent  
11 screens, hashish heads or punctured metal bowls,  
12 (2) water pipes,  
13 (3) carburetion tubes and devices,  
14 (4) smoking and carburetion masks,  
15 (5) roach clips, meaning objects used to hold burning  
16 material, such as a marijuana cigarette, that has  
17 become too small or too short to be held in the  
18 hand,  
19 (6) miniature cocaine spoons and cocaine vials,  
20 (7) chamber pipes,  
21 (8) carburetor pipes,  
22 (9) electric pipes,  
23 (10) air-driven pipes,  
24 (11) chillums,

1 (12) bongs, or

2 (13) ice pipes or chillers,

3 m. all hidden or novelty pipes, and

4 n. any pipe that has a tobacco bowl or chamber of less  
5 than one-half (1/2) inch in diameter in which there is  
6 any detectable residue of any controlled dangerous  
7 substance as defined in this section or any other  
8 substances not legal for possession or use;

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

16 ~~37.~~ 38. a. "Synthetic controlled substance" means a  
17 substance:

18 (1) the chemical structure of which is substantially  
19 similar to the chemical structure of a controlled  
20 dangerous substance in Schedule I or II,

21 (2) which has a stimulant, depressant, or  
22 hallucinogenic effect on the central nervous  
23 system that is substantially similar to or  
24 greater than the stimulant, depressant or

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

4 (3) with respect to a particular person, which such  
5 person represents or intends to have a stimulant,  
6 depressant, or hallucinogenic effect on the  
7 central nervous system that is substantially  
8 similar to or greater than the stimulant,  
9 depressant, or hallucinogenic effect on the  
10 central nervous system of a controlled dangerous  
11 substance in Schedule I or II.

12 b. The designation of gamma butyrolactone or any other  
13 chemical as a precursor, pursuant to Section 2-322 of  
14 this title, does not preclude a finding pursuant to  
15 subparagraph a of this paragraph that the chemical is  
16 a synthetic controlled substance.

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

- 18 (1) a controlled dangerous substance,  
19 (2) any substance for which there is an approved new  
20 drug application,  
21 (3) with respect to a particular person any  
22 substance, if an exemption is in effect for  
23 investigational use, for that person under the  
24 provisions of Section 505 of the Federal Food,

1 Drug and Cosmetic Act, Title 21 of the United  
2 States Code, Section 355, to the extent conduct  
3 with respect to such substance is pursuant to  
4 such exemption, or

5 (4) any substance to the extent not intended for  
6 human consumption before such an exemption takes  
7 effect with respect to that substance.

8 d. Prima facie evidence that a substance containing  
9 salvia divinorum has been enhanced, concentrated or  
10 chemically or physically altered shall give rise to a  
11 rebuttable presumption that the substance is a  
12 synthetic controlled substance;

13 ~~38.~~ 39. "Tetrahydrocannabinols" means all substances that have  
14 been chemically synthesized to emulate the tetrahydrocannabinols of  
15 marijuana, specifically including any tetrahydrocannabinols derived  
16 from industrial hemp;

17 ~~39.~~ 40. "Isomer" means the optical isomer, except as used in  
18 subsections C and F of Section 2-204 of this title and paragraph 4  
19 of subsection A of Section 2-206 of this title. As used in  
20 subsections C and F of Section 2-204 of this title, "isomer" means  
21 the optical, positional or geometric isomer. As used in paragraph 4  
22 of subsection A of Section 2-206 of this title, the term "isomer"  
23 means the optical or geometric isomer;

1       ~~40.~~ 41. "Hazardous materials" means materials, whether solid,  
2 liquid or gas, which are toxic to human, animal, aquatic or plant  
3 life, and the disposal of which materials is controlled by state or  
4 federal guidelines;

5       ~~41.~~ 42. "Anhydrous ammonia" means any substance that exhibits  
6 cryogenic evaporative behavior and tests positive for ammonia;

7       ~~42.~~ 43. "Acute pain" means pain, whether resulting from  
8 disease, accidental or intentional trauma or other cause, that the  
9 practitioner reasonably expects to last only a short period of time.  
10 "Acute pain" does not include chronic pain, pain being treated as  
11 part of cancer care, hospice or other end-of-life care, or pain  
12 being treated as part of palliative care;

13       ~~43.~~ 44. "Chronic pain" means pain that persists beyond the  
14 usual course of an acute disease or healing of an injury. "Chronic  
15 pain" may or may not be associated with an acute or chronic  
16 pathologic process that causes continuous or intermittent pain over  
17 months or years;

18       ~~44.~~ 45. "Initial prescription" means a prescription issued to a  
19 patient who:

- 20           a. has never previously been issued a prescription for  
21           the drug or its pharmaceutical equivalent in the past  
22           year, or  
23           b. requires a prescription for the drug or its  
24           pharmaceutical equivalent due to a surgical procedure

1 or new acute event and has previously had a  
2 prescription for the drug or its pharmaceutical  
3 equivalent within the past year.

4 When determining whether a patient was previously issued a  
5 prescription for a drug or its pharmaceutical equivalent, the  
6 practitioner shall consult with the patient and review the medical  
7 record and prescription monitoring information of the patient;

8 ~~45.~~ 46. "Patient-provider agreement" means a written contract  
9 or agreement that is executed between a practitioner and a patient,  
10 prior to the commencement of treatment for chronic pain using an  
11 opioid drug as a means to:

- 12 a. explain the possible risk of development of physical  
13 or psychological dependence in the patient and prevent  
14 the possible development of addiction,
- 15 b. document the understanding of both the practitioner  
16 and the patient regarding the patient-provider  
17 agreement of the patient,
- 18 c. establish the rights of the patient in association  
19 with treatment and the obligations of the patient in  
20 relation to the responsible use, discontinuation of  
21 use, and storage of opioid drugs, including any  
22 restrictions on the refill of prescriptions or the  
23 acceptance of opioid prescriptions from practitioners,  
24

- 1 d. identify the specific medications and other modes of  
2 treatment, including physical therapy or exercise,  
3 relaxation or psychological counseling, that are  
4 included as a part of the patient-provider agreement,
- 5 e. specify the measures the practitioner may employ to  
6 monitor the compliance of the patient including, but  
7 not limited to, random specimen screens and pill  
8 counts, and
- 9 f. delineate the process for terminating the agreement,  
10 including the consequences if the practitioner has  
11 reason to believe that the patient is not complying  
12 with the terms of the agreement. Compliance with the  
13 "consent items" shall constitute a valid, informed  
14 consent for opioid therapy. The practitioner shall be  
15 held harmless from civil litigation for failure to  
16 treat pain if the event occurs because of nonadherence  
17 by the patient with any of the provisions of the  
18 patient-provider agreement;

19 ~~46.~~ 47. "Serious illness" means a medical illness or physical  
20 injury or condition that substantially affects quality of life for  
21 more than a short period of time. "Serious illness" includes, but  
22 is not limited to, Alzheimer's disease or related dementias, lung  
23 disease, cancer, heart failure, renal failure, liver failure or  
24

1 chronic, unremitting or intractable pain such as neuropathic pain;  
2 and

3 ~~47.~~ 48. "Surgical procedure" means a procedure that is  
4 performed for the purpose of structurally altering the human body by  
5 incision or destruction of tissues as part of the practice of  
6 medicine. This term includes the diagnostic or therapeutic  
7 treatment of conditions or disease processes by use of instruments  
8 such as lasers, ultrasound, ionizing, radiation, scalpels, probes or  
9 needles that cause localized alteration or transportation of live  
10 human tissue by cutting, burning, vaporizing, freezing, suturing,  
11 probing or manipulating by closed reduction for major dislocations  
12 or fractures, or otherwise altering by any mechanical, thermal,  
13 light-based, electromagnetic or chemical means.

14 SECTION 2. AMENDATORY 63 O.S. 2021, Section 2-112, is  
15 amended to read as follows:

16 Section 2-112. The Oklahoma State Bureau of Narcotics and  
17 Dangerous Drugs Control shall ~~report to the standing committees of~~  
18 ~~the Legislature having jurisdiction over health and human services~~  
19 ~~matters and over occupational and professional regulation matters,~~  
20 ~~no later than~~ create and post reports on relevant public websites,  
21 such as applicable regulatory boards or insurance websites, by  
22 January 31, 2020, with progress on implementing the provisions of  
23 this act of each year. The report shall contain, at a minimum, the  
24 following information as an annual change:



1           1. Registration of prescribers and dispensers in the central  
2 repository pursuant to Section 2-309A et seq. of Title 63 of the  
3 Oklahoma Statutes;

4           2. Data regarding the checking and using of the central  
5 repository by data requesters;

6           3. Data from professional boards regarding the implementation  
7 of continuing education requirements for prescribers of opioid  
8 drugs;

9           4. Effects on the prescriber workforce;

10          5. Changes in the numbers of patients taking more than one  
11 hundred (100) morphine milligram equivalents of opioid drugs per  
12 day;

13          6. Data regarding the total quantity of opioid drugs prescribed  
14 in morphine milligram equivalents;

15          7. Progress on electronic prescribing of opioid drugs; ~~and~~

16          8. Improvements to the central repository through the request  
17 for proposals process including feedback from prescribers,  
18 dispensers and applicable state licensing boards on those  
19 improvements; and

20          9. Number of prescriptions notated as acute and chronic.

21          SECTION 3.           AMENDATORY           63 O.S. 2021, Section 2-309I, as  
22 amended by Section 1, Chapter 257, O.S.L. 2022 (63 O.S. Supp. 2022,  
23 Section 2-309I), is amended to read as follows:

24

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

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

9 1. Take and document the results of a thorough medical history,  
10 including the experience of the patient with nonopioid medication  
11 and nonpharmacological pain-management approaches and substance  
12 abuse history;

13 2. Conduct, as appropriate, and document the results of a  
14 physical examination;

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

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

19 5. Limit the supply of any opioid drug prescribed for acute  
20 pain to a duration of no more than seven (7) days as determined by  
21 the directed dosage and frequency of dosage; provided, however, upon  
22 issuing an initial prescription for acute pain pursuant to this  
23 section, the practitioner may issue one (1) subsequent prescription  
24 for an opioid drug in a quantity not to exceed seven (7) days if:

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

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

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

C. No less than seven (7) days after issuing the initial prescription pursuant to subsection A of this section, the practitioner, after consultation with the patient, may issue a subsequent prescription for the drug to the patient in a quantity not to exceed seven (7) days, provided that:

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

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

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

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

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

17           2. The reasons why the prescription is necessary;

18           3. Alternative treatments that may be available; and

19           4. Risks associated with the use of the drugs being prescribed,  
20 specifically that opioids are highly addictive, even when taken as  
21 prescribed, that there is a risk of developing a physical or  
22 psychological dependence on the controlled dangerous substance, and  
23 that the risks of taking more opioids than prescribed or mixing  
24

1 sedatives, benzodiazepines or alcohol with opioids can result in  
2 fatal respiratory depression.

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

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

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

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

20 2. In the first year of the patient-provider agreement, assess  
21 the patient prior to every renewal to determine whether the patient  
22 is experiencing problems associated with an opioid use disorder as  
23 defined by the American Psychiatric Association and document the  
24 results of that assessment. Following one (1) year of compliance

1 with the patient-provider agreement, the practitioner shall assess  
2 the patient at a minimum of every six (6) months;

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

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

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

13 G. 1. Any prescription for acute pain pursuant to this section  
14 shall have the words "acute pain" notated on the face of the  
15 prescription by the practitioner.

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

19 H. This section shall not apply to a prescription for a  
20 patient:

21 1. Who has sickle cell disease;

22 2. Who is in treatment for cancer or receiving aftercare cancer  
23 treatment;

24 3. Who is receiving hospice care from a licensed hospice;

1 4. Who is receiving palliative care in conjunction with a  
2 serious illness;

3 5. Who is a resident of a long-term care facility; or

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

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

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

17 2. Equivalent to the cost sharing for a full thirty-day supply  
18 of the drug, provided that no additional cost sharing may be charged  
19 for any additional prescriptions for the remainder of the thirty-day  
20 supply.

21 J. Any practitioner authorized to prescribe an opioid drug  
22 shall adopt and maintain a written policy or policies that include  
23 execution of a written agreement to engage in an informed consent  
24 process ~~between the prescribing practitioner and qualifying opioid~~

1 ~~therapy patient. For the purposes of this section, "qualifying~~  
2 ~~opioid therapy patient" means:~~

3 ~~1. A Informed consent is required for a patient requiring~~  
4 ~~prescribed opioid treatment for more than three (3) months.~~

5 ~~2. A patient or who is prescribed benzodiazepines and opioids~~  
6 ~~together for more than one twenty-four-hour period.~~

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

9 K. When a practitioner thoroughly assesses and documents his or  
10 her findings as required by this section and prescribes in good  
11 faith using his or her clinical expertise, neither the average  
12 prescribed doses or quantities alone of an individual patient or  
13 practitioner's practice shall be used as the basis to initiate an  
14 investigation or disciplinary action or to pursue civil liability or  
15 criminal penalties.

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

23 SECTION 4. It being immediately necessary for the preservation  
24 of the public peace, health or safety, an emergency is hereby



1 declared to exist, by reason whereof this act shall take effect and  
2 be in full force from and after its passage and approval.

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4 59-1-6276 GRS 01/04/23

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