

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 1082

By: Talley

6
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8 COMMITTEE SUBSTITUTE

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

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

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;

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 a specialized medical service for
10 people of any age, and at any stage of a serious illness or life-
11 altering event. Palliative care focuses on mitigating symptoms such
12 as pain and suffering while navigating complex medical decisions
13 with special attention paid to ensuring patient autonomy and access
14 to information. Utilizing a holistic and interdisciplinary team
15 approach, palliative care addresses physical, intellectual,
16 emotional, social, and spiritual needs. Palliative care can be
17 provided in the inpatient, outpatient, or home care setting and
18 strives to improve quality of life for both the patient and the
19 family. Palliative care does not always include a requirement for
20 hospice care or attention to spiritual needs. Palliative care may
21 be appropriate at any stage of a serious illness, not just at the
22 end of one's life;

23 30. "Peace officer" means a police officer, sheriff, deputy
24 sheriff, district attorney's investigator, investigator from the

1 Office of the Attorney General, or any other person elected or
2 appointed by law to enforce any of the criminal laws of this state
3 or of the United States;

4 ~~30.~~ 31. "Person" means an individual, corporation, government
5 or governmental subdivision or agency, business trust, estate,
6 trust, partnership or association, or any other legal entity;

7 ~~31.~~ 32. "Poppy straw" means all parts, except the seeds, of the
8 opium poppy, after mowing;

9 ~~32.~~ 33. "Practitioner" means:

- 10 a. (1) a medical doctor or osteopathic physician,
11 (2) a dentist,
12 (3) a podiatrist,
13 (4) an optometrist,
14 (5) a veterinarian,
15 (6) a physician assistant or Advanced Practice
16 Registered Nurse under the supervision of a
17 licensed medical doctor or osteopathic physician,
18 (7) a scientific investigator, or
19 (8) any other person,
20 licensed, registered or otherwise permitted to
21 prescribe, distribute, dispense, conduct research with
22 respect to, use for scientific purposes or administer
23 a controlled dangerous substance in the course of
24 professional practice or research in this state, or

1 b. a pharmacy, hospital, laboratory or other institution
2 licensed, registered or otherwise permitted to
3 distribute, dispense, conduct research with respect
4 to, use for scientific purposes or administer a
5 controlled dangerous substance in the course of
6 professional practice or research in this state;

7 ~~33.~~ 34. "Production" includes the manufacture, planting,
8 cultivation, growing or harvesting of a controlled dangerous
9 substance;

10 ~~34.~~ 35. "State" means the State of Oklahoma or any other state
11 of the United States;

12 ~~35.~~ 36. "Ultimate user" means a person who lawfully possesses a
13 controlled dangerous substance for the person's own use or for the
14 use of a member of the person's household or for administration to
15 an animal owned by the person or by a member of the person's
16 household;

17 ~~36.~~ 37. "Drug paraphernalia" means all equipment, products and
18 materials of any kind which are used, intended for use, or fashioned
19 specifically for use in planting, propagating, cultivating, growing,
20 harvesting, manufacturing, compounding, converting, producing,
21 processing, preparing, testing, analyzing, packaging, repackaging,
22 storing, containing, concealing, injecting, ingesting, inhaling or
23 otherwise introducing into the human body, a controlled dangerous
24

1 substance in violation of the Uniform Controlled Dangerous
2 Substances Act including, but not limited to:

- 3 a. kits used, intended for use, or fashioned specifically
4 for use in planting, propagating, cultivating, growing
5 or harvesting of any species of plant which is a
6 controlled dangerous substance or from which a
7 controlled dangerous substance can be derived,
- 8 b. kits used, intended for use, or fashioned specifically
9 for use in manufacturing, compounding, converting,
10 producing, processing or preparing controlled
11 dangerous substances,
- 12 c. isomerization devices used, intended for use, or
13 fashioned specifically for use in increasing the
14 potency of any species of plant which is a controlled
15 dangerous substance,
- 16 d. testing equipment used, intended for use, or fashioned
17 specifically for use in identifying, or in analyzing
18 the strength, effectiveness or purity of controlled
19 dangerous substances,
- 20 e. scales and balances used, intended for use, or
21 fashioned specifically for use in weighing or
22 measuring controlled dangerous substances,
- 23 f. diluents and adulterants, such as quinine
24 hydrochloride, mannitol, mannite, dextrose and

- 1 lactose, used, intended for use, or fashioned
2 specifically for use in cutting controlled dangerous
3 substances,
- 4 g. separation gins and sifters used, intended for use, or
5 fashioned specifically for use in removing twigs and
6 seeds from, or in otherwise cleaning or refining,
7 marijuana,
- 8 h. blenders, bowls, containers, spoons and mixing devices
9 used, intended for use, or fashioned specifically for
10 use in compounding controlled dangerous substances,
- 11 i. capsules, balloons, envelopes and other containers
12 used, intended for use, or fashioned specifically for
13 use in packaging small quantities of controlled
14 dangerous substances,
- 15 j. containers and other objects used, intended for use,
16 or fashioned specifically for use in parenterally
17 injecting controlled dangerous substances into the
18 human body,
- 19 k. hypodermic syringes, needles and other objects used,
20 intended for use, or fashioned specifically for use in
21 parenterally injecting controlled dangerous substances
22 into the human body,
- 23 l. objects used, intended for use, or fashioned
24 specifically for use in ingesting, inhaling or

1 otherwise introducing marijuana, cocaine, hashish or
2 hashish oil into the human body, such as:

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

21 m. all hidden or novelty pipes, and

22 n. any pipe that has a tobacco bowl or chamber of less
23 than one-half (1/2) inch in diameter in which there is
24 any detectable residue of any controlled dangerous

1 substance as defined in this section or any other
2 substances not legal for possession or use;
3 provided, however, the term "drug paraphernalia" shall not include
4 separation gins intended for use in preparing tea or spice, clamps
5 used for constructing electrical equipment, water pipes designed for
6 ornamentation in which no detectable amount of an illegal substance
7 is found or pipes designed and used solely for smoking tobacco,
8 traditional pipes of an American Indian tribal religious ceremony,
9 or antique pipes that are thirty (30) years of age or older;

10 ~~37.~~ 38. a. "Synthetic controlled substance" means a
11 substance:

- 12 (1) the chemical structure of which is substantially
13 similar to the chemical structure of a controlled
14 dangerous substance in Schedule I or II,
15 (2) which has a stimulant, depressant, or
16 hallucinogenic effect on the central nervous
17 system that is substantially similar to or
18 greater than the stimulant, depressant or
19 hallucinogenic effect on the central nervous
20 system of a controlled dangerous substance in
21 Schedule I or II, or
22 (3) with respect to a particular person, which such
23 person represents or intends to have a stimulant,
24 depressant, or hallucinogenic effect on the

1 central nervous system that is substantially
2 similar to or greater than the stimulant,
3 depressant, or hallucinogenic effect on the
4 central nervous system of a controlled dangerous
5 substance in Schedule I or II.

6 b. The designation of gamma butyrolactone or any other
7 chemical as a precursor, pursuant to Section 2-322 of
8 this title, does not preclude a finding pursuant to
9 subparagraph a of this paragraph that the chemical is
10 a synthetic controlled substance.

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

- 12 (1) a controlled dangerous substance,
13 (2) any substance for which there is an approved new
14 drug application,
15 (3) with respect to a particular person any
16 substance, if an exemption is in effect for
17 investigational use, for that person under the
18 provisions of Section 505 of the Federal Food,
19 Drug and Cosmetic Act, Title 21 of the United
20 States Code, Section 355, to the extent conduct
21 with respect to such substance is pursuant to
22 such exemption, or
23
24

1 (4) any substance to the extent not intended for
2 human consumption before such an exemption takes
3 effect with respect to that substance.

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

9 ~~38.~~ 39. "Tetrahydrocannabinols" means all substances that have
10 been chemically synthesized to emulate the tetrahydrocannabinols of
11 marijuana, specifically including any tetrahydrocannabinols derived
12 from industrial hemp;

13 ~~39.~~ 40. "Isomer" means the optical isomer, except as used in
14 subsections C and F of Section 2-204 of this title and paragraph 4
15 of subsection A of Section 2-206 of this title. As used in
16 subsections C and F of Section 2-204 of this title, "isomer" means
17 the optical, positional or geometric isomer. As used in paragraph 4
18 of subsection A of Section 2-206 of this title, the term "isomer"
19 means the optical or geometric isomer;

20 ~~40.~~ 41. "Hazardous materials" means materials, whether solid,
21 liquid or gas, which are toxic to human, animal, aquatic or plant
22 life, and the disposal of which materials is controlled by state or
23 federal guidelines;

1 ~~41.~~ 42. "Anhydrous ammonia" means any substance that exhibits
2 cryogenic evaporative behavior and tests positive for ammonia;

3 ~~42.~~ 43. "Acute pain" means pain, whether resulting from
4 disease, accidental or intentional trauma or other cause, that the
5 practitioner reasonably expects to last only a short period of time.
6 "Acute pain" does not include chronic pain, pain being treated as
7 part of cancer care, hospice or other end-of-life care, or pain
8 being treated as part of palliative care;

9 ~~43.~~ 44. "Chronic pain" means pain that persists beyond the
10 usual course of an acute disease or healing of an injury. "Chronic
11 pain" may or may not be associated with an acute or chronic
12 pathologic process that causes continuous or intermittent pain over
13 months or years;

14 ~~44.~~ 45. "Initial prescription" means a prescription issued to a
15 patient who:

- 16 a. has never previously been issued a prescription for
17 the drug or its pharmaceutical equivalent in the past
18 year, or
19 b. requires a prescription for the drug or its
20 pharmaceutical equivalent due to a surgical procedure
21 or new acute event and has previously had a
22 prescription for the drug or its pharmaceutical
23 equivalent within the past year.

24

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

5 ~~45.~~ 46. "Patient-provider agreement" means a written contract
6 or agreement that is executed between a practitioner and a patient,
7 prior to the commencement of treatment for chronic pain using an
8 opioid drug as a means to:

- 9 a. explain the possible risk of development of physical
10 or psychological dependence in the patient and prevent
11 the possible development of addiction,
- 12 b. document the understanding of both the practitioner
13 and the patient regarding the patient-provider
14 agreement of the patient,
- 15 c. establish the rights of the patient in association
16 with treatment and the obligations of the patient in
17 relation to the responsible use, discontinuation of
18 use, and storage of opioid drugs, including any
19 restrictions on the refill of prescriptions or the
20 acceptance of opioid prescriptions from practitioners,
- 21 d. identify the specific medications and other modes of
22 treatment, including physical therapy or exercise,
23 relaxation or psychological counseling, that are
24 included as a part of the patient-provider agreement,

1 e. specify the measures the practitioner may employ to
2 monitor the compliance of the patient including, but
3 not limited to, random specimen screens and pill
4 counts, and

5 f. delineate the process for terminating the agreement,
6 including the consequences if the practitioner has
7 reason to believe that the patient is not complying
8 with the terms of the agreement. Compliance with the
9 "consent items" shall constitute a valid, informed
10 consent for opioid therapy. The practitioner shall be
11 held harmless from civil litigation for failure to
12 treat pain if the event occurs because of nonadherence
13 by the patient with any of the provisions of the
14 patient-provider agreement;

15 ~~46.~~ 47. "Serious illness" means a medical illness or physical
16 injury or condition that substantially affects quality of life for
17 more than a short period of time. "Serious illness" includes, but
18 is not limited to, Alzheimer's disease or related dementias, lung
19 disease, cancer, heart failure, renal failure, liver failure or
20 chronic, unremitting or intractable pain such as neuropathic pain;
21 and

22 ~~47.~~ 48. "Surgical procedure" means a procedure that is
23 performed for the purpose of structurally altering the human body by
24 incision or destruction of tissues as part of the practice of

1 medicine. This term includes the diagnostic or therapeutic
2 treatment of conditions or disease processes by use of instruments
3 such as lasers, ultrasound, ionizing, radiation, scalpels, probes or
4 needles that cause localized alteration or transportation of live
5 human tissue by cutting, burning, vaporizing, freezing, suturing,
6 probing or manipulating by closed reduction for major dislocations
7 or fractures, or otherwise altering by any mechanical, thermal,
8 light-based, electromagnetic or chemical means.

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

11 Section 2-112. The Oklahoma State Bureau of Narcotics and
12 Dangerous Drugs Control shall ~~report to the standing committees of~~
13 ~~the Legislature having jurisdiction over health and human services~~
14 ~~matters and over occupational and professional regulation matters,~~
15 ~~no later than~~ create and make available reports regarding an annual
16 change, plus or minus, of relevant de-identified data collected from
17 the central repository by January 31, 2020, with progress on
18 ~~implementing the provisions of this act~~ of each year. The report
19 ~~shall~~ may contain, ~~at a minimum~~ but is not limited to, the following
20 information:

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

24

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

3 3. Data from professional boards regarding the implementation
4 of continuing education requirements for prescribers of opioid
5 drugs;

6 4. Effects on the prescriber workforce;

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

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

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

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

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

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

21 Section 2-309I. A. A practitioner shall not issue an initial
22 prescription for an opioid drug in a quantity exceeding a seven-day
23 supply for treatment of acute pain. Any opioid prescription for
24

1 acute pain shall be for the lowest effective dose of an immediate-
2 release drug.

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

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

10 2. Conduct, as appropriate, and document the results of a
11 physical examination;

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

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

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

22 a. the subsequent prescription is due to a major surgical
23 procedure or "confined to home" status as defined in
24 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;

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

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

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

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

14 2. The reasons why the prescription is necessary;

15 3. Alternative treatments that may be available; and

16 4. Risks associated with the use of the drugs being prescribed,
17 specifically that opioids are highly addictive, even when taken as
18 prescribed, that there is a risk of developing a physical or
19 psychological dependence on the controlled dangerous substance, and
20 that the risks of taking more opioids than prescribed or mixing
21 sedatives, benzodiazepines or alcohol with opioids can result in
22 fatal respiratory depression.

23 The practitioner shall include a note in the medical record of
24 the patient that the patient or the parent or guardian of the

1 patient, as applicable, has discussed with the practitioner the
2 risks of developing a physical or psychological dependence on the
3 controlled dangerous substance and alternative treatments that may
4 be available. The applicable state licensing board of the
5 practitioner shall develop and make available to practitioners
6 guidelines for the discussion required pursuant to this subsection.

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

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

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

16 2. In the first year of the patient-provider agreement, assess
17 the patient prior to every renewal to determine whether the patient
18 is experiencing problems associated with an opioid use disorder as
19 defined by the American Psychiatric Association and document the
20 results of that assessment. Following one (1) year of compliance
21 with the patient-provider agreement, the practitioner shall assess
22 the patient at a minimum of every six (6) months;

23 3. Periodically make reasonable efforts, unless clinically
24 contraindicated, to either stop the use of the controlled substance,

1 decrease the dosage, try other drugs or treatment modalities in an
2 effort to reduce the potential for abuse or the development of an
3 opioid use disorder as defined by the American Psychiatric
4 Association and document with specificity the efforts undertaken;

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

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

9 G. 1. Any prescription for acute pain pursuant to this section
10 shall have the words "acute pain" notated on the face of the
11 prescription by the practitioner.

12 2. Any prescription for chronic pain pursuant to this section
13 shall have the words "chronic pain" notated on the face of the
14 prescription by the practitioner.

15 H. This section shall not apply to a prescription for a
16 patient:

17 1. Who has sickle cell disease;

18 2. Who is in treatment for cancer or receiving aftercare cancer
19 treatment;

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

21 4. Who is receiving palliative care in conjunction with a
22 serious illness;

23 5. Who is a resident of a long-term care facility; or
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1 6. For any medications that are being prescribed for use in the
2 treatment of substance abuse or opioid dependence.

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

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

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

18 J. Any practitioner authorized to prescribe an opioid drug
19 shall adopt and maintain a written policy or policies that include
20 execution of a written agreement to engage in an informed consent
21 process ~~between the prescribing practitioner and qualifying opioid~~
22 ~~therapy patient. For the purposes of this section, "qualifying~~
23 ~~opioid therapy patient" means:~~

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

3 ~~2. A patient fourteen (14) days or who is prescribed~~
4 ~~benzodiazepines and opioids together for more than one twenty-four-~~
5 ~~hour period; ~~or~~~~

6 ~~3. A patient who is prescribed a dose of opioids that exceeds~~
7 ~~one hundred (100) morphine equivalent doses. Informed consent~~
8 ~~required by this subsection is not equivalent to a patient-provider~~
9 ~~agreement as defined in Section 2-101 of this title.~~

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

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

1 SECTION 4. It being immediately necessary for the preservation
2 of the public peace, health or safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval.

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