

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 HOUSE BILL 1948

By: Cox

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5  
6 AS INTRODUCED

7 An Act relating to public health and safety; amending  
8 63 O.S. 2011, Section 2-304, which relates to denial,  
9 revocation and suspension of certain licenses; making  
10 references gender neutral; prohibiting director of  
11 Oklahoma State Bureau of Narcotics and Dangerous  
12 Drugs Control from assessing certain fee; amending 63  
13 O.S. 2011, Section 2-309D, as last amended by Section  
14 22, Chapter 293, O.S.L. 2014 (63 O.S. Supp. 2014,  
15 Section 2-309D), which relates to central repository  
16 information; expanding access to repository  
17 information to certain persons; permitting registrant  
18 access to certain information for certain purposes;  
19 requiring registrants or staff to access central  
20 repository prior to prescribing certain drugs;  
21 requiring notation of repository access; providing  
22 for exceptions; directing enforcement responsibility  
23 to certain state agencies; requiring Director of  
24 Oklahoma Bureau of Narcotics and Dangerous Drugs  
Control to provide monthly list; and providing an  
effective date.

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

SECTION 1. AMENDATORY 63 O.S. 2011, Section 2-304, is  
amended to read as follows:

Section 2-304. A. A registration, pursuant to Section 2-303 of  
this title, to manufacture, distribute, dispense, prescribe,

1 administer or use for scientific purposes a controlled dangerous  
2 substance shall be limited, conditioned, denied, suspended or  
3 revoked by the Director upon a finding that the registrant:

4 1. Has materially falsified any application filed pursuant to  
5 ~~this act~~ the Uniform Controlled Dangerous Substance Act or required  
6 by ~~this act~~ the Uniform Controlled Dangerous Substance Act;

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

11 3. Has had his or her federal registration retired, suspended,  
12 or revoked by a competent federal authority and is no longer  
13 authorized by federal law to manufacture, distribute, dispense,  
14 prescribe, administer or use for scientific purposes controlled  
15 dangerous substances;

16 4. Has failed to maintain effective controls against the  
17 diversion of controlled dangerous substances to unauthorized persons  
18 or entities;

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

22 6. Has had a restriction, suspension, revocation, limitation,  
23 condition, or probation placed on his or her professional license or  
24

1 certificate or practice as a result of a proceeding pursuant to the  
2 general statutes;

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

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

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

13 10. Has been under the influence of alcohol or another  
14 intoxicating substance which adversely affected the central nervous  
15 system, vision, hearing or other sensory or motor functioning to  
16 such degree the person was impaired during the performance of his or  
17 her job; or

18 11. Has violated any federal law relating to any controlled  
19 substances, any provision of the Uniform Controlled Dangerous  
20 Substances Act, ~~Section 2-101 et seq. of this title~~, or any rules of  
21 the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control.

22 B. In the event the Director suspends or revokes a registration  
23 granted under Section 2-303 of this title, all controlled dangerous  
24 substances owned or possessed by the registrant pursuant to such

1 registration at the time of denial or suspension or the effective  
2 date of the revocation order, as the case may be, may in the  
3 discretion of the Director be impounded and preserved. No  
4 disposition may be made of substances impounded and preserved until  
5 the time for taking an appeal has elapsed or until all appeals have  
6 been concluded unless a court, upon application therefor, orders the  
7 sale of perishable substances and the deposit of the proceeds of the  
8 sale with the court. Upon a revocation order becoming final, all  
9 such controlled dangerous substances shall be forfeited to the  
10 state.

11 C. The Drug Enforcement Administration shall promptly be  
12 notified of all orders suspending or revoking registration and all  
13 forfeitures of controlled dangerous substances.

14 D. In lieu of or in addition to any other remedies available to  
15 the Director, if a finding is made that a registrant has committed  
16 any act in violation of federal law relating to any controlled  
17 substance, any provision of the Uniform Controlled Dangerous  
18 Substances Act, ~~Section 2-101 et seq. of this title~~, or any rules of  
19 the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control,  
20 the Director is hereby authorized to assess an administrative  
21 penalty not to exceed Two Thousand Dollars (\$2,000.00) for each such  
22 act. The provisions of this subsection shall not apply to  
23 violations of subsection G of Section 2 of this act. Nothing in  
24 this section shall be construed so as to permit the Director of the

1 State Bureau of Narcotics and Dangerous Drugs Control to assess  
2 administrative fines for violations of the provisions of subsection  
3 G of Section 2 of this act.

4 SECTION 2. AMENDATORY 63 O.S. 2011, Section 2-309D, as  
5 last amended by Section 22, Chapter 293, O.S.L. 2014 (63 O.S. Supp.  
6 2014, Section 2-309D), is amended to read as follows:

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

11 1. Peace officers certified pursuant to Section 3311 of Title  
12 70 of the Oklahoma Statutes who are employed as investigative agents  
13 of the Oklahoma State Bureau of Narcotics and Dangerous Drugs  
14 Control;

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

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

- 19 a. Board of Podiatric Medical Examiners,
- 20 b. Board of Dentistry,
- 21 c. State Board of Pharmacy,
- 22 d. State Board of Medical Licensure and Supervision,
- 23 e. State Board of Osteopathic Examiners,
- 24 f. State Board of Veterinary Medical Examiners,

- 1 g. Oklahoma Health Care Authority,
- 2 h. Department of Mental Health and Substance Abuse
- 3 Services, ~~and~~
- 4 i. Board of Examiners in Optometry,
- 5 j. Board of Nursing,
- 6 k. Office of the Chief Medical Examiner, and
- 7 l. State Board of Health;

8 ~~provided, however, that the executive director or chief investigator~~  
9 ~~of each of these boards shall be limited to access to information~~  
10 ~~relevant to licensees of the employing board of such executive~~  
11 ~~director or chief investigator;~~

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

14 5. ~~The Department of Mental Health and Substance Abuse Services~~  
15 ~~and the State Department of Health for statistical, research,~~  
16 ~~substance abuse prevention or educational purposes provided that the~~  
17 ~~consumer's confidentiality is not compromised~~ Medical practitioners  
18 employed by the United States Veterans Affairs Administration, the  
19 United States Military, or other federal agencies treating patients  
20 in this state; and

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

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

10 C. This section shall not prevent the disclosure, at the  
11 discretion of the Director of the Oklahoma State Bureau of Narcotics  
12 and Dangerous Drugs Control, of statistical information gathered  
13 from the central repository to the general public which shall be  
14 limited to types and quantities of controlled substances dispensed  
15 and the county where dispensed.

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

21 E. The Department of Mental Health and Substance Abuse Services  
22 and the State Department of Health may utilize the information in  
23 the central repository for statistical, research, substance abuse  
24

1 prevention, or educational purposes, provided that consumer  
2 confidentiality is not compromised.

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

8 ~~F.~~ G. 1. Registrants shall have access to the central  
9 repository for the purposes of patient treatment and for  
10 determination in prescribing or screening new patients. The  
11 patient's history may be disclosed to the patient for the purposes  
12 of treatment of information at the discretion of the physician.

13 2. a. Prior to prescribing or authorizing for refill, if one  
14 hundred eighty (180) days have elapsed prior to the  
15 previous access and check, of opiates, synthetic  
16 opiates, semisynthetic opiates, benzodiazepine or  
17 carisoprodol to a patient of record, registrants or  
18 members of their medical or administrative staff shall  
19 access the information in the central repository to  
20 assess medical necessity and the possibility that the  
21 patient may be unlawfully obtaining prescription drugs  
22 in violation of the Uniform Controlled Dangerous  
23 Substance Act. The duty to access and check shall not  
24 alter or otherwise amend appropriate medical standards



1 of care. The registrant or medical provider shall  
2 note in the patient file that the central repository  
3 has been checked and may maintain a copy of the  
4 information.

5 b. The requirements set forth in subsection A of this  
6 section shall not apply:

7 (1) to medical practitioners who are members of a  
8 health information organization and who access  
9 and use a monthly report. Such report shall  
10 include any controlled substance set forth in  
11 subparagraph a of this paragraph which has been  
12 prescribed to the practitioner's patient, the  
13 name of the prescriber, the location of the  
14 pharmacy where dispensed, and the patient's  
15 clinical context. For purposes of this  
16 subsection, a "health information organization"  
17 shall be composed of a broadly representative  
18 governance inclusive of providers, patients,  
19 payers, employers, tribes, public health, and  
20 safety net providers, and which has a  
21 demonstrated capacity to protect the privacy and  
22 security of patient information in accordance  
23 with federal and state requirements, to integrate  
24 data from multiple clinical and administrative

1 sources and the Oklahoma State Bureau of  
2 Narcotics and Dangerous Drugs Control, to  
3 calculate the required reporting with clinical  
4 context, and to deliver it securely to the  
5 practitioner,

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

10 (3) for a prescription of a controlled substance set  
11 forth in subparagraph a of this paragraph that is  
12 issued by a practitioner for a patient residing  
13 in a nursing facility as defined by Section 1-  
14 1902 of this title, provided that the  
15 prescription is issued to a resident of such  
16 facility.

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

21 G. H. The State Board of Podiatric Examiners, the State Board  
22 of Dentistry, the State Board of Medical Licensure and Supervision,  
23 the State Board of Examiners in Optometry, the State Board of  
24 Nursing, and the State Board of Osteopathic Examiners shall have the

1 sole responsibility for enforcement of the provisions of subsection  
2 G of this section. Nothing in this section shall be construed so as  
3 to permit the Director of the State Bureau of Narcotics and  
4 Dangerous Drugs Control to assess administrative fines provided for  
5 in Section 2-304 of this title.

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

22 J. Information regarding fatal and nonfatal overdoses, other  
23 than statistical information as required by Section 2-106 of this  
24 title, shall be completely confidential. Access to this information

1 shall be strictly limited to the Director of the Oklahoma State  
2 Bureau of Narcotics and Dangerous Drugs Control or designee, the  
3 Chief Medical Examiner, state agencies and boards provided in  
4 subsection A of this section, and the registrant that enters the  
5 information. Registrants shall not be liable to any person for a  
6 claim of damages for information reported pursuant to the provisions  
7 of Section 2-105 of this title.

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

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

22 SECTION 3. This act shall become effective November 1, 2015.

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24 55-1-6588 AM 01/22/15