

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 HOUSE BILL 2861

By: Pae

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5  
6 AS INTRODUCED

7 An Act relating to cosmetic procedures; creating the  
8 Oklahoma Cosmetic Procedures Licensing Act; defining  
9 terms; requiring license or certificate to perform  
10 certain acts; providing limitations; providing  
11 exception to licensure or certification; providing  
12 for laser hair removal certification; directing State  
13 Department of Health to promulgate rules; providing  
14 requirements for certain certificates for laser hair  
15 removal; providing for permanent cosmetic coloring  
16 and cosmetic tattooing licensure; directing  
17 Department to promulgate rules; providing certain  
18 requirements; prohibiting operation of facility  
19 without license; requiring separate licensure for  
20 each facility; providing exceptions; providing for  
21 expiration of licenses and certificates; requiring  
22 certain disclosures; requiring posting of warning  
23 sign; providing requirement for facility operator  
24 compliance; prohibiting false or misleading material  
or advertisements; providing for administrative fine  
and suspension, revocation or denial of license;  
amending 21 O.S. 2011, Section 842.3, which relates  
to body piercing and tattooing; providing exception  
for licenses or certificates issued under the  
Oklahoma Cosmetic Procedures Licensing Act; amending  
63 O.S. 2011, Section 2-101, as last amended by  
Section 16, Chapter 428, O.S.L. 2019 (63 O.S. Supp.  
2019, Section 2-101), which relates to the Uniform  
Controlled Dangerous Substances Act; modifying  
definition; providing for codification; and providing  
an effective date.

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

1 SECTION 1. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 200 of Title 59, unless there is  
3 created a duplication in numbering, reads as follows:

4 Sections 1 through 10 of this act shall be known and may be  
5 cited as the "Oklahoma Cosmetic Procedures Licensing Act".

6 SECTION 2. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 201 of Title 59, unless there is  
8 created a duplication in numbering, reads as follows:

9 As used in the Oklahoma Cosmetic Procedures Licensing Act:

10 1. "Cosmetic tattooing" means the process by which the skin is  
11 marked or colored to form indelible marks, figures or decorative  
12 designs for cosmetic, nonmedical purposes by inserting or ingraining  
13 an indelible pigment into or onto the skin, microblading or  
14 microneedling;

15 2. "Laser hair removal" means the use of a laser or intense  
16 pulsed light device for nonablative hair removal procedures;

17 3. "Laser hair removal facility" means a business location that  
18 provides laser hair removal;

19 4. "Laser or intense pulsed light device" means a device  
20 approved by the State Department of Health and the United States  
21 Food and Drug Administration for laser hair removal;

22 5. "Microblading" means microblading of the eyebrow as a form  
23 of cosmetic tattoo artistry where ink is deposited superficially in  
24 the upper three layers of the epidermis using a handheld or machine-

1 powered tool made up of needles known as a microblade to improve or  
2 create eyebrow definition, to cover gaps of lost or missing hair, to  
3 extend the natural eyebrow pattern, or to create a full construction  
4 if the eyebrows have little to no hair;

5 6. "Microneedling" means the minimally invasive cosmetic  
6 procedure utilizing fine, sterile needles to puncture the skin for  
7 the purpose of treating skin concerns through collagen production;

8 7. "Nonablative hair removal procedure" means a hair removal  
9 procedure using a laser or intense pulsed light device that does not  
10 remove the epidermis;

11 8. "Operator" means the owner of a laser hair removal facility,  
12 an agent of an owner, or an independent contractor of a laser hair  
13 removal facility; and

14 9. "Permanent cosmetic coloring" means tattooing for the  
15 purpose of simulating hair or makeup, such as permanent eyeliner,  
16 lip color, eyebrows and eyeshadow.

17 SECTION 3. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 202 of Title 59, unless there is  
19 created a duplication in numbering, reads as follows:

20 A. A person shall not perform or attempt to perform laser hair  
21 removal, permanent cosmetic coloring and cosmetic tattooing unless  
22 the person holds the appropriate license or certificate issued by  
23 the State Department of Health.

24

1 B. A license or certificate under the Oklahoma Cosmetic  
2 Procedures Licensing Act only authorizes a person to perform  
3 nonablative cosmetic laser hair removal, permanent cosmetic coloring  
4 and cosmetic tattooing. The license or certificate does not  
5 authorize the person to diagnose, treat or offer to treat any client  
6 for any illness, disease, injury, defect or deformity of the human  
7 body. The license or certificate holder shall specifically disclose  
8 this limitation in writing to all clients and prospective clients.

9 C. A health professional licensed under another law is not  
10 required to hold a certificate under this act to perform laser hair  
11 removal if the performance of laser hair removal is within the scope  
12 of that professional's practice as determined by the professional's  
13 licensing board.

14 D. This act does not apply to a physician or any person under  
15 the supervision of a physician who is licensed to practice medicine  
16 in this state.

17 SECTION 4. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 203 of Title 59, unless there is  
19 created a duplication in numbering, reads as follows:

20 Certificates for laser hair removal shall be issued by the State  
21 Department of Health. The Department shall promulgate rules  
22 regulating laser hair removal certificates, which shall include, but  
23 not be limited to, the following:

24

1       1. An applicant for a laser hair removal professional  
2 certificate shall:

- 3           a. be certified by a recognized certifying entity
- 4                 approved by the State Department of Health,
- 5           b. meet the requirements for a senior laser hair removal
- 6                 technician certificate under paragraph 2 of this
- 7                 section, and
- 8           c. pass an examination required by the Department;

9       2. An applicant for a senior laser hair removal technician  
10 certificate shall:

- 11           a. meet the requirements for a laser hair removal
- 12                 technician certificate under paragraph 3 of this
- 13                 section, and
- 14           b. have supervised at least one hundred laser hair
- 15                 removal procedures, as audited by a certified laser
- 16                 hair removal professional;

17       3. An applicant for a laser hair removal technician certificate  
18 shall:

- 19           a. meet the requirements for a laser hair removal
- 20                 apprentice-in-training certificate under paragraph 4
- 21                 of this section, and
- 22           b. have performed at least one hundred laser hair removal
- 23                 procedures under the direct supervision of a laser
- 24

1 hair removal technician or certified laser hair  
2 removal professional;

3 4. An applicant for a laser hair removal apprentice-in-training  
4 certificate shall:

5 a. have at least twenty-four (24) hours of training in  
6 safety, laser physics, skin typing, skin reactions,  
7 treatment protocols, burns, eye protection,  
8 emergencies and posttreatment protocols,

9 b. work directly under the supervision of a senior laser  
10 hair removal technician or certified laser hair  
11 removal professional, and

12 c. be at least eighteen (18) years of age;

13 5. Except as provided in paragraph 6 of this section, a laser  
14 hair removal facility shall have a laser hair removal professional  
15 or a licensed health care professional present to supervise the  
16 laser hair removal procedures performed at the facility during the  
17 facility's operating hours; and

18 6. A laser hair removal facility may continue to perform laser  
19 hair removal procedures after the facility's certified laser hair  
20 removal professional resigns from the facility if a senior laser  
21 hair removal technician is present to perform or supervise each  
22 procedure. No later than forty-five (45) days after the date the  
23 facility's certified laser hair removal professional leaves the  
24 facility:

- a. the facility's senior laser hair removal technician must become certified as a laser hair removal professional, or
- b. the facility must hire a new certified laser hair removal professional.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 204 of Title 59, unless there is created a duplication in numbering, reads as follows:

Licenses for permanent cosmetic coloring or cosmetic tattooing shall be issued by the State Department of Health. The Department shall promulgate rules regulating cosmetic coloring and cosmetic tattooing, which shall include, but not be limited to:

- 1. Temporary and permanent licensure;
- 2. Equipment setup and requirements;
- 3. Procedures for sanitary procedures;
- 4. Hand washing and general health;
- 5. Site preparation and application; and
- 6. Education and training.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 205 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. A person shall not operate a facility offering laser hair removal, permanent cosmetic coloring or cosmetic tattooing, unless

1 the person holds a license issued under the Oklahoma Cosmetic  
2 Procedures Licensing Act to operate the facility.

3 B. A separate license is required for each facility.

4 C. This section does not apply to:

5 1. A facility owned or operated by a physician for the practice  
6 of medicine;

7 2. A licensed hospital; or

8 3. A clinic owned or operated by a licensed hospital.

9 SECTION 7. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 206 of Title 59, unless there is  
11 created a duplication in numbering, reads as follows:

12 Licenses or certificates issued under the Oklahoma Cosmetic  
13 Procedures Licensing Act shall expire two (2) years from the date of  
14 issuance and may be renewed.

15 SECTION 8. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 207 of Title 59, unless there is  
17 created a duplication in numbering, reads as follows:

18 A facility offering laser hair removal, permanent cosmetic  
19 coloring or cosmetic tattooing shall:

20 1. Give each customer a written statement outlining the  
21 relevant risks associated with each procedure and any other notices  
22 required by the State Department of Health; and

23 2. Post a warning sign as prescribed by the State Department of  
24 Health in a conspicuous location readily visible to a person



1 entering the facility. The sign shall provide a toll-free telephone  
2 number and email address for the Department and inform the customer  
3 that the customer may contact the Department.

4 SECTION 9. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 208 of Title 59, unless there is  
6 created a duplication in numbering, reads as follows:

7 A. A facility operator offering laser hair removal, permanent  
8 cosmetic coloring or cosmetic tattooing is responsible for  
9 compliance with the requirements of the Oklahoma Cosmetic Procedures  
10 Licensing Act and rules promulgated by the State Department of  
11 Health.

12 B. A facility offering laser hair removal, permanent cosmetic  
13 coloring or cosmetic tattooing shall not claim, advertise or  
14 distribute false or misleading material or advertisements regarding  
15 services offered at the facility.

16 SECTION 10. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 209 of Title 59, unless there is  
18 created a duplication in numbering, reads as follows:

19 The State Department of Health may impose an administrative fine  
20 not to exceed Five Thousand Dollars (\$5,000.00) per violation per  
21 day, and may suspend, revoke or deny the license of the facility, or  
22 may impose both such administrative fine and suspension, revocation  
23 or denial for any violation of the Oklahoma Cosmetic Procedures  
24 Licensing Act.

1 SECTION 11. AMENDATORY 21 O.S. 2011, Section 842.3, is  
2 amended to read as follows:

3 Section 842.3 A. All body piercing operators, tattoo operators  
4 and artists shall be prohibited from performing body piercing or  
5 tattooing unless licensed in the appropriate category by the State  
6 Department of Health. The State Board of Health shall promulgate  
7 rules regulating body piercing and tattooing which shall include,  
8 but not be limited to:

- 9 1. Artist temporary and permanent licensure;
- 10 2. Facility operator temporary and permanent licensure;
- 11 3. Body piercing and tattoo facility requirements;
- 12 4. Equipment setup and requirements;
- 13 5. Procedures for sanitary body piercing and tattooing;
- 14 6. Forms to be completed prior to performing body piercing and  
15 tattooing including, but not limited to, applications and parental  
16 consent forms;
- 17 7. Hand washing and general health;
- 18 8. Body piercing and tattoo site preparation and application;
- 19 9. Procedure following body piercing and tattoo application;
- 20 10. Limits and prohibitions concerning body piercing and  
21 tattooing;
- 22 11. Facility inspection documents including, but not limited  
23 to, equipment inspection;
- 24 12. Administrative fines structure;

1 13. Education and training; and

2 14. A surety bond in the principal sum of One Hundred Thousand  
3 Dollars (\$100,000.00) to be in a form approved by the Attorney  
4 General and filed in the Office of the Secretary of State for all  
5 body piercing and tattoo operators.

6 B. A city or county may adopt any regulations that do not  
7 conflict with, or are more comprehensive than, the provisions of  
8 this section or with the rules promulgated by the Department. This  
9 section does not limit the ability of a city or county to require an  
10 applicant to obtain any further business licenses or permits that  
11 the city or county deems appropriate.

12 C. 1. The State Department of Health shall not grant or issue  
13 a license to a body piercing or tattoo operator if the place of  
14 business of the body piercing or tattoo operator is within one  
15 thousand (1,000) feet of a church, school, or playground.

16 2. The provisions of this subsection shall not apply to the  
17 renewal of licenses or to new applications for locations where body  
18 piercing or tattoo operators are licensed at the time the  
19 application is filed with the Department.

20 3. As used in this subsection:

21 a. "church" means an establishment, other than a private  
22 dwelling, where religious services are usually  
23 conducted,

1           b. "school" means an establishment, other than a private  
2           dwelling, where the usual processes of education are  
3           usually conducted, and

4           c. "playground" means a place, other than grounds at a  
5           private dwelling, that is provided by the public or  
6           members of a community for recreation.

7           D. A body piercing or tattoo operator applying for license  
8           renewal or for a new license to perform at an existing body piercing  
9           or tattoo place of business shall pay a certification fee  
10          established by the Department by rule to determine if the exemptions  
11          provided for in paragraph 2 of subsection C of this section apply.

12          E. A body piercing or tattoo operator applying for license  
13          renewal or for a new license under subsection C of this section  
14          shall publish notice of the license application or renewal at least  
15          once a week for three (3) consecutive weeks in a newspaper of  
16          general circulation nearest to the proposed location of the business  
17          and most likely to give notice to interested citizens of the county,  
18          city, and community in which the applicant proposes to engage in  
19          business. The publication shall identify the exact location at  
20          which the proposed business is to be operated.

21          F. The State Department of Health may notify the district  
22          attorney of any violation of Section 842.1 of this title or rules  
23          promulgated pursuant thereto and, in addition to any criminal  
24          penalty imposed, the Department may impose an administrative fine

1 not to exceed Five Thousand Dollars (\$5,000.00) per violation per  
2 day, and may suspend, revoke or deny the license of the  
3 establishment, or may impose both such administrative fine and  
4 suspension, revocation or denial for any such violation.

5 G. This section shall not apply to persons licensed or  
6 certified pursuant to the Oklahoma Cosmetic Procedures Licensing  
7 Act.

8 SECTION 12. AMENDATORY 63 O.S. 2011, Section 2-101, as  
9 last amended by Section 16, Chapter 428, O.S.L. 2019 (63 O.S. Supp.  
10 2019, Section 2-101), is amended to read as follows:

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

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

17 a. a practitioner (or, in the presence of the  
18 practitioner, by the authorized agent of the  
19 practitioner), or

20 b. the patient or research subject at the direction and  
21 in the presence of the practitioner;

22 2. "Agent" means a peace officer appointed by and who acts on  
23 behalf of the Director of the Oklahoma State Bureau of Narcotics and  
24 Dangerous Drugs Control or an authorized person who acts on behalf

1 of or at the direction of a person who manufactures, distributes,  
2 dispenses, prescribes, administers or uses for scientific purposes  
3 controlled dangerous substances but does not include a common or  
4 contract carrier, public warehouse or employee thereof, or a person  
5 required to register under the Uniform Controlled Dangerous  
6 Substances Act;

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

9 4. "Bureau" means the Oklahoma State Bureau of Narcotics and  
10 Dangerous Drugs Control;

11 5. "Coca leaves" includes cocaine and any compound,  
12 manufacture, salt, derivative, mixture or preparation of coca  
13 leaves, except derivatives of coca leaves which do not contain  
14 cocaine or ecgonine;

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

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

20 8. "Controlled dangerous substance" means a drug, substance or  
21 immediate precursor in Schedules I through V of the Uniform  
22 Controlled Dangerous Substances Act or any drug, substance or  
23 immediate precursor listed either temporarily or permanently as a  
24 federally controlled substance. Any conflict between state and

1 federal law with regard to the particular schedule in which a  
2 substance is listed shall be resolved in favor of state law;

3 9. "Counterfeit substance" means a controlled substance which,  
4 or the container or labeling of which without authorization, bears  
5 the trademark, trade name or other identifying marks, imprint,  
6 number or device or any likeness thereof of a manufacturer,  
7 distributor or dispenser other than the person who in fact  
8 manufactured, distributed or dispensed the substance;

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

13 11. "Dispense" means to deliver a controlled dangerous  
14 substance to an ultimate user or human research subject by or  
15 pursuant to the lawful order of a practitioner, including the  
16 prescribing, administering, packaging, labeling or compounding  
17 necessary to prepare the substance for such distribution.

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

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

22 13. "Distributor" means a commercial entity engaged in the  
23 distribution or reverse distribution of narcotics and dangerous  
24 drugs and who complies with all regulations promulgated by the

1 federal Drug Enforcement Administration and the Oklahoma State  
2 Bureau of Narcotics and Dangerous Drugs Control;

3 14. "Drug" means articles:

4 a. recognized in the official United States

5 Pharmacopoeia, official Homeopathic Pharmacopoeia of  
6 the United States, or official National Formulary, or  
7 any supplement to any of them,

8 b. intended for use in the diagnosis, cure, mitigation,  
9 treatment or prevention of disease in man or other  
10 animals,

11 c. other than food, intended to affect the structure or  
12 any function of the body of man or other animals, and

13 d. intended for use as a component of any article  
14 specified in this paragraph;

15 provided, however, the term "drug" does not include devices or their  
16 components, parts or accessories;

17 15. "Drug-dependent person" means a person who is using a  
18 controlled dangerous substance and who is in a state of psychic or  
19 physical dependence, or both, arising from administration of that  
20 controlled dangerous substance on a continuous basis. Drug  
21 dependence is characterized by behavioral and other responses which  
22 include a strong compulsion to take the substance on a continuous  
23 basis in order to experience its psychic effects, or to avoid the  
24 discomfort of its absence;



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

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

8       18. "Hospice" means a centrally administered, nonprofit or  
9 profit, medically directed, nurse-coordinated program which provides  
10 a continuum of home and inpatient care for the terminally ill  
11 patient and the patient's family. Such term shall also include a  
12 centrally administered, nonprofit or profit, medically directed,  
13 nurse-coordinated program if such program is licensed pursuant to  
14 the provisions of the Uniform Controlled Dangerous Substances Act.  
15 A hospice program offers palliative and supportive care to meet the  
16 special needs arising out of the physical, emotional and spiritual  
17 stresses which are experienced during the final stages of illness  
18 and during dying and bereavement. This care is available twenty-  
19 four (24) hours a day, seven (7) days a week, and is provided on the  
20 basis of need, regardless of ability to pay. "Class A" Hospice  
21 refers to Medicare-certified hospices. "Class B" refers to all  
22 other providers of hospice services;

23       19. "Imitation controlled substance" means a substance that is  
24 not a controlled dangerous substance, which by dosage unit

1 appearance, color, shape, size, markings or by representations made,  
2 would lead a reasonable person to believe that the substance is a  
3 controlled dangerous substance. In the event the appearance of the  
4 dosage unit is not reasonably sufficient to establish that the  
5 substance is an "imitation controlled substance", the court or  
6 authority concerned should consider, in addition to all other  
7 factors, the following factors as related to "representations made"  
8 in determining whether the substance is an "imitation controlled  
9 substance":

- 10 a. statements made by an owner or by any other person in  
11 control of the substance concerning the nature of the  
12 substance, or its use or effect,
- 13 b. statements made to the recipient that the substance  
14 may be resold for inordinate profit,
- 15 c. whether the substance is packaged in a manner normally  
16 used for illicit controlled substances,
- 17 d. evasive tactics or actions utilized by the owner or  
18 person in control of the substance to avoid detection  
19 by law enforcement authorities,
- 20 e. prior convictions, if any, of an owner, or any other  
21 person in control of the object, under state or  
22 federal law related to controlled substances or fraud,  
23 and

24

1 f. the proximity of the substances to controlled  
2 dangerous substances;

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

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

13 22. "Manufacture" means the production, preparation,  
14 propagation, compounding or processing of a controlled dangerous  
15 substance, either directly or indirectly by extraction from  
16 substances of natural or synthetic origin, or independently by means  
17 of chemical synthesis or by a combination of extraction and chemical  
18 synthesis. "Manufacturer" includes any person who packages,  
19 repackages or labels any container of any controlled dangerous  
20 substance, except practitioners who dispense or compound  
21 prescription orders for delivery to the ultimate consumer;

22 23. "Marijuana" means all parts of the plant *Cannabis sativa*  
23 L., whether growing or not; the seeds thereof; the resin extracted  
24 from any part of such plant; and every compound, manufacture, salt,

1 derivative, mixture or preparation of such plant, its seeds or  
2 resin, but shall not include:

- 3 a. the mature stalks of such plant or fiber produced from  
4 such stalks,
- 5 b. oil or cake made from the seeds of such plant,  
6 including cannabidiol derived from the seeds of the  
7 marijuana plant,
- 8 c. any other compound, manufacture, salt, derivative,  
9 mixture or preparation of such mature stalks (except  
10 the resin extracted therefrom), including cannabidiol  
11 derived from mature stalks, fiber, oil or cake,
- 12 d. the sterilized seed of such plant which is incapable  
13 of germination,
- 14 e. for any person participating in a clinical trial to  
15 administer cannabidiol for the treatment of severe  
16 forms of epilepsy pursuant to Section 2-802 of this  
17 title, a drug or substance approved by the federal  
18 Food and Drug Administration for use by those  
19 participants,
- 20 f. for any person or the parents, legal guardians or  
21 caretakers of the person who have received a written  
22 certification from a physician licensed in this state  
23 that the person has been diagnosed by a physician as  
24 having Lennox-Gastaut syndrome, Dravet syndrome, also

1 known as severe myoclonic epilepsy of infancy, or any  
2 other severe form of epilepsy that is not adequately  
3 treated by traditional medical therapies, spasticity  
4 due to multiple sclerosis or due to paraplegia,  
5 intractable nausea and vomiting, appetite stimulation  
6 with chronic wasting diseases, the substance  
7 cannabidiol, a nonpsychoactive cannabinoid, found in  
8 the plant Cannabis sativa L. or any other preparation  
9 thereof, that has a tetrahydrocannabinol concentration  
10 of not more than three-tenths of one percent (0.3%)  
11 and that is delivered to the patient in the form of a  
12 liquid,

13 g. any federal Food-and-Drug-Administration-approved  
14 cannabidiol drug or substance, or

15 h. industrial hemp, from the plant Cannabis sativa L. and  
16 any part of such plant, whether growing or not, with a  
17 delta-9 tetrahydrocannabinol concentration of not more  
18 than three-tenths of one percent (0.3%) on a dry  
19 weight basis which shall not be grown anywhere in the  
20 State of Oklahoma but may be shipped to Oklahoma  
21 pursuant to the provisions of subparagraph e or f of  
22 this paragraph;

23 24. "Medical purpose" means an intention to utilize a  
24 controlled dangerous substance for physical or mental treatment, for

1 diagnosis, or for the prevention of a disease condition not in  
2 violation of any state or federal law and not for the purpose of  
3 satisfying physiological or psychological dependence or other abuse;

4 25. "Mid-level practitioner" means an Advanced Practice  
5 Registered Nurse as defined and within parameters specified in  
6 Section 567.3a of Title 59 of the Oklahoma Statutes, or a certified  
7 animal euthanasia technician as defined in Section 698.2 of Title 59  
8 of the Oklahoma Statutes, or an animal control officer registered by  
9 the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control  
10 under subsection B of Section 2-301 of this title within the  
11 parameters of such officer's duty under Sections 501 through 508 of  
12 Title 4 of the Oklahoma Statutes;

13 26. "Narcotic drug" means any of the following, whether  
14 produced directly or indirectly by extraction from substances of  
15 vegetable origin, or independently by means of chemical synthesis,  
16 or by a combination of extraction and chemical synthesis:

- 17 a. opium, coca leaves and opiates,
- 18 b. a compound, manufacture, salt, derivative or  
19 preparation of opium, coca leaves or opiates,
- 20 c. cocaine, its salts, optical and geometric isomers, and  
21 salts of isomers,
- 22 d. ecgonine, its derivatives, their salts, isomers and  
23 salts of isomers, and  
24

1 e. a substance, and any compound, manufacture, salt,  
2 derivative or preparation thereof, which is chemically  
3 identical with any of the substances referred to in  
4 subparagraphs a through d of this paragraph, except  
5 that the words "narcotic drug" as used in Section 2-  
6 101 et seq. of this title shall not include  
7 decocainized coca leaves or extracts of coca leaves,  
8 which extracts do not contain cocaine or ecgonine;

9 27. "Opiate" or "opioid" means any Schedule II, III, IV or V  
10 substance having an addiction-forming or addiction-sustaining  
11 liability similar to morphine or being capable of conversion into a  
12 drug having such addiction-forming or addiction-sustaining  
13 liability. The terms do not include, unless specifically designated  
14 as controlled under the Uniform Controlled Dangerous Substances Act,  
15 the dextrorotatory isomer of 3-methoxy-n-methyl-morphinan and its  
16 salts (dextromethorphan). The terms do include the racemic and  
17 levorotatory forms;

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

20 29. "Peace officer" means a police officer, sheriff, deputy  
21 sheriff, district attorney's investigator, investigator from the  
22 Office of the Attorney General, or any other person elected or  
23 appointed by law to enforce any of the criminal laws of this state  
24 or of the United States;

1       30. "Person" means an individual, corporation, government or  
2 governmental subdivision or agency, business trust, estate, trust,  
3 partnership or association, or any other legal entity;

4       31. "Poppy straw" means all parts, except the seeds, of the  
5 opium poppy, after mowing;

6       32. "Practitioner" means:

7           a. (1) a medical doctor or osteopathic physician,

8                   (2) a dentist,

9                   (3) a podiatrist,

10                   (4) an optometrist,

11                   (5) a veterinarian,

12                   (6) a physician assistant or Advanced Practice

13                               Registered Nurse under the supervision of a

14                               licensed medical doctor or osteopathic physician,

15                   (7) a scientific investigator, or

16                   (8) any other person,

17                   licensed, registered or otherwise permitted to  
18                   prescribe, distribute, dispense, conduct research with  
19                   respect to, use for scientific purposes or administer  
20                   a controlled dangerous substance in the course of  
21                   professional practice or research in this state, or

22           b. a pharmacy, hospital, laboratory or other institution

23                   licensed, registered or otherwise permitted to

24                   distribute, dispense, conduct research with respect



1 to, use for scientific purposes or administer a  
2 controlled dangerous substance in the course of  
3 professional practice or research in this state;

4 33. "Production" includes the manufacture, planting,  
5 cultivation, growing or harvesting of a controlled dangerous  
6 substance;

7 34. "State" means the State of Oklahoma or any other state of  
8 the United States;

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

14 36. "Drug paraphernalia" means all equipment, products and  
15 materials of any kind which are used, intended for use, or fashioned  
16 specifically for use in planting, propagating, cultivating, growing,  
17 harvesting, manufacturing, compounding, converting, producing,  
18 processing, preparing, testing, analyzing, packaging, repackaging,  
19 storing, containing, concealing, injecting, ingesting, inhaling or  
20 otherwise introducing into the human body, a controlled dangerous  
21 substance in violation of the Uniform Controlled Dangerous  
22 Substances Act including, but not limited to:

- 23 a. kits used, intended for use, or fashioned specifically  
24 for use in planting, propagating, cultivating, growing

1 or harvesting of any species of plant which is a  
2 controlled dangerous substance or from which a  
3 controlled dangerous substance can be derived,

4 b. kits used, intended for use, or fashioned specifically  
5 for use in manufacturing, compounding, converting,  
6 producing, processing or preparing controlled  
7 dangerous substances,

8 c. isomerization devices used, intended for use, or  
9 fashioned specifically for use in increasing the  
10 potency of any species of plant which is a controlled  
11 dangerous substance,

12 d. testing equipment used, intended for use, or fashioned  
13 specifically for use in identifying, or in analyzing  
14 the strength, effectiveness or purity of controlled  
15 dangerous substances,

16 e. scales and balances used, intended for use, or  
17 fashioned specifically for use in weighing or  
18 measuring controlled dangerous substances,

19 f. diluents and adulterants, such as quinine  
20 hydrochloride, mannitol, mannite, dextrose and  
21 lactose, used, intended for use, or fashioned  
22 specifically for use in cutting controlled dangerous  
23 substances,

24

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

- 1 (1) metal, wooden, acrylic, glass, stone, plastic or
- 2 ceramic pipes with or without screens, permanent
- 3 screens, hashish heads or punctured metal bowls,
- 4 (2) water pipes,
- 5 (3) carburetion tubes and devices,
- 6 (4) smoking and carburetion masks,
- 7 (5) roach clips, meaning objects used to hold burning
- 8 material, such as a marijuana cigarette, that has
- 9 become too small or too short to be held in the
- 10 hand,
- 11 (6) miniature cocaine spoons and cocaine vials,
- 12 (7) chamber pipes,
- 13 (8) carburetor pipes,
- 14 (9) electric pipes,
- 15 (10) air-driven pipes,
- 16 (11) chillums,
- 17 (12) bongs, or
- 18 (13) ice pipes or chillers,
- 19 m. all hidden or novelty pipes, and
- 20 n. any pipe that has a tobacco bowl or chamber of less
- 21 than one-half (1/2) inch in diameter in which there is
- 22 any detectable residue of any controlled dangerous
- 23 substance as defined in this section or any other
- 24 substances not legal for possession or use;

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

8 37. a. "Synthetic controlled substance" means a substance:

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

1                   central nervous system of a controlled dangerous  
2                   substance in Schedule I or II.

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

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

9                   (1)   a controlled dangerous substance,

10                   (2)   any substance for which there is an approved new  
11                   drug application,

12                   (3)   with respect to a particular person any  
13                   substance, if an exemption is in effect for  
14                   investigational use, for that person under the  
15                   provisions of Section 505 of the Federal Food,  
16                   Drug and Cosmetic Act, Title 21 of the United  
17                   States Code, Section 355, to the extent conduct  
18                   with respect to such substance is pursuant to  
19                   such exemption, or

20                   (4)   any substance to the extent not intended for  
21                   human consumption before such an exemption takes  
22                   effect with respect to that substance.

23           d.    Prima facie evidence that a substance containing  
24           salvia divinorum has been enhanced, concentrated or

1 chemically or physically altered shall give rise to a  
2 rebuttable presumption that the substance is a  
3 synthetic controlled substance;

4 38. "Tetrahydrocannabinols" means all substances that have been  
5 chemically synthesized to emulate the tetrahydrocannabinols of  
6 marijuana;

7 39. "Isomer" means the optical isomer, except as used in  
8 subsections C and F of Section 2-204 of this title and paragraph 4  
9 of subsection A of Section 2-206 of this title. As used in  
10 subsections C and F of Section 2-204 of this title, "isomer" means  
11 the optical, positional or geometric isomer. As used in paragraph 4  
12 of subsection A of Section 2-206 of this title, the term "isomer"  
13 means the optical or geometric isomer;

14 40. "Hazardous materials" means materials, whether solid,  
15 liquid or gas, which are toxic to human, animal, aquatic or plant  
16 life, and the disposal of which materials is controlled by state or  
17 federal guidelines;

18 41. "Anhydrous ammonia" means any substance that exhibits  
19 cryogenic evaporative behavior and tests positive for ammonia;

20 42. "Acute pain" means pain, whether resulting from disease,  
21 accidental or intentional trauma or other cause, that the  
22 practitioner reasonably expects to last only a short period of time.  
23 "Acute pain" does not include chronic pain, pain being treated as  
24

1 part of cancer care, hospice or other end-of-life care, or pain  
2 being treated as part of palliative care;

3 43. "Chronic pain" means pain that persists beyond the usual  
4 course of an acute disease or healing of an injury. "Chronic pain"  
5 may or may not be associated with an acute or chronic pathologic  
6 process that causes continuous or intermittent pain over months or  
7 years;

8 44. "Initial prescription" means a prescription issued to a  
9 patient who:

- 10 a. has never previously been issued a prescription for  
11 the drug or its pharmaceutical equivalent in the past  
12 year, or  
13 b. requires a prescription for the drug or its  
14 pharmaceutical equivalent due to a surgical procedure  
15 or new acute event and has previously had a  
16 prescription for the drug or its pharmaceutical  
17 equivalent within the past year.

18 When determining whether a patient was previously issued a  
19 prescription for a drug or its pharmaceutical equivalent, the  
20 practitioner shall consult with the patient and review the medical  
21 record and prescription monitoring information of the patient;

22 45. "Patient-provider agreement" means a written contract or  
23 agreement that is executed between a practitioner and a patient,  
24



1 prior to the commencement of treatment for chronic pain using an  
2 opioid drug as a means to:

- 3 a. explain the possible risk of development of physical  
4 or psychological dependence in the patient and prevent  
5 the possible development of addiction,
- 6 b. document the understanding of both the practitioner  
7 and the patient regarding the patient-provider  
8 agreement of the patient,
- 9 c. establish the rights of the patient in association  
10 with treatment and the obligations of the patient in  
11 relation to the responsible use, discontinuation of  
12 use, and storage of opioid drugs, including any  
13 restrictions on the refill of prescriptions or the  
14 acceptance of opioid prescriptions from practitioners,
- 15 d. identify the specific medications and other modes of  
16 treatment, including physical therapy or exercise,  
17 relaxation or psychological counseling, that are  
18 included as a part of the patient-provider agreement,
- 19 e. specify the measures the practitioner may employ to  
20 monitor the compliance of the patient including, but  
21 not limited to, random specimen screens and pill  
22 counts, and
- 23 f. delineate the process for terminating the agreement,  
24 including the consequences if the practitioner has

1 reason to believe that the patient is not complying  
2 with the terms of the agreement. Compliance with the  
3 "consent items" shall constitute a valid, informed  
4 consent for opioid therapy. The practitioner shall be  
5 held harmless from civil litigation for failure to  
6 treat pain if the event occurs because of nonadherence  
7 by the patient with any of the provisions of the  
8 patient-provider agreement;

9 46. "Serious illness" means a medical illness or physical  
10 injury or condition that substantially affects quality of life for  
11 more than a short period of time. "Serious illness" includes, but  
12 is not limited to, Alzheimer's disease or related dementias, lung  
13 disease, cancer, heart failure, renal failure, liver failure or  
14 chronic, unremitting or intractable pain such as neuropathic pain;  
15 and

16 47. "Surgical procedure" means a procedure that is performed  
17 for the purpose of structurally altering the human body by incision  
18 or destruction of tissues as part of the practice of medicine. This  
19 term includes the diagnostic or therapeutic treatment of conditions  
20 or disease processes by use of instruments such as lasers, except  
21 the use of nonablative lasers pursuant to the Oklahoma Cosmetic  
22 Procedures Licensing Act, ultrasound, ionizing, radiation, scalpels,  
23 probes or needles that cause localized alteration or transportation  
24 of live human tissue by cutting, burning, vaporizing, freezing,

1 suturing, probing or manipulating by closed reduction for major  
2 dislocations or fractures, or otherwise altering by any mechanical,  
3 thermal, light-based, electromagnetic or chemical means.

4 SECTION 13. This act shall become effective November 1, 2020.

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