

1 **SENATE FLOOR VERSION**

2 February 19, 2018

3 **AS AMENDED**

4 SENATE BILL NO. 1175

5 By: Brecheen

6 **[Uniform Controlled Dangerous Substances Act -**
7 **dispensers - medical marijuana - central repository**
8 **information - central repository access - conditional**
9 **effective date]**

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

11 SECTION 1. AMENDATORY 63 O.S. 2011, Section 2-309C, as
12 last amended by Section 73, Chapter 15, O.S.L. 2013 (63 O.S. Supp.
13 2017, Section 2-309C), is amended to read as follows:

14 Section 2-309C. A. A dispenser of a Schedule II, III, IV or V
15 controlled dangerous substance dispensed pursuant to a valid
16 prescription or of medical marijuana shall transmit to a central
17 repository designated by the Oklahoma State Bureau of Narcotics and
18 Dangerous Drugs Control using the American Society for Automation in
19 Pharmacy's (ASAP) Telecommunications Format for Controlled
20 Substances version designated in rules by the Oklahoma State Bureau
21 of Narcotics and Dangerous Drugs Control, the following information
22 for each dispensation:

- 23 1. Recipient's and recipient's agent's name;
24 2. Recipient's and recipient's agent's address;

- 1 3. Recipient's and recipient's agent's date of birth;
- 2 4. Recipient's and recipient's agent's identification number;
- 3 5. National Drug Code number of the substance dispensed;
- 4 6. Date of the dispensation;
- 5 7. Quantity of the substance dispensed;
- 6 8. Prescriber's United States Drug Enforcement Agency
- 7 registration number;
- 8 9. Dispenser's registration number; and
- 9 10. Other information as required by administrative rule.

10 B. The information required by this section shall be
11 transmitted:

- 12 1. In a format or other media designated acceptable by the
13 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control; and
- 14 2. Within twenty-four (24) hours of the time that the substance
15 is dispensed. Beginning January 1, 2012, all information shall be
16 submitted on a real-time log.

17 C. When a prescription is written or dispensed to a resident of
18 a nursing home or a person who is under the care of a hospice
19 program licensed pursuant to the provisions of the Oklahoma Hospice
20 Licensing Act who does not have an identification card issued by the
21 state or another form of a recipient identification number pursuant
22 to Section 2-309B of this title, a Social Security number may be
23 used for the purpose of complying with the reporting requirements
24 provided for in this section.

1 D. Willful failure to transmit accurate information as required
2 by this section shall be a misdemeanor punishable, upon conviction,
3 by not more than one (1) year in the county jail, or by a fine of
4 not more than One Thousand Dollars (\$1,000.00), or by both such
5 imprisonment and fine, or administrative action may be taken
6 pursuant to Section 2-304 of this title.

7 E. The Director of the Bureau shall have the authority to allow
8 paper submissions on a form designated by the Oklahoma State Bureau
9 of Narcotics and Dangerous Drugs Control, if the dispenser has an
10 appropriate hardship.

11 F. Any facility which dispenses medical marijuana shall be
12 owned by a person authorized to access and transmit to the central
13 repository.

14 SECTION 2. AMENDATORY 63 O.S. 2011, Section 2-309D, as
15 last amended by Section 35, Chapter 210, O.S.L. 2016 (63 O.S. Supp.
16 2017, Section 2-309D), is amended to read as follows:

17 Section 2-309D. A. The information collected at the central
18 repository pursuant to the Anti-Drug Diversion Act shall be
19 confidential and shall not be open to the public. Access to the
20 information shall be limited to:

21 1. Peace officers certified pursuant to Section 3311 of Title
22 70 of the Oklahoma Statutes who are employed as investigative agents
23 of the Oklahoma State Bureau of Narcotics and Dangerous Drugs
24 Control;

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

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

- 5 a. Board of Podiatric Medical Examiners,
- 6 b. Board of Dentistry,
- 7 c. State Board of Pharmacy,
- 8 d. State Board of Medical Licensure and Supervision,
- 9 e. State Board of Osteopathic Examiners,
- 10 f. State Board of Veterinary Medical Examiners,
- 11 g. Oklahoma Health Care Authority,
- 12 h. Department of Mental Health and Substance Abuse
13 Services,
- 14 i. Board of Examiners in Optometry,
- 15 j. Board of Nursing,
- 16 k. Office of the Chief Medical Examiner, and
- 17 l. State Board of Health;

18 4. A multicounty grand jury properly convened pursuant to the
19 Multicounty Grand Jury Act;

20 5. Medical practitioners employed by the United States
21 Department of Veterans Affairs, the United States Military, or other
22 federal agencies treating patients in this state; ~~and~~

23 6. At the discretion of the Director of the Oklahoma State
24 Bureau of Narcotics and Dangerous Drugs Control, medical

1 practitioners and their staff, including those employed by the
2 federal government in this state; and

3 7. Owners of facilities which dispense medical marijuana.

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

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

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

1 E. The Department of Mental Health and Substance Abuse Services
2 and the State Department of Health may utilize the information in
3 the central repository for statistical, research, substance abuse
4 prevention, or educational purposes, provided that consumer
5 confidentiality is not compromised.

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

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

16 2. a. Prior to prescribing or authorizing for refill, if one
17 hundred eighty (180) days have elapsed prior to the
18 previous access and check, of opiates, synthetic
19 opiates, semisynthetic opiates, benzodiazepine or
20 carisoprodol to a patient of record, registrants or
21 members of their medical or administrative staff shall
22 be required until October 31, 2020, to access the
23 information in the central repository to assess
24 medical necessity and the possibility that the patient

1 may be unlawfully obtaining prescription drugs in
2 violation of the Uniform Controlled Dangerous
3 Substances Act. The duty to access and check shall
4 not alter or otherwise amend appropriate medical
5 standards of care. The registrant or medical provider
6 shall note in the patient file that the central
7 repository has been checked and may maintain a copy of
8 the information.

9 b. The requirements set forth in subparagraph a of this
10 paragraph shall not apply:

11 (1) to medical practitioners who prescribe the
12 controlled substances set forth in subparagraph a
13 of this paragraph for hospice or end-of-life
14 care, or

15 (2) for a prescription of a controlled substance set
16 forth in subparagraph a of this paragraph that is
17 issued by a practitioner for a patient residing
18 in a nursing facility as defined by Section 1-
19 1902 of this title, provided that the
20 prescription is issued to a resident of such
21 facility.

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

3 H. The State Board of Podiatric Examiners, the State Board of
4 Dentistry, the State Board of Medical Licensure and Supervision, the
5 State Board of Examiners in Optometry, the State Board of Nursing,
6 the State Board of Osteopathic Examiners and the State Board of
7 Veterinary Medical Examiners shall have the sole responsibility for
8 enforcement of the provisions of subsection G of this section.
9 Nothing in this section shall be construed so as to permit the
10 Director of the State Bureau of Narcotics and Dangerous Drugs
11 Control to assess administrative fines provided for in Section 2-304
12 of this title.

13 I. The Director of the Oklahoma State Bureau of Narcotics and
14 Dangerous Drugs Control, or a designee thereof, shall provide a
15 monthly list to the Directors of the State Board of Podiatric
16 Examiners, the State Board of Dentistry, the State Board of Medical
17 Licensure and Supervision, the State Board of Examiners in
18 Optometry, the State Board of Nursing, the State Board of
19 Osteopathic Examiners and the State Board of Veterinary Medical
20 Examiners of the top twenty prescribers of controlled dangerous
21 substances within their respective areas of jurisdiction. Upon
22 discovering that a registrant is prescribing outside the limitations
23 of his or her licensure or outside of drug registration rules or
24 applicable state laws, the respective licensing board shall be

1 notified by the Bureau in writing. Such notifications may be
2 considered complaints for the purpose of investigations or other
3 actions by the respective licensing board. Licensing boards shall
4 have exclusive jurisdiction to take action against a licensee for a
5 violation of subsection G of this section.

6 J. Information regarding fatal and nonfatal overdoses, other
7 than statistical information as required by Section 2-106 of this
8 title, shall be completely confidential. Access to this information
9 shall be strictly limited to the Director of the Oklahoma State
10 Bureau of Narcotics and Dangerous Drugs Control or designee, the
11 Chief Medical Examiner, state agencies and boards provided in
12 subsection A of this section, and the registrant that enters the
13 information. Registrants shall not be liable to any person for a
14 claim of damages for information reported pursuant to the provisions
15 of Section 2-105 of this title.

16 K. The Director of the Oklahoma State Bureau of Narcotics and
17 Dangerous Drugs Control shall provide adequate means and procedures
18 allowing access to central repository information for registrants
19 lacking direct computer access.

20 L. Upon completion of an investigation in which it is
21 determined that a death was caused by an overdose, either
22 intentionally or unintentionally, of a controlled dangerous
23 substance, the medical examiner shall be required to report the
24 decedent's name and date of birth to the Oklahoma State Bureau of

1 Narcotics and Dangerous Drugs Control. The Oklahoma State Bureau of
2 Narcotics and Dangerous Drugs Control shall be required to maintain
3 a database containing the classification of medical practitioners
4 who prescribed or authorized controlled dangerous substances
5 pursuant to this subsection.

6 SECTION 3. This act shall become effective upon passage of
7 State Question 788.

8 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
9 February 19, 2018 - DO PASS AS AMENDED

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