

OKLAHOMA STATE SENATE
CONFERENCE
COMMITTEE REPORT

May 9, 2019

Mr. President:

Mr. Speaker:

The Conference Committee, to which was referred

SB 848

By: Rader of the Senate and Echols of the House

Title: Opioid drugs; requiring continuing education courses for certain professions; requiring the Insurance Department to conduct a study; requiring Oklahoma State Bureau of Narcotics and Dangerous Drugs Control to submit a report. Emergency.

together with Engrossed House Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the House recede from all Amendments.
2. That the attached Conference Committee Substitute be adopted.

Respectfully submitted,

SENATE CONFEREES:



Rader



Young



Smalley

Hicks



McCortney



Scott


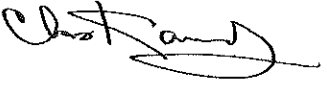
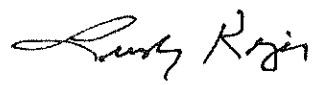

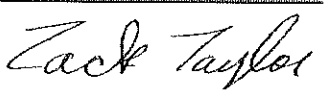
HOUSE CONFEREES:

Conference Committee on Rules

Senate Action _____ Date _____ House Action _____ Date _____

epc

SB848 CCR (A)
HOUSE CONFEREES

Echols, Jon		Fugate, Andy	
Kannady, Chris		Kiger, Lundy	
Meredith, Matt		Pfeiffer, John	
Taylor, Zack		West, Josh	

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 CONFERENCE COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL NO. 848

6 By: Rader of the Senate

7 and

8 Echols of the House

9 CONFERENCE COMMITTEE SUBSTITUTE

10 An Act relating to opioid drugs; amending 59 O.S.
11 2011, Section 145.1, as amended by Section 4, Chapter
12 185, O.S.L. 2013 (59 O.S. Supp. 2018, Section 145.1),
13 which relates to continuing education requirements
14 for podiatrists; requiring certain continuing
15 education; providing exception; amending 59 O.S.
16 2011, Section 148, which relates to violations of the
17 Podiatric Medicine Practice Act; adding certain
18 grounds for penalties; amending 59 O.S. 2011, Section
19 328.32, as last amended by Section 4, Chapter 113,
20 O.S.L. 2016 (59 O.S. Supp. 2018, Section 328.32),
21 which relates to grounds for penalties for dentists;
22 modifying certain grounds for penalties; clarifying
23 language; amending 59 O.S. 2011, Section 328.41, as
24 last amended by Section 11, Chapter 151, O.S.L. 2018
(59 O.S. Supp. 2018, Section 328.41), which relates
to continuing education requirements for dentists;
requiring certain continuing education; providing
exception; amending Section 3, Chapter 234, O.S.L.
2017, as amended by Section 1 of Enrolled Senate Bill
No. 1019 of the 1st Session of the 57th Oklahoma
Legislature (59 O.S. Supp. 2018, Section 353.20.2),
which relates to pharmacist discretion; requiring
pharmacist to fill certain prescriptions to specified
dose; specifying certain right; amending 59 O.S.
2011, Section 509, as amended by Section 2, Chapter
175, O.S.L. 2018 (59 O.S. Supp. 2018, Section 509),
which relates to definition of unprofessional conduct
by allopathic physicians; clarifying language;

1 amending 59 O.S. 2011, Section 519.8, which relates
2 to license renewal for physician assistants;
3 requiring certain continuing medical education;
4 amending 59 O.S. 2011, Section 567.4a, as last
5 amended by Section 1 of Enrolled Senate Bill No. 81
6 of the 1st Session of the 57th Oklahoma Legislature
7 (59 O.S. Supp. 2018, Section 567.4a), which relates
8 to prescriptive authority for Advanced Practice
9 Registered Nurses; requiring certain education;
10 providing exception; amending 59 O.S. 2011, Section
11 567.8, as last amended by Section 2 of Enrolled
12 Senate Bill No. 81 of the 1st Session of the 57th
13 Legislature (59 O.S. Supp. 2018, Section 567.8),
14 which relates to denial, revocation or suspension of
15 license or certification; modifying certain grounds
16 for disciplinary action; amending 59 O.S. 2011,
17 Section 585, which relates to definition of
18 unprofessional and unethical conduct by optometric
19 physicians; modifying definition; updating and
20 clarifying language; amending 59 O.S. 2011, Section
21 604, which relates to required attendance on
22 educational or postgraduate programs for
23 optometrists; requiring certain education; providing
24 exception; updating statutory language; amending 59
O.S. 2011, Section 637, which relates to refusal to
issue or reinstate, suspension or revocation of
license for osteopathic physicians; adding certain
grounds for disciplinary action; amending 59 O.S.
2011, Section 641, which relates to educational
programs for osteopathic physicians; requiring
licensees to receive certain education; providing
exception; amending 59 O.S. 2011, Section 698.7,
which relates to powers and duties of State Board of
Veterinary Medical Examiners; requiring certain
continuing education; providing exception; amending
59 O.S. 2011, Section 698.14a, which relates to
sanctions for veterinarians; adding certain grounds
for disciplinary actions; amending 63 O.S. 2011,
Section 2-101, as last amended by Section 3, Chapter
175, O.S.L. 2018 (63 O.S. Supp. 2018, Section 2-101),
which relates to definitions used in the Uniform
Controlled Dangerous Substances Act; modifying
certain definitions; amending 63 O.S. 2011, Section
2-302, as amended by Section 1, Chapter 251, O.S.L.
2018 (63 O.S. Supp. 2018, Section 2-302), which
relates to registration requirements for certain
persons; deleting obsolete language; modifying

1 reporting requirements; amending 63 O.S. 2011,
2 Section 2-309D, as last amended by Section 4, Chapter
3 175, O.S.L. 2018 (63 O.S. Supp. 2018, Section 2-
4 309D), which relates to central repository; deleting
5 termination date of certain requirements; modifying
6 certain grounds for disciplinary action; amending
7 Section 5, Chapter 175, O.S.L. 2018, as amended by
8 Section 1 of Enrolled House Bill No. 1155 of the 1st
9 Session of the 57th Oklahoma Legislature (63 O.S.
10 Supp. 2018, Section 2-309I), which relates to
11 prescription limits and rules for opioid drugs;
12 modifying applicability; clarifying language;
13 establishing procedure for prescribing opioids;
14 modifying required assessment; requiring notated
15 information on certain prescriptions; updating
16 statutory language; clarifying language; defining
17 term; requiring Insurance Department to make certain
18 evaluation and submit report by date certain;
19 requiring the Oklahoma State Bureau of Narcotics and
20 Dangerous Drugs Control to submit report to the
21 Legislature; providing for report requirements;
22 updating statutory references; repealing Section 6,
23 Chapter 175, O.S.L. 2018, which relates to Insurance
24 Department's prescription limits evaluations;
updating statutory references; providing for
codification; and declaring an emergency.

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

SECTION 1. AMENDATORY 59 O.S. 2011, Section 145.1, as
amended by Section 4, Chapter 185, O.S.L. 2013 (59 O.S. Supp. 2018,
Section 145.1), is amended to read as follows:

Section 145.1. A. Sixty (60) hours of continuing education
shall be required for renewal of an individual license to practice
podiatric medicine in this state. This must be obtained in the two-
year period immediately preceding the two-year period for which the
license is to be issued. Such continuing education shall include

1 not less than two (2) hours of education in pain management or two
2 (2) hours of education in opioid use or addiction, unless the
3 licensee has demonstrated to the satisfaction of the Board of
4 Podiatric Medical Examiners that the licensee does not currently
5 hold a valid federal Drug Enforcement Administration registration
6 number. The continuing education required by this section shall be
7 any of the following:

8 1. Education presented by an organization approved by the
9 Council on Continuing Education of the American Podiatric Medical
10 Association;

11 2. A national, state or county podiatric medical association
12 meeting approved by the Board of ~~Podiatric Medical Examiners~~;

13 3. Hospital-sponsored scientific programs approved by the
14 Board; or

15 4. Six (6) hours of continuing education credit may be obtained
16 by attending meetings and hearings of the Board.

17 At least thirty (30) hours of the required sixty (60) hours must be
18 obtained in this state.

19 B. Any practitioner not so satisfying the Board of the
20 fulfillment of the continuing education requirements required by
21 subsection A of this section shall cease to be entitled to have such
22 license renewed.

23 C. Any practitioner fully retired from the practice of
24 podiatric medicine shall be exempt from compliance with the

1 requirements imposed by subsection A of this section. However, upon
2 resuming the practice of podiatric medicine, the individual shall
3 fulfill such requirements which have accrued from ~~the effective date~~
4 ~~of this act~~ October 1, 1979, to the time of resumption of practice.

5 SECTION 2. AMENDATORY 59 O.S. 2011, Section 148, is
6 amended to read as follows:

7 Section 148. A. The following acts or occurrences by a
8 podiatric physician shall constitute grounds for which the penalties
9 specified in Section 147 of this title may be imposed by order of
10 the Board of Podiatric Medical Examiners:

11 1. Willfully making a false and material statement to the
12 Board, either before or after the issuance of a license;

13 2. Pleading guilty or nolo contendere to, or being convicted
14 of, a felony, a misdemeanor involving moral turpitude, or a
15 violation of federal or state controlled dangerous substances laws;

16 3. Using alcohol, any drug, or any other substance which
17 impairs the licensee to a degree that the licensee is unable to
18 practice podiatric medicine with safety and benefit to the public;

19 4. Being mentally or physically incapacitated to a degree that
20 the licensee is unable to practice podiatric medicine with safety
21 and benefit to the public;

22 5. Making any advertisement, statement, or representation which
23 is untrue or improbable and calculated by the licensee to deceive,
24 defraud or mislead the public or patients;

1 6. Practicing fraud by omission or commission in the
2 examination given by the Board, or in obtaining a license, or in
3 obtaining renewal or reinstatement of a license;

4 7. Failing to pay or cause to be paid promptly when due any fee
5 required by the Podiatric Medicine Practice Act or the rules of the
6 Board;

7 8. Practicing podiatric medicine in an unsafe or unsanitary
8 manner or place;

9 9. Performing, or attempting to perform, any surgery for which
10 the licensee has not had reasonable training;

11 10. Gross and willful neglect of duty as a member or officer of
12 the Board;

13 11. Dividing with any person, firm, corporation, or other legal
14 entity any fee or other compensation for services as a podiatric
15 physician, except with:

16 a. another podiatric physician,

17 b. an applicant for a license who is observing or
18 assisting the licensee as an intern, preceptee or
19 resident, as authorized by the rules of the Board, or

20 c. a practitioner of another branch of the healing arts
21 who is duly licensed under the laws of this state or
22 another state, district or territory of the United
23 States,

1 who has actually provided services, directly or indirectly, to the
2 patient from or for whom the fee or other compensation is received,
3 or at the time of the services is an active associate of the
4 licensee in the lawful practice of podiatric medicine in this state;
5 and

6 12. Violating or attempting to violate the provisions of the
7 Podiatric Medicine Practice Act, the Code of Ethics, or the rules of
8 the Board; and

9 13. Prescribing, dispensing or administering opioid drugs in
10 excess of the maximum limits authorized in Section 2-309I of Title
11 63 of the Oklahoma Statutes.

12 B. Commitment of a licensee to an institution for the mentally
13 ill shall constitute prima facie evidence that the licensee is
14 mentally incapacitated to a degree that the licensee is unable to
15 practice podiatric medicine with safety and benefit to the public.

16 SECTION 3. AMENDATORY 59 O.S. 2011, Section 328.32, as
17 last amended by Section 4, Chapter 113, O.S.L. 2016 (59 O.S. Supp.
18 2018, Section 328.32), is amended to read as follows:

19 Section 328.32. A. The following acts or occurrences by a
20 dentist shall constitute grounds for which the penalties specified
21 in Section 328.44a of this title may be imposed by order of the
22 Board of Dentistry or be the basis for denying a new applicant any
23 license or permit issued by the Board:

1 1. Pleading guilty or nolo contendere to, or being convicted
2 of, a felony, a misdemeanor involving moral turpitude, Medicaid
3 fraud or a violation of federal or state controlled dangerous
4 substances laws;

5 2. Presenting to the Board a false diploma, license, or
6 certificate, or one obtained by fraud or illegal means, or providing
7 other false information on an application or renewal;

8 3. Being, by reason of persistent inebriety or addiction to
9 drugs, incompetent to continue the practice of dentistry;

10 4. Publishing a false, fraudulent, or misleading advertisement
11 or statement;

12 5. Authorizing or aiding an unlicensed person to practice
13 dentistry, to practice dental hygiene, or to perform a function for
14 which a permit from the Board is required;

15 6. Authorizing or aiding a dental hygienist to perform any
16 procedure prohibited by the State Dental Act or the rules of the
17 Board;

18 7. Authorizing or aiding a dental assistant or oral
19 maxillofacial surgery assistant to perform any procedure prohibited
20 by the State Dental Act or the rules of the Board;

21 8. Failing to pay fees as required by the State Dental Act or
22 the rules of the Board;

23 9. Failing to complete continuing education requirements;

24

- 1 10. Representing himself or herself to the public as a
2 specialist in a dental specialty without holding a dental specialty
3 license therefor;
- 4 11. Representing himself or herself to the public as a
5 specialist whose practice is limited to a dental specialty, when
6 such representation is false, fraudulent, or misleading;
- 7 12. Endangering the health of patients by reason of having a
8 highly communicable disease and continuing to practice dentistry
9 without taking appropriate safeguards;
- 10 13. Practicing dentistry in an unsafe or unsanitary manner or
11 place, including but not limited to repeated failures to follow
12 Centers for Disease Control and Prevention (CDC) or Occupational
13 ~~Health~~ Safety and Health Administration (OSHA) guidelines;
- 14 14. Being shown to be mentally unsound;
- 15 15. Being shown to be grossly immoral and that such condition
16 represents a threat to patient care or treatment;
- 17 16. Being incompetent to practice dentistry while delivering
18 care to a patient;
- 19 17. Committing gross negligence in the practice of dentistry;
- 20 18. Committing repeated acts of negligence in the practice of
21 dentistry;
- 22 19. Offering to effect or effecting a division of fees, or
23 agreeing to split or divide a fee for dental services with any
24 person, in exchange for the person bringing or referring a patient;

1 20. Being involuntarily committed to an institution for
2 treatment for substance abuse, until recovery or remission;

3 21. Using or attempting to use the services of a dental
4 laboratory or dental laboratory technician without issuing a
5 laboratory prescription, except as provided in subsection C of
6 Section 328.36 of this title;

7 22. Aiding, abetting, or encouraging a dental hygienist
8 employed by the dentist to make use of an oral prophylaxis list, or
9 the calling by telephone or by use of letters transmitted through
10 the mails to solicit patronage from patients formerly served in the
11 office of any dentist formerly employing such hygienist;

12 23. Having more than the equivalent of three full-time dental
13 hygienists for each dentist actively practicing in the same dental
14 office;

15 24. Allowing a person not holding a permit or license issued by
16 the Board to assist in the treatment of a patient without having a
17 license or permit issued by the Board;

18 25. Knowingly patronizing or using the services of a dental
19 laboratory or dental laboratory technician who has not complied with
20 the provisions of the State Dental Act and the rules of the Board;

21 26. Authorizing or aiding a dental hygienist, dental assistant,
22 oral maxillofacial surgery assistant, dental laboratory technician,
23 or holder of a permit to operate a dental laboratory to violate any
24 provision of the State Dental Act or the rules of the Board;

1 27. Willfully disclosing information protected by the Health
2 Information Portability and Accountability Act, P.L. 104-191;

3 28. Writing a false, unnecessary, or excessive prescription for
4 any drug or narcotic which is a controlled dangerous substance under
5 either federal or state law, or prescribing, dispensing or
6 administering opioid drugs in excess of the maximum limits
7 authorized in Section 2-309I of Title 63 of the Oklahoma Statutes;

8 29. Prescribing or administering any drug or treatment without
9 having established a valid dentist-patient relationship;

10 30. Using or administering nitrous oxide gas in a dental office
11 in an inappropriate or unauthorized manner;

12 31. Engaging in nonconsensual physical contact with a patient
13 which is sexual in nature, or engaging in a verbal communication
14 which is intended to be sexually demeaning to a patient;

15 32. Practicing dentistry without displaying, at the dentist's
16 primary place of practice, the license issued to the dentist by the
17 Board to practice dentistry and the current renewal certificate;

18 33. Being dishonest in a material way with a patient;

19 34. Failing to retain all patient records for at least seven
20 (7) years from the date of the last treatment, except that the
21 failure to retain records shall not be a violation of the State
22 Dental Act if the dentist shows that the records were lost,
23 destroyed, or removed by another, without the consent of the
24 dentist;

1 35. Failing to retain the dentist's copy of any laboratory
2 prescription for at least three (3) years, except that the failure
3 to retain records shall not be a violation of the State Dental Act
4 if the dentist shows that the records were lost, destroyed, or
5 removed by another, without the consent of the dentist;

6 36. Allowing any corporation, organization, group, person, or
7 other legal entity, except another dentist or a professional entity
8 that is in compliance with the registration requirements of
9 subsection B of Section 328.31 of this title, to direct, control, or
10 interfere with the dentist's clinical judgment. Clinical judgment
11 shall include, but not be limited to, such matters as selection of a
12 course of treatment, control of patient records, policies and
13 decisions relating to pricing, credit, refunds, warranties and
14 advertising, and decisions relating to office personnel and hours of
15 practice. Nothing in this paragraph shall be construed to:

- 16 a. limit a patient's right of informed consent, or
- 17 b. prohibit insurers, preferred provider organizations
18 and managed care plans from operating pursuant to the
19 applicable provisions of the Oklahoma Insurance Code
20 and the Public Health Code;

21 37. Violating the state dental act of another state resulting
22 in a plea of guilty or nolo contendere, conviction or suspension or
23 revocation or other sanction by another state board, of the license
24 of the dentist under the laws of that state;

1 38. Violating or attempting to violate the provisions of the
2 State Dental Act or the rules of the Board, as a principal,
3 accessory or accomplice;

4 39. Failing to comply with the terms and conditions of an order
5 imposing suspension of a license or placement on probation issued
6 pursuant to Section 328.44a of this title;

7 40. Failing to cooperate during an investigation or providing
8 false information, verbally or in writing, to the Board, the Board's
9 investigator or an agent of the Board; or

10 41. Having multiple administrative or civil actions reported to
11 the National Practitioner Databank.

12 B. The provisions of the State Dental Act shall not be
13 construed to prohibit any dentist from displaying or otherwise
14 advertising that the dentist is also currently licensed, registered,
15 certified, or otherwise credentialed pursuant to the laws of this
16 state or a nationally recognized credentialing board, if authorized
17 by the laws of the state or credentialing board to display or
18 otherwise advertise as a licensed, registered, certified, or
19 credentialed dentist.

20 SECTION 4. AMENDATORY 59 O.S. 2011, Section 328.41, as
21 last amended by Section 11, Chapter 151, O.S.L. 2018 (59 O.S. Supp.
22 2018, Section 328.41), is amended to read as follows:

23 Section 328.41. A. 1. On or before the last day of December
24 of each year, every dentist, dental hygienist, dental assistant,

1 oral maxillofacial surgery assistant and other licensee or permit
2 holders previously licensed or permitted by the Board to practice in
3 this state, with the exception of those listed in paragraph 2 of
4 this subsection, shall submit a completed renewal application with
5 information as may be required by the Board, together with an annual
6 renewal fee established by the rules of the Board. Upon receipt of
7 the annual renewal fee, the Board shall issue a renewal certificate
8 authorizing the dentist, dental hygienist, dental assistant, or oral
9 maxillofacial surgery assistant to continue the practice of
10 dentistry or dental hygiene, respectively, in this state for a
11 period of one (1) year. Every license or permit issued by the Board
12 shall begin on January 1 and expire on December 31 of each year.

13 2. Beginning July 1, 2017, resident and fellowship permits
14 shall be valid from July 1 through June 30 of each year and dental
15 student intern permits shall be valid from August 1 through July 31
16 of each year.

17 B. Continuing education requirements shall be due at the end of
18 each three-year period ending in 2019 as follows:

19 1. Dentists shall complete sixty (60) hours. Such continuing
20 education shall include not less than three (3) hours of education
21 in pain management or three (3) hours of education in opioid use or
22 addiction, unless the licensee has demonstrated to the satisfaction
23 of the Board of Dentistry that the licensee does not currently hold
24 a valid federal Drug Enforcement Administration registration number;

1 2. Hygienists shall complete thirty (30) hours;

2 3. Oral maxillofacial surgery assistants shall complete twelve
3 (12) hours; and

4 4. Beginning in 2020, continuing education requirements shall
5 be due at the end of each two-year period as follows:

6 a. dentists shall complete forty (40) hours,

7 b. hygienists shall complete twenty (20) hours,

8 c. OMS assistants shall complete eight (8) hours, and

9 d. dental assistants shall have two (2) hours of
10 infection control.

11 C. Upon failure of a dentist, dental hygienist, dental
12 assistant, or oral maxillofacial surgery assistant to pay the annual
13 renewal fee within two (2) months after January 1, the Board shall
14 notify the dentist, dental hygienist, dental assistant, or oral
15 maxillofacial surgery assistant in writing by certified mail to the
16 last-known mailing address of the dentist, dental hygienist, dental
17 assistant, or oral maxillofacial surgery assistant as reflected in
18 the records of the Board.

19 D. Any dentist, dental hygienist, dental assistant, or oral
20 maxillofacial surgery assistant whose license or permit is
21 automatically canceled by reason of failure, neglect or refusal to
22 secure the renewal certificate may be reinstated by the Board at any
23 time within one (1) year from the date of the expiration of the
24 license, upon payment of the annual renewal fee and a penalty fee

1 established by the rules of the Board. If the dentist, dental
2 hygienist, dental assistant, or oral maxillofacial surgery assistant
3 does not apply for renewal of the license or permit and pay the
4 required fees within one (1) year after the license has expired,
5 then the dentist, dental hygienist, dental assistant, or oral
6 maxillofacial surgery assistant shall be required to file an
7 application for and take the examination or other requirements
8 provided for in the State Dental Act or the rules promulgated by the
9 Board before again commencing practice.

10 E. The Board, by rule, shall provide for the remittance of fees
11 otherwise required by the State Dental Act while a dentist or dental
12 hygienist is on active duty with any of the Armed Forces of the
13 United States.

14 F. In case of a lost or destroyed license or renewal
15 certificate and upon satisfactory proof of the loss or destruction
16 thereof, the Board may issue a duplicate, charging therefor a fee
17 established by the rules of the Board.

18 G. A dentist, dental hygienist, oral maxillofacial surgery
19 assistant or dental assistant that is in good standing and not under
20 investigation that notifies the Board in writing of a voluntary
21 nonrenewal of license or requests retirement status shall have a
22 right to renew or reinstate his or her license within five (5) years
23 from the date of notice. The Board may require any training or
24 continuing education requirements to be met prior to reinstatement.

1 H. A dentist, dental hygienist, oral maxillofacial dental
2 assistant or dental assistant that has not had an active license or
3 permit in excess of five (5) years shall be required to apply as a
4 new applicant.

5 I. Any application for a license or permit that has remained
6 inactive for more than one (1) year shall be closed.

7 SECTION 5. AMENDATORY Section 3, Chapter 234, O.S.L.
8 2017, as amended by Section 1 of Enrolled Senate Bill No. 1019 of
9 the 1st Session of the 57th Oklahoma Legislature (59 O.S. Supp.
10 2018, Section 353.20.2), is amended to read as follows:

11 Section 353.20.2. A. Except as provided in subsection C of
12 this section, unless the prescriber has specified on the
13 prescription that dispensing a prescription for a maintenance
14 medication in an initial amount followed by periodic refills is
15 medically necessary, a pharmacist may exercise his or her
16 professional judgment to dispense varying quantities of medication
17 per fill-up to the total number of dosage units as authorized by the
18 prescriber on the original prescription including any refills.

19 B. Subsection A of this section shall not apply to scheduled
20 medications or any medications for which a report is required under
21 the controlled substance database. Dispensing of medication based
22 on refills authorized by the physician on the prescription shall be
23 limited to no more than a ninety-day supply of the medication.

1 C. 1. A pharmacist may dispense without a prescription one or
2 more devices or medications as medically necessary to prevent the
3 death of or serious harm to the health of a patient if the following
4 conditions are met:

- 5 a. the pharmacy which the pharmacist owns or at which the
6 pharmacist is employed has a current record of a
7 prescription for the medication or device prescribed
8 in the name of the patient who is requesting it, but
9 the prescription has expired and a refill requires
10 authorization from the licensed practitioner who
11 issued the prescription and neither the patient nor
12 the pharmacist was able to obtain the refill after
13 reasonable attempts were made to obtain such refill
14 and the pharmacist documents such attempts on a form
15 prescribed by the State Board of Pharmacy,
- 16 b. the failure of the pharmacist to dispense the
17 medication or device reasonably could result in the
18 death of or serious harm to the health of the patient,
- 19 c. the device or medication is listed on the formulary
20 described in paragraph 4 of this subsection,
- 21 d. the patient has been on a consistent medication
22 therapy as demonstrated by records maintained by the
23 pharmacy, and
24

1 e. the amount of the medication or device dispensed is
2 for a reasonable amount of time; provided, if the
3 patient or pharmacist is unable to obtain a refill
4 prescription from the patient's licensed practitioner
5 before the amount prescribed to prevent death or
6 serious harm to the health of the patient is depleted,
7 the pharmacist may dispense an additional amount of
8 the medication or device not more than once in an
9 amount consistent with past prescriptions of the
10 patient.

11 2. The standard of care required of a pharmacist licensed in
12 this state who is acting in accordance with the provisions of this
13 subsection shall be the level and type of care, skill and diligence
14 that a reasonably competent and skilled pharmacist with a similar
15 background and in the same or similar locality would have provided
16 under the circumstance.

17 3. Any pharmacist licensed in this state who in good faith
18 dispenses one or more medications or devices to a patient pursuant
19 to the provisions of this subsection shall not be liable for any
20 civil damages or subject to criminal prosecution as a result of any
21 acts or omissions except for committing gross negligence or willful
22 or wanton acts committed in dispensing or failure to dispense the
23 medication or device.
24

1 4. The State Board of Pharmacy shall develop and update as
2 necessary an inclusionary formulary of potentially life-saving
3 prescription medications and devices, not to include controlled
4 dangerous substances, for the purposes of this subsection. Such
5 medications and devices shall include but not be limited to:

- 6 a. insulin and any devices or supplies necessary for the
7 administration of insulin,
8 b. glucometers and any devices or supplies necessary for
9 the operation of the glucometer, and
10 c. rescue inhalers.

11 5. Dispensing in accordance with this subsection shall be
12 deemed dispensing under a legal prescription for purposes of the
13 Pharmacy Audit Integrity Act, Section 356 et seq. of this title.

14 D. Upon receipt of a valid Schedule II opioid prescription
15 issued pursuant to the provisions of Section 2-309I of Title 63 of
16 the Oklahoma Statutes, a pharmacist shall fill the prescription to
17 the specified dose, and shall not be permitted to fill a different
18 dosage than what is prescribed. However, the pharmacist maintains
19 the right not to fill the valid opioid prescription.

20 SECTION 6. AMENDATORY 59 O.S. 2011, Section 509, as
21 amended by Section 2, Chapter 175, O.S.L. 2018 (59 O.S. Supp. 2018,
22 Section 509), is amended to read as follows:
23
24

1 Section 509. The words "unprofessional conduct" as used in
2 Sections 481 through 518.1 of this title are hereby declared to
3 include, but shall not be limited to, the following:

4 1. Procuring, aiding or abetting a criminal operation;

5 2. The obtaining of any fee or offering to accept any fee,
6 present or other form of remuneration whatsoever, on the assurance
7 or promise that a manifestly incurable disease can or will be cured;

8 3. Willfully betraying a professional secret to the detriment
9 of the patient;

10 4. Habitual intemperance or the habitual use of habit-forming
11 drugs;

12 5. Conviction of a felony or of any offense involving moral
13 turpitude;

14 6. All advertising of medical business in which statements are
15 made which are grossly untrue or improbable and calculated to
16 mislead the public;

17 7. Conviction or confession of a crime involving violation of:

18 a. the antinarcotic or prohibition laws and regulations

19 of the federal government,

20 b. the laws of this state, or

21 c. State Board of Health rules;

22 8. Dishonorable or immoral conduct which is likely to deceive,
23 defraud, or harm the public;

24

1 9. The commission of any act which is a violation of the
2 criminal laws of any state when such act is connected with the
3 physician's practice of medicine. A complaint, indictment or
4 confession of a criminal violation shall not be necessary for the
5 enforcement of this provision. Proof of the commission of the act
6 while in the practice of medicine or under the guise of the practice
7 of medicine shall be unprofessional conduct;

8 10. Failure to keep complete and accurate records of purchase
9 and disposal of controlled drugs or of narcotic drugs;

10 11. The writing of false or fictitious prescriptions for any
11 drugs or narcotics declared by the laws of this state to be
12 controlled or narcotic drugs;

13 12. Prescribing or administering a drug or treatment without
14 sufficient examination and the establishment of a valid physician-
15 patient relationship;

16 13. The violation, or attempted violation, direct or indirect,
17 of any of the provisions of the Oklahoma Allopathic Medical and
18 Surgical Licensure and Supervision Act, either as a principal,
19 accessory or accomplice;

20 14. Aiding or abetting, directly or indirectly, the practice of
21 medicine by any person not duly authorized under the laws of this
22 state;

23 15. The inability to practice medicine with reasonable skill
24 and safety to patients by reason of age, illness, drunkenness,

1 excessive use of drugs, narcotics, chemicals, or any other type of
2 material or as a result of any mental or physical condition. In
3 enforcing this subsection the State Board of Medical Licensure and
4 Supervision may, upon probable cause, request a physician to submit
5 to a mental or physical examination by physicians designated by it.
6 If the physician refuses to submit to the examination, the Board
7 shall issue an order requiring the physician to show cause why the
8 physician will not submit to the examination and shall schedule a
9 hearing on the order within thirty (30) days after notice is served
10 on the physician. The physician shall be notified by either
11 personal service or by certified mail with return receipt requested.
12 At the hearing, the physician and the physician's attorney are
13 entitled to present any testimony and other evidence to show why the
14 physician should not be required to submit to the examination.
15 After a complete hearing, the Board shall issue an order either
16 requiring the physician to submit to the examination or withdrawing
17 the request for examination. The medical license of a physician
18 ordered to submit for examination may be suspended until the results
19 of the examination are received and reviewed by the Board;

- 20 16. a. Prescribing, dispensing or administering of controlled
21 substances or narcotic drugs in excess of the amount
22 considered good medical practice,
23 b. prescribing, dispensing or administering controlled
24 substances or narcotic drugs without medical need in

1 accordance with pertinent licensing board standards,
2 or

3 c. prescribing, dispensing or administering opioid drugs
4 in excess of the maximum ~~dosage authorized under~~
5 ~~Section 5 of this act~~ limits authorized in Section 2-
6 309I of Title 63 of the Oklahoma Statutes;

7 17. Engaging in physical conduct with a patient which is sexual
8 in nature, or in any verbal behavior which is seductive or sexually
9 demeaning to a patient;

10 18. Failure to maintain an office record for each patient which
11 accurately reflects the evaluation, treatment, and medical necessity
12 of treatment of the patient;

13 19. Failure to provide necessary ongoing medical treatment when
14 a doctor-patient relationship has been established, which
15 relationship can be severed by either party providing a reasonable
16 period of time is granted; or

17 20. Failure to provide a proper and safe medical facility
18 setting and qualified assistive personnel for a recognized medical
19 act, including but not limited to an initial in-person patient
20 examination, office surgery, diagnostic service or any other medical
21 procedure or treatment. Adequate medical records to support
22 diagnosis, procedure, treatment or prescribed medications must be
23 produced and maintained.

1 SECTION 7. AMENDATORY 59 O.S. 2011, Section 519.8, is
2 amended to read as follows:

3 Section 519.8. A. Licenses issued to physician assistants
4 shall be renewed annually on a date determined by the State Board of
5 Medical Licensure and Supervision. Each application for renewal
6 shall document that the physician assistant has earned at least
7 twenty (20) hours of continuing medical education during the
8 preceding calendar year. Such continuing medical education shall
9 include not less than one (1) hour of education in pain management
10 or one (1) hour of education in opioid use or addiction.

11 B. The Board shall promulgate, in the manner established by its
12 rules, fees for the following:

- 13 1. Initial licensure;
- 14 2. License renewal;
- 15 3. Late license renewal;
- 16 4. Application to practice; and
- 17 5. Disciplinary hearing.

18 SECTION 8. AMENDATORY 59 O.S. 2011, Section 567.4a, as
19 last amended by Section 1 of Enrolled Senate Bill No. 81 of the 1st
20 Session of the 57th Oklahoma Legislature (59 O.S. Supp. 2018,
21 Section 567.4a), is amended to read as follows:

22 Section 567.4a. The rules regarding prescriptive authority
23 recognition promulgated by the Oklahoma Board of Nursing pursuant to
24

1 paragraphs 6 through 9, 11 and 12 of Section 567.3a of this title
2 shall:

3 1. Define the procedure for documenting supervision by a
4 physician licensed in Oklahoma to practice by the State Board of
5 Medical Licensure and Supervision or the State Board of Osteopathic
6 Examiners. Such procedure shall include a written statement that
7 defines appropriate referral, consultation, and collaboration
8 between the Advanced Practice Registered Nurse, recognized to
9 prescribe as defined in paragraphs 6 through 9, 11 and 12 of Section
10 567.3a of this title, and the supervising physician. The written
11 statement shall include a method of assuring availability of the
12 supervising physician through direct contact, telecommunications or
13 other appropriate electronic means for consultation, assistance with
14 medical emergencies, or patient referral. The written statement
15 shall be part of the initial application and the renewal application
16 submitted to the Board for recognition for prescriptive authority
17 for the Advanced Practice Registered Nurse. Changes to the written
18 statement shall be filed with the Board within thirty (30) days of
19 the change and shall be effective on filing;

20 2. Define minimal requirements for initial application for
21 prescriptive authority which shall include, but not be limited to,
22 evidence of completion of a minimum of forty-five (45) contact hours
23 or three (3) academic credit hours of education in
24 pharmacotherapeutics, clinical application, and use of

1 pharmacological agents in the prevention of illness, and in the
2 restoration and maintenance of health in a program beyond basic
3 registered nurse preparation, approved by the Board. Such contact
4 hours or academic credits shall be obtained within a time period of
5 three (3) years immediately preceding the date of application for
6 prescriptive authority;

7 3. Define minimal requirements for application for renewal of
8 prescriptive authority which shall include, but not be limited to,
9 documentation of a minimum of:

10 a. fifteen (15) contact hours or one (1) academic credit
11 hour of education in pharmacotherapeutics, clinical
12 application, and use of pharmacological agents in the
13 prevention of illness, and in the restoration and
14 maintenance of health in a program beyond basic
15 registered nurse preparation, and

16 b. two (2) hours of education in pain management or two
17 (2) hours of education in opioid use or addiction,
18 unless the Advanced Practice Registered Nurse has
19 demonstrated to the satisfaction of the Board that the
20 Advanced Practice Registered Nurse does not currently
21 hold a valid federal Drug Enforcement Administration
22 registration number,

23
24

1 approved by the Board, within the two-year period immediately
2 preceding the effective date of application for renewal of
3 prescriptive authority;

4 4. Require that beginning July 1, 2002, an Advanced Practice
5 Registered Nurse shall demonstrate successful completion of a
6 master's degree or higher in a clinical nurse specialty in order to
7 be eligible for initial application for prescriptive authority under
8 the provisions of the Oklahoma Nursing Practice Act;

9 5. Define the method for communicating authority to prescribe
10 or termination of same, and the formulary to the Board of Pharmacy,
11 all pharmacies, and all registered pharmacists;

12 6. Define terminology used in such rules;

13 7. Define the parameters for the prescribing practices of the
14 Advanced Practice Registered Nurse;

15 8. Define the methods for termination of prescriptive authority
16 for the Advanced Practice Registered Nurse; and

17 9. a. Establish a Formulary Advisory Council that shall
18 develop and submit to the Board recommendations for an
19 exclusionary formulary that shall list drugs or
20 categories of drugs that shall not be prescribed by
21 Advanced Practice Registered Nurse recognized to
22 prescribe by the Oklahoma Board of Nursing. The
23 Formulary Advisory Council shall also develop and
24 submit to the Board recommendations for practice-

1 specific prescriptive standards for each category of
2 Advanced Practice Registered Nurse recognized to
3 prescribe by the Oklahoma Board of Nursing pursuant to
4 the provisions of the Oklahoma Nursing Practice Act.
5 The Board shall either accept or reject the
6 recommendations made by the Council. No amendments to
7 the recommended exclusionary formulary may be made by
8 the Board without the approval of the Formulary
9 Advisory Council.

10 b. The Formulary Advisory Council shall be composed of
11 twelve (12) members as follows:

12 (1) four members, to include a pediatrician, an
13 obstetrician-gynecological physician, a general
14 internist, and a family practice physician;
15 provided that three of such members shall be
16 appointed by the Oklahoma State Medical
17 Association, and one shall be appointed by the
18 Oklahoma Osteopathic Association,

19 (2) four members who are registered pharmacists,
20 appointed by the Oklahoma Pharmaceutical
21 Association, and

22 (3) four members, one of whom shall be a Certified
23 Nurse Practitioner, one of whom shall be a
24 Clinical Nurse Specialist, one of whom shall be a

1 Certified Nurse-Midwife, and one of whom shall be
2 a current member of the Oklahoma Board of
3 Nursing, all of whom shall be appointed by the
4 Oklahoma Board of Nursing.

5 c. All professional members of the Formulary Advisory
6 Council shall be in active clinical practice, at least
7 fifty percent (50%) of the time, within their defined
8 area of specialty. The members of the Formulary
9 Advisory Council shall serve at the pleasure of the
10 appointing authority for a term of three (3) years.
11 The terms of the members shall be staggered. Members
12 of the Council may serve beyond the expiration of
13 their term of office until a successor is appointed by
14 the original appointing authority. A vacancy on the
15 Council shall be filled for the balance of the
16 unexpired term by the original appointing authority.

17 d. Members of the Council shall elect a chair and a vice-
18 chair from among the membership of the Council. For
19 the transaction of business, at least seven members,
20 with a minimum of two members present from each of the
21 identified categories of physicians, pharmacists and
22 advanced practice registered nurses, shall constitute
23 a quorum. The Council shall recommend and the Board
24 shall approve and implement an initial exclusionary

1 formulary on or before January 1, 1997. The Council
2 and the Board shall annually review the approved
3 exclusionary formulary and shall make any necessary
4 revisions utilizing the same procedures used to
5 develop the initial exclusionary formulary.

6 SECTION 9. AMENDATORY 59 O.S. 2011, Section 567.8, as
7 last amended by Section 2 of Enrolled Senate Bill No. 81 of the 1st
8 Session of the 57th Legislature (59 O.S. Supp. 2018, Section 567.8),
9 is amended to read as follows:

10 Section 567.8. A. The Oklahoma Board of Nursing shall have the
11 power to take any or all of the following actions:

12 1. To deny, revoke or suspend any:

- 13 a. licensure to practice as a Licensed Practical Nurse,
14 single-state or multistate,
- 15 b. licensure to practice as a Registered Nurse, single-
16 state or multistate,
- 17 c. multistate privilege to practice in Oklahoma,
- 18 d. licensure to practice as an Advanced Practice
19 Registered Nurse,
- 20 e. certification to practice as an Advanced Unlicensed
21 Assistant,
- 22 f. authorization for prescriptive authority, or
23 g. authority to order, select, obtain and administer
24 drugs;

1 2. To assess administrative penalties; and

2 3. To otherwise discipline applicants, licensees or Advanced
3 Unlicensed Assistants.

4 B. The Board shall impose a disciplinary action against the
5 person pursuant to the provisions of subsection A of this section
6 upon proof that the person:

7 1. Is guilty of deceit or material misrepresentation in
8 procuring or attempting to procure:

9 a. a license to practice registered nursing, licensed
10 practical nursing, ~~and/or~~ or a license to practice
11 advanced practice registered nursing with or without
12 either prescriptive authority recognition or
13 authorization to order, select, obtain and administer
14 drugs, or

15 b. certification as an Advanced Unlicensed Assistant;

16 2. Is guilty of a felony, or any offense reasonably related to
17 the qualifications, functions or duties of any licensee or Advanced
18 Unlicensed Assistant, or any offense an essential element of which
19 is fraud, dishonesty, or an act of violence, or for any offense
20 involving moral turpitude, whether or not sentence is imposed, or
21 any conduct resulting in the revocation of a deferred or suspended
22 sentence or probation imposed pursuant to such conviction;

23 3. Fails to adequately care for patients or to conform to the
24 minimum standards of acceptable nursing or Advanced Unlicensed

1 Assistant practice that, in the opinion of the Board, unnecessarily
2 exposes a patient or other person to risk of harm;

3 4. Is intemperate in the use of alcohol or drugs, which use the
4 Board determines endangers or could endanger patients;

5 5. Exhibits through a pattern of practice or other behavior
6 actual or potential inability to practice nursing with sufficient
7 knowledge or reasonable skills and safety due to impairment caused
8 by illness, use of alcohol, drugs, chemicals or any other substance,
9 or as a result of any mental or physical condition, including
10 deterioration through the aging process or loss of motor skills,
11 mental illness, or disability that results in inability to practice
12 with reasonable judgment, skill or safety; provided, however, the
13 provisions of this paragraph shall not be utilized in a manner that
14 conflicts with the provisions of the Americans with Disabilities
15 Act;

16 6. Has been adjudicated as mentally incompetent, mentally ill,
17 chemically dependent or dangerous to the public or has been
18 committed by a court of competent jurisdiction, within or without
19 this state;

20 7. Is guilty of unprofessional conduct as defined in the rules
21 of the Board;

22 8. Is guilty of any act that jeopardizes a patient's life,
23 health or safety as defined in the rules of the Board;

24

1 9. Violated a rule promulgated by the Board, an order of the
2 Board, or a state or federal law relating to the practice of
3 registered, practical or advanced practice registered nursing or
4 advanced unlicensed assisting, or a state or federal narcotics or
5 controlled dangerous substance law including, but not limited to
6 prescribing, dispensing or administering opioid drugs in excess of
7 the maximum limits authorized in Section 2-309I of Title 63 of the
8 Oklahoma Statutes;

9 10. Has had disciplinary actions taken against the individual's
10 registered or practical nursing license, advanced unlicensed
11 assistive certification, or any professional or occupational
12 license, registration or certification in this or any state,
13 territory or country;

14 11. Has defaulted ~~and/or~~ or been terminated from the peer
15 assistance program for any reason;

16 12. Fails to maintain professional boundaries with patients, as
17 defined in the Board rules; ~~and/or~~ or

18 13. Engages in sexual misconduct, as defined in Board rules,
19 with a current or former patient or key party, inside or outside the
20 health care setting.

21 C. Any person who supplies the Board information in good faith
22 shall not be liable in any way for damages with respect to giving
23 such information.

1 D. The Board may cause to be investigated all reported
2 violations of the Oklahoma Nursing Practice Act. Information
3 obtained during an investigation into possible violations of the
4 Oklahoma Nursing Practice Act shall be kept confidential, but may be
5 introduced by the state in administrative proceedings before the
6 Board, whereupon the information admitted becomes a public record.
7 Public records maintained by the agency are administrative records,
8 not public civil or criminal records.

9 Confidential investigative records shall not be subject to
10 discovery or subpoena in any civil or criminal proceeding, except
11 that the Board may give such information to law enforcement and
12 other state agencies as necessary and appropriate in the discharge
13 of the duties of that agency and only under circumstances that
14 ensure against unauthorized access to the information.

15 E. The Board may authorize the Executive Director to issue a
16 confidential letter of concern to a licensee when evidence does not
17 warrant formal proceedings, but the Executive Director has noted
18 indications of possible errant conduct that could lead to serious
19 consequences and formal action.

20 F. All individual proceedings before the Board shall be
21 conducted in accordance with the Administrative Procedures Act.

22 G. At a hearing the accused shall have the right to appear
23 either personally or by counsel, or both, to produce witnesses and
24 evidence on behalf of the accused, to cross-examine witnesses and to

1 have subpoenas issued by the designated Board staff. If the accused
2 is found guilty of the charges the Board may refuse to issue a
3 renewal of license to the applicant, revoke or suspend a license, or
4 otherwise discipline a licensee.

5 H. A person whose license is revoked may not apply for
6 reinstatement during the time period set by the Board. The Board on
7 its own motion may at any time reconsider its action.

8 I. Any person whose license is revoked or who applies for
9 renewal of registration and who is rejected by the Board shall have
10 the right to appeal from such action pursuant to the Administrative
11 Procedures Act.

12 J. 1. Any person who has been determined by the Board to have
13 violated any provisions of the Oklahoma Nursing Practice Act or any
14 rule or order issued pursuant thereto shall be liable for an
15 administrative penalty not to exceed Five Hundred Dollars (\$500.00)
16 for each count for which any holder of a certificate or license has
17 been determined to be in violation of the Oklahoma Nursing Practice
18 Act or any rule promulgated or order issued pursuant thereto.

19 2. The amount of the penalty shall be assessed by the Board
20 pursuant to the provisions of this section, after notice and an
21 opportunity for hearing is given to the accused. In determining the
22 amount of the penalty, the Board shall include, but not be limited
23 to, consideration of the nature, circumstances, and gravity of the
24 violation and, with respect to the person found to have committed

1 the violation, the degree of culpability, the effect on ability of
2 the person to continue to practice, and any show of good faith in
3 attempting to achieve compliance with the provisions of the Oklahoma
4 Nursing Practice Act.

5 K. The Board shall retain jurisdiction over any person issued a
6 license, certificate or temporary license pursuant to the Oklahoma
7 Nursing Practice Act, regardless of whether the license, certificate
8 or temporary license has expired, lapsed or been relinquished during
9 or after the alleged occurrence or conduct prescribed by the
10 Oklahoma Nursing Practice Act.

11 L. In the event disciplinary action is imposed, any person so
12 disciplined shall be responsible for any and all costs associated
13 with satisfaction of the discipline imposed.

14 M. In the event disciplinary action is imposed in an
15 administrative proceeding, the Board shall have the authority to
16 recover the monies expended by the Board in pursuing any
17 disciplinary action, including but not limited to costs of
18 investigation, probation or monitoring fees, administrative costs,
19 witness fees, attorney fees and court costs. This authority shall
20 be in addition to the Board's authority to impose discipline as set
21 out in subsection A of this section.

22 N. The Executive Director shall immediately suspend the license
23 of any person upon proof that the person has been sentenced to a
24 period of continuous incarceration serving a penal sentence for

1 commission of a misdemeanor or felony. The suspension shall remain
2 in effect until the Board acts upon the licensee's written
3 application for reinstatement of the license.

4 O. When a majority of the officers of the Board, which
5 constitutes the President, Vice President and Secretary/Treasurer,
6 find that preservation of the public health, safety or welfare
7 requires immediate action, summary suspension of licensure or
8 certification may be ordered before the filing of a sworn complaint
9 or at any other time before the outcome of an individual proceeding.
10 The summary suspension of licensure or certification may be ordered
11 without compliance with the requirements of the Oklahoma Open
12 Meeting Act. Within seven (7) days after the summary suspension,
13 the licensee shall be notified by letter that summary suspension has
14 occurred. The summary suspension letter shall include notice of the
15 date of the proposed hearing to be held in accordance with Oklahoma
16 Administrative Code 485:10-11-2 and the Administrative Procedures
17 Act, within ninety (90) days of the date of the summary suspension
18 letter, and shall be signed by one of the Board officers.

19 P. In any proceeding in which the Board is required to serve an
20 order on an individual, the Board may send such material to the
21 individual's address of record with the Board. If the order is
22 returned with a notation by the United States Postal Service
23 indicating that it is undeliverable for any reason, and the records
24 of the Board indicate that the Board has not received any change of

1 address since the order was sent, as required by the rules of the
2 Board, the order and any subsequent material relating to the same
3 matter sent to the most recent address on file with the Board shall
4 be deemed by the court as having been legally served for all
5 purposes.

6 SECTION 10. AMENDATORY 59 O.S. 2011, Section 585, is
7 amended to read as follows:

8 Section 585. A. The Board of Examiners in Optometry shall have
9 the power to revoke or suspend any certificate granted by it
10 pursuant to the provisions of this chapter, for fraud, conviction of
11 crime, unprofessional and unethical conduct, habitual drunkenness,
12 exorbitant charges, false representation of goods, gross
13 incompetency, contagious disease, any violation of any rule or
14 regulation promulgated by the Board pursuant to the provisions of
15 this chapter or any violation of this chapter. The following acts
16 shall be deemed by the Board as unprofessional and unethical
17 conduct:

18 1. Employment by a licensed optometrist of any person to
19 solicit from house to house the sale of lenses, frames, spectacles,
20 or optometric services or examinations; ~~and~~

21 2. Selling, advertising, or soliciting the sale of spectacles,
22 eyeglasses, lenses, frames, mountings, eye examinations, or
23 optometric services by house-to-house canvassing either in person or
24 through solicitors; ~~and~~

1 3. Acceptance of employment, either directly or indirectly, by
2 a licensed optometrist from an unlicensed optometrist or person
3 engaged in any profession or business or owning or operating any
4 profession or business to assist it, him or her, or them in
5 practicing optometry in this state; and

6 4. Publishing or displaying, or knowingly causing or permitting
7 to be published or displayed by newspaper, radio, television, window
8 display, poster, sign, billboard, or any other advertising media any
9 statement or advertisement of any price or fee offered or charged by
10 an optometrist for any optometric services or materials including
11 lenses, frames, eyeglasses, or spectacles or parts thereof,
12 including statements or advertisements of discount, premium, or
13 gifts, if said statements or advertisements are fraudulent,
14 deceitful, misleading or in any manner whatsoever tend to create a
15 misleading impression or are likely to mislead or deceive because in
16 context said statements or advertisements make only a partial
17 disclosure of relevant facts; and

18 5. ~~No person shall practice~~ Practicing optometry under any name
19 other than the proper name of said person ~~and it, which~~ shall be the
20 same name as used in the license issued by the Board of ~~Examiners~~ to
21 ~~said~~ the person; and

22 6. Prescribing, dispensing or administering opioid drugs in
23 excess of the maximum limits authorized in Section 2-309I of Title
24 63 of the Oklahoma Statutes.

1 B. Before any certificate is revoked or suspended, the holder
2 thereof shall be provided with notice and hearing as provided for in
3 the Administrative Procedures Act, Sections 301 through 326 of Title
4 75 of the Oklahoma Statutes. The Board, after the expiration of the
5 period of three (3) months after the date of ~~said~~ the revocation,
6 may entertain application for the reissuance of ~~said~~ the revoked
7 certificate and may reissue ~~said~~ the certificate upon payment of a
8 reinstatement fee not to exceed three times the annual renewal fee.
9 The Board shall have the right to promulgate such rules and
10 regulations as may be necessary to put into effect the provisions of
11 this chapter. ~~Said~~ Such rules may prescribe which acts are
12 detrimental to the general public health or welfare and may
13 prescribe a minimum standard of sanitation, hygiene, and
14 professional surroundings, and which acts constitute unprofessional
15 or unethical conduct. ~~Said~~ Such conduct shall be grounds for
16 revocation or suspension of the license or certificate issued
17 pursuant to the provisions of Section 584 of this title.

18 B. C. If an out-of-state license or certificate of an
19 optometrist who also holds an Oklahoma license or certificate is
20 suspended or revoked for any reason, ~~his~~ the optometrist's Oklahoma
21 license may come under review by the Board. Should the out-of-state
22 suspension or revocation be on grounds the same or similar to
23 grounds for suspension or revocation in Oklahoma, the Board, after
24 notice and hearing pursuant to the provisions of this section, may

1 suspend or revoke the certificate of ~~said~~ the optometrist to
2 practice in Oklahoma.

3 SECTION 11. AMENDATORY 59 O.S. 2011, Section 604, is
4 amended to read as follows:

5 Section 604. Every person holding a license to practice
6 optometry in this state shall be required to present to the Board of
7 Examiners in Optometry, not later than the thirtieth day of June of
8 each year, satisfactory evidence that during the preceding twelve
9 (12) months ~~said~~ the person attended not less than two (2) days of a
10 total of at least twelve (12) hours of educational or postgraduate
11 programs approved by ~~said~~ the Board, or that ~~said~~ the person was
12 prevented, because of sickness or any other reason acceptable to the
13 Board, from attending ~~said~~ the educational or postgraduate program.
14 Such education shall include not less than one (1) hour of education
15 in pain management or one (1) hour of education in opioid use or
16 addiction, unless the person has demonstrated to the satisfaction of
17 the Board that the person does not currently hold a valid federal
18 Drug Enforcement Administration registration number.

19 The filing of proof of attendance at educational programs or
20 clinics shall be a condition precedent to the issuance of a renewal
21 license. The Board may reinstate the license of ~~said~~ the licensee
22 to practice optometry upon presentation of satisfactory proof of
23 postgraduate study of a standard approved by ~~said~~ the examiners and
24

1 payment of all fees due including a late reinstatement fee not to
2 exceed three times the annual renewal fee.

3 SECTION 12. AMENDATORY 59 O.S. 2011, Section 637, is
4 amended to read as follows:

5 Section 637. A. The State Board of Osteopathic Examiners may
6 refuse to admit a person to an examination or may refuse to issue or
7 reinstate or may suspend or revoke any license issued or reinstated
8 by the Board upon proof that the applicant or holder of such a
9 license:

10 1. Has obtained a license, license renewal or authorization to
11 sit for an examination, as the case may be, through fraud,
12 deception, misrepresentation or bribery; or has been granted a
13 license, license renewal or authorization to sit for an examination
14 based upon a material mistake of fact;

15 2. Has engaged in the use or employment of dishonesty, fraud,
16 misrepresentation, false promise, false pretense, unethical conduct
17 or unprofessional conduct, as may be determined by the Board, in the
18 performance of the functions or duties of an osteopathic physician,
19 including but not limited to the following:

20 a. obtaining or attempting to obtain any fee, charge,
21 tuition or other compensation by fraud, deception or
22 misrepresentation; willfully and continually
23 overcharging or overtreating patients; or charging for
24

1 visits to the physician's office which did not occur
2 or for services which were not rendered,

3 b. using intimidation, coercion or deception to obtain or
4 retain a patient or discourage the use of a second
5 opinion or consultation,

6 c. willfully performing inappropriate or unnecessary
7 treatment, diagnostic tests or osteopathic medical or
8 surgical services,

9 d. delegating professional responsibilities to a person
10 who is not qualified by training, skill, competency,
11 age, experience or licensure to perform them, noting
12 that delegation may only occur within an appropriate
13 ~~doctor/patient~~ doctor-patient relationship, wherein a
14 proper patient record is maintained including, but not
15 limited to, at the minimum, a current history and
16 physical,

17 e. misrepresenting that any disease, ailment, or
18 infirmity can be cured by a method, procedure,
19 treatment, medicine or device,

20 f. acting in a manner which results in final disciplinary
21 action by any professional society or association or
22 hospital or medical staff of such hospital in this or
23 any other state, whether agreed to voluntarily or not,
24 if the action was in any way related to professional

1 conduct, professional competence, malpractice or any
2 other violation of the Oklahoma Osteopathic Medicine
3 Act,

4 g. signing a blank prescription form; or dispensing,
5 prescribing, administering or otherwise distributing
6 any drug, controlled substance or other treatment
7 without sufficient examination or the establishment of
8 a ~~physician/patient~~ physician-patient relationship, or
9 for other than medically accepted therapeutic or
10 experimental or investigational purpose duly
11 authorized by a state or federal agency, or not in
12 good faith to relieve pain and suffering, or not to
13 treat an ailment, physical infirmity or disease, or
14 violating any state or federal law on controlled
15 dangerous substances including, but not limited to,
16 prescribing, dispensing or administering opioid drugs
17 in excess of the maximum limits authorized in Section
18 2-309I of Title 63 of the Oklahoma Statutes,

19 h. engaging in any sexual activity within a
20 ~~physician/patient~~ physician-patient relationship,

21 i. terminating the care of a patient without adequate
22 notice or without making other arrangements for the
23 continued care of the patient,
24

1 j. failing to furnish a copy of a patient's medical
2 records upon a proper request from the patient or
3 legal agent of the patient or another physician; or
4 failing to comply with any other law relating to
5 medical records,

6 k. failing to comply with any subpoena issued by the
7 Board,

8 l. violating a probation agreement or order with this
9 Board or any other agency, and

10 m. failing to keep complete and accurate records of
11 purchase and disposal of controlled drugs or narcotic
12 drugs;

13 3. Has engaged in gross negligence, gross malpractice or gross
14 incompetence;

15 4. Has engaged in repeated acts of negligence, malpractice or
16 incompetence;

17 5. Has been finally adjudicated and found guilty, or entered a
18 plea of guilty or nolo contendere in a criminal prosecution, for any
19 offense reasonably related to the qualifications, functions or
20 duties of an osteopathic physician, or for any offense involving
21 moral turpitude, whether or not sentence is imposed, and regardless
22 of the pendency of an appeal;

23 6. Has had the authority to engage in the activities regulated
24 by the Board revoked, suspended, restricted, modified or limited, or

1 has been reprimanded, warned or censured, probated or otherwise
2 disciplined by any other state or federal agency whether or not
3 voluntarily agreed to by the physician including, but not limited
4 to, the denial of licensure, surrender of the license, permit or
5 authority, allowing the license, permit or authority to expire or
6 lapse, or discontinuing or limiting the practice of osteopathic
7 medicine pending disposition of a complaint or completion of an
8 investigation;

9 7. Has violated, or failed to comply with provisions of any act
10 or regulation administered by the Board;

11 8. Is incapable, for medical or psychiatric or any other good
12 cause, of discharging the functions of an osteopathic physician in a
13 manner consistent with the public's health, safety and welfare;

14 9. Has been guilty of advertising by means of knowingly false
15 or deceptive statements;

16 10. Has been guilty of advertising, practicing, or attempting
17 to practice under a name other than one's own;

18 11. Has violated or refused to comply with a lawful order of
19 the Board;

20 12. Has been guilty of habitual drunkenness, or habitual
21 addiction to the use of morphine, cocaine or other habit-forming
22 drugs;

23

24

1 13. Has been guilty of personal offensive behavior, which would
2 include, but not be limited to obscenity, lewdness, molestation and
3 other acts of moral turpitude; and

4 14. Has been adjudicated to be insane, or incompetent, or
5 admitted to an institution for the treatment of psychiatric
6 disorders.

7 B. The State Board of Osteopathic Examiners shall neither
8 refuse to renew, nor suspend, nor revoke any license, however, for
9 any of these causes, unless the person accused has been given at
10 least twenty (20) days' notice in writing of the charge against him
11 or her and a public hearing by the State Board provided, three-
12 fourths (3/4) of a quorum present at a meeting may vote to suspend a
13 license in an emergency situation if the licensee affected is
14 provided a public hearing within thirty (30) days of the emergency
15 suspension.

16 C. The State Board of Osteopathic Examiners shall have the
17 power to order or subpoena the attendance of witnesses, the
18 inspection of records and premises and the production of relevant
19 books and papers for the investigation of matters that may come
20 before them. The presiding officer of ~~said~~ the Board shall have the
21 authority to compel the giving of testimony as is conferred on
22 courts of justice.

23 D. Any osteopathic physician in the State of Oklahoma whose
24 license to practice osteopathic medicine is revoked or suspended

1 | under ~~the previous paragraphs~~ of this section shall have the right
2 | to seek judicial review of a ruling of the Board pursuant to the
3 | Administrative Procedures Act.

4 | E. The Board may enact rules and regulations pursuant to the
5 | Administrative Procedures Act setting out additional acts of
6 | unprofessional conduct; which acts shall be grounds for refusal to
7 | issue or reinstate, or for action to condition, suspend or revoke a
8 | license.

9 | SECTION 13. AMENDATORY 59 O.S. 2011, Section 641, is
10 | amended to read as follows:

11 | Section 641. A. All persons legally licensed to practice
12 | osteopathic medicine in this state, on or before the first day of
13 | July of each year, shall apply to the secretary-treasurer of the
14 | Board, on forms furnished thereby, for a renewal certificate of
15 | registration entitling such licensee to practice osteopathic
16 | medicine and surgery in Oklahoma during the next ensuing fiscal
17 | year.

18 | B. Each application shall be accompanied by a renewal fee in an
19 | amount sufficient to cover the cost and expense incurred by the
20 | State Board of Osteopathic Examiners, for a renewal of the person's
21 | certificate to practice osteopathic medicine.

22 | C. 1. In addition to the payment of the annual renewal fee
23 | each licensee applying for a renewal of the certificate shall
24 | furnish to the State Board of Osteopathic Examiners proof that the

1 person has attended at least two (2) days of the annual educational
2 program conducted by the Oklahoma Osteopathic Association, or its
3 equivalent, as determined by the Board, in the fiscal year preceding
4 the application for a renewal; provided, the Board may excuse the
5 failure of the licensee to attend the educational program in the
6 case of illness or other unavoidable casualty rendering it
7 impossible for the licensee to have attended the educational program
8 or its equivalent.

9 2. The Board shall require that the licensee receive not less
10 than one (1) hour of education in pain management or one (1) hour of
11 education in opioid use or addiction each year preceding an
12 application for renewal of a license, unless the licensee has
13 demonstrated to the satisfaction of the Board that the licensee does
14 not currently hold a valid federal Drug Enforcement Administration
15 registration number. Such education may be held at the annual
16 educational program referenced in paragraph 1 of this subsection.

17 D. The secretary of the State Board of Osteopathic Examiners
18 shall send a written notice to every person holding a legal
19 certificate to practice osteopathic medicine in this state, at least
20 thirty (30) days prior to the first day of July each year, directed
21 to the last-known address of the licensee, notifying the licensee
22 that it will be necessary for the licensee to pay the renewal
23 license fee as herein provided, and proper forms shall accompany the
24

1 notice upon which the licensee shall make application for renewal of
2 the certificate.

3 SECTION 14. AMENDATORY 59 O.S. 2011, Section 698.7, is
4 amended to read as follows:

5 Section 698.7. The State Board of Veterinary Medical Examiners
6 shall have the powers and it shall also be its duty to regulate the
7 practice of veterinary medicine. In addition to any other powers
8 placed on it by the Oklahoma Veterinary Practice Act or as otherwise
9 provided by law, the Board shall have the power and duty to:

- 10 1. a. set standards for licensure or certification by
11 examination and develop such examinations as will
12 provide assurance of competency to practice, and
13 b. employ or enter into agreements with organizations or
14 agencies to provide examinations acceptable to the
15 Board or employ or enter into agreements with
16 organizations or agencies to provide administration,
17 preparation or scoring of examinations;
- 18 2. Set fees;
- 19 3. Prescribe the time, place, method, manner, scope and
20 subjects of examination for licensure;
- 21 4. Prepare or select, conduct or direct the conduct of, set
22 minimum requirements for, and assure security of licensing and other
23 required examinations;

24

- 1 5. a. issue or deny licenses and certificates and renewals
2 thereof,
- 3 b. acquire information about and evaluate the
4 professional education and training of applicants for
5 licensure or certification; and accept or deny
6 applications for licensure, certification or renewal
7 of either licensure or certification based on the
8 evaluation of information relating to applicant
9 fitness, performance or competency to practice,
- 10 c. determine which professional schools, colleges,
11 universities, training institutions and educational
12 programs are acceptable in connection with licensure
13 pursuant to the Oklahoma Veterinary Practice Act, and
14 accept the approval of such facilities and programs by
15 American-Veterinary-Medical-Association-accredited
16 institutions in the United States and Canada,
- 17 d. require supporting documentation or other acceptable
18 verifying evidence for any information provided the
19 Board by an applicant for licensure or certification,
20 and
- 21 e. require information on an applicant's fitness,
22 qualification and previous professional record and
23 performance from recognized data sources including,
24 but not limited to, other licensing and disciplinary

1 authorities of other jurisdictions, professional
2 education and training institutions, liability
3 insurers, animal health care institutions and law
4 enforcement agencies;

5 6. Develop and use applications and other necessary forms and
6 related procedures for purposes of the Oklahoma Veterinary Practice
7 Act;

- 8 7. a. review and investigate complaints and adverse
9 information about licensees and certificate holders,
10 b. conduct hearings in accordance with the Oklahoma
11 Veterinary Practice Act and the Administrative
12 Procedures Act, and
13 c. adjudicate matters that come before the Board for
14 judgment pursuant to the Oklahoma Veterinary Practice
15 Act upon clear and convincing evidence and issue final
16 decisions on such matters to discipline licensees and
17 certificate holders;

- 18 8. a. impose sanctions, deny licenses and certificates and
19 renewals thereof, levy reimbursement costs, seek
20 appropriate administrative, civil or criminal
21 penalties or any combination of these against those
22 who violate examination security, who attempt to or
23 who do obtain licensure or certification by fraud, who
24

1 knowingly assist in illegal activities, or who aid and
2 abet the illegal practice of veterinary medicine,

- 3 b. review and investigate complaints and adverse
4 information about licensees and certificate holders,
- 5 c. discipline licensees and certificate holders,
- 6 d. institute proceedings in courts of competent
7 jurisdiction to enforce Board orders and provisions of
8 the Oklahoma Veterinary Practice Act,

- 9 e. (1) establish mechanisms for dealing with licensees
10 and certificate holders who abuse or are
11 dependent on or addicted to alcohol or other
12 chemical substances, and enter into agreements,
13 at its discretion, with professional
14 organizations whose relevant procedures and
15 techniques it has evaluated and approved for
16 their cooperation or participation in the
17 rehabilitation of the licensee or certificate
18 holder,

- 19 (2) establish by rules cooperation with other
20 professional organizations for the identification
21 and monitoring of licensees and certificate
22 holders in treatment who are chemically dependent
23 or addicted, and

1 f. issue conditional, restricted or otherwise
2 circumscribed modifications to licensure or
3 certification as determined to be appropriate by due
4 process procedures and summarily suspend a license if
5 the Board has cause to believe by clear and convincing
6 evidence such action is required to protect public or
7 animal health and safety or to prevent continuation of
8 incompetent practices;

9 9. Promulgate rules of professional conduct and require all
10 licensees and certificate holders to practice in accordance
11 therewith;

12 10. Act to halt the unlicensed or illegal practice of
13 veterinary medicine and seek administrative, criminal and civil
14 penalties against those engaged in such practice;

15 11. Establish appropriate fees and charges to ensure active and
16 effective pursuit of Board responsibilities;

17 12. Employ, direct, reimburse, evaluate and dismiss staff in
18 accordance with state procedures;

19 13. Establish policies for Board operations;

20 14. Respond to legislative inquiry regarding those changes in,
21 or amendments to, the Oklahoma Veterinary Practice Act;

22 15. Act on its own motion in disciplinary matters, administer
23 oaths, issue notices, issue subpoenas in the name of the State of
24 Oklahoma, including subpoenas for client and animal records, hold

1 hearings, institute court proceedings for contempt or to compel
2 testimony or obedience to its orders and subpoenas, take evidentiary
3 depositions and perform such other acts as are reasonable and
4 necessary under law to carry out its duties;

5 16. Use clear and convincing evidence as the standard of proof
6 and issue final decisions when acting as trier of fact in the
7 performance of its adjudicatory duties;

8 17. Determine and direct Board operating, administrative,
9 personnel and budget policies and procedures in accordance with
10 applicable statutes;

11 18. Promulgate uniform rules such as may be necessary for
12 carrying out and enforcing the provisions of the Oklahoma Veterinary
13 Practice Act and such as in its discretion may be necessary to
14 protect the health, safety and welfare of the public;

15 19. Determine continuing education requirements. Such
16 continuing education shall include not less than one (1) hour of
17 education in pain management or one (1) hour of education in opioid
18 use or addiction annually, unless the licensee has demonstrated to
19 the satisfaction of the Board that the licensee does not currently
20 hold a valid federal Drug Enforcement Administration registration
21 number;

22 20. Establish minimum standards for veterinary premises;

23 21. Establish standards for veterinary labeling and dispensing
24 of veterinary prescription drugs and federal Food and Drug

1 Administration-approved human drugs for animals which would conform
2 to current applicable state and federal law and regulations;

3 22. Promulgate rules such as may be necessary for carrying out
4 and enforcing provisions relating to certification of animal
5 euthanasia technicians and approval of drugs to be used for
6 euthanasia of animals in an animal shelter pursuant to the
7 requirements of Section 502 of Title 4 of the Oklahoma Statutes;

8 23. Shall conduct a national criminal history records search
9 for certified animal euthanasia technicians:

10 a. the applicant shall furnish the Board two completed
11 fingerprint cards and a money order or cashier's check
12 made payable to the Oklahoma State Bureau of
13 Investigation,

14 b. the Board shall forward the fingerprint cards, along
15 with the applicable fee for a national fingerprint
16 criminal history records search, to the Bureau, and

17 c. the Bureau shall retain one set of fingerprints in the
18 Automated Fingerprint Identification System (AFIS) and
19 submit the other set to the Federal Bureau of
20 Investigation (FBI) for a national criminal history
21 records search;

22 24. Establish standards for animal chiropractic diagnosis and
23 treatment. The standards shall include but not be limited to a
24 requirement that a veterinarian who holds himself or herself out to

1 the public as certified to engage in animal chiropractic diagnosis
2 and treatment shall:

3 a. carry at least One Million Dollars (\$1,000,000.00) of
4 additional malpractice coverage to perform animal
5 chiropractic diagnosis and treatment, and

6 b. have appropriate training in animal chiropractic
7 diagnosis and treatment. The Veterinary Examining
8 Board shall have the authority to establish
9 educational criteria for certification standards in
10 animal chiropractic diagnosis and treatment. The
11 Veterinary Examining Board shall work in conjunction
12 with the Board of Chiropractic Examiners to establish
13 comparable standards for the practice of animal
14 chiropractic diagnosis and treatment for both medical
15 professions within thirty (30) days after the
16 effective date of this act. The Board shall certify
17 any licensed veterinarian wishing to engage in animal
18 chiropractic diagnosis and treatment who meets the
19 standards established by the Board pursuant to this
20 paragraph. Upon request, the Board shall make
21 available to the public a list of licensed
22 veterinarians so certified; and

1 25. Perform such other duties and exercise such other powers as
2 the provisions and enforcement of the Oklahoma Veterinary Practice
3 Act may require.

4 SECTION 15. AMENDATORY 59 O.S. 2011, Section 698.14a, is
5 amended to read as follows:

6 Section 698.14a. A. A range of sanctions is hereby made
7 available to the State Board of Veterinary Medical Examiners which
8 includes, but is not limited to:

- 9 1. Revocation of licensure or certification;
- 10 2. Suspension of licensure or certification;
- 11 3. Probation of licensure or certification;
- 12 4. Refusal to renew a license or certification;
- 13 5. Injunctions and other civil court actions;
- 14 6. Reprimand, censure, agreement to voluntary stipulation of
15 facts and imposition of terms of disciplinary action;
- 16 7. Administrative citation and administrative penalties; and
- 17 8. Prosecution through the office of the district attorney.

18 B. 1. The Board may take such action as the nature of the
19 violation requires.

20 2. Upon a determination that a violation has been committed,
21 the Board shall, by clear and convincing evidence, have the
22 authority to impose upon the alleged violator, the payment of costs
23 expended by the Board in investigating and prosecuting the cause, to
24 include, but not be limited to, staff time, salary and travel

1 expenses, witness fees and attorney fees and same shall be
2 considered part of the order of the Board.

3 3. The Board shall make report of action to any association,
4 organization or entity deemed appropriate for transmittal of the
5 public record but shall in no cause be held liable for the content
6 of the reported action or be made a party to action taken as a
7 result of the sanction imposed by the State Board of Veterinary
8 Medical Examiners.

9 C. The president or secretary-treasurer of the Board may issue
10 a confidential letter of concern to a licensee or certificate holder
11 when, though evidence does not warrant formal proceedings, there has
12 been noted indications of possible misconduct by the licensee or
13 certificate holder that could lead to serious consequences and
14 formal action.

15 D. The Board may require an applicant for licensure or
16 certification or a licensee or certificate holder to be examined on
17 the applicant's or holder's medical knowledge and skills should the
18 Board find, after due process, that there is probable cause to
19 believe the licensee or certificate holder or applicant may be
20 deficient in such knowledge and skills.

21 E. The Board may take disciplinary action or other sanctions
22 upon clear and convincing evidence of unprofessional or dishonorable
23 conduct, which shall include, but not be limited to:
24

- 1 1. Fraud or misrepresentation in applying for or procuring a
2 license or certificate to practice veterinary medicine in any
3 federal, state or local jurisdiction;
- 4 2. Cheating on or attempting to cheat on or subvert in any
5 manner whatsoever the licensing or certificate examination or any
6 portion thereof;
- 7 3. The conviction of or entry of a guilty plea or plea of nolo
8 contendere involving a felony in this or any other jurisdiction,
9 whether or not related to the practice of veterinary medicine;
- 10 4. Conduct likely to deceive, defraud, or harm the public;
- 11 5. The making of a false or misleading statement regarding
12 one's skill or the efficacy or value of the medicine, treatment or
13 remedy prescribed by the licensed veterinarian or at the licensed
14 veterinarian's direction in the treatment of any disease or other
15 condition of the animal;
- 16 6. Representing to a client that a manifestly incurable
17 condition, sickness, disease or injury can be cured or healed;
- 18 7. Negligence in the practice of veterinary medicine;
- 19 8. Practice or other behavior that demonstrates a manifest
20 incapacity or incompetence to practice veterinary medicine;
- 21 9. The use of any false, fraudulent or deceptive statement in
22 any document connected with the practice of veterinary medicine;
- 23 10. Failure to notify the Board of current address of practice;

24

1 11. Aiding or abetting the practice of veterinary medicine by
2 an unlicensed, incompetent or impaired person;

3 12. Habitual use or abuse of alcohol or of a habit-forming drug
4 or chemical which impairs the ability of the licensee or certificate
5 holder to practice veterinary medicine;

6 13. Violation of any laws relating to the administration,
7 prescribing or dispensing of controlled dangerous substances or
8 violation of any laws of the federal government or any state of the
9 United States relative to controlled dangerous substances including,
10 but not limited to, prescribing, dispensing or administering opioid
11 drugs in excess of the maximum limits authorized in Section 2-309I
12 of Title 63 of the Oklahoma Statutes;

13 14. Obtaining a fee by fraud or misrepresentation;

14 15. Directly or indirectly giving or receiving any fee,
15 commission, rebate or other compensation for professional services
16 not actually and personally rendered, not to preclude the legal
17 function of a lawful professional partnership, corporation or
18 association;

19 16. Failure to report to the Board any adverse action taken by
20 another jurisdictional body, by any peer review body, health-related
21 licensing or disciplinary jurisdiction, law enforcement agency or
22 court for acts or conduct related to the practice of veterinary
23 medicine;

1 17. Failure to report to the Board surrender of a license or
2 other certificate of authorization to perform functions based on the
3 holding of a license or certificate to practice veterinary medicine
4 or surrender of membership in any organization or association
5 related to veterinary medicine while under investigation by that
6 association or organization for conduct similar to or the same as
7 acts which would constitute grounds for action as defined in the
8 Oklahoma Veterinary Practice Act;

9 18. Failure to furnish the Board, its staff or agents
10 information legally requested or failure to cooperate with a lawful
11 investigation conducted by or on behalf of the Board;

12 19. Failure to pay appropriately assessed fees or failure to
13 make any personal appearance required by the Board or any of its
14 officers;

15 20. The practice of veterinary medicine in the absence of a
16 bona fide veterinarian-client-patient relationship. The preclusion
17 of a veterinarian-client-patient relationship by a veterinarian who
18 in good faith renders or attempts to render emergency care to a
19 victim pursuant to a Good Samaritan application shall not constitute
20 grounds for discipline pursuant to the Oklahoma Veterinary Practice
21 Act;

22 21. Providing vaccinations or elective surgical procedures on
23 skunks, namely *Mephitis mephitis* (striped), *Conepatus mesoleucus*
24 (hog-nosed), and *Spilogale putorius* (spotted), unless the animal is

1 under the custody and care of a recognized zoological institution,
2 research facility, or person possessing an appropriate and current
3 wildlife permit issued by the Oklahoma Department of Wildlife
4 Conservation or Oklahoma Department of Agriculture; or

5 22. Violation of any provisions of the Oklahoma Veterinary
6 Practice Act or the rules and policies of the Board or of an action,
7 stipulation or agreement of the Board.

8 F. 1. The Board may commence any legal action to enforce the
9 provision of the Oklahoma Veterinary Practice Act and may exercise
10 full discretion and authority with respect to enforcement actions.
11 Administrative sanctions taken by the Board shall be made in
12 accordance with Article II of the Administrative Procedures Act, the
13 Oklahoma Veterinary Practice Act, and other applicable laws of this
14 state. The Board shall take appropriate enforcement action when
15 required, assuring fairness and due process to the defendant.

16 2. The Board or its designee may hold informal conferences to
17 negotiate a settlement of a dispute; provided that the conference is
18 agreed to in writing by all parties and said conference does not
19 preclude a hearing on the same matters. The Board shall not
20 consider the agreement binding should a hearing be held subsequent
21 to the agreement.

22 G. The Board may summarily suspend a license or certificate
23 prior to a formal hearing when it has found upon clear and
24 convincing evidence that such action is required to protect the

1 public or animal health or welfare or when a person under the
2 jurisdiction of the Board is convicted of a felony, whether or not
3 related to the practice of veterinary medicine; provided such action
4 is taken simultaneously with proceedings for setting a formal
5 hearing to be held within thirty (30) days after the summary
6 suspension.

7 H. 1. The Board may issue an order to any licensee or
8 certificate holder, obtain an injunction or take other
9 administrative, civil or criminal court action against any person or
10 any corporation or association, its officers, or directors, to
11 restrain said persons from violating the provisions of the Oklahoma
12 Veterinary Practice Act.

13 2. Violations of an injunction shall be punishable as contempt
14 of court. No proof of actual damage to any animal shall be required
15 for issuance of an order or an injunction, nor shall an injunction
16 relieve those enjoined from administrative, civil or criminal
17 prosecution for violation of the Oklahoma Veterinary Practice Act.

18 I. 1. The State Board of Veterinary Medical Examiners may
19 suspend, revoke or refuse to renew the license or certificate of any
20 person holding license or certificate to practice veterinary
21 medicine in this state or place such person on probation for
22 unprofessional conduct, but no such suspension or revocation or
23 refusal to renew, or probation shall be made, unless otherwise
24 provided for herein, until such be cited to appear for hearing. No

1 such citation shall be issued except upon a sworn complaint filed
2 with the president or secretary-treasurer of said Board charging the
3 licensee or certificate holder with having been guilty of
4 unprofessional conduct and setting forth the particular act or acts
5 alleged to constitute such unprofessional conduct.

6 2. In the event it comes to the attention of the Board that a
7 violation of the rules of professional conduct may have occurred,
8 even though a formal complaint or charge may not have been filed,
9 the Board may conduct an investigation of such possible violation,
10 and may, upon its own motion, institute a formal complaint. In the
11 course of such investigation, persons appearing before the Board may
12 be required to testify under oath.

13 J. 1. Upon the filing of a complaint, either by an individual
14 or the Board, the citation shall be issued by the president or
15 secretary-treasurer of the Board over such officer's signature and
16 seal of the Board, setting forth the particulars of the complaint,
17 and giving due notice of the time and place of the hearing by the
18 Board. The citation shall be made returnable at the next meeting of
19 the Board at which hearing is set and shall be no less than thirty
20 (30) days after issuance of the citation;

21 2. The accused shall file a written answer under oath with
22 notice of intent to appear or be represented within twenty (20) days
23 after the service of the citation. Failure to respond to the
24 citation within the prescribed time shall constitute default;

1 3. The license or certificate of the accused shall be
2 suspended, revoked or not renewed if the charges are found, by clear
3 and convincing evidence, sufficient by the Board; provided, the
4 president or secretary-treasurer of the Board may extend the time of
5 answer upon satisfactory showing that the defendant is for
6 reasonable cause, unable to answer within the prescribed twenty (20)
7 days, but in no case shall the time be extended beyond the date of
8 the next scheduled meeting for hearing the complaint, unless
9 continuance thereof be granted by the Board; and

10 4. All citations and subpoenas under the contemplation of the
11 Oklahoma Veterinary Practice Act shall be served in general
12 accordance with the statutes of this state applying to the service
13 of such documents. All provisions of the statutes of this state
14 relating to citations and subpoenas are hereby made applicable to
15 the citations and subpoenas herein provided. All the provisions of
16 the statutes of this state governing the taking of testimony by
17 depositions are made applicable to the taking of depositions
18 pursuant to the Oklahoma Veterinary Practice Act.

19 K. The Executive Director, secretary-treasurer, designee, or
20 prosecuting attorney for the Board, during the course of any lawful
21 investigation, may order or subpoena the attendance of witnesses,
22 the inspection of records, and premises and the production of
23 relevant records, books, memoranda, documents, radiographs, or other
24

1 papers or things for the investigation of matters that may come
2 before the Board.

3 L. 1. The attendance of witnesses may be compelled in such
4 hearings by subpoenas issued by the president or secretary-treasurer
5 of the Board over the seal thereof, and the president or secretary-
6 treasurer shall in no case refuse to issue subpoenas upon praecipe
7 filed therefor accompanied by the fee set by the Board by rule for
8 the issuance of such subpoenas.

9 2. If any person refuses to obey a subpoena properly served
10 upon such person or in the manner, the fact of such refusal shall be
11 certified by the secretary-treasurer of the Board over the seal
12 thereof to the district attorney of the county in which such service
13 was had, and the court shall proceed to hear said matter in
14 accordance with the statutes of this state then in force governing
15 contempt as for disobedience of its own process.

16 M. 1. The State of Oklahoma is a proper and necessary party in
17 the prosecution of all such actions and hearings before the Board in
18 all matters pertaining to unprofessional conduct and disciplinary
19 action. The Attorney General of the state, in person or by deputy,
20 is authorized to appear in behalf thereof. The defendant in any
21 such actions shall have the right to be represented by counsel.

22 2. The Board is empowered to enter into agreement with or
23 employ one or more attorneys to conduct the business of the Board in
24 the absence of representation by the Attorney General or designee or

1 in conjunction with representation by the Attorney General or
2 designee.

3 3. The Board shall sit as a trial body and the rulings of the
4 Board shall be by majority vote. Appeal to the rulings thereof
5 shall be by petition to the district court of the district in which
6 the hearing was held. The secretary-treasurer of the Board shall
7 cause a record of all proceedings to be made and a transcript of the
8 proceedings or any part thereof may be obtained by payment of actual
9 cost of taking and preparation of transcript of such proceedings or
10 part thereof.

11 N. All final disciplinary actions, license denials, related
12 findings of fact and conclusions of law are matters of public
13 record. Voluntary surrender of and voluntary limitations on the
14 veterinarian's practice or license shall be public record.

15 O. Certificate holders or faculty of veterinary medical schools
16 shall report to the Board in writing any information that gives
17 reason to believe a veterinarian is incompetent, guilty of
18 unprofessional conduct or is unable to engage safely in the practice
19 of veterinary medicine. Cause for reporting shall be for, but not
20 limited to, the following instances:

- 21 1. Voluntary resignation from a professional partnership,
22 corporation or practice for reason of inability to practice;
- 23 2. Malpractice claims, judgments, settlements or awards;
- 24 3. Civil or criminal convictions; or

1 4. Other actions that indicate inability to practice with
2 reasonable skill and safety.

3 P. The Board shall consider violation of any of the Rules of
4 Professional Conduct a violation of the Oklahoma Veterinary Practice
5 Act section on unprofessional conduct and shall proceed with
6 disciplinary action as set out in the Oklahoma Veterinary Practice
7 Act.

8 Q. 1. In addition to other penalties prescribed by the
9 Oklahoma Veterinary Practice Act, any person who the Board has
10 determined by clear and convincing evidence to have violated any
11 provisions of the Oklahoma Veterinary Practice Act, or any rule or
12 order issued pursuant thereto shall be liable for an administrative
13 penalty of not more than Five Thousand Dollars (\$5,000.00) for each
14 day that the violation continues.

15 2. The amount of the penalty shall be assessed by the Board
16 pursuant to the provisions of paragraph 1 of this subsection, after
17 notice and hearing. In determining the amount of the penalty, the
18 Board shall, by clear and convincing evidence, include, but not be
19 limited to, consideration of the nature, circumstances, and gravity
20 of the violation and, with respect to the person found to have
21 committed the violation, the degree of culpability, the effect on
22 ability of the person to continue to do business, and any show of
23 good faith in attempting to achieve compliance with the provisions
24 of the Oklahoma Veterinary Practice Act.

1 3. All penalties collected pursuant to the provisions of this
2 subsection shall be deposited in the Veterinary Medical Examiners
3 Fund.

4 SECTION 16. AMENDATORY 63 O.S. 2011, Section 2-101, as
5 last amended by Section 3, Chapter 175, O.S.L. 2018 (63 O.S. Supp.
6 2018, Section 2-101), is amended to read as follows:

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

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

13 a. a practitioner (or, in the presence of the
14 practitioner, by the authorized agent of the
15 practitioner), or

16 b. the patient or research subject at the direction and
17 in the presence of the practitioner;

18 2. "Agent" means a peace officer appointed by and who acts on
19 behalf of the Director of the Oklahoma State Bureau of Narcotics and
20 Dangerous Drugs Control or an authorized person who acts on behalf
21 of or at the direction of a person who manufactures, distributes,
22 dispenses, prescribes, administers or uses for scientific purposes
23 controlled dangerous substances but does not include a common or
24 contract carrier, public warehouser or employee thereof, or a person

1 required to register under the Uniform Controlled Dangerous
2 Substances Act;

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

5 4. "Bureau" means the Oklahoma State Bureau of Narcotics and
6 Dangerous Drugs Control;

7 5. "Coca leaves" includes cocaine and any compound,
8 manufacture, salt, derivative, mixture or preparation of coca
9 leaves, except derivatives of coca leaves which do not contain
10 cocaine or ecgonine;

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

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

16 8. "Controlled dangerous substance" means a drug, substance or
17 immediate precursor in Schedules I through V of the Uniform
18 Controlled Dangerous Substances Act or any drug, substance or
19 immediate precursor listed either temporarily or permanently as a
20 federally controlled substance. Any conflict between state and
21 federal law with regard to the particular schedule in which a
22 substance is listed shall be resolved in favor of state law;

23 9. "Counterfeit substance" means a controlled substance which,
24 or the container or labeling of which without authorization, bears

1 the trademark, trade name or other identifying marks, imprint,
2 number or device or any likeness thereof of a manufacturer,
3 distributor or dispenser other than the person who in fact
4 manufactured, distributed or dispensed the substance;

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

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

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

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

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

23 14. "Drug" means articles:
24

- 1 a. recognized in the official United States
2 Pharmacopoeia, official Homeopathic Pharmacopoeia of
3 the United States, or official National Formulary, or
4 any supplement to any of them,
5 b. intended for use in the diagnosis, cure, mitigation,
6 treatment or prevention of disease in man or other
7 animals,
8 c. other than food, intended to affect the structure or
9 any function of the body of man or other animals, and
10 d. intended for use as a component of any article
11 specified in this paragraph;

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

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

22 16. "Home care agency" means any sole proprietorship,
23 partnership, association, corporation, or other organization which
24 administers, offers, or provides home care services, for a fee or

1 pursuant to a contract for such services, to clients in their place
2 of residence;

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

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

20 19. "Imitation controlled substance" means a substance that is
21 not a controlled dangerous substance, which by dosage unit
22 appearance, color, shape, size, markings or by representations made,
23 would lead a reasonable person to believe that the substance is a
24 controlled dangerous substance. In the event the appearance of the

1 dosage unit is not reasonably sufficient to establish that the
2 substance is an "imitation controlled substance", the court or
3 authority concerned should consider, in addition to all other
4 factors, the following factors as related to "representations made"
5 in determining whether the substance is an "imitation controlled
6 substance":

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

23 20. "Immediate precursor" means a substance which the Director
24 has found to be and by regulation designates as being the principal

1 compound commonly used or produced primarily for use, and which is
2 an immediate chemical intermediary used, or likely to be used, in
3 the manufacture of a controlled dangerous substance, the control of
4 which is necessary to prevent, curtail or limit such manufacture;

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

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

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

23 a. the mature stalks of such plant or fiber produced from
24 such stalks,

- 1 b. oil or cake made from the seeds of such plant,
2 including cannabidiol derived from the seeds of the
3 marijuana plant,
- 4 c. any other compound, manufacture, salt, derivative,
5 mixture or preparation of such mature stalks (except
6 the resin extracted therefrom), including cannabidiol
7 derived from mature stalks, fiber, oil or cake,
- 8 d. the sterilized seed of such plant which is incapable
9 of germination,
- 10 e. for any person participating in a clinical trial to
11 administer cannabidiol for the treatment of severe
12 forms of epilepsy pursuant to Section 2-802 of this
13 title, a drug or substance approved by the federal
14 Food and Drug Administration for use by those
15 participants,
- 16 f. for any person or the parents, legal guardians or
17 caretakers of the person who have received a written
18 certification from a physician licensed in this state
19 that the person has been diagnosed by a physician as
20 having Lennox-Gastaut Syndrome, Dravet Syndrome, also
21 known as Severe Myoclonic Epilepsy of Infancy, or any
22 other severe form of epilepsy that is not adequately
23 treated by traditional medical therapies, spasticity
24 due to multiple sclerosis or due to paraplegia,

1 intractable nausea and vomiting, appetite stimulation
2 with chronic wasting diseases, the substance
3 cannabidiol, a nonpsychoactive cannabinoid, found in
4 the plant Cannabis sativa L. or any other preparation
5 thereof, that has a tetrahydrocannabinol concentration
6 of not more than three-tenths of one percent (0.3%)
7 and that is delivered to the patient in the form of a
8 liquid,

9 g. any federal Food and Drug Administration-approved
10 cannabidiol drug or substance, or

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

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

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

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

- 14 a. opium, coca leaves and opiates,
- 15 b. a compound, manufacture, salt, derivative or
16 preparation of opium, coca leaves or opiates,
- 17 c. cocaine, its salts, optical and geometric isomers, and
18 salts of isomers,
- 19 d. ecgonine, its derivatives, their salts, isomers and
20 salts of isomers, and
- 21 e. a substance, and any compound, manufacture, salt,
22 derivative or preparation thereof, which is chemically
23 identical with any of the substances referred to in
24 subparagraphs a through d of this paragraph, except

1 that the words "narcotic drug" as used in Section 2-
2 101 et seq. of this title shall not include
3 decocainized coca leaves or extracts of coca leaves,
4 which extracts do not contain cocaine or ecgonine;

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

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

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

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

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

3 32. "Practitioner" means:

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

1 33. "Production" includes the manufacture, planting,
2 cultivation, growing or harvesting of a controlled dangerous
3 substance;

4 34. "State" means the State of Oklahoma or any other state of
5 the United States;

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

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

- 20 a. kits used, intended for use, or fashioned specifically
21 for use in planting, propagating, cultivating, growing
22 or harvesting of any species of plant which is a
23 controlled dangerous substance or from which a
24 controlled dangerous substance can be derived, .

- 1 b. kits used, intended for use, or fashioned specifically
2 for use in manufacturing, compounding, converting,
3 producing, processing or preparing controlled
4 dangerous substances,
- 5 c. isomerization devices used, intended for use, or
6 fashioned specifically for use in increasing the
7 potency of any species of plant which is a controlled
8 dangerous substance,
- 9 d. testing equipment used, intended for use, or fashioned
10 specifically for use in identifying, or in analyzing
11 the strength, effectiveness or purity of controlled
12 dangerous substances,
- 13 e. scales and balances used, intended for use, or
14 fashioned specifically for use in weighing or
15 measuring controlled dangerous substances,
- 16 f. diluent and adulterants, such as quinine
17 hydrochloride, mannitol, mannite, dextrose and
18 lactose, used, intended for use, or fashioned
19 specifically for use in cutting controlled dangerous
20 substances,
- 21 g. separation gins and sifters used, intended for use, or
22 fashioned specifically for use in removing twigs and
23 seeds from, or in otherwise cleaning or refining,
24 marijuana,

- 1 h. blenders, bowls, containers, spoons and mixing devices
2 used, intended for use, or fashioned specifically for
3 use in compounding controlled dangerous substances,
4 i. capsules, balloons, envelopes and other containers
5 used, intended for use, or fashioned specifically for
6 use in packaging small quantities of controlled
7 dangerous substances,
8 j. containers and other objects used, intended for use,
9 or fashioned specifically for use in parenterally
10 injecting controlled dangerous substances into the
11 human body,
12 k. hypodermic syringes, needles and other objects used,
13 intended for use, or fashioned specifically for use in
14 parenterally injecting controlled dangerous substances
15 into the human body,
16 l. objects used, intended for use, or fashioned
17 specifically for use in ingesting, inhaling or
18 otherwise introducing marijuana, cocaine, hashish or
19 hashish oil into the human body, such as:
20 (1) metal, wooden, acrylic, glass, stone, plastic or
21 ceramic pipes with or without screens, permanent
22 screens, hashish heads or punctured metal bowls,
23 (2) water pipes,
24 (3) carburetion tubes and devices,

- 1 (4) smoking and carburetion masks,
2 (5) roach clips, meaning objects used to hold burning
3 material, such as a marijuana cigarette, that has
4 become too small or too short to be held in the
5 hand,
6 (6) miniature cocaine spoons and cocaine vials,
7 (7) chamber pipes,
8 (8) carburetor pipes,
9 (9) electric pipes,
10 (10) air-driven pipes,
11 (11) chillums,
12 (12) bongs, or
13 (13) ice pipes or chillers,
14 m. all hidden or novelty pipes, and
15 n. any pipe that has a tobacco bowl or chamber of less
16 than one-half (1/2) inch in diameter in which there is
17 any detectable residue of any controlled dangerous
18 substance as defined in this section or any other
19 substances not legal for possession or use;
20 provided, however, the term "drug paraphernalia" shall not include
21 separation gins intended for use in preparing tea or spice, clamps
22 used for constructing electrical equipment, water pipes designed for
23 ornamentation in which no detectable amount of an illegal substance
24 is found or pipes designed and used solely for smoking tobacco,

1 traditional pipes of an American Indian tribal religious ceremony,
2 or antique pipes that are thirty (30) years of age or older;

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

4 (1) the chemical structure of which is substantially
5 similar to the chemical structure of a controlled
6 dangerous substance in Schedule I or II,

7 (2) which has a stimulant, depressant, or
8 hallucinogenic effect on the central nervous
9 system that is substantially similar to or
10 greater than the stimulant, depressant or
11 hallucinogenic effect on the central nervous
12 system of a controlled dangerous substance in
13 Schedule I or II, or

14 (3) with respect to a particular person, which such
15 person represents or intends to have a stimulant,
16 depressant, or hallucinogenic effect on the
17 central nervous system that is substantially
18 similar to or greater than the stimulant,
19 depressant, or hallucinogenic effect on the
20 central nervous system of a controlled dangerous
21 substance in Schedule I or II.

22 b. The designation of gamma butyrolactone or any other
23 chemical as a precursor, pursuant to Section 2-322 of
24 this title, does not preclude a finding pursuant to

1 subparagraph a of this paragraph that the chemical is
2 a synthetic controlled substance.

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

- 4 (1) a controlled dangerous substance,
5 (2) any substance for which there is an approved new
6 drug application,
7 (3) with respect to a particular person any
8 substance, if an exemption is in effect for
9 investigational use, for that person under the
10 provisions of Section 505 of the Federal Food,
11 Drug and Cosmetic Act, Title 21 of the United
12 States Code, Section 355, to the extent conduct
13 with respect to such substance is pursuant to
14 such exemption, or
15 (4) any substance to the extent not intended for
16 human consumption before such an exemption takes
17 effect with respect to that substance.

18 d. Prima facie evidence that a substance containing
19 salvia divinorum has been enhanced, concentrated or
20 chemically or physically altered shall give rise to a
21 rebuttable presumption that the substance is a
22 synthetic controlled substance;

1 38. "Tetrahydrocannabinols" means all substances that have been
2 chemically synthesized to emulate the tetrahydrocannabinols of
3 marijuana;

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

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

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

17 42. "Acute pain" means pain, whether resulting from disease,
18 accidental or intentional trauma or other cause, that the
19 practitioner reasonably expects to last only a short period of time.
20 "Acute pain" does not include chronic pain, pain being treated as
21 part of cancer care, hospice or other end-of-life care, or pain
22 being treated as part of palliative care;

23 43. "Chronic pain" means pain that persists beyond the usual
24 course of an acute disease or healing of an injury. "Chronic pain"

1 may or may not be associated with an acute or chronic pathologic
2 process that causes continuous or intermittent pain over months or
3 years;

4 44. "Initial prescription" means a prescription issued to a
5 patient who:

6 a. has never previously been issued a prescription for
7 the drug or its pharmaceutical equivalent in the past
8 year, or

9 b. requires a prescription for the drug or its
10 pharmaceutical equivalent due to a surgical procedure
11 or new acute event and has previously had a
12 prescription for the drug or its pharmaceutical
13 equivalent within the past year.

14 When determining whether a patient was previously issued a
15 prescription for a drug or its pharmaceutical equivalent, the
16 practitioner shall consult with the patient and review the medical
17 record and prescription monitoring information of the patient;

18 45. "Patient-provider agreement" means a written contract or
19 agreement that is executed between a practitioner and a patient,
20 prior to the commencement of treatment for chronic pain using a
21 ~~Schedule II controlled substance or any~~ an opioid drug ~~which is a~~
22 ~~prescription drug,~~ as a means to:

- 1 a. explain the possible risk of development of physical
2 or psychological dependence in the patient and prevent
3 the possible development of addiction,
- 4 b. document the understanding of both the practitioner
5 and the patient regarding the ~~pain management plan~~
6 patient-provider agreement of the patient,
- 7 c. establish the rights of the patient in association
8 with treatment and the obligations of the patient in
9 relation to the responsible use, discontinuation of
10 use, and storage of ~~Schedule II controlled dangerous~~
11 ~~substances~~ opioid drugs, including any restrictions on
12 the refill of prescriptions or the acceptance of
13 ~~Schedule II~~ opioid prescriptions from practitioners,
- 14 d. identify the specific medications and other modes of
15 treatment, including physical therapy or exercise,
16 relaxation or psychological counseling, that are
17 included as a part of the ~~pain management plan~~
18 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, ~~informal~~
4 informed consent for opioid therapy. The ~~provider~~
5 practitioner shall be held harmless from civil
6 litigation for failure to treat pain if the event
7 occurs because of nonadherence by the patient with any
8 of the provisions of the 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,
21 ultrasound, ionizing, radiation, scalpels, probes or needles that
22 cause localized alteration or transportation of live human tissue by
23 cutting, burning, vaporizing, freezing, suturing, probing or
24 manipulating by closed reduction for major dislocations or

1 fractures, or otherwise altering by any mechanical, thermal, light-
2 based, electromagnetic or chemical means.

3 SECTION 17. AMENDATORY 63 O.S. 2011, Section 2-302, as
4 amended by Section 1, Chapter 251, O.S.L. 2018 (63 O.S. Supp. 2018,
5 Section 2-302), is amended to read as follows:

6 Section 2-302. A. Every person who manufactures, distributes,
7 dispenses, prescribes, administers or uses for scientific purposes
8 any controlled dangerous substance within or into this state, or who
9 proposes to engage in the manufacture, distribution, dispensing,
10 prescribing, administering or use for scientific purposes of any
11 controlled dangerous substance within or into this state shall
12 obtain a registration issued by the Director of the Oklahoma State
13 Bureau of Narcotics and Dangerous Drugs Control, in accordance with
14 rules promulgated by the Director. Persons registered by the
15 Director under Section 2-101 et seq. of this title to manufacture,
16 distribute, dispense, or conduct research with controlled dangerous
17 substances may possess, manufacture, distribute, dispense, or
18 conduct research with those substances to the extent authorized by
19 their registration and in conformity with the other provisions of
20 this article. Every wholesaler, manufacturer or distributor of any
21 drug product containing pseudoephedrine or phenylpropanolamine, or
22 their salts, isomers, or salts of isomers shall obtain a
23 registration issued by the Director of the Oklahoma State Bureau of
24 Narcotics and Dangerous Drugs Control in accordance with rules

1 promulgated by the Director and as provided for in Section 2-332 of
2 this title.

3 B. Out-of-state pharmaceutical suppliers who provide controlled
4 dangerous substances to individuals within this state shall obtain a
5 registration issued by the Director of the Oklahoma State Bureau of
6 Narcotics and Dangerous Drugs Control, in accordance with rules
7 promulgated by the Director. This provision shall also apply to
8 wholesale distributors who distribute controlled dangerous
9 substances to pharmacies or other entities registered within this
10 state in accordance with rules promulgated by the Director.

11 C. ~~Beginning January 1, 2019, every~~ Every manufacturer and
12 distributor required to register under the provisions of this
13 section shall provide all data required pursuant to ~~federal law,~~
14 ~~federal rules and regulations and~~ 21 U.S.C., Section 827(d)(1) on a
15 ~~quarterly~~ monthly basis to the Oklahoma State Bureau of Narcotics
16 and Dangerous Drugs Control. Controlled dangerous substances in
17 Schedule I shall be reported in accordance with rules promulgated by
18 the Director. Reporting of controlled dangerous substances pursuant
19 to 21 U.S.C., Section 827(d)(1) shall include, but not be limited
20 to:

21 1. The manufacturer's or distributor's name, address, phone
22 number, DEA registration number and controlled dangerous substance
23 registration number issued by the Bureau;
24

1 2. The name, address and DEA registration number of the entity
2 to whom the controlled dangerous substance was sold;

3 3. The date of the sale of the controlled dangerous substance;

4 4. The name and National Drug Code of the controlled dangerous
5 substance sold; and

6 5. The number of containers and the strength and quantity of
7 controlled dangerous substances in each container sold.

8 D. The information maintained and provided pursuant to
9 subsection C of this section shall be confidential and not open to
10 the public. Access to the information shall, at the discretion of
11 the Director, be limited to:

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

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

18 3. A multicounty grand jury properly convened pursuant to the
19 provisions of the Multicounty Grand Jury Act.

20 E. Manufacturers, distributors, home care agencies, hospices,
21 home care services, and scientific researchers shall obtain a
22 registration annually. Other practitioners shall obtain a
23 registration for a period to be determined by the Director that will
24

1 be for a period not less than one (1) year nor more than three (3)
2 years.

3 F. Every trainer or handler of a canine controlled dangerous
4 substances detector who, in the ordinary course of such trainer's or
5 handler's profession, desires to possess any controlled dangerous
6 substance, annually, shall obtain a registration issued by the
7 Director for a fee of Seventy Dollars (\$70.00). Such persons shall
8 be subject to all applicable provisions of Section 2-101 et seq. of
9 this title and such applicable rules promulgated by the Director for
10 those individuals identified in subparagraph a of paragraph 32 of
11 Section 2-101 of this title. Persons registered by the Director
12 pursuant to this subsection may possess controlled dangerous
13 substances to the extent authorized by their registration and in
14 conformity with the other provisions of this article.

15 G. The following persons shall not be required to register and
16 may lawfully possess controlled dangerous substances under the
17 provisions of Section 2-101 et seq. of this title:

18 1. An agent, or an employee thereof, of any registered
19 manufacturer, distributor, dispenser or user for scientific purposes
20 of any controlled dangerous substance, if such agent is acting in
21 the usual course of such agent's or employee's business or
22 employment;

23
24

1 2. Any person lawfully acting under the direction of a person
2 authorized to administer controlled dangerous substances under
3 Section 2-312 of this title;

4 3. A common or contract carrier or warehouseman, or an employee
5 thereof, whose possession of any controlled dangerous substance is
6 in the usual course of such carrier's or warehouseman's business or
7 employment;

8 4. An ultimate user or a person in possession of any controlled
9 dangerous substance pursuant to a lawful order of a practitioner;

10 5. An individual pharmacist acting in the usual course of such
11 pharmacist's employment with a pharmacy registered pursuant to the
12 provisions of Section 2-101 et seq. of this title;

13 6. A nursing home licensed by this state;

14 7. Any Department of Mental Health and Substance Abuse Services
15 employee or any person whose facility contracts with the Department
16 of Mental Health and Substance Abuse Services whose possession of
17 any dangerous drug, as defined in Section 353.1 of Title 59 of the
18 Oklahoma Statutes, is for the purpose of delivery of a mental health
19 consumer's medicine to the consumer's home or residence; and

20 8. Registered nurses and licensed practical nurses.

21 H. The Director may, by rule, waive the requirement for
22 registration or fee for registration of certain manufacturers,
23 distributors, dispensers, prescribers, administrators, or users for
24

1 scientific purposes if the Director finds it consistent with the
2 public health and safety.

3 I. A separate registration shall be required at each principal
4 place of business or professional practice where the applicant
5 manufactures, distributes, dispenses, prescribes, administers, or
6 uses for scientific purposes controlled dangerous substances.

7 J. The Director is authorized to inspect the establishment of a
8 registrant or applicant for registration in accordance with rules
9 promulgated by the Director.

10 K. No person engaged in a profession or occupation for which a
11 license to engage in such activity is provided by law shall be
12 registered under this act unless such person holds a valid license
13 of such person's profession or occupation.

14 L. Registrations shall be issued on the first day of November
15 of each year. Registrations may be issued at other times, however,
16 upon certification of the professional licensing board.

17 M. The licensing boards of all professions and occupations to
18 which the use of controlled dangerous substances is incidental shall
19 furnish a current list to the Director, not later than the first day
20 of October of each year, of the persons holding valid licenses. All
21 such persons except persons exempt from registration requirements
22 under subsection G of this section shall be subject to the
23 registration requirements of Section 2-101 et seq. of this title.

24

1 N. The licensing board of any professional defined as a mid-
2 level practitioner shall notify and furnish to the Director, not
3 later than the first day of October of each year that such
4 professional holds a valid license, a current listing of individuals
5 licensed and registered with their respective boards to prescribe,
6 order, select, obtain and administer controlled dangerous
7 substances. The licensing board shall immediately notify the
8 Director of any action subsequently taken against any such
9 individual.

10 O. Beginning November 1, 2010, each registrant that prescribes,
11 administers or dispenses methadone shall be required to check the
12 prescription profile of the patient on the central repository of the
13 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control.

14 SECTION 18. AMENDATORY 63 O.S. 2011, Section 2-309D, as
15 last amended by Section 4, Chapter 175, O.S.L. 2018 (63 O.S. Supp.
16 2018, 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.

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

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

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

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
24

1 information in the central repository and no lawsuit may be
2 predicated thereon.

3 4. The failure of a registrant to access and check the central
4 repository as required under state or federal law or regulation
5 ~~shall~~ may, after investigation, be grounds for the licensing board
6 of the registrant to take disciplinary action against the
7 registrant.

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

18 I. The Director of the Oklahoma State Bureau of Narcotics and
19 Dangerous Drugs Control, or a designee thereof, shall provide a
20 monthly list to the Directors of the State Board of Podiatric
21 Examiners, the State Board of Dentistry, the State Board of Medical
22 Licensure and Supervision, the State Board of Examiners in
23 Optometry, the State Board of Nursing, the State Board of
24 Osteopathic Examiners and the State Board of Veterinary Medical

1. Examiners of the top twenty prescribers of controlled dangerous
2 substances within their respective areas of jurisdiction. Upon
3 discovering that a registrant is prescribing outside the limitations
4 of his or her licensure or outside of drug registration rules or
5 applicable state laws, the respective licensing board shall be
6 notified by the Bureau in writing. Such notifications may be
7 considered complaints for the purpose of investigations or other
8 actions by the respective licensing board. Licensing boards shall
9 have exclusive jurisdiction to take action against a licensee for a
10 violation of subsection G of this section.

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

21 K. The Director of the Oklahoma State Bureau of Narcotics and
22 Dangerous Drugs Control shall provide adequate means and procedures
23 allowing access to central repository information for registrants
24 lacking direct computer access.

1 L. Upon completion of an investigation in which it is
2 determined that a death was caused by an overdose, either
3 intentionally or unintentionally, of a controlled dangerous
4 substance, the medical examiner shall be required to report the
5 decedent's name and date of birth to the Oklahoma State Bureau of
6 Narcotics and Dangerous Drugs Control. The Oklahoma State Bureau of
7 Narcotics and Dangerous Drugs Control shall be required to maintain
8 a database containing the classification of medical practitioners
9 who prescribed or authorized controlled dangerous substances
10 pursuant to this subsection.

11 M. The Oklahoma State Bureau of Narcotics and Dangerous Drugs
12 is authorized to provide unsolicited notification to the licensing
13 board of a pharmacist or practitioner if a patient has received one
14 or more prescriptions for controlled substances in quantities or
15 with a frequency inconsistent with generally recognized standards of
16 safe practice or if a practitioner or prescriber has exhibited
17 prescriptive behavior consistent with generally recognized standards
18 indicating potentially problematic prescribing patterns. An
19 unsolicited notification to the licensing board of the practitioner
20 pursuant to this section:

- 21 1. Is confidential;
- 22 2. May not disclose information that is confidential pursuant
23 to this section; and

1 3. May be in a summary form sufficient to provide notice of the
2 basis for the unsolicited notification.

3 SECTION 19. AMENDATORY Section 5, Chapter 175, O.S.L.
4 2018, as amended by Section 1 of Enrolled House Bill No. 1155 of the
5 1st Session of the 57th Oklahoma Legislature (63 O.S. Supp. 2018,
6 Section 2-309I), is amended to read as follows:

7 Section 2-309I. A. A practitioner shall not issue an initial
8 prescription for an opioid drug ~~which is a prescription drug~~ in a
9 quantity exceeding a seven-day supply for treatment of acute pain
10 ~~for an adult patient, or a seven-day supply for treatment of acute~~
11 ~~pain for a patient under the age of eighteen (18) years old.~~ Any
12 opioid prescription for acute pain ~~pursuant to this subsection~~ shall
13 be for the lowest effective dose of an immediate-release ~~opioid~~
14 drug.

15 B. Prior to issuing an initial prescription ~~of a Schedule II~~
16 ~~controlled dangerous substance or any~~ for an opioid drug ~~that is a~~
17 ~~prescription drug~~ in a course of treatment for acute or chronic
18 pain, a practitioner shall:

19 1. Take and document the results of a thorough medical history,
20 including the experience of the patient with nonopioid medication
21 and nonpharmacological pain-management approaches and substance
22 abuse history;

23 2. Conduct, as appropriate, and document the results of a
24 physical examination;

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

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

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

11 a. the subsequent prescription is due to a major surgical
12 procedure or "confined to home" status as defined in
13 42 U.S.C., Section 1395n(a),

14 b. the practitioner provides the subsequent prescription
15 on the same day as the initial prescription,

16 c. the practitioner provides written instructions on the
17 subsequent prescription indicating the earliest date
18 on which the prescription may be filled, otherwise
19 known as a "do not fill until" date, and

20 d. the subsequent prescription is dispensed no more than
21 five (5) days after the "do not fill until" date
22 indicated on the prescription;

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

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

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

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

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

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

19 D. Prior to issuing the initial prescription of a ~~Schedule II~~
20 ~~controlled dangerous substance or any~~ an opioid drug ~~that is a~~
21 ~~prescription drug~~ in a course of treatment for acute or chronic pain
22 and again prior to issuing the third prescription of the course of
23 treatment, a practitioner shall discuss with the patient or the
24 parent or guardian of the patient if the patient is under eighteen

1 (18) years of age and is not an emancipated minor, the risks
2 associated with the drugs being prescribed, including but not
3 limited to:

- 4 1. The risks of addiction and overdose associated with opioid
5 drugs and the dangers of taking opioid drugs with alcohol,
6 benzodiazepines and other central nervous system depressants;
- 7 2. The reasons why the prescription is necessary;
- 8 3. Alternative treatments that may be available; and
- 9 4. Risks associated with the use of the drugs being prescribed,
10 specifically that opioids are highly addictive, even when taken as
11 prescribed, that there is a risk of developing a physical or
12 psychological dependence on the controlled dangerous substance, and
13 that the risks of taking more opioids than prescribed or mixing
14 sedatives, benzodiazepines or alcohol with opioids can result in
15 fatal respiratory depression.

16 The practitioner shall include a note in the medical record of
17 the patient that the patient or the parent or guardian of the
18 patient, as applicable, has discussed with the practitioner the
19 risks of developing a physical or psychological dependence on the
20 controlled dangerous substance and alternative treatments that may
21 be available. The applicable state licensing board of the
22 practitioner shall develop and make available to practitioners
23 guidelines for the discussion required pursuant to this subsection.
24

1 E. At the time of the issuance of the third prescription for a
2 ~~prescription~~ an opioid drug, the practitioner shall enter into a
3 ~~pain-management~~ patient-provider agreement with the patient.

4 F. When a ~~Schedule II controlled dangerous substance or any~~
5 ~~prescription~~ an opioid drug is continuously prescribed for three (3)
6 months or more for chronic pain, the practitioner shall:

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

11 2. ~~Assess~~ In the first year of the patient-provider agreement,
12 assess the patient prior to every renewal to determine whether the
13 patient is experiencing problems associated with ~~physical and~~
14 ~~psychological dependence~~ an opioid use disorder and document the
15 results of that assessment. Following one (1) year of compliance
16 with the patient-provider agreement, the practitioner shall assess
17 the patient at a minimum of every six (6) months;

18 3. Periodically make reasonable efforts, unless clinically
19 contraindicated, to either stop the use of the controlled substance,
20 decrease the dosage, try other drugs or treatment modalities in an
21 effort to reduce the potential for abuse or the development of
22 ~~physical or psychological dependence~~ an opioid use disorder as
23 defined by the American Psychiatric Association and document with
24 specificity the efforts undertaken;

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

3 5. Monitor compliance with the ~~pain management~~ patient-provider
4 agreement and any recommendations that the patient seek a referral.

5 ~~If the practitioner believes after one (1) year of continuous~~
6 ~~treatment that the patient is in compliance with the pain management~~
7 ~~agreement and it is in the best interests of the patient, the~~
8 ~~practitioner shall be authorized to set the review of the treatment~~
9 ~~plan at four or six month intervals and issue prescriptions for the~~
10 ~~patient as necessary.~~

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

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

17 H. This section shall not apply to a prescription for a patient
18 who is currently in active treatment for cancer, receiving hospice
19 care from a licensed hospice or palliative care, or is a resident of
20 a long-term care facility, or to any medications that are being
21 prescribed for use in the treatment of substance abuse or opioid
22 dependence.

23 ~~H.~~ I. Every policy, contract or plan delivered, issued,
24 executed or renewed in this state, or approved for issuance or

1 renewal in this state by the Insurance Commissioner, and every
2 contract purchased by the Employees Group Insurance Division of the
3 Office of Management and Enterprise Services, on or after ~~the~~
4 ~~effective date of this act~~ November 1, 2018, that provides coverage
5 for prescription drugs subject to a copayment, coinsurance or
6 deductible shall charge a copayment, coinsurance or deductible for
7 an initial prescription of an opioid drug prescribed pursuant to
8 this section that is either:

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

11 2. Equivalent to the cost sharing for a full thirty-day supply
12 of the ~~opioid~~ drug, provided that no additional cost sharing may be
13 charged for any additional prescriptions for the remainder of the
14 thirty-day supply.

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

21 1. A patient requiring opioid treatment for more than three (3)
22 months;

23 2. A patient who is prescribed benzodiazepines and opioids
24 together for more than one twenty-four-hour period; or

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

3 SECTION 20. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 7402 of Title 36, unless there
5 is created a duplication in numbering, reads as follows:

6 The Insurance Department shall evaluate the effect of the limits
7 on prescriptions for opioid drugs established by this act on the
8 claims paid by health insurance carriers and the out-of-pocket costs
9 including copayments, coinsurance and deductibles paid by individual
10 and group health insurance policyholders. On or before January 1,
11 2021, the Insurance Department shall submit a report on the
12 evaluation, along with any recommended policy and regulatory options
13 that will ensure costs for patients are not increased as a result of
14 new prescribing limitations on the amounts of opioid drugs, to the
15 standing committees of the Legislature having jurisdiction over
16 health and human services matters and over insurance and financial
17 services matters. The Insurance Commissioner may adopt reasonable
18 rules and regulations for the implementation and administration of
19 the provisions of this subsection.

20 SECTION 21. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 2-112 of Title 63, unless there
22 is created a duplication in numbering, reads as follows:

23 The Oklahoma State Bureau of Narcotics and Dangerous Drugs
24 Control shall report to the standing committees of the Legislature

1 having jurisdiction over health and human services matters and over
2 occupational and professional regulation matters, no later than
3 January 31, 2020, with progress on implementing the provisions of
4 this act. The report shall contain, at a minimum, the following
5 information:

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

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

11 3. Data from professional boards regarding the implementation
12 of continuing education requirements for prescribers of opioid
13 drugs;

14 4. Effects on the prescriber workforce;

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

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

20 7. Progress on electronic prescribing of opioid drugs; and

21 8. Improvements to the central repository through the request
22 for proposals process including feedback from prescribers,
23 dispensers and applicable state licensing boards on those
24 improvements.

1 SECTION 22. REPEALER Section 6, Chapter 175, O.S.L.
2 2018, is hereby repealed.

3 SECTION 23. It being immediately necessary for the preservation
4 of the public peace, health or safety, an emergency is hereby
5 declared to exist, by reason whereof this act shall take effect and
6 be in full force from and after its passage and approval.

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