

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 57th Legislature (2019)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 848

By: Rader of the Senate

and

Echols of the House

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10 COMMITTEE SUBSTITUTE

11 An Act relating to opioid drugs; amending 59 O.S.
12 2011, Section 145.1, as amended by Section 4, Chapter
13 185, O.S.L. 2013 (59 O.S. Supp. 2018, Section 145.1),
14 which relates to continuing education requirements
15 for podiatrists; requiring certain continuing
16 education; amending 59 O.S. 2011, Section 328.41, as
17 last amended by Section 11, Chapter 151, O.S.L. 2018
18 (59 O.S. Supp. 2018, Section 328.41), which relates
19 to continuing education requirements for dentists;
20 requiring certain continuing education; amending
21 Section 3, Chapter 234, O.S.L. 2017 (59 O.S. Supp.
22 2018, Section 353.20.2), which relates to pharmacist
23 discretion; requiring pharmacist to fill certain
24 prescriptions to specified dose; amending 59 O.S.
2011, Section 503, as amended by Section 1, Chapter
176, O.S.L. 2014 (59 O.S. Supp. 2018, Section 503),
which relates to sanctions for unprofessional conduct
by allopathic physicians; specifying that testifying
experts must have certain credentials; 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; deleting provision related to prescribing;
amending 59 O.S. 2011, Section 519.8, which relates
to license renewal for physician assistants;
requiring certain continuing medical education;
amending 59 O.S. 2011, Section 604, which relates to

1 attendance on educational or postgraduate program for
2 optometrists; requiring certain education; updating
3 statutory language; amending 59 O.S. 2011, Section
4 641, which relates to educational programs for
5 osteopathic physicians; requiring licensees to
6 receive certain education; amending 59 O.S. 2011,
7 Section 698.7, which relates to powers and duties of
8 State Board of Veterinary Medical Examiners;
9 requiring certain continuing education; amending 63
10 O.S. 2011, Section 2-101, as last amended by Section
11 3, Chapter 175, O.S.L. 2018 (63 O.S. Supp. 2018,
12 Section 2-101), which relates to definitions used in
13 the Uniform Controlled Dangerous Substances Act;
14 modifying certain definitions; amending 63 O.S. 2011,
15 Section 2-309D, as last amended by Section 4, Chapter
16 175, O.S.L. 2018 (63 O.S. Supp. 2018, Section 2-
17 309D), which relates to central repository; modifying
18 certain grounds for disciplinary action; amending
19 Section 5, Chapter 175, O.S.L. 2018 (63 O.S. Supp.
20 2018, Section 2-309I), which relates to prescription
21 limits and rules for opioid drugs; deleting and
22 clarifying certain provisions related to prescribing;
23 providing for subsequent acute pain prescription
24 under certain conditions; modifying certain
assessment criteria; requiring Insurance Department
to make certain evaluation and submit report by date
certain; requiring the Oklahoma State Bureau of
Narcotics and Dangerous Drugs Control to submit
report to the Legislature; providing for report
requirements; updating statutory references;
repealing Section 6, Chapter 175, O.S.L. 2018, which
relates to Insurance Department's prescription limits
evaluations; 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:

1 Section 145.1 A. Sixty (60) hours of continuing education
2 shall be required for renewal of an individual license to practice
3 podiatric medicine in this state. This must be obtained in the two-
4 year period immediately preceding the two-year period for which the
5 license is to be issued. Such continuing education shall include
6 not less than two (2) hours of education in pain management or two
7 (2) hours of education in opioid use or addiction, unless the
8 licensee has demonstrated to the satisfaction of the Board of
9 Podiatric Medical Examiners that the licensee does not currently
10 hold a valid federal Drug Enforcement Administration registration
11 number. The continuing education required by this section shall be
12 any of the following:

13 1. Education presented by an organization approved by the
14 Council on Continuing Education of the American Podiatric Medical
15 Association;

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

18 3. Hospital-sponsored scientific programs approved by the
19 Board; or

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

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

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1 B. Any practitioner not so satisfying the Board of the
2 fulfillment of the continuing education requirements required by
3 subsection A of this section shall cease to be entitled to have such
4 license renewed.

5 C. Any practitioner fully retired from the practice of
6 podiatric medicine shall be exempt from compliance with the
7 requirements imposed by subsection A of this section. However, upon
8 resuming the practice of podiatric medicine, the individual shall
9 fulfill such requirements which have accrued from ~~the effective date~~
10 ~~of this act~~ October 1, 1979, to the time of resumption of practice.

11 SECTION 2. AMENDATORY 59 O.S. 2011, Section 328.41, as
12 last amended by Section 11, Chapter 151, O.S.L. 2018 (59 O.S. Supp.
13 2018, Section 328.41), is amended to read as follows:

14 Section 328.41 A. 1. On or before the last day of December of
15 each year, every dentist, dental hygienist, dental assistant, oral
16 maxillofacial surgery assistant and other licensee or permit holders
17 previously licensed or permitted by the Board to practice in this
18 state, with the exception of those listed in paragraph 2 of this
19 subsection, shall submit a completed renewal application with
20 information as may be required by the Board, together with an annual
21 renewal fee established by the rules of the Board. Upon receipt of
22 the annual renewal fee, the Board shall issue a renewal certificate
23 authorizing the dentist, dental hygienist, dental assistant, or oral
24 maxillofacial surgery assistant to continue the practice of

1 dentistry or dental hygiene, respectively, in this state for a
2 period of one (1) year. Every license or permit issued by the Board
3 shall begin on January 1 and expire on December 31 of each year.

4 2. Beginning July 1, 2017, resident and fellowship permits
5 shall be valid from July 1 through June 30 of each year and dental
6 student intern permits shall be valid from August 1 through July 31
7 of each year.

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

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

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

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

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

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

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

23 c. OMS assistants shall complete eight (8) hours, and
24

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

3 C. Upon failure of a dentist, dental hygienist, dental
4 assistant, or oral maxillofacial surgery assistant to pay the annual
5 renewal fee within two (2) months after January 1, the Board shall
6 notify the dentist, dental hygienist, dental assistant, or oral
7 maxillofacial surgery assistant in writing by certified mail to the
8 last-known mailing address of the dentist, dental hygienist, dental
9 assistant, or oral maxillofacial surgery assistant as reflected in
10 the records of the Board.

11 D. Any dentist, dental hygienist, dental assistant, or oral
12 maxillofacial surgery assistant whose license or permit is
13 automatically canceled by reason of failure, neglect or refusal to
14 secure the renewal certificate may be reinstated by the Board at any
15 time within one (1) year from the date of the expiration of the
16 license, upon payment of the annual renewal fee and a penalty fee
17 established by the rules of the Board. If the dentist, dental
18 hygienist, dental assistant, or oral maxillofacial surgery assistant
19 does not apply for renewal of the license or permit and pay the
20 required fees within one (1) year after the license has expired,
21 then the dentist, dental hygienist, dental assistant, or oral
22 maxillofacial surgery assistant shall be required to file an
23 application for and take the examination or other requirements
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1 provided for in the State Dental Act or the rules promulgated by the
2 Board before again commencing practice.

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

7 F. In case of a lost or destroyed license or renewal
8 certificate and upon satisfactory proof of the loss or destruction
9 thereof, the Board may issue a duplicate, charging therefor a fee
10 established by the rules of the Board.

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

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

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

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1 SECTION 3. AMENDATORY Section 3, Chapter 234, O.S.L.
2 2017 (59 O.S. Supp. 2018, Section 353.20.2), is amended to read as
3 follows:

4 Section 353.20.2 A. Unless the prescriber has specified on the
5 prescription that dispensing a prescription for a maintenance
6 medication in an initial amount followed by periodic refills is
7 medically necessary, a pharmacist may exercise his or her
8 professional judgment to dispense varying quantities of medication
9 per fill-up to the total number of dosage units as authorized by the
10 prescriber on the original prescription including any refills.

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

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

21 SECTION 4. AMENDATORY 59 O.S. 2011, Section 503, as
22 amended by Section 1, Chapter 176, O.S.L. 2014 (59 O.S. Supp. 2018,
23 Section 503), is amended to read as follows:

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1 Section 503. The State Board of Medical Licensure and
2 Supervision may suspend, revoke or order any other appropriate
3 sanctions against the license of any physician or surgeon holding a
4 license to practice in this state for unprofessional conduct, but no
5 such suspension, revocation or other penalty shall be made until the
6 licensee is cited to appear for hearing. No such citation shall be
7 issued except upon sworn complaint filed with the secretary of the
8 Board charging the licensee with having been guilty of
9 unprofessional conduct and setting forth the particular act or acts
10 alleged to constitute unprofessional conduct. In the event it comes
11 to the attention of the Board that a violation of the rules of
12 professional conduct may have occurred, even though a formal
13 complaint or charge may not have been filed, the Board staff may
14 conduct an investigation of the possible violation, and may upon its
15 own motion institute a formal complaint. In the course of the
16 investigation persons appearing before the Board may be required to
17 testify under oath. Any expert testifying against a licensee shall
18 be a Board-certified physician in an ongoing clinical practice in
19 the specialty of the licensee who is the subject of the complaint.
20 Upon the filing of a complaint, either by an individual or the Board
21 staff as provided herein, the citation must forthwith be issued by
22 the secretary of the Board over the signature of the secretary and
23 seal of the Board, setting forth the complaint of unprofessional
24 conduct, and giving due notice of the time and place of the hearing

1 by the Board. The citation shall be made returnable at the next
2 regular meeting of the Board occurring at least thirty (30) days
3 after the service of the citation. The defendant shall file a
4 written answer under oath with the secretary of the Board within
5 twenty (20) days after the service of the citation. The secretary
6 of the Board may extend the time of answer upon satisfactory showing
7 that the defendant is for reasonable cause unable to answer within
8 the twenty (20) days, but in no case shall the time be extended
9 beyond the date of the next regular meeting of the Board, unless a
10 continuance is granted by the Board.

11 SECTION 5. AMENDATORY 59 O.S. 2011, Section 509, as
12 amended by Section 2, Chapter 175, O.S.L. 2018 (59 O.S. Supp. 2018,
13 Section 509), is amended to read as follows:

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

- 17 1. Procuring, aiding or abetting a criminal operation;
- 18 2. The obtaining of any fee or offering to accept any fee,
19 present or other form of remuneration whatsoever, on the assurance
20 or promise that a manifestly incurable disease can or will be cured;
- 21 3. Willfully betraying a professional secret to the detriment
22 of the patient;
- 23 4. Habitual intemperance or the habitual use of habit-forming
24 drugs;

1 5. Conviction of a felony or of any offense involving moral
2 turpitude;

3 6. All advertising of medical business in which statements are
4 made which are grossly untrue or improbable and calculated to
5 mislead the public;

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

7 a. the antinarcotic or prohibition laws and regulations
8 of the federal government,

9 b. the laws of this state, or

10 c. State Board of Health rules;

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

13 9. The commission of any act which is a violation of the
14 criminal laws of any state when such act is connected with the
15 physician's practice of medicine. A complaint, indictment or
16 confession of a criminal violation shall not be necessary for the
17 enforcement of this provision. Proof of the commission of the act
18 while in the practice of medicine or under the guise of the practice
19 of medicine shall be unprofessional conduct;

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

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

1 12. Prescribing or administering a drug or treatment without
2 sufficient examination and the establishment of a valid physician-
3 patient relationship;

4 13. The violation, or attempted violation, direct or indirect,
5 of any of the provisions of the Oklahoma Allopathic Medical and
6 Surgical Licensure and Supervision Act, either as a principal,
7 accessory or accomplice;

8 14. Aiding or abetting, directly or indirectly, the practice of
9 medicine by any person not duly authorized under the laws of this
10 state;

11 15. The inability to practice medicine with reasonable skill
12 and safety to patients by reason of age, illness, drunkenness,
13 excessive use of drugs, narcotics, chemicals, or any other type of
14 material or as a result of any mental or physical condition. In
15 enforcing this subsection the State Board of Medical Licensure and
16 Supervision may, upon probable cause, request a physician to submit
17 to a mental or physical examination by physicians designated by it.
18 If the physician refuses to submit to the examination, the Board
19 shall issue an order requiring the physician to show cause why the
20 physician will not submit to the examination and shall schedule a
21 hearing on the order within thirty (30) days after notice is served
22 on the physician. The physician shall be notified by either
23 personal service or by certified mail with return receipt requested.
24 At the hearing, the physician and the physician's attorney are

1 entitled to present any testimony and other evidence to show why the
2 physician should not be required to submit to the examination.
3 After a complete hearing, the Board shall issue an order either
4 requiring the physician to submit to the examination or withdrawing
5 the request for examination. The medical license of a physician
6 ordered to submit for examination may be suspended until the results
7 of the examination are received and reviewed by the Board;

8 16. a. Prescribing, dispensing or administering of controlled
9 substances or narcotic drugs in excess of the amount
10 considered good medical practice, or

11 b. prescribing, dispensing or administering controlled
12 substances or narcotic drugs without medical need in
13 accordance with pertinent licensing board standards,
14 ~~or~~

15 ~~c. prescribing, dispensing or administering opioid drugs~~
16 ~~in excess of the maximum dosage authorized under~~
17 ~~Section 5 of this act;~~

18 17. Engaging in physical conduct with a patient which is sexual
19 in nature, or in any verbal behavior which is seductive or sexually
20 demeaning to a patient;

21 18. Failure to maintain an office record for each patient which
22 accurately reflects the evaluation, treatment, and medical necessity
23 of treatment of the patient;

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

5 20. Failure to provide a proper and safe medical facility
6 setting and qualified assistive personnel for a recognized medical
7 act, including but not limited to an initial in-person patient
8 examination, office surgery, diagnostic service or any other medical
9 procedure or treatment. Adequate medical records to support
10 diagnosis, procedure, treatment or prescribed medications must be
11 produced and maintained.

12 SECTION 6. AMENDATORY 59 O.S. 2011, Section 519.8, is
13 amended to read as follows:

14 Section 519.8 A. Licenses issued to physician assistants shall
15 be renewed annually on a date determined by the State Board of
16 Medical Licensure and Supervision. Each application for renewal
17 shall document that the physician assistant has earned at least
18 twenty (20) hours of continuing medical education during the
19 preceding calendar year. Such continuing medical education shall
20 include not less than one (1) hour of education in pain management
21 or one (1) hour of education in opioid use or addiction, unless the
22 licensee has demonstrated to the satisfaction of the Board that the
23 licensee does not currently hold a valid federal Drug Enforcement
24 Administration registration number.

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

- 3 1. Initial licensure;
- 4 2. License renewal;
- 5 3. Late license renewal;
- 6 4. Application to practice; and
- 7 5. Disciplinary hearing.

8 SECTION 7. AMENDATORY 59 O.S. 2011, Section 604, is
9 amended to read as follows:

10 Section 604. Every person holding a license to practice
11 optometry in this state shall be required to present to the Board of
12 Examiners in Optometry, not later than the thirtieth day of June of
13 each year, satisfactory evidence that during the preceding twelve
14 (12) months ~~said the~~ the person attended not less than two (2) days of a
15 total of at least twelve (12) hours of educational or postgraduate
16 programs approved by ~~said the~~ the Board, or that ~~said the~~ the person was
17 prevented, because of sickness or any other reason acceptable to the
18 Board, from attending ~~said the~~ the educational or postgraduate program.
19 Such education shall include not less than one (1) hour of education
20 in pain management or one (1) hour of education in opioid use or
21 addiction, unless the person has demonstrated to the satisfaction of
22 the Board that the person does not currently hold a valid federal
23 Drug Enforcement Administration registration number.
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1 The filing of proof of attendance at educational programs or
2 clinics shall be a condition precedent to the issuance of a renewal
3 license. The Board may reinstate the license of ~~said~~ the licensee
4 to practice optometry upon presentation of satisfactory proof of
5 postgraduate study of a standard approved by ~~said~~ the examiners and
6 payment of all fees due including a late reinstatement fee not to
7 exceed three times the annual renewal fee.

8 SECTION 8. AMENDATORY 59 O.S. 2011, Section 641, is
9 amended to read as follows:

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

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

21 C. 1. In addition to the payment of the annual renewal fee
22 each licensee applying for a renewal of the certificate shall
23 furnish to the State Board of Osteopathic Examiners proof that the
24 person has attended at least two (2) days of the annual educational

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

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

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

1 SECTION 9. AMENDATORY 59 O.S. 2011, Section 698.7, is
2 amended to read as follows:

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

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

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

1 insurers, animal health care institutions and law
2 enforcement agencies;

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

6 7. a. review and investigate complaints and adverse
7 information about licensees and certificate holders,

8 b. conduct hearings in accordance with the Oklahoma
9 Veterinary Practice Act and the Administrative
10 Procedures Act, and

11 c. adjudicate matters that come before the Board for
12 judgment pursuant to the Oklahoma Veterinary Practice
13 Act upon clear and convincing evidence and issue final
14 decisions on such matters to discipline licensees and
15 certificate holders;

16 8. a. impose sanctions, deny licenses and certificates and
17 renewals thereof, levy reimbursement costs, seek
18 appropriate administrative, civil or criminal
19 penalties or any combination of these against those
20 who violate examination security, who attempt to or
21 who do obtain licensure or certification by fraud, who
22 knowingly assist in illegal activities, or who aid and
23 abet the illegal practice of veterinary medicine,
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- 1 b. review and investigate complaints and adverse
2 information about licensees and certificate holders,
3 c. discipline licensees and certificate holders,
4 d. institute proceedings in courts of competent
5 jurisdiction to enforce Board orders and provisions of
6 the Oklahoma Veterinary Practice Act,
7 e. (1) establish mechanisms for dealing with licensees
8 and certificate holders who abuse or are
9 dependent on or addicted to alcohol or other
10 chemical substances, and enter into agreements,
11 at its discretion, with professional
12 organizations whose relevant procedures and
13 techniques it has evaluated and approved for
14 their cooperation or participation in the
15 rehabilitation of the licensee or certificate
16 holder,
17 (2) establish by rules cooperation with other
18 professional organizations for the identification
19 and monitoring of licensees and certificate
20 holders in treatment who are chemically dependent
21 or addicted, and
22 f. issue conditional, restricted or otherwise
23 circumscribed modifications to licensure or
24 certification as determined to be appropriate by due

1 process procedures and summarily suspend a license if
2 the Board has cause to believe by clear and convincing
3 evidence such action is required to protect public or
4 animal health and safety or to prevent continuation of
5 incompetent practices;

6 9. Promulgate rules of professional conduct and require all
7 licensees and certificate holders to practice in accordance
8 therewith;

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

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

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

16 13. Establish policies for Board operations;

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

19 15. Act on its own motion in disciplinary matters, administer
20 oaths, issue notices, issue subpoenas in the name of the State of
21 Oklahoma, including subpoenas for client and animal records, hold
22 hearings, institute court proceedings for contempt or to compel
23 testimony or obedience to its orders and subpoenas, take evidentiary
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1 depositions and perform such other acts as are reasonable and
2 necessary under law to carry out its duties;

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

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

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

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

20 20. Establish minimum standards for veterinary premises;

21 21. Establish standards for veterinary labeling and dispensing
22 of veterinary prescription drugs and federal Food and Drug
23 Administration-approved human drugs for animals which would conform
24 to current applicable state and federal law and regulations;

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

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

- 8 a. the applicant shall furnish the Board two completed
9 fingerprint cards and a money order or cashier's check
10 made payable to the Oklahoma State Bureau of
11 Investigation,
12 b. the Board shall forward the fingerprint cards, along
13 with the applicable fee for a national fingerprint
14 criminal history records search, to the Bureau, and
15 c. the Bureau shall retain one set of fingerprints in the
16 Automated Fingerprint Identification System (AFIS) and
17 submit the other set to the Federal Bureau of
18 Investigation (FBI) for a national criminal history
19 records search;

20 24. Establish standards for animal chiropractic diagnosis and
21 treatment. The standards shall include but not be limited to a
22 requirement that a veterinarian who holds himself or herself out to
23 the public as certified to engage in animal chiropractic diagnosis
24 and treatment shall:

- 1 a. carry at least One Million Dollars (\$1,000,000.00) of
2 additional malpractice coverage to perform animal
3 chiropractic diagnosis and treatment, and
- 4 b. have appropriate training in animal chiropractic
5 diagnosis and treatment. The Veterinary Examining
6 Board shall have the authority to establish
7 educational criteria for certification standards in
8 animal chiropractic diagnosis and treatment. The
9 Veterinary Examining Board shall work in conjunction
10 with the Board of Chiropractic Examiners to establish
11 comparable standards for the practice of animal
12 chiropractic diagnosis and treatment for both medical
13 professions within thirty (30) days after the
14 effective date of this act. The Board shall certify
15 any licensed veterinarian wishing to engage in animal
16 chiropractic diagnosis and treatment who meets the
17 standards established by the Board pursuant to this
18 paragraph. Upon request, the Board shall make
19 available to the public a list of licensed
20 veterinarians so certified; and

21 25. Perform such other duties and exercise such other powers as
22 the provisions and enforcement of the Oklahoma Veterinary Practice
23 Act may require.

1 SECTION 10. AMENDATORY 63 O.S. 2011, Section 2-101, as
2 last amended by Section 3, Chapter 175, O.S.L. 2018 (63 O.S. Supp.
3 2018, Section 2-101), is amended to read as follows:

4 Section 2-101. As used in the Uniform Controlled Dangerous
5 Substances Act:

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

10 a. a practitioner (or, in the presence of the
11 practitioner, by the authorized agent of the
12 practitioner), or

13 b. the patient or research subject at the direction and
14 in the presence of the practitioner;

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

24

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

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

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

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

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

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

21 9. "Counterfeit substance" means a controlled substance which,
22 or the container or labeling of which without authorization, bears
23 the trademark, trade name or other identifying marks, imprint,
24 number or device or any likeness thereof of a manufacturer,

1 distributor or dispenser other than the person who in fact
2 manufactured, distributed or dispensed the substance;

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

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

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

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

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

21 14. "Drug" means articles:

22 a. recognized in the official United States

23 Pharmacopoeia, official Homeopathic Pharmacopoeia of
24

1 the United States, or official National Formulary, or
2 any supplement to any of them,

3 b. intended for use in the diagnosis, cure, mitigation,
4 treatment or prevention of disease in man or other
5 animals,

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

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

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

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

20 16. "Home care agency" means any sole proprietorship,
21 partnership, association, corporation, or other organization which
22 administers, offers, or provides home care services, for a fee or
23 pursuant to a contract for such services, to clients in their place
24 of residence;

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

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

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

1 authority concerned should consider, in addition to all other
2 factors, the following factors as related to "representations made"
3 in determining whether the substance is an "imitation controlled
4 substance":

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

21 20. "Immediate precursor" means a substance which the Director
22 has found to be and by regulation designates as being the principal
23 compound commonly used or produced primarily for use, and which is
24 an immediate chemical intermediary used, or likely to be used, in

1 the manufacture of a controlled dangerous substance, the control of
2 which is necessary to prevent, curtail or limit such manufacture;

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

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

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

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

- 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 as defined and within parameters specified in Section 567.3a of
3 Title 59 of the Oklahoma Statutes, or a certified animal euthanasia
4 technician as defined in Section 698.2 of Title 59 of the Oklahoma
5 Statutes, or an animal control officer registered by the Oklahoma
6 State Bureau of Narcotics and Dangerous Drugs Control under
7 subsection B of Section 2-301 of this title within the parameters of
8 such officer's duty under Sections 501 through 508 of Title 4 of the
9 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" means any substance having an addiction-forming or
6 addiction-sustaining liability similar to morphine or being capable
7 of conversion into a drug having such addiction-forming or
8 addiction-sustaining liability. It does not include, unless
9 specifically designated as controlled under the Uniform Controlled
10 Dangerous Substances Act, the dextrorotatory isomer of 3-methoxy-n-
11 methyl-morphinan and its salts (dextromethorphan). It does include
12 its racemic and levorotatory forms;

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

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

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

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

1 32. "Practitioner" means:

- 2 a. (1) a medical doctor or osteopathic physician,
3 (2) a dentist,
4 (3) a podiatrist,
5 (4) an optometrist,
6 (5) a veterinarian,
7 (6) a physician assistant under the supervision of a
8 licensed medical doctor or osteopathic physician,
9 (7) a scientific investigator, or
10 (8) any other person,

11 licensed, registered or otherwise permitted to
12 prescribe, distribute, dispense, conduct research with
13 respect to, use for scientific purposes or administer
14 a controlled dangerous substance in the course of
15 professional practice or research in this state, or

- 16 b. a pharmacy, hospital, laboratory or other institution
17 licensed, registered or otherwise permitted to
18 distribute, dispense, conduct research with respect
19 to, use for scientific purposes or administer a
20 controlled dangerous substance in the course of
21 professional practice or research in this state;

22 33. "Production" includes the manufacture, planting,
23 cultivation, growing or harvesting of a controlled dangerous
24 substance;

1 34. "State" means the State of Oklahoma or any other state of
2 the United States;

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

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

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

1 producing, processing or preparing controlled
2 dangerous substances,

3 c. isomerization devices used, intended for use, or
4 fashioned specifically for use in increasing the
5 potency of any species of plant which is a controlled
6 dangerous substance,

7 d. testing equipment used, intended for use, or fashioned
8 specifically for use in identifying, or in analyzing
9 the strength, effectiveness or purity of controlled
10 dangerous substances,

11 e. scales and balances used, intended for use, or
12 fashioned specifically for use in weighing or
13 measuring controlled dangerous substances,

14 f. diluents and adulterants, such as quinine
15 hydrochloride, mannitol, mannite, dextrose and
16 lactose, used, intended for use, or fashioned
17 specifically for use in cutting controlled dangerous
18 substances,

19 g. separation gins and sifters used, intended for use, or
20 fashioned specifically for use in removing twigs and
21 seeds from, or in otherwise cleaning or refining,
22 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) bong, 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 opioid drug which is a~~
22 ~~prescription drug,~~ as a means to:

23
24

- 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 of
6 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 e. specify the measures the practitioner may employ to
19 monitor the compliance of the patient including, but
20 not limited to, random specimen screens and pill
21 counts, and
22 f. delineate the process for terminating the agreement,
23 including the consequences if the practitioner has
24 reason to believe that the patient is not complying

1 with the terms of the agreement. Compliance with the
2 "consent items" shall constitute a valid, ~~informal~~
3 formal consent for opioid therapy. The provider shall
4 be held harmless from civil litigation for failure to
5 treat pain if the event occurs because of nonadherence
6 by the patient with any of the provisions of the
7 patient-provider agreement;

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

15 47. "Surgical procedure" means a procedure that is performed
16 for the purpose of structurally altering the human body by incision
17 or destruction of tissues as part of the practice of medicine. This
18 term includes the diagnostic or therapeutic treatment of conditions
19 or disease processes by use of instruments such as lasers,
20 ultrasound, ionizing, radiation, scalpels, probes or needles that
21 cause localized alteration or transportation of live human tissue by
22 cutting, burning, vaporizing, freezing, suturing, probing or
23 manipulating by closed reduction for major dislocations or
24

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

3 SECTION 11. AMENDATORY 63 O.S. 2011, Section 2-309D, as
4 last amended by Section 4, Chapter 175, O.S.L. 2018 (63 O.S. Supp.
5 2018, Section 2-309D), is amended to read as follows:

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

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

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

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

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

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

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

9 5. Medical practitioners employed by the United States
10 Department of Veterans Affairs, the United States Military, or other
11 federal agencies treating patients in this state; and

12 6. At the discretion of the Director of the Oklahoma State
13 Bureau of Narcotics and Dangerous Drugs Control, medical
14 practitioners and their staff, including those employed by the
15 federal government in this state.

16 B. This section shall not prevent access, at the discretion of
17 the Director of the Oklahoma State Bureau of Narcotics and Dangerous
18 Drugs Control, to investigative information by peace officers and
19 investigative agents of federal, state, county or municipal law
20 enforcement agencies, district attorneys and the Attorney General in
21 furtherance of criminal, civil or administrative investigations or
22 prosecutions within their respective jurisdictions, designated
23 legal, communications, and analytical employees of the Bureau, and
24

1 to registrants in furtherance of efforts to guard against the
2 diversion of controlled dangerous substances.

3 C. This section shall not prevent the disclosure, at the
4 discretion of the Director of the Oklahoma State Bureau of Narcotics
5 and Dangerous Drugs Control, of statistical information gathered
6 from the central repository to the general public which shall be
7 limited to types and quantities of controlled substances dispensed
8 and the county where dispensed.

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

14 E. The Department of Mental Health and Substance Abuse Services
15 and the State Department of Health may utilize the information in
16 the central repository for statistical, research, substance abuse
17 prevention, or educational purposes, provided that consumer
18 confidentiality is not compromised.

19 F. Any unauthorized disclosure of any information collected at
20 the central repository provided by the Anti-Drug Diversion Act shall
21 be a misdemeanor. Violation of the provisions of this section shall
22 be deemed willful neglect of duty and shall be grounds for removal
23 from office.

24

1 G. 1. Registrants shall have access to the central repository
2 for the purposes of patient treatment and for determination in
3 prescribing or screening new patients. The patient's history may be
4 disclosed to the patient for the purposes of treatment of
5 information at the discretion of the physician.

6 2. a. Prior to prescribing or authorizing for refill, if one
7 hundred eighty (180) days have elapsed prior to the
8 previous access and check, of opiates, synthetic
9 opiates, semisynthetic opiates, benzodiazepine or
10 carisoprodol to a patient of record, registrants or
11 members of their medical or administrative staff shall
12 be required until October 31, 2020, to access the
13 information in the central repository to assess
14 medical necessity and the possibility that the patient
15 may be unlawfully obtaining prescription drugs in
16 violation of the Uniform Controlled Dangerous
17 Substances Act. The duty to access and check shall
18 not alter or otherwise amend appropriate medical
19 standards of care. The registrant or medical provider
20 shall note in the patient file that the central
21 repository has been checked and may maintain a copy of
22 the information.

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

1 (1) to medical practitioners who prescribe the
2 controlled substances set forth in subparagraph a
3 of this paragraph for hospice or end-of-life
4 care, or

5 (2) for a prescription of a controlled substance set
6 forth in subparagraph a of this paragraph that is
7 issued by a practitioner for a patient residing
8 in a nursing facility as defined by Section 1-
9 1902 of this title, provided that the
10 prescription is issued to a resident of such
11 facility.

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

16 4. The failure of a registrant to access and check the central
17 repository as required under state or federal law or regulation
18 ~~shall~~ may be grounds for the licensing board of the registrant to
19 take disciplinary action against the registrant.

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

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

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

23 J. Information regarding fatal and nonfatal overdoses, other
24 than statistical information as required by Section 2-106 of this

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

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

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

23 M. The Oklahoma State Bureau of Narcotics and Dangerous Drugs
24 is authorized to provide unsolicited notification to the licensing

1 board of a pharmacist or practitioner if a patient has received one
2 or more prescriptions for controlled substances in quantities or
3 with a frequency inconsistent with generally recognized standards of
4 safe practice or if a practitioner or prescriber has exhibited
5 prescriptive behavior consistent with generally recognized standards
6 indicating potentially problematic prescribing patterns. An
7 unsolicited notification to the licensing board of the practitioner
8 pursuant to this section:

- 9 1. Is confidential;
- 10 2. May not disclose information that is confidential pursuant
11 to this section; and
- 12 3. May be in a summary form sufficient to provide notice of the
13 basis for the unsolicited notification.

14 SECTION 12. AMENDATORY Section 5, Chapter 175, O.S.L.
15 2018 (63 O.S. Supp. 2018, Section 2-309I), is amended to read as
16 follows:

17 Section 2-309I. A. A practitioner shall not issue an initial
18 prescription for ~~an opioid drug which is a prescription drug a~~
19 Schedule II opioid drug in a quantity exceeding a seven-day supply
20 for treatment of acute pain ~~for an adult patient, or a seven-day~~
21 ~~supply for treatment of acute pain for a patient under the age of~~
22 ~~eighteen (18) years old.~~ Any Schedule II opioid prescription for
23 acute pain ~~pursuant to this subsection~~ shall be for the lowest
24 effective dose of an immediate-release ~~opioid~~ drug.

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

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

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

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

13 4. Access relevant prescription monitoring information from the
14 central repository pursuant to Section 2-309D of Title 63 of the
15 Oklahoma Statutes;

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

- 1 a. the subsequent prescription is due to a major
2 procedure or "confined to home" status as defined in
3 42 U.S.C., Section 1395n(a),
4 b. the practitioner provides the subsequent prescription
5 on the same day as the initial prescription,
6 c. the practitioner provides written instructions on the
7 subsequent prescription indicating the earliest date
8 on which the prescription may be filled, otherwise
9 known as a "do not fill until" date, and
10 d. the subsequent prescription is dispensed no more than
11 five (5) days after the "do not fill until" date
12 indicated on the prescription;

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

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

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

23 1. The subsequent prescription would not be deemed an initial
24 prescription under this section;

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

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

7 D. Prior to issuing the initial prescription of a Schedule II
8 ~~controlled dangerous substance or any~~ opioid drug ~~that is a~~
9 ~~prescription drug~~ in a course of treatment for acute or chronic pain
10 and again prior to issuing the third prescription of the course of
11 treatment, a practitioner shall discuss with the patient or the
12 parent or guardian of the patient if the patient is under eighteen
13 (18) years of age and is not an emancipated minor, the risks
14 associated with the drugs being prescribed, including but not
15 limited to:

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

19 2. The reasons why the prescription is necessary;

20 3. Alternative treatments that may be available; and

21 4. Risks associated with the use of the drugs being prescribed,
22 specifically that opioids are highly addictive, even when taken as
23 prescribed, that there is a risk of developing a physical or
24 psychological dependence on the controlled dangerous substance, and

1 that the risks of taking more opioids than prescribed or mixing
2 sedatives, benzodiazepines or alcohol with opioids can result in
3 fatal respiratory depression.

4 The practitioner shall include a note in the medical record of
5 the patient that the patient or the parent or guardian of the
6 patient, as applicable, has discussed with the practitioner the
7 risks of developing a physical or psychological dependence on the
8 controlled dangerous substance and alternative treatments that may
9 be available. The applicable state licensing board of the
10 practitioner shall develop and make available to practitioners
11 guidelines for the discussion required pursuant to this subsection.

12 E. At the time of the issuance of the third prescription for a
13 ~~prescription~~ Schedule II opioid drug, the practitioner shall enter
14 into a ~~pain-management~~ patient-provider agreement with the patient.

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

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

22 2. Assess the patient prior to every renewal to determine
23 whether the patient is experiencing problems associated with
24

1 ~~physical and psychological dependence~~ an opioid use disorder and
2 document the results of that assessment;

3 3. Periodically make reasonable efforts, unless clinically
4 contraindicated, to either stop the use of the controlled substance,
5 decrease the dosage, try other drugs or treatment modalities in an
6 effort to reduce the potential for abuse or the development of
7 ~~physical or psychological dependence~~ an opioid use disorder and
8 document with specificity the efforts undertaken;

9 4. Review the central repository information in accordance with
10 Section 2-309D of Title 63 of the Oklahoma Statutes; and

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

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

19 H. Every policy, contract or plan delivered, issued, executed
20 or renewed in this state, or approved for issuance or renewal in
21 this state by the Insurance Commissioner, and every contract
22 purchased by the Employees Group Insurance Division of the Office of
23 Management and Enterprise Services, on or after ~~the effective date~~
24 ~~of this act~~ November 1, 2018, that provides coverage for

1 prescription drugs subject to a copayment, coinsurance or deductible
2 shall charge a copayment, coinsurance or deductible for an initial
3 prescription of ~~an~~ a Schedule II opioid drug prescribed pursuant to
4 this section that is either:

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

7 2. Equivalent to the cost sharing for a full thirty-day supply
8 of the ~~opioid~~ drug, provided that no additional cost sharing may be
9 charged for any additional prescriptions for the remainder of the
10 thirty-day supply.

11 I. Any provider authorized to prescribe ~~opioids~~ a Schedule II
12 opioid drug shall adopt and maintain a written policy or policies
13 that include execution of a written agreement to engage in an
14 informed consent process between the prescribing provider and
15 qualifying opioid therapy patient. For the purposes of this
16 section, "qualifying opioid therapy patient" means:

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

19 2. A patient who is prescribed benzodiazepines and opioids
20 together; or

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

23

24

1 SECTION 13. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 7402 of Title 36, unless there
3 is created a duplication in numbering, reads as follows:

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

19 SECTION 14. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 2-112 of Title 63, unless there
21 is created a duplication in numbering, reads as follows:

22 The Oklahoma State Bureau of Narcotics and Dangerous Drugs
23 Control shall report to the standing committees of the Legislature
24 having jurisdiction over health and human services matters and over

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

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

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

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

13 4. Effects on the prescriber workforce;

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

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

19 7. Progress on electronic prescribing of opioid medication; and

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

24

1 SECTION 15. REPEALER Section 6, Chapter 175, O.S.L.
2 2018, is hereby repealed.

3 SECTION 16. 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.

7
8 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC HEALTH, dated 04/11/2019 -
9 DO PASS, As Amended.

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