

1 **SENATE FLOOR VERSION**

2 February 25, 2019

3 **AS AMENDED**

4 COMMITTEE SUBSTITUTE
5 FOR

6 SENATE BILL NO. 848

7 By: Rader

8 [opioid drugs - continuing education - pharmacist
9 discretion - unprofessional conduct - central
10 repository - prescription limits and rules - repealer
11 - codification - effective date]

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

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

16 Section 145.1. A. Sixty (60) hours of continuing education
17 shall be required for renewal of an individual license to practice
18 podiatric medicine in this state. This must be obtained in the two-
19 year period immediately preceding the two-year period for which the
20 license is to be issued. Such continuing education shall include
21 not less than two (2) hours of education in pain management or two
22 (2) hours of education in opioid use or addiction, unless the
23 licensee has demonstrated to the satisfaction of the Board of
24 Podiatric Medical Examiners that the licensee does not currently

1 hold a valid federal Drug Enforcement Administration registration
2 number. The continuing education required by this section shall be
3 any of the following:

4 1. Education presented by an organization approved by the
5 Council on Continuing Education of the American Podiatric Medical
6 Association;

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

9 3. Hospital-sponsored scientific programs approved by the
10 Board; or

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

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

15 B. Any practitioner not so satisfying the Board of the
16 fulfillment of the continuing education requirements required by
17 subsection A of this section shall cease to be entitled to have such
18 license renewed.

19 C. Any practitioner fully retired from the practice of
20 podiatric medicine shall be exempt from compliance with the
21 requirements imposed by subsection A of this section. However, upon
22 resuming the practice of podiatric medicine, the individual shall
23 fulfill such requirements which have accrued from ~~the effective date~~
24 ~~of this act~~ October 1, 1979, to the time of resumption of practice.

1 SECTION 2. AMENDATORY 59 O.S. 2011, Section 328.41, as
2 last amended by Section 11, Chapter 151, O.S.L. 2018 (59 O.S. Supp.
3 2018, Section 328.41), is amended to read as follows:

4 Section 328.41. A. 1. On or before the last day of December
5 of each year, every dentist, dental hygienist, dental assistant,
6 oral maxillofacial surgery assistant and other licensee or permit
7 holders previously licensed or permitted by the Board to practice in
8 this state, with the exception of those listed in paragraph 2 of
9 this subsection, shall submit a completed renewal application with
10 information as may be required by the Board, together with an annual
11 renewal fee established by the rules of the Board. Upon receipt of
12 the annual renewal fee, the Board shall issue a renewal certificate
13 authorizing the dentist, dental hygienist, dental assistant, or oral
14 maxillofacial surgery assistant to continue the practice of
15 dentistry or dental hygiene, respectively, in this state for a
16 period of one (1) year. Every license or permit issued by the Board
17 shall begin on January 1 and expire on December 31 of each year.

18 2. Beginning July 1, 2017, resident and fellowship permits
19 shall be valid from July 1 through June 30 of each year and dental
20 student intern permits shall be valid from August 1 through July 31
21 of each year.

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

24

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

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

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

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

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

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

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

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

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

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

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

20 F. In case of a lost or destroyed license or renewal
21 certificate and upon satisfactory proof of the loss or destruction
22 thereof, the Board may issue a duplicate, charging therefor a fee
23 established by the rules of the Board.

24

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

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

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

14 SECTION 3. AMENDATORY Section 3, Chapter 234, O.S.L.
15 2017 (59 O.S. Supp. 2018, Section 353.20.2), is amended to read as
16 follows:

17 Section 353.20.2. A. Unless the prescriber has specified on
18 the prescription that dispensing a prescription for a maintenance
19 medication in an initial amount followed by periodic refills is
20 medically necessary, a pharmacist may exercise his or her
21 professional judgment to dispense varying quantities of medication
22 per fill-up to the total number of dosage units as authorized by the
23 prescriber on the original prescription including any refills.

24

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

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

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

14 Section 503. The State Board of Medical Licensure and
15 Supervision may suspend, revoke or order any other appropriate
16 sanctions against the license of any physician or surgeon holding a
17 license to practice in this state for unprofessional conduct, but no
18 such suspension, revocation or other penalty shall be made until the
19 licensee is cited to appear for hearing. No such citation shall be
20 issued except upon sworn complaint filed with the secretary of the
21 Board charging the licensee with having been guilty of
22 unprofessional conduct and setting forth the particular act or acts
23 alleged to constitute unprofessional conduct. In the event it comes
24 to the attention of the Board that a violation of the rules of

1 professional conduct may have occurred, even though a formal
2 complaint or charge may not have been filed, the Board staff may
3 conduct an investigation of the possible violation, and may upon its
4 own motion institute a formal complaint. In the course of the
5 investigation persons appearing before the Board may be required to
6 testify under oath. Any expert testifying against a licensee shall
7 be a Board-certified physician in an ongoing clinical practice in
8 the specialty of the licensee who is the subject of the complaint.
9 Upon the filing of a complaint, either by an individual or the Board
10 staff as provided herein, the citation must forthwith be issued by
11 the secretary of the Board over the signature of the secretary and
12 seal of the Board, setting forth the complaint of unprofessional
13 conduct, and giving due notice of the time and place of the hearing
14 by the Board. The citation shall be made returnable at the next
15 regular meeting of the Board occurring at least thirty (30) days
16 after the service of the citation. The defendant shall file a
17 written answer under oath with the secretary of the Board within
18 twenty (20) days after the service of the citation. The secretary
19 of the Board may extend the time of answer upon satisfactory showing
20 that the defendant is for reasonable cause unable to answer within
21 the twenty (20) days, but in no case shall the time be extended
22 beyond the date of the next regular meeting of the Board, unless a
23 continuance is granted by the Board.

24

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

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

- 7 1. Procuring, aiding or abetting a criminal operation;
- 8 2. The obtaining of any fee or offering to accept any fee,
9 present or other form of remuneration whatsoever, on the assurance
10 or promise that a manifestly incurable disease can or will be cured;
- 11 3. Willfully betraying a professional secret to the detriment
12 of the patient;
- 13 4. Habitual intemperance or the habitual use of habit-forming
14 drugs;
- 15 5. Conviction of a felony or of any offense involving moral
16 turpitude;
- 17 6. All advertising of medical business in which statements are
18 made which are grossly untrue or improbable and calculated to
19 mislead the public;
- 20 7. Conviction or confession of a crime involving violation of:
 - 21 a. the antinarcotic or prohibition laws and regulations
22 of the federal government,
 - 23 b. the laws of this state, or
 - 24 c. State Board of Health rules;

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

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

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

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

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

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

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

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

22 16. a. Prescribing, dispensing or administering of controlled
23 substances or narcotic drugs in excess of the amount
24 considered good medical practice, or

1 b. prescribing, dispensing or administering controlled
2 substances or narcotic drugs without medical need in
3 accordance with pertinent licensing board standards,

4 ~~or~~

5 ~~e. prescribing, dispensing or administering opioid drugs~~
6 ~~in excess of the maximum dosage authorized under~~
7 ~~Section 5 of this act;~~

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

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

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

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

1 SECTION 6. 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, unless the
11 licensee has demonstrated to the satisfaction of the Board that the
12 licensee does not currently hold a valid federal Drug Enforcement
13 Administration registration number.

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

- 16 1. Initial licensure;
- 17 2. License renewal;
- 18 3. Late license renewal;
- 19 4. Application to practice; and
- 20 5. Disciplinary hearing.

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

23 Section 604. Every person holding a license to practice
24 optometry in this state shall be required to present to the Board of

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

13 The filing of proof of attendance at educational programs or
14 clinics shall be a condition precedent to the issuance of a renewal
15 license. The Board may reinstate the license of ~~said~~ the licensee
16 to practice optometry upon presentation of satisfactory proof of
17 postgraduate study of a standard approved by ~~said~~ the examiners and
18 payment of all fees due including a late reinstatement fee not to
19 exceed three times the annual renewal fee.

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

22 Section 641. A. All persons legally licensed to practice
23 osteopathic medicine in this state, on or before the first day of
24 July of each year, shall apply to the secretary-treasurer of the

1 Board, on forms furnished thereby, for a renewal certificate of
2 registration entitling such licensee to practice osteopathic
3 medicine and surgery in Oklahoma during the next ensuing fiscal
4 year.

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

9 C. 1. In addition to the payment of the annual renewal fee
10 each licensee applying for a renewal of the certificate shall
11 furnish to the State Board of Osteopathic Examiners proof that the
12 person has attended at least two (2) days of the annual educational
13 program conducted by the Oklahoma Osteopathic Association, or its
14 equivalent, as determined by the Board, in the fiscal year preceding
15 the application for a renewal; provided, the Board may excuse the
16 failure of the licensee to attend the educational program in the
17 case of illness or other unavoidable casualty rendering it
18 impossible for the licensee to have attended the educational program
19 or its equivalent.

20 2. The Board shall require that the licensee receive not less
21 than one (1) hour of education in pain management or one (1) hour of
22 education in opioid use or addiction each year preceding an
23 application for renewal of a license, unless the licensee has
24 demonstrated to the satisfaction of the Board that the licensee does

1 not currently hold a valid federal Drug Enforcement Administration
2 registration number. Such education may be held at the annual
3 educational program referenced in paragraph 1 of this subsection.

4 D. The secretary of the State Board of Osteopathic Examiners
5 shall send a written notice to every person holding a legal
6 certificate to practice osteopathic medicine in this state, at least
7 thirty (30) days prior to the first day of July each year, directed
8 to the last-known address of the licensee, notifying the licensee
9 that it will be necessary for the licensee to pay the renewal
10 license fee as herein provided, and proper forms shall accompany the
11 notice upon which the licensee shall make application for renewal of
12 the certificate.

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

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

- 20 1. a. set standards for licensure or certification by
21 examination and develop such examinations as will
22 provide assurance of competency to practice, and
23 b. employ or enter into agreements with organizations or
24 agencies to provide examinations acceptable to the

1 Board or employ or enter into agreements with
2 organizations or agencies to provide administration,
3 preparation or scoring of examinations;

4 2. Set fees;

5 3. Prescribe the time, place, method, manner, scope and
6 subjects of examination for licensure;

7 4. Prepare or select, conduct or direct the conduct of, set
8 minimum requirements for, and assure security of licensing and other
9 required examinations;

10 5. a. issue or deny licenses and certificates and renewals
11 thereof,

12 b. acquire information about and evaluate the
13 professional education and training of applicants for
14 licensure or certification; and accept or deny
15 applications for licensure, certification or renewal
16 of either licensure or certification based on the
17 evaluation of information relating to applicant
18 fitness, performance or competency to practice,

19 c. determine which professional schools, colleges,
20 universities, training institutions and educational
21 programs are acceptable in connection with licensure
22 pursuant to the Oklahoma Veterinary Practice Act, and
23 accept the approval of such facilities and programs by
24

1 American-Veterinary-Medical-Association-accredited
2 institutions in the United States and Canada,

3 d. require supporting documentation or other acceptable
4 verifying evidence for any information provided the
5 Board by an applicant for licensure or certification,
6 and

7 e. require information on an applicant's fitness,
8 qualification and previous professional record and
9 performance from recognized data sources including,
10 but not limited to, other licensing and disciplinary
11 authorities of other jurisdictions, professional
12 education and training institutions, liability
13 insurers, animal health care institutions and law
14 enforcement agencies;

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

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

20 b. conduct hearings in accordance with the Oklahoma
21 Veterinary Practice Act and the Administrative
22 Procedures Act, and

23 c. adjudicate matters that come before the Board for
24 judgment pursuant to the Oklahoma Veterinary Practice

1 Act upon clear and convincing evidence and issue final
2 decisions on such matters to discipline licensees and
3 certificate holders;

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

1 their cooperation or participation in the
2 rehabilitation of the licensee or certificate
3 holder,

4 (2) establish by rules cooperation with other
5 professional organizations for the identification
6 and monitoring of licensees and certificate
7 holders in treatment who are chemically dependent
8 or addicted, and

9 f. issue conditional, restricted or otherwise
10 circumscribed modifications to licensure or
11 certification as determined to be appropriate by due
12 process procedures and summarily suspend a license if
13 the Board has cause to believe by clear and convincing
14 evidence such action is required to protect public or
15 animal health and safety or to prevent continuation of
16 incompetent practices;

17 9. Promulgate rules of professional conduct and require all
18 licensees and certificate holders to practice in accordance
19 therewith;

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

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

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

3 13. Establish policies for Board operations;

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

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

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

16 17. Determine and direct Board operating, administrative,
17 personnel and budget policies and procedures in accordance with
18 applicable statutes;

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

23 19. Determine continuing education requirements. Such
24 continuing education shall include not less than one (1) hour of

1 education in pain management or one (1) hour of education in opioid
2 use or addiction annually, unless the licensee has demonstrated to
3 the satisfaction of the Board that the licensee does not currently
4 hold a valid federal Drug Enforcement Administration registration
5 number;

6 20. Establish minimum standards for veterinary premises;

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

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

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

18 a. the applicant shall furnish the Board two completed
19 fingerprint cards and a money order or cashier's check
20 made payable to the Oklahoma State Bureau of
21 Investigation,

22 b. the Board shall forward the fingerprint cards, along
23 with the applicable fee for a national fingerprint
24 criminal history records search, to the Bureau, and

1 c. the Bureau shall retain one set of fingerprints in the
2 Automated Fingerprint Identification System (AFIS) and
3 submit the other set to the Federal Bureau of
4 Investigation (FBI) for a national criminal history
5 records search;

6 24. Establish standards for animal chiropractic diagnosis and
7 treatment. The standards shall include but not be limited to a
8 requirement that a veterinarian who holds himself or herself out to
9 the public as certified to engage in animal chiropractic diagnosis
10 and treatment shall:

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

14 b. have appropriate training in animal chiropractic
15 diagnosis and treatment. The Veterinary Examining
16 Board shall have the authority to establish
17 educational criteria for certification standards in
18 animal chiropractic diagnosis and treatment. The
19 Veterinary Examining Board shall work in conjunction
20 with the Board of Chiropractic Examiners to establish
21 comparable standards for the practice of animal
22 chiropractic diagnosis and treatment for both medical
23 professions within thirty (30) days after the
24 effective date of this act. The Board shall certify

1 any licensed veterinarian wishing to engage in animal
2 chiropractic diagnosis and treatment who meets the
3 standards established by the Board pursuant to this
4 paragraph. Upon request, the Board shall make
5 available to the public a list of licensed
6 veterinarians so certified; and

7 25. Perform such other duties and exercise such other powers as
8 the provisions and enforcement of the Oklahoma Veterinary Practice
9 Act may require.

10 SECTION 10. AMENDATORY 63 O.S. 2011, Section 2-101, as
11 last amended by Section 3, Chapter 175, O.S.L. 2018 (63 O.S. Supp.
12 2018, Section 2-101), is amended to read as follows:

13 Section 2-101. As used in the Uniform Controlled Dangerous
14 Substances Act:

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

19 a. a practitioner (or, in the presence of the
20 practitioner, by the authorized agent of the
21 practitioner), or

22 b. the patient or research subject at the direction and
23 in the presence of the practitioner;

24

1 2. "Agent" means a peace officer appointed by and who acts on
2 behalf of the Director of the Oklahoma State Bureau of Narcotics and
3 Dangerous Drugs Control or an authorized person who acts on behalf
4 of or at the direction of a person who manufactures, distributes,
5 dispenses, prescribes, administers or uses for scientific purposes
6 controlled dangerous substances but does not include a common or
7 contract carrier, public warehouse or employee thereof, or a person
8 required to register under the Uniform Controlled Dangerous
9 Substances Act;

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

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

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

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

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

23 8. "Controlled dangerous substance" means a drug, substance or
24 immediate precursor in Schedules I through V of the Uniform

1 Controlled Dangerous Substances Act or any drug, substance or
2 immediate precursor listed either temporarily or permanently as a
3 federally controlled substance. Any conflict between state and
4 federal law with regard to the particular schedule in which a
5 substance is listed shall be resolved in favor of state law;

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

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

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

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

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

1 13. "Distributor" means a commercial entity engaged in the
2 distribution or reverse distribution of narcotics and dangerous
3 drugs and who complies with all regulations promulgated by the
4 federal Drug Enforcement Administration and the Oklahoma State
5 Bureau of Narcotics and Dangerous Drugs Control;

6 14. "Drug" means articles:

7 a. recognized in the official United States

8 Pharmacopoeia, official Homeopathic Pharmacopoeia of
9 the United States, or official National Formulary, or
10 any supplement to any of them,

11 b. intended for use in the diagnosis, cure, mitigation,
12 treatment or prevention of disease in man or other
13 animals,

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

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

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

20 15. "Drug-dependent person" means a person who is using a
21 controlled dangerous substance and who is in a state of psychic or
22 physical dependence, or both, arising from administration of that
23 controlled dangerous substance on a continuous basis. Drug
24 dependence is characterized by behavioral and other responses which

1 include a strong compulsion to take the substance on a continuous
2 basis in order to experience its psychic effects, or to avoid the
3 discomfort of its absence;

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

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

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

24

1 "Class A" Hospice refers to Medicare certified hospices. "Class B"
2 refers to all other providers of hospice services;

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

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

24

- 1 e. prior convictions, if any, of an owner, or any other
2 person in control of the object, under state or
3 federal law related to controlled substances or fraud,
4 and
5 f. the proximity of the substances to controlled
6 dangerous substances;

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

13 21. "Laboratory" means a laboratory approved by the Director as
14 proper to be entrusted with the custody of controlled dangerous
15 substances and the use of controlled dangerous substances for
16 scientific and medical purposes and for purposes of instruction;

17 22. "Manufacture" means the production, preparation,
18 propagation, compounding or processing of a controlled dangerous
19 substance, either directly or indirectly by extraction from
20 substances of natural or synthetic origin, or independently by means
21 of chemical synthesis or by a combination of extraction and chemical
22 synthesis. "Manufacturer" includes any person who packages,
23 repackages or labels any container of any controlled dangerous
24

1 substance, except practitioners who dispense or compound
2 prescription orders for delivery to the ultimate consumer;

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

- 8 a. the mature stalks of such plant or fiber produced from
9 such stalks,
- 10 b. oil or cake made from the seeds of such plant,
11 including cannabidiol derived from the seeds of the
12 marijuana plant,
- 13 c. any other compound, manufacture, salt, derivative,
14 mixture or preparation of such mature stalks (except
15 the resin extracted therefrom), including cannabidiol
16 derived from mature stalks, fiber, oil or cake,
- 17 d. the sterilized seed of such plant which is incapable
18 of germination,
- 19 e. for any person participating in a clinical trial to
20 administer cannabidiol for the treatment of severe
21 forms of epilepsy pursuant to Section 2-802 of this
22 title, a drug or substance approved by the federal
23 Food and Drug Administration for use by those
24 participants,

- 1 f. for any person or the parents, legal guardians or
2 caretakers of the person who have received a written
3 certification from a physician licensed in this state
4 that the person has been diagnosed by a physician as
5 having Lennox-Gastaut Syndrome, Dravet Syndrome, also
6 known as Severe Myoclonic Epilepsy of Infancy, or any
7 other severe form of epilepsy that is not adequately
8 treated by traditional medical therapies, spasticity
9 due to multiple sclerosis or due to paraplegia,
10 intractable nausea and vomiting, appetite stimulation
11 with chronic wasting diseases, the substance
12 cannabidiol, a nonpsychoactive cannabinoid, found in
13 the plant Cannabis sativa L. or any other preparation
14 thereof, that has a tetrahydrocannabinol concentration
15 of not more than three-tenths of one percent (0.3%)
16 and that is delivered to the patient in the form of a
17 liquid,
- 18 g. any federal Food and Drug Administration-approved
19 cannabidiol drug or substance, or
- 20 h. industrial hemp, from the plant Cannabis sativa L. and
21 any part of such plant, whether growing or not, with a
22 delta-9 tetrahydrocannabinol concentration of not more
23 than three-tenths of one percent (0.3%) on a dry
24 weight basis which shall not be grown anywhere in the

1 State of Oklahoma but may be shipped to Oklahoma
2 pursuant to the provisions of subparagraph e or f of
3 this paragraph;

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

9 25. "Mid-level practitioner" means an advanced practice nurse
10 as defined and within parameters specified in Section 567.3a of
11 Title 59 of the Oklahoma Statutes, or a certified animal euthanasia
12 technician as defined in Section 698.2 of Title 59 of the Oklahoma
13 Statutes, or an animal control officer registered by the Oklahoma
14 State Bureau of Narcotics and Dangerous Drugs Control under
15 subsection B of Section 2-301 of this title within the parameters of
16 such officer's duty under Sections 501 through 508 of Title 4 of the
17 Oklahoma Statutes;

18 26. "Narcotic drug" means any of the following, whether
19 produced directly or indirectly by extraction from substances of
20 vegetable origin, or independently by means of chemical synthesis,
21 or by a combination of extraction and chemical synthesis:

- 22 a. opium, coca leaves and opiates,
- 23 b. a compound, manufacture, salt, derivative or
24 preparation of opium, coca leaves or opiates,

- 1 c. cocaine, its salts, optical and geometric isomers, and
2 salts of isomers,
3 d. ecgonine, its derivatives, their salts, isomers and
4 salts of isomers, and
5 e. a substance, and any compound, manufacture, salt,
6 derivative or preparation thereof, which is chemically
7 identical with any of the substances referred to in
8 subparagraphs a through d of this paragraph, except
9 that the words "narcotic drug" as used in Section 2-
10 101 et seq. of this title shall not include
11 decocainized coca leaves or extracts of coca leaves,
12 which extracts do not contain cocaine or ecgonine;

13 27. "Opiate" means any substance having an addiction-forming or
14 addiction-sustaining liability similar to morphine or being capable
15 of conversion into a drug having such addiction-forming or
16 addiction-sustaining liability. It does not include, unless
17 specifically designated as controlled under the Uniform Controlled
18 Dangerous Substances Act, the dextrorotatory isomer of 3-methoxy-n-
19 methyl-morphinan and its salts (dextromethorphan). It does include
20 its racemic and levorotatory forms;

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

23 29. "Peace officer" means a police officer, sheriff, deputy
24 sheriff, district attorney's investigator, investigator from the

1 Office of the Attorney General, or any other person elected or
2 appointed by law to enforce any of the criminal laws of this state
3 or of the United States;

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

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

9 32. "Practitioner" means:

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

1 b. a pharmacy, hospital, laboratory or other institution
2 licensed, registered or otherwise permitted to
3 distribute, dispense, conduct research with respect
4 to, use for scientific purposes or administer a
5 controlled dangerous substance in the course of
6 professional practice or research in this state;

7 33. "Production" includes the manufacture, planting,
8 cultivation, growing or harvesting of a controlled dangerous
9 substance;

10 34. "State" means the State of Oklahoma or any other state of
11 the United States;

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

17 36. "Drug paraphernalia" means all equipment, products and
18 materials of any kind which are used, intended for use, or fashioned
19 specifically for use in planting, propagating, cultivating, growing,
20 harvesting, manufacturing, compounding, converting, producing,
21 processing, preparing, testing, analyzing, packaging, repackaging,
22 storing, containing, concealing, injecting, ingesting, inhaling or
23 otherwise introducing into the human body, a controlled dangerous
24

1 substance in violation of the Uniform Controlled Dangerous
2 Substances Act including, but not limited to:

- 3 a. kits used, intended for use, or fashioned specifically
4 for use in planting, propagating, cultivating, growing
5 or harvesting of any species of plant which is a
6 controlled dangerous substance or from which a
7 controlled dangerous substance can be derived,
- 8 b. kits used, intended for use, or fashioned specifically
9 for use in manufacturing, compounding, converting,
10 producing, processing or preparing controlled
11 dangerous substances,
- 12 c. isomerization devices used, intended for use, or
13 fashioned specifically for use in increasing the
14 potency of any species of plant which is a controlled
15 dangerous substance,
- 16 d. testing equipment used, intended for use, or fashioned
17 specifically for use in identifying, or in analyzing
18 the strength, effectiveness or purity of controlled
19 dangerous substances,
- 20 e. scales and balances used, intended for use, or
21 fashioned specifically for use in weighing or
22 measuring controlled dangerous substances,
- 23 f. diluents and adulterants, such as quinine
24 hydrochloride, mannitol, mannite, dextrose and

1 lactose, used, intended for use, or fashioned
2 specifically for use in cutting controlled dangerous
3 substances,

4 g. separation gins and sifters used, intended for use, or
5 fashioned specifically for use in removing twigs and
6 seeds from, or in otherwise cleaning or refining,
7 marijuana,

8 h. blenders, bowls, containers, spoons and mixing devices
9 used, intended for use, or fashioned specifically for
10 use in compounding controlled dangerous substances,

11 i. capsules, balloons, envelopes and other containers
12 used, intended for use, or fashioned specifically for
13 use in packaging small quantities of controlled
14 dangerous substances,

15 j. containers and other objects used, intended for use,
16 or fashioned specifically for use in parenterally
17 injecting controlled dangerous substances into the
18 human body,

19 k. hypodermic syringes, needles and other objects used,
20 intended for use, or fashioned specifically for use in
21 parenterally injecting controlled dangerous substances
22 into the human body,

23 l. objects used, intended for use, or fashioned
24 specifically for use in ingesting, inhaling or

1 otherwise introducing marijuana, cocaine, hashish or
2 hashish oil into the human body, such as:

3 (1) metal, wooden, acrylic, glass, stone, plastic or
4 ceramic pipes with or without screens, permanent
5 screens, hashish heads or punctured metal bowls,

6 (2) water pipes,

7 (3) carburetion tubes and devices,

8 (4) smoking and carburetion masks,

9 (5) roach clips, meaning objects used to hold burning
10 material, such as a marijuana cigarette, that has
11 become too small or too short to be held in the
12 hand,

13 (6) miniature cocaine spoons and cocaine vials,

14 (7) chamber pipes,

15 (8) carburetor pipes,

16 (9) electric pipes,

17 (10) air-driven pipes,

18 (11) chillums,

19 (12) bonges, or

20 (13) ice pipes or chillers,

21 m. all hidden or novelty pipes, and

22 n. any pipe that has a tobacco bowl or chamber of less
23 than one-half (1/2) inch in diameter in which there is
24 any detectable residue of any controlled dangerous

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

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

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

1 similar to or greater than the stimulant,
2 depressant, or hallucinogenic effect on the
3 central nervous system of a controlled dangerous
4 substance in Schedule I or II.

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

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

11 (1) a controlled dangerous substance,

12 (2) any substance for which there is an approved new
13 drug application,

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

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

1 d. Prima facie evidence that a substance containing
2 salvia divinorum has been enhanced, concentrated or
3 chemically or physically altered shall give rise to a
4 rebuttable presumption that the substance is a
5 synthetic controlled substance;

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

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

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

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

22 42. "Acute pain" means pain, whether resulting from disease,
23 accidental or intentional trauma or other cause, that the
24 practitioner reasonably expects to last only a short period of time.

1 "Acute pain" does not include chronic pain, pain being treated as
2 part of cancer care, hospice or other end-of-life care, or pain
3 being treated as part of palliative care;

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

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

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

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

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

1 prior to the commencement of treatment for chronic pain using a
2 Schedule II ~~controlled substance or any~~ opioid drug ~~which is a~~
3 ~~prescription drug~~, as a means to:

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

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

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

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

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

5 SECTION 11. AMENDATORY 63 O.S. 2011, Section 2-309D, as
6 last amended by Section 4, Chapter 175, O.S.L. 2018 (63 O.S. Supp.
7 2018, Section 2-309D), is amended to read as follows:

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

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

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

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

20 a. Board of Podiatric Medical Examiners,

21 b. Board of Dentistry,

22 c. State Board of Pharmacy,

23 d. State Board of Medical Licensure and Supervision,

24 e. State Board of Osteopathic Examiners,

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

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

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

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

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

1 legal, communications, and analytical employees of the Bureau, and
2 to registrants in furtherance of efforts to guard against the
3 diversion of controlled dangerous substances.

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

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

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

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

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:

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

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

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

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

1. The subsequent prescription would not be deemed an initial 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. REPEALER Section 6, Chapter 175, O.S.L.
20 2018, is hereby repealed.

21 SECTION 15. This act shall become effective November 1, 2019.

22 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
23 February 25, 2019 - DO PASS AS AMENDED
24