

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 HOUSE BILL 1005

By: Bush

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5
6 AS INTRODUCED

7 An Act relating to the Uniform Controlled Dangerous
8 Substances Act; amending 63 O.S. 2011, Section 2-101,
9 as last amended by Section 1, Chapter 101, O.S.L.
10 2020 (63 O.S. Supp. 2020, Section 2-101), which
11 relates to definitions; defining term; modifying
12 definitions; amending 63 O.S. 2011, Section 2-101.1,
13 which relates to drug paraphernalia; providing
14 exception; authorizing certain entities to engage in
15 harm-reduction services; requiring registration with
16 the State Department of Health; providing for certain
17 allowable activities for specified period of time;
18 providing reporting requirements; directing
19 promulgation of rules; providing for codification;
20 and declaring an emergency.

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

22 SECTION 1. AMENDATORY 63 O.S. 2011, Section 2-101, as
23 last amended by Section 1, Chapter 101, O.S.L. 2020 (63 O.S. Supp.
24 2020, Section 2-101), is amended to read as follows:

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

1. "Administer" means the direct application of a controlled
dangerous substance, whether by injection, inhalation, ingestion or

1 any other means, to the body of a patient, animal or research
2 subject by:

3 a. a practitioner (or, in the presence of the
4 practitioner, by the authorized agent of the
5 practitioner), or

6 b. the patient or research subject at the direction and
7 in the presence of the practitioner;

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

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

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

21 5. "Coca leaves" includes cocaine and any compound,
22 manufacture, salt, derivative, mixture or preparation of coca
23 leaves, except derivatives of coca leaves which do not contain
24 cocaine or ecgonine;

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

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

6 8. "Controlled dangerous substance" means a drug, substance or
7 immediate precursor in Schedules I through V of the Uniform
8 Controlled Dangerous Substances Act or any drug, substance or
9 immediate precursor listed either temporarily or permanently as a
10 federally controlled substance. Any conflict between state and
11 federal law with regard to the particular schedule in which a
12 substance is listed shall be resolved in favor of state law;

13 9. "Counterfeit substance" means a controlled substance which,
14 or the container or labeling of which without authorization, bears
15 the trademark, trade name or other identifying marks, imprint,
16 number or device or any likeness thereof of a manufacturer,
17 distributor or dispenser other than the person who in fact
18 manufactured, distributed or dispensed the substance;

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

23 11. "Dispense" means to deliver a controlled dangerous
24 substance to an ultimate user or human research subject by or

1 pursuant to the lawful order of a practitioner, including the
2 prescribing, administering, packaging, labeling or compounding
3 necessary to prepare the substance for such distribution.

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

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

8 13. "Distributor" means a commercial entity engaged in the
9 distribution or reverse distribution of narcotics and dangerous
10 drugs and who complies with all regulations promulgated by the
11 federal Drug Enforcement Administration and the Oklahoma State
12 Bureau of Narcotics and Dangerous Drugs Control;

13 14. "Drug" means articles:

14 a. recognized in the official United States ~~Pharmacopoeia~~
15 Pharmacopeia, official Homeopathic Pharmacopoeia of
16 the United States, or official National Formulary, or
17 any supplement to any of them,

18 b. intended for use in the diagnosis, cure, mitigation,
19 treatment or prevention of disease in man or other
20 animals,

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

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

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

3 15. "Drug-dependent person" means a person who is using a
4 controlled dangerous substance and who is in a state of psychic or
5 physical dependence, or both, arising from administration of that
6 controlled dangerous substance on a continuous basis. Drug
7 dependence is characterized by behavioral and other responses which
8 include a strong compulsion to take the substance on a continuous
9 basis in order to experience its psychic effects, or to avoid the
10 discomfort of its absence;

11 16. "Harm-reduction services" means programs established to:
12 a. reduce the spread of infectious diseases related to
13 injection drug use,
14 b. reduce drug dependency, overdose deaths, and
15 associated complications, and
16 c. increase safe recovery and disposal of used syringes
17 and sharp waste;

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

23 ~~17.~~ 18. "Home care services" means skilled or personal care
24 services provided to clients in their place of residence for a fee;

1 ~~18.~~ 19. "Hospice" means a centrally administered, nonprofit or
2 profit, medically directed, nurse-coordinated program which provides
3 a continuum of home and inpatient care for the terminally ill
4 patient and the patient's family. Such term shall also include a
5 centrally administered, nonprofit or profit, medically directed,
6 nurse-coordinated program if such program is licensed pursuant to
7 the provisions of the Uniform Controlled Dangerous Substances Act.
8 A hospice program offers palliative and supportive care to meet the
9 special needs arising out of the physical, emotional and spiritual
10 stresses which are experienced during the final stages of illness
11 and during dying and bereavement. This care is available twenty-
12 four (24) hours a day, seven (7) days a week, and is provided on the
13 basis of need, regardless of ability to pay. "Class A" Hospice
14 refers to Medicare certified hospices. "Class B" refers to all
15 other providers of hospice services;

16 ~~19.~~ 20. "Imitation controlled substance" means a substance that
17 is not a controlled dangerous substance, which by dosage unit
18 appearance, color, shape, size, markings or by representations made,
19 would lead a reasonable person to believe that the substance is a
20 controlled dangerous substance. In the event the appearance of the
21 dosage unit is not reasonably sufficient to establish that the
22 substance is an "imitation controlled substance", the court or
23 authority concerned should consider, in addition to all other
24 factors, the following factors as related to "representations made"

1 in determining whether the substance is an "imitation controlled
2 substance":

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

19 ~~20.~~ 21. "Immediate precursor" means a substance which the
20 Director has found to be and by regulation designates as being the
21 principal compound commonly used or produced primarily for use, and
22 which is an immediate chemical intermediary used, or likely to be
23 used, in the manufacture of a controlled dangerous substance, the
24

1 control of which is necessary to prevent, curtail or limit such
2 manufacture;

3 ~~21.~~ 22. "Laboratory" means a laboratory approved by the
4 Director as proper to be entrusted with the custody of controlled
5 dangerous substances and the use of controlled dangerous substances
6 for scientific and medical purposes and for purposes of instruction;

7 ~~22.~~ 23. "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.~~ 24. "Marijuana" means all parts of the plant Cannabis
17 sativa L., whether growing or not; the seeds thereof; the resin
18 extracted from any part of such plant; and every compound,
19 manufacture, salt, derivative, mixture or preparation of such plant,
20 its seeds or resin, but shall not include:

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

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- 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 cannabidiol drug or substance approved by the
10 federal Food and Drug Administration~~approved~~
11 ~~cannabidiol drug or substance~~, or

12 h. industrial hemp, from the plant Cannabis sativa L. and
13 any part of such plant, whether growing or not, with a
14 delta-9 tetrahydrocannabinol concentration of not more
15 than three-tenths of one percent (0.3%) on a dry
16 weight basis which shall only be grown pursuant to the
17 Oklahoma Industrial Hemp Program and may be shipped
18 intrastate and interstate;

19 ~~24.~~ 25. "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.~~ 26. "Mid-level practitioner" means an Advanced Practice
2 Registered Nurse as defined and within parameters specified in
3 Section 567.3a of Title 59 of the Oklahoma Statutes, or a certified
4 animal euthanasia technician as defined in Section 698.2 of Title 59
5 of the Oklahoma Statutes, or an animal control officer registered by
6 the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control
7 under subsection B of Section 2-301 of this title within the
8 parameters of such officer's duty under Sections 501 through 508 of
9 Title 4 of the Oklahoma Statutes;

10 ~~26.~~ 27. "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.~~ 28. "Opiate" or "opioid" means any Schedule II, III, IV or
6 V substance having an addiction-forming or addiction-sustaining
7 liability similar to morphine or being capable of conversion into a
8 drug having such addiction-forming or addiction-sustaining
9 liability. The terms do not include, unless specifically designated
10 as controlled under the Uniform Controlled Dangerous Substances Act,
11 the dextrorotatory isomer of 3-methoxy-n-methyl-morphinan and its
12 salts (dextromethorphan). The terms do include the racemic and
13 levorotatory forms;

14 ~~28.~~ 29. "Opium poppy" means the plant of the species *Papaver*
15 *somniferum* L., except the seeds thereof;

16 ~~29.~~ 30. "Peace officer" means a police officer, sheriff, deputy
17 sheriff, district attorney's investigator, investigator from the
18 Office of the Attorney General, or any other person elected or
19 appointed by law to enforce any of the criminal laws of this state
20 or of the United States;

21 ~~30.~~ 31. "Person" means an individual, corporation, government
22 or governmental subdivision or agency, business trust, estate,
23 trust, partnership or association, or any other legal entity;

1 ~~31.~~ 32. "Poppy straw" means all parts, except the seeds, of the
2 opium poppy, after mowing;

3 ~~32.~~ 33. "Practitioner" means:

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

1 ~~33.~~ 34. "Production" includes the manufacture, planting,
2 cultivation, growing or harvesting of a controlled dangerous
3 substance;

4 ~~34.~~ 35. "State" means the State of Oklahoma or any other state
5 of the United States;

6 ~~35.~~ 36. "Ultimate user" means a person who lawfully possesses a
7 controlled dangerous substance for the person's own use or for the
8 use of a member of the person's household or for administration to
9 an animal owned by the person or by a member of the person's
10 household;

11 ~~36.~~ 37. "Drug paraphernalia" means all equipment, products and
12 materials of any kind which are used, intended for use, or fashioned
13 specifically for use in planting, propagating, cultivating, growing,
14 harvesting, manufacturing, compounding, converting, producing,
15 processing, preparing, testing, analyzing, packaging, repackaging,
16 storing, containing, concealing, injecting, ingesting, inhaling or
17 otherwise introducing into the human body, a controlled dangerous
18 substance in violation of the Uniform Controlled Dangerous
19 Substances Act including, but not limited to:

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

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

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

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

1 is found or pipes designed and used solely for smoking tobacco,
2 traditional pipes of an American Indian tribal religious ceremony,
3 or antique pipes that are thirty (30) years of age or older;

4 ~~37.~~

5 38. a. "Synthetic controlled substance" means a substance:

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

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

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

7 (1) a controlled dangerous substance,

8 (2) any substance for which there is an approved new
9 drug application,

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

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

21 d. Prima facie evidence that a substance containing
22 salvia divinorum has been enhanced, concentrated or
23 chemically or physically altered shall give rise to a
24

1 rebuttable presumption that the substance is a
2 synthetic controlled substance;

3 ~~38.~~ 39. "Tetrahydrocannabinols" means all substances that have
4 been chemically synthesized to emulate the tetrahydrocannabinols of
5 marijuana;

6 ~~39.~~ 40. "Isomer" means the optical isomer, except as used in
7 subsections C and F of Section 2-204 of this title and paragraph 4
8 of subsection A of Section 2-206 of this title. As used in
9 subsections C and F of Section 2-204 of this title, "isomer" means
10 the optical, positional or geometric isomer. As used in paragraph 4
11 of subsection A of Section 2-206 of this title, the term "isomer"
12 means the optical or geometric isomer;

13 ~~40.~~ 41. "Hazardous materials" means materials, whether solid,
14 liquid or gas, which are toxic to human, animal, aquatic or plant
15 life, and the disposal of which materials is controlled by state or
16 federal guidelines;

17 ~~41.~~ 42. "Anhydrous ammonia" means any substance that exhibits
18 cryogenic evaporative behavior and tests positive for ammonia;

19 ~~42.~~ 43. "Acute pain" means pain, whether resulting from
20 disease, accidental or intentional trauma or other cause, that the
21 practitioner reasonably expects to last only a short period of time.
22 "Acute pain" does not include chronic pain, pain being treated as
23 part of cancer care, hospice or other end-of-life care, or pain
24 being treated as part of palliative care;

1 ~~43.~~ 44. "Chronic pain" means pain that persists beyond the
2 usual course of an acute disease or healing of an injury. "Chronic
3 pain" may or may not be associated with an acute or chronic
4 pathologic process that causes continuous or intermittent pain over
5 months or years;

6 ~~44.~~ 45. "Initial prescription" means a prescription issued to a
7 patient who:

- 8 a. has ~~never~~ not previously been issued a prescription
9 for the drug or its pharmaceutical equivalent in the
10 past year, or
11 b. requires a prescription for the drug or its
12 pharmaceutical equivalent due to a surgical procedure
13 or new acute event and has previously had a
14 prescription for the drug or its pharmaceutical
15 equivalent within the past year.

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

20 ~~45.~~ 46. "Patient-provider agreement" means a written contract
21 or agreement that is executed between a practitioner and a patient,
22 prior to the commencement of treatment for chronic pain using an
23 opioid drug as a means to:

- a. explain the possible risk of development of physical or psychological dependence in the patient and prevent the possible development of addiction,
- b. document the understanding of both the practitioner and the patient regarding the patient-provider agreement of the patient,
- c. establish the rights of the patient in association with treatment and the obligations of the patient in relation to the responsible use, discontinuation of use, and storage of opioid drugs, including any restrictions on the refill of prescriptions or the acceptance of opioid prescriptions from practitioners,
- d. identify the specific medications and other modes of treatment, including physical therapy or exercise, relaxation or psychological counseling, that are included as a part of the patient-provider agreement,
- e. specify the measures the practitioner may employ to monitor the compliance of the patient including, but not limited to, random specimen screens and pill counts, and
- f. delineate the process for terminating the agreement, including the consequences if the practitioner has reason to believe that the patient is not complying with the terms of the agreement. Compliance with the

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

7 ~~46.~~ 47. "Serious illness" means a medical illness or physical
8 injury or condition that substantially affects quality of life for
9 more than a short period of time. "Serious illness" includes, but
10 is not limited to, Alzheimer's disease or related dementias, lung
11 disease, cancer, heart failure, renal failure, liver failure or
12 chronic, unremitting or intractable pain such as neuropathic pain;
13 and

14 ~~47.~~ 48. "Surgical procedure" means a procedure that is
15 performed for the purpose of structurally altering the human body by
16 incision or destruction of tissues as part of the practice of
17 medicine. This term includes the diagnostic or therapeutic
18 treatment of conditions or disease processes by use of instruments
19 such as lasers, ultrasound, ionizing, radiation, scalpels, probes or
20 needles that cause localized alteration or transportation of live
21 human tissue by cutting, burning, vaporizing, freezing, suturing,
22 probing or manipulating by closed reduction for major dislocations
23 or fractures, or otherwise altering by any mechanical, thermal,
24 light-based, electromagnetic or chemical means.

1 SECTION 2. AMENDATORY 63 O.S. 2011, Section 2-101.1, is
2 amended to read as follows:

3 Section 2-101.1 In determining whether an object is "drug
4 paraphernalia", a court or jury shall consider, in addition to all
5 other logically relevant factors, the following:

6 1. Statements by an owner or by anyone in control of the object
7 concerning its use;

8 2. The proximity of the object, in time and space, to a direct
9 violation of the Uniform Controlled Dangerous Substances Act;

10 3. The proximity of the object to controlled dangerous
11 substances;

12 4. The existence of any residue of controlled dangerous
13 substances on the object;

14 5. Direct or circumstantial evidence of the intent of an owner,
15 or of anyone in control of the object, to deliver it to any person
16 who intends to use the object to facilitate a violation of the
17 Uniform Controlled Dangerous Substances Act. The innocence of an
18 owner, or of anyone in control of the object, as to a direct
19 violation of this act shall not prevent a finding that the object is
20 intended for use, or fashioned specifically for use, as drug
21 paraphernalia;

22 6. Instructions, oral or written, provided with the object
23 which either state directly or imply that the object is to be used
24 for the consumption of controlled dangerous substances;

1 7. Descriptive materials accompanying the object which explain
2 or depict its use as an object for the consumption of controlled
3 dangerous substances;

4 8. The manner in which the object is displayed for sale;

5 9. Whether the owner, or anyone in control of the object, is a
6 legitimate supplier of like or related items to the community, such
7 as a licensed distributor or dealer of tobacco products;

8 10. Direct or circumstantial evidence of the ratio of sales of
9 the object or objects to the total sales of the business enterprise;

10 11. The existence and scope of legitimate uses for the object
11 in the community; and

12 12. Expert testimony concerning its use.

13 Provided, nothing in this section shall apply to objects in the
14 possession of harm-reduction services providers as authorized by
15 Section 3 of this act.

16 SECTION 3. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 2-1101 of Title 63, unless there
18 is created a duplication in numbering, reads as follows:

19 A. Until July 1, 2026, the following are hereby authorized to
20 engage in harm-reduction services:

21 1. Government entities including, but not limited to, the State
22 Department of Health and the Oklahoma Department of Mental Health
23 and Substance Abuse Services; provided, no state dollars shall be
24 used to purchase hypodermic needles;

- 1 2. Religious institutions or churches;
- 2 3. Nonprofit organizations;
- 3 4. For-profit companies;
- 4 5. Nongovernment entities partnering with a government agency;
- 5 and
- 6 6. Tribal governments.

7 B. Those offering harm-reduction services shall register with
8 the State Department of Health and may engage in the following
9 activities in order to reduce the use of drugs, prevent outbreaks of
10 infectious diseases, and reduce morbidity among people who use
11 injection drugs:

- 12 1. Offer referrals and resources to treat substance use
13 disorders;
- 14 2. Provide education on the risk of transmission of infectious
15 diseases, including human immunodeficiency virus (HIV) and viral
16 hepatitis;
- 17 3. Rapid testing for HIV, hepatitis C, and sexually transmitted
18 infections (STIs);
- 19 4. Referrals for medical and mental health services;
- 20 5. Collect used hypodermic needles for safe disposal;
- 21 6. Possess and distribute hypodermic needles, cleaning kits,
22 test kits, and opioid antagonists; and

23
24

1 7. Rapid substance-testing products used, intended for use, or
2 fashioned specifically for use in identifying or analyzing the
3 potency or toxicity of unknown substances.

4 C. Registered providers of harm-reduction services shall report
5 at least quarterly to the State Department of Health:

6 1. The number of clients served, including basic demographic
7 information;

8 2. Number and type of referrals provided;

9 3. Number of syringes, test kits, and antagonists distributed;

10 4. Number of used syringes collected; and

11 5. Number of rapid HIV and viral hepatitis tests performed,
12 including the number of reactive test results.

13 D. The State Department of Health shall promulgate rules for
14 the implementation of this section.

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

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