

1 ENGROSSED SENATE AMENDMENT
TO

2 ENGROSSED HOUSE
BILL NO. 2281

By: Echols of the House

and

Paxton of the Senate

7 An Act relating to public health and safety; amending
8 63 O.S. 2021, Section 2-101, as amended by Section 4,
9 Chapter 265, O.S.L. 2022 (63 O.S. Supp. 2022, Section
10 2-101), which relates to the Uniform Controlled
11 Dangerous Substances Act; adding definition; amending
12 63 O.S. 2021, Section 2-406, which relates to
13 penalties for violating the Uniform Controlled
14 Dangerous Substances Act; making certain acts
15 unlawful; and declaring an emergency.

13 AMENDMENT NO. 1. Page 1, strike the title, enacting clause and
14 entire bill and insert

15 "An Act relating to public health and safety;
16 amending 63 O.S. 2021, Section 2-101, as amended by
17 Section 4, Chapter 265, O.S.L. 2022 (63 O.S. Supp.
18 2022, Section 2-101), which relates to the Uniform
19 Controlled Dangerous Substances Act; defining term;
20 amending 63 O.S. 2021, Section 2-406, which relates
21 to penalties for violating the Uniform Controlled
22 Dangerous Substances Act; making certain acts
23 unlawful; updating statutory language; updating
24 statutory reference; and declaring an emergency.

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

1 SECTION 1. AMENDATORY 63 O.S. 2021, Section 2-101, as
2 amended by Section 4, Chapter 265, O.S.L. 2022 (63 O.S. Supp. 2022,
3 Section 2-101), is amended to read as follows:

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

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

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

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

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

24

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

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

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

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

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

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

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

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

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

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

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

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

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

21 14. "Drug" means articles:

22 a. recognized in the official United States Pharmacopeia,
23 official Homeopathic Pharmacopoeia of the United
24

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

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

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

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

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

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

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

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

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

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

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

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

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

1 an immediate chemical intermediary used, or likely to be used, in
2 the manufacture of a controlled dangerous substance, the control of
3 which is necessary to prevent, curtail or limit such manufacture;

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

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

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

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

24

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

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

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

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

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

23 25. "Mid-level practitioner" means an Advanced Practice
24 Registered Nurse as defined and within parameters specified in

1 Section 567.3a of Title 59 of the Oklahoma Statutes, or a certified
2 animal euthanasia technician as defined in Section 698.2 of Title 59
3 of the Oklahoma Statutes, or an animal control officer registered by
4 the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control
5 under subsection B of Section 2-301 of this title within the
6 parameters of such officer's duties under Sections 501 through 508
7 of Title 4 of the Oklahoma Statutes;

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

- 12 a. opium, coca leaves and opiates,
- 13 b. a compound, manufacture, salt, derivative or
14 preparation of opium, coca leaves or opiates,
- 15 c. cocaine, its salts, optical and geometric isomers, and
16 salts of isomers,
- 17 d. ecgonine, its derivatives, their salts, isomers and
18 salts of isomers, and
- 19 e. a substance, and any compound, manufacture, salt,
20 derivative or preparation thereof, which is chemically
21 identical with any of the substances referred to in
22 subparagraphs a through d of this paragraph, except
23 that the words "~~narcotic drug~~" narcotic drug as used
24 in Section 2-101 et seq. of this title shall not

1 include decocainized coca leaves or extracts of coca
2 leaves, which extracts do not contain cocaine or
3 ecgonine;

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

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

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

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

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

1 32. "Practitioner" means:

2 a. (1) a medical doctor or osteopathic physician,

3 (2) a dentist,

4 (3) a podiatrist,

5 (4) an optometrist,

6 (5) a veterinarian,

7 (6) a physician assistant or Advanced Practice

8 Registered Nurse under the supervision of a

9 licensed medical doctor or osteopathic physician,

10 (7) a scientific investigator, or

11 (8) any other person,

12 licensed, registered or otherwise permitted to

13 prescribe, distribute, dispense, conduct research with

14 respect to, use for scientific purposes or administer

15 a controlled dangerous substance in the course of

16 professional practice or research in this state, or

17 b. a pharmacy, hospital, laboratory or other institution

18 licensed, registered or otherwise permitted to

19 distribute, dispense, conduct research with respect

20 to, use for scientific purposes or administer a

21 controlled dangerous substance in the course of

22 professional practice or research in this state;

23

24

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

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

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

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

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

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

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

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

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

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

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

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

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

23 b. The designation of gamma butyrolactone or any other
24 chemical as a precursor, pursuant to Section 2-322 of

1 this title, does not preclude a finding pursuant to
2 subparagraph a of this paragraph that the chemical is
3 a synthetic controlled substance.

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

5 (1) a controlled dangerous substance,

6 (2) any substance for which there is an approved new
7 drug application,

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

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

19 d. Prima facie evidence that a substance containing
20 salvia divinorum has been enhanced, concentrated or
21 chemically or physically altered shall give rise to a
22 rebuttable presumption that the substance is a
23 synthetic controlled substance;
24

1 38. "Tetrahydrocannabinols" means all substances that have been
2 chemically synthesized to emulate the tetrahydrocannabinols of
3 marijuana, specifically including any tetrahydrocannabinols derived
4 from industrial hemp;

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

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

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

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

1 43. "Chronic pain" means pain that persists beyond the usual
2 course of an acute disease or healing of an injury. ~~"Chronic pain"~~
3 Chronic 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. "Initial prescription" means a prescription issued to a
7 patient who:

- 8 a. has never previously been issued a prescription for
9 the drug or its pharmaceutical equivalent in the past
10 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. "Patient-provider agreement" means a written contract or
21 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. "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"~~ Serious illness
10 includes, but is not limited to, Alzheimer's disease or related
11 dementias, lung disease, cancer, heart failure, renal failure, liver
12 failure or chronic, unremitting or intractable pain such as
13 neuropathic pain; ~~and~~

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

1 48. "Straw person" or "straw party" also known as a "front"
2 means a third party who:

- 3 a. is put up in name only to take part in a transaction
4 or otherwise is a nominal party to a transaction,
5 b. acts on behalf of another person to obtain title to
6 property and executes documents and instruments the
7 principal may direct respecting property, or
8 c. purchases property for another for the purpose of
9 concealing the identity of the real purchaser or to
10 accomplish some purpose otherwise in violation of
11 Oklahoma Statutes.

12 SECTION 2. AMENDATORY 63 O.S. 2021, Section 2-406, is
13 amended to read as follows:

14 Section 2-406. A. It shall be unlawful for any registrant
15 knowingly or intentionally:

16 1. To distribute, other than by dispensing or as otherwise
17 authorized by ~~this act~~ the Uniform Controlled Dangerous Substances
18 Act, a controlled dangerous substance classified in Schedules I or
19 II, in the course of his or her legitimate business, except pursuant
20 to an order form as required by Section 2-308 of this title;

21 2. To use in the course of the manufacture or distribution of a
22 controlled dangerous substance a registration number which is
23 fictitious, revoked, suspended or issued to another person;

1 3. To acquire or obtain possession of a controlled dangerous
2 substance by misrepresentation, fraud, forgery, deception or
3 subterfuge;

4 4. To furnish false or fraudulent material information in, or
5 omit any material information from, any application, report, or
6 other document required to be kept or filed under ~~this act~~ the
7 Uniform Controlled Dangerous Substances Act, or any record required
8 to be kept by ~~this act~~ the Uniform Controlled Dangerous Substances
9 Act; and

10 5. To make, distribute, or possess any punch, die, plate,
11 stone, or other thing designed to print, imprint, or reproduce the
12 trademark, trade name, or other identifying mark, imprint, or device
13 of another or any likeness of any of the foregoing upon any drug or
14 container or labeling thereof so as to render such drug a
15 counterfeit controlled dangerous substance; and

16 6. To purchase, or attempt, endeavor, or conspire to obtain or
17 purchase, any license or registration required to distribute,
18 possess, prescribe, or manufacture any controlled dangerous
19 substance on behalf of, or at the request or demand of, any other
20 person through the use of a straw person or straw party.

21 B. Any person who violates this section is guilty of a felony
22 punishable by imprisonment for not more than twenty (20) years or a
23 fine of not more than Two Hundred Fifty Thousand Dollars
24 (\$250,000.00), or both.

1 C. Any person convicted of a second or subsequent violation of
2 this section is punishable by a term of imprisonment twice that
3 otherwise authorized and by twice the fine otherwise authorized.
4 Convictions for second or subsequent violations of this section
5 shall not be subject to statutory provisions for suspended
6 sentences, deferred sentences, or probation.

7 D. Any person convicted of any offense described in this
8 section shall, in addition to any fine imposed, pay a special
9 assessment trauma-care fee of One Hundred Dollars (\$100.00) to be
10 deposited into the Trauma Care Assistance Revolving Fund created in
11 Section ~~1-2522~~ 1-2530.9 of this title.

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

16 Passed the Senate the 25th day of April, 2023.

17
18 _____
19 Presiding Officer of the Senate

20 Passed the House of Representatives the ____ day of _____,
21 2023.

22
23 _____
24 Presiding Officer of the House
of Representatives

1 ENGROSSED HOUSE
2 BILL NO. 2281

By: Echols of the House

3 and

4 Paxton of the Senate

5
6
7 An Act relating to public health and safety; amending
8 63 O.S. 2021, Section 2-101, as amended by Section 4,
9 Chapter 265, O.S.L. 2022 (63 O.S. Supp. 2022, Section
10 2-101), which relates to the Uniform Controlled
11 Dangerous Substances Act; adding definition; amending
12 63 O.S. 2021, Section 2-406, which relates to
13 penalties for violating the Uniform Controlled
14 Dangerous Substances Act; making certain acts
15 unlawful; and declaring an emergency.

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

17 SECTION 4. AMENDATORY 63 O.S. 2021, Section 2-101, as
18 amended by Section 4, Chapter 265, O.S.L. 2022 (63 O.S. Supp. 2022,
19 Section 2-101), is amended to read as follows:

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

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

1 a. a practitioner (or, in the presence of the
2 practitioner, by the authorized agent of the
3 practitioner), or

4 b. the patient or research subject at the direction and
5 in the presence of the practitioner;

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

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

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

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

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

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

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

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

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

21 11. "Dispense" means to deliver a controlled dangerous
22 substance to an ultimate user or human research subject by or
23 pursuant to the lawful order of a practitioner, including the
24 prescribing, administering, packaging, labeling or compounding

1 necessary to prepare the substance for such distribution.

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

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

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

11 14. "Drug" means articles:

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

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

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

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

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

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

9 16. "Home care agency" means any sole proprietorship,
10 partnership, association, corporation, or other organization which
11 administers, offers, or provides home care services, for a fee or
12 pursuant to a contract for such services, to clients in their place
13 of residence;

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

16 18. "Hospice" means a centrally administered, nonprofit or for-
17 profit, medically directed, nurse-coordinated program which provides
18 a continuum of home and inpatient care for the terminally ill
19 patient and the patient's family. Such term shall also include a
20 centrally administered, nonprofit or for-profit, medically directed,
21 nurse-coordinated program if such program is licensed pursuant to
22 the provisions of the Uniform Controlled Dangerous Substances Act.
23 A hospice program offers palliative and supportive care to meet the
24 special needs arising out of the physical, emotional and spiritual

1 stresses which are experienced during the final stages of illness
2 and during dying and bereavement. This care is available twenty-
3 four (24) hours a day, seven (7) days a week, and is provided on the
4 basis of need, regardless of ability to pay. "Class A" Hospice
5 refers to Medicare-certified hospices. "Class B" refers to all
6 other providers of hospice services;

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

- 18 a. statements made by an owner or by any other person in
19 control of the substance concerning the nature of the
20 substance, or its use or effect,
- 21 b. statements made to the recipient that the substance
22 may be resold for inordinate profit,
- 23 c. whether the substance is packaged in a manner normally
24 used for illicit controlled substances,

- 1 d. evasive tactics or actions utilized by the owner or
2 person in control of the substance to avoid detection
3 by law enforcement authorities,
4 e. prior convictions, if any, of an owner, or any other
5 person in control of the object, under state or
6 federal law related to controlled substances or fraud,
7 and
8 f. the proximity of the substances to controlled
9 dangerous substances;

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

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

20 22. "Manufacture" means the production, preparation,
21 propagation, compounding or processing of a controlled dangerous
22 substance, either directly or indirectly by extraction from
23 substances of natural or synthetic origin, or independently by means
24 of chemical synthesis or by a combination of extraction and chemical

1 synthesis. "Manufacturer" includes any person who packages,
2 repackages or labels any container of any controlled dangerous
3 substance, except practitioners who dispense or compound
4 prescription orders for delivery to the ultimate consumer;

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

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

1 Food and Drug Administration for use by those
2 participants,

3 f. for any person or the parents, legal guardians or
4 caretakers of the person who have received a written
5 certification from a physician licensed in this state
6 that the person has been diagnosed by a physician as
7 having Lennox-Gastaut syndrome, Dravet syndrome, also
8 known as severe myoclonic epilepsy of infancy, or any
9 other severe form of epilepsy that is not adequately
10 treated by traditional medical therapies, spasticity
11 due to multiple sclerosis or due to paraplegia,
12 intractable nausea and vomiting, appetite stimulation
13 with chronic wasting diseases, the substance
14 cannabidiol, a nonpsychoactive cannabinoid, found in
15 the plant Cannabis sativa L. or any other preparation
16 thereof, that has a tetrahydrocannabinol concentration
17 of not more than three-tenths of one percent (0.3%)
18 and that is delivered to the patient in the form of a
19 liquid,

20 g. any federal Food-and-Drug-Administration-approved drug
21 or substance, or

22 h. industrial hemp, from the plant Cannabis sativa L. and
23 any part of such plant, whether growing or not, with a
24 delta-9 tetrahydrocannabinol concentration of not more

1 than three-tenths of one percent (0.3%) on a dry-
2 weight basis which shall only be grown pursuant to the
3 Oklahoma Industrial Hemp Program and may be shipped
4 intrastate and interstate;

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

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

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

23 a. opium, coca leaves and opiates,
24

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

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

1 28. "Opium poppy" means the plant of the species Papaver
2 somniferum L., except the seeds thereof;

3 29. "Peace officer" means a police officer, sheriff, deputy
4 sheriff, district attorney's investigator, investigator from the
5 Office of the Attorney General, or any other person elected or
6 appointed by law to enforce any of the criminal laws of this state
7 or of the United States;

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

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

13 32. "Practitioner" means:

- 14 a. (1) a medical doctor or osteopathic physician,
15 (2) a dentist,
16 (3) a podiatrist,
17 (4) an optometrist,
18 (5) a veterinarian,
19 (6) a physician assistant or Advanced Practice
20 Registered Nurse under the supervision of a
21 licensed medical doctor or osteopathic physician,
22 (7) a scientific investigator, or
23 (8) any other person,
24

1 licensed, registered or otherwise permitted to
2 prescribe, distribute, dispense, conduct research with
3 respect to, use for scientific purposes or administer
4 a controlled dangerous substance in the course of
5 professional practice or research in this state, or

6 b. a pharmacy, hospital, laboratory or other institution
7 licensed, registered or otherwise permitted to
8 distribute, dispense, conduct research with respect
9 to, use for scientific purposes or administer a
10 controlled dangerous substance in the course of
11 professional practice or research in this state;

12 33. "Production" includes the manufacture, planting,
13 cultivation, growing or harvesting of a controlled dangerous
14 substance;

15 34. "State" means the State of Oklahoma or any other state of
16 the United States;

17 35. "Ultimate user" means a person who lawfully possesses a
18 controlled dangerous substance for the person's own use or for the
19 use of a member of the person's household or for administration to
20 an animal owned by the person or by a member of the person's
21 household;

22 36. "Drug paraphernalia" means all equipment, products and
23 materials of any kind which are used, intended for use, or fashioned
24 specifically for use in planting, propagating, cultivating, growing,

1 harvesting, manufacturing, compounding, converting, producing,
2 processing, preparing, testing, analyzing, packaging, repackaging,
3 storing, containing, concealing, injecting, ingesting, inhaling or
4 otherwise introducing into the human body, a controlled dangerous
5 substance in violation of the Uniform Controlled Dangerous
6 Substances Act including, but not limited to:

- 7 a. kits used, intended for use, or fashioned specifically
8 for use in planting, propagating, cultivating, growing
9 or harvesting of any species of plant which is a
10 controlled dangerous substance or from which a
11 controlled dangerous substance can be derived,
- 12 b. kits used, intended for use, or fashioned specifically
13 for use in manufacturing, compounding, converting,
14 producing, processing or preparing controlled
15 dangerous substances,
- 16 c. isomerization devices used, intended for use, or
17 fashioned specifically for use in increasing the
18 potency of any species of plant which is a controlled
19 dangerous substance,
- 20 d. testing equipment used, intended for use, or fashioned
21 specifically for use in identifying, or in analyzing
22 the strength, effectiveness or purity of controlled
23 dangerous substances,

24

- 1 e. scales and balances used, intended for use, or
2 fashioned specifically for use in weighing or
3 measuring controlled dangerous substances,
4 f. diluents and adulterants, such as quinine
5 hydrochloride, mannitol, mannite, dextrose and
6 lactose, used, intended for use, or fashioned
7 specifically for use in cutting controlled dangerous
8 substances,
9 g. separation gins and sifters used, intended for use, or
10 fashioned specifically for use in removing twigs and
11 seeds from, or in otherwise cleaning or refining,
12 marijuana,
13 h. blenders, bowls, containers, spoons and mixing devices
14 used, intended for use, or fashioned specifically for
15 use in compounding controlled dangerous substances,
16 i. capsules, balloons, envelopes and other containers
17 used, intended for use, or fashioned specifically for
18 use in packaging small quantities of controlled
19 dangerous substances,
20 j. containers and other objects used, intended for use,
21 or fashioned specifically for use in parenterally
22 injecting controlled dangerous substances into the
23 human body,
24

- 1 k. hypodermic syringes, needles and other objects used,
2 intended for use, or fashioned specifically for use in
3 parenterally injecting controlled dangerous substances
4 into the human body,
- 5 l. objects used, intended for use, or fashioned
6 specifically for use in ingesting, inhaling or
7 otherwise introducing marijuana, cocaine, hashish or
8 hashish oil into the human body, such as:
- 9 (1) metal, wooden, acrylic, glass, stone, plastic or
10 ceramic pipes with or without screens, permanent
11 screens, hashish heads or punctured metal bowls,
 - 12 (2) water pipes,
 - 13 (3) carburetion tubes and devices,
 - 14 (4) smoking and carburetion masks,
 - 15 (5) roach clips, meaning objects used to hold burning
16 material, such as a marijuana cigarette, that has
17 become too small or too short to be held in the
18 hand,
 - 19 (6) miniature cocaine spoons and cocaine vials,
 - 20 (7) chamber pipes,
 - 21 (8) carburetor pipes,
 - 22 (9) electric pipes,
 - 23 (10) air-driven pipes,
 - 24 (11) chillums,

1 (12) bong, or

2 (13) ice pipes or chillers,

3 m. all hidden or novelty pipes, and

4 n. any pipe that has a tobacco bowl or chamber of less
5 than one-half (1/2) inch in diameter in which there is
6 any detectable residue of any controlled dangerous
7 substance as defined in this section or any other
8 substances not legal for possession or use;

9 provided, however, the term "drug paraphernalia" shall not include
10 separation gins intended for use in preparing tea or spice, clamps
11 used for constructing electrical equipment, water pipes designed for
12 ornamentation in which no detectable amount of an illegal substance
13 is found or pipes designed and used solely for smoking tobacco,
14 traditional pipes of an American Indian tribal religious ceremony,
15 or antique pipes that are thirty (30) years of age or older;

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

17 (1) the chemical structure of which is substantially
18 similar to the chemical structure of a controlled
19 dangerous substance in Schedule I or II,

20 (2) which has a stimulant, depressant, or
21 hallucinogenic effect on the central nervous
22 system that is substantially similar to or
23 greater than the stimulant, depressant or
24 hallucinogenic effect on the central nervous

1 system of a controlled dangerous substance in
2 Schedule I or II, or

3 (3) with respect to a particular person, which such
4 person represents or intends to have a stimulant,
5 depressant, or hallucinogenic effect on the
6 central nervous system that is substantially
7 similar to or greater than the stimulant,
8 depressant, or hallucinogenic effect on the
9 central nervous system of a controlled dangerous
10 substance in Schedule I or II.

11 b. The designation of gamma butyrolactone or any other
12 chemical as a precursor, pursuant to Section 2-322 of
13 this title, does not preclude a finding pursuant to
14 subparagraph a of this paragraph that the chemical is
15 a synthetic controlled substance.

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

17 (1) a controlled dangerous substance,
18 (2) any substance for which there is an approved new
19 drug application,
20 (3) with respect to a particular person any
21 substance, if an exemption is in effect for
22 investigational use, for that person under the
23 provisions of Section 505 of the Federal Food,
24 Drug and Cosmetic Act, Title 21 of the United

1 States Code, Section 355, to the extent conduct
2 with respect to such substance is pursuant to
3 such exemption, or

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

7 d. Prima facie evidence that a substance containing
8 salvia divinorum has been enhanced, concentrated or
9 chemically or physically altered shall give rise to a
10 rebuttable presumption that the substance is a
11 synthetic controlled substance;

12 38. "Tetrahydrocannabinols" means all substances that have been
13 chemically synthesized to emulate the tetrahydrocannabinols of
14 marijuana, specifically including any tetrahydrocannabinols derived
15 from industrial hemp;

16 39. "Isomer" means the optical isomer, except as used in
17 subsections C and F of Section 2-204 of this title and paragraph 4
18 of subsection A of Section 2-206 of this title. As used in
19 subsections C and F of Section 2-204 of this title, "isomer" means
20 the optical, positional or geometric isomer. As used in paragraph 4
21 of subsection A of Section 2-206 of this title, the term "isomer"
22 means the optical or geometric isomer;

23 40. "Hazardous materials" means materials, whether solid,
24 liquid or gas, which are toxic to human, animal, aquatic or plant

1 life, and the disposal of which materials is controlled by state or
2 federal guidelines;

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

5 42. "Acute pain" means pain, whether resulting from disease,
6 accidental or intentional trauma or other cause, that the
7 practitioner reasonably expects to last only a short period of time.
8 "Acute pain" does not include chronic pain, pain being treated as
9 part of cancer care, hospice or other end-of-life care, or pain
10 being treated as part of palliative care;

11 43. "Chronic pain" means pain that persists beyond the usual
12 course of an acute disease or healing of an injury. "Chronic pain"
13 may or may not be associated with an acute or chronic pathologic
14 process that causes continuous or intermittent pain over months or
15 years;

16 44. "Initial prescription" means a prescription issued to a
17 patient who:

18 a. has never previously been issued a prescription for
19 the drug or its pharmaceutical equivalent in the past
20 year, or

21 b. requires a prescription for the drug or its
22 pharmaceutical equivalent due to a surgical procedure
23 or new acute event and has previously had a
24

1 prescription for the drug or its pharmaceutical
2 equivalent within the past year.

3 When determining whether a patient was previously issued a
4 prescription for a drug or its pharmaceutical equivalent, the
5 practitioner shall consult with the patient and review the medical
6 record and prescription monitoring information of the patient;

7 45. "Patient-provider agreement" means a written contract or
8 agreement that is executed between a practitioner and a patient,
9 prior to the commencement of treatment for chronic pain using an
10 opioid drug as a means to:

- 11 a. explain the possible risk of development of physical
12 or psychological dependence in the patient and prevent
13 the possible development of addiction,
- 14 b. document the understanding of both the practitioner
15 and the patient regarding the patient-provider
16 agreement of the patient,
- 17 c. establish the rights of the patient in association
18 with treatment and the obligations of the patient in
19 relation to the responsible use, discontinuation of
20 use, and storage of opioid drugs, including any
21 restrictions on the refill of prescriptions or the
22 acceptance of opioid prescriptions from practitioners,
- 23 d. identify the specific medications and other modes of
24 treatment, including physical therapy or exercise,

1 relaxation or psychological counseling, that are
2 included as a part of the patient-provider agreement,
3 e. specify the measures the practitioner may employ to
4 monitor the compliance of the patient including, but
5 not limited to, random specimen screens and pill
6 counts, and
7 f. delineate the process for terminating the agreement,
8 including the consequences if the practitioner has
9 reason to believe that the patient is not complying
10 with the terms of the agreement. Compliance with the
11 "consent items" shall constitute a valid, informed
12 consent for opioid therapy. The practitioner shall be
13 held harmless from civil litigation for failure to
14 treat pain if the event occurs because of nonadherence
15 by the patient with any of the provisions of the
16 patient-provider agreement;

17 46. "Serious illness" means a medical illness or physical
18 injury or condition that substantially affects quality of life for
19 more than a short period of time. "Serious illness" includes, but
20 is not limited to, Alzheimer's disease or related dementias, lung
21 disease, cancer, heart failure, renal failure, liver failure or
22 chronic, unremitting or intractable pain such as neuropathic pain;
23 and
24

1 47. "Surgical procedure" means a procedure that is performed
2 for the purpose of structurally altering the human body by incision
3 or destruction of tissues as part of the practice of medicine. This
4 term includes the diagnostic or therapeutic treatment of conditions
5 or disease processes by use of instruments such as lasers,
6 ultrasound, ionizing, radiation, scalpels, probes or needles that
7 cause localized alteration or transportation of live human tissue by
8 cutting, burning, vaporizing, freezing, suturing, probing or
9 manipulating by closed reduction for major dislocations or
10 fractures, or otherwise altering by any mechanical, thermal, light-
11 based, electromagnetic or chemical means; and

12 48. "Straw person" or "straw party" also known as a "front"
13 means a third party who is put up in name only to take part in a
14 transaction or is a nominal party to a transaction. The term also
15 means one who acts as an agent for another for the purpose of taking
16 title to property and executing whatever documents and instruments
17 the principal may direct respecting the property. A person who
18 purchases property for another to conceal the identity of the real
19 purchaser or to accomplish some purpose otherwise not allowed is
20 also known as a "straw person" or "straw party".

21 SECTION 5. AMENDATORY 63 O.S. 2021, Section 2-406, is
22 amended to read as follows:

23 Section 2-406. A. It shall be unlawful for any registrant
24 knowingly or intentionally:

1 1. To distribute, other than by dispensing or as otherwise
2 authorized by this act, a controlled dangerous substance classified
3 in Schedules I or II, in the course of his or her legitimate
4 business, except pursuant to an order form as required by Section 2-
5 308 of this title;

6 2. To use in the course of the manufacture or distribution of a
7 controlled dangerous substance a registration number which is
8 fictitious, revoked, suspended or issued to another person;

9 3. To acquire or obtain possession of a controlled dangerous
10 substance by misrepresentation, fraud, forgery, deception or
11 subterfuge;

12 4. To furnish false or fraudulent material information in, or
13 omit any material information from, any application, report, or
14 other document required to be kept or filed under this act, or any
15 record required to be kept by this act; ~~and~~

16 5. To make, distribute, or possess any punch, die, plate,
17 stone, or other thing designed to print, imprint, or reproduce the
18 trademark, trade name, or other identifying mark, imprint, or device
19 of another or any likeness of any of the foregoing upon any drug or
20 container or labeling thereof so as to render such drug a
21 counterfeit controlled dangerous substance; and

22 6. To purchase, or attempt, endeavor, or conspire to obtain or
23 purchase, any license or registration required to distribute,
24 possess, prescribe, or manufacture any controlled dangerous

1 substance on behalf of, or at the request or demand of, any other
2 person through the use of a straw person or straw party.

3 B. Any person who violates this section is guilty of a felony
4 punishable by imprisonment for not more than twenty (20) years or a
5 fine of not more than Two Hundred Fifty Thousand Dollars
6 (\$250,000.00), or both.

7 C. Any person convicted of a second or subsequent violation of
8 this section is punishable by a term of imprisonment twice that
9 otherwise authorized and by twice the fine otherwise authorized.
10 Convictions for second or subsequent violations of this section
11 shall not be subject to statutory provisions for suspended
12 sentences, deferred sentences, or probation.

13 D. Any person convicted of any offense described in this
14 section shall, in addition to any fine imposed, pay a special
15 assessment trauma-care fee of One Hundred Dollars (\$100.00) to be
16 deposited into the Trauma Care Assistance Revolving Fund created in
17 Section ~~1-2522~~ 1-2530.9 of this title.

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

22
23
24

1 Passed the House of Representatives the 21st day of March, 2023.

2
3 _____
4 Presiding Officer of the House
5 of Representatives

6 Passed the Senate the ____ day of _____, 2023.

7
8 _____
9 Presiding Officer of the Senate