

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 475 By: Paxton of the Senate
3 and
4 Echols of the House
5
6

7 An Act relating to the Uniform Controlled Dangerous
8 Substances Act; amending 63 O.S. 2021, Section 2-101,
9 as amended by Section 4, Chapter 265, O.S.L. 2022 (63
10 O.S. Supp. 2022, Section 2-101), which relates to
11 definitions; defining certain term; amending 63 O.S.
12 2021, Section 2-110, which relates to attorneys;
13 requiring certain attorneys to assist Attorney
14 General for specified purposes; amending 63 O.S.
15 2021, Section 2-304, which relates to denial,
16 revocation, or suspension of registration;
17 authorizing certain action; modifying certain
18 registration suspension and revocation guidelines;
19 removing certain administrative penalty
20 authorization; amending 63 O.S. 2021, Section 2-305,
21 which relates to the order to show cause; removing
22 certain order servicing guidelines; requiring certain
23 servicing guidelines; removing certain suspension
24 guidelines; requiring certain written order
guidelines; requiring certain final order guidelines;
requiring certain administrative proceedings
guidelines; permitting certain delegation authority;
prohibiting certain delegation authority; requiring
certain proceedings guidelines; creating certain
suspension exception; permitting certain authority to
administrative hearing officers; permitting certain
suspensions; permitting certain assessed penalties;
requiring certain hearing guideline; authorizing
certain assessed penalties; prohibiting certain
assessed fees; requiring certain seizures; requiring
certain sample retention; authorizing certain fines;
permitting the Director of the Oklahoma State Bureau
of Narcotics and Dangerous Drugs Control to prohibit
certain reapplication; requiring certain exemption;
amending 63 O.S. 2021, Section 2-322, which relates
to precursor substances requiring permit or license;

1 removing certain statutory reference; amending 63
2 O.S. 2021, Section 2-325, which relates to denial,
3 revocation, or suspension of registration; modifying
4 certain requirement; requiring certain registration
5 guideline; amending 63 O.S. 2021, Section 2-406,
6 which relates to penalties; adding certain unlawful
7 act; updating statutory references; updating
8 statutory language; and declaring an emergency.

9 AUTHOR: Add the following House Coauthors: McDugle and Lepak

10 AMENDMENT NO. 1. Strike the title, enacting clause, and entire bill
11 and insert:

12
13 "An Act relating to the Uniform Controlled Dangerous
14 Substances Act; amending 63 O.S. 2021, Section 2-101,
15 as amended by Section 4, Chapter 265, O.S.L. 2022 (63
16 O.S. Supp. 2022, Section 2-101), which relates to
17 definitions; defining certain term; amending 63 O.S.
18 2021, Section 2-110, which relates to attorneys;
19 requiring certain attorneys to assist Attorney
20 General for specified purposes; amending 63 O.S.
21 2021, Section 2-304, which relates to denial,
22 revocation, or suspension of registration;
23 authorizing certain action; modifying registration
24 suspension and revocation guidelines; removing
administrative penalty authorization; amending 63
O.S. 2021, Section 2-305, which relates to the order
to show cause; removing certain order servicing
guidelines; requiring certain servicing guidelines;
removing certain suspension guidelines; requiring
certain written order guidelines; requiring certain
final order guidelines; requiring certain
administrative proceedings guidelines; permitting
certain delegation authority; prohibiting certain
delegation authority; requiring certain proceedings
guidelines; creating certain suspension exception;

1 permitting certain authority to administrative
2 hearing officers; permitting certain suspensions;
3 permitting certain assessed penalties; requiring
4 certain hearing guideline; authorizing certain
5 assessed penalties; prohibiting certain assessed
6 fees; requiring certain seizures; requiring certain
7 sample retention; authorizing certain fines;
8 permitting the Director of the Oklahoma State Bureau
9 of Narcotics and Dangerous Drugs Control to prohibit
10 certain reapplication; requiring certain exemption;
11 amending 63 O.S. 2021, Section 2-322, which relates
12 to precursor substances requiring permit or license;
13 removing certain statutory reference; amending 63
14 O.S. 2021, Section 2-325, which relates to denial,
15 revocation, or suspension of registration; modifying
16 certain requirement; requiring certain registration
17 guideline; amending 63 O.S. 2021, Section 2-406,
18 which relates to penalties; updating statutory
19 references; and declaring an emergency.

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

SECTION 1. AMENDATORY 63 O.S. 2021, Section 2-101, as
amended by Section 4, Chapter 265, O.S.L. 2022 (63 O.S. Supp. 2022,
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
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 warehouser 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~~ drug" does not include devices or
24 their 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"~~ imitation
14 controlled substance, the court or authority concerned should
15 consider, in addition to all other factors, the following factors as
16 related to "representations made" in determining whether the
17 substance is an ~~"imitation controlled substance"~~ imitation
18 controlled substance:

- 19 a. statements made by an owner or by any other person in
20 control of the substance concerning the nature of the
21 substance, or its use or effect,
22 b. statements made to the recipient that the substance
23 may be resold for inordinate profit,
24

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

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

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

22 22. "Manufacture" means the production, preparation,
23 propagation, compounding or processing of a controlled dangerous
24 substance, either directly or indirectly by extraction from

1 substances of natural or synthetic origin, or independently by means
2 of chemical synthesis or by a combination of extraction and chemical
3 synthesis. "Manufacturer" includes any person who packages,
4 repackages or labels any container of any controlled dangerous
5 substance, except practitioners who dispense or compound
6 prescription orders for delivery to the ultimate consumer;

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

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

1 forms of epilepsy pursuant to Section 2-802 of this
2 title, a drug or substance approved by the federal
3 Food and Drug Administration for use by those
4 participants,

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

1 h. industrial hemp, from the plant Cannabis sativa L. and
2 any part of such plant, whether growing or not, with a
3 delta-9 tetrahydrocannabinol concentration ~~of~~ not more
4 than three-tenths of one percent (0.3%) on a dry-
5 weight basis which shall only be grown pursuant to the
6 Oklahoma Industrial Hemp Program and may be shipped
7 intrastate and interstate;

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

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

22 26. "Narcotic drug" means any of the following, whether
23 produced directly or indirectly by extraction from substances of
24

1 vegetable origin, or independently by means of chemical synthesis,
2 or by a combination of extraction and chemical synthesis:

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

19 27. "Opiate" or "opioid" means any Schedule II, III, IV or V
20 substance having an addiction-forming or addiction-sustaining
21 liability similar to morphine or being capable of conversion into a
22 drug having such addiction-forming or addiction-sustaining
23 liability. The terms do not include, unless specifically designated
24 as controlled under the Uniform Controlled Dangerous Substances Act,

1 the dextrorotatory isomer of 3-methoxy-n-methyl-morphinan and its
2 salts (dextromethorphan). The terms do include the racemic and
3 levorotatory forms;

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

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

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

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

16 32. "Practitioner" means:

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

1 (7) a scientific investigator, or

2 (8) any other person,

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

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

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

17 34. "State" means the State of Oklahoma or any other state of
18 the United States;

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

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

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

1 the strength, effectiveness or purity of controlled
2 dangerous substances,

3 e. scales and balances used, intended for use, or
4 fashioned specifically for use in weighing or
5 measuring controlled dangerous substances,

6 f. diluents and adulterants, such as quinine
7 hydrochloride, mannitol, mannite, dextrose and
8 lactose, used, intended for use, or fashioned
9 specifically for use in cutting controlled dangerous
10 substances,

11 g. separation gins and sifters used, intended for use, or
12 fashioned specifically for use in removing twigs and
13 seeds from, or in otherwise cleaning or refining,
14 marijuana,

15 h. blenders, bowls, containers, spoons and mixing devices
16 used, intended for use, or fashioned specifically for
17 use in compounding controlled dangerous substances,

18 i. capsules, balloons, envelopes and other containers
19 used, intended for use, or fashioned specifically for
20 use in packaging small quantities of controlled
21 dangerous substances,

22 j. containers and other objects used, intended for use,
23 or fashioned specifically for use in parenterally
24

1 injecting controlled dangerous substances into the
2 human body,

3 k. hypodermic syringes, needles and other objects used,
4 intended for use, or fashioned specifically for use in
5 parenterally injecting controlled dangerous substances
6 into the human body,

7 l. objects used, intended for use, or fashioned
8 specifically for use in ingesting, inhaling or
9 otherwise introducing marijuana, cocaine, hashish or
10 hashish oil into the human body, such as:

11 (1) metal, wooden, acrylic, glass, stone, plastic or
12 ceramic pipes with or without screens, permanent
13 screens, hashish heads or punctured metal bowls,

14 (2) water pipes,

15 (3) carburetion tubes and devices,

16 (4) smoking and carburetion masks,

17 (5) roach clips, meaning objects used to hold burning
18 material, such as a marijuana cigarette, that has
19 become too small or too short to be held in the
20 hand,

21 (6) miniature cocaine spoons and cocaine vials,

22 (7) chamber pipes,

23 (8) carburetor pipes,

24 (9) electric pipes,

1 (10) air-driven pipes,

2 (11) chillums,

3 (12) bonges, or

4 (13) ice pipes or chillers,

5 m. all hidden or novelty pipes, and

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

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

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

- 20 (1) the chemical structure of which is substantially
21 similar to the chemical structure of a controlled
22 dangerous substance in Schedule I or II,
23 (2) which has a stimulant, depressant, or
24 hallucinogenic effect on the central nervous

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

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

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

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

20 (1) a controlled dangerous substance,

21 (2) any substance for which there is an approved new
22 drug application,

23 (3) with respect to a particular person any

24 substance, if an exemption is in effect for

1 investigational use, for that person under the
2 provisions of Section 505 of the Federal Food,
3 Drug and Cosmetic Act, Title 21 of the United
4 States Code, Section 355, to the extent conduct
5 with respect to such substance is pursuant to
6 such exemption, or

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

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

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

19 39. "Isomer" means the optical isomer, except as used in
20 subsections C and F of Section 2-204 of this title and paragraph 4
21 of subsection A of Section 2-206 of this title. As used in
22 subsections C and F of Section 2-204 of this title, "~~isomer~~" isomer
23 means the optical, positional or geometric isomer. As used in
24

1 paragraph 4 of subsection A of Section 2-206 of this title, the term
2 ~~"isomer"~~ isomer means the optical or geometric isomer;

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

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

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

12 ~~"Acute pain"~~ Acute pain does not include chronic pain, pain being
13 treated as part of cancer care, hospice or other end-of-life care,
14 or pain being treated as part of palliative care;

15 43. "Chronic pain" means pain that persists beyond the usual
16 course of an acute disease or healing of an injury. ~~"Chronic pain"~~
17 Chronic pain may or may not be associated with an acute or chronic
18 pathologic process that causes continuous or intermittent pain over
19 months or years;

20 44. "Initial prescription" means a prescription issued to a
21 patient who:

22 a. has never previously been issued a prescription for
23 the drug or its pharmaceutical equivalent in the past
24 year, or

1 b. requires a prescription for the drug or its
2 pharmaceutical equivalent due to a surgical procedure
3 or new acute event and has previously had a
4 prescription for the drug or its pharmaceutical
5 equivalent within the past year.

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

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

- 14 a. explain the possible risk of development of physical
15 or psychological dependence in the patient and prevent
16 the possible development of addiction,
17 b. document the understanding of both the practitioner
18 and the patient regarding the patient-provider
19 agreement of the patient,
20 c. establish the rights of the patient in association
21 with treatment and the obligations of the patient in
22 relation to the responsible use, discontinuation of
23 use, and storage of opioid drugs, including any
24

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

21 46. "Serious illness" means a medical illness or physical
22 injury or condition that substantially affects quality of life for
23 more than a short period of time. ~~"Serious illness"~~ Serious illness
24 includes, but is not limited to, Alzheimer's disease or related

1 dementias, lung disease, cancer, heart failure, renal failure, liver
2 failure or chronic, unremitting or intractable pain such as
3 neuropathic pain; and

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

15 SECTION 2. AMENDATORY 63 O.S. 2021, Section 2-110, is
16 amended to read as follows:

17 Section 2-110. The Director of the Oklahoma State Bureau of
18 Narcotics and Dangerous Drugs Control may employ attorneys, who
19 shall be unclassified employees of the state, or contract with
20 attorneys, as needed. These attorneys may advise the Director, the
21 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control
22 Commission and Bureau personnel on all legal matters and shall
23 appear for and represent the Director, the Commission and Bureau
24 personnel in all administrative hearings and all litigation or other

1 proceedings which may arise in the discharge of their duties. At
2 the request of the Oklahoma State Bureau of Narcotics and Dangerous
3 Drugs Control Commission, such attorney shall assist the district
4 attorney or the Attorney General in prosecuting charges of violators
5 of the Uniform Controlled Dangerous Substances Act or any felony
6 relating to or arising from a violation of the Uniform Controlled
7 Dangerous Substances Act. Attorneys for the Bureau who have been
8 certified by the Council on Law Enforcement Education and Training
9 to carry a weapon or have been issued a handgun license pursuant to
10 the provisions of the Oklahoma Self-Defense Act shall be allowed to
11 carry weapons pursuant to paragraph 3 of subsection A of Section
12 1272 of Title 21 of the Oklahoma Statutes. These attorneys,
13 pursuant to this provision, shall not be considered eligible to
14 participate in the Oklahoma Law Enforcement Retirement System. If a
15 conflict of interest would be created by such attorney representing
16 the Director, the Commission or Bureau personnel, additional counsel
17 may be hired upon approval of the Oklahoma State Bureau of Narcotics
18 and Dangerous Drugs Control Commission.

19 SECTION 3. AMENDATORY 63 O.S. 2021, Section 2-304, is
20 amended to read as follows:

21 Section 2-304. A. A registration, pursuant to Section 2-303 of
22 this title, to manufacture, distribute, dispense, prescribe,
23 administer or use for scientific purposes a controlled dangerous
24 substance shall be limited, conditioned, denied, suspended, and

1 annulled, or revoked by the Director of the Oklahoma State Bureau of
2 Narcotics and Dangerous Drugs Control upon a finding that the
3 registrant:

4 1. Has materially falsified any application filed pursuant to
5 the Uniform Controlled Dangerous Substances Act or required by the
6 Uniform Controlled Dangerous Substances Act. It shall be unlawful
7 to knowingly and willfully:

8 a. make false statements, include false data or omit
9 material information on an application for a
10 registration with the Oklahoma State Bureau of
11 Narcotics and Dangerous Drugs Control, or

12 b. provide false data or omit material information in any
13 records or reports required by rule or law to be
14 created, maintained or submitted to the Bureau.

15 Any registrant or applicant for a registration or any official,
16 agent or employee of any registrant or applicant for a registration
17 who violates the provisions of this paragraph shall be guilty of a
18 misdemeanor and additionally subject to administrative action;

19 2. Has been found guilty of, entered a plea of guilty or
20 entered a plea of nolo contendere to a misdemeanor relating to any
21 substance defined herein as a controlled dangerous substance or any
22 felony under the laws of any state or the United States;

23 3. Has had his or her federal registration retired, suspended
24 or revoked by a competent federal authority and is no longer

1 authorized by federal law to manufacture, distribute, dispense,
2 prescribe, administer or use for scientific purposes controlled
3 dangerous substances;

4 4. Has failed to maintain effective controls against the
5 diversion of controlled dangerous substances to unauthorized persons
6 or entities;

7 5. Has prescribed, dispensed or administered a controlled
8 dangerous substance from schedules other than those specified in his
9 or her state or federal registration;

10 6. Has had a restriction, suspension, revocation, limitation,
11 condition or probation placed on his or her professional license or
12 certificate or practice as a result of a proceeding pursuant to the
13 general statutes;

14 7. Is abusing or, within the past five (5) years, has abused or
15 excessively used drugs or controlled dangerous substances;

16 8. Has prescribed, sold, administered or ordered any controlled
17 substance for an immediate family member, himself or herself;
18 provided that this shall not apply to a medical emergency when no
19 other doctor is available to respond to the emergency;

20 9. Has possessed, used, prescribed, dispensed or administered
21 drugs or controlled dangerous substances for other than legitimate
22 medical or scientific purposes or for purposes outside the normal
23 course of his or her professional practice;

24

1 10. Has been under the influence of alcohol or another
2 intoxicating substance which adversely affected the central nervous
3 system, vision, hearing or other sensory or motor functioning to
4 such degree the person was impaired during the performance of his or
5 her job; or

6 11. Has violated any federal law relating to any controlled
7 substances, any provision of the Uniform Controlled Dangerous
8 Substances Act or any rules of the Oklahoma State Bureau of
9 Narcotics and Dangerous Drugs Control.

10 B. In the event the Director suspends or revokes a registration
11 granted under Section 2-303 of this title, all controlled dangerous
12 substances owned or possessed by the registrant pursuant to such
13 registration at the time of ~~denial~~ revocation or suspension or the
14 effective date of the revocation order, as the case may be, may in
15 the discretion of the Director be impounded and preserved. All
16 controlled dangerous substances not impounded or preserved by the
17 Director shall be maintained by the registrant. No disposition,
18 purchase, distribution, sale, or transfer may be made of substances
19 ~~impounded and preserved~~ until the time for taking an appeal has
20 elapsed or until all appeals have been concluded unless a court,
21 upon application therefor, orders the sale of perishable substances
22 and the deposit of the proceeds of the sale with the court. Upon a
23 revocation order becoming final, all such controlled dangerous
24 substances shall be forfeited to the state or otherwise considered

1 waste and submitted to a licensed waste disposal service for
2 destruction pursuant to Section 430 of this title.

3 C. The Drug Enforcement Administration shall promptly be
4 notified of all orders suspending or revoking registration and all
5 forfeitures of controlled dangerous substances.

6 ~~D. In lieu of or in addition to any other remedies available to~~
7 ~~the Director, if a finding is made that a registrant has committed~~
8 ~~any act in violation of federal law relating to any controlled~~
9 ~~substance, any provision of the Uniform Controlled Dangerous~~
10 ~~Substances Act or any rules of the Oklahoma State Bureau of~~
11 ~~Narcotics and Dangerous Drugs Control, the Director is hereby~~
12 ~~authorized to assess an administrative penalty not to exceed Two~~
13 ~~Thousand Dollars (\$2,000.00) for each such act. The provisions of~~
14 ~~this subsection shall not apply to violations of subsection C of~~
15 ~~Section 2-309D of this title. Nothing in this section shall be~~
16 ~~construed so as to permit the Director of the State Bureau of~~
17 ~~Narcotics and Dangerous Drugs Control to assess administrative fines~~
18 ~~for violations of the provisions of subsection C of Section 2-309D~~
19 ~~of this title.~~

20 SECTION 4. AMENDATORY 63 O.S. 2021, Section 2-305, is
21 amended to read as follows:

22 Section 2-305. A. ~~Before denying, suspending or revoking a~~
23 ~~registration, refusing a renewal of registration or taking~~
24 ~~administrative action on a nonregistrant engaged in manufacturing,~~

1 ~~distributing, dispensing, prescribing, administering or using for~~
2 ~~scientific purposes any controlled dangerous substance within or~~
3 ~~into this state, the Director shall serve upon the applicant or~~
4 ~~registrant an order to show cause why registration should not be~~
5 ~~denied, revoked or suspended or why the renewal should not be~~
6 ~~refused. The order to show cause shall contain a statement of the~~
7 ~~basis therefor and shall call upon the applicant or registrant to~~
8 ~~appear before the appropriate person or agency at a time and place~~
9 ~~within thirty (30) days after the date of service of the order, but~~
10 ~~in the case of a denial or renewal of registration the show cause~~
11 ~~order shall be served within thirty (30) days before the expiration~~
12 ~~of the registration. These proceedings shall be conducted in~~
13 ~~accordance with the Administrative Procedures Act without regard to~~
14 ~~any criminal prosecution or other proceeding. Proceedings to refuse~~
15 ~~renewal of registration shall not abate the existing registration~~
16 ~~which shall remain in effect pending the outcome of the~~
17 ~~administrative hearing~~ In addition to any other remedies provided
18 for by law, the Director shall issue a written order to be served on
19 the parties before annulling, conditioning, suspending or revoking
20 any registration that the Director has reason to believe is
21 operating inconsistent with any provision of Section 2-303 of this
22 title, pursuant to Section 2-304 of this title or otherwise where
23 there has been a violation of any federal law, any rule or
24 regulation of the Drug Enforcement Administration, any provision of

1 the Uniform Controlled Dangerous Substances Act, or any rules or
2 regulations of the Oklahoma State Bureau of Narcotics and Dangerous
3 Drugs Control.

4 B. ~~The Director shall suspend, without an order to show cause,~~
5 ~~any registration simultaneously with the institution of proceedings~~
6 ~~under Section 2-304 of this title, if he or she finds there is~~
7 ~~imminent danger to the public health or safety which warrants this~~
8 ~~action. The suspension shall continue in effect until the~~
9 ~~conclusion of the proceedings, including judicial review thereof,~~
10 ~~unless sooner withdrawn by the Director or dissolved by a court of~~
11 ~~competent jurisdiction~~ The written order shall state with
12 specificity the nature of the violation or basis for the action.
13 The Director may impose any disciplinary action authorized by the
14 Uniform Controlled Dangerous Substances Act or rules of the Oklahoma
15 State Bureau of Narcotics and Dangerous Drugs Control including, but
16 not limited to, the assessment of monetary penalties.

17 C. Any written order issued pursuant to the provisions of this
18 section shall become a final order unless the registrant requests an
19 administrative hearing in accordance with the rules and regulations
20 promulgated by the Director within thirty (30) days of issuance.
21 Upon such request, the Director shall promptly initiate
22 administrative proceedings and serve formal notice of the
23 proceedings pursuant to Section 309 of Title 75 of the Oklahoma
24 Statutes. Nothing in this section shall be construed so as to

1 require an individual proceeding for the denial of a new application
2 for registration.

3 D. The Director may authorize the Deputy Director or the
4 General Counsel of the Oklahoma State Bureau of Narcotics and
5 Dangerous Drugs Control to initiate any individual proceedings under
6 this title. Nothing in this section shall be construed so as to
7 delegate the authority of the Director to issue a final agency order
8 adverse to a party.

9 E. All proceedings shall be conducted in accordance with the
10 Administrative Procedures Act and the rules and regulations of the
11 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control
12 without regard to any criminal prosecution or other proceeding.
13 Proceedings to refuse renewal, revoke, or suspend a registration
14 shall not abate the existing registration which shall remain in
15 effect pending the outcome of those administrative proceedings.
16 This abatement shall not apply when the Director finds there is an
17 imminent danger to the public health or safety requiring an
18 immediate suspension.

19 The Director may delegate to an administrative hearing officer
20 the authority to conduct hearings and recommend action for final
21 agency orders in accordance with the rules and regulations of the
22 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control.

23 F. The Director may issue an order immediately suspending a
24 registration, without notice or a hearing, when he or she finds

1 there is imminent danger to the public health or safety which
2 warrants this action. The suspension shall continue in effect until
3 the conclusion of any administrative proceedings, including judicial
4 review thereof, unless sooner withdrawn by the Director or dissolved
5 by a court of competent jurisdiction. The order shall state the
6 existence of an emergency requiring action be taken that the
7 Director deems necessary to meet the emergency. Such action may
8 include, but is not limited to, ordering the registrant to
9 immediately cease and desist operations. The order shall be
10 effective immediately upon issuance. Any person to whom the order
11 is directed shall comply immediately with the provisions of the
12 order. The Director may assess a penalty not to exceed Ten Thousand
13 Dollars (\$10,000.00) per day of noncompliance with the order. In
14 assessing such a penalty, the Director shall consider the
15 seriousness of the violation and any efforts to comply with
16 applicable requirements. Upon application to the Director, the
17 registrant shall be offered a hearing within thirty (30) days of the
18 issuance of the order.

19 G. In lieu of or in addition to any other remedies available to
20 the Director, if a finding is made that a registrant has committed
21 any act in violation of federal law relating to any controlled
22 substance, any provision of the Uniform Controlled Dangerous
23 Substances Act or any rules of the Oklahoma State Bureau of
24 Narcotics and Dangerous Drugs Control, the Director is hereby

1 authorized to assess an administrative penalty not to exceed Five
2 Thousand Dollars (\$5,000.00) per day for each such act. The
3 provisions of this subsection shall not apply to violations of
4 subsection G of Section 2-309D of this title. Nothing in this
5 section shall be construed so as to permit the Director of the
6 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control to
7 assess administrative fines for violations of the provisions of
8 subsection G of Section 2-309D of this title.

9 If a judge of competent jurisdiction finds probable cause that a
10 registrant has possessed, transferred, sold, or offered for sale any
11 controlled dangerous substance in violation of this act, all
12 controlled dangerous substances in Schedule I of Section 2-204 of
13 this title and all controlled dangerous substances in Schedules II,
14 III, IV, and V that are not in properly labeled containers in
15 accordance with this act then in the possession of the registrant
16 shall be deemed contraband and shall be seized and summarily
17 forfeited pursuant to Section 2-505 of this title. Samples shall be
18 retained of all controlled dangerous substances seized in accordance
19 with Section 2-508 of this title as required. The Director is
20 authorized to assess an eradication or destruction fine not to
21 exceed Fifty Thousand Dollars (\$50,000.00) against the registrant.

22 H. Upon an annulment, revocation, or denial of a registration
23 the Director may prohibit the registrant or applicant from
24 reapplying for registration for a period up to five years following

1 the date of the final order. The length of any prohibition shall
2 not be used as grounds to contest the validity of the annulment,
3 revocation, or denial of a registration.

4 SECTION 5. AMENDATORY 63 O.S. 2021, Section 2-322, is
5 amended to read as follows:

6 Section 2-322. A. No person or business shall possess, sell,
7 manufacture, transfer, or otherwise furnish any of the following
8 precursor substances without first having a permit or license issued
9 by the Director of the Oklahoma State Bureau of Narcotics and
10 Dangerous Drugs Control, except as provided in Section 2-327 of this
11 title:

- 12 1. D-Lysergic acid;
- 13 2. Ergotamine and its salts;
- 14 3. Ergonovine and its salts;
- 15 4. Methylamine;
- 16 5. Ethylamine;
- 17 6. Phenyl-2-Propanone;
- 18 7. Phenylacetic acid and its salts;
- 19 8. Ephedrine, its salts, optical isomers and salts of optical
20 isomers;
- 21 9. Norpseudoephedrine, its salts, optical isomers, and salts of
22 optical isomers;
- 23 10. Phenylpropanolamine, its salts, optical isomers and salts
24 of optical isomers;

- 1 11. Benzyl cyanide;
- 2 12. N-methylephedrine, its salts, optical isomers and salts of
- 3 optical isomers;
- 4 13. Pseudoephedrine, its salts, optical isomers and salts of
- 5 optical isomers;
- 6 14. Chloroephedrine, its salts, optical isomers and salts of
- 7 optical isomers;
- 8 15. Piperidine and its salts;
- 9 16. Pyrrolidine and its salts;
- 10 17. Propionic anhydride;
- 11 18. Isosafrole;
- 12 19. Safrole;
- 13 20. Piperonal; and
- 14 21. Red Phosphorus.

15 B. Upon completion of an application for a license pursuant to
16 Section 2-323 of this title, or a permit pursuant to Section 2-324
17 of this title, the Director of the Oklahoma State Bureau of
18 Narcotics and Dangerous Drugs Control shall either grant or deny
19 such license or permit. ~~A denial of an application for a permit or~~
20 ~~license shall be handled as provided by Section 2-325 of this title.~~

21 SECTION 6. AMENDATORY 63 O.S. 2021, Section 2-325, is
22 amended to read as follows:

23 Section 2-325. A. A license or permit, obtained pursuant to
24 ~~Sections 5~~ Section 2-323 or ~~6~~ 2-324 of this ~~act~~ title, shall be

1 ~~denied~~ annulled, suspended, or revoked by the Director upon finding
2 that the licensee or permit holder has:

3 1. Materially falsified any application filed pursuant to ~~this~~
4 ~~act~~ Section 2-321 et seq. of this title or required by ~~this act~~ the
5 Precursor Substances Act;

6 2. Been convicted of a misdemeanor relating to any precursor
7 substance defined in Section ~~4~~ 2-322 of this ~~act~~ title or any felony
8 under the laws of this state or the United States; or

9 3. Failed to maintain effective controls against the diversion
10 of ~~said~~ the precursors to unauthorized persons or entities.

11 B. Before ~~denying~~ annulling, suspending, or revoking a license
12 or permit, the Director shall cause to be served upon the ~~applicant,~~
13 licensee, or permit holder an order to show cause why a license or a
14 permit should not be ~~denied~~ annulled, suspended, or revoked. The
15 order to show cause shall contain a statement of the basis therefor
16 and shall call upon the ~~applicant,~~ licensee, or permit holder to
17 appear before the appropriate person or agency at the time and place
18 within ~~thirty (30)~~ sixty (60) days after the date of service of the
19 order. The proceedings shall be conducted in accordance with the
20 Administrative Procedures Act without regard to any criminal
21 prosecution or other proceeding. Nothing in this section shall be
22 construed so as to require an individual proceeding for the denial
23 of a new license or permit.

24

1 C. The Director shall suspend, without an order to show cause,
2 any license or permit simultaneously with the institution of
3 proceedings described in subsection B of this section if he finds
4 there is imminent danger to the public health or safety which
5 warrants this action. The suspension shall continue in effect until
6 the conclusion of the proceedings, including judicial review
7 thereof, unless withdrawn by the Director or dissolved by a court of
8 competent jurisdiction.

9 SECTION 7. AMENDATORY 63 O.S. 2021, Section 2-406, is
10 amended to read as follows:

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

13 1. To distribute, other than by dispensing or as otherwise
14 authorized by ~~this act~~ Section 2-101 et seq. of this title, a
15 controlled dangerous substance classified in Schedules I or II, in
16 the course of his legitimate business, except pursuant to an order
17 form as required by Section 2-308 of this title;

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

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

24

1 4. To furnish false or fraudulent material information in, or
2 omit any material information from, any application, report, or
3 other document required to be kept or filed under this act, or any
4 record required to be kept by ~~this act~~ Section 2-101 et seq. of this
5 title; and

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

12 B. Any person who violates this section is guilty of a felony
13 punishable by imprisonment for not more than twenty (20) years or a
14 fine of not more than Two Hundred Fifty Thousand Dollars
15 (\$250,000.00), or both.

16 C. Any person convicted of a second or subsequent violation of
17 this section is punishable by a term of imprisonment twice that
18 otherwise authorized and by twice the fine otherwise authorized.
19 Convictions for second or subsequent violations of this section
20 shall not be subject to statutory provisions for suspended
21 sentences, deferred sentences, or probation.

22 D. Any person convicted of any offense described in this
23 section shall, in addition to any fine imposed, pay a special
24 assessment trauma-care fee of One Hundred Dollars (\$100.00) to be

1 ENGROSSED SENATE
2 BILL NO. 475

By: Paxton of the Senate

and

Echols of the House

3
4
5
6 An Act relating to the Uniform Controlled Dangerous
7 Substances Act; amending 63 O.S. 2021, Section 2-101,
8 as amended by Section 4, Chapter 265, O.S.L. 2022 (63
9 O.S. Supp. 2022, Section 2-101), which relates to
10 definitions; defining certain term; amending 63 O.S.
11 2021, Section 2-110, which relates to attorneys;
12 requiring certain attorneys to assist Attorney
13 General for specified purposes; amending 63 O.S.
14 2021, Section 2-304, which relates to denial,
15 revocation, or suspension of registration;
16 authorizing certain action; modifying certain
17 registration suspension and revocation guidelines;
18 removing certain administrative penalty
19 authorization; amending 63 O.S. 2021, Section 2-305,
20 which relates to the order to show cause; removing
21 certain order servicing guidelines; requiring certain
22 servicing guidelines; removing certain suspension
23 guidelines; requiring certain written order
24 guidelines; requiring certain final order guidelines;
requiring certain administrative proceedings
guidelines; permitting certain delegation authority;
prohibiting certain delegation authority; requiring
certain proceedings guidelines; creating certain
suspension exception; permitting certain authority to
administrative hearing officers; permitting certain
suspensions; permitting certain assessed penalties;
requiring certain hearing guideline; authorizing
certain assessed penalties; prohibiting certain
assessed fees; requiring certain seizures; requiring
certain sample retention; authorizing certain fines;
permitting the Director of the Oklahoma State Bureau
of Narcotics and Dangerous Drugs Control to prohibit
certain reapplication; requiring certain exemption;
amending 63 O.S. 2021, Section 2-322, which relates
to precursor substances requiring permit or license;
removing certain statutory reference; amending 63
O.S. 2021, Section 2-325, which relates to denial,

1 revocation, or suspension of registration; modifying
2 certain requirement; requiring certain registration
3 guideline; amending 63 O.S. 2021, Section 2-406,
4 which relates to penalties; adding certain unlawful
5 act; updating statutory references; updating
6 statutory language; and declaring an emergency.

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

7 SECTION 9. AMENDATORY 63 O.S. 2021, Section 2-101, as
8 amended by Section 4, Chapter 265, O.S.L. 2022 (63 O.S. Supp. 2022,
9 Section 2-101), is amended to read as follows:

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

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

16 a. a practitioner (or, in the presence of the
17 practitioner, by the authorized agent of the
18 practitioner), or

19 b. the patient or research subject at the direction and
20 in the presence of the practitioner;

21 2. "Agent" means a peace officer appointed by and who acts on
22 behalf of the Director of the Oklahoma State Bureau of Narcotics and
23 Dangerous Drugs Control or an authorized person who acts on behalf
24 of or at the direction of a person who manufactures, distributes,

1 dispenses, prescribes, administers or uses for scientific purposes
2 controlled dangerous substances but does not include a common or
3 contract carrier, public warehouse or employee thereof, or a person
4 required to register under the Uniform Controlled Dangerous
5 Substances Act;

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

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

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

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

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

19 8. "Controlled dangerous substance" means a drug, substance or
20 immediate precursor in Schedules I through V of the Uniform
21 Controlled Dangerous Substances Act or any drug, substance or
22 immediate precursor listed either temporarily or permanently as a
23 federally controlled substance. Any conflict between state and
24

1 federal law with regard to the particular schedule in which a
2 substance is listed shall be resolved in favor of state law;

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

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

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

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

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

22 13. "Distributor" means a commercial entity engaged in the
23 distribution or reverse distribution of narcotics and dangerous
24 drugs and who complies with all regulations promulgated by the

1 federal Drug Enforcement Administration and the Oklahoma State
2 Bureau of Narcotics and Dangerous Drugs Control;

3 14. "Drug" means articles:

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

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

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

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

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

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

23 19. "Imitation controlled substance" means a substance that is
24 not a controlled dangerous substance, which by dosage unit

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

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

1 f. the proximity of the substances to controlled
2 dangerous substances;

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

9 21. "Laboratory" means a laboratory approved by the Director as
10 proper to be entrusted with the custody of controlled dangerous
11 substances and the use of controlled dangerous substances for
12 scientific and medical purposes and for purposes of instruction;

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

22 23. "Marijuana" means all parts of the plant *Cannabis sativa*
23 L., whether growing or not; the seeds thereof; the resin extracted
24 from any part of such plant; and every compound, manufacture, salt,

1 derivative, mixture or preparation of such plant, its seeds or
2 resin, but shall not include:

- 3 a. the mature stalks of such plant or fiber produced from
4 such stalks,
- 5 b. oil or cake made from the seeds of such plant,
6 including cannabidiol derived from the seeds of the
7 marijuana plant,
- 8 c. any other compound, manufacture, salt, derivative,
9 mixture or preparation of such mature stalks (except
10 the resin extracted therefrom), including cannabidiol
11 derived from mature stalks, fiber, oil or cake,
- 12 d. the sterilized seed of such plant which is incapable
13 of germination,
- 14 e. for any person participating in a clinical trial to
15 administer cannabidiol for the treatment of severe
16 forms of epilepsy pursuant to Section 2-802 of this
17 title, a drug or substance approved by the federal
18 Food and Drug Administration for use by those
19 participants,
- 20 f. for any person or the parents, legal guardians or
21 caretakers of the person who have received a written
22 certification from a physician licensed in this state
23 that the person has been diagnosed by a physician as
24 having Lennox-Gastaut syndrome, Dravet syndrome, also

1 known as severe myoclonic epilepsy of infancy, or any
2 other severe form of epilepsy that is not adequately
3 treated by traditional medical therapies, spasticity
4 due to multiple sclerosis or due to paraplegia,
5 intractable nausea and vomiting, appetite stimulation
6 with chronic wasting diseases, the substance
7 cannabidiol, a nonpsychoactive cannabinoid, found in
8 the plant Cannabis sativa L. or any other preparation
9 thereof, that has a tetrahydrocannabinol concentration
10 of not more than three-tenths of one percent (0.3%)
11 and that is delivered to the patient in the form of a
12 liquid,

13 g. any federal Food-and-Drug-Administration-approved drug
14 or substance, or

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

22 24. "Medical purpose" means an intention to utilize a
23 controlled dangerous substance for physical or mental treatment, for
24 diagnosis, or for the prevention of a disease condition not in

1 violation of any state or federal law and not for the purpose of
2 satisfying physiological or psychological dependence or other abuse;

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

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

- 16 a. opium, coca leaves and opiates,
- 17 b. a compound, manufacture, salt, derivative or
18 preparation of opium, coca leaves or opiates,
- 19 c. cocaine, its salts, optical and geometric isomers, and
20 salts of isomers,
- 21 d. ecgonine, its derivatives, their salts, isomers and
22 salts of isomers, and
- 23 e. a substance, and any compound, manufacture, salt,
24 derivative or preparation thereof, which is chemically

1 identical with any of the substances referred to in
2 subparagraphs a through d of this paragraph, except
3 that the words "~~narcotic drug~~" narcotic drug as used
4 in Section 2-101 et seq. of this title shall not
5 include decocainized coca leaves or extracts of coca
6 leaves, which extracts do not contain cocaine or
7 ecgonine;

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

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

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

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

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

6 32. "Practitioner" means:

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

1 to, use for scientific purposes or administer a
2 controlled dangerous substance in the course of
3 professional practice or research in this state;

4 33. "Production" includes the manufacture, planting,
5 cultivation, growing or harvesting of a controlled dangerous
6 substance;

7 34. "State" means the State of Oklahoma or any other state of
8 the United States;

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

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

- 23 a. kits used, intended for use, or fashioned specifically
24 for use in planting, propagating, cultivating, growing

1 or harvesting of any species of plant which is a
2 controlled dangerous substance or from which a
3 controlled dangerous substance can be derived,

4 b. kits used, intended for use, or fashioned specifically
5 for use in manufacturing, compounding, converting,
6 producing, processing or preparing controlled
7 dangerous substances,

8 c. isomerization devices used, intended for use, or
9 fashioned specifically for use in increasing the
10 potency of any species of plant which is a controlled
11 dangerous substance,

12 d. testing equipment used, intended for use, or fashioned
13 specifically for use in identifying, or in analyzing
14 the strength, effectiveness or purity of controlled
15 dangerous substances,

16 e. scales and balances used, intended for use, or
17 fashioned specifically for use in weighing or
18 measuring controlled dangerous substances,

19 f. diluents and adulterants, such as quinine
20 hydrochloride, mannitol, mannite, dextrose and
21 lactose, used, intended for use, or fashioned
22 specifically for use in cutting controlled dangerous
23 substances,

24

- 1 g. separation gins and sifters used, intended for use, or
2 fashioned specifically for use in removing twigs and
3 seeds from, or in otherwise cleaning or refining,
4 marijuana,
- 5 h. blenders, bowls, containers, spoons and mixing devices
6 used, intended for use, or fashioned specifically for
7 use in compounding controlled dangerous substances,
- 8 i. capsules, balloons, envelopes and other containers
9 used, intended for use, or fashioned specifically for
10 use in packaging small quantities of controlled
11 dangerous substances,
- 12 j. containers and other objects used, intended for use,
13 or fashioned specifically for use in parenterally
14 injecting controlled dangerous substances into the
15 human body,
- 16 k. hypodermic syringes, needles and other objects used,
17 intended for use, or fashioned specifically for use in
18 parenterally injecting controlled dangerous substances
19 into the human body,
- 20 l. objects used, intended for use, or fashioned
21 specifically for use in ingesting, inhaling or
22 otherwise introducing marijuana, cocaine, hashish or
23 hashish oil into the human body, such as:
- 24

- 1 (1) metal, wooden, acrylic, glass, stone, plastic or
- 2 ceramic pipes with or without screens, permanent
- 3 screens, hashish heads or punctured metal bowls,
- 4 (2) water pipes,
- 5 (3) carburetion tubes and devices,
- 6 (4) smoking and carburetion masks,
- 7 (5) roach clips, meaning objects used to hold burning
- 8 material, such as a marijuana cigarette, that has
- 9 become too small or too short to be held in the
- 10 hand,
- 11 (6) miniature cocaine spoons and cocaine vials,
- 12 (7) chamber pipes,
- 13 (8) carburetor pipes,
- 14 (9) electric pipes,
- 15 (10) air-driven pipes,
- 16 (11) chillums,
- 17 (12) bongs, or
- 18 (13) ice pipes or chillers,
- 19 m. all hidden or novelty pipes, and
- 20 n. any pipe that has a tobacco bowl or chamber of less
- 21 than one-half (1/2) inch in diameter in which there is
- 22 any detectable residue of any controlled dangerous
- 23 substance as defined in this section or any other
- 24 substances not legal for possession or use;

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

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

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

1 depressant, or hallucinogenic effect on the
2 central nervous system of a controlled dangerous
3 substance in Schedule I or II.

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

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

10 (1) a controlled dangerous substance,

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

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

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

24

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

6 38. "Tetrahydrocannabinols" means all substances that have been
7 chemically synthesized to emulate the tetrahydrocannabinols of
8 marijuana, specifically including any tetrahydrocannabinols derived
9 from industrial hemp;

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

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

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

23 42. "Acute pain" means pain, whether resulting from disease,
24 accidental or intentional trauma or other cause, that the

1 practitioner reasonably expects to last only a short period of time.
2 ~~"Acute pain"~~ Acute pain does not include chronic pain, pain being
3 treated as part of cancer care, hospice or other end-of-life care,
4 or pain being treated as part of palliative care;

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

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

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

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

24

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

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

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

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

18 47. "Straw person or party" means a third party who is put up
19 in name only to take part in a transaction. This term includes but
20 is not limited to a nominal party to a transaction, one who acts as
21 an agent for another for the purpose of taking title to property and
22 executing whatever documents and instruments the principal may
23 direct respecting the property, or a person who purchases property
24

1 for another to conceal the identity of the real purchaser or to
2 accomplish some purpose otherwise not allowed; and

3 ~~47.~~ 48. "Surgical procedure" means a procedure that is
4 performed for the purpose of structurally altering the human body by
5 incision or destruction of tissues as part of the practice of
6 medicine. This term includes the diagnostic or therapeutic
7 treatment of conditions or disease processes by use of instruments
8 such as lasers, ultrasound, ionizing, radiation, scalpels, probes or
9 needles that cause localized alteration or transportation of live
10 human tissue by cutting, burning, vaporizing, freezing, suturing,
11 probing or manipulating by closed reduction for major dislocations
12 or fractures, or otherwise altering by any mechanical, thermal,
13 light-based, electromagnetic or chemical means.

14 SECTION 10. AMENDATORY 63 O.S. 2021, Section 2-110, is
15 amended to read as follows:

16 Section 2-110. The Director of the Oklahoma State Bureau of
17 Narcotics and Dangerous Drugs Control may employ attorneys, who
18 shall be unclassified employees of the state, or contract with
19 attorneys, as needed. These attorneys may advise the Director, the
20 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control
21 Commission and Bureau personnel on all legal matters and shall
22 appear for and represent the Director, the Commission and Bureau
23 personnel in all administrative hearings and all litigation or other
24 proceedings which may arise in the discharge of their duties. At

1 the request of the Oklahoma State Bureau of Narcotics and Dangerous
2 Drugs Control Commission, such attorney shall assist the district
3 attorney or the Attorney General in prosecuting charges of violators
4 of the Uniform Controlled Dangerous Substances Act or any felony
5 relating to or arising from a violation of the Uniform Controlled
6 Dangerous Substances Act. Attorneys for the Bureau who have been
7 certified by the Council on Law Enforcement Education and Training
8 to carry a weapon or have been issued a handgun license pursuant to
9 the provisions of the Oklahoma Self-Defense Act shall be allowed to
10 carry weapons pursuant to paragraph 3 of subsection A of Section
11 1272 of Title 21 of the Oklahoma Statutes. These attorneys,
12 pursuant to this provision, shall not be considered eligible to
13 participate in the Oklahoma Law Enforcement Retirement System. If a
14 conflict of interest would be created by such attorney representing
15 the Director, the Commission or Bureau personnel, additional counsel
16 may be hired upon approval of the Oklahoma State Bureau of Narcotics
17 and Dangerous Drugs Control Commission.

18 SECTION 11. AMENDATORY 63 O.S. 2021, Section 2-304, is
19 amended to read as follows:

20 Section 2-304. A. A registration, pursuant to Section 2-303 of
21 this title, to manufacture, distribute, dispense, prescribe,
22 administer or use for scientific purposes a controlled dangerous
23 substance shall be limited, conditioned, denied, suspended,
24 annulled, or revoked by the Director of the Oklahoma State Bureau of

1 Narcotics and Dangerous Drugs Control upon a finding that the
2 registrant:

3 1. Has materially falsified any application filed pursuant to
4 the Uniform Controlled Dangerous Substances Act or required by the
5 Uniform Controlled Dangerous Substances Act. It shall be unlawful
6 to knowingly and willfully:

7 a. make false statements, include false data or omit
8 material information on an application for a
9 registration with the Oklahoma State Bureau of
10 Narcotics and Dangerous Drugs Control, or

11 b. provide false data or omit material information in any
12 records or reports required by rule or law to be
13 created, maintained or submitted to the Bureau.

14 Any registrant or applicant for a registration or any official,
15 agent or employee of any registrant or applicant for a registration
16 who violates the provisions of this paragraph shall be guilty of a
17 misdemeanor and additionally subject to administrative action;

18 2. Has been found guilty of, entered a plea of guilty or
19 entered a plea of nolo contendere to a misdemeanor relating to any
20 substance defined herein as a controlled dangerous substance or any
21 felony under the laws of any state or the United States;

22 3. Has had his or her federal registration retired, suspended
23 or revoked by a competent federal authority and is no longer
24 authorized by federal law to manufacture, distribute, dispense,

1 prescribe, administer or use for scientific purposes controlled
2 dangerous substances;

3 4. Has failed to maintain effective controls against the
4 diversion of controlled dangerous substances to unauthorized persons
5 or entities;

6 5. Has prescribed, dispensed or administered a controlled
7 dangerous substance from schedules other than those specified in his
8 or her state or federal registration;

9 6. Has had a restriction, suspension, revocation, limitation,
10 condition or probation placed on his or her professional license or
11 certificate or practice as a result of a proceeding pursuant to the
12 general statutes;

13 7. Is abusing or, within the past five (5) years, has abused or
14 excessively used drugs or controlled dangerous substances;

15 8. Has prescribed, sold, administered or ordered any controlled
16 substance for an immediate family member, himself or herself;
17 provided that this shall not apply to a medical emergency when no
18 other doctor is available to respond to the emergency;

19 9. Has possessed, used, prescribed, dispensed or administered
20 drugs or controlled dangerous substances for other than legitimate
21 medical or scientific purposes or for purposes outside the normal
22 course of his or her professional practice;

23 10. Has been under the influence of alcohol or another
24 intoxicating substance which adversely affected the central nervous

1 system, vision, hearing or other sensory or motor functioning to
2 such degree the person was impaired during the performance of his or
3 her job; or

4 11. Has violated any federal law relating to any controlled
5 substances, any provision of the Uniform Controlled Dangerous
6 Substances Act or any rules of the Oklahoma State Bureau of
7 Narcotics and Dangerous Drugs Control.

8 B. In the event the Director suspends or revokes a registration
9 granted under Section 2-303 of this title, all controlled dangerous
10 substances owned or possessed by the registrant pursuant to such
11 registration at the time of ~~denial~~ revocation or suspension or the
12 effective date of the revocation order, as the case may be, may in
13 the discretion of the Director be impounded and preserved. All
14 controlled dangerous substances not impounded or preserved by the
15 Director shall be maintained by the registrant. No disposition,
16 purchase, distribution, sale, or transfer may be made of substances
17 ~~impounded and preserved~~ until the time for taking an appeal has
18 elapsed or until all appeals have been concluded unless a court,
19 upon application therefor, orders the sale of perishable substances
20 and the deposit of the proceeds of the sale with the court. Upon a
21 revocation order becoming final, all such controlled dangerous
22 substances shall be forfeited to the state or otherwise considered
23 waste and submitted to a licensed waste disposal service for
24 destruction pursuant to Section 430 of this title.

1 C. The Drug Enforcement Administration shall promptly be
2 notified of all orders suspending or revoking registration and all
3 forfeitures of controlled dangerous substances.

4 ~~D. In lieu of or in addition to any other remedies available to~~
5 ~~the Director, if a finding is made that a registrant has committed~~
6 ~~any act in violation of federal law relating to any controlled~~
7 ~~substance, any provision of the Uniform Controlled Dangerous~~
8 ~~Substances Act or any rules of the Oklahoma State Bureau of~~
9 ~~Narcotics and Dangerous Drugs Control, the Director is hereby~~
10 ~~authorized to assess an administrative penalty not to exceed Two~~
11 ~~Thousand Dollars (\$2,000.00) for each such act. The provisions of~~
12 ~~this subsection shall not apply to violations of subsection G of~~
13 ~~Section 2-309D of this title. Nothing in this section shall be~~
14 ~~construed so as to permit the Director of the State Bureau of~~
15 ~~Narcotics and Dangerous Drugs Control to assess administrative fines~~
16 ~~for violations of the provisions of subsection G of Section 2-309D~~
17 ~~of this title.~~

18 SECTION 12. AMENDATORY 63 O.S. 2021, Section 2-305, is
19 amended to read as follows:

20 Section 2-305. A. ~~Before denying, suspending or revoking a~~
21 ~~registration, refusing a renewal of registration or taking~~
22 ~~administrative action on a nonregistrant engaged in manufacturing,~~
23 ~~distributing, dispensing, prescribing, administering or using for~~
24 ~~scientific purposes any controlled dangerous substance within or~~

1 ~~into this state, the Director shall serve upon the applicant or~~
2 ~~registrant an order to show cause why registration should not be~~
3 ~~denied, revoked or suspended or why the renewal should not be~~
4 ~~refused. The order to show cause shall contain a statement of the~~
5 ~~basis therefor and shall call upon the applicant or registrant to~~
6 ~~appear before the appropriate person or agency at a time and place~~
7 ~~within thirty (30) days after the date of service of the order, but~~
8 ~~in the case of a denial or renewal of registration the show cause~~
9 ~~order shall be served within thirty (30) days before the expiration~~
10 ~~of the registration. These proceedings shall be conducted in~~
11 ~~accordance with the Administrative Procedures Act without regard to~~
12 ~~any criminal prosecution or other proceeding. Proceedings to refuse~~
13 ~~renewal of registration shall not abate the existing registration~~
14 ~~which shall remain in effect pending the outcome of the~~
15 ~~administrative hearing~~ In addition to any other remedies provided
16 for by law, the Director shall issue a written order to be served on
17 the parties before annulling, conditioning, suspending or revoking
18 any registration that the Director has reason to believe is
19 operating inconsistent with any provision of Section 2-303 of this
20 title, pursuant to Section 2-304 of this title or otherwise where
21 there has been a violation of any federal law, any rule or
22 regulation of the Drug Enforcement Administration, any provision of
23 the Uniform Controlled Dangerous Substances Act, or any rules or
24

1 regulations of the Oklahoma State Bureau of Narcotics and Dangerous
2 Drugs Control.

3 B. ~~The Director shall suspend, without an order to show cause,~~
4 ~~any registration simultaneously with the institution of proceedings~~
5 ~~under Section 2-304 of this title, if he or she finds there is~~
6 ~~imminent danger to the public health or safety which warrants this~~
7 ~~action. The suspension shall continue in effect until the~~
8 ~~conclusion of the proceedings, including judicial review thereof,~~
9 ~~unless sooner withdrawn by the Director or dissolved by a court of~~
10 ~~competent jurisdiction~~ The written order shall state with
11 specificity the nature of the violation or basis for the action.

12 The Director may impose any disciplinary action authorized by the
13 Uniform Controlled Dangerous Substances Act or rules of the Oklahoma
14 State Bureau of Narcotics and Dangerous Drugs Control including, but
15 not limited to, the assessment of monetary penalties.

16 C. Any written order issued pursuant to the provisions of this
17 section shall become a final order unless the registrant requests an
18 administrative hearing in accordance with the rules and regulations
19 promulgated by the Director within thirty (30) days of issuance.
20 Upon such request, the Director shall promptly initiate
21 administrative proceedings and serve formal notice of the
22 proceedings pursuant to Section 309 of Title 75 of the Oklahoma
23 Statutes. Nothing in this section shall be construed so as to

24

1 require an individual proceeding for the denial of a new application
2 for registration.

3 D. The Director may authorize the Deputy Director or the
4 General Counsel of the Oklahoma State Bureau of Narcotics and
5 Dangerous Drugs Control to initiate any individual proceedings under
6 this title. Nothing in this section shall be construed so as to
7 delegate the authority of the Director to issue a final agency order
8 adverse to a party.

9 E. All proceedings shall be conducted in accordance with the
10 Administrative Procedures Act and the rules and regulations of the
11 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control
12 without regard to any criminal prosecution or other proceeding.
13 Proceedings to refuse renewal, revoke, or suspend a registration
14 shall not abate the existing registration which shall remain in
15 effect pending the outcome of those administrative proceedings.
16 This abatement shall not apply when the Director finds there is an
17 imminent danger to the public health or safety requiring an
18 immediate suspension.

19 The Director may delegate to an administrative hearing officer
20 the authority to conduct hearings and recommend action for final
21 agency orders in accordance with the rules and regulations of the
22 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control.

23 F. The Director may issue an order immediately suspending a
24 registration, without notice or a hearing, when he or she finds

1 there is imminent danger to the public health or safety which
2 warrants this action. The suspension shall continue in effect until
3 the conclusion of any administrative proceedings, including judicial
4 review thereof, unless sooner withdrawn by the Director or dissolved
5 by a court of competent jurisdiction. The order shall state the
6 existence of an emergency requiring action be taken that the
7 Director deems necessary to meet the emergency. Such action may
8 include, but is not limited to, ordering the registrant to
9 immediately cease and desist operations. The order shall be
10 effective immediately upon issuance. Any person to whom the order
11 is directed shall comply immediately with the provisions of the
12 order. The Director may assess a penalty not to exceed Ten Thousand
13 Dollars (\$10,000.00) per day of noncompliance with the order. In
14 assessing such a penalty, the Director shall consider the
15 seriousness of the violation and any efforts to comply with
16 applicable requirements. Upon application to the Director, the
17 registrant shall be offered a hearing within thirty (30) days of the
18 issuance of the order.

19 G. In lieu of or in addition to any other remedies available to
20 the Director, if a finding is made that a registrant has committed
21 any act in violation of federal law relating to any controlled
22 substance, any provision of the Uniform Controlled Dangerous
23 Substances Act or any rules of the Oklahoma State Bureau of
24 Narcotics and Dangerous Drugs Control, the Director is hereby

1 authorized to assess an administrative penalty not to exceed Five
2 Thousand Dollars (\$5,000.00) per day for each such act. The
3 provisions of this subsection shall not apply to violations of
4 subsection G of Section 2-309D of this title. Nothing in this
5 section shall be construed so as to permit the Director of the State
6 Bureau of Narcotics and Dangerous Drugs Control to assess
7 administrative fines for violations of the provisions of subsection
8 G of Section 2-309D of this title.

9 If a judge of competent jurisdiction finds probable cause that a
10 registrant has possessed, transferred, sold, or offered for sale any
11 controlled dangerous in violation of this act, all controlled
12 dangerous substances in Schedule I of Section 2-204 of this title
13 and all controlled dangerous substances in Schedules II, III, IV,
14 and V that are not in properly labeled containers in accordance with
15 this act then in the possession of the registrant shall be deemed
16 contraband and shall be seized and summarily forfeited pursuant to
17 Section 2-505 of this title. Samples shall be retained of all
18 controlled dangerous substances seized in accordance with Section 2-
19 508 of this title as required. The Director is authorized to assess
20 an eradication or destruction fine not to exceed Fifty Thousand
21 Dollars (\$50,000.00) against the registrant.

22 H. Upon an annulment, revocation, or denial of a registration
23 the Director may prohibit the registrant or applicant from
24 reapplying for registration for a period up to five years following

1 the date of the final order. The length of any prohibition shall
2 not be used as grounds to contest the validity of the annulment,
3 revocation, or denial of a registration.

4 SECTION 13. AMENDATORY 63 O.S. 2021, Section 2-322, is
5 amended to read as follows:

6 Section 2-322. A. No person or business shall possess, sell,
7 manufacture, transfer, or otherwise furnish any of the following
8 precursor substances without first having a permit or license issued
9 by the Director of the Oklahoma State Bureau of Narcotics and
10 Dangerous Drugs Control, except as provided in Section 2-327 of this
11 title:

- 12 1. D-Lysergic acid;
- 13 2. Ergotamine and its salts;
- 14 3. Ergonovine and its salts;
- 15 4. Methylamine;
- 16 5. Ethylamine;
- 17 6. Phenyl-2-Propanone;
- 18 7. Phenylacetic acid and its salts;
- 19 8. Ephedrine, its salts, optical isomers and salts of optical
20 isomers;
- 21 9. Norpseudoephedrine, its salts, optical isomers, and salts of
22 optical isomers;
- 23 10. Phenylpropanolamine, its salts, optical isomers and salts
24 of optical isomers;

- 1 11. Benzyl cyanide;
- 2 12. N-methylephedrine, its salts, optical isomers and salts of
- 3 optical isomers;
- 4 13. Pseudoephedrine, its salts, optical isomers and salts of
- 5 optical isomers;
- 6 14. Chloroephedrine, its salts, optical isomers and salts of
- 7 optical isomers;
- 8 15. Piperidine and its salts;
- 9 16. Pyrrolidine and its salts;
- 10 17. Propionic anhydride;
- 11 18. Isosafrole;
- 12 19. Safrole;
- 13 20. Piperonal; and
- 14 21. Red Phosphorus.

15 B. Upon completion of an application for a license pursuant to
16 Section 2-323 of this title, or a permit pursuant to Section 2-324
17 of this title, the Director of the Oklahoma State Bureau of
18 Narcotics and Dangerous Drugs Control shall either grant or deny
19 such license or permit. ~~A denial of an application for a permit or~~
20 ~~license shall be handled as provided by Section 2-325 of this title.~~

21 SECTION 14. AMENDATORY 63 O.S. 2021, Section 2-325, is
22 amended to read as follows:

23 Section 2-325. A. A license or permit, obtained pursuant to
24 ~~Sections 5~~ Section 2-323 or ~~6~~ 2-324 of this ~~act~~ title, shall be

1 ~~denied~~ annulled, suspended, or revoked by the Director upon finding
2 that the licensee or permit holder has:

3 1. Materially falsified any application filed pursuant to ~~this~~
4 ~~act~~ Section 2-321 et seq. of this title or required by ~~this act~~ the
5 Precursor Substances Act;

6 2. Been convicted of a misdemeanor relating to any precursor
7 substance defined in Section ~~4~~ 2-322 of this ~~act~~ title or any felony
8 under the laws of this state or the United States; or

9 3. Failed to maintain effective controls against the diversion
10 of ~~said~~ the precursors to unauthorized persons or entities.

11 B. Before ~~denying~~ annulling, suspending, or revoking a license
12 or permit, the Director shall cause to be served upon the ~~applicant,~~
13 licensee~~,~~ or permit holder an order to show cause why a license or a
14 permit should not be ~~denied~~ annulled, suspended, or revoked. The
15 order to show cause shall contain a statement of the basis therefor
16 and shall call upon the ~~applicant,~~ licensee~~,~~ or permit holder to
17 appear before the appropriate person or agency at the time and place
18 within ~~thirty (30)~~ sixty (60) days after the date of service of the
19 order. The proceedings shall be conducted in accordance with the
20 Administrative Procedures Act without regard to any criminal
21 prosecution or other proceeding. Nothing in this section shall be
22 construed so as to require an individual proceeding for the denial
23 of a new license or permit.

24

1 C. The Director shall suspend, without an order to show cause,
2 any license or permit simultaneously with the institution of
3 proceedings described in subsection B of this section if he finds
4 there is imminent danger to the public health or safety which
5 warrants this action. The suspension shall continue in effect until
6 the conclusion of the proceedings, including judicial review
7 thereof, unless withdrawn by the Director or dissolved by a court of
8 competent jurisdiction.

9 SECTION 15. AMENDATORY 63 O.S. 2021, Section 2-406, is
10 amended to read as follows:

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

13 1. To distribute, other than by dispensing or as otherwise
14 authorized by ~~this act~~ Section 2-101 et seq. of this title, a
15 controlled dangerous substance classified in Schedules I or II, in
16 the course of his legitimate business, except pursuant to an order
17 form as required by Section 2-308 of this title;

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

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

24

1 4. To furnish false or fraudulent material information in, or
2 omit any material information from, any application, report, or
3 other document required to be kept or filed under this act, or any
4 record required to be kept by ~~this act~~ Section 2-101 et seq. of this
5 title; and

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

12 6. To purchase, attempt, endeavor and conspire or endeavor or
13 conspire to obtain and purchase or obtain or purchase, any license
14 or registration required to distribute, possess, prescribe, or
15 manufacture any controlled dangerous substance, on behalf of or at
16 the request or demand of any person, through the use of a straw
17 person or party as defined in Section 2-101 of this title.

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

22 C. Any person convicted of a second or subsequent violation of
23 this section is punishable by a term of imprisonment twice that
24 otherwise authorized and by twice the fine otherwise authorized.

1 Convictions for second or subsequent violations of this section
2 shall not be subject to statutory provisions for suspended
3 sentences, deferred sentences, or probation.

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

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

13 Passed the Senate the 21st day of March, 2023.

14

15

Presiding Officer of the Senate

16

17 Passed the House of Representatives the ____ day of _____,

18 2023.

19

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Presiding Officer of the House
of Representatives

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