SENATE CHAMBER

STATE OF OKLAHOMA

DISPOSITION

■ FLOOR AMENDMENT No. 1

☐ COMMITTEE AMENDMENT

(Date)

I move to amend Senate Bill No. 1897, by substituting the attached floor substitute (Request #3539) for the title, enacting clause and entire body of the measure.

Submitted by:

Senator Standridge

I hereby grant permission for the floor substitute to be adopted.

Senator Rosino, Chair (required)

Senator Pemberton

Senator Haste

Senator Prieto

Senator Daniels

Senator Pugh

Senator Gollihare

Senator Standridge

Senator Hall

Senator Stanley

Senator Hicks

Senator Young

Senator Treat, President Pro Tempore

Senator McCortney, Majority Floor Leader

Note: Health and Human Services committee majority requires seven (7) members' signatures.

Standridge-DC-FS-SB1897
3/12/2024 9:04 AM

(Floor Amendments Only) Date and Time Filed: 3-12-24 9:40am JD

☐ Untimely ☐ Amendment Cycle Extended ☐ Secondary Amendment

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

FLOOR SUBSTITUTE
FOR
SENATE BILL NO. 1897 By: Standridge of the Senate

and

Kannady of the House

FLOOR SUBSTITUTE

[controlled dangerous substances - registration - pain management clinics - requirements - responsibilities - penalties - rules - codification - effective date]

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

SECTION 1. AMENDATORY 63 O.S. 2021, Section 2-302, as amended by Section 1, Chapter 103, O.S.L. 2023 (63 O.S. Supp. 2023, Section 2-302), is amended to read as follows:

Section 2-302. A. Every person who manufactures, distributes, dispenses, prescribes, administers or uses for scientific purposes any controlled dangerous substance within or into this state, or who proposes to engage in the manufacture, distribution, dispensing, prescribing, administering or use for scientific purposes of any controlled dangerous substance within or into this state shall obtain a registration issued by the Director of the Oklahoma State

Bureau of Narcotics and Dangerous Drugs Control, in accordance with rules promulgated by the Director. Persons registered by the Director under Section 2-101 et seq. of this title to manufacture, distribute, dispense or conduct research with controlled dangerous substances may possess, manufacture, distribute, dispense or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of the Uniform Controlled Dangerous Substances Act. Every wholesaler, manufacturer or distributor of any drug product containing pseudoephedrine or phenylpropanolamine, or their salts, isomers or salts of isomers, shall obtain a registration issued by the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control in accordance with rules promulgated by the Director and as provided for in Section 2-332 of this title. Any person who manufactures, distributes, dispenses, prescribes, administers or uses for scientific purposes any controlled dangerous substances within or into this state without first obtaining a registration issued by the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall be subject to the same statutory and administrative jurisdiction of the Director as if that person were an applicant or registrant.

B. Out-of-state pharmaceutical suppliers who provide controlled dangerous substances to individuals within this state shall obtain a registration issued by the Director of the Oklahoma State Bureau of

Narcotics and Dangerous Drugs Control, in accordance with rules promulgated by the Director. This provision shall also apply to wholesale distributors who distribute controlled dangerous substances to pharmacies or other entities registered within this state in accordance with rules promulgated by the Director.

C. Every person who owns in whole or in part a ~~public or private medical facility for which a majority of patients are issued on a reoccurring monthly basis a prescription for opioids, benzodiazepines, barbiturates or carisoprodol, but not including buprenorphine with naloxone or buprenorphine as used for medication-assisted treatment services,~~ pain management clinic as defined in Section 3 of this act shall obtain a registration issued by the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control in accordance with Sections 3 through 7 of this act and rules promulgated by the Director.

D. Every manufacturer and distributor required to register under the provisions of this section shall provide all data required pursuant to 21 U.S.C., Section 827(d)(1) on a monthly basis to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control. Controlled dangerous substances in Schedule I shall be reported in accordance with rules promulgated by the Director. Reporting of controlled dangerous substances pursuant to 21 U.S.C., Section 827(d)(1) shall include, but not be limited to:

1. The manufacturer's or distributor's name, address, phone number, DEA registration number and controlled dangerous substance registration number issued by the Bureau;

2. The name, address and DEA registration number of the entity to whom the controlled dangerous substance was sold;

3. The date of the sale of the controlled dangerous substance;

4. The name and National Drug Code of the controlled dangerous substance sold; and

5. The number of containers and the strength and quantity of controlled dangerous substances in each container sold.

E. The information maintained and provided pursuant to subsection D of this section shall be confidential and not open to the public. Access to the information shall, at the discretion of the Director, be limited to:

1. Peace officers certified pursuant to the provisions of Section 3311 of Title 70 of the Oklahoma Statutes who are employed as investigative agents of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control or the Office of the Attorney General;

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

3. A multicounty grand jury properly convened pursuant to the provisions of the Multicounty Grand Jury Act.

F. Manufacturers, distributors, home care agencies, hospices, home care services, ~~medical facility~~ pain management clinic owners

referred to in subsection C of this section and scientific researchers shall obtain a registration annually. Other practitioners shall obtain a registration for a period to be determined by the Director that will be for a period not less than one (1) year nor more than three (3) years.

G. Every trainer or handler of a canine controlled dangerous substances detector who, in the ordinary course of such trainer's or handler's profession, desires to possess any controlled dangerous substance, annually, shall obtain a registration issued by the Director for a fee of Seventy Dollars ($70.00). Such persons shall be subject to all applicable provisions of Section 2-101 et seq. of this title and such applicable rules promulgated by the Director for those individuals identified in subparagraph a of paragraph 32 of Section 2-101 of this title. Persons registered by the Director pursuant to this subsection may possess controlled dangerous substances to the extent authorized by their registration and in conformity with the other provisions of the Uniform Controlled Dangerous Substances Act.

H. The following persons shall not be required to register and may lawfully possess controlled dangerous substances under the provisions of Section 2-101 et seq. of this title:

1. An agent, or an employee thereof, of any registered manufacturer, distributor, dispenser or user for scientific purposes of any controlled dangerous substance, if such agent is acting in

the usual course of such agent's or employee's business or employment;

2. Any person lawfully acting under the direction of a person authorized to administer controlled dangerous substances under Section 2-312 of this title;

3. A common or contract carrier or warehouser, or an employee thereof, whose possession of any controlled dangerous substance is in the usual course of such carrier's or warehouser's business or employment;

4. An ultimate user or a person in possession of any controlled dangerous substance pursuant to a lawful order of a practitioner;

5. An individual pharmacist acting in the usual course of such pharmacist's employment with a pharmacy registered pursuant to the provisions of Section 2-101 et seq. of this title;

6. A nursing home licensed by this state;

7. Any Department of Mental Health and Substance Abuse Services employee or any person whose facility contracts with the Department of Mental Health and Substance Abuse Services whose possession of any dangerous drug, as defined in Section 353.1 of Title 59 of the Oklahoma Statutes, is for the purpose of delivery of a mental health consumer's medicine to the consumer's home or residence;

8. Registered nurses and licensed practical nurses; and

9. An assisted living facility licensed by this state.

I. The Director may, by rule, waive the requirement for registration or fee for registration of certain manufacturers, distributors, dispensers, prescribers, administrators or users for scientific purposes if the Director finds it consistent with the public health and safety.

J. A separate registration shall be required at each principal place of business or professional practice where the applicant manufactures, distributes, dispenses, prescribes, administers or uses for scientific purposes controlled dangerous substances.

K. The Director is authorized to inspect the establishment of a registrant or applicant for registration in accordance with rules promulgated by the Director.

L. No person engaged in a profession or occupation for which a license to engage in such activity is provided by law shall be registered under the Uniform Controlled Dangerous Substances Act unless such person holds a valid license of such person's profession or occupation.

M. Registrations shall be issued on the first day of November of each year. Registrations may be issued at other times, however, upon certification of the professional licensing board.

N. The licensing boards of all professions and occupations to which the use of controlled dangerous substances is incidental shall furnish a current list to the Director, not later than the first day of October of each year, of the persons holding valid licenses. All

such persons except persons exempt from registration requirements under subsection H of this section shall be subject to the registration requirements of Section 2-101 et seq. of this title.

O. The licensing board of any professional defined as a mid-level practitioner shall notify and furnish to the Director, not later than the first day of October of each year, that such professional holds a valid license, a current listing of individuals licensed and registered with their respective boards to prescribe, order, select, obtain and administer controlled dangerous substances. The licensing board shall immediately notify the Director of any action subsequently taken against any such individual.

P. Beginning November 1, 2010, each registrant that prescribes, administers or dispenses methadone shall be required to check the prescription profile of the patient on the central repository of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control.

SECTION 2. AMENDATORY 63 O.S. 2021, Section 2-303, as amended by Section 1, Chapter 31, 1st Extraordinary Session, O.S.L. 2023 (63 O.S. Supp. 2023, Section 2-303), is amended to read as follows:

Section 2-303. A. The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall register an applicant to own a ~~medical facility~~ pain management clinic as described in subsection C of Section 2-302 of this title, or to manufacture,

distribute, dispense, prescribe, administer or use for scientific purposes controlled dangerous substances included in Schedules I through V of Section 2-101 et seq. of this title unless the Director determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

1. Maintenance of effective controls against diversion of particular controlled dangerous substances and any Schedule I or II substance compounded therefrom into other than legitimate medical, scientific or industrial channels including examination of the fitness of his or her employees or agents to handle dangerous substances;

2. Compliance with applicable state and local law;

3. Has been found guilty of, entered a plea of guilty or nolo contendere to a charge under the Uniform Controlled Dangerous Substances Act or any other state or federal law relating to any substance defined herein as a controlled dangerous substance or any felony under the laws of any state or the United States;

4. Furnishing by the applicant false or fraudulent material information in any application filed under Section 2-101 et seq. of this title;

5. Past experience in the manufacture, distribution, dispensing, prescribing, administering or use for scientific

purposes of controlled dangerous substances, and the existence in the establishment of effective controls against diversion;

6. Denial, suspension or revocation of the applicant's federal registration to manufacture, distribute or dispense controlled dangerous substances as authorized by federal law; and

7. Such other factors as may be relevant to and consistent with the public health and safety.

Nothing herein shall be deemed to require individual licensed pharmacists to register under the provisions of the Uniform Controlled Dangerous Substances Act.

B. Registration granted under subsection A of this section shall not entitle a registrant to manufacture, distribute, dispense, prescribe, administer or use for scientific purposes controlled dangerous substances in Schedule I or II other than those specified in the registration.

C. Practitioners shall be registered to dispense, prescribe, administer or use for scientific purposes substances in Schedules II through V if they are authorized to carry on their respective activities under the laws of this state. A registration application by a practitioner who wishes to conduct research with Schedule I substances shall be accompanied by evidence of the applicant's federal registration to conduct such activity and shall be referred to the Medical Research Commission for advice. The Medical Research Commission shall promptly advise the Director concerning the

qualifications of each practitioner requesting such registration. Registration for the purpose of bona fide research or of use for scientific purposes with Schedule I substances by a practitioner deemed qualified by the Medical Research Commission may be denied only on a ground specified in subsection A of Section 2-304 of this title or if there are reasonable grounds to believe that the applicant will abuse or unlawfully transfer such substances or fail to safeguard adequately such applicant's supply of such substances against diversion from legitimate medical or scientific use.

D. 1. The Director shall initially permit persons to register who own or operate any establishment engaged in the manufacture, distribution, dispensing, prescribing, administering or use for scientific purposes of any controlled dangerous substances prior to June 4, 1991, and who are registered or licensed by the state. Fees for registration under this section shall be as follows:

Practitioners and mid-level practitioners	$140.00	per year of registration
Home Care Agencies, Hospices & Home Care Services	$140.00	annually
Medical Facility Owners	$300.00	annually
Distributors	$300.00	annually
Manufacturers	$2,500.00	annually

Manufacturer, Wholesaler, or
Distributor of drug products
containing pseudoephedrine
or phenylpropanolamine $300.00 annually

2. A registrant shall be required to pay double the amount of the above-listed fee for any renewal of registration received more than thirty (30) days late.

3. A ~~Ten Dollar ($10.00)~~ ten-dollar fee shall be charged for a duplicate registration certificate.

E. Compliance by manufacturers and distributors with the provisions of the ~~Federal~~ federal Controlled Substances Act, 21 U.S.C., Section 801 et seq., respecting registration, excluding fees, shall be deemed sufficient to qualify for registration under Section 2-101 et seq. of this title.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-303.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Acute pain" has the same meaning as provided by Section 2-101 of Title 63 of the Oklahoma Statutes;

2. "Chronic nonmalignant pain" means pain unrelated to cancer which persists beyond the usual course of disease or the injury that is the cause of the pain for more than ninety (90) calendar days;

3. "Licensed prescriber" means a prescriber as defined in Section 353.1 of Title 59 of the Oklahoma Statutes, other than a veterinarian, who has the authority to prescribe any controlled dangerous substance under Section 2-312 of Title 63 of the Oklahoma Statutes; and

4. "Pain management clinic" or "clinic" means any publicly or privately owned facility where in any month over sixty percent (60%) of patients who are not being seen for hospice or palliative care are prescribed opioids, benzodiazepines, barbiturates, carisoprodol, or ketamine for the treatment of chronic nonmalignant pain.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-303.2 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Each pain management clinic shall register with the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control as required by subsection C of Section 2-302 of Title 63 of the Oklahoma Statutes unless:

1. The clinic is affiliated with an accredited medical school at which training is provided for medical students, residents, or fellows;

2. The clinic does not employ or contract with any licensed prescriber that prescribes controlled dangerous substances for the treatment of pain;

3. The clinic primarily treats hospice or palliative care patients; or

4. A majority of the patients treated by the clinic are treated for acute pain.

B. Each clinic location shall be registered separately regardless of whether the clinic is operated under the same business name or management as another clinic and each clinic location shall be a permanent, fixed, physical address of operation.

C. As a part of registration, a clinic shall designate an owner or administrator who is responsible for ensuring compliance with all requirements related to registration and operation of the clinic under this act. Within ten (10) calendar days after termination of a designated owner or administrator, the clinic shall notify the Bureau of the identity of another designated owner or administrator for that clinic. Failing to have a designated owner or administrator at the location of the registered clinic may be the basis for a summary suspension of the clinic registration certificate as described in this section.

D. As a condition of eligibility for registration, a pain management clinic shall be at least fifty-one percent (51%) owned by one or more physicians licensed in this state and in good standing. A pain management clinic shall immediately report changes in ownership to the Bureau in a manner prescribed by the Director.

E. The Bureau shall deny registration to any pain management clinic owned by or with any contractual or employment relationship with a licensed prescriber:

1. Whose Drug Enforcement Administration registration has ever been revoked;

2. Whose application for a license or other authorization to prescribe, dispense, or administer a controlled dangerous substance has been denied for disciplinary action by the appropriate licensing board; or

3. Who has been convicted of or pleaded guilty or nolo contendere to, regardless of adjudication, an offense that constitutes a felony for receipt of illicit or diverted drugs including a controlled dangerous substance listed in Schedule I, II, III, IV, or V of the Uniform Controlled Dangerous Substances Act, in this state, any other state, or the United States.

F. The Bureau may also deny registration to any pain management clinic if the Bureau determines that the issuance of such registration is inconsistent with the public interest as described in subsection A of Section 2-303 of Title 63 of the Oklahoma Statutes.

G. If the Bureau finds that a pain management clinic is owned, directly or indirectly, by a person meeting any criteria listed in subsection E of this section, the Bureau shall revoke the certificate of registration previously issued by the Bureau. As

determined by rule, the Bureau may grant an exemption to denying a registration or revoking a previously issued registration if more than five (5) years have elapsed since adjudication. As used in this section, the term "convicted" includes an adjudication of guilt following a plea of guilty or nolo contendere or the forfeiture of a bond when charged with a crime.

H. 1. As provided by Sections 2-304 and 2-305 of Title 63 of the Oklahoma Statutes, the registration of a pain management clinic may be limited, conditioned, denied, suspended, annulled, or revoked by the Director for any additional reason specified in Section 2-304 of Title 63 of the Oklahoma Statutes.

2. As provided by subsection F of Section 2-305 of Title 63 of the Oklahoma Statutes, the Director may issue an order immediately suspending the registration of a pain management clinic, without notice or a hearing, when he or she finds there is imminent danger to the public health or safety which warrants this action.

I. If the registration of a pain management clinic is revoked or suspended, the designated owner or administrator of the pain management clinic, the owner or lessor of the pain management clinic property, the manager, and the proprietor shall cease to operate the facility as a pain management clinic as of the effective date of the suspension or revocation.

J. If a pain management clinic registration is revoked or suspended, the designated owner or administrator of the pain

management clinic, the owner or lessor of the pain management clinic property, the manager, or the proprietor is responsible for removing all signs and symbols identifying the premises as a pain management clinic.

K. If the clinic's registration is revoked, any person named in the registration documents of the pain management clinic including persons owning or operating the pain management clinic shall not, as an individual or as a part of a group, apply to operate a pain management clinic for one (1) year after the date the registration is revoked.

L. The period of suspension for the registration of a pain management clinic shall be prescribed by the Bureau but shall not exceed one (1) year.

M. A change of ownership of a registered pain management clinic shall require submission of a new registration application.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-303.3 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. A licensed prescriber shall not be employed or contracted by or otherwise practice in a pain management clinic if the clinic is not registered by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control under this act. A licensed prescriber who qualifies to practice in a pain management clinic pursuant to rules adopted by the appropriate licensing board may continue to practice

in a pain management clinic if the licensed prescriber continues to meet the qualifications prescribed in the rules. A licensed prescriber who violates this subsection is subject to disciplinary action by the appropriate licensing board.

B. Only a licensed prescriber licensed in this state and authorized to prescribe controlled dangerous substances under Section 2-312 of Title 63 of the Oklahoma Statutes may prescribe a controlled dangerous substance on the premises of a registered pain management clinic and only to the extent allowed by Section 2-312 of Title 63 of the Oklahoma Statutes. No person shall dispense any controlled dangerous substance on the premises of a pain management clinic. The provisions of this subsection shall not be construed to expand or otherwise modify the prescriptive authority of any licensed prescriber.

C. A licensed prescriber shall perform a physical examination of a patient on the same day that the licensed prescriber prescribes a controlled dangerous substance to a patient at a pain management clinic.

D. A licensed prescriber authorized to prescribe controlled dangerous substances who practices at a pain management clinic is responsible for maintaining the control and security of his or her prescription blanks and any other method used for prescribing controlled dangerous substance pain medication. The licensed prescriber shall notify, in writing, the Bureau within twenty-four

(24) hours following any theft or loss of a prescription blank or breach of any other method for prescribing pain medication. The provisions of this subsection shall not be construed to exempt a licensed prescriber from any electronic prescription requirements stipulated in Section 2-309 of Title 63 of the Oklahoma Statutes.

E. The designated administrator of a pain management clinic shall notify the Bureau in writing of the date of termination of employment within ten (10) calendar days after terminating his or her employment with a pain management clinic that is required to be registered pursuant to this act.

F. The owners of a pain management clinic are jointly responsible for ensuring compliance with the following facility and physical operations requirements:

1. A pain management clinic shall be located and operated at a publicly accessible fixed location and shall:

a. display a sign that can be viewed by the public that contains the clinic name, hours of operation, and a street address,

b. have a publicly listed telephone number and a dedicated phone number to send and receive facsimiles,

c. have a reception and waiting area,

d. provide a restroom,

e. have private patient examination rooms,

f. have treatment rooms, if treatment is being provided to the patients, and

g. display a printed sign located in a conspicuous place in the waiting room viewable by the public with the name and contact information of the clinic's designated administrator and the names of all licensed prescribers practicing in the clinic; and

2. This section shall not be construed to relieve a licensed prescriber from his or her duty to provide treatment using the proper equipment and materials as required by the standard of care.

G. The designated owner or administrator of a pain management clinic is responsible for ensuring compliance with infection prevention and control requirements stipulated by the Occupational Safety and Health Administration.

H. The designated owner or administrator shall establish a quality assurance program that includes the identification, investigation, and analysis of the frequency and causes of adverse incidents to patients. The designated owner or administrator is responsible for ensuring compliance with the quality assurance requirements.

I. The designated owner or administrator is responsible for ensuring compliance with the following data collection and reporting requirements:

1. The designated owner or administrator for each pain management clinic shall report all significant adverse incidents to the Bureau; and

2. The designated owner or administrator shall also report to the Bureau, in writing, on a quarterly basis the following data:

a. the number of new and repeat patients seen and treated at the clinic who are prescribed controlled dangerous substance medications for the treatment of chronic nonmalignant pain,

b. the number of patients diagnosed with substance use disorder,

c. the number of patients discharged due to drug diversion, and

d. the number of patients treated at the clinic whose domicile is located somewhere other than in this state. A patient's domicile is the patient's fixed or permanent home to which he or she intends to return even though he or she may temporarily reside elsewhere.

J. The data and reports specified in subsection I of this section shall be accessible to each appropriate licensing board and to the State Board of Pharmacy.

K. Each pain management clinic shall establish a written policy and administrative process for transferring care of patients

diagnosed with a substance use disorder where appropriate for their continued treatment. Each appropriate licensing board shall issue guidance on best practices to ensure appropriate referral and treatment of patients with a substance use disorder.

L. Upon referral by the appropriate licensing board, the Bureau shall investigate suspected instances of drug diversion involving a pain management clinic. Nothing in this act shall be construed to restrict the appropriate licensing board from conducting its own investigation into instances of suspected drug diversion.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-303.4 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma State Bureau of Narcotics and Dangerous Drugs Control may impose an administrative fine on a clinic of up to One Thousand Dollars ($1,000.00) per violation for violating the requirements of this act or the rules promulgated by the Bureau to enforce this act.

B. Each day a violation continues after the date fixed for termination of the violation as ordered by the Bureau constitutes an additional, separate, and distinct violation.

C. The Bureau may impose a fine and, in the case of an owner-operated pain management clinic, revoke or deny a pain management clinic’s registration if the clinic’s designated owner or

administrator knowingly and intentionally misrepresents actions taken to correct a violation.

D. A designated owner or administrator of a pain management clinic who concurrently operates an unregistered pain management clinic is subject to an administrative fine of One Thousand Dollars ($1,000.00) per day.

E. If the owner of a pain management clinic that requires registration fails to apply to register the clinic upon a change of ownership and operates the clinic under the new ownership, the owner is subject to a fine of One Thousand Dollars ($1,000.00).

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-303.5 of Title 63, unless there is created a duplication in numbering, reads as follows:

The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control and all appropriate licensing boards shall promulgate such rules as are necessary to implement the provisions of this act.

SECTION 8. This act shall become effective November 1, 2024.

59-2-3539 DC 3/12/2024 10:26:30 AM