

SENATE FLOOR VERSION

February 9, 2023

SENATE BILL NO. 249

By: McCortney of the Senate

and

Caldwell (Chad) of the
House

An Act relating to controlled dangerous substances;
amending 63 O.S. 2021, Section 2-101, as amended by
Section 1, Chapter 90, O.S.L. 2021, which relates to
definitions used in the Uniform Controlled Dangerous
Substances Act; defining term; amending 63 O.S. 2021,
Section 2-309, as last amended by Section 1, Chapter
259, O.S.L 2021, which relates to prescriptions;
broadening exception from electronic prescription
requirement; defining term; and declaring an
emergency.

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 1, Chapter 90, O.S.L. 2021, 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

13 Pharmacopoeia, official Homeopathic Pharmacopoeia of
14 the United States, or official National Formulary, or
15 any 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
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 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
23 cannabidiol drug 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" as used in Section 2-
15 101 et seq. of this title shall not include
16 decocainized coca leaves or extracts of coca leaves,
17 which extracts do not contain cocaine or ecgonine;

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

1 salts (dextromethorphan). The terms do include the racemic and
2 levorotatory forms;

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

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

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

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

15 32. "Practitioner" means:

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

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

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

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

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

23 36. "Drug paraphernalia" means all equipment, products and
24 materials of any kind which are used, intended for use, or fashioned

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

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

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

1 k. hypodermic syringes, needles and other objects used,
2 intended for use, or fashioned specifically for use in
3 parenterally injecting controlled dangerous substances
4 into the human body except as authorized by Section 3
5 ~~of this act~~ 2-1101 of this title,

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

- 10 (1) metal, wooden, acrylic, glass, stone, plastic or
11 ceramic pipes with or without screens, permanent
12 screens, hashish heads or punctured metal bowls,
13 (2) water pipes,
14 (3) carburetion tubes and devices,
15 (4) smoking and carburetion masks,
16 (5) roach clips, meaning objects used to hold burning
17 material, such as a marijuana cigarette, that has
18 become too small or too short to be held in the
19 hand,
20 (6) miniature cocaine spoons and cocaine vials,
21 (7) chamber pipes,
22 (8) carburetor pipes,
23 (9) electric pipes,
24 (10) air-driven pipes,

- 1 (11) chillums,
2 (12) bongs, or
3 (13) ice pipes or chillers,
4 m. all hidden or novelty pipes, and
5 n. any pipe that has a tobacco bowl or chamber of less
6 than one-half (1/2) inch in diameter in which there is
7 any detectable residue of any controlled dangerous
8 substance as defined in this section or any other
9 substances not legal for possession or use;

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

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

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

greater than the stimulant, depressant or
hallucinogenic effect on the central nervous
system of a controlled dangerous substance in
Schedule I or II, or

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

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

c. "Synthetic controlled substance" does not include:

- (1) a controlled dangerous substance,
- (2) any substance for which there is an approved new
drug application,
- (3) with respect to a particular person any
substance, if an exemption is in effect for
investigational use, for that person under the

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

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

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

14 38. "Tetrahydrocannabinols" means all substances that have been
15 chemically synthesized to emulate the tetrahydrocannabinols of
16 marijuana;

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

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

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

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

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

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

18 44. "Initial prescription" means a prescription issued to a
19 patient who:

- 20 a. has never previously been issued a prescription for
21 the drug or its pharmaceutical equivalent in the past
22 year, or
23 b. requires a prescription for the drug or its
24 pharmaceutical equivalent due to a surgical procedure

1 or new acute event and has previously had a
2 prescription for the drug or its pharmaceutical
3 equivalent within the past year.

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

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

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

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

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

1 failure or chronic, unrelmitting or intractable pain such as
2 neuropathic pain;

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

14 48. "Harm-reduction services" means programs established to:

- 15 a. reduce the spread of infectious diseases related to
16 injection drug use,
17 b. reduce drug dependency, overdose deaths and associated
18 complications, and
19 c. increase safe recovery and disposal of used syringes
20 and sharp waste; and

21 49. "Palliative care" means a specialized medical service for
22 people of any age and at any stage of a serious illness or life-
23 altering medical event that focuses on navigating complex medical
24 decisions while providing patient autonomy and access to

1 information. Utilizing a holistic and interdisciplinary team
2 approach, palliative care addresses physical, intellectual,
3 emotional, social, and spiritual needs. Palliative care may be
4 provided in the inpatient, outpatient, or home care setting and
5 strives to improve quality of life for both the patient and the
6 family.

7 SECTION 2. AMENDATORY 63 O.S. 2021, Section 2-309, as
8 last amended by Section 1, Chapter 259, O.S.L 2021, is amended to
9 read as follows:

10 Section 2-309. A. 1. Except for dosages medically required
11 for a period not to exceed forty-eight (48) hours which are
12 administered by or on direction of a practitioner, other than a
13 pharmacist, or medication dispensed directly by a practitioner,
14 other than a pharmacist, to an ultimate user, no controlled
15 dangerous substance included in Schedule II, which is a prescription
16 drug as determined under regulation promulgated by the Board of
17 Pharmacy, shall be dispensed without an electronic prescription of a
18 practitioner; provided, that in emergency situations, as prescribed
19 by the Board of Pharmacy by regulation, such drug may be dispensed
20 upon oral prescription reduced promptly to writing and filed by the
21 pharmacist in a manner to be prescribed by rules and regulations of
22 the Director of the Oklahoma State Bureau of Narcotics and Dangerous
23 Drugs Control.

1 2. Electronic prescribing shall be utilized for Schedules II,
2 III, IV and V, subject to the requirements set forth in 21 CFR,
3 Section 1311 et seq.

4 3. An electronic prescription with electronic signature may
5 serve as an original prescription, subject to the requirements set
6 forth in 21 CFR, Section 1311 et seq.

7 4. Prescriptions shall be retained in conformity with the
8 requirements of this section and Section 2-307 of this title. No
9 prescription for a Schedule II substance may be refilled.

10 5. The electronic prescription requirement provided for in this
11 section shall not apply to prescriptions for controlled dangerous
12 substances issued by any of the following:

- 13 a. a person licensed to practice veterinary medicine,
- 14 b. a practitioner who experiences temporary technological
15 or electrical failure or other extenuating
16 circumstance that prevents the prescription from being
17 transmitted electronically; provided, however, that
18 the practitioner documents the reason for this
19 exception in the medical record of the patient,
- 20 c. a practitioner, other than a pharmacist, who dispenses
21 directly to an ultimate user,
- 22 d. a practitioner who orders a controlled dangerous
23 substance to be administered through an on-site
24 pharmacy in:

- 1 (1) a hospital as defined in Section 1-701 of this
2 title,
3 (2) a nursing facility as defined in Section 1-1902
4 of this title,
5 (3) a hospice inpatient facility as defined in
6 Section 1-860.2 of this title,
7 (4) an outpatient dialysis facility,
8 (5) a continuum of care facility as defined in
9 Section 1-890.2 of this title, or
10 (6) a penal institution listed in Section 509 of
11 Title 57 of the Oklahoma Statutes,

- 12 e. a practitioner who orders a controlled dangerous
13 substance to be administered through a hospice program
14 ~~as defined in~~ including but not limited to a hospice
15 program that provides hospice services in the private
16 residence of a patient or in a long-term care facility
17 where the patient resides. As used in this
18 subparagraph, "hospice program" has the same meaning
19 as provided by Section 1-860.2 of this title,
20 f. a practitioner who writes a prescription to be
21 dispensed by a pharmacy located on federal property,
22 provided the practitioner documents the reason for
23 this exception in the medical record of the patient,
24 or

1 g. a practitioner that has received a waiver or extension
2 from his or her licensing board.

3 6. Electronic prescriptions shall not be utilized under the
4 following circumstances:

5 a. compound prescriptions containing two or more
6 commercially available products or two or more active
7 pharmaceutical ingredients,

8 b. compounded infusion prescriptions containing two or
9 more commercially available products or two or more
10 active pharmaceutical ingredients,

11 c. prescriptions issued under approved research
12 protocols, or

13 d. if the practitioner determines that an electronic
14 prescription cannot be issued in a timely manner and
15 the condition of the patient is at risk.

16 7. A pharmacist who receives a written, oral or facsimile
17 prescription shall not be required to verify that the prescription
18 falls under one of the exceptions provided for in paragraph 6 of
19 this subsection. Pharmacists may continue to dispense medications
20 from otherwise valid written, oral or facsimile prescriptions that
21 are consistent with the provisions of this section.

22 8. Practitioners shall indicate in the health record of a
23 patient that an exception to the electronic prescription requirement
24 was utilized.

1 9. All prescriptions issued pursuant to paragraphs 5 and 6 of
2 this subsection shall be issued on an official prescription form
3 provided by the Oklahoma State Bureau of Narcotics and Dangerous
4 Drugs Control.

5 10. a. Effective January 1, 2020, practitioners shall
6 register with the Oklahoma State Bureau of Narcotics
7 and Dangerous Drugs Control in order to be issued
8 official prescription forms. Such registration shall
9 include, but not be limited to, the primary address
10 and the address of each place of business to be
11 imprinted on official prescription forms. Any change
12 to a registered practitioner's registered address
13 shall be promptly reported to the practitioner's
14 licensing board and the Bureau by the practitioner in
15 a manner approved by the Bureau.

16 b. A practitioner's registration shall be without fee and
17 subject to approval by the Bureau. Such registration
18 shall be valid for a period of two (2) years and may
19 be denied, suspended or revoked by the Bureau upon a
20 finding by the Bureau or licensing board that the
21 registered practitioner has had any license to
22 practice a medical profession revoked or suspended by
23 any state or federal agency.
24

1 c. Where the Bureau has revoked the registration of a
2 registered practitioner, the Bureau may revoke or
3 cancel any official prescription forms in the
4 possession of the registered practitioner. Any
5 revocation or any suspension shall require the
6 registered practitioner to return all unused official
7 prescription forms to the Bureau within fifteen (15)
8 calendar days after the date of the written
9 notification.

10 d. A practitioner that has had any license to practice
11 terminated, revoked or suspended by a state or federal
12 agency may, upon restoration of such license or
13 certificate, register to be issued official
14 prescription forms.

15 11. a. Except as provided in subparagraph f of this
16 paragraph, the Bureau shall issue official
17 prescription forms free of charge only to registered
18 practitioners in this state. Such forms shall not be
19 transferable. The number of official prescription
20 forms issued to a registered practitioner at any time
21 shall be at the discretion of the Bureau.

22 b. Official prescription forms issued to a registered
23 practitioner shall be imprinted only with the primary
24 address and other addresses listed on the registration

1 of the practitioner. Such prescriptions shall be sent
2 only to the primary address of the registered
3 practitioner.

4 c. Official prescription forms issued to a registered
5 practitioner shall be used only by the practitioner to
6 whom they are issued.

7 d. The Bureau may revoke or cancel official prescription
8 forms in possession of registered practitioners when
9 the license of such practitioner is suspended,
10 terminated or revoked.

11 e. Official prescription forms of registered
12 practitioners who are deceased or who no longer
13 prescribe shall be returned to the Bureau at a
14 designated address. If the registered practitioner is
15 deceased, it is the responsibility of the registered
16 practitioner's estate or lawful designee to return
17 such forms.

18 f. The Bureau may issue official prescription forms to
19 employees or agents of the Bureau and other government
20 agencies for the purpose of preventing, identifying,
21 investigating and prosecuting unacceptable or illegal
22 practices by providers and other persons and assisting
23 in the recovery of overpayments under any program
24 operated by the state or paid for with state funds.

1 Such prescription forms shall be issued for this
2 purpose only to individuals who are authorized to
3 conduct investigations on behalf of the Bureau or
4 other government agencies as part of their official
5 duties. Individuals and agencies receiving such
6 prescription forms for this purpose shall provide
7 appropriate assurances to the Bureau that adequate
8 safeguards and security measures are in place to
9 prevent the use of such prescription forms for
10 anything other than official government purposes.

11 12. a. Adequate safeguards and security measures shall be
12 undertaken by registered practitioners holding
13 official prescription forms to assure against the
14 loss, destruction, theft or unauthorized use of the
15 forms. Registered practitioners shall maintain a
16 sufficient but not excessive supply of such forms in
17 reserve.

18 b. Registered practitioners shall immediately notify the
19 Bureau, in a manner designated by the Bureau, upon
20 their knowledge of the loss, destruction, theft or
21 unauthorized use of any official prescription forms
22 issued to them, as well as the failure to receive
23 official prescription forms within a reasonable time
24 after ordering them from the Bureau.

1 c. Registered practitioners shall immediately notify the
2 Bureau upon their knowledge of any diversion or
3 suspected diversion of drugs pursuant to the loss,
4 theft or unauthorized use of prescriptions.

5 B. 1. Except for dosages medically required for a period not
6 to exceed seventy-two (72) hours which are administered by or on
7 direction of a practitioner, other than a pharmacist, or medication
8 dispensed directly by a practitioner, other than a pharmacist, to an
9 ultimate user, no controlled dangerous substance included in
10 Schedule III or IV, which is a prescription drug as determined under
11 regulation promulgated by the Board of Pharmacy, shall be dispensed
12 without an electronic prescription.

13 2. Any prescription for a controlled dangerous substance in
14 Schedule III, IV or V may not be filled or refilled more than six
15 (6) months after the date thereof or be refilled more than five
16 times after the date of the prescription, unless renewed by the
17 practitioner.

18 C. Whenever it appears to the Director of the Oklahoma State
19 Bureau of Narcotics and Dangerous Drugs Control that a drug not
20 considered to be a prescription drug under existing state law or
21 regulation of the Board of Pharmacy should be so considered because
22 of its abuse potential, the Director shall so advise the Board of
23 Pharmacy and furnish to the Board all available data relevant
24 thereto.

1 D. 1. "Prescription", as used in this section, means a
2 written, oral or electronic order by a practitioner to a pharmacist
3 for a controlled dangerous substance for a particular patient, which
4 specifies the date of its issue, and the full name and address of
5 the patient and, if the controlled dangerous substance is prescribed
6 for an animal, the species of the animal, the name and quantity of
7 the controlled dangerous substance prescribed, the directions for
8 use, the name and address of the owner of the animal and, if
9 written, the signature of the practitioner.

10 2. "Registered practitioner", as used in this section, means a
11 licensed practitioner duly registered with the Oklahoma State Bureau
12 of Narcotics and Dangerous Drugs Control to be issued official
13 prescription forms.

14 E. No person shall solicit, dispense, receive or deliver any
15 controlled dangerous substance through the mail, unless the ultimate
16 user is personally known to the practitioner and circumstances
17 clearly indicate such method of delivery is in the best interest of
18 the health and welfare of the ultimate user.

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

23 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
24 February 9, 2023 - DO PASS