

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED  
5 SENATE BILL NO. 1446

By: Sykes of the Senate

and

6 Derby of the House

7  
8  
9 COMMITTEE SUBSTITUTE

10 An Act relating to regulation of opioid drugs;  
11 amending 59 O.S. 2011, Section 495a.1, which relates  
12 to license reregistration; directing Board of Medical  
13 Licensure and Supervision to require certain  
14 continuing medical education; providing an exception;  
15 amending 59 O.S. 2011, Section 509, which relates to  
16 unprofessional conduct; expanding scope of certain  
17 definition; amending 63 O.S. 2011, Section 2-101, as  
18 last amended by Section 1, Chapter 43, O.S.L. 2017  
19 (63 O.S. Supp. 2017, Section 2-101), which relates to  
20 definitions; adding definitions; amending 63 O.S.  
21 2011, Section 2-309D, as last amended by Section 35,  
22 Chapter 210, O.S.L. 2016 (63 O.S. Supp. 2017, Section  
23 2-309D), which relates to central repository;  
24 providing that failure to properly utilize central  
repository is grounds for certain disciplinary  
action; authorizing Oklahoma State Bureau of  
Narcotics and Dangerous Drugs Control to provide  
unsolicited notification to specific licensing boards  
under certain conditions; providing limits on certain  
prescription drugs; establishing certain requirements  
related to the procurement of opioid prescriptions;  
requiring practitioners to disclose health risks  
associated with opioids; requiring practitioner to  
include certain note in medical file of patient;  
directing applicable licensing boards to develop  
certain guidelines and make them available to  
practitioners; requiring practitioner and patient to  
enter into patient-provider agreement under certain

1 circumstances; requiring practitioners to take  
2 certain actions under certain circumstances;  
3 providing exceptions; requiring that policies,  
4 contracts and plans adjust certain cost-sharing  
5 payment; requiring certain written policies;  
6 providing definition; directing Insurance Department  
7 to conduct evaluations and submit certain reports;  
8 authorizing Insurance Department to adopt certain  
9 rules and regulations; directing Oklahoma State  
10 Bureau of Narcotics and Dangerous Drugs Control to  
11 submit certain report; specifying contents of report;  
12 providing for codification; providing for  
13 noncodification; and providing an effective date.

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

15 SECTION 1. AMENDATORY 59 O.S. 2011, Section 495a.1, is  
16 amended to read as follows:

17 Section 495a.1 A. At regular intervals set by the Board, no  
18 less than one time per annum, each licensee licensed by this act  
19 shall demonstrate to the Board the licensee's continuing  
20 qualification to practice medicine and surgery. The licensee shall  
21 apply for license reregistration on a ~~form(s)~~ form or forms provided  
22 by the Board, which shall be designed to require the licensee to  
23 update ~~and/or~~ or add to the information in the Board's file relating  
24 to the licensee and his or her professional activity. It shall also  
require the licensee to report to the Board the following  
information:

1 1. Any action taken against the licensee for acts or conduct  
2 similar to acts or conduct described in this act as grounds for  
3 disciplinary action by:

- 4 a. any jurisdiction or authority (United States or  
5 foreign) that licenses or authorizes the practice of  
6 medicine and surgery,
- 7 b. any peer review body,
- 8 c. any health care institution,
- 9 d. any professional medical society or association,
- 10 e. any law enforcement agency,
- 11 f. any court, or
- 12 g. any governmental agency;

13 2. Any adverse judgment, settlement, or award against the  
14 licensee arising from a professional liability claim;

15 3. The licensee's voluntary surrender of or voluntary  
16 limitation on any license or authorization to practice medicine and  
17 surgery in any jurisdiction, including military, public health and  
18 foreign;

19 4. Any denial to the licensee of a license or authorization to  
20 practice medicine and surgery by any jurisdiction, including  
21 military, public health or foreign;

22 5. The licensee's voluntary resignation from the medical staff  
23 of any health care institution or voluntary limitation of the  
24 licensee's staff privileges at such an institution if that action

1 occurred while the licensee was under formal or informal  
2 investigation by the institution or a committee thereof for any  
3 reason related to alleged medical incompetence, unprofessional  
4 conduct, or mental or physical impairment;

5 6. The licensee's voluntary resignation or withdrawal from a  
6 national, state, or county medical society, association, or  
7 organization if that action occurred while the licensee was under  
8 formal or informal investigation or review by that body for any  
9 reason related to possible medical incompetence, unprofessional or  
10 unethical conduct, or mental or physical impairment;

11 7. Whether the licensee has abused or has been addicted to or  
12 treated for addiction to alcohol or any chemical substance during  
13 the previous registration period, unless such person is in a  
14 rehabilitation program approved by the Board;

15 8. Whether the licensee has had any physical injury or disease  
16 or mental illness during the previous registration period that  
17 affected or interrupted his or her practice of medicine and surgery;  
18 and

19 9. The licensee's completion of continuing medical education or  
20 other forms of professional maintenance ~~and/or~~ or evaluation,  
21 including specialty board certification or recertification, during  
22 the previous registration period.

23 B. The Board may require continuing medical education for  
24 license reregistration and require documentation of that education.

1       C. The Board shall require that the licensee receive not less  
2 than one (1) hour of education in pain management or one (1) hour of  
3 education in opioid use or addiction each year preceding an  
4 application for renewal of a license, unless the licensee has  
5 demonstrated to the satisfaction of the Board that the licensee does  
6 not currently hold a valid federal Drug Enforcement Administration  
7 registration number.

8       D. The licensee shall sign and attest to the veracity of the  
9 application form for license reregistration. Failure to report  
10 fully and correctly shall be grounds for disciplinary action by the  
11 Board.

12       ~~D.~~ E. The Board shall establish a system for reviewing  
13 reregistration forms. The Board may initiate investigations and  
14 disciplinary proceedings based on information submitted by licensees  
15 for license reregistration.

16       ~~E.~~ F. Upon a finding by the Board that the licensee is fit to  
17 continue to practice medicine and surgery in this state, the Board  
18 shall issue to the licensee a license to practice medicine and  
19 surgery during the next registration period.

20       SECTION 2.       AMENDATORY       59 O.S. 2011, Section 509, is  
21 amended to read as follows:

22       Section 509. The words "unprofessional conduct" as used in  
23 Sections 481 through ~~514~~ 518.1 of this title are hereby declared to  
24 include, but shall not be limited to, the following:

- 1        1. Procuring, aiding or abetting a criminal operation;
- 2        2. The obtaining of any fee or offering to accept any fee,  
3 present or other form of remuneration whatsoever, on the assurance  
4 or promise that a manifestly incurable disease can or will be cured;
- 5        3. Willfully betraying a professional secret to the detriment  
6 of the patient;
- 7        4. Habitual intemperance or the habitual use of habit-forming  
8 drugs;
- 9        5. Conviction of a felony or of any offense involving moral  
10 turpitude;
- 11       6. All advertising of medical business in which statements are  
12 made which are grossly untrue or improbable and calculated to  
13 mislead the public;
- 14       7. Conviction or confession of a crime involving violation of:  
15        a. the antinarcotic or prohibition laws and regulations  
16              of the federal government,  
17        b. the laws of this state, or  
18        c. State Board of Health rules;
- 19       8. Dishonorable or immoral conduct which is likely to deceive,  
20 defraud, or harm the public;
- 21       9. The commission of any act which is a violation of the  
22 criminal laws of any state when such act is connected with the  
23 physician's practice of medicine. A complaint, indictment or  
24 confession of a criminal violation shall not be necessary for the

1 enforcement of this provision. Proof of the commission of the act  
2 while in the practice of medicine or under the guise of the practice  
3 of medicine shall be unprofessional conduct;

4 10. Failure to keep complete and accurate records of purchase  
5 and disposal of controlled drugs or of narcotic drugs;

6 11. The writing of false or fictitious prescriptions for any  
7 drugs or narcotics declared by the laws of this state to be  
8 controlled or narcotic drugs;

9 12. Prescribing or administering a drug or treatment without  
10 sufficient examination and the establishment of a valid physician-  
11 patient relationship;

12 13. The violation, or attempted violation, direct or indirect,  
13 of any of the provisions of the Oklahoma Allopathic Medical and  
14 Surgical Licensure and Supervision Act, either as a principal,  
15 accessory or accomplice;

16 14. Aiding or abetting, directly or indirectly, the practice of  
17 medicine by any person not duly authorized under the laws of this  
18 state;

19 15. The inability to practice medicine with reasonable skill  
20 and safety to patients by reason of age, illness, drunkenness,  
21 excessive use of drugs, narcotics, chemicals, or any other type of  
22 material or as a result of any mental or physical condition. In  
23 enforcing this subsection the State Board of Medical Licensure and  
24 Supervision may, upon probable cause, request a physician to submit

1 to a mental or physical examination by physicians designated by it.  
2 If the physician refuses to submit to the examination, the Board  
3 shall issue an order requiring the physician to show cause why the  
4 physician will not submit to the examination and shall schedule a  
5 hearing on the order within thirty (30) days after notice is served  
6 on the physician. The physician shall be notified by either  
7 personal service or by certified mail with return receipt requested.  
8 At the hearing, the physician and the physician's attorney are  
9 entitled to present any testimony and other evidence to show why the  
10 physician should not be required to submit to the examination.  
11 After a complete hearing, the Board shall issue an order either  
12 requiring the physician to submit to the examination or withdrawing  
13 the request for examination. The medical license of a physician  
14 ordered to submit for examination may be suspended until the results  
15 of the examination are received and reviewed by the Board;

- 16 16. a. Prescribing, dispensing or administering of controlled  
17 substances or narcotic drugs in excess of the amount  
18 considered good medical practice, ~~or~~  
19 b. prescribing, dispensing or administering controlled  
20 substances or narcotic drugs without medical need in  
21 accordance with ~~published standards~~ pertinent  
22 licensing board standards, or  
23  
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1           c.   prescribing, dispensing or administering opioid drugs  
2           in excess of the maximum dosage authorized under  
3           Section 5 of this act;

4           17. Engaging in physical conduct with a patient which is sexual  
5 in nature, or in any verbal behavior which is seductive or sexually  
6 demeaning to a patient;

7           18. Failure to maintain an office record for each patient which  
8 accurately reflects the evaluation, treatment, and medical necessity  
9 of treatment of the patient;

10          19. Failure to provide necessary ongoing medical treatment when  
11 a doctor-patient relationship has been established, which  
12 relationship can be severed by either party providing a reasonable  
13 period of time is granted; or

14          20. Failure to provide a proper and safe medical facility  
15 setting and qualified assistive personnel for a recognized medical  
16 act, including but not limited to an initial in-person patient  
17 examination, office surgery, diagnostic service or any other medical  
18 procedure or treatment. Adequate medical records to support  
19 diagnosis, procedure, treatment or prescribed medications must be  
20 produced and maintained.

21          SECTION 3.        AMENDATORY        63 O.S. 2011, Section 2-101, as  
22 last amended by Section 1, Chapter 43, O.S.L. 2017 (63 O.S. Supp.  
23 2017, Section 2-101), is amended to read as follows:  
24

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

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

7 a. a practitioner (or, in the presence of the  
8 practitioner, by the authorized agent of the  
9 practitioner), or

10 b. the patient or research subject at the direction and  
11 in the presence of the practitioner;

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

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

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

1       5. "Coca leaves" includes cocaine and any compound,  
2 manufacture, salt, derivative, mixture or preparation of coca  
3 leaves, except derivatives of coca leaves which do not contain  
4 cocaine or ecgonine;

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

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

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

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

23       10. "Deliver" or "delivery" means the actual, constructive or  
24 attempted transfer from one person to another of a controlled

1 dangerous substance or drug paraphernalia, whether or not there is  
2 an agency relationship;

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

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

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

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

17 14. "Drug" means articles:

18 a. recognized in the official United States  
19 Pharmacopoeia, official Homeopathic Pharmacopoeia of  
20 the United States, or official National Formulary, or  
21 any supplement to any of them,

22 b. intended for use in the diagnosis, cure, mitigation,  
23 treatment or prevention of disease in man or other  
24 animals,

- 1           c.    other than food, intended to affect the structure or  
2                    any function of the body of man or other animals, and  
3           d.    intended for use as a component of any article  
4                    specified in this paragraph;

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

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

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

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

22           18.   "Hospice" means a centrally administered, nonprofit or  
23 profit, medically directed, nurse-coordinated program which provides  
24 a continuum of home and inpatient care for the terminally ill

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

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

23  
24

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

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

23 21. "Laboratory" means a laboratory approved by the Director as  
24 proper to be entrusted with the custody of controlled dangerous

1 substances and the use of controlled dangerous substances for  
2 scientific and medical purposes and for purposes of instruction;

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

12 23. "~~Marihuana~~ Marijuana" means all parts of the plant Cannabis  
13 sativa L., whether growing or not; the seeds thereof; the resin  
14 extracted from any part of such plant; and every compound,  
15 manufacture, salt, derivative, mixture or preparation of such plant,  
16 its seeds or resin, but shall not include:

- 17 a. the mature stalks of such plant or fiber produced from  
18 such stalks,
- 19 b. oil or cake made from the seeds of such plant,  
20 including cannabidiol derived from the seeds of the  
21 ~~marihuana~~ marijuana plant,
- 22 c. any other compound, manufacture, salt, derivative,  
23 mixture or preparation of such mature stalks (except  
24



- 1 the resin extracted therefrom), including cannabidiol  
2 derived from mature stalks, fiber, oil or cake,
- 3 d. the sterilized seed of such plant which is incapable  
4 of germination,
- 5 e. for any person participating in a clinical trial to  
6 administer cannabidiol for the treatment of severe  
7 forms of epilepsy pursuant to Section 2-802 of this  
8 title, a drug or substance approved by the federal  
9 Food and Drug Administration for use by those  
10 participants,
- 11 f. for any person or the parents, legal guardians or  
12 caretakers of the person who have received a written  
13 certification from a physician licensed in this state  
14 that the person has been diagnosed by a physician as  
15 having Lennox-Gastaut Syndrome, Dravet Syndrome, also  
16 known as Severe Myoclonic Epilepsy of Infancy, or any  
17 other severe form of epilepsy that is not adequately  
18 treated by traditional medical therapies, spasticity  
19 due to multiple sclerosis or due to paraplegia,  
20 intractable nausea and vomiting, appetite stimulation  
21 with chronic wasting diseases, the substance  
22 cannabidiol, a nonpsychoactive cannabinoid, found in  
23 the plant Cannabis sativa L. or any other preparation  
24 thereof, that has a tetrahydrocannabinol concentration

1 of not more than three-tenths of one percent (0.3%)  
2 and that is delivered to the patient in the form of a  
3 liquid,

4 g. any federal Food and Drug Administration-approved  
5 cannabidiol drug or substance, or

6 h. industrial hemp, from the plant *Cannabis sativa* L. and  
7 any part of such plant, whether growing or not, with a  
8 delta-9 tetrahydrocannabinol concentration of not more  
9 than three-tenths of one percent (0.3%) on a dry  
10 weight basis which shall not be grown anywhere in the  
11 State of Oklahoma but may be shipped to Oklahoma  
12 pursuant to the provisions of subparagraph e or f of  
13 this paragraph;

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

19 25. "Mid-level practitioner" means an advanced practice nurse  
20 as defined and within parameters specified in Section 567.3a of  
21 Title 59 of the Oklahoma Statutes, or a certified animal euthanasia  
22 technician as defined in Section 698.2 of Title 59 of the Oklahoma  
23 Statutes, or an animal control officer registered by the Oklahoma  
24 State Bureau of Narcotics and Dangerous Drugs Control under

1 subsection B of Section 2-301 of this title within the parameters of  
2 such officer's duty under Sections 501 through 508 of Title 4 of the  
3 Oklahoma Statutes;

4 26. "Narcotic drug" means any of the following, whether  
5 produced directly or indirectly by extraction from substances of  
6 vegetable origin, or independently by means of chemical synthesis,  
7 or by a combination of extraction and chemical synthesis:

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

23 27. "Opiate" means any substance having an addiction-forming or  
24 addiction-sustaining liability similar to morphine or being capable

1 of conversion into a drug having such addiction-forming or  
2 addiction-sustaining liability. It does not include, unless  
3 specifically designated as controlled under the Uniform Controlled  
4 Dangerous Substances Act, the dextrorotatory isomer of 3-methoxy-n-  
5 methyl-morphinan and its salts (dextromethorphan). It does include  
6 its racemic and levorotatory forms;

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

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

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

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

19 32. "Practitioner" means:

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

21 (2) a dentist,

22 (3) a podiatrist,

23 (4) an optometrist,

24 (5) a veterinarian,

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

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

19 34. "State" means the State of Oklahoma or any other state of  
20 the United States;

21 35. "Ultimate user" means a person who lawfully possesses a  
22 controlled dangerous substance for the person's own use or for the  
23 use of a member of the person's household or for administration to  
24

1 an animal owned by the person or by a member of the person's  
2 household;

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

12 a. kits used, intended for use, or fashioned specifically  
13 for use in planting, propagating, cultivating, growing  
14 or harvesting of any species of plant which is a  
15 controlled dangerous substance or from which a  
16 controlled dangerous substance can be derived,

17 b. kits used, intended for use, or fashioned specifically  
18 for use in manufacturing, compounding, converting,  
19 producing, processing or preparing controlled  
20 dangerous substances,

21 c. isomerization devices used, intended for use, or  
22 fashioned specifically for use in increasing the  
23 potency of any species of plant which is a controlled  
24 dangerous substance,

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

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



- 1 (8) carburetor pipes,
- 2 (9) electric pipes,
- 3 (10) air-driven pipes,
- 4 (11) chillums,
- 5 (12) bongs, or
- 6 (13) ice pipes or chillers,

7 m. all hidden or novelty pipes, and

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

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

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

- 21 (1) the chemical structure of which is substantially
- 22 similar to the chemical structure of a controlled
- 23 dangerous substance in Schedule I or II,

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

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

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

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

22 (1) a controlled dangerous substance,

23 (2) any substance for which there is an approved new  
24 drug application,

1 (3) with respect to a particular person any  
2 substance, if an exemption is in effect for  
3 investigational use, for that person under the  
4 provisions of Section 505 of the Federal Food,  
5 Drug and Cosmetic Act, Title 21 of the United  
6 States Code, Section 355, to the extent conduct  
7 with respect to such substance is pursuant to  
8 such exemption, or

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

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

17 38. "Tetrahydrocannabinols" means all substances that have been  
18 chemically synthesized to emulate the tetrahydrocannabinols of  
19 ~~marihuana~~ marijuana;

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

1 of subsection A of Section 2-206 of this title, the term "isomer"  
2 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; ~~and~~

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" does not include chronic pain, pain being treated as  
13 part of cancer care, hospice or other end-of-life care, or pain  
14 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 may or may not be associated with an acute or chronic pathologic  
18 process that causes continuous or intermittent pain over months or  
19 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 a  
13          Schedule II controlled substance or any opioid drug which is a  
14          prescription drug, as a means to:

15           a. explain the possible risk of development of physical  
16           or psychological dependence in the patient and prevent  
17           the possible development of addiction,

18           b. document the understanding of both the practitioner  
19           and the patient regarding the pain-management plan of  
20           the patient,

21           c. establish the rights of the patient in association  
22           with treatment and the obligations of the patient in  
23           relation to the responsible use, discontinuation of  
24           use, and storage of Schedule II controlled dangerous

1 substances, including any restrictions on the refill  
2 of prescriptions or the acceptance of Schedule II  
3 prescriptions from practitioners,

4 d. identify the specific medications and other modes of  
5 treatment, including physical therapy or exercise,  
6 relaxation or psychological counseling, that are  
7 included as a part of the pain-management plan,

8 e. specify the measures the practitioner may employ to  
9 monitor the compliance of the patient including, but  
10 not limited to, random specimen screens and pill  
11 counts, and

12 f. delineate the process for terminating the agreement,  
13 including the consequences if the practitioner has  
14 reason to believe that the patient is not complying  
15 with the terms of the agreement. Compliance with the  
16 "consent items" shall constitute a valid, informal  
17 consent for opioid therapy. The provider shall be  
18 held harmless from civil litigation for failure to  
19 treat pain if the event occurs because of nonadherence  
20 by the patient with any of the provisions of the  
21 patient-provider agreement;

22 46. "Serious illness" means a medical illness or physical  
23 injury or condition that substantially affects quality of life for  
24 more than a short period of time. "Serious illness" includes, but

1 is not limited to, Alzheimer's disease or related dementias, lung  
2 disease, cancer, heart failure, renal failure, liver failure or  
3 chronic, unremitting or intractable pain such as neuropathic pain;  
4 and

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

16 SECTION 4. AMENDATORY 63 O.S. 2011, Section 2-309D, as  
17 last amended by Section 35, Chapter 210, O.S.L. 2016 (63 O.S. Supp.  
18 2017, Section 2-309D), is amended to read as follows:

19 Section 2-309D. A. The information collected at the central  
20 repository pursuant to the Anti-Drug Diversion Act shall be  
21 confidential and shall not be open to the public. Access to the  
22 information shall be limited to:

23 1. Peace officers certified pursuant to Section 3311 of Title  
24 70 of the Oklahoma Statutes who are employed as investigative agents

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

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

5 3. The executive director or chief investigator, as designated  
6 by each board, of the following state boards:

7 a. Board of Podiatric Medical Examiners,

8 b. Board of Dentistry,

9 c. State Board of Pharmacy,

10 d. State Board of Medical Licensure and Supervision,

11 e. State Board of Osteopathic Examiners,

12 f. State Board of Veterinary Medical Examiners,

13 g. Oklahoma Health Care Authority,

14 h. Department of Mental Health and Substance Abuse  
15 Services,

16 i. Board of Examiners in Optometry,

17 j. Board of Nursing,

18 k. Office of the Chief Medical Examiner, and

19 l. State Board of Health;

20 4. A multicounty grand jury properly convened pursuant to the  
21 Multicounty Grand Jury Act;

22 5. Medical practitioners employed by the United States  
23 Department of Veterans Affairs, the United States Military, or other  
24 federal agencies treating patients in this state; and



1           6. At the discretion of the Director of the Oklahoma State  
2 Bureau of Narcotics and Dangerous Drugs Control, medical  
3 practitioners and their staff, including those employed by the  
4 federal government in this state.

5           B. This section shall not prevent access, at the discretion of  
6 the Director of the Oklahoma State Bureau of Narcotics and Dangerous  
7 Drugs Control, to investigative information by peace officers and  
8 investigative agents of federal, state, county or municipal law  
9 enforcement agencies, district attorneys and the Attorney General in  
10 furtherance of criminal, civil or administrative investigations or  
11 prosecutions within their respective jurisdictions, designated  
12 legal, communications, and analytical employees of the Bureau, and  
13 to registrants in furtherance of efforts to guard against the  
14 diversion of controlled dangerous substances.

15           C. This section shall not prevent the disclosure, at the  
16 discretion of the Director of the Oklahoma State Bureau of Narcotics  
17 and Dangerous Drugs Control, of statistical information gathered  
18 from the central repository to the general public which shall be  
19 limited to types and quantities of controlled substances dispensed  
20 and the county where dispensed.

21           D. This section shall not prevent the disclosure, at the  
22 discretion of the Director of the Oklahoma State Bureau of Narcotics  
23 and Dangerous Drugs Control, of prescription-monitoring-program  
24

1 information to prescription-monitoring programs of other states  
2 provided a reciprocal data-sharing agreement is in place.

3 E. The Department of Mental Health and Substance Abuse Services  
4 and the State Department of Health may utilize the information in  
5 the central repository for statistical, research, substance abuse  
6 prevention, or educational purposes, provided that consumer  
7 confidentiality is not compromised.

8 F. Any unauthorized disclosure of any information collected at  
9 the central repository provided by the Anti-Drug Diversion Act shall  
10 be a misdemeanor. Violation of the provisions of this section shall  
11 be deemed willful neglect of duty and shall be grounds for removal  
12 from office.

13 G. 1. Registrants shall have access to the central repository  
14 for the purposes of patient treatment and for determination in  
15 prescribing or screening new patients. The patient's history may be  
16 disclosed to the patient for the purposes of treatment of  
17 information at the discretion of the physician.

18 2. a. Prior to prescribing or authorizing for refill, if one  
19 hundred eighty (180) days have elapsed prior to the  
20 previous access and check, of opiates, synthetic  
21 opiates, semisynthetic opiates, benzodiazepine or  
22 carisoprodol to a patient of record, registrants or  
23 members of their medical or administrative staff shall  
24 be required until October 31, 2020, to access the

1 information in the central repository to assess  
2 medical necessity and the possibility that the patient  
3 may be unlawfully obtaining prescription drugs in  
4 violation of the Uniform Controlled Dangerous  
5 Substances Act. The duty to access and check shall  
6 not alter or otherwise amend appropriate medical  
7 standards of care. The registrant or medical provider  
8 shall note in the patient file that the central  
9 repository has been checked and may maintain a copy of  
10 the information.

11 b. The requirements set forth in subparagraph a of this  
12 paragraph shall not apply:

13 (1) to medical practitioners who prescribe the  
14 controlled substances set forth in subparagraph a  
15 of this paragraph for hospice or end-of-life  
16 care, or

17 (2) for a prescription of a controlled substance set  
18 forth in subparagraph a of this paragraph that is  
19 issued by a practitioner for a patient residing  
20 in a nursing facility as defined by Section 1-  
21 1902 of this title, provided that the  
22 prescription is issued to a resident of such  
23 facility.

1           3. Registrants shall not be liable to any person for any claim  
2 of damages as a result of accessing or failing to access the  
3 information in the central repository and no lawsuit may be  
4 predicated thereon.

5           4. The failure of a registrant to access and check the central  
6 repository as required under state or federal law or regulation  
7 shall be grounds for the licensing board of the registrant to take  
8 disciplinary action against the registrant.

9           H. The State Board of Podiatric Examiners, the State Board of  
10 Dentistry, the State Board of Medical Licensure and Supervision, the  
11 State Board of Examiners in Optometry, the State Board of Nursing,  
12 the State Board of Osteopathic Examiners and the State Board of  
13 Veterinary Medical Examiners shall have the sole responsibility for  
14 enforcement of the provisions of subsection G of this section.  
15 Nothing in this section shall be construed so as to permit the  
16 Director of the State Bureau of Narcotics and Dangerous Drugs  
17 Control to assess administrative fines provided for in Section 2-304  
18 of this title.

19           I. The Director of the Oklahoma State Bureau of Narcotics and  
20 Dangerous Drugs Control, or a designee thereof, shall provide a  
21 monthly list to the Directors of the State Board of Podiatric  
22 Examiners, the State Board of Dentistry, the State Board of Medical  
23 Licensure and Supervision, the State Board of Examiners in  
24 Optometry, the State Board of Nursing, the State Board of

1 Osteopathic Examiners and the State Board of Veterinary Medical  
2 Examiners of the top twenty prescribers of controlled dangerous  
3 substances within their respective areas of jurisdiction. Upon  
4 discovering that a registrant is prescribing outside the limitations  
5 of his or her licensure or outside of drug registration rules or  
6 applicable state laws, the respective licensing board shall be  
7 notified by the Bureau in writing. Such notifications may be  
8 considered complaints for the purpose of investigations or other  
9 actions by the respective licensing board. Licensing boards shall  
10 have exclusive jurisdiction to take action against a licensee for a  
11 violation of subsection G of this section.

12 J. Information regarding fatal and nonfatal overdoses, other  
13 than statistical information as required by Section 2-106 of this  
14 title, shall be completely confidential. Access to this information  
15 shall be strictly limited to the Director of the Oklahoma State  
16 Bureau of Narcotics and Dangerous Drugs Control or designee, the  
17 Chief Medical Examiner, state agencies and boards provided in  
18 subsection A of this section, and the registrant that enters the  
19 information. Registrants shall not be liable to any person for a  
20 claim of damages for information reported pursuant to the provisions  
21 of Section 2-105 of this title.

22 K. The Director of the Oklahoma State Bureau of Narcotics and  
23 Dangerous Drugs Control shall provide adequate means and procedures  
24

1 allowing access to central repository information for registrants  
2 lacking direct computer access.

3 L. Upon completion of an investigation in which it is  
4 determined that a death was caused by an overdose, either  
5 intentionally or unintentionally, of a controlled dangerous  
6 substance, the medical examiner shall be required to report the  
7 decedent's name and date of birth to the Oklahoma State Bureau of  
8 Narcotics and Dangerous Drugs Control. The Oklahoma State Bureau of  
9 Narcotics and Dangerous Drugs Control shall be required to maintain  
10 a database containing the classification of medical practitioners  
11 who prescribed or authorized controlled dangerous substances  
12 pursuant to this subsection.

13 M. The Oklahoma State Bureau of Narcotics and Dangerous Drugs  
14 is authorized to provide unsolicited notification to the licensing  
15 board of a pharmacist or practitioner if a patient has received one  
16 or more prescriptions for controlled substances in quantities or  
17 with a frequency inconsistent with generally recognized standards of  
18 safe practice or if a practitioner or prescriber has exhibited  
19 prescriptive behavior consistent with generally recognized standards  
20 indicating potentially problematic prescribing patterns. An  
21 unsolicited notification to the licensing board of the practitioner  
22 pursuant to this section:

23 1. Is confidential;  
24

1        2. May not disclose information that is confidential pursuant  
2 to this section; and

3        3. May be in a summary form sufficient to provide notice of the  
4 basis for the unsolicited notification.

5        SECTION 5.        NEW LAW        A new section of law to be codified  
6 in the Oklahoma Statutes as Section 2-309I of Title 63, unless there  
7 is created a duplication in numbering, reads as follows:

8        A. A practitioner shall not issue an initial prescription for  
9 an opioid drug which is a prescription drug in a quantity exceeding  
10 a seven-day supply for treatment of acute pain for an adult patient,  
11 or a seven-day supply for treatment of acute pain for a patient  
12 under the age of eighteen (18) years old. Any prescription for  
13 acute pain pursuant to this subsection shall be for the lowest  
14 effective dose of immediate-release opioid drug.

15        B. Prior to issuing an initial prescription of a Schedule II  
16 controlled dangerous substance or any opioid drug that is a  
17 prescription drug in a course of treatment for acute or chronic  
18 pain, a practitioner shall:

19        1. Take and document the results of a thorough medical history,  
20 including the experience of the patient with nonopioid medication  
21 and nonpharmacological pain-management approaches and substance  
22 abuse history;

23        2. Conduct, as appropriate, and document the results of a  
24 physical examination;

1           3. Develop a treatment plan with particular attention focused  
2 on determining the cause of pain of the patient;

3           4. Access relevant prescription monitoring information from the  
4 central repository pursuant to Section 2-309D of Title 63 of the  
5 Oklahoma Statutes;

6           5. Limit the supply of any opioid drug prescribed for acute  
7 pain to a duration of no more than seven (7) days as determined by  
8 the directed dosage and frequency of dosage;

9           6. In the case of a patient under the age of eighteen (18)  
10 years old, enter into a patient-provider agreement with a parent or  
11 guardian of the patient; and

12           7. In the case of a patient who is a pregnant woman, enter into  
13 a patient-provider agreement with the patient.

14           C. No less than seven (7) days after issuing the initial  
15 prescription pursuant to subsection A of this section, the  
16 practitioner, after consultation with the patient, may issue a  
17 subsequent prescription for the drug to the patient in a quantity  
18 not to exceed seven (7) days, provided that:

19           1. The subsequent prescription would not be deemed an initial  
20 prescription under this section;

21           2. The practitioner determines the prescription is necessary  
22 and appropriate to the treatment needs of the patient and documents  
23 the rationale for the issuance of the subsequent prescription; and  
24



1           3. The practitioner determines that issuance of the subsequent  
2 prescription does not present an undue risk of abuse, addiction or  
3 diversion and documents that determination.

4           D. Prior to issuing the initial prescription of a Schedule II  
5 controlled dangerous substance or any opioid drug that is a  
6 prescription drug in a course of treatment for acute or chronic pain  
7 and again prior to issuing the third prescription of the course of  
8 treatment, a practitioner shall discuss with the patient or the  
9 parent or guardian of the patient if the patient is under eighteen  
10 (18) years of age and is not an emancipated minor, the risks  
11 associated with the drugs being prescribed, including but not  
12 limited to:

13           1. The risks of addiction and overdose associated with opioid  
14 drugs and the dangers of taking opioid drugs with alcohol,  
15 benzodiazepines and other central nervous system depressants;

16           2. The reasons why the prescription is necessary;

17           3. Alternative treatments that may be available; and

18           4. Risks associated with the use of the drugs being prescribed,  
19 specifically that opioids are highly addictive, even when taken as  
20 prescribed, that there is a risk of developing a physical or  
21 psychological dependence on the controlled dangerous substance, and  
22 that the risks of taking more opioids than prescribed or mixing  
23 sedatives, benzodiazepines or alcohol with opioids can result in  
24 fatal respiratory depression.

1 The practitioner shall include a note in the medical record of  
2 the patient that the patient or the parent or guardian of the  
3 patient, as applicable, has discussed with the practitioner the  
4 risks of developing a physical or psychological dependence on the  
5 controlled dangerous substance and alternative treatments that may  
6 be available. The applicable state licensing board of the  
7 practitioner shall develop and make available to practitioners  
8 guidelines for the discussion required pursuant to this subsection.

9 E. At the time of the issuance of the third prescription for a  
10 prescription opioid drug, the practitioner shall enter into a pain-  
11 management agreement with the patient.

12 F. When a Schedule II controlled dangerous substance or any  
13 prescription opioid drug is continuously prescribed for three (3)  
14 months or more for chronic pain, the practitioner shall:

15 1. Review, at a minimum of every three (3) months, the course  
16 of treatment, any new information about the etiology of the pain,  
17 and the progress of the patient toward treatment objectives and  
18 document the results of that review;

19 2. Assess the patient prior to every renewal to determine  
20 whether the patient is experiencing problems associated with  
21 physical and psychological dependence and document the results of  
22 that assessment;

23 3. Periodically make reasonable efforts, unless clinically  
24 contraindicated, to either stop the use of the controlled substance,

1 decrease the dosage, try other drugs or treatment modalities in an  
2 effort to reduce the potential for abuse or the development of  
3 physical or psychological dependence and document with specificity  
4 the efforts undertaken;

5 4. Review the central repository information in accordance with  
6 Section 2-309D of Title 63 of the Oklahoma Statutes; and

7 5. Monitor compliance with the pain-management agreement and  
8 any recommendations that the patient seek a referral.

9 G. This section shall not apply to a prescription for a patient  
10 who is currently in active treatment for cancer, receiving hospice  
11 care from a licensed hospice or palliative care, or is a resident of  
12 a long-term care facility, or to any medications that are being  
13 prescribed for use in the treatment of substance abuse or opioid  
14 dependence.

15 H. Every policy, contract or plan delivered, issued, executed  
16 or renewed in this state, or approved for issuance or renewal in  
17 this state by the Insurance Commissioner, and every contract  
18 purchased by the Employees Group Insurance Division of the Office of  
19 Management and Enterprise Services, on or after the effective date  
20 of this act, that provides coverage for prescription drugs subject  
21 to a copayment, coinsurance or deductible shall charge a copayment,  
22 coinsurance or deductible for an initial prescription of an opioid  
23 drug prescribed pursuant to this section that is either:

24

1 1. Proportional between the cost sharing for a thirty-day  
2 supply and the amount of drugs the patient was prescribed; or

3 2. Equivalent to the cost sharing for a full thirty-day supply  
4 of the opioid drug, provided that no additional cost sharing may be  
5 charged for any additional prescriptions for the remainder of the  
6 thirty-day supply.

7 I. Any provider authorized to prescribe opioids shall adopt and  
8 maintain a written policy or policies that include execution of a  
9 written agreement to engage in an informed consent process between  
10 the prescribing provider and qualifying opioid therapy patient. For  
11 the purposes of this section, "qualifying opioid therapy patient"  
12 means:

13 1. A patient requiring opioid treatment for more than three (3)  
14 months;

15 2. A patient who is prescribed benzodiazepines and opioids  
16 together; or

17 3. A patient who is prescribed a dose of opioids that exceeds  
18 one hundred (100) morphine equivalent doses.

19 SECTION 6. NEW LAW A new section of law not to be  
20 codified in the Oklahoma Statutes reads as follows:

21 A. The Insurance Department shall evaluate the effect of the  
22 limits on prescriptions for opioid medication established by this  
23 act on the claims paid by health insurance carriers and the out-of-  
24 pocket costs including copayments, coinsurance and deductibles paid

1 by individual and group health insurance policyholders. On or  
2 before January 1, 2020, the Insurance Department shall submit a  
3 report on the evaluation, along with any recommended policy and  
4 regulatory options that will ensure costs for patients are not  
5 increased as a result of new prescribing limitations on the amounts  
6 of opioid medications, to the standing committees of the Legislature  
7 having jurisdiction over health and human services matters and over  
8 insurance and financial services matters. The standing committees  
9 of the Legislature having jurisdiction over health and human  
10 services matters and the standing committees of the Legislature  
11 having jurisdiction over insurance and financial services matters  
12 may pass legislation related to the evaluation to the Second Regular  
13 Session of the 57th Oklahoma Legislature. The Insurance  
14 Commissioner may adopt reasonable rules and regulations for the  
15 implementation and administration of the provisions of this  
16 subsection.

17 B. The Oklahoma State Bureau of Narcotics and Dangerous Drugs  
18 Control shall report to the standing committees of the Legislature  
19 having jurisdiction over health and human services matters and over  
20 occupational and professional regulation matters, no later than  
21 January 31, 2020, with progress on implementing the provisions of  
22 this act. The report shall contain, at a minimum, the following  
23 information:

24

1 1. Registration of prescribers and dispensers in the central  
2 repository pursuant to Section 2-309A et seq. of Title 63 of the  
3 Oklahoma Statutes;

4 2. Data regarding the checking and using of the central  
5 repository by data requesters;

6 3. Data from professional boards regarding the implementation  
7 of continuing education requirements for prescribers of opioid  
8 medication;

9 4. Effects on the prescriber workforce;

10 5. Changes in the numbers of patients taking more than one  
11 hundred (100) morphine milligram equivalents of opioid medication  
12 per day;

13 6. Data regarding the total quantity of opioid medications  
14 prescribed in morphine milligram equivalents;

15 7. Progress on electronic prescribing of opioid medication; and

16 8. Improvements to the central repository through the request  
17 for proposals process including feedback from prescribers,  
18 dispensers and applicable state licensing boards on those  
19 improvements.

20 SECTION 7. This act shall become effective November 1, 2018.

21

22 56-2-10384 GRS 04/11/18

23

24