

1 **SENATE FLOOR VERSION**

2 February 20, 2017

3 SENATE BILL NO. 800

By: Standridge of the Senate

4 and

5 Kannady of the House

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7
8 An Act relating to controlled dangerous substances;
9 amending 63 O.S. 2011, Section 2-309D, as last
10 amended by Section 35, Chapter 210, O.S.L. 2016 (63
11 O.S. Supp. 2016, Section 2-309D), which relates to
12 central repository information; clarifying
13 references; permitting certain personnel to access
14 certain data under certain circumstances; and
15 providing an effective date.

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

17 SECTION 1. AMENDATORY 63 O.S. 2011, Section 2-309D, as
18 last amended by Section 35, Chapter 210, O.S.L. 2016 (63 O.S. Supp.
19 2016, Section 2-309D), is amended to read as follows:

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

24 1. Peace officers certified pursuant to Section 3311 of Title
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. Oklahoma 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, program administrator and analytical
13 employees of the Bureau, and to registrants in furtherance of
14 efforts to guard against the diversion of controlled dangerous
15 substances.

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

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

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. An agent or designated employee of the Oklahoma State Bureau
9 of Narcotics and Dangerous Drugs Control may utilize information in
10 the central repository where such use is appropriate to the proper
11 performance of his or her official duties, including the prevention
12 of the misuse and abuse of controlled dangerous substances.

13 G. Any unauthorized disclosure of any information collected at
14 the central repository provided by the Anti-Drug Diversion Act shall
15 be a misdemeanor. Violation of the provisions of this section shall
16 be deemed willful neglect of duty and shall be grounds for removal
17 from office.

18 ~~G.~~ H. 1. Registrants shall have access to the central
19 repository for the purposes of patient treatment and for
20 determination in prescribing or screening new patients. The
21 patient's history may be disclosed to the patient for the purposes
22 of treatment of information at the discretion of the physician.

23 2. a. Prior to prescribing or authorizing for refill, if one
24 hundred eighty (180) days have elapsed prior to the

1 previous access and check, of opiates, synthetic
2 opiates, semisynthetic opiates, benzodiazepine or
3 carisoprodol to a patient of record, registrants or
4 members of their medical or administrative staff shall
5 be required until October 31, 2020, to access the
6 information in the central repository to assess
7 medical necessity and the possibility that the patient
8 may be unlawfully obtaining prescription drugs in
9 violation of the Uniform Controlled Dangerous
10 Substances Act. The duty to access and check shall
11 not alter or otherwise amend appropriate medical
12 standards of care. The registrant or medical provider
13 shall note in the patient file that the central
14 repository has been checked and may maintain a copy of
15 the information.

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

18 (1) to medical practitioners who prescribe the
19 controlled substances set forth in subparagraph a
20 of this paragraph for hospice or end-of-life
21 care, or

22 (2) for a prescription of a controlled substance set
23 forth in subparagraph a of this paragraph that is
24 issued by a practitioner for a patient residing

1 in a nursing facility as defined by Section 1-
2 1902 of this title, provided that the
3 prescription is issued to a resident of such
4 facility.

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

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

19 ~~F.~~ J. The Director of the Oklahoma State Bureau of Narcotics
20 and 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~~ Oklahoma 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 H of this section.

12 ~~J.~~ K. 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.~~ L. The Director of the Oklahoma State Bureau of Narcotics
23 and Dangerous Drugs Control shall provide adequate means and
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1 procedures allowing access to central repository information for
2 registrants lacking direct computer access.

3 ~~H.~~ M. 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 SECTION 2. This act shall become effective November 1, 2017.
14 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
15 February 20, 2017 - DO PASS

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