

SENATE CHAMBER
STATE OF OKLAHOMA

DISPOSITION

FLOOR AMENDMENT

No. _____

COMMITTEE AMENDMENT

(Date)

Mr./Madame President:

I move to amend Senate Bill No. 848, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

Senator Rader

Rader-DC-FS-Req#2082
3/11/2019 1:53 PM

(Floor Amendments Only) Date and Time Filed: _____

Untimely

Amendment Cycle Extended

Secondary Amendment

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 FLOOR SUBSTITUTE
4 FOR

5 SENATE BILL NO. 848

By: Rader of the Senate

and

Echols of the House

6
7
8
9 FLOOR SUBSTITUTE

10 [opioid drugs - continuing education - pharmacist
11 discretion - unprofessional conduct - central
12 repository - prescription limits and rules - repealer
- codification -
emergency]

13
14
15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

16 SECTION 1. AMENDATORY 59 O.S. 2011, Section 145.1, as
17 amended by Section 4, Chapter 185, O.S.L. 2013 (59 O.S. Supp. 2018,
18 Section 145.1), is amended to read as follows:

19 Section 145.1. A. Sixty (60) hours of continuing education
20 shall be required for renewal of an individual license to practice
21 podiatric medicine in this state. This must be obtained in the two-
22 year period immediately preceding the two-year period for which the
23 license is to be issued. Such continuing education shall include
24 not less than two (2) hours of education in pain management or two

1 (2) hours of education in opioid use or addiction, unless the
2 licensee has demonstrated to the satisfaction of the Board of
3 Podiatric Medical Examiners that the licensee does not currently
4 hold a valid federal Drug Enforcement Administration registration
5 number. The continuing education required by this section shall be
6 any of the following:

7 1. Education presented by an organization approved by the
8 Council on Continuing Education of the American Podiatric Medical
9 Association;

10 2. A national, state or county podiatric medical association
11 meeting approved by the Board ~~of Podiatric Medical Examiners;~~

12 3. Hospital-sponsored scientific programs approved by the
13 Board; or

14 4. Six (6) hours of continuing education credit may be obtained
15 by attending meetings and hearings of the Board.

16 At least thirty (30) hours of the required sixty (60) hours must be
17 obtained in this state.

18 B. Any practitioner not so satisfying the Board of the
19 fulfillment of the continuing education requirements required by
20 subsection A of this section shall cease to be entitled to have such
21 license renewed.

22 C. Any practitioner fully retired from the practice of
23 podiatric medicine shall be exempt from compliance with the
24 requirements imposed by subsection A of this section. However, upon

1 resuming the practice of podiatric medicine, the individual shall
2 fulfill such requirements which have accrued from ~~the effective date~~
3 ~~of this act~~ October 1, 1979, to the time of resumption of practice.

4 SECTION 2. AMENDATORY 59 O.S. 2011, Section 328.41, as
5 last amended by Section 11, Chapter 151, O.S.L. 2018 (59 O.S. Supp.
6 2018, Section 328.41), is amended to read as follows:

7 Section 328.41. A. 1. On or before the last day of December
8 of each year, every dentist, dental hygienist, dental assistant,
9 oral maxillofacial surgery assistant and other licensee or permit
10 holders previously licensed or permitted by the Board to practice in
11 this state, with the exception of those listed in paragraph 2 of
12 this subsection, shall submit a completed renewal application with
13 information as may be required by the Board, together with an annual
14 renewal fee established by the rules of the Board. Upon receipt of
15 the annual renewal fee, the Board shall issue a renewal certificate
16 authorizing the dentist, dental hygienist, dental assistant, or oral
17 maxillofacial surgery assistant to continue the practice of
18 dentistry or dental hygiene, respectively, in this state for a
19 period of one (1) year. Every license or permit issued by the Board
20 shall begin on January 1 and expire on December 31 of each year.

21 2. Beginning July 1, 2017, resident and fellowship permits
22 shall be valid from July 1 through June 30 of each year and dental
23 student intern permits shall be valid from August 1 through July 31
24 of each year.

1 B. Continuing education requirements shall be due at the end of
2 each three-year period ending in 2019 as follows:

3 1. Dentists shall complete sixty (60) hours. Such continuing
4 education shall include not less than three (3) hours of education
5 in pain management or three (3) hours of education in opioid use or
6 addiction, unless the licensee has demonstrated to the satisfaction
7 of the Board of Dentistry that the licensee does not currently hold
8 a valid federal Drug Enforcement Administration registration number;

9 2. Hygienists shall complete thirty (30) hours;

10 3. Oral maxillofacial surgery assistants shall complete twelve
11 (12) hours; and

12 4. Beginning in 2020, continuing education requirements shall
13 be due at the end of each two-year period as follows:

14 a. dentists shall complete forty (40) hours,

15 b. hygienists shall complete twenty (20) hours,

16 c. OMS assistants shall complete eight (8) hours, and

17 d. dental assistants shall have two (2) hours of
18 infection control.

19 C. Upon failure of a dentist, dental hygienist, dental
20 assistant, or oral maxillofacial surgery assistant to pay the annual
21 renewal fee within two (2) months after January 1, the Board shall
22 notify the dentist, dental hygienist, dental assistant, or oral
23 maxillofacial surgery assistant in writing by certified mail to the
24 last-known mailing address of the dentist, dental hygienist, dental

1 assistant, or oral maxillofacial surgery assistant as reflected in
2 the records of the Board.

3 D. Any dentist, dental hygienist, dental assistant, or oral
4 maxillofacial surgery assistant whose license or permit is
5 automatically canceled by reason of failure, neglect or refusal to
6 secure the renewal certificate may be reinstated by the Board at any
7 time within one (1) year from the date of the expiration of the
8 license, upon payment of the annual renewal fee and a penalty fee
9 established by the rules of the Board. If the dentist, dental
10 hygienist, dental assistant, or oral maxillofacial surgery assistant
11 does not apply for renewal of the license or permit and pay the
12 required fees within one (1) year after the license has expired,
13 then the dentist, dental hygienist, dental assistant, or oral
14 maxillofacial surgery assistant shall be required to file an
15 application for and take the examination or other requirements
16 provided for in the State Dental Act or the rules promulgated by the
17 Board before again commencing practice.

18 E. The Board, by rule, shall provide for the remittance of fees
19 otherwise required by the State Dental Act while a dentist or dental
20 hygienist is on active duty with any of the Armed Forces of the
21 United States.

22 F. In case of a lost or destroyed license or renewal
23 certificate and upon satisfactory proof of the loss or destruction
24

1 thereof, the Board may issue a duplicate, charging therefor a fee
2 established by the rules of the Board.

3 G. A dentist, dental hygienist, oral maxillofacial surgery
4 assistant or dental assistant that is in good standing and not under
5 investigation that notifies the Board in writing of a voluntary
6 nonrenewal of license or requests retirement status shall have a
7 right to renew or reinstate his or her license within five (5) years
8 from the date of notice. The Board may require any training or
9 continuing education requirements to be met prior to reinstatement.

10 H. A dentist, dental hygienist, oral maxillofacial dental
11 assistant or dental assistant that has not had an active license or
12 permit in excess of five (5) years shall be required to apply as a
13 new applicant.

14 I. Any application for a license or permit that has remained
15 inactive for more than one (1) year shall be closed.

16 SECTION 3. AMENDATORY Section 3, Chapter 234, O.S.L.
17 2017 (59 O.S. Supp. 2018, Section 353.20.2), is amended to read as
18 follows:

19 Section 353.20.2. A. Unless the prescriber has specified on
20 the prescription that dispensing a prescription for a maintenance
21 medication in an initial amount followed by periodic refills is
22 medically necessary, a pharmacist may exercise his or her
23 professional judgment to dispense varying quantities of medication
24

1 per fill-up to the total number of dosage units as authorized by the
2 prescriber on the original prescription including any refills.

3 B. Subsection A of this section shall not apply to scheduled
4 medications or any medications for which a report is required under
5 the controlled substance database. Dispensing of medication based
6 on refills authorized by the physician on the prescription shall be
7 limited to no more than a ninety-day supply of the medication.

8 C. Upon receipt of a valid Schedule II opioid prescription
9 issued pursuant to the provisions of Section 2-309I of Title 63 of
10 the Oklahoma Statutes, a pharmacist shall fill the prescription to
11 the specified dose, and shall not be permitted to fill a different
12 dosage than what is prescribed.

13 SECTION 4. AMENDATORY 59 O.S. 2011, Section 503, as
14 amended by Section 1, Chapter 176, O.S.L. 2014 (59 O.S. Supp. 2018,
15 Section 503), is amended to read as follows:

16 Section 503. The State Board of Medical Licensure and
17 Supervision may suspend, revoke or order any other appropriate
18 sanctions against the license of any physician or surgeon holding a
19 license to practice in this state for unprofessional conduct, but no
20 such suspension, revocation or other penalty shall be made until the
21 licensee is cited to appear for hearing. No such citation shall be
22 issued except upon sworn complaint filed with the secretary of the
23 Board charging the licensee with having been guilty of
24 unprofessional conduct and setting forth the particular act or acts

1 | alleged to constitute unprofessional conduct. In the event it comes
2 | to the attention of the Board that a violation of the rules of
3 | professional conduct may have occurred, even though a formal
4 | complaint or charge may not have been filed, the Board staff may
5 | conduct an investigation of the possible violation, and may upon its
6 | own motion institute a formal complaint. In the course of the
7 | investigation persons appearing before the Board may be required to
8 | testify under oath. Any expert testifying against a licensee shall
9 | be a Board-certified physician in an ongoing clinical practice in
10 | the specialty of the licensee who is the subject of the complaint.
11 | Upon the filing of a complaint, either by an individual or the Board
12 | staff as provided herein, the citation must forthwith be issued by
13 | the secretary of the Board over the signature of the secretary and
14 | seal of the Board, setting forth the complaint of unprofessional
15 | conduct, and giving due notice of the time and place of the hearing
16 | by the Board. The citation shall be made returnable at the next
17 | regular meeting of the Board occurring at least thirty (30) days
18 | after the service of the citation. The defendant shall file a
19 | written answer under oath with the secretary of the Board within
20 | twenty (20) days after the service of the citation. The secretary
21 | of the Board may extend the time of answer upon satisfactory showing
22 | that the defendant is for reasonable cause unable to answer within
23 | the twenty (20) days, but in no case shall the time be extended

24

1 beyond the date of the next regular meeting of the Board, unless a
2 continuance is granted by the Board.

3 SECTION 5. AMENDATORY 59 O.S. 2011, Section 509, as
4 amended by Section 2, Chapter 175, O.S.L. 2018 (59 O.S. Supp. 2018,
5 Section 509), is amended to read as follows:

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

- 9 1. Procuring, aiding or abetting a criminal operation;
- 10 2. The obtaining of any fee or offering to accept any fee,
11 present or other form of remuneration whatsoever, on the assurance
12 or promise that a manifestly incurable disease can or will be cured;
- 13 3. Willfully betraying a professional secret to the detriment
14 of the patient;
- 15 4. Habitual intemperance or the habitual use of habit-forming
16 drugs;
- 17 5. Conviction of a felony or of any offense involving moral
18 turpitude;
- 19 6. All advertising of medical business in which statements are
20 made which are grossly untrue or improbable and calculated to
21 mislead the public;
- 22 7. Conviction or confession of a crime involving violation of:
23 a. the antinarcotic or prohibition laws and regulations
24 of the federal government,

1 b. the laws of this state, or

2 c. State Board of Health rules;

3 8. Dishonorable or immoral conduct which is likely to deceive,
4 defraud, or harm the public;

5 9. The commission of any act which is a violation of the
6 criminal laws of any state when such act is connected with the
7 physician's practice of medicine. A complaint, indictment or
8 confession of a criminal violation shall not be necessary for the
9 enforcement of this provision. Proof of the commission of the act
10 while in the practice of medicine or under the guise of the practice
11 of medicine shall be unprofessional conduct;

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

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

17 12. Prescribing or administering a drug or treatment without
18 sufficient examination and the establishment of a valid physician-
19 patient relationship;

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

1 14. Aiding or abetting, directly or indirectly, the practice of
2 medicine by any person not duly authorized under the laws of this
3 state;

4 15. The inability to practice medicine with reasonable skill
5 and safety to patients by reason of age, illness, drunkenness,
6 excessive use of drugs, narcotics, chemicals, or any other type of
7 material or as a result of any mental or physical condition. In
8 enforcing this subsection the State Board of Medical Licensure and
9 Supervision may, upon probable cause, request a physician to submit
10 to a mental or physical examination by physicians designated by it.
11 If the physician refuses to submit to the examination, the Board
12 shall issue an order requiring the physician to show cause why the
13 physician will not submit to the examination and shall schedule a
14 hearing on the order within thirty (30) days after notice is served
15 on the physician. The physician shall be notified by either
16 personal service or by certified mail with return receipt requested.
17 At the hearing, the physician and the physician's attorney are
18 entitled to present any testimony and other evidence to show why the
19 physician should not be required to submit to the examination.
20 After a complete hearing, the Board shall issue an order either
21 requiring the physician to submit to the examination or withdrawing
22 the request for examination. The medical license of a physician
23 ordered to submit for examination may be suspended until the results
24 of the examination are received and reviewed by the Board;

1 16. a. Prescribing, dispensing or administering of controlled
2 substances or narcotic drugs in excess of the amount
3 considered good medical practice, or

4 b. prescribing, dispensing or administering controlled
5 substances or narcotic drugs without medical need in
6 accordance with pertinent licensing board standards,

7 ~~or~~

8 ~~c. prescribing, dispensing or administering opioid drugs~~
9 ~~in excess of the maximum dosage authorized under~~
10 ~~Section 5 of this act;~~

11 17. Engaging in physical conduct with a patient which is sexual
12 in nature, or in any verbal behavior which is seductive or sexually
13 demeaning to a patient;

14 18. Failure to maintain an office record for each patient which
15 accurately reflects the evaluation, treatment, and medical necessity
16 of treatment of the patient;

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

21 20. Failure to provide a proper and safe medical facility
22 setting and qualified assistive personnel for a recognized medical
23 act, including but not limited to an initial in-person patient
24 examination, office surgery, diagnostic service or any other medical

1 procedure or treatment. Adequate medical records to support
2 diagnosis, procedure, treatment or prescribed medications must be
3 produced and maintained.

4 SECTION 6. AMENDATORY 59 O.S. 2011, Section 519.8, is
5 amended to read as follows:

6 Section 519.8. A. Licenses issued to physician assistants
7 shall be renewed annually on a date determined by the State Board of
8 Medical Licensure and Supervision. Each application for renewal
9 shall document that the physician assistant has earned at least
10 twenty (20) hours of continuing medical education during the
11 preceding calendar year. Such continuing medical education shall
12 include not less than one (1) hour of education in pain management
13 or one (1) hour of education in opioid use or addiction, unless the
14 licensee has demonstrated to the satisfaction of the Board that the
15 licensee does not currently hold a valid federal Drug Enforcement
16 Administration registration number.

17 B. The Board shall promulgate, in the manner established by its
18 rules, fees for the following:

- 19 1. Initial licensure;
- 20 2. License renewal;
- 21 3. Late license renewal;
- 22 4. Application to practice; and
- 23 5. Disciplinary hearing.

24

1 SECTION 7. AMENDATORY 59 O.S. 2011, Section 604, is
2 amended to read as follows:

3 Section 604. Every person holding a license to practice
4 optometry in this state shall be required to present to the Board of
5 Examiners in Optometry, not later than the thirtieth day of June of
6 each year, satisfactory evidence that during the preceding twelve
7 (12) months ~~said~~ the person attended not less than two (2) days of a
8 total of at least twelve (12) hours of educational or postgraduate
9 programs approved by ~~said~~ the Board, or that ~~said~~ the person was
10 prevented, because of sickness or any other reason acceptable to the
11 Board, from attending ~~said~~ the educational or postgraduate program.
12 Such education shall include not less than one (1) hour of education
13 in pain management or one (1) hour of education in opioid use or
14 addiction, unless the person has demonstrated to the satisfaction of
15 the Board that the person does not currently hold a valid federal
16 Drug Enforcement Administration registration number.

17 The filing of proof of attendance at educational programs or
18 clinics shall be a condition precedent to the issuance of a renewal
19 license. The Board may reinstate the license of ~~said~~ the licensee
20 to practice optometry upon presentation of satisfactory proof of
21 postgraduate study of a standard approved by ~~said~~ the examiners and
22 payment of all fees due including a late reinstatement fee not to
23 exceed three times the annual renewal fee.

24

1 SECTION 8. AMENDATORY 59 O.S. 2011, Section 641, is
2 amended to read as follows:

3 Section 641. A. All persons legally licensed to practice
4 osteopathic medicine in this state, on or before the first day of
5 July of each year, shall apply to the secretary-treasurer of the
6 Board, on forms furnished thereby, for a renewal certificate of
7 registration entitling such licensee to practice osteopathic
8 medicine and surgery in Oklahoma during the next ensuing fiscal
9 year.

10 B. Each application shall be accompanied by a renewal fee in an
11 amount sufficient to cover the cost and expense incurred by the
12 State Board of Osteopathic Examiners, for a renewal of the person's
13 certificate to practice osteopathic medicine.

14 C. 1. In addition to the payment of the annual renewal fee
15 each licensee applying for a renewal of the certificate shall
16 furnish to the State Board of Osteopathic Examiners proof that the
17 person has attended at least two (2) days of the annual educational
18 program conducted by the Oklahoma Osteopathic Association, or its
19 equivalent, as determined by the Board, in the fiscal year preceding
20 the application for a renewal; provided, the Board may excuse the
21 failure of the licensee to attend the educational program in the
22 case of illness or other unavoidable casualty rendering it
23 impossible for the licensee to have attended the educational program
24 or its equivalent.

1 2. 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. Such education may be held at the annual
8 educational program referenced in paragraph 1 of this subsection.

9 D. The secretary of the State Board of Osteopathic Examiners
10 shall send a written notice to every person holding a legal
11 certificate to practice osteopathic medicine in this state, at least
12 thirty (30) days prior to the first day of July each year, directed
13 to the last-known address of the licensee, notifying the licensee
14 that it will be necessary for the licensee to pay the renewal
15 license fee as herein provided, and proper forms shall accompany the
16 notice upon which the licensee shall make application for renewal of
17 the certificate.

18 SECTION 9. AMENDATORY 59 O.S. 2011, Section 698.7, is
19 amended to read as follows:

20 Section 698.7. The State Board of Veterinary Medical Examiners
21 shall have the powers and it shall also be its duty to regulate the
22 practice of veterinary medicine. In addition to any other powers
23 placed on it by the Oklahoma Veterinary Practice Act or as otherwise
24 provided by law, the Board shall have the power and duty to:

- 1 1. a. set standards for licensure or certification by
2 examination and develop such examinations as will
3 provide assurance of competency to practice, and
- 4 b. employ or enter into agreements with organizations or
5 agencies to provide examinations acceptable to the
6 Board or employ or enter into agreements with
7 organizations or agencies to provide administration,
8 preparation or scoring of examinations;
- 9 2. Set fees;
- 10 3. Prescribe the time, place, method, manner, scope and
11 subjects of examination for licensure;
- 12 4. Prepare or select, conduct or direct the conduct of, set
13 minimum requirements for, and assure security of licensing and other
14 required examinations;
- 15 5. a. issue or deny licenses and certificates and renewals
16 thereof,
- 17 b. acquire information about and evaluate the
18 professional education and training of applicants for
19 licensure or certification; and accept or deny
20 applications for licensure, certification or renewal
21 of either licensure or certification based on the
22 evaluation of information relating to applicant
23 fitness, performance or competency to practice,
- 24

- 1 c. determine which professional schools, colleges,
2 universities, training institutions and educational
3 programs are acceptable in connection with licensure
4 pursuant to the Oklahoma Veterinary Practice Act, and
5 accept the approval of such facilities and programs by
6 American-Veterinary-Medical-Association-accredited
7 institutions in the United States and Canada,
8 d. require supporting documentation or other acceptable
9 verifying evidence for any information provided the
10 Board by an applicant for licensure or certification,
11 and
12 e. require information on an applicant's fitness,
13 qualification and previous professional record and
14 performance from recognized data sources including,
15 but not limited to, other licensing and disciplinary
16 authorities of other jurisdictions, professional
17 education and training institutions, liability
18 insurers, animal health care institutions and law
19 enforcement agencies;

20 6. Develop and use applications and other necessary forms and
21 related procedures for purposes of the Oklahoma Veterinary Practice
22 Act;

- 23 7. a. review and investigate complaints and adverse
24 information about licensees and certificate holders,

- 1 b. conduct hearings in accordance with the Oklahoma
2 Veterinary Practice Act and the Administrative
3 Procedures Act, and
- 4 c. adjudicate matters that come before the Board for
5 judgment pursuant to the Oklahoma Veterinary Practice
6 Act upon clear and convincing evidence and issue final
7 decisions on such matters to discipline licensees and
8 certificate holders;

- 9 8. a. impose sanctions, deny licenses and certificates and
10 renewals thereof, levy reimbursement costs, seek
11 appropriate administrative, civil or criminal
12 penalties or any combination of these against those
13 who violate examination security, who attempt to or
14 who do obtain licensure or certification by fraud, who
15 knowingly assist in illegal activities, or who aid and
16 abet the illegal practice of veterinary medicine,
- 17 b. review and investigate complaints and adverse
18 information about licensees and certificate holders,
- 19 c. discipline licensees and certificate holders,
- 20 d. institute proceedings in courts of competent
21 jurisdiction to enforce Board orders and provisions of
22 the Oklahoma Veterinary Practice Act,
- 23 e. (1) establish mechanisms for dealing with licensees
24 and certificate holders who abuse or are

1 dependent on or addicted to alcohol or other
2 chemical substances, and enter into agreements,
3 at its discretion, with professional
4 organizations whose relevant procedures and
5 techniques it has evaluated and approved for
6 their cooperation or participation in the
7 rehabilitation of the licensee or certificate
8 holder,

9 (2) establish by rules cooperation with other
10 professional organizations for the identification
11 and monitoring of licensees and certificate
12 holders in treatment who are chemically dependent
13 or addicted, and

14 f. issue conditional, restricted or otherwise
15 circumscribed modifications to licensure or
16 certification as determined to be appropriate by due
17 process procedures and summarily suspend a license if
18 the Board has cause to believe by clear and convincing
19 evidence such action is required to protect public or
20 animal health and safety or to prevent continuation of
21 incompetent practices;

22 9. Promulgate rules of professional conduct and require all
23 licensees and certificate holders to practice in accordance
24 therewith;

- 1 10. Act to halt the unlicensed or illegal practice of
2 veterinary medicine and seek administrative, criminal and civil
3 penalties against those engaged in such practice;
- 4 11. Establish appropriate fees and charges to ensure active and
5 effective pursuit of Board responsibilities;
- 6 12. Employ, direct, reimburse, evaluate and dismiss staff in
7 accordance with state procedures;
- 8 13. Establish policies for Board operations;
- 9 14. Respond to legislative inquiry regarding those changes in,
10 or amendments to, the Oklahoma Veterinary Practice Act;
- 11 15. Act on its own motion in disciplinary matters, administer
12 oaths, issue notices, issue subpoenas in the name of the State of
13 Oklahoma, including subpoenas for client and animal records, hold
14 hearings, institute court proceedings for contempt or to compel
15 testimony or obedience to its orders and subpoenas, take evidentiary
16 depositions and perform such other acts as are reasonable and
17 necessary under law to carry out its duties;
- 18 16. Use clear and convincing evidence as the standard of proof
19 and issue final decisions when acting as trier of fact in the
20 performance of its adjudicatory duties;
- 21 17. Determine and direct Board operating, administrative,
22 personnel and budget policies and procedures in accordance with
23 applicable statutes;
- 24

1 18. Promulgate uniform rules such as may be necessary for
2 carrying out and enforcing the provisions of the Oklahoma Veterinary
3 Practice Act and such as in its discretion may be necessary to
4 protect the health, safety and welfare of the public;

5 19. Determine continuing education requirements. Such
6 continuing education shall include not less than one (1) hour of
7 education in pain management or one (1) hour of education in opioid
8 use or addiction annually, unless the licensee has demonstrated to
9 the satisfaction of the Board that the licensee does not currently
10 hold a valid federal Drug Enforcement Administration registration
11 number;

12 20. Establish minimum standards for veterinary premises;

13 21. Establish standards for veterinary labeling and dispensing
14 of veterinary prescription drugs and federal Food and Drug
15 Administration-approved human drugs for animals which would conform
16 to current applicable state and federal law and regulations;

17 22. Promulgate rules such as may be necessary for carrying out
18 and enforcing provisions relating to certification of animal
19 euthanasia technicians and approval of drugs to be used for
20 euthanasia of animals in an animal shelter pursuant to the
21 requirements of Section 502 of Title 4 of the Oklahoma Statutes;

22 23. Shall conduct a national criminal history records search
23 for certified animal euthanasia technicians:
24

- 1 a. the applicant shall furnish the Board two completed
2 fingerprint cards and a money order or cashier's check
3 made payable to the Oklahoma State Bureau of
4 Investigation,
- 5 b. the Board shall forward the fingerprint cards, along
6 with the applicable fee for a national fingerprint
7 criminal history records search, to the Bureau, and
- 8 c. the Bureau shall retain one set of fingerprints in the
9 Automated Fingerprint Identification System (AFIS) and
10 submit the other set to the Federal Bureau of
11 Investigation (FBI) for a national criminal history
12 records search;

13 24. Establish standards for animal chiropractic diagnosis and
14 treatment. The standards shall include but not be limited to a
15 requirement that a veterinarian who holds himself or herself out to
16 the public as certified to engage in animal chiropractic diagnosis
17 and treatment shall:

- 18 a. carry at least One Million Dollars (\$1,000,000.00) of
19 additional malpractice coverage to perform animal
20 chiropractic diagnosis and treatment, and
- 21 b. have appropriate training in animal chiropractic
22 diagnosis and treatment. The Veterinary Examining
23 Board shall have the authority to establish
24 educational criteria for certification standards in

1 animal chiropractic diagnosis and treatment. The
2 Veterinary Examining Board shall work in conjunction
3 with the Board of Chiropractic Examiners to establish
4 comparable standards for the practice of animal
5 chiropractic diagnosis and treatment for both medical
6 professions within thirty (30) days after the
7 effective date of this act. The Board shall certify
8 any licensed veterinarian wishing to engage in animal
9 chiropractic diagnosis and treatment who meets the
10 standards established by the Board pursuant to this
11 paragraph. Upon request, the Board shall make
12 available to the public a list of licensed
13 veterinarians so certified; and

14 25. Perform such other duties and exercise such other powers as
15 the provisions and enforcement of the Oklahoma Veterinary Practice
16 Act may require.

17 SECTION 10. AMENDATORY 63 O.S. 2011, Section 2-101, as
18 last amended by Section 3, Chapter 175, O.S.L. 2018 (63 O.S. Supp.
19 2018, Section 2-101), is amended to read as follows:

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

22 1. "Administer" means the direct application of a controlled
23 dangerous substance, whether by injection, inhalation, ingestion or
24

1 any other means, to the body of a patient, animal or research
2 subject by:

3 a. a practitioner (or, in the presence of the
4 practitioner, by the authorized agent of the
5 practitioner), or

6 b. the patient or research subject at the direction and
7 in the presence of the practitioner;

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

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

19 4. "Bureau" means the Oklahoma State Bureau of Narcotics and
20 Dangerous Drugs Control;

21 5. "Coca leaves" includes cocaine and any compound,
22 manufacture, salt, derivative, mixture or preparation of coca
23 leaves, except derivatives of coca leaves which do not contain
24 cocaine or ecgonine;

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

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

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

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

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

23 11. "Dispense" means to deliver a controlled dangerous
24 substance to an ultimate user or human research subject by or

1 pursuant to the lawful order of a practitioner, including the
2 prescribing, administering, packaging, labeling or compounding
3 necessary to prepare the substance for such distribution.

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

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

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

13 14. "Drug" means articles:

14 a. recognized in the official United States

15 Pharmacopoeia, official Homeopathic Pharmacopoeia of
16 the United States, or official National Formulary, or
17 any supplement to any of them,

18 b. intended for use in the diagnosis, cure, mitigation,
19 treatment or prevention of disease in man or other
20 animals,

21 c. other than food, intended to affect the structure or
22 any function of the body of man or other animals, and

23 d. intended for use as a component of any article
24 specified in this paragraph;

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

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

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

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

18 18. "Hospice" means a centrally administered, nonprofit or
19 profit, medically directed, nurse-coordinated program which provides
20 a continuum of home and inpatient care for the terminally ill
21 patient and the patient's family. Such term shall also include a
22 centrally administered, nonprofit or profit, medically directed,
23 nurse-coordinated program if such program is licensed pursuant to
24 the provisions of ~~this act~~ the Uniform Controlled Dangerous

1 Substances Act. A hospice program offers palliative and supportive
2 care to meet the special needs arising out of the physical,
3 emotional and spiritual stresses which are experienced during the
4 final stages of illness and during dying and bereavement. This care
5 is available twenty-four (24) hours a day, seven (7) days a week,
6 and is provided on the basis of need, regardless of ability to pay.
7 "Class A" Hospice refers to Medicare certified hospices. "Class B"
8 refers to all other providers of hospice services;

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

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

- 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 not be grown anywhere in the
6 State of Oklahoma but may be shipped to Oklahoma
7 pursuant to the provisions of subparagraph e or f of
8 this paragraph;

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

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

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

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" means any substance having an addiction-forming or
19 addiction-sustaining liability similar to morphine or being capable
20 of conversion into a drug having such addiction-forming or
21 addiction-sustaining liability. It does not include, unless
22 specifically designated as controlled under the Uniform Controlled
23 Dangerous Substances Act, the dextrorotatory isomer of 3-methoxy-n-

24

1 methyl-morphinan and its salts (dextromethorphan). It does include
2 its racemic and 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 under the supervision of a
22 licensed medical doctor or osteopathic physician,
23 (7) a scientific investigator, or
24 (8) any other person,

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

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

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

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

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

22 36. "Drug paraphernalia" means all equipment, products and
23 materials of any kind which are used, intended for use, or fashioned
24 specifically for use in planting, propagating, cultivating, growing,

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

- 7 a. kits used, intended for use, or fashioned specifically
8 for use in planting, propagating, cultivating, growing
9 or harvesting of any species of plant which is a
10 controlled dangerous substance or from which a
11 controlled dangerous substance can be derived,
- 12 b. kits used, intended for use, or fashioned specifically
13 for use in manufacturing, compounding, converting,
14 producing, processing or preparing controlled
15 dangerous substances,
- 16 c. isomerization devices used, intended for use, or
17 fashioned specifically for use in increasing the
18 potency of any species of plant which is a controlled
19 dangerous substance,
- 20 d. testing equipment used, intended for use, or fashioned
21 specifically for use in identifying, or in analyzing
22 the strength, effectiveness or purity of controlled
23 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,
- 5 l. objects used, intended for use, or fashioned
6 specifically for use in ingesting, inhaling or
7 otherwise introducing marijuana, cocaine, hashish or
8 hashish oil into the human body, such as:
- 9 (1) metal, wooden, acrylic, glass, stone, plastic or
10 ceramic pipes with or without screens, permanent
11 screens, hashish heads or punctured metal bowls,
 - 12 (2) water pipes,
 - 13 (3) carburetion tubes and devices,
 - 14 (4) smoking and carburetion masks,
 - 15 (5) roach clips, meaning objects used to hold burning
16 material, such as a marijuana cigarette, that has
17 become too small or too short to be held in the
18 hand,
 - 19 (6) miniature cocaine spoons and cocaine vials,
 - 20 (7) chamber pipes,
 - 21 (8) carburetor pipes,
 - 22 (9) electric pipes,
 - 23 (10) air-driven pipes,
 - 24 (11) chillums,

1 (12) bonges, or

2 (13) ice pipes or chillers,

3 m. all hidden or novelty pipes, and

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

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

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

17 (1) the chemical structure of which is substantially
18 similar to the chemical structure of a controlled
19 dangerous substance in Schedule I or II,

20 (2) which has a stimulant, depressant, or
21 hallucinogenic effect on the central nervous
22 system that is substantially similar to or
23 greater than the stimulant, depressant or
24 hallucinogenic effect on the central nervous

1 system of a controlled dangerous substance in
2 Schedule I or II, or

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

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

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

17 (1) a controlled dangerous substance,
18 (2) any substance for which there is an approved new
19 drug application,
20 (3) with respect to a particular person any
21 substance, if an exemption is in effect for
22 investigational use, for that person under the
23 provisions of Section 505 of the Federal Food,
24 Drug and Cosmetic Act, Title 21 of the United

1 States Code, Section 355, to the extent conduct
2 with respect to such substance is pursuant to
3 such exemption, or

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

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

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

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

22 40. "Hazardous materials" means materials, whether solid,
23 liquid or gas, which are toxic to human, animal, aquatic or plant
24

1 life, and the disposal of which materials is controlled by state or
2 federal guidelines;

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

5 42. "Acute pain" means pain, whether resulting from disease,
6 accidental or intentional trauma or other cause, that the
7 practitioner reasonably expects to last only a short period of time.
8 "Acute pain" does not include chronic pain, pain being treated as
9 part of cancer care, hospice or other end-of-life care, or pain
10 being treated as part of palliative care;

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

16 44. "Initial prescription" means a prescription issued to a
17 patient who:

18 a. has never previously been issued a prescription for
19 the drug or its pharmaceutical equivalent in the past
20 year, or

21 b. requires a prescription for the drug or its
22 pharmaceutical equivalent due to a surgical procedure
23 or new acute event and has previously had a
24

1 prescription for the drug or its pharmaceutical
2 equivalent within the past year.

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

7 45. "Patient-provider agreement" means a written contract or
8 agreement that is executed between a practitioner and a patient,
9 prior to the commencement of treatment for chronic pain using a
10 Schedule II ~~controlled substance or any~~ opioid drug ~~which is a~~
11 ~~prescription 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 pain-management plan of
17 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 Schedule II ~~controlled dangerous~~
22 ~~substances~~ opioid drugs, including any restrictions on
23 the refill of prescriptions or the acceptance of
24 Schedule II 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 pain-management plan,
- 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, ~~informal~~
14 formal consent for opioid therapy. The provider shall
15 be 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" includes, but
22 is not limited to, Alzheimer's disease or related dementias, lung
23 disease, cancer, heart failure, renal failure, liver failure or
24

1 chronic, unremitting or intractable pain such as neuropathic pain;
2 and

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.

14 SECTION 11. AMENDATORY 63 O.S. 2011, Section 2-309D, as
15 last amended by Section 4, Chapter 175, O.S.L. 2018 (63 O.S. Supp.
16 2018, Section 2-309D), is amended to read as follows:

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

21 1. Peace officers certified pursuant to Section 3311 of Title
22 70 of the Oklahoma Statutes who are employed as investigative agents
23 of the Oklahoma State Bureau of Narcotics and Dangerous Drugs
24 Control;

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

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

- 5 a. Board of Podiatric Medical Examiners,
- 6 b. Board of Dentistry,
- 7 c. State Board of Pharmacy,
- 8 d. State Board of Medical Licensure and Supervision,
- 9 e. State Board of Osteopathic Examiners,
- 10 f. State Board of Veterinary Medical Examiners,
- 11 g. Oklahoma Health Care Authority,
- 12 h. Department of Mental Health and Substance Abuse
13 Services,
- 14 i. Board of Examiners in Optometry,
- 15 j. Board of Nursing,
- 16 k. Office of the Chief Medical Examiner, and
- 17 l. State Board of Health;

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

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

23 6. At the discretion of the Director of the Oklahoma State
24 Bureau of Narcotics and Dangerous Drugs Control, medical

1 practitioners and their staff, including those employed by the
2 federal government in this state.

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

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

19 D. This section shall not prevent the disclosure, at the
20 discretion of the Director of the Oklahoma State Bureau of Narcotics
21 and Dangerous Drugs Control, of prescription-monitoring-program
22 information to prescription-monitoring programs of other states
23 provided a reciprocal data-sharing agreement is in place.

24

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

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

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

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

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

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

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

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

22 3. Registrants shall not be liable to any person for any claim
23 of damages as a result of accessing or failing to access the
24

1 information in the central repository and no lawsuit may be
2 predicated thereon.

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

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

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

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

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

20 K. The Director of the Oklahoma State Bureau of Narcotics and
21 Dangerous Drugs Control shall provide adequate means and procedures
22 allowing access to central repository information for registrants
23 lacking direct computer access.

24

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

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

- 21 1. Is confidential;
- 22 2. May not disclose information that is confidential pursuant
23 to this section; and

24

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

3 SECTION 12. AMENDATORY Section 5, Chapter 175, O.S.L.
4 2018 (63 O.S. Supp. 2018, Section 2-309I), is amended to read as
5 follows:

6 Section 2-309I. A. A practitioner shall not issue an initial
7 prescription for ~~an opioid drug which is a prescription drug a~~
8 Schedule II opioid drug in a quantity exceeding a seven-day supply
9 for treatment of acute pain ~~for an adult patient, or a seven-day~~
10 ~~supply for treatment of acute pain for a patient under the age of~~
11 ~~eighteen (18) years old.~~ Any Schedule II opioid prescription for
12 acute pain ~~pursuant to this subsection~~ shall be for the lowest
13 effective dose of an immediate-release ~~opioid~~ drug.

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

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

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

24

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 Schedule II opioid drug prescribed
7 for acute pain to a duration of no more than seven (7) days as
8 determined by the directed dosage and frequency of dosage; provided,
9 however, upon issuing an initial prescription for acute pain
10 pursuant to this section, the practitioner may issue one (1)
11 subsequent prescription for a Schedule II opioid drug in a quantity
12 not to exceed seven (7) days if:

- 13 a. the subsequent prescription is due to a major
14 procedure or "confined to home" status as defined in
15 42 U.S.C., Section 1395n(a),
- 16 b. the practitioner provides the subsequent prescription
17 on the same day as the initial prescription,
- 18 c. the practitioner provides written instructions on the
19 subsequent prescription indicating the earliest date
20 on which the prescription may be filled, otherwise
21 known as a "do not fill until" date, and
- 22 d. the subsequent prescription is dispensed no more than
23 five (5) days after the "do not fill until" date
24 indicated on the prescription;

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

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

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

11 1. The subsequent prescription would not be deemed an initial
12 prescription under this section;

13 2. The practitioner determines the prescription is necessary
14 and appropriate to the treatment needs of the patient and documents
15 the rationale for the issuance of the subsequent prescription; and

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

19 D. Prior to issuing the initial prescription of a Schedule II
20 ~~controlled dangerous substance or any opioid drug that is a~~
21 ~~prescription drug~~ in a course of treatment for acute or chronic pain
22 and again prior to issuing the third prescription of the course of
23 treatment, a practitioner shall discuss with the patient or the
24 parent or guardian of the patient if the patient is under eighteen

1 (18) years of age and is not an emancipated minor, the risks
2 associated with the drugs being prescribed, including but not
3 limited to:

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

7 2. The reasons why the prescription is necessary;

8 3. Alternative treatments that may be available; and

9 4. Risks associated with the use of the drugs being prescribed,
10 specifically that opioids are highly addictive, even when taken as
11 prescribed, that there is a risk of developing a physical or
12 psychological dependence on the controlled dangerous substance, and
13 that the risks of taking more opioids than prescribed or mixing
14 sedatives, benzodiazepines or alcohol with opioids can result in
15 fatal respiratory depression.

16 The practitioner shall include a note in the medical record of
17 the patient that the patient or the parent or guardian of the
18 patient, as applicable, has discussed with the practitioner the
19 risks of developing a physical or psychological dependence on the
20 controlled dangerous substance and alternative treatments that may
21 be available. The applicable state licensing board of the
22 practitioner shall develop and make available to practitioners
23 guidelines for the discussion required pursuant to this subsection.

1 E. At the time of the issuance of the third prescription for a
2 ~~prescription~~ Schedule II opioid drug, the practitioner shall enter
3 into a ~~pain-management~~ patient-provider agreement with the patient.

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

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

11 2. Assess the patient prior to every renewal to determine
12 whether the patient is experiencing problems associated with
13 ~~physical and psychological dependence~~ an opioid use disorder and
14 document the results of that assessment;

15 3. Periodically make reasonable efforts, unless clinically
16 contraindicated, to either stop the use of the controlled substance,
17 decrease the dosage, try other drugs or treatment modalities in an
18 effort to reduce the potential for abuse or the development of
19 ~~physical or psychological dependence~~ an opioid use disorder and
20 document with specificity the efforts undertaken;

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

23 5. Monitor compliance with the ~~pain-management~~ patient-provider
24 agreement and any recommendations that the patient seek a referral.

1 G. This section shall not apply to a prescription for a patient
2 who is currently in active treatment for cancer, receiving hospice
3 care from a licensed hospice or palliative care, or is a resident of
4 a long-term care facility, or to any medications that are being
5 prescribed for use in the treatment of substance abuse or opioid
6 dependence.

7 H. Every policy, contract or plan delivered, issued, executed
8 or renewed in this state, or approved for issuance or renewal in
9 this state by the Insurance Commissioner, and every contract
10 purchased by the Employees Group Insurance Division of the Office of
11 Management and Enterprise Services, on or after ~~the effective date~~
12 ~~of this act~~ November 1, 2018, that provides coverage for
13 prescription drugs subject to a copayment, coinsurance or deductible
14 shall charge a copayment, coinsurance or deductible for an initial
15 prescription of ~~an~~ a Schedule II opioid drug prescribed pursuant to
16 this section that is either:

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

19 2. Equivalent to the cost sharing for a full thirty-day supply
20 of the ~~opioid~~ drug, provided that no additional cost sharing may be
21 charged for any additional prescriptions for the remainder of the
22 thirty-day supply.

23 I. Any provider authorized to prescribe ~~opioids~~ a Schedule II
24 opioid drug shall adopt and maintain a written policy or policies

1 that include execution of a written agreement to engage in an
2 informed consent process between the prescribing provider and
3 qualifying opioid therapy patient. For the purposes of this
4 section, "qualifying opioid therapy patient" means:

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

7 2. A patient who is prescribed benzodiazepines and opioids
8 together; or

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

11 SECTION 13. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 7402 of Title 36, unless there
13 is created a duplication in numbering, reads as follows:

14 The Insurance Department shall evaluate the effect of the limits
15 on prescriptions for opioid medication established by this act on
16 the claims paid by health insurance carriers and the out-of-pocket
17 costs including copayments, coinsurance and deductibles paid by
18 individual and group health insurance policyholders. On or before
19 January 1, 2021, the Insurance Department shall submit a report on
20 the evaluation, along with any recommended policy and regulatory
21 options that will ensure costs for patients are not increased as a
22 result of new prescribing limitations on the amounts of opioid
23 medications, to the standing committees of the Legislature having
24 jurisdiction over health and human services matters and over

1 insurance and financial services matters. The Insurance
2 Commissioner may adopt reasonable rules and regulations for the
3 implementation and administration of the provisions of this
4 subsection.

5 SECTION 14. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 2-112 of Title 63, unless there
7 is created a duplication in numbering, reads as follows:

8 The Oklahoma State Bureau of Narcotics and Dangerous Drugs
9 Control shall report to the standing committees of the Legislature
10 having jurisdiction over health and human services matters and over
11 occupational and professional regulation matters, no later than
12 January 31, 2020, with progress on implementing the provisions of
13 this act. The report shall contain, at a minimum, the following
14 information:

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

18 2. Data regarding the checking and using of the central
19 repository by data requesters;

20 3. Data from professional boards regarding the implementation
21 of continuing education requirements for prescribers of opioid
22 medication;

23 4. Effects on the prescriber workforce;

24

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

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

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

7 8. Improvements to the central repository through the request
8 for proposals process including feedback from prescribers,
9 dispensers and applicable state licensing boards on those
10 improvements.

11 SECTION 15. REPEALER Section 6, Chapter 175, O.S.L.
12 2018, is hereby repealed.

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

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