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ENROLLED SENATE

BILL NO. 1119 By: Sykes of the Senate
and

Terrill, Cox and Roan of the House

An Act relating to the Uniform Controlled Dangerous
Substances Act; amending 63 O.S. 2001, Sections 2-
103, as last amended by Section 1, Chapter 359,
O.S.L. 2008, 2-303, as last amended by Section 1,
Chapter 273, O.S.L. 2008, 2-308, 2-309B, as last
amended by Section 3, Chapter 273, O.S.L. 2008 and 2-
309C, as last amended by Section 3, Chapter 128,
O.S.L. 2005 (63 O.S. Supp. 2008, Sections 2-103, 2-
303, 2-309B and 2-309C), which relate to director,
registration, order forms, definitions and dispensers
of controlled dangerous substances; authorizing
appointment of certain employees to specified
positions; increasing certain fees; decreasing
certain time period; modifying entity required to
dispense certain forms; modifying definitions;
requiring transmission of certain information;
modifying format and required time period for certain
transmission; providing an effective date; and
declaring an emergency.

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

1 SECTION 1. AMENDATORY 63 O.S. 2001, Section 2-103,
2 as last amended by Section 1, Chapter 359, O.S.L. 2008 (63 O.S.
3 Supp. 2008, Section 2-103), is amended to read as follows:

4 Section 2-103. A. The Director shall be appointed by the
5 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control
6 Commission. The Director of Narcotics and Dangerous Drugs Control
7 on January 1, 1984, shall be initially appointed as Director. The
8 succeeding Director shall, at the time of the appointment, have a
9 Bachelor's Degree from an accredited college or university and at
10 least five (5) [~~years-~~] years of experience in drug law
11 enforcement. The Director may appoint necessary assistants,
12 agents, and other personnel to perform the work of the office and
13 may prescribe their titles and duties and fix their compensation,
14 other than the salaries established in subsection A of Section 2-
15 103a of this title, pursuant to Merit System rules. The Director
16 may appoint employees to the positions of Chief of Law
17 Enforcement Information and Technology, Public
18 Information/Education Officer, Training Officer, Program
19 [~~Administrator~~] Administrators, Grants Administrator, Criminal
20 Analysts, Legal Secretary, and Typist Clerk/Spanish
21 Transcriptionists. [~~Said~~] The positions shall be unclassified
22 and exempt from the rules and procedures of the Office of
23 Personnel Management, except leave regulations. The office of the
24 Director shall be located at a suitable place in Oklahoma City,
25 Oklahoma.

26 B. 1. Agents appointed by the Director shall have the
27 powers of peace officers generally; provided, the Director may

1 appoint special agents, who shall be unclassified employees of the
2 state, to meet specific investigatory need. Special agents shall
3 not be required to meet the age and educational requirements as
4 specified in this section.

5 2. Agents appointed on and after November 1, 1998, shall be
6 at least twenty-one (21) years of age and shall have a Bachelor's
7 Degree from an accredited college or university.

8 3. Each entering agent, with the exception of special
9 agents, shall be required to serve one (1) year in a probationary
10 status as a prerequisite to being placed on permanent status.

11 C. Agents appointed pursuant to the provisions of this
12 section shall have the responsibility of investigating alleged
13 violations and shall have the authority to arrest those suspected
14 of having violated the provisions of the Uniform Controlled
15 Dangerous Substances Act.

16 D. A commissioned employee of the Oklahoma State Bureau of
17 Narcotics and Dangerous Drugs Control shall be entitled to receive
18 upon retirement by reason of length of service, the continued
19 custody and possession of the sidearm and badge carried by such
20 employee immediately prior to retirement.

21 E. A commissioned employee of the Bureau may be entitled to
22 receive, upon retirement by reason of disability, the continued
23 custody and possession of the sidearm and badge carried by such
24 employee immediately prior to retirement upon written approval of
25 the Director.

26 F. Custody and possession of the sidearm and badge of a
27 commissioned employee killed in the line of duty may be awarded by

1 the Director to the spouse or next of kin of the deceased
2 employee.

3 G. Custody and possession of the sidearm and badge of a
4 commissioned employee who dies while employed at the Oklahoma
5 State Bureau of Narcotics and Dangerous Drugs Control may be
6 awarded by the Director to the spouse or next of kin of the
7 deceased employee.

8 H. Any Director appointed on or after July 1, 2003, shall
9 be eligible to participate in either the Oklahoma Public Employees
10 Retirement System or in the Oklahoma Law Enforcement Retirement
11 System and shall make an irrevocable election in writing to
12 participate in one of the two retirement systems.

13 SECTION 2. AMENDATORY 63 O.S. 2001, Section 2-303,
14 as last amended by Section 1, Chapter 273, O.S.L. 2008 (63 O.S.
15 Supp. 2008, Section 2-303), is amended to read as follows:

16 Section 2-303. A. The Director of the Oklahoma State
17 Bureau of Narcotics and Dangerous Drugs Control shall register an
18 applicant to manufacture, distribute, dispense, prescribe,
19 administer or use for scientific purposes controlled dangerous
20 substances included in Schedules I through V of Section 2-101 et
21 seq. of this title unless the Director determines that the
22 issuance of such registration is inconsistent with the public
23 interest. In determining the public interest, the following
24 factors shall be considered:

25 1. Maintenance of effective controls against diversion of
26 particular controlled dangerous substances and any Schedule I or
27 II substance compounded therefrom into other than legitimate

1 medical, scientific or industrial channels, including examination
2 of the fitness of his or her employees or agents to handle
3 dangerous substances;

4 2. Compliance with applicable state and local law;

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

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

13 5. Past experience in the manufacture, distribution,
14 dispensing, prescribing, administering or use for scientific
15 purposes of controlled dangerous substances, and the existence in
16 the establishment of effective controls against diversion;

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

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

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

25 B. Registration granted under subsection A of this section
26 shall not entitle a registrant to manufacture, distribute,
27 dispense, prescribe, administer or use for scientific purposes

1 controlled dangerous substances in Schedule I or II other than
2 those specified in the registration.

3 C. Practitioners shall be registered to dispense,
4 prescribe, administer or use for scientific purposes substances in
5 Schedules II through V if they are authorized to carry on their
6 respective activities under the laws of this state. A
7 registration application by a practitioner who wishes to conduct
8 research with Schedule I substances shall be accompanied by
9 evidence of the applicant's federal registration to conduct such
10 activity and shall be referred to the Medical Research Commission
11 for advice. The Medical Research Commission shall promptly advise
12 the Director concerning the qualifications of each practitioner
13 requesting such registration. Registration for the purpose of
14 bona fide research or of use for scientific purposes with Schedule
15 I substances by a practitioner deemed qualified by the Medical
16 Research Commission may be denied only on a ground specified in
17 subsection A of Section 2-304 of this title or if there are
18 reasonable grounds to believe that the applicant will abuse or
19 unlawfully transfer such substances or fail to safeguard
20 adequately such applicant's supply of such substances against
21 diversion from legitimate medical or scientific use.

22 D. 1. The Director shall initially permit persons to
23 register who own or operate any establishment engaged in the
24 manufacture, distribution, dispensing, prescribing, administering
25 or use for scientific purposes of any controlled dangerous
26 substances prior to June 4, 1991, and who are registered or

27 licensed by the state. Fees for registration under this section

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1 shall be as follows:

2 Practitioners and mid-level practitioners [~~\$70.00~~]

3 \$140.00 per year

4 of

5 registration

6 Home Care Agencies, Hospices & Home Care Services

7 [~~\$70.00~~]

8 \$140.00 annually

9 Distributors [~~\$100.00~~]

10 \$300.00 annually

11 Manufacturers [~~\$200.00~~]

12 \$500.00 annually

13 Manufacturer, Wholesaler, or Distributor of drug products

14 containing pseudoephedrine or phenylpropanolamine [~~\$100.00~~]

15 \$300.00 annually

16 2. A registrant shall be required to pay double the amount
17 of the above-listed fee for any renewal of registration received
18 more than [~~sixty (60)~~] thirty (30) days late.

19 3. A Ten Dollar (\$10.00) fee shall be charged for a
20 duplicate registration certificate.

21 E. Compliance by manufacturers and distributors with the
22 provisions of the Federal Controlled Substances Act, 21 U.S.C.,
23 Section 801 et seq., respecting registration, excluding fees,
24 shall be deemed sufficient to qualify for registration under this
25 act.

26 SECTION 3. AMENDATORY 63 O.S. 2001, Section 2-308,

27 is amended to read as follows:

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1 Section 2-308. Controlled dangerous substances in Schedules
2 I and II shall be distributed only by a registrant to another
3 registrant pursuant to an order form obtained from the United
4 States [~~Attorney General~~] Drug Enforcement Administration.
5 Compliance with the provisions of the Federal Controlled
6 Substances Act respecting order forms shall be deemed compliance
7 with this section. This section shall not apply to dispensing as
8 defined by this act, nor to distribution otherwise authorized by
9 this act.

10 SECTION 4. AMENDATORY 63 O.S. 2001, Section 2-309B,
11 as last amended by Section 3, Chapter 273, O.S.L. 2008 (63 O.S.
12 Supp. 2008, Section 2-309B), is amended to read as follows:

13 Section 2-309B. For the purposes of the Anti-Drug Diversion
14 Act:

15 1. "Bureau" means the Oklahoma State Bureau of Narcotics
16 and Dangerous Drugs Control;

17 2. "Dispenser" means a person who distributes a Schedule II
18 controlled dangerous substance, but does not include a licensed
19 hospital pharmacy or a licensed nurse or medication aide who
20 administers such a substance at the direction of a licensed
21 physician;

22 3. "Dispenser's registration number" means the dispenser's
23 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control
24 registration number or, in the case of a pharmacist, the National
25 Association of Boards of Pharmacy number for the pharmacy where

26 the dispensation is made;

27 4. "Exception report" means an output of data indicating

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1 Schedule II controlled dangerous substance dispensation which is
2 outside expected norms for a prescriber practicing a particular
3 specialty or field of health care, for a dispenser doing business
4 in a particular location, or for a recipient;

5 5. "Recipient" means the person for whom a prescription is
6 prescribed and who is the lawful intended ultimate user;

7 6. "Recipient's agent" means a person who is authorized by
8 the ultimate user to pick up the recipient's medication and
9 deliver it to the recipient or a person who claims a prescription
10 other than the person to whom the medication is prescribed;

11 7. "Recipient's identification number" and "recipient's
12 agent's identification number" means the unique number contained
13 on a [~~recipient's~~] valid passport, military identification card,
14 driver license, or [~~valid~~] identification card issued to a
15 recipient pursuant to Section 6-105 of Title 47 of the Oklahoma
16 Statutes or similar statute of another state if the recipient is
17 not a resident of the State of Oklahoma, or, if the recipient is
18 less than eighteen (18) years old and has no such identification,
19 the unique number contained on [~~the recipient's parent's or~~
20 ~~guardian's~~] a valid passport, military identification card,
21 driver license, or [~~valid~~] identification card issued to the
22 recipient's parent or guardian pursuant to Section 6-105 of Title
23 47 of the Oklahoma Statutes or similar statute of another state if
24 the parent or guardian is not a resident of the State of Oklahoma,
25 or, if the controlled dangerous substance is obtained for an

26 animal, the unique number contained on the animal owner's valid
27 driver license~~[7]~~ or [~~valid~~] identification card issued pursuant

1 to Section 6-105 of Title 47 of the Oklahoma Statutes or similar
2 statute of another state if the owner is not a resident of the
3 State of Oklahoma. Nonresident drug outlets registered pursuant
4 to the Oklahoma Pharmacy Act and resident drug outlets defined in
5 Section 353.1 of Title 59 of the Oklahoma Statutes are exempt from
6 the picture identification requirement if the nonresident and
7 resident drug outlets have obtained the identification of the
8 patient through the prescription benefit plan of the patient;

9 ~~[6.]~~ 8. "Registrant" means a person, persons, corporation
10 or other entity who has been issued by the Director of the
11 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control a
12 registration pursuant to Section 2-302 of this title; and

13 ~~[7.]~~ 9. "State" means any state, territory, or possession
14 of the United States, the District of Columbia, or foreign nation.

15 SECTION 5. AMENDATORY 63 O.S. 2001, Section 2-309C,
16 as last amended by Section 3, Chapter 128, O.S.L. 2005 (63 O.S.
17 Supp. 2008, Section 2-309C), is amended to read as follows:

18 Section 2-309C. A. A dispenser of a Schedule II, III, IV
19 or V controlled dangerous substance, except Schedule V substances
20 that contain any detectable quantity of pseudoephedrine, its salts
21 or optical isomers, or salts of optical isomers shall transmit to
22 a central repository designated by the Oklahoma State Bureau of
23 Narcotics and Dangerous Drugs Control using the American Society
24 for Automation in Pharmacy's (ASAP) Telecommunications Format for

25 Controlled Substances version designated in rules by the Oklahoma
26 State Bureau of Narcotics and Dangerous Drugs Control, the
27 following information for each dispensation:

10

- 1 1. Recipient's name [~~, when feasible to submit~~];
- 2 2. Recipient's address;
- 3 3. Recipient's date of birth;
- 4 4. Recipient's identification number;
- 5 ~~[3.]~~ 5. National Drug Code number of the substance
6 dispensed;
- 7 ~~[4.]~~ 6. Date of the dispensation;
- 8 ~~[5.]~~ 7. Quantity of the substance dispensed;
- 9 ~~[6.]~~ 8. Prescriber's United States Drug Enforcement
10 Agency registration number; [~~and~~]
- 11 ~~[7.]~~ 9. Dispenser's registration number; and
- 12 10. Other information as required by administrative rule.

13 B. The information required by this section shall be
14 transmitted:

15 1. [~~On an electronic device which is compatible with the~~
16 ~~receiving device of the central repository or by computer~~
17 ~~diskette, magnetic tape, CD-ROM or in~~] In a format or other
18 media designated acceptable by the Oklahoma State Bureau of
19 Narcotics and Dangerous Drugs Control; and

20 2. Within [~~thirty (30) days~~] twenty-four (24) hours of
21 the time that the substance is dispensed. Beginning January 1,
22 2012, all information shall be submitted on a real-time log.

23 C. The provisions of subsection B of this section shall
24 not apply to a nonresident drug outlet registered pursuant to the

25 Oklahoma Pharmacy Act or to a resident drug outlet as defined in
26 Section 353.1 of Title 59 of the Oklahoma Statutes if the
27 nonresident or resident drug outlet mails or delivers a controlled

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1 substance to a patient or client. Nonresident and resident drug
2 outlets shall transmit the information required in this section
3 within seven (7) days of the date that the controlled substance is
4 dispensed.

5 D. Willful failure to transmit accurate information as
6 required by this section shall be a misdemeanor punishable, upon
7 conviction, by not more than one (1) year in the county jail, or
8 by a fine of not more than One Thousand Dollars (\$1,000.00), or by
9 both such imprisonment and fine, or administrative action may be
10 taken pursuant to Section 2-304 of this title.

11 ~~[D.]~~ E. The Director of the Bureau shall have the
12 authority to allow paper submissions on ~~[the universal claim]~~ a
13 form designated by the Oklahoma State Bureau of Narcotics and
14 Dangerous Drugs Control, if the dispenser has an appropriate
15 hardship.

16 ~~[E.]~~ F. The Oklahoma State Bureau of Narcotics and
17 Dangerous Drugs Control is authorized, by any funds available to
18 it, to implement a real-time electronic logbook to monitor the
19 sale of Schedule V products containing any detectable quantity of
20 pseudoephedrine, its salts or optical isomers, or salts of optical
21 isomers. Dispensers of such pseudoephedrine products shall report
22 all such sales electronically pursuant to rules promulgated by the
23 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control.

24 The reporting requirements of this title do not apply to any
25 lawful sale of a Schedule V product containing any detectable
26 quantity of pseudoephedrine, its salts or optical isomers, or
27 salts of optical isomers, until such time that:

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1 1. The Oklahoma State Bureau of Narcotics and Dangerous
2 Drugs Control implements a statewide real-time logbook that
3 authorizes purchases and records purchaser information statewide;
4 and

5 2. The Oklahoma State Bureau of Narcotics and Dangerous
6 Drugs Control adopts rules for the reporting of sales of Schedule
7 V product containing any detectable quantity of pseudoephedrine,
8 its salts or optical isomers, or salts of optical isomers.

9 SECTION 6. This act shall become effective July 1, 2009.

10 SECTION 7. It being immediately necessary for the
11 preservation of the public peace, health and safety, an emergency
12 is hereby declared to exist, by reason whereof this act shall take
13 effect and be in full force from and after its passage and
14 approval.

15 Passed the Senate the 21st day of May, 2009.

16 Presiding Officer of the Senate

17 Passed the House of Representatives the 22nd day of May,
18 2009.

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20 Presiding Officer of the House

21 of Representatives

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