

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 59th Legislature (2023)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 475

By: Paxton of the Senate

and

Echols and **McDugle** of the
House

11 COMMITTEE SUBSTITUTE

12 An Act relating to the Uniform Controlled Dangerous
13 Substances Act; amending 63 O.S. 2021, Section 2-101,
14 as amended by Section 4, Chapter 265, O.S.L. 2022 (63
15 O.S. Supp. 2022, Section 2-101), which relates to
16 definitions; defining certain term; amending 63 O.S.
17 2021, Section 2-110, which relates to attorneys;
18 requiring certain attorneys to assist Attorney
19 General for specified purposes; amending 63 O.S.
20 2021, Section 2-304, which relates to denial,
21 revocation, or suspension of registration;
22 authorizing certain action; modifying registration
23 suspension and revocation guidelines; removing
24 administrative penalty authorization; amending 63
 O.S. 2021, Section 2-305, which relates to the order
 to show cause; removing certain order servicing
 guidelines; requiring certain servicing guidelines;
 removing certain suspension guidelines; requiring
 certain written order guidelines; requiring certain
 final order guidelines; requiring certain
 administrative proceedings guidelines; permitting
 certain delegation authority; prohibiting certain
 delegation authority; requiring certain proceedings
 guidelines; creating certain suspension exception;
 permitting certain authority to administrative
 hearing officers; permitting certain suspensions;

1 permitting certain assessed penalties; requiring
2 certain hearing guideline; authorizing certain
3 assessed penalties; prohibiting certain assessed
4 fees; requiring certain seizures; requiring certain
5 sample retention; authorizing certain fines;
6 permitting the Director of the Oklahoma State Bureau
7 of Narcotics and Dangerous Drugs Control to prohibit
8 certain reapplication; requiring certain exemption;
9 amending 63 O.S. 2021, Section 2-322, which relates
10 to precursor substances requiring permit or license;
11 removing certain statutory reference; amending 63
12 O.S. 2021, Section 2-325, which relates to denial,
13 revocation, or suspension of registration; modifying
14 certain requirement; requiring certain registration
15 guideline; amending 63 O.S. 2021, Section 2-406,
16 which relates to penalties; updating statutory
17 references; and declaring an emergency.

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

19 SECTION 1. AMENDATORY 63 O.S. 2021, Section 2-101, as
20 amended by Section 4, Chapter 265, O.S.L. 2022 (63 O.S. Supp. 2022,
21 Section 2-101), is amended to read as follows:

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

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

- a. a practitioner (or, in the presence of the
practitioner, by the authorized agent of the
practitioner), or

1 b. the patient or research subject at the direction and
2 in the presence of the practitioner;

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

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

14 4. "Bureau" means the Oklahoma State Bureau of Narcotics and
15 Dangerous Drugs Control;

16 5. "Coca leaves" includes cocaine and any compound,
17 manufacture, salt, derivative, mixture or preparation of coca
18 leaves, except derivatives of coca leaves which do not contain
19 cocaine or ecgonine;

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

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

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

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

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

18 11. "Dispense" means to deliver a controlled dangerous
19 substance to an ultimate user or human research subject by or
20 pursuant to the lawful order of a practitioner, including the
21 prescribing, administering, packaging, labeling or compounding
22 necessary to prepare the substance for such distribution.

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

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

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

8 14. "Drug" means articles:

9 a. recognized in the official United States Pharmacopeia,
10 official Homeopathic Pharmacopoeia of the United
11 States, or official National Formulary, or any
12 supplement to any of them,

13 b. intended for use in the diagnosis, cure, mitigation,
14 treatment or prevention of disease in man or other
15 animals,

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

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

20 provided, however, the term "~~drug~~ drug" does not include devices or
21 their components, parts or accessories;

22 15. "Drug-dependent person" means a person who is using a
23 controlled dangerous substance and who is in a state of psychic or
24 physical dependence, or both, arising from administration of that

1 controlled dangerous substance on a continuous basis. Drug
2 dependence is characterized by behavioral and other responses which
3 include a strong compulsion to take the substance on a continuous
4 basis in order to experience its psychic effects, or to avoid the
5 discomfort of its absence;

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

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

13 18. "Hospice" means a centrally administered, nonprofit or for-
14 profit, medically directed, nurse-coordinated program which provides
15 a continuum of home and inpatient care for the terminally ill
16 patient and the patient's family. Such term shall also include a
17 centrally administered, nonprofit or for-profit, medically directed,
18 nurse-coordinated program if such program is licensed pursuant to
19 the provisions of the Uniform Controlled Dangerous Substances Act.
20 A hospice program offers palliative and supportive care to meet the
21 special needs arising out of the physical, emotional and spiritual
22 stresses which are experienced during the final stages of illness
23 and during dying and bereavement. This care is available twenty-
24 four (24) hours a day, seven (7) days a week, and is provided on the

1 basis of need, regardless of ability to pay. "Class A" Hospice
2 refers to Medicare-certified hospices. "Class B" refers to all
3 other providers of hospice services;

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

- 16 a. statements made by an owner or by any other person in
17 control of the substance concerning the nature of the
18 substance, or its use or effect,
19 b. statements made to the recipient that the substance
20 may be resold for inordinate profit,
21 c. whether the substance is packaged in a manner normally
22 used for illicit controlled substances,
23
24

- 1 d. evasive tactics or actions utilized by the owner or
2 person in control of the substance to avoid detection
3 by law enforcement authorities,
4 e. prior convictions, if any, of an owner, or any other
5 person in control of the object, under state or
6 federal law related to controlled substances or fraud,
7 and
8 f. the proximity of the substances to controlled
9 dangerous substances;

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

16 21. "Laboratory" means a laboratory approved by the Director as
17 proper to be entrusted with the custody of controlled dangerous
18 substances and the use of controlled dangerous substances for
19 scientific and medical purposes and for purposes of instruction;

20 22. "Manufacture" means the production, preparation,
21 propagation, compounding or processing of a controlled dangerous
22 substance, either directly or indirectly by extraction from
23 substances of natural or synthetic origin, or independently by means
24 of chemical synthesis or by a combination of extraction and chemical

1 synthesis. "Manufacturer" includes any person who packages,
2 repackages or labels any container of any controlled dangerous
3 substance, except practitioners who dispense or compound
4 prescription orders for delivery to the ultimate consumer;

5 23. "Marijuana" means all parts of the plant Cannabis sativa
6 L., whether growing or not; the seeds thereof; the resin extracted
7 from any part of such plant; and every compound, manufacture, salt,
8 derivative, mixture or preparation of such plant, its seeds or
9 resin, but shall not include:

- 10 a. the mature stalks of such plant or fiber produced from
11 such stalks,
- 12 b. oil or cake made from the seeds of such plant,
13 including cannabidiol derived from the seeds of the
14 marijuana plant,
- 15 c. any other compound, manufacture, salt, derivative,
16 mixture or preparation of such mature stalks (except
17 the resin extracted therefrom), including cannabidiol
18 derived from mature stalks, fiber, oil or cake,
- 19 d. the sterilized seed of such plant which is incapable
20 of germination,
- 21 e. for any person participating in a clinical trial to
22 administer cannabidiol for the treatment of severe
23 forms of epilepsy pursuant to Section 2-802 of this
24 title, a drug or substance approved by the federal

1 Food and Drug Administration for use by those
2 participants,

3 f. for any person or the parents, legal guardians or
4 caretakers of the person who have received a written
5 certification from a physician licensed in this state
6 that the person has been diagnosed by a physician as
7 having Lennox-Gastaut syndrome, Dravet syndrome, also
8 known as severe myoclonic epilepsy of infancy, or any
9 other severe form of epilepsy that is not adequately
10 treated by traditional medical therapies, spasticity
11 due to multiple sclerosis or due to paraplegia,
12 intractable nausea and vomiting, appetite stimulation
13 with chronic wasting diseases, the substance
14 cannabidiol, a nonpsychoactive cannabinoid, found in
15 the plant Cannabis sativa L. or any other preparation
16 thereof, that has a tetrahydrocannabinol concentration
17 ~~of~~ not more than three-tenths of one percent (0.3%)
18 and that is delivered to the patient in the form of a
19 liquid,

20 g. any federal Food-and-Drug-Administration-approved drug
21 or substance, or

22 h. industrial hemp, from the plant Cannabis sativa L. and
23 any part of such plant, whether growing or not, with a
24 delta-9 tetrahydrocannabinol concentration ~~of~~ not more

1 than three-tenths of one percent (0.3%) on a dry-
2 weight basis which shall only be grown pursuant to the
3 Oklahoma Industrial Hemp Program and may be shipped
4 intrastate and interstate;

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

10 25. "Mid-level practitioner" means an Advanced Practice
11 Registered Nurse as defined and within parameters specified in
12 Section 567.3a of Title 59 of the Oklahoma Statutes, or a certified
13 animal euthanasia technician as defined in Section 698.2 of Title 59
14 of the Oklahoma Statutes, or an animal control officer registered by
15 the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control
16 under subsection B of Section 2-301 of this title within the
17 parameters of such officer's duties under Sections 501 through 508
18 of Title 4 of the Oklahoma Statutes;

19 26. "Narcotic drug" means any of the following, whether
20 produced directly or indirectly by extraction from substances of
21 vegetable origin, or independently by means of chemical synthesis,
22 or by a combination of extraction and chemical synthesis:

23 a. opium, coca leaves and opiates,
24

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

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

1 28. "Opium poppy" means the plant of the species Papaver
2 somniferum L., except the seeds thereof;

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

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

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

13 32. "Practitioner" means:

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

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,

24

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

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

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

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

1 hallucinogenic effect on the central nervous
2 system of a controlled dangerous substance in
3 Schedule I or II, or

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

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

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

18 (1) a controlled dangerous substance,

19 (2) any substance for which there is an approved new
20 drug application,

21 (3) with respect to a particular person any
22 substance, if an exemption is in effect for
23 investigational use, for that person under the
24 provisions of Section 505 of the Federal Food,

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

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

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

13 38. "Tetrahydrocannabinols" means all substances that have been
14 chemically synthesized to emulate the tetrahydrocannabinols of
15 marijuana, specifically including any tetrahydrocannabinols derived
16 from industrial hemp;

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

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

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

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

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

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

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

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

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

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

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

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

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

1 failure or chronic, unremitting or intractable pain such as
2 neuropathic pain; 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 2. AMENDATORY 63 O.S. 2021, Section 2-110, is
15 amended to read as follows:

16 Section 2-110. The Director of the Oklahoma State Bureau of
17 Narcotics and Dangerous Drugs Control may employ attorneys, who
18 shall be unclassified employees of the state, or contract with
19 attorneys, as needed. These attorneys may advise the Director, the
20 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control
21 Commission and Bureau personnel on all legal matters and shall
22 appear for and represent the Director, the Commission and Bureau
23 personnel in all administrative hearings and all litigation or other
24 proceedings which may arise in the discharge of their duties. At

1 the request of the Oklahoma State Bureau of Narcotics and Dangerous
2 Drugs Control Commission, such attorney shall assist the district
3 attorney or the Attorney General in prosecuting charges of violators
4 of the Uniform Controlled Dangerous Substances Act or any felony
5 relating to or arising from a violation of the Uniform Controlled
6 Dangerous Substances Act. Attorneys for the Bureau who have been
7 certified by the Council on Law Enforcement Education and Training
8 to carry a weapon or have been issued a handgun license pursuant to
9 the provisions of the Oklahoma Self-Defense Act shall be allowed to
10 carry weapons pursuant to paragraph 3 of subsection A of Section
11 1272 of Title 21 of the Oklahoma Statutes. These attorneys,
12 pursuant to this provision, shall not be considered eligible to
13 participate in the Oklahoma Law Enforcement Retirement System. If a
14 conflict of interest would be created by such attorney representing
15 the Director, the Commission or Bureau personnel, additional counsel
16 may be hired upon approval of the Oklahoma State Bureau of Narcotics
17 and Dangerous Drugs Control Commission.

18 SECTION 3. AMENDATORY 63 O.S. 2021, Section 2-304, is
19 amended to read as follows:

20 Section 2-304. A. A registration, pursuant to Section 2-303 of
21 this title, to manufacture, distribute, dispense, prescribe,
22 administer or use for scientific purposes a controlled dangerous
23 substance shall be limited, conditioned, denied, suspended,
24 annulled, or revoked by the Director of the Oklahoma State Bureau of

1 Narcotics and Dangerous Drugs Control upon a finding that the
2 registrant:

3 1. Has materially falsified any application filed pursuant to
4 the Uniform Controlled Dangerous Substances Act or required by the
5 Uniform Controlled Dangerous Substances Act. It shall be unlawful
6 to knowingly and willfully:

7 a. make false statements, include false data or omit
8 material information on an application for a
9 registration with the Oklahoma State Bureau of
10 Narcotics and Dangerous Drugs Control, or

11 b. provide false data or omit material information in any
12 records or reports required by rule or law to be
13 created, maintained or submitted to the Bureau.

14 Any registrant or applicant for a registration or any official,
15 agent or employee of any registrant or applicant for a registration
16 who violates the provisions of this paragraph shall be guilty of a
17 misdemeanor and additionally subject to administrative action;

18 2. Has been found guilty of, entered a plea of guilty or
19 entered a plea of nolo contendere to a misdemeanor relating to any
20 substance defined herein as a controlled dangerous substance or any
21 felony under the laws of any state or the United States;

22 3. Has had his or her federal registration retired, suspended
23 or revoked by a competent federal authority and is no longer
24 authorized by federal law to manufacture, distribute, dispense,

1 prescribe, administer or use for scientific purposes controlled
2 dangerous substances;

3 4. Has failed to maintain effective controls against the
4 diversion of controlled dangerous substances to unauthorized persons
5 or entities;

6 5. Has prescribed, dispensed or administered a controlled
7 dangerous substance from schedules other than those specified in his
8 or her state or federal registration;

9 6. Has had a restriction, suspension, revocation, limitation,
10 condition or probation placed on his or her professional license or
11 certificate or practice as a result of a proceeding pursuant to the
12 general statutes;

13 7. Is abusing or, within the past five (5) years, has abused or
14 excessively used drugs or controlled dangerous substances;

15 8. Has prescribed, sold, administered or ordered any controlled
16 substance for an immediate family member, himself or herself;
17 provided that this shall not apply to a medical emergency when no
18 other doctor is available to respond to the emergency;

19 9. Has possessed, used, prescribed, dispensed or administered
20 drugs or controlled dangerous substances for other than legitimate
21 medical or scientific purposes or for purposes outside the normal
22 course of his or her professional practice;

23 10. Has been under the influence of alcohol or another
24 intoxicating substance which adversely affected the central nervous

1 system, vision, hearing or other sensory or motor functioning to
2 such degree the person was impaired during the performance of his or
3 her job; or

4 11. Has violated any federal law relating to any controlled
5 substances, any provision of the Uniform Controlled Dangerous
6 Substances Act or any rules of the Oklahoma State Bureau of
7 Narcotics and Dangerous Drugs Control.

8 B. In the event the Director suspends or revokes a registration
9 granted under Section 2-303 of this title, all controlled dangerous
10 substances owned or possessed by the registrant pursuant to such
11 registration at the time of ~~denial~~ revocation or suspension or the
12 effective date of the revocation order, as the case may be, may in
13 the discretion of the Director be impounded and preserved. All
14 controlled dangerous substances not impounded or preserved by the
15 Director shall be maintained by the registrant. No disposition,
16 purchase, distribution, sale, or transfer may be made of substances
17 ~~impounded and preserved~~ until the time for taking an appeal has
18 elapsed or until all appeals have been concluded unless a court,
19 upon application therefor, orders the sale of perishable substances
20 and the deposit of the proceeds of the sale with the court. Upon a
21 revocation order becoming final, all such controlled dangerous
22 substances shall be forfeited to the state or otherwise considered
23 waste and submitted to a licensed waste disposal service for
24 destruction pursuant to Section 430 of this title.

1 C. The Drug Enforcement Administration shall promptly be
2 notified of all orders suspending or revoking registration and all
3 forfeitures of controlled dangerous substances.

4 ~~D. In lieu of or in addition to any other remedies available to~~
5 ~~the Director, if a finding is made that a registrant has committed~~
6 ~~any act in violation of federal law relating to any controlled~~
7 ~~substance, any provision of the Uniform Controlled Dangerous~~
8 ~~Substances Act or any rules of the Oklahoma State Bureau of~~
9 ~~Narcotics and Dangerous Drugs Control, the Director is hereby~~
10 ~~authorized to assess an administrative penalty not to exceed Two~~
11 ~~Thousand Dollars (\$2,000.00) for each such act. The provisions of~~
12 ~~this subsection shall not apply to violations of subsection G of~~
13 ~~Section 2-309D of this title. Nothing in this section shall be~~
14 ~~construed so as to permit the Director of the State Bureau of~~
15 ~~Narcotics and Dangerous Drugs Control to assess administrative fines~~
16 ~~for violations of the provisions of subsection G of Section 2-309D~~
17 ~~of this title.~~

18 SECTION 4. AMENDATORY 63 O.S. 2021, Section 2-305, is
19 amended to read as follows:

20 Section 2-305. A. ~~Before denying, suspending or revoking a~~
21 ~~registration, refusing a renewal of registration or taking~~
22 ~~administrative action on a nonregistrant engaged in manufacturing,~~
23 ~~distributing, dispensing, prescribing, administering or using for~~
24 ~~scientific purposes any controlled dangerous substance within or~~

1 ~~into this state, the Director shall serve upon the applicant or~~
2 ~~registrant an order to show cause why registration should not be~~
3 ~~denied, revoked or suspended or why the renewal should not be~~
4 ~~refused. The order to show cause shall contain a statement of the~~
5 ~~basis therefor and shall call upon the applicant or registrant to~~
6 ~~appear before the appropriate person or agency at a time and place~~
7 ~~within thirty (30) days after the date of service of the order, but~~
8 ~~in the case of a denial or renewal of registration the show cause~~
9 ~~order shall be served within thirty (30) days before the expiration~~
10 ~~of the registration. These proceedings shall be conducted in~~
11 ~~accordance with the Administrative Procedures Act without regard to~~
12 ~~any criminal prosecution or other proceeding. Proceedings to refuse~~
13 ~~renewal of registration shall not abate the existing registration~~
14 ~~which shall remain in effect pending the outcome of the~~
15 ~~administrative hearing~~ In addition to any other remedies provided
16 for by law, the Director shall issue a written order to be served on
17 the parties before annulling, conditioning, suspending or revoking
18 any registration that the Director has reason to believe is
19 operating inconsistent with any provision of Section 2-303 of this
20 title, pursuant to Section 2-304 of this title or otherwise where
21 there has been a violation of any federal law, any rule or
22 regulation of the Drug Enforcement Administration, any provision of
23 the Uniform Controlled Dangerous Substances Act, or any rules or
24

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

3 B. ~~The Director shall suspend, without an order to show cause,~~
4 ~~any registration simultaneously with the institution of proceedings~~
5 ~~under Section 2-304 of this title, if he or she finds there is~~
6 ~~imminent danger to the public health or safety which warrants this~~
7 ~~action. The suspension shall continue in effect until the~~
8 ~~conclusion of the proceedings, including judicial review thereof,~~
9 ~~unless sooner withdrawn by the Director or dissolved by a court of~~
10 ~~competent jurisdiction~~ The written order shall state with
11 specificity the nature of the violation or basis for the action.

12 The Director may impose any disciplinary action authorized by the
13 Uniform Controlled Dangerous Substances Act or rules of the Oklahoma
14 State Bureau of Narcotics and Dangerous Drugs Control including, but
15 not limited to, the assessment of monetary penalties.

16 C. Any written order issued pursuant to the provisions of this
17 section shall become a final order unless the registrant requests an
18 administrative hearing in accordance with the rules and regulations
19 promulgated by the Director within thirty (30) days of issuance.

20 Upon such request, the Director shall promptly initiate
21 administrative proceedings and serve formal notice of the
22 proceedings pursuant to Section 309 of Title 75 of the Oklahoma
23 Statutes. Nothing in this section shall be construed so as to

24

1 require an individual proceeding for the denial of a new application
2 for registration.

3 D. The Director may authorize the Deputy Director or the
4 General Counsel of the Oklahoma State Bureau of Narcotics and
5 Dangerous Drugs Control to initiate any individual proceedings under
6 this title. Nothing in this section shall be construed so as to
7 delegate the authority of the Director to issue a final agency order
8 adverse to a party.

9 E. All proceedings shall be conducted in accordance with the
10 Administrative Procedures Act and the rules and regulations of the
11 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control
12 without regard to any criminal prosecution or other proceeding.
13 Proceedings to refuse renewal, revoke, or suspend a registration
14 shall not abate the existing registration which shall remain in
15 effect pending the outcome of those administrative proceedings.
16 This abatement shall not apply when the Director finds there is an
17 imminent danger to the public health or safety requiring an
18 immediate suspension.

19 The Director may delegate to an administrative hearing officer
20 the authority to conduct hearings and recommend action for final
21 agency orders in accordance with the rules and regulations of the
22 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control.

23 F. The Director may issue an order immediately suspending a
24 registration, without notice or a hearing, when he or she finds

1 there is imminent danger to the public health or safety which
2 warrants this action. The suspension shall continue in effect until
3 the conclusion of any administrative proceedings, including judicial
4 review thereof, unless sooner withdrawn by the Director or dissolved
5 by a court of competent jurisdiction. The order shall state the
6 existence of an emergency requiring action be taken that the
7 Director deems necessary to meet the emergency. Such action may
8 include, but is not limited to, ordering the registrant to
9 immediately cease and desist operations. The order shall be
10 effective immediately upon issuance. Any person to whom the order
11 is directed shall comply immediately with the provisions of the
12 order. The Director may assess a penalty not to exceed Ten Thousand
13 Dollars (\$10,000.00) per day of noncompliance with the order. In
14 assessing such a penalty, the Director shall consider the
15 seriousness of the violation and any efforts to comply with
16 applicable requirements. Upon application to the Director, the
17 registrant shall be offered a hearing within thirty (30) days of the
18 issuance of the order.

19 G. In lieu of or in addition to any other remedies available to
20 the Director, if a finding is made that a registrant has committed
21 any act in violation of federal law relating to any controlled
22 substance, any provision of the Uniform Controlled Dangerous
23 Substances Act or any rules of the Oklahoma State Bureau of
24 Narcotics and Dangerous Drugs Control, the Director is hereby

1 authorized to assess an administrative penalty not to exceed Five
2 Thousand Dollars (\$5,000.00) per day for each such act. The
3 provisions of this subsection shall not apply to violations of
4 subsection G of Section 2-309D of this title. Nothing in this
5 section shall be construed so as to permit the Director of the State
6 Bureau of Narcotics and Dangerous Drugs Control to assess
7 administrative fines for violations of the provisions of subsection
8 G of Section 2-309D of this title.

9 If a judge of competent jurisdiction finds probable cause that a
10 registrant has possessed, transferred, sold, or offered for sale any
11 controlled dangerous in violation of this act, all controlled
12 dangerous substances in Schedule I of Section 2-204 of this title
13 and all controlled dangerous substances in Schedules II, III, IV,
14 and V that are not in properly labeled containers in accordance with
15 this act then in the possession of the registrant shall be deemed
16 contraband and shall be seized and summarily forfeited pursuant to
17 Section 2-505 of this title. Samples shall be retained of all
18 controlled dangerous substances seized in accordance with Section 2-
19 508 of this title as required. The Director is authorized to assess
20 an eradication or destruction fine not to exceed Fifty Thousand
21 Dollars (\$50,000.00) against the registrant.

22 H. Upon an annulment, revocation, or denial of a registration
23 the Director may prohibit the registrant or applicant from
24 reapplying for registration for a period up to five years following

1 the date of the final order. The length of any prohibition shall
2 not be used as grounds to contest the validity of the annulment,
3 revocation, or denial of a registration.

4 SECTION 5. AMENDATORY 63 O.S. 2021, Section 2-322, is
5 amended to read as follows:

6 Section 2-322. A. No person or business shall possess, sell,
7 manufacture, transfer, or otherwise furnish any of the following
8 precursor substances without first having a permit or license issued
9 by the Director of the Oklahoma State Bureau of Narcotics and
10 Dangerous Drugs Control, except as provided in Section 2-327 of this
11 title:

- 12 1. D-Lysergic acid;
- 13 2. Ergotamine and its salts;
- 14 3. Ergonovine and its salts;
- 15 4. Methylamine;
- 16 5. Ethylamine;
- 17 6. Phenyl-2-Propanone;
- 18 7. Phenylacetic acid and its salts;
- 19 8. Ephedrine, its salts, optical isomers and salts of optical
20 isomers;
- 21 9. Norpseudoephedrine, its salts, optical isomers, and salts of
22 optical isomers;
- 23 10. Phenylpropanolamine, its salts, optical isomers and salts
24 of optical isomers;

- 1 11. Benzyl cyanide;
- 2 12. N-methylephedrine, its salts, optical isomers and salts of
- 3 optical isomers;
- 4 13. Pseudoephedrine, its salts, optical isomers and salts of
- 5 optical isomers;
- 6 14. Chloroephedrine, its salts, optical isomers and salts of
- 7 optical isomers;
- 8 15. Piperidine and its salts;
- 9 16. Pyrrolidine and its salts;
- 10 17. Propionic anhydride;
- 11 18. Isosafrole;
- 12 19. Safrole;
- 13 20. Piperonal; and
- 14 21. Red Phosphorus.

15 B. Upon completion of an application for a license pursuant to
16 Section 2-323 of this title, or a permit pursuant to Section 2-324
17 of this title, the Director of the Oklahoma State Bureau of
18 Narcotics and Dangerous Drugs Control shall either grant or deny
19 such license or permit. ~~A denial of an application for a permit or~~
20 ~~license shall be handled as provided by Section 2-325 of this title.~~

21 SECTION 6. AMENDATORY 63 O.S. 2021, Section 2-325, is
22 amended to read as follows:

23 Section 2-325. A. A license or permit, obtained pursuant to
24 ~~Sections 5~~ Section 2-323 or ~~6~~ 2-324 of this ~~act~~ title, shall be

1 ~~denied~~ annulled, suspended, or revoked by the Director upon finding
2 that the licensee or permit holder has:

3 1. Materially falsified any application filed pursuant to ~~this~~
4 ~~act~~ Section 2-321 et seq. of this title or required by ~~this act~~ the
5 Precursor Substances Act;

6 2. Been convicted of a misdemeanor relating to any precursor
7 substance defined in Section ~~4~~ 2-322 of this ~~act~~ title or any felony
8 under the laws of this state or the United States; or

9 3. Failed to maintain effective controls against the diversion
10 of ~~said~~ the precursors to unauthorized persons or entities.

11 B. Before ~~denying~~ annulling, suspending, or revoking a license
12 or permit, the Director shall cause to be served upon the ~~applicant,~~
13 licensee~~,~~ or permit holder an order to show cause why a license or a
14 permit should not be ~~denied~~ annulled, suspended, or revoked. The
15 order to show cause shall contain a statement of the basis therefor
16 and shall call upon the ~~applicant,~~ licensee~~,~~ or permit holder to
17 appear before the appropriate person or agency at the time and place
18 within ~~thirty (30)~~ sixty (60) days after the date of service of the
19 order. The proceedings shall be conducted in accordance with the
20 Administrative Procedures Act without regard to any criminal
21 prosecution or other proceeding. Nothing in this section shall be
22 construed so as to require an individual proceeding for the denial
23 of a new license or permit.

24

1 C. The Director shall suspend, without an order to show cause,
2 any license or permit simultaneously with the institution of
3 proceedings described in subsection B of this section if he finds
4 there is imminent danger to the public health or safety which
5 warrants this action. The suspension shall continue in effect until
6 the conclusion of the proceedings, including judicial review
7 thereof, unless withdrawn by the Director or dissolved by a court of
8 competent jurisdiction.

9 SECTION 7. AMENDATORY 63 O.S. 2021, Section 2-406, is
10 amended to read as follows:

11 Section 2-406. A. It shall be unlawful for any registrant
12 knowingly or intentionally:

13 1. To distribute, other than by dispensing or as otherwise
14 authorized by ~~this act~~ Section 2-101 et seq. of this title, a
15 controlled dangerous substance classified in Schedules I or II, in
16 the course of his legitimate business, except pursuant to an order
17 form as required by Section 2-308 of this title;

18 2. To use in the course of the manufacture or distribution of a
19 controlled dangerous substance a registration number which is
20 fictitious, revoked, suspended or issued to another person;

21 3. To acquire or obtain possession of a controlled dangerous
22 substance by misrepresentation, fraud, forgery, deception or
23 subterfuge;

24

1 4. To furnish false or fraudulent material information in, or
2 omit any material information from, any application, report, or
3 other document required to be kept or filed under this act, or any
4 record required to be kept by ~~this act~~ Section 2-101 et seq. of this
5 title; and

6 5. To make, distribute, or possess any punch, die, plate,
7 stone, or other thing designed to print, imprint, or reproduce the
8 trademark, trade name, or other identifying mark, imprint, or device
9 of another or any likeness of any of the foregoing upon any drug or
10 container or labeling thereof so as to render such drug a
11 counterfeit controlled dangerous substance.

12 B. Any person who violates this section is guilty of a felony
13 punishable by imprisonment for not more than twenty (20) years or a
14 fine of not more than Two Hundred Fifty Thousand Dollars
15 (\$250,000.00), or both.

16 C. Any person convicted of a second or subsequent violation of
17 this section is punishable by a term of imprisonment twice that
18 otherwise authorized and by twice the fine otherwise authorized.
19 Convictions for second or subsequent violations of this section
20 shall not be subject to statutory provisions for suspended
21 sentences, deferred sentences, or probation.

22 D. Any person convicted of any offense described in this
23 section shall, in addition to any fine imposed, pay a special
24 assessment trauma-care fee of One Hundred Dollars (\$100.00) to be

1 deposited into the Trauma Care Assistance Revolving Fund created in
2 Section ~~1-2522~~ 1-2530.9 of this title.

3 SECTION 8. It being immediately necessary for the preservation
4 of the public peace, health or safety, an emergency is hereby
5 declared to exist, by reason whereof this act shall take effect and
6 be in full force from and after its passage and approval.

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8 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY, dated 04/05/2023 -
9 DO PASS, As Amended and Coauthored.

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