

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 SENATE BILL 800

By: Standridge

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5
6 AS INTRODUCED

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

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

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

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

23 1. Peace officers certified pursuant to Section 3311 of Title
24 70 of the Oklahoma Statutes who are employed as investigative agents
of the Oklahoma State Bureau of Narcotics and Dangerous Drugs
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. Oklahoma 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, program administrator and analytical
11 employees of the Bureau, and to registrants in furtherance of
12 efforts to guard against the diversion of controlled dangerous
13 substances.

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

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

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

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

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

21 2. a. Prior to prescribing or authorizing for refill, if one
22 hundred eighty (180) days have elapsed prior to the
23 previous access and check, of opiates, synthetic
24 opiates, semisynthetic opiates, benzodiazepine or

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

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

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

20 (2) for a prescription of a controlled substance set
21 forth in subparagraph a of this paragraph that is
22 issued by a practitioner for a patient residing
23 in a nursing facility as defined by Section 1-
24 1902 of this title, provided that the

1 prescription is issued to a resident of such
2 facility.

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

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

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

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

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1 ~~H.~~ M. 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 SECTION 2. This act shall become effective November 1, 2017.

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