SENATE FLOOR VERSION
February 9, 2023

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 475 By: Paxton of the Senate

and

Echols of the House

An Act relating to the Uniform Controlled Dangerous Substances Act; amending 63 O.S. 2021, Section 2-101, as amended by Section 4, Chapter 265, O.S.L. 2022 (63 O.S. Supp. 2022, Section 2-101), which relates to definitions; defining certain term; amending 63 O.S. 2021, Section 2-304, which relates to denial, revocation, or suspension of registration; authorizing certain action; modifying certain registration suspension and revocation guidelines; removing certain 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; permitting certain assessed penalties; requiring certain hearing guideline; authorizing certain assessed penalties; prohibiting certain assessed fees; requiring certain seizures; requiring certain sample retention; authorizing certain fines; permitting the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control to prohibit certain reapplication; requiring certain exemption; amending 63 O.S. 2021, Section 2-322, which relates

to precursor substances requiring permit or license; removing certain statutory reference; amending 63 O.S. 2021, Section 2-325, which relates to denial, revocation, or suspension of registration; modifying certain requirement; requiring certain registration guideline; amending 63 O.S. 2021, Section 2-406, which relates to penalties; adding certain unlawful act; updating statutory references; updating statutory language; and declaring an emergency.

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

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

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

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

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

2. "Agent" means a peace officer appointed by and who acts on behalf of the Director of the Oklahoma State Bureau of Narcotics and

Dangerous Drugs Control or an authorized person who acts on behalf of or at the direction of a person who manufactures, distributes, dispenses, prescribes, administers or uses for scientific purposes controlled dangerous substances but does not include a common or contract carrier, public warehouser or employee thereof, or a person required to register under the Uniform Controlled Dangerous Substances Act;

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

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

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

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

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

8. "Controlled dangerous substance" means a drug, substance or immediate precursor in Schedules I through V of the Uniform Controlled Dangerous Substances Act or any drug, substance or immediate precursor listed either temporarily or permanently as a

federally controlled substance. Any conflict between state and federal law with regard to the particular schedule in which a substance is listed shall be resolved in favor of state law;

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

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

11. "Dispense" means to deliver a controlled dangerous substance to an ultimate user or human research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling or compounding necessary to prepare the substance for such distribution. "Dispenser" is a practitioner who delivers a controlled dangerous substance to an ultimate user or human research subject;

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

13. "Distributor" means a commercial entity engaged in the distribution or reverse distribution of narcotics and dangerous

drugs and who complies with all regulations promulgated by the federal Drug Enforcement Administration and the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;

14. "Drug" means articles:

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

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

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

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

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

15. "Drug-dependent person" means a person who is using a controlled dangerous substance and who is in a state of psychic or physical dependence, or both, arising from administration of that controlled dangerous substance on a continuous basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous

basis in order to experience its psychic effects, or to avoid the discomfort of its absence;

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

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

18. "Hospice" means a centrally administered, nonprofit or for-profit, medically directed, nurse-coordinated program which provides a continuum of home and inpatient care for the terminally ill patient and the patient's family. Such term shall also include a centrally administered, nonprofit or for-profit, medically directed, nurse-coordinated program if such program is licensed pursuant to the provisions of the Uniform Controlled Dangerous Substances Act. A hospice program offers palliative and supportive care to meet the special needs arising out of the physical, emotional and spiritual stresses which are experienced during the final stages of illness and during dying and bereavement. This care is available twenty-four (24) hours a day, seven (7) days a week, and is provided on the basis of need, regardless of ability to pay. "Class A" Hospice refers to Medicare-certified hospices. "Class B" refers to all other providers of hospice services;

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

a. statements made by an owner or by any other person in control of the substance concerning the nature of the substance, or its use or effect,

b. statements made to the recipient that the substance may be resold for inordinate profit,

c. whether the substance is packaged in a manner normally used for illicit controlled substances,

d. evasive tactics or actions utilized by the owner or person in control of the substance to avoid detection by law enforcement authorities,

e. prior convictions, if any, of an owner, or any other person in control of the object, under state or

federal law related to controlled substances or fraud, and

f. the proximity of the substances to controlled dangerous substances;

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

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

22. "Manufacture" means the production, preparation, propagation, compounding or processing of a controlled dangerous substance, either directly or indirectly by extraction from substances of natural or synthetic origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis. "Manufacturer" includes any person who packages, repackages or labels any container of any controlled dangerous substance, except practitioners who dispense or compound prescription orders for delivery to the ultimate consumer;

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

a. the mature stalks of such plant or fiber produced from such stalks,

b. oil or cake made from the seeds of such plant, including cannabidiol derived from the seeds of the marijuana plant,

c. any other compound, manufacture, salt, derivative, mixture or preparation of such mature stalks (except the resin extracted therefrom), including cannabidiol derived from mature stalks, fiber, oil or cake,

d. the sterilized seed of such plant which is incapable of germination,

e. for any person participating in a clinical trial to administer cannabidiol for the treatment of severe forms of epilepsy pursuant to Section 2-802 of this title, a drug or substance approved by the federal Food and Drug Administration for use by those participants,

f. for any person or the parents, legal guardians or caretakers of the person who have received a written

certification from a physician licensed in this state that the person has been diagnosed by a physician as having Lennox-Gastaut syndrome, Dravet syndrome, also known as severe myoclonic epilepsy of infancy, or any other severe form of epilepsy that is not adequately treated by traditional medical therapies, spasticity due to multiple sclerosis or due to paraplegia, intractable nausea and vomiting, appetite stimulation with chronic wasting diseases, the substance cannabidiol, a nonpsychoactive cannabinoid, found in the plant Cannabis sativa L. or any other preparation thereof, that has a tetrahydrocannabinol concentration ~~of~~ not more than three-tenths of one percent (0.3%) and that is delivered to the patient in the form of a liquid,

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

h. industrial hemp, from the plant Cannabis sativa L. and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration ~~of~~ not more than three-tenths of one percent (0.3%) on a dry-weight basis which shall only be grown pursuant to the Oklahoma Industrial Hemp Program and may be shipped intrastate and interstate;

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

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

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

a. opium, coca leaves and opiates,

b. a compound, manufacture, salt, derivative or preparation of opium, coca leaves or opiates,

c. cocaine, its salts, optical and geometric isomers, and salts of isomers,

d. ecgonine, its derivatives, their salts, isomers and salts of isomers, and

e. a substance, and any compound, manufacture, salt, derivative or preparation thereof, which is chemically identical with any of the substances referred to in subparagraphs a through d of this paragraph, except that the words ~~"narcotic drug"~~ narcotic drug as used in Section 2-101 et seq. of this title shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine;

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

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

29. "Peace officer" means a police officer, sheriff, deputy sheriff, district attorney's investigator, investigator from the

Office of the Attorney General, or any other person elected or appointed by law to enforce any of the criminal laws of this state or of the United States;

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

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

32. "Practitioner" means:

a. (1) a medical doctor or osteopathic physician,

(2) a dentist,

(3) a podiatrist,

(4) an optometrist,

(5) a veterinarian,

(6) a physician assistant or Advanced Practice Registered Nurse under the supervision of a licensed medical doctor or osteopathic physician,

(7) a scientific investigator, or

(8) any other person,

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

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

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

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

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

36. "Drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or fashioned specifically for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body, a controlled dangerous

substance in violation of the Uniform Controlled Dangerous Substances Act including, but not limited to:

a. kits used, intended for use, or fashioned specifically for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled dangerous substance or from which a controlled dangerous substance can be derived,

b. kits used, intended for use, or fashioned specifically for use in manufacturing, compounding, converting, producing, processing or preparing controlled dangerous substances,

c. isomerization devices used, intended for use, or fashioned specifically for use in increasing the potency of any species of plant which is a controlled dangerous substance,

d. testing equipment used, intended for use, or fashioned specifically for use in identifying, or in analyzing the strength, effectiveness or purity of controlled dangerous substances,

e. scales and balances used, intended for use, or fashioned specifically for use in weighing or measuring controlled dangerous substances,

f. diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and

lactose, used, intended for use, or fashioned specifically for use in cutting controlled dangerous substances,

g. separation gins and sifters used, intended for use, or fashioned specifically for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana,

h. blenders, bowls, containers, spoons and mixing devices used, intended for use, or fashioned specifically for use in compounding controlled dangerous substances,

i. capsules, balloons, envelopes and other containers used, intended for use, or fashioned specifically for use in packaging small quantities of controlled dangerous substances,

j. containers and other objects used, intended for use, or fashioned specifically for use in parenterally injecting controlled dangerous substances into the human body,

k. hypodermic syringes, needles and other objects used, intended for use, or fashioned specifically for use in parenterally injecting controlled dangerous substances into the human body,

l. objects used, intended for use, or fashioned specifically for use in ingesting, inhaling or

otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

(1) metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls,

(2) water pipes,

(3) carburetion tubes and devices,

(4) smoking and carburetion masks,

(5) roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand,

(6) miniature cocaine spoons and cocaine vials,

(7) chamber pipes,

(8) carburetor pipes,

(9) electric pipes,

(10) air-driven pipes,

(11) chillums,

(12) bongs, or

(13) ice pipes or chillers,

m. all hidden or novelty pipes, and

n. any pipe that has a tobacco bowl or chamber of less than one-half (1/2) inch in diameter in which there is any detectable residue of any controlled dangerous

substance as defined in this section or any other substances not legal for possession or use;

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

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

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

(2) which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled dangerous substance in Schedule I or II, or

(3) with respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the

central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled dangerous substance in Schedule I or II.

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

c. "Synthetic controlled substance" does not include:

(1) a controlled dangerous substance,

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

(3) with respect to a particular person any substance, if an exemption is in effect for investigational use, for that person under the provisions of Section 505 of the Federal Food, Drug and Cosmetic Act, Title 21 of the United States Code, Section 355, to the extent conduct with respect to such substance is pursuant to such exemption, or

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

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

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

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

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

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

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

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

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

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

b. requires a prescription for the drug or its pharmaceutical equivalent due to a surgical procedure or new acute event and has previously had a prescription for the drug or its pharmaceutical equivalent within the past year.

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

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

a. explain the possible risk of development of physical or psychological dependence in the patient and prevent the possible development of addiction,

b. document the understanding of both the practitioner and the patient regarding the patient-provider agreement of the patient,

c. establish the rights of the patient in association with treatment and the obligations of the patient in relation to the responsible use, discontinuation of use, and storage of opioid drugs, including any restrictions on the refill of prescriptions or the acceptance of opioid prescriptions from practitioners,

d. identify the specific medications and other modes of treatment, including physical therapy or exercise, relaxation or psychological counseling, that are included as a part of the patient-provider agreement,

e. specify the measures the practitioner may employ to monitor the compliance of the patient including, but not limited to, random specimen screens and pill counts, and

f. delineate the process for terminating the agreement, including the consequences if the practitioner has reason to believe that the patient is not complying with the terms of the agreement. Compliance with the "consent items" shall constitute a valid, informed consent for opioid therapy. The practitioner shall be held harmless from civil litigation for failure to treat pain if the event occurs because of nonadherence by the patient with any of the provisions of the patient-provider agreement;

46. "Serious illness" means a medical illness or physical injury or condition that substantially affects quality of life for more than a short period of time. ~~"Serious illness"~~ Serious illness includes, but is not limited to, Alzheimer's disease or related dementias, lung disease, cancer, heart failure, renal failure, liver failure or chronic, unremitting or intractable pain such as neuropathic pain; ~~and~~

47. "Straw person or party" means a third party who is put up in name only to take part in a transaction. This term includes but is not limited to a nominal party to a transaction, one who acts as

an agent for another for the purpose of taking title to property and executing whatever documents and instruments the principal may direct respecting the property, or a person who purchases property for another to conceal the identity of the real purchaser or to accomplish some purpose otherwise not allowed; and

~~47.~~ 48. "Surgical procedure" means a procedure that is performed for the purpose of structurally altering the human body by incision or destruction of tissues as part of the practice of medicine. This term includes the diagnostic or therapeutic treatment of conditions or disease processes by use of instruments such as lasers, ultrasound, ionizing, radiation, scalpels, probes or needles that cause localized alteration or transportation of live human tissue by cutting, burning, vaporizing, freezing, suturing, probing or manipulating by closed reduction for major dislocations or fractures, or otherwise altering by any mechanical, thermal, light-based, electromagnetic or chemical means.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 3. AMENDATORY 63 O.S. 2021, Section 2-305, is amended to read as follows:

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

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

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

B. ~~The Director shall suspend, without an order to show cause, any registration simultaneously with the institution of proceedings under Section 2-304 of this title, if he or she finds there is imminent danger to the public health or safety which warrants this action. The suspension shall continue in effect until the conclusion of the proceedings, including judicial review thereof, unless sooner withdrawn by the Director or dissolved by a court of competent jurisdiction~~ The written order shall state with specificity the nature of the violation or basis for the action. The Director may impose any disciplinary action authorized by the Uniform Controlled Dangerous Substances Act or rules of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control including, but not limited to, the assessment of monetary penalties.

C. Any written order issued pursuant to the provisions of this section shall become a final order unless the registrant requests an administrative hearing in accordance with the rules and regulations promulgated by the Director within thirty (30) days of issuance. Upon such request, the Director shall promptly initiate administrative proceedings and serve formal notice of the proceedings pursuant to Section 309 of Title 75 of the Oklahoma Statutes. Nothing in this section shall be construed so as to

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

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

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

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

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

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

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

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

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

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

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

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

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

1. D-Lysergic acid;

2. Ergotamine and its salts;

3. Ergonovine and its salts;

4. Methylamine;

5. Ethylamine;

6. Phenyl-2-Propanone;

7. Phenylacetic acid and its salts;

8. Ephedrine, its salts, optical isomers and salts of optical isomers;

9. Norpseudoephedrine, its salts, optical isomers, and salts of optical isomers;

10. Phenylpropanolamine, its salts, optical isomers and salts of optical isomers;

11. Benzyl cyanide;

12. N-methylephedrine, its salts, optical isomers and salts of optical isomers;

13. Pseudoephedrine, its salts, optical isomers and salts of optical isomers;

14. Chloroephedrine, its salts, optical isomers and salts of optical isomers;

15. Piperidine and its salts;

16. Pyrrolidine and its salts;

17. Propionic anhydride;

18. Isosafrole;

19. Safrole;

20. Piperonal; and

21. Red Phosphorus.

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

SECTION 5. AMENDATORY 63 O.S. 2021, Section 2-325, is amended to read as follows:

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

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

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

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

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

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

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

SECTION 6. AMENDATORY 63 O.S. 2021, Section 2-406, is amended to read as follows:

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

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

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

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

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

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

6. To purchase, attempt, endeavor and conspire or endeavor or conspire to obtain and purchase or obtain or purchase, any license or registration required to distribute, possess, prescribe, or manufacture any controlled dangerous substance, on behalf of or at the request or demand of any person, through the use of a straw person or party as defined in Section 2-101 of this title.

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

C. Any person convicted of a second or subsequent violation of this section is punishable by a term of imprisonment twice that otherwise authorized and by twice the fine otherwise authorized.

Convictions for second or subsequent violations of this section shall not be subject to statutory provisions for suspended sentences, deferred sentences, or probation.

D. Any person convicted of any offense described in this section shall, in addition to any fine imposed, pay a special assessment trauma-care fee of One Hundred Dollars ($100.00) to be deposited into the Trauma Care Assistance Revolving Fund created in Section ~~1-2522~~ 1-2530.9 of this title.

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

COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY
February 9, 2023 - DO PASS AS AMENDED BY CS