

# The Oklahoma Opioid Crisis and SB1446

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Oklahoma State Board of  
Medical Licensure and  
Supervision

Guidelines for providing one-  
hour CME required for SB 1446

Adopted March 7, 2019

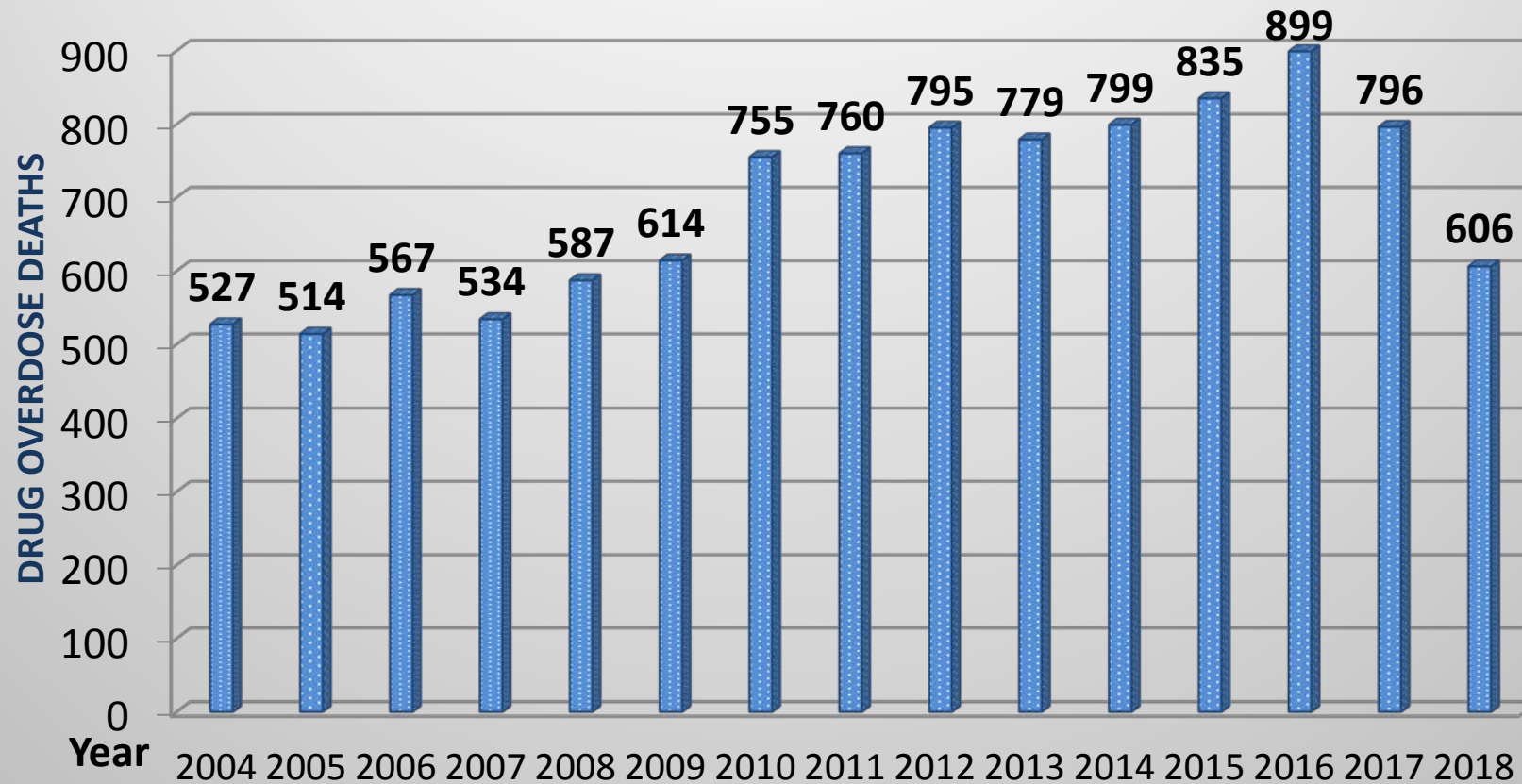
**1. Review the new prescribing  
requirements outlined in SB 1446**

- a. Initial 7 day prescription
- b. Subsequent 7 day prescription
- c. Requirements for a 3rd prescription
- d. Requirements for monthly assessments  
and 3 month prescriptions
- e. Opioid Qualifying Patients

# STATE OF OKLAHOMA

## DRUG DEATHS

### 15 YEAR COMPARISON

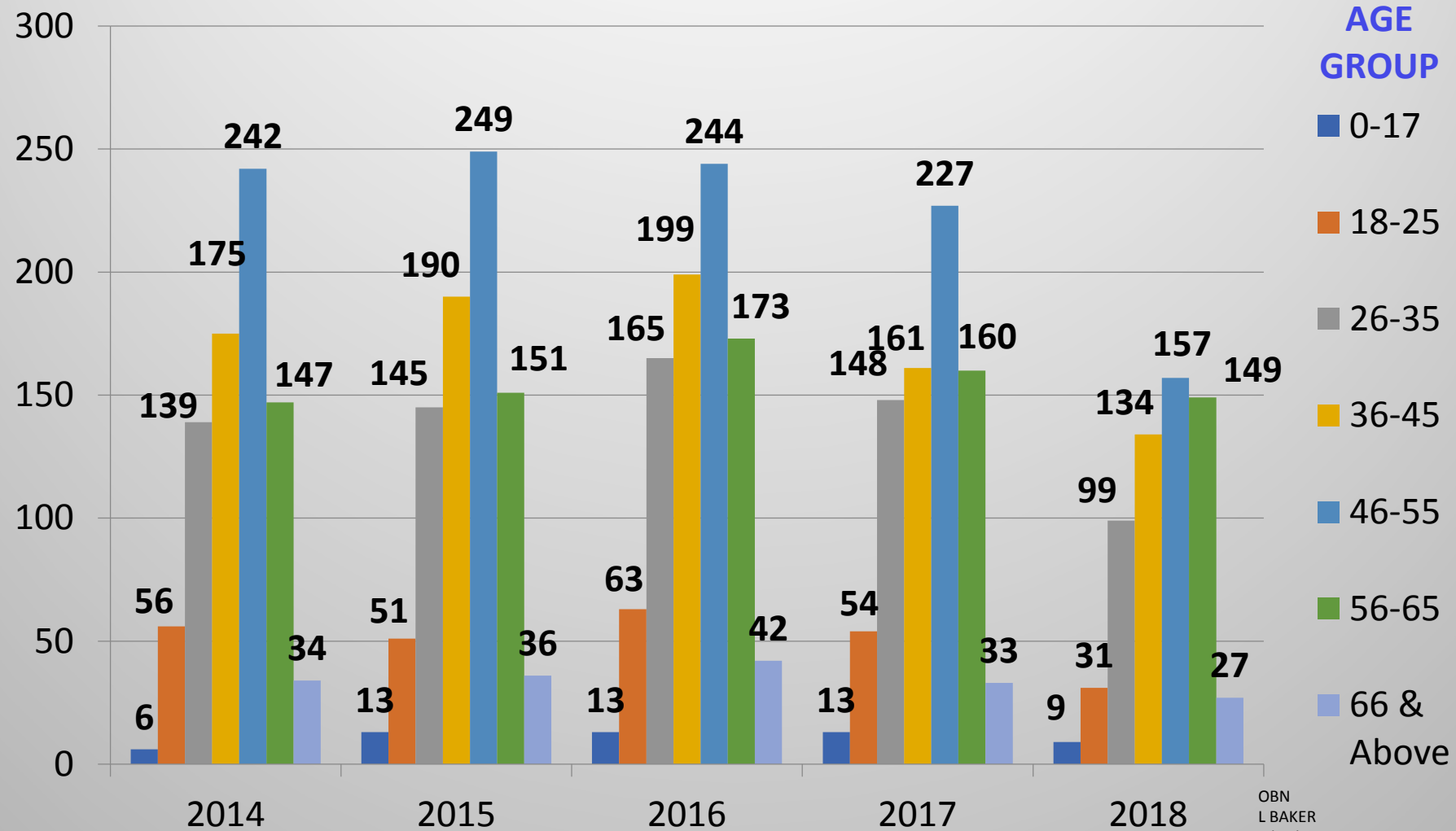


# STATE OF OKLAHOMA

DRUG DEATHS

BY AGE GROUP

5 YEAR COMPARISON

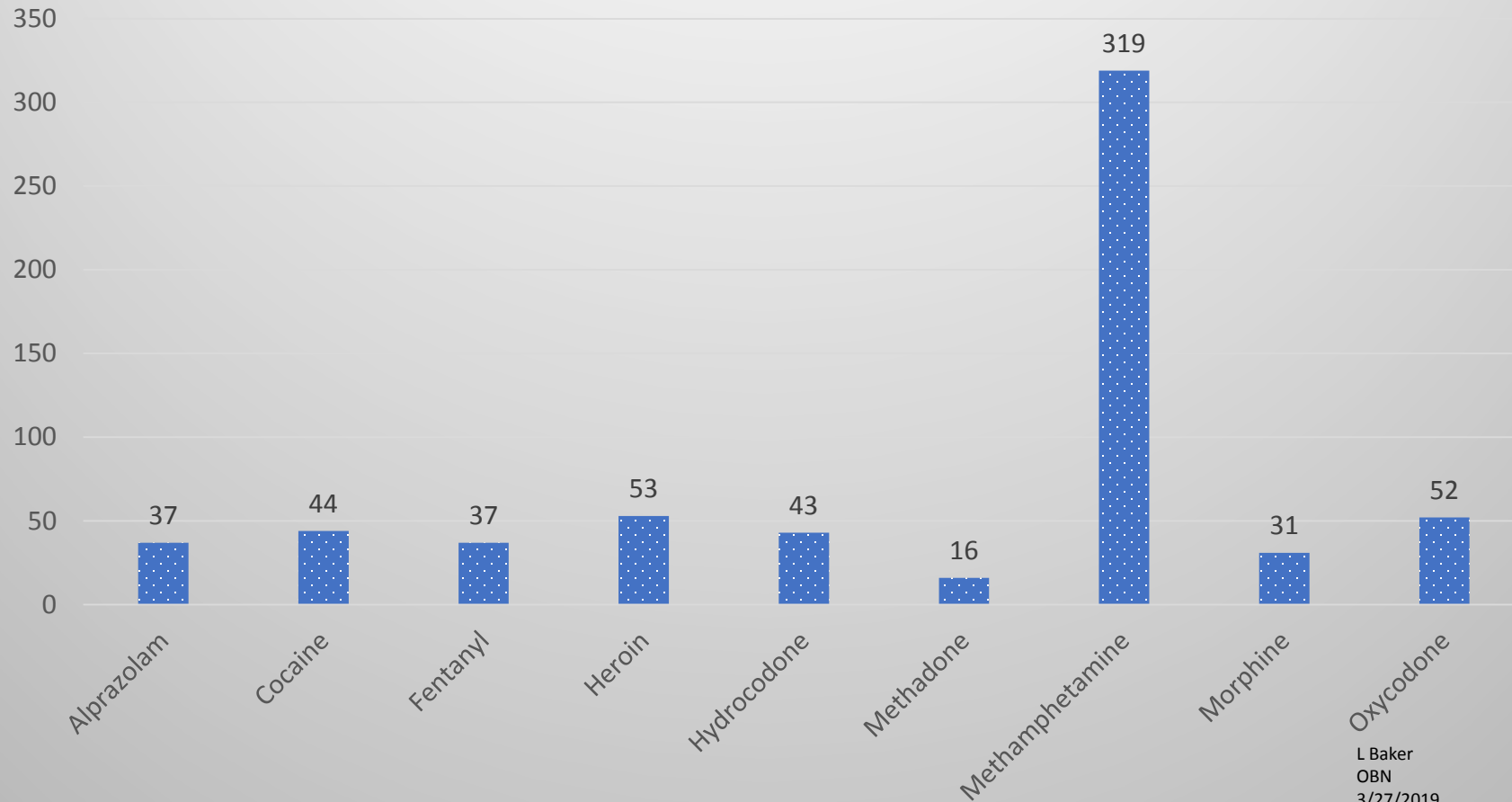


OBN  
L BAKER  
3/27/2019  
SOURCE: STATE ME. Office  
2018 Data not complete

## STATE OF OKLAHOMA

*2018 DRUG DEATHS**INVOLVING THE TOP 9 ABUSED DRUGS*

The majority of all drug overdose deaths are due to a combination “cocktail” of drugs rather than just one specific drug. This chart reflects the total number of deaths each drug was involved in, even though another drug may have been the primary cause of death.



L Baker  
OBN  
3/27/2019  
Source: State ME Office  
2018 Data Not Complete



Original Position

Preferential Option or  
Difference Principle

The Common Good



Review SB1446 as it passed in 2018.



Review the important clarifications from the Oklahoma SB1446 – Best Practice For An Act Regulating Of Opioid Drugs document.



Discuss HB1155 and SB848.

# Lecture Roadmap

# SB1446

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An Act relating to the regulation of opioid drugs  
by Sen. Anthony Sykes & Rep. Dale Derby



# SB1446 Overview



Quantity Limits, Informed Consent, and Substance Abuse Assessment.



7 sections, 35 pages.



The word “shall” appears 25 times.



Changes the Uniform Controlled Substances Act.



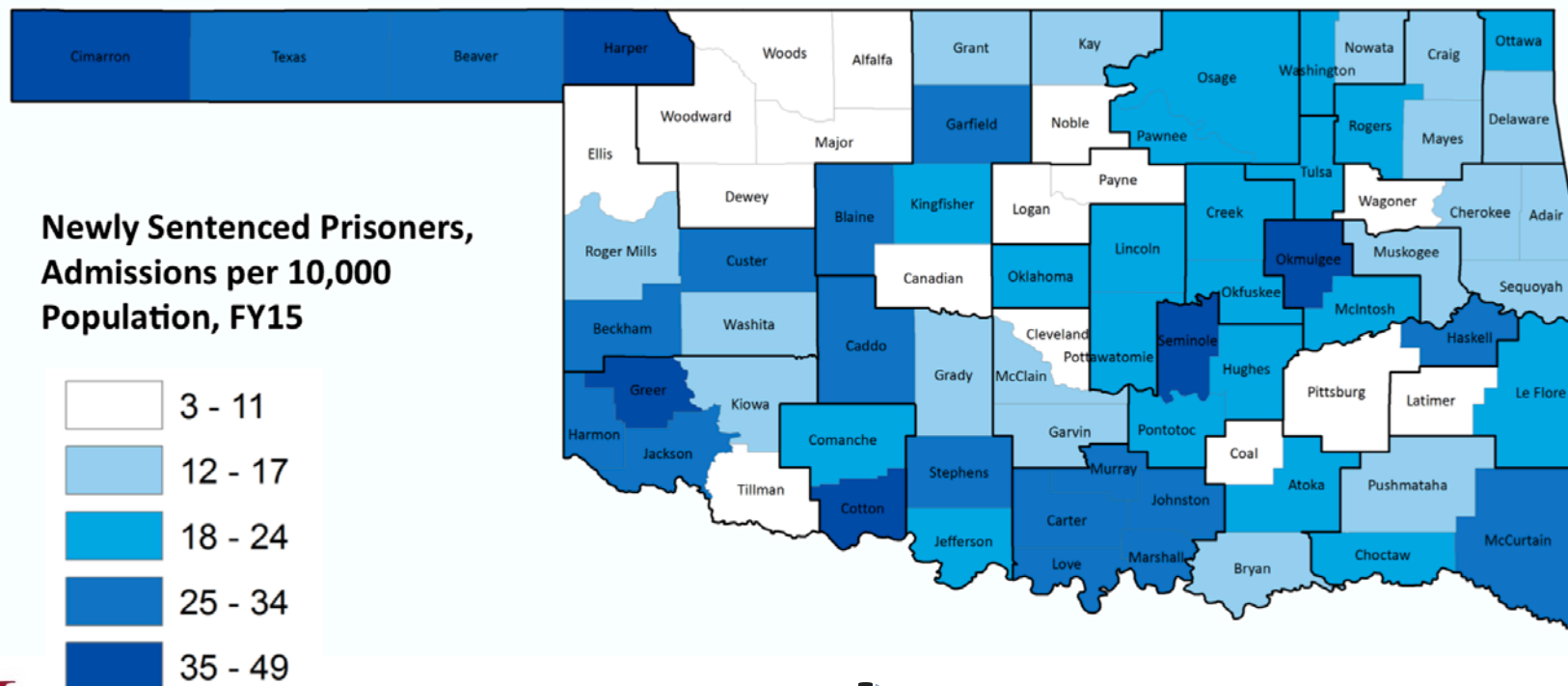
Violations involve criminal law.

FOR THE FIRST TIME IN OKLAHOMA HISTORY THERE IS A STATUTE THAT SPECIFICALLY **CRIMINALIZES** THE CONDUCT OF “PHYSICIANS” WHO MAY BE EXERCISING APPROPRIATE MEDICAL JUDGMENT.

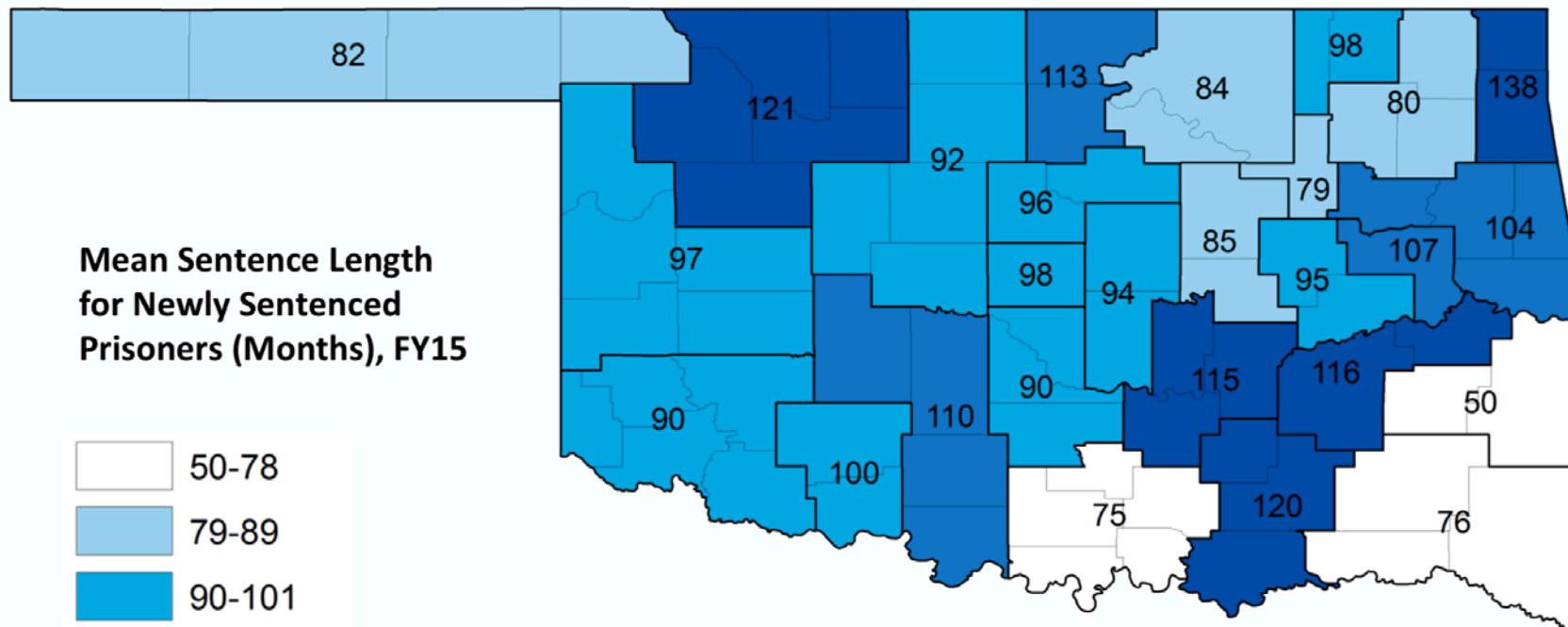
Fake News? Pages 1-7 of SB1446 amends ONLY the Allopathic Medical Act, 59 O.S. § 495.1. No other regulatory agency is affected in any way. SB1446, pages 7-34, amend or add new regulations to the Uniform Controlled Dangerous Substances Act [UCDSA], 63 O.S. § 2-101. This act provides penalties including fines and incarceration for physicians who violate its provisions. And, it can be enforced by any Oklahoma peace officer. 63 O.S. § 2-501.

This means that ANY police officer from any Oklahoma town or city...any county sheriff or deputy...any of the more than 50 Oklahoma District Attorneys “may arrest without warrant” any physician **suspected** of violating SB1446.

# Wide Variation in Rate of New Prison Sentences by County



# Average Sentence Length Varies Widely Across Districts



# Key Takeaways

- Wide variation in admission rates and average sentence length by county and DA district
- Growth in 4-15 year new prison sentences during the last five years
- Oklahoma sentences many more nonviolent offenders to prison compared to neighboring states
  - Average sentence length is longer than neighboring states despite more nonviolent offenders

# SB1446: Section 1

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Amends 59 O.S. 2011, Section 495a.1

# Continuing Medical Education



**The Board shall require that the licensee receive not less than:**

one (1) hour of education in pain management or  
one (1) hour of education in opioid use or addiction



The CME is needed each year preceding an application for renewal of a license.



Required UNLESS the licensee does not hold a valid DEA number.



Reference: SB1446 p. 4

# SB1446: Section 2

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Amends 59 O.S. 2011, Section 509



# Unprofessional Conduct Additions

- Over-prescribing opioids.
  - Prescribing, dispensing or administering controlled substances or narcotic drugs without medical need in accordance with:
    - Published standards,
    - Pertinent licensing board standards and,
    - Prescribing, dispensing or administering opioid drugs in excess of the maximum dosage authorized under SB1446, Section 5.
- Failure to check Prescription Monitoring Program (PMP) database.

# For DOs: Title 510:5-9-2 PRESCRIBING FOR CHRONIC PAIN

1. Allows treatment of a patient's intractable pain, as long as the benefit of the expected relief outweighs the risk, even if the use of the drug increases the risk of death.
2. Requires complete medical history and physical examination which includes an assessment of the patient's pain, physical and psychological function, substance abuse history, underlying or co-existing diseases or conditions and the presence of a recognized medical indication for the use of an analgesic.
3. The treatment plan must state objectives by which treatment success can be evaluated, such as pain relief and or improved physical and psychological function.
4. The course of treatment must be reviewed periodically, at least annually, with consideration given to referral for a current second opinion.
5. **The management of intractable pain in patients with a history of substance abuse requires extra care, monitoring, documentation and consultation with addiction medicine specialists.**
6. Obtain informed consent prior to proceeding if treatment substantially increases the risk of death.
7. Accurate and complete records documenting these requirements must be kept.
8. The physician must be licensed in Oklahoma, have a valid controlled substances registration and comply with federal and state regulations for issuing controlled substances prescriptions.
9. Expert clinical testimony may be used to prove a violation of this rule. As used herein, a "clinical expert" is a physician who, by reason of specialized education or substantial relevant experience in pain management.
10. Nothing in this rule shall limit a physician's authority to prescribe or administer prescription drug products beyond the customary indications as noted in the manufacturer's package insert for use in treating intractable pain, provided the drug is recognized for treatment of intractable pain in standard reference compendia or medical literature.

# SB1446: Section 3

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Amends 63 O.S. 2011, Section 2-101, as last amended by Section 1,  
Chapter 43, O.S.L. 2017 (63 O.S. Supp. 2017, Section 2-101)

# Acute Pain

- "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" 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.

# Chronic Pain

- “Chronic pain” means pain that persists beyond the usual course of an acute disease or healing of an injury.
- “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.

# Initial Prescription

- "Initial prescription" means a prescription issued to a has never previously been issued a prescription for the drug or its pharmaceutical equivalent in the past year.
- Or, 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,
  - review the medical record and,
  - review the PMP.

# Patient-Provider Agreement

- "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... as a means to:
  - explain the possible risk of development of physical or psychological dependence in the patient and prevent the possible development of addiction,
  - document the understanding of both the practitioner and the patient regarding the pain-management plan of the patient,
  - 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 Schedule II controlled dangerous substances,
    - any restrictions on the refill of prescriptions
    - or the acceptance of Schedule II prescriptions from practitioners,
  - identify the specific medications and other modes of treatment... that are included as a part of the pain-management plan,
  - 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,
  - delineate the process for terminating the agreement.
- Compliance with the "consent items" shall constitute a valid, informal consent for opioid therapy.

# Hold Harmless

- **The provider 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.



# Serious Illness

- "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" 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.

# Surgical Procedure

- "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.

# SB1446: Section 4

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Amends 63 O.S. 2011, Section 2-309D, as last amended by Section 35,  
Chapter 210, O.S.L. 2016 (63 O.S. Supp. 2017, Section 2-309D)

# Failure to Access the PMP

- The failure of a registrant to access and check the central repository as required under state or federal law or regulation **shall** be grounds for the licensing board of the registrant to take disciplinary action against the registrant.

# Unsolicited Notifications from OBNDD

- The Oklahoma State Bureau of Narcotics and Dangerous Drugs is authorized to provide unsolicited notification to the licensing board of a pharmacist or practitioner if a patient has received one or more prescriptions for controlled substances in quantities or with a frequency inconsistent with generally recognized standards of safe practice or if a practitioner or prescriber has exhibited prescriptive behavior consistent with generally recognized standards indicating potentially problematic prescribing patterns.
- An unsolicited notification to the licensing board of the practitioner pursuant to this section:
  - Is confidential;
  - May not disclose information that is confidential pursuant to this section; and,
  - May be in a summary form sufficient to provide notice of the basis for the unsolicited notification.