

A-Engrossed
Senate Bill 34

Ordered by the Senate March 26
Including Senate Amendments dated March 26

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Requires State Board of Pharmacy to establish electronic database for information reported by pharmacies regarding dispensing of certain controlled substances. Restricts access to and limits use of information in database. **Provides immunity to pharmacist or practitioner who did or did not request or obtain information from database.**

Creates Electronic Prescription Drug Database Advisory Commission.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to electronic prescription drug database; and declaring an emergency.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. Sections 2 to 5 of this 2007 Act are added to and made a part of ORS chapter**
5 **689.**

6 **SECTION 2. As used in sections 2 to 5 of this 2007 Act:**

7 (1) **"Controlled substance" means a drug classified in Schedule II, III or IV under the**
8 **federal Controlled Substances Act, 21 U.S.C. 811 to 812, as modified under ORS 475.035.**

9 (2) **"Health professional regulatory board" has the meaning given that term in ORS**
10 **676.160.**

11 **SECTION 3. (1) The State Board of Pharmacy shall establish and maintain a database for**
12 **electronically reporting the dispensing of controlled substances.**

13 (2) **The board shall adopt rules for the operation of the electronic prescription drug da-**
14 **tabase established under subsection (1) of this section, including but not limited to standards**
15 **for:**

16 (a) **Reporting data electronically and nonelectronically;**

17 (b) **Providing maintenance, security and disclosure of data;**

18 (c) **Ensuring accuracy and completeness of data;**

19 (d) **Ensuring accurate identification of persons or entities requesting information from**
20 **the database;**

21 (e) **Assessing civil penalties under ORS 689.832 for failing to report or for wrongful dis-**
22 **closure of data by a person required to report under section 4 of this 2007 Act; and**

23 (f) **Notifying patients that their controlled substance prescriptions will be included in the**
24 **electronic prescription drug database.**

25 **SECTION 4. (1) Not later than one week after dispensing a controlled substance, a**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **pharmacy shall report to the State Board of Pharmacy the:**

- 2 (a) **Name, address and date of birth of the patient;**
- 3 (b) **Name of the drug outlet dispensing the controlled substance;**
- 4 (c) **Name of the practitioner who prescribed the controlled substance;**
- 5 (d) **Identification of the controlled substance by a national drug code number;**
- 6 (e) **Date of origin of the prescription;**
- 7 (f) **Date the controlled substance was dispensed;**
- 8 (g) **Quantity dispensed; and**
- 9 (h) **Other relevant information as required by rules adopted by the State Board of Phar-**
- 10 **macy.**

11 **(2) Notwithstanding subsection (1) of this section, the State Board of Pharmacy may not:**

12 **(a) Require the reporting of controlled substances administered directly to a patient or**
13 **dispensed pursuant to ORS 127.800 to 127.897; or**

14 **(b) Collect or use Social Security numbers in the electronic prescription drug database.**

15 **(3) Upon receipt of the data reported pursuant to subsection (1) of this section, the State**
16 **Board of Pharmacy shall record the data in the electronic prescription drug database estab-**
17 **lished under section 3 of this 2007 Act.**

18 **(4) The State Board of Pharmacy may not disclose data from the database except:**

19 **(a) To a practitioner or pharmacist who certifies that the requested information is for**
20 **the purpose of evaluating the need for or providing medical or pharmaceutical treatment for**
21 **a patient to whom the practitioner or pharmacist anticipates providing, is providing or has**
22 **provided care;**

23 **(b) Pursuant to a valid court order issued at the request of a federal, state or local law**
24 **enforcement agency engaged in an authorized drug-related investigation involving a person**
25 **to whom the requested information pertains;**

26 **(c) To a health professional regulatory board that certifies that the requested informa-**
27 **tion is necessary for an investigation related to licensure, renewal or disciplinary action in-**
28 **volving the applicant, licensee or registrant to whom the requested information pertains;**

29 **(d) To a practitioner, pharmacist or patient to whom the requested information pertains;**
30 **or**

31 **(e) To a controlled substance reporting program of another state if:**

32 **(A) The confidentiality, security and privacy standards of the requesting state are de-**
33 **termined by the State Board of Pharmacy to be equivalent to those of the State Board of**
34 **Pharmacy; and**

35 **(B) The data concern the dispensing of a controlled substance to a patient who resides**
36 **in the other state or a controlled substance prescribed by a practitioner whose principal**
37 **place of business is located in the other state.**

38 **(5) Data from the database that do not identify a patient, practitioner or drug outlet may**
39 **be released by the State Board of Pharmacy for educational, research or public information**
40 **purposes.**

41 **(6) A pharmacy required to report data to the State Board of Pharmacy, or a person or**
42 **entity authorized under subsection (4) of this section to obtain or use data from the database**
43 **established under section 3 of this 2007 Act, is immune from civil liability if the pharmacy,**
44 **person or entity reports, obtains or uses the data in good faith.**

45 **(7) Reports from the database established under section 3 of this 2007 Act may not be**

1 used as evidence in any criminal or civil proceeding.

2 (8) Nothing in this section requires a pharmacist or a practitioner who prescribes a
3 controlled substance to obtain information about a patient from the database established
4 under section 3 of this 2007 Act. A pharmacist or a practitioner who prescribes a controlled
5 substance may not be held liable for damages in any civil action on the basis that the
6 pharmacist or practitioner did or did not request or obtain information from the database.

7 **SECTION 5.** The State Board of Pharmacy may accept grants, donations, gifts or moneys
8 from any source for expenditures consistent with the purposes of sections 3 and 4 of this 2007
9 Act. Any moneys received under this section shall be paid into the State Treasury and
10 credited to the State Board of Pharmacy Account.

11 **SECTION 6.** (1) The Electronic Prescription Drug Database Advisory Commission is cre-
12 ated for the purposes of:

13 (a) Studying issues related to the electronic prescription drug database established under
14 section 3 of this 2007 Act.

15 (b) Making recommendations to the State Board of Pharmacy about:

16 (A) Which controlled substances should be subject to the reporting requirements of sec-
17 tion 4 of this 2007 Act; and

18 (B) The criteria that should be used to evaluate the data regarding those controlled
19 substances.

20 (2) The Electronic Prescription Drug Database Advisory Commission shall consist of 14
21 members selected as follows:

22 (a) One member nominated by each of the following, appointed by the State Board of
23 Pharmacy:

24 (A) State Board of Pharmacy;

25 (B) Board of Medical Examiners;

26 (C) Oregon Board of Dentistry;

27 (D) Oregon State Board of Nursing;

28 (E) Board of Naturopathic Examiners;

29 (F) Oregon State Pharmacy Association;

30 (G) Oregon Medical Association;

31 (H) Oregon Dental Association;

32 (I) Oregon Nurses Association;

33 (J) Oregon Association of Naturopathic Physicians;

34 (K) Pain Management Commission; and

35 (L) Oregon Optometric Physicians Association;

36 (b) One member of the Senate who is appointed by the President of the Senate; and

37 (c) One member of the House of Representatives who is appointed by the Speaker of the
38 House of Representatives.

39 **SECTION 7.** (1) The term of office of each member of the Electronic Prescription Drug
40 Database Advisory Commission is four years, but a member serves at the pleasure of the
41 appointing authority. Before the expiration of the term of a member, the appointing au-
42 thority shall appoint a successor whose term begins on July 1 next following. A member is
43 eligible for reappointment. If there is a vacancy for any cause, the appointing authority shall
44 make an appointment to become immediately effective.

45 (2) The commission shall elect one of its members to serve as chairperson.

1 **(3) The commission shall meet at least once annually at a time and place specified by the**
2 **chairperson of the commission. The commission may meet at other times and places speci-**
3 **fied by the call of the chairperson or of a majority of the members of the commission.**

4 **(4) The commission may adopt rules necessary for the operation of the commission.**

5 **(5) A majority of the members of the commission constitutes a quorum for the trans-**
6 **action of business.**

7 **(6) Official action by the commission requires the approval of a majority of the members**
8 **of the commission.**

9 **(7) The State Board of Pharmacy shall provide staff support to the commission.**

10 **(8) Members of the commission who are not members of the Legislative Assembly are**
11 **not entitled to compensation, but may be reimbursed for actual and necessary travel and**
12 **other expenses incurred by them in the performance of their official duties in the manner**
13 **and amounts provided for in ORS 292.495. Claims for expenses incurred in performing func-**
14 **tions of the commission shall be paid out of funds appropriated to the State Board of Phar-**
15 **macy for that purpose.**

16 **(9) All agencies of state government, as defined in ORS 174.111, are directed to assist the**
17 **commission in the performance of its duties and, to the extent permitted by laws relating**
18 **to confidentiality, to furnish such information and advice as the members of the commission**
19 **consider necessary to perform their duties.**

20 **SECTION 8.** **Notwithstanding the term of office specified by section 7 of this 2007 Act,**
21 **the members first appointed to the Electronic Prescription Drug Database Advisory Com-**
22 **mission shall determine by lot at the first meeting of the commission the initial terms of**
23 **office for commission members as follows:**

24 **(1) Four shall serve for a term ending July 1, 2008.**

25 **(2) Five shall serve for a term ending on July 1, 2009.**

26 **(3) Five shall serve for a term ending on July 1, 2010.**

27 **SECTION 9.** **This 2007 Act being necessary for the immediate preservation of the public**
28 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**
29 **on its passage.**

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