

HOUSE AMENDMENTS TO A-ENGROSSED SENATE BILL 34

By COMMITTEE ON HEALTH CARE

June 6

- 1 On page 1 of the printed A-engrossed bill, line 4, after “5” insert “, 9 and 10”.
- 2 In line 6, after “5” insert “, 9 and 10”.
- 3 In line 11, after “(1)” insert “(a)”.
- 4 After line 12, insert:
- 5 “(b) The board may contract with a state agency or with a private entity to ensure the effective
- 6 operation of the database established under this section.”
- 7 In line 23, after “that” delete the rest of the line and line 24 and insert “:
- 8 “(A) Before a patient receives a medication authorized by a prescription for a controlled sub-
- 9 stance, information about the prescription will be entered in the database;
- 10 “(B) There has been a request to search the database for information about the patient; and
- 11 “(C) The patient may review the information in the database about the patient every six months
- 12 at no cost.”
- 13 On page 2, line 18, after “(4)” delete the rest of the line and insert “The information in the da-
- 14 tabase is health care information that is confidential and may be disclosed by the State Board of
- 15 Pharmacy only as authorized by the federal Health Insurance Portability and Accountability Act
- 16 privacy regulations, 45 C.F.R. parts 160 and 164, and ORS 192.518 to 192.526.”.
- 17 Delete lines 21 and 22 and insert “a current patient for whom the practitioner or pharmacist is
- 18 prescribing or dispensing, or is considering prescribing or dispensing, a controlled substance;”.
- 19 After line 28, insert:
- 20 “(d) Upon request, to an individual who is the recipient of a prescription for a controlled sub-
- 21 stance entered into the database or to the individual’s attorney within 10 days of the request; or”.
- 22 In line 29, delete “(d)” and insert “(e)” and delete the comma and insert “or” and delete “or
- 23 patient” and delete the semicolon and insert a period.
- 24 Delete lines 30 through 37 and insert:
- 25 “(5) The State Board of Pharmacy shall maintain records on the information disclosed from the
- 26 database, including but not limited to:
- 27 “(a) The identification of each individual who requests or receives information from the database
- 28 and what organization, if any, that individual represents;
- 29 “(b) The information released to each individual or organization;
- 30 “(c) The date and time the information was requested and the date and time the information
- 31 was provided; and
- 32 “(d) Records of the details of all requests made for law enforcement purposes.
- 33 “(6) Records maintained as required by subsection (5)(d) of this section are subject to disclosure
- 34 as a public record, except that information that can be used to identify individual patients may not
- 35 be released.

1 “(7) The State Board of Pharmacy shall notify the Attorney General and each individual affected
2 by the improper release of information from the database.”.

3 In line 38, delete “(5)” and insert “(8)(a)”.

4 Delete lines 41 through 44 and insert:

5 “(b) Data in the database that identify an individual patient shall be removed from the database
6 three years from the date the data is entered into the database.

7 “(9)(a) The State Board of Pharmacy, or a person or entity required to report or authorized to
8 receive or release controlled substance prescription information under this section, is immune from
9 civil liability unless the board, person or entity acts with malice, criminal intent, gross negligence,
10 recklessness or willful intent in a manner that violates the provisions of this section.

11 “(b) If a person, the board or an entity acts in the manner described in paragraph (a) of this
12 subsection, the person, board or entity is subject to a civil penalty of \$1,000 or for actual damages,
13 whichever is greater.”.

14 In line 45, delete “(7)” and insert “(10)”.

15 On page 3, line 2, delete “(8)” and insert “(11)”.

16 After line 6, insert:

17 “(12)(a) An individual who has had controlled substance prescription information entered into
18 the database may request the State Board of Pharmacy to ensure the removal of any erroneous in-
19 formation and may appeal the board’s decision not to remove the erroneous information.

20 “(b) Upon the receipt of an appeal under paragraph (a) of this subsection, the board shall con-
21 duct a contested case hearing as provided under ORS chapter 183.

22 “(c) The board has the burden of establishing that the information included in the database was
23 properly included in the database.

24 “(13) The information collected in the database may not be used for any commercial purpose.”.

25 In line 20, delete “14” and insert “12”.

26 Delete lines 22 through 38 and insert:

27 “(a) The President of the Senate shall appoint one member from among the members of the
28 Senate, one public member from a group that represents patients’ rights or interests and one public
29 member with expertise in consumer privacy protection.

30 “(b) The Speaker of the House of Representatives shall appoint one member from among the
31 members of the House of Representatives, one public member from a group that advocates for pri-
32 vacy of medical records and one public member with expertise in security for electronic databases.

33 “(c) The State Board of Pharmacy shall appoint six members as follows:

34 “(A) One member from a list of pharmacists licensed to practice pharmacy in this state submit-
35 ted by the State Board of Pharmacy.

36 “(B) One member from a list of physicians licensed to practice in this state submitted by the
37 Board of Medical Examiners.

38 “(C) One member from a list of dentists licensed to practice dentistry in this state submitted by
39 the Oregon Board of Dentistry.

40 “(D) One member from a list of nurses licensed to practice nursing in this state submitted by
41 the Oregon State Board of Nursing.

42 “(E) One member from a list of naturopaths licensed to practice naturopathic medicine in this
43 state submitted by the Board of Naturopathic Examiners.

44 “(F) One member from a list of nominees submitted by the Pain Management Commission.”.

45 On page 4, line 25, delete “Five” and insert “Four”.

1 In line 26, delete “Five” and insert “Four”.

2 After line 26, insert:

3 **“SECTION 9. (1) A practitioner or pharmacist authorized to obtain controlled substance**
4 **prescription information from the database established under section 3 of this 2007 Act who**
5 **knowingly discloses or uses information obtained from the database in violation of section 4**
6 **of this 2007 Act shall be reported to the appropriate health professional regulatory board for**
7 **consideration of disciplinary action under the authority of that board.**

8 **“(2)(a) In addition to any other penalty imposed by law, the Attorney General may impose**
9 **a civil penalty not to exceed \$10,000 for each violation of section 4 of this 2007 Act. Each**
10 **improper release of information in violation of section 4 of this 2007 Act shall be considered**
11 **a separate offense.**

12 **“(b) Civil penalties imposed under this subsection shall be imposed as provided in ORS**
13 **183.745.**

14 **“(c) The Department of Justice may adopt rules required to carry out the provisions of**
15 **this subsection.**

16 **“(3) The remedies prescribed in this section are cumulative and in addition to any other**
17 **applicable criminal, civil or administrative penalties.**

18 **“SECTION 10. A pharmacist may not refuse to fill a valid controlled substance pre-**
19 **scription presented to the pharmacist solely because the pharmacist cannot receive patient**
20 **information from the database established under section 3 of this 2007 Act at the time the**
21 **patient requests that the controlled substance prescription be filled.**

22 **“SECTION 11. (1) Section 4 of this 2007 Act becomes operative on the date that the da-**
23 **tabase required to be established by section 3 of this 2007 Act begins continuous operation**
24 **24 hours a day, seven days a week, and is capable of responding immediately to inquiries for**
25 **information from the database by authorized users.**

26 **“(2) The State Board of Pharmacy shall notify the Legislative Counsel when the database**
27 **meets the requirements of subsection (1) of this section.”.**

28 In line 27, delete “9” and insert “12”.

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