

SENATE AMENDMENTS TO SENATE BILL 355

By COMMITTEE ON HUMAN SERVICES AND RURAL HEALTH POLICY

April 16

- 1 On page 1 of the printed bill, line 2, after the semicolon insert “appropriating money;”.
- 2 In line 17, delete “9” and insert “10”.
- 3 In line 19, delete “9” and insert “10”.
- 4 In line 26, after “Oregon” delete the rest of the line and insert “that are classified in schedules
- 5 II through IV under the federal Controlled Substances Act, 21 U.S.C. 811 and 812, as modified under
- 6 ORS 475.035.”.
- 7 In line 28, after “drugs” delete the rest of the line and insert “described in paragraph (a) of this
- 8 subsection”.
- 9 In line 29, delete “potential for abuse”.
- 10 On page 2, delete lines 1 through 7.
- 11 In line 8, delete “(C)” and insert “(B)”.
- 12 In line 10, delete “(D)” and insert “(C)”.
- 13 Delete lines 18 and 19 and insert:
- 14 “(d) Complying with the federal Health Insurance Portability and Accountability Act of 1996
- 15 (P.L. 104-191) and regulations adopted under it, including 45 C.F.R. parts 160 and 164, federal alcohol
- 16 and drug treatment confidentiality laws and regulations adopted under those laws, including 42
- 17 C.F.R. part 2, and state health and mental health confidentiality laws, including ORS 179.505, 192.517
- 18 and 192.518 to 192.529;”.
- 19 Delete lines 22 through 28 and insert:
- 20 “(f) Assessing civil penalties for failing to report or for intentional wrongful disclosure of data;
- 21 and
- 22 “(g) Accepting printed or nonelectronic reports from pharmacies that do not have the capability
- 23 to provide electronic reports.”.
- 24 On page 3, after line 8, insert:
- 25 “(5) This section does not apply to pharmacies in institutions as defined in ORS 179.010.”.
- 26 Delete lines 9 through 16 and insert:
- 27 “**SECTION 5.** (1)(a) Except as provided under subsection (2) of this section, prescription moni-
- 28 toring information submitted under section 4 of this 2009 Act to the prescription monitoring program
- 29 established in section 3 of this 2009 Act:
- 30 “(A) Is protected health information under ORS 192.518 to 192.529.
- 31 “(B) Is not subject to disclosure pursuant to ORS 192.410 to 192.505.
- 32 “(b) Except as provided under subsection (2)(a)(D) of this section, prescription monitoring infor-
- 33 mation submitted under section 4 of this 2009 Act to the prescription monitoring program may not
- 34 be used to evaluate a practitioner’s professional practice.
- 35 “(2)(a) If prescription monitoring information disclosures comply with the federal Health Insur-

1 ance Portability and Accountability Act of 1996 (P.L. 104-191) and regulations adopted under it, in-
2 cluding 45 C.F.R. parts 160 and 164, federal alcohol and drug treatment confidentiality laws and
3 regulations adopted under those laws, including 42 C.F.R. part 2, and state health and mental health
4 confidentiality laws, including ORS 179.505, 192.517 and 192.518 to 192.529, the State Board of
5 Pharmacy shall disclose the information.”.

6 In line 24, after “order” insert “based on probable cause and”.

7 In line 27, after “certifies” insert “in writing”.

8 In line 31, delete “board” and insert “State Board of Pharmacy”.

9 In line 33, after “(b)” insert “The board may disclose”.

10 In line 34, after “drug” delete the rest of the line and delete line 35 and insert “outlet:

11 “(A) For educational, research or public health purposes; and

12 “(B) To officials of the Department of Human Services who are conducting special epidemiologic
13 morbidity and mortality studies in accordance with ORS 432.060 and rules adopted under ORS
14 431.110.”.

15 In line 36, delete “Information relating to a patient may be disclosed” and insert “The board
16 shall disclose information relating to a patient”.

17 In line 43, delete “program”.

18 On page 4, line 1, delete “(2)(a)” and insert “(3)(a)”.

19 In line 10, delete “(3)” and insert “(4)”.

20 In line 13, delete “(4)” and insert “(5)”.

21 In line 14, delete “estab-”.

22 In line 15, delete “lished under section 3 of this 2009 Act”.

23 In line 18, delete “(5)” and insert “(6)”.

24 In line 21, delete “(6)” and insert “(7)” and delete “9” and insert “10”.

25 Delete lines 27 through 44 and insert:

26 **“SECTION 6. A pharmacist may not refuse to fill a valid prescription solely because the**
27 **pharmacist cannot receive patient information from the prescription monitoring program**
28 **established under section 3 of this 2009 Act at the time the patient requests that the pre-**
29 **scription be filled.**

30 **“SECTION 7. (1) In addition to any other penalty provided by law, the State Board of**
31 **Pharmacy may impose a civil penalty for any violation of sections 4 to 6 of this 2009 Act. A**
32 **civil penalty imposed under this section may not exceed \$250 for each violation by an indi-**
33 **vidual and \$1,000 for each violation by a drug outlet.**

34 **“(2) Civil penalties recovered under this section shall be deposited in the State Board of**
35 **Pharmacy Account established in ORS 689.139.**

36 **“(3) Civil penalties under this section shall be imposed as provided in ORS 183.745.**

37 **“(4) Notwithstanding ORS 183.745, the person to whom the notice is addressed has 10 days**
38 **from the date of service of the notice to make written application for a hearing before the**
39 **board.**

40 **“SECTION 8. (1) As used in this section, ‘board’ means:**

41 **“(a) The Oregon Medical Board;**

42 **“(b) The Oregon Board of Dentistry;**

43 **“(c) The Board of Naturopathic Examiners;**

44 **“(d) The Oregon State Board of Nursing;**

45 **“(e) The Oregon Board of Optometry; and**

1 “(f) **The State Board of Pharmacy.**

2 “(2) **The State Board of Pharmacy may accept grants, donations, gifts or moneys from**
3 **any source for expenditures consistent with the purposes of sections 2 to 10 of this 2009 Act.**

4 “(3)(a) **In addition to other licensing fees imposed by a board on licensees, a board shall**
5 **adopt rules imposing a fee of \$25 per year on each person licensed by the board who is au-**
6 **thorized to prescribe or dispense controlled substances. A board shall collect the fee at the**
7 **same time the board collects other licensing fees imposed on licensees.**

8 “(b) **A board shall retain 10 percent of the fees collected under paragraph (a) of this**
9 **subsection to cover the costs of accounting and collection of the fees.**

10 “(c) **On the first day of each calendar quarter, a board shall transmit 90 percent of the**
11 **fees collected under paragraph (a) of this subsection during the preceding calendar quarter**
12 **to the Electronic Prescription Monitoring Fund established in section 11 of this 2009 Act.”.**

13 In line 45, delete “8” and insert “9”.

14 On page 5, line 4, delete “board” and insert “State Board of Pharmacy”.

15 Delete lines 7 through 24 and insert:

16 “(2) The commission shall consist of 15 members appointed by the board as follows:

17 “(a) A person nominated by the Pain Management Commission;

18 “(b) A person nominated by the Oregon State Pharmacy Association;

19 “(c) A person nominated by the Oregon Dental Association;

20 “(d) A physician nominated by the Oregon Medical Association;

21 “(e) A doctor of osteopathy nominated by the Osteopathic Physicians and Surgeons of Oregon;

22 “(f) A person nominated by the Oregon Nurses Association;

23 “(g) A person nominated by the Oregon Association of Naturopathic Physicians;

24 “(h) A person nominated by the Oregon Board of Dentistry;

25 “(i) A physician nominated by the Oregon Medical Board;

26 “(j) A person nominated by the Board of Naturopathic Examiners;

27 “(k) A person nominated by the Oregon State Board of Nursing;

28 “(L) A person nominated by the State Board of Pharmacy;

29 “(m) A member of the public nominated by the State Board of Pharmacy;

30 “(n) A person nominated by a health professional licensing board that regulates addiction
31 counselors; and

32 “(o) A person nominated by the Department of Human Services from a division of the depart-
33 ment responsible for administering addiction services.”.

34 In line 25, delete “9” and insert “10”.

35 In line 41, delete “who are not members of the Legislative Assembly”.

36 On page 6, after line 4, insert:

37 “**SECTION 11. The Electronic Prescription Monitoring Fund is established in the State**
38 **Treasury, separate and distinct from the General Fund. The Electronic Prescription Moni-**
39 **toring Fund consists of moneys transmitted to the fund under section 8 of this 2009 Act.**
40 **Interest earned by the fund shall be credited to the fund. Moneys in the fund are contin-**
41 **uously appropriated to the State Board of Pharmacy for the purpose of carrying out the**
42 **provisions of sections 2 to 10 of this 2009 Act.”.**

43 In line 5, delete “10” and insert “12” and delete “9” and insert “10”.

44 In line 9, delete “Four” and insert “Five”.

45 In line 12, delete “11” and insert “13” and delete “January” and insert “July”.

1 In line 17, delete "12" and insert "14".

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