

Enrolled
House Bill 4013

Sponsored by Representatives GREENLICK, THOMPSON, Senators MONNES ANDERSON, KRUSE; Senator STEINER HAYWARD (Presession filed.)

CHAPTER

AN ACT

Relating to prescriptions; creating new provisions; amending ORS 475.185 and 475.188; and declaring an emergency.

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

**ELECTRONIC TRANSMISSION OF SCHEDULE II
DRUG PRESCRIPTIONS**

SECTION 1. ORS 475.185 is amended to read:

475.185. (1)(a) Except when dispensed directly by a practitioner to an ultimate user, a controlled substance in Schedule II may not be dispensed without *[the]* a written **or electronically transmitted** prescription of a practitioner.

[(2)] (b) In emergency situations, as defined by rule of the State Board of Pharmacy, Schedule II drugs may be dispensed *[upon oral or electronically transmitted]* **with an oral** prescription of a practitioner, reduced promptly to writing and filed by the pharmacy. **Such** prescriptions shall be retained in conformity with the requirements of ORS 475.165.

(c) A prescription for a Schedule II substance may not be refilled.

[(3)] (2) Except when dispensed directly by a practitioner to an ultimate user, a controlled substance included in Schedule III or IV may not be dispensed without a written, oral or electronically transmitted prescription of a practitioner. The prescription may not be filled or refilled more than six months after the date on which it was issued and a prescription authorized to be refilled may not be refilled more than five times. Additional quantities of the controlled substances listed in Schedule III or IV may *[only]* be authorized by a practitioner **only** through issuance of a new prescription.

[(4)] (3) Except when dispensed directly by a practitioner to an ultimate user, a controlled substance included in Schedule V that is a prescription drug may not be dispensed without a written, oral or electronically transmitted prescription of a practitioner. The prescription may not be filled or refilled more than six months after the date on which it was issued and a prescription authorized to be refilled may not be refilled more than five times. Additional quantities of the controlled substances listed in Schedule V may *[only]* be authorized by a practitioner **only** through issuance of a new prescription.

[(5)] (4) A controlled substance may not be delivered or dispensed other than for a medical purpose.

[(6)] (5) Except in good faith and in the course of professional practice only, a practitioner or a pharmacist may not dispense controlled substances.

[(7)] (6) Any oral or electronically transmitted prescription authorized by statute or rule must be stored by electronic means or reduced promptly to writing and filed by the pharmacy.

[(8)] (7) Issuance, preparation, labeling, dispensing, recordkeeping and filing of prescriptions or medication orders must be in conformance with the requirements of the federal law and rules of the board.

SECTION 2. ORS 475.188 is amended to read:

475.188. (1) Prescription drug orders may be transmitted by electronic means from a practitioner authorized to prescribe drugs directly to the dispensing pharmacist.

(2) All prescription drug orders communicated by way of electronic transmission shall:

(a) Be transmitted only by an authorized practitioner;

(b) Be transmitted directly to a pharmacist in a pharmacy of the patient's choice with no intervening person having access to the prescription drug order;

(c) Specify the prescribing practitioner's telephone number for verbal confirmation, the time and date of transmission, the identity of the pharmacy intended to receive the transmission and all other information required for a prescription by federal or state law; and

(d) Be traceable to the prescribing practitioner by an electronic signature or other secure method of validation.

(3) An electronic transmission of a prescription drug order shall be stored by electronic means or reduced promptly to writing, filed by the pharmacy and retained in conformity with the requirements of ORS 475.165.

(4) The dispensing pharmacist shall exercise professional judgment regarding the accuracy, validity and authenticity of an electronically transmitted prescription drug order.

(5) All equipment for transmission, storage or receipt of electronically transmitted prescription drug orders shall be maintained to protect against unauthorized access.

(6) A pharmacist, pharmacy or pharmacy department shall not enter into an agreement with a practitioner or health care facility concerning the provision of any electronic transmission equipment or apparatus that would adversely affect a patient's freedom to select the pharmacy or pharmacy department of the patient's choice.

(7) A pharmacist, pharmacy or pharmacy department shall not provide any electronic equipment or apparatus to a practitioner or health care facility for the purpose of providing an incentive to the practitioner or health care facility to refer patients to a particular pharmacy or pharmacy department.

(8) There shall be no additional charge to the patient because the prescription drug order was electronically transmitted.

(9) Nothing in this section shall be construed as authorizing the electronic transmission of a prescription drug order when a written prescription is required under ORS 127.815, 137.473, 169.750[,] or 453.025 [or 475.185 (1)].

STEP THERAPY

SECTION 3. Section 4 of this 2014 Act is added to and made a part of the Insurance Code.

SECTION 4. (1) As used in this section:

(a) "Health care coverage plan" includes:

(A) A health benefit plan, as defined in ORS 743.730;

(B) An insurance policy or certificate covering the cost of prescription drugs, hospital expenses, health care services and medical expenses, equipment and supplies;

(C) A medical services contract, as defined in ORS 743.801;

(D) A multiple employer welfare arrangement, as defined in ORS 750.301;

(E) A contract or agreement with a health care service contractor, as defined in ORS 750.005, or a preferred provider organization;

(F) A pharmacy benefit manager, as defined in ORS 735.530, or other third party administrator that pays prescription drug claims; and

(G) An accident insurance policy or any other insurance contract providing reimbursement for the cost of prescription drugs, hospital expenses, health care services and medical expenses, equipment and supplies.

(b) "Step therapy" means a drug protocol in which a health care coverage plan will reimburse the cost of a prescribed drug only if the patient has first tried a specified drug or series of drugs.

(2) A health care coverage plan that requires step therapy shall make easily accessible to prescribing practitioners, clear explanations of:

(a) The clinical criteria for each step therapy protocol;

(b) The procedure by which a practitioner may submit to the plan the practitioner's medical rationale for determining that a particular step therapy protocol is not appropriate for a particular patient based on the patient's medical condition and history; and

(c) The documentation, if any, that a practitioner must submit to the plan for the plan to determine the appropriateness of step therapy for a specific patient.

SECTION 5. Section 6 of this 2014 Act is added to and made a part of ORS chapter 414.

SECTION 6. (1) As used in this section, "step therapy" means a drug protocol in which the cost of a prescribed drug is reimbursed only if the patient has first tried a specified drug or series of drugs.

(2) A coordinated care organization that requires step therapy shall make easily accessible to any provider who is reimbursed by the organization, directly or through a risk-bearing entity, to provide health services to members of the organization, clear explanations of:

(a) The clinical criteria for each step therapy protocol;

(b) The procedure by which a provider may submit to the organization or risk-bearing entity, the provider's medical rationale for determining that a particular step therapy protocol is not appropriate for a particular patient based on the patient's medical condition and history; and

(c) The documentation, if any, that a provider must submit to the organization or risk-bearing entity for the organization or entity to determine the appropriateness of step therapy for a specific patient.

UNIT CAPTIONS

SECTION 7. The unit captions used in this 2014 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2014 Act.

OPERATIVE DATE

SECTION 8. Sections 4 and 6 of this 2014 Act become operative January 1, 2015.

EMERGENCY CLAUSE

SECTION 9. This 2014 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2014 Act takes effect on its passage.

Passed by House February 6, 2014

Repassed by House February 28, 2014

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Ramona J. Line, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate February 27, 2014

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2014

Approved:

.....M,....., 2014

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2014

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Kate Brown, Secretary of State