

A-Engrossed
House Bill 4013

Ordered by the Senate February 25
Including Senate Amendments dated February 25

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

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.

Authorizes practitioners to electronically transmit prescriptions for Schedule II controlled substances in nonemergency situations.

Requires specified entities that reimburse cost of prescription drugs to make easily accessible to prescribing practitioners information about step therapy protocols required by entities for prescription drug coverage.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to prescriptions; creating new provisions; amending ORS 475.185 and 475.188; and declaring
3 an emergency.

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

5
6 **ELECTRONIC TRANSMISSION OF SCHEDULE II**
7 **DRUG PRESCRIPTIONS**
8

9 **SECTION 1.** ORS 475.185 is amended to read:

10 475.185. (1)(a) Except when dispensed directly by a practitioner to an ultimate user, a controlled
11 substance in Schedule II may not be dispensed without *[the]* a written **or electronically transmit-**
12 **ted** prescription of a practitioner.

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

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

18 [(3)] (2) Except when dispensed directly by a practitioner to an ultimate user, a controlled sub-
19 stance included in Schedule III or IV may not be dispensed without a written, oral or electronically
20 transmitted prescription of a practitioner. The prescription may not be filled or refilled more than
21 six months after the date on which it was issued and a prescription authorized to be refilled may
22 not be refilled more than five times. Additional quantities of the controlled substances listed in
23 Schedule III or IV may *[only]* be authorized by a practitioner **only** through issuance of a new pre-
24 scription.

25 [(4)] (3) Except when dispensed directly by a practitioner to an ultimate user, a controlled sub-

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 stance included in Schedule V that is a prescription drug may not be dispensed without a written,
2 oral or electronically transmitted prescription of a practitioner. The prescription may not be filled
3 or refilled more than six months after the date on which it was issued and a prescription authorized
4 to be refilled may not be refilled more than five times. Additional quantities of the controlled sub-
5 stances listed in Schedule V may [only] be authorized by a practitioner **only** through issuance of a
6 new prescription.

7 [(5)] (4) A controlled substance may not be delivered or dispensed other than for a medical
8 purpose.

9 [(6)] (5) Except in good faith and in the course of professional practice only, a practitioner or
10 a pharmacist may not dispense controlled substances.

11 [(7)] (6) Any oral or electronically transmitted prescription authorized by statute or rule must
12 be stored by electronic means or reduced promptly to writing and filed by the pharmacy.

13 [(8)] (7) Issuance, preparation, labeling, dispensing, recordkeeping and filing of prescriptions or
14 medication orders must be in conformance with the requirements of the federal law and rules of the
15 board.

16 **SECTION 2.** ORS 475.188 is amended to read:

17 475.188. (1) Prescription drug orders may be transmitted by electronic means from a practitioner
18 authorized to prescribe drugs directly to the dispensing pharmacist.

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

20 (a) Be transmitted only by an authorized practitioner;

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

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

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

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

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

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

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

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

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

45 (9) Nothing in this section shall be construed as authorizing the electronic transmission of a

1 prescription drug order when a written prescription is required under ORS 127.815, 137.473,
2 169.750[,] or 453.025 [or 475.185 (1)].

3
4 **STEP THERAPY**

5
6 **SECTION 3.** Section 4 of this 2014 Act is added to and made a part of the Insurance Code.

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

8 (a) "Health care coverage plan" includes:

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

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

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

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

14 (E) A contract or agreement with a health care service contractor, as defined in ORS
15 750.005, or a preferred provider organization;

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

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

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

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

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

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

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

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

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

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

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

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

45 (c) The documentation, if any, that a provider must submit to the organization or risk-

1 bearing entity for the organization or entity to determine the appropriateness of step ther-
2 apy for a specific patient.

3
4 **UNIT CAPTIONS**

5
6 **SECTION 7.** The unit captions used in this 2014 Act are provided only for the convenience
7 of the reader and do not become part of the statutory law of this state or express any leg-
8 islative intent in the enactment of this 2014 Act.

9
10 **OPERATIVE DATE**

11
12 **SECTION 8.** Sections 4 and 6 of this 2014 Act become operative January 1, 2015.

13
14 **EMERGENCY CLAUSE**

15
16 **SECTION 9.** This 2014 Act being necessary for the immediate preservation of the public
17 peace, health and safety, an emergency is declared to exist, and this 2014 Act takes effect
18 on its passage.

19 _____