

OFFICE OF THE SECRETARY OF STATE

SHEMIA FAGAN
SECRETARY OF STATE

CHERYL MYERS
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION

STEPHANIE CLARK
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

BP 39-2022

CHAPTER 855

BOARD OF PHARMACY

FILED

06/22/2022 8:25 AM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Duties of a Pharmacist receiving a prescription; Telemedicine; 2022 HB 4034

EFFECTIVE DATE: 07/01/2022 THROUGH 12/27/2022

AGENCY APPROVED DATE: 06/09/2022

CONTACT: Rachel Melvin

971-673-0001

pharmacy.rulemaking@bop.oregon.gov

800 NE Oregon St., Suite 150

Portland, OR 97232

Filed By:

Rachel Melvin

Rules Coordinator

NEED FOR THE RULE(S):

Section 14 of House Bill 4034 (2022) defines "telemedicine" as "the provision of health care services to a patient by a physician or physician assistant from a distance using electronic communications, including synchronous technologies to facilitate an exchange of information between a patient and physician or physician assistant in real time or asynchronous technologies to facilitate an exchange of information between a patient and a physician or physician assistant in other than real time." Modification to OAR 855-019-0210(2)(a) is necessary to eliminate conflict in Board of Pharmacy regulations with this new statute. Pharmacists must still ensure that prescriptions are issued for a legitimate medical purpose by an individual practitioner acting in the usual course of their professional practice and issued pursuant to a valid patient-practitioner relationship.

JUSTIFICATION OF TEMPORARY FILING:

2022 HB 4034 is currently operative, a temporary rule is required to remove conflicts in rule with the directives of 2022 HB 4034.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

2022 HB 4034 <https://olis.oregonlegislature.gov/liz/2022R1/Downloads/MeasureDocument/HB4034/Enrolled>

ORS 689.525 https://www.oregonlegislature.gov/bills_laws/ors/ors689.html

AMEND: 855-019-0210

RULE SUMMARY: Proposed amendments are necessary in order to remove conflict between Board of Pharmacy regulations and revised telemedicine statutes in 2022 HB 4034. Amendments include removing "not result solely from a questionnaire or an internet based relationship" and adding "issued pursuant to a valid patient-practitioner relationship" in OAR 855-019-0210(2)(a).

CHANGES TO RULE:

855-019-0210

Duties of the Pharmacist Receiving a Prescription ¶

- (1) A pharmacist must ensure that all prescriptions, prescription refills, and drug orders are correctly dispensed or prepared for administration in accordance with the prescribing practitioner's authorization.¶
- (2) A pharmacist receiving a prescription is responsible for:¶
- (a) Using professional judgment in dispensing only pursuant to a valid prescription. A pharmacist shall not dispense a prescription if the pharmacist, in their professional judgment, believes that the prescription was issued without a valid patient-practitioner relationship. In this rule, the term practitioner shall include a clinical associate of the practitioner or any other practitioner acting in the practitioner's absence. The prescription must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of their professional practice and ~~not result solely from a questionnaire or an internet-based~~ issued pursuant to a valid patient-practitioner relationship; and¶
 - (b) Ensuring that the prescription contains all the information specified in Division 41 of this chapter of rules including the legible name and contact phone number of the prescribing practitioner for verification purposes.¶
- (3) A pharmacist may refuse to dispense a prescription to any person who lacks proper identification.¶
- (4) Oral Prescription: Upon receipt of an oral prescription, the pharmacist shall promptly reduce the oral prescription to writing or create a permanent electronic record by recording:¶
- (a) The date when the oral prescription was received;¶
 - (b) The name of the patient for whom, or the owner of the animal for which, the drug is to be dispensed;¶
 - (c) The full name and, in the case of controlled substances, the address and the DEA registration number, of the practitioner, or other number as authorized under rules adopted by reference under Division 80 of this chapter of rules;¶
 - (d) If the oral prescription is for an animal, the species of the animal for which the drug is prescribed;¶
 - (e) The name, strength, dosage form of the substance, quantity prescribed;¶
 - (f) The direction for use;¶
 - (g) The total number of refills authorized by the prescribing practitioner;¶
 - (h) The written signature or initials or electronic identifier of the receiving pharmacist or intern and the identity of the person transmitting the prescription;¶
 - (i) The written or electronic record of the oral prescription must be retained on file as required by Division 41 of this chapter of rules, and in the case of controlled substances, under rules adopted by reference in Division 80 of this chapter of rules.¶
- (5) Facsimile Prescription: Upon receipt of a facsimile prescription, the pharmacist must be confident that the prescription was sent by an authorized practitioner or practitioner's agent, and they must verify that:¶
- (a) The facsimile contains all the information specified in division 41 and division 80 of this chapter of rules; and¶
 - (b) The facsimile prescription is not for a Schedule II controlled substance unless so permitted under federal regulations or division 80 of this chapter of rules; and¶
 - (c) If the facsimile prescription is for a controlled substance, the prescription contains an original, manually-signed signature of the prescriber. In this rule, manually-signed specifically excludes a signature stamp or any form of digital signature unless permitted under federal regulations.¶
- (6) Electronic Prescription: Before filling a prescription that has been received electronically, the pharmacist must be confident that:¶
- (a) The prescription was originated by an authorized practitioner or practitioner's agent;¶
 - (b) The prescription contains all the information specified in Division 41 of this chapter of rules.¶
 - (c) The prescription is not for a controlled substance unless permitted by federal regulations.¶
- (7) The pharmacist must ensure that a written prescription that is hand-carried or mailed into the pharmacy contains an original manually-signed signature of the prescribing practitioner or practitioner's agent.¶
- (8) Computer Transfer of Prescription Information between Pharmacies: A pharmacist that transmits or receives prescription information to or from another pharmacy electronically must ensure as appropriate:¶
- (a) The accurate transfer of prescription information between pharmacies;¶
 - (b) The creation of an original prescription or image of an original prescription containing all the information constituting the prescription and its relevant refill history in a manner that ensures accuracy and accountability and that the pharmacist will use in verifying the prescription;¶
 - (c) The prescription is invalidated at the sending pharmacy; and¶
 - (d) Compliance with all relevant state and federal laws and rules regarding the transfer of controlled substance prescriptions.

Statutory/Other Authority: ORS 689.205

Statutes/Other Implemented: ORS 689.151, ORS 689.155, ORS 689.508, 2022 HB 4034