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**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 855  
BOARD OF PHARMACY

**FILED**  
10/24/2022 5:46 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

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

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 11/22/2022 4:30 PM

*The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.*

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800 NE Oregon St., Suite 150  
Portland, OR 97232

Filed By:  
Rachel Melvin  
Rules Coordinator

HEARING(S)

*Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.*

DATE: 11/22/2022

TIME: 9:30 AM

OFFICER: Rachel Melvin

ADDRESS: Oregon Board of Pharmacy

800 NE Oregon St., Suite 150

Portland, OR 97232

SPECIAL INSTRUCTIONS:

This hearing meeting will be held virtually via Microsoft Teams.

If you wish to present oral testimony during this hearing, sign up on our website at [www.oregon.gov/pharmacy/pages/rulemaking-information](http://www.oregon.gov/pharmacy/pages/rulemaking-information) or email your contact information to [pharmacy.rulemaking@bop.oregon.gov](mailto:pharmacy.rulemaking@bop.oregon.gov) to receive the link to join the virtual meeting. Please indicate which rule(s) you would like to comment on.

Alternatively, you may dial

503-446-4951

Phone Conference ID:

146 611 440#

for audio only.

You must submit written comments before 4:30PM on November 22, 2022. Email written comments to [pharmacy.rulemaking@bop.oregon.gov](mailto:pharmacy.rulemaking@bop.oregon.gov).

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.

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#### 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](https://www.oregonlegislature.gov/bills_laws/ors/ors689.html)

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#### STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

Proposed amendments provide clarity, transparency for licensees/registrants and promotes patient safety, no effects on racial equity are anticipated.

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#### FISCAL AND ECONOMIC IMPACT:

No fiscal impact anticipated.

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#### COST OF COMPLIANCE:

*(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).*

There are no known economic impacts to the Oregon Board of Pharmacy, small businesses or members of the public.

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#### DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Small businesses were not involved with the development of the proposed amendments, directive of 2022 HB 4034.

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#### WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

Legislative directive of 2022 HB 4034.

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#### 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 ~~p~~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 ~~p~~Pharmacist receiving a prescription is responsible for:¶¶

(a) Using professional judgment in dispensing only pursuant to a valid prescription. A ~~p~~Pharmacist ~~shall~~must not dispense a prescription if the ~~p~~Pharmacist, in their professional judgment, believes that the prescription was issued without a valid patient-practitioner relationship. In this rule, the term practitioner ~~shall~~includes 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~~ must 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~~ ensure 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