House Bill 4129

Sponsored by Representative HELT, Senator KNOPP, Representatives NOBLE, SALINAS, SMITH DB; Representatives BARKER, BONHAM, GREENLICK, HELM, HOLVEY, LIVELY, NERON, NOSSE, PRUSAK, REARDON, SCHOUTEN, WILLIAMS, ZIKA, Senators DEMBROW, ROBLAN (Presession 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 **as introduced.**

Requires veterinarians to register with prescription monitoring program established by Oregon Health Authority. Requires pharmacies that dispense prescription drugs prescribed by veterinarians to report dispensation to prescription monitoring program. Allows Oregon State Veterinary Medical Examining Board to adopt rules in consultation with authority.

Becomes operative January 1, 2021.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to prescription drugs prescribed by veterinarians; creating new provisions; amending ORS 431A.850, 431A.855, 431A.860, 431A.870, 431A.880 and 431A.898; and prescribing an effective date.

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

SECTION 1. Section 2 of this 2020 Act is added to and made a part of ORS chapter 686.

SECTION 2. The Oregon State Veterinary Medical Examining Board may, in consultation with the Oregon Health Authority, adopt rules regarding the use of the prescription monitoring program established under ORS 431A.855 to 431A.900 by individuals licensed to practice veterinary medicine under this chapter.

SECTION 3. ORS 431A.850 is amended to read:

431A.850. As used in ORS 431A.855 to 431A.900:

(1) "Dental director" means a dentist, as defined in ORS 679.010, employed by a coordinated care organization, dental clinic or office, or a system of dental clinics or offices, for the purpose of overseeing the operations of the dental clinic or office, or the system of dental clinics or offices, and ensuring the delivery of quality dental care within the clinic, office or system.

(2) "Dispense" and "dispensing" have the meanings given those terms in ORS 689.005.

(3) "Drug outlet" has the meaning given that term in ORS 689.005.

(4) "Health professional regulatory board" means a health professional regulatory board, as defined in ORS 676.160, the Long Term Care Administrators Board, the Board of Licensed Dietitians [*and*]**,** the Behavior Analysis Regulatory Board **and the Oregon State Veterinary Medical Examining Board**.

(5) "Medical director" means a physician employed by a coordinated care organization, hospital, health care clinic or system of hospitals or health care clinics for the purposes of overseeing the operations of the coordinated care organization, hospital, clinic or system and ensuring the delivery of quality health care within the coordinated care organization, hospital, clinic or system.

(6) "Patient" means:

(a) The individual to whom the prescription drug is prescribed; or

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.

(b) If the prescription drug is prescribed by a veterinarian for an animal, the individual to whom the prescription drug is dispensed on behalf of the animal.

[*(6)*] **(7)** "Pharmacist" means:

(a) A pharmacist as defined in ORS 689.005; or

(b) An individual licensed to practice pharmacy in another state, if the requirements for licensure are similar, as determined by the Oregon Health Authority, to the requirements for being licensed as a pharmacist as defined in ORS 689.005.

[*(7)*] **(8)** "Pharmacy director" means a pharmacist employed by a coordinated care organization, pharmacy or system of pharmacies for the purposes of overseeing the operations of the coordinated care organization, pharmacy or system and ensuring the delivery of quality pharmaceutical care within the coordinated care organization, pharmacy or system.

[*(8)*] **(9)** "Practitioner" means:

(a) A practitioner as defined in ORS 689.005; [*or*]

(b) An individual licensed to practice a profession in another state, if the requirements for licensure are similar, as determined by the authority, to the requirements for being licensed as a practitioner as defined in ORS 689.005**; or**

(c) A veterinarian licensed under ORS chapter 686.

[*(9)*] **(10)** "Prescription" has the meaning given that term in ORS 475.005.

[*(10)*] **(11)** "Prescription drug" has the meaning given that term in ORS 689.005.

(12) "Veterinary facility" means a veterinary facility, as defined in ORS 686.010, at which prescription drugs are dispensed.

SECTION 4. ORS 431A.855 is amended to read:

431A.855. (1)(a) The Oregon Health Authority, in consultation with the Prescription Monitoring Program Advisory Commission, shall establish and maintain a prescription monitoring program for monitoring and reporting:

(A) Prescription drugs dispensed by pharmacies licensed by the State Board of Pharmacy that are classified in schedules II through IV under the federal Controlled Substances Act, 21 U.S.C. 811 and 812, as modified by the board by rule under ORS 475.035;

(B) Prescription drugs described in subparagraph (A) of this paragraph dispensed at veterinary facilities;

[*(B)*] **(C)** Prescribed gabapentin and naloxone dispensed by pharmacies; and

[*(C)*] **(D)** Other drugs identified by rules adopted by the authority.

(b)(A) To fulfill the requirements of this subsection, the authority shall establish, maintain and operate an electronic system to monitor and report drugs described in paragraph (a) of this subsection that are dispensed by prescription.

(B) The electronic system must:

(i) Operate and be accessible by practitioners**,** [*and*] pharmacies **and veterinary facilities** 24 hours a day, seven days a week; and

(ii) Allow practitioners to register as required under ORS 431A.877 and to apply for access to the electronic system in accordance with rules adopted by the authority under subsection (2) of this section.

(C) The authority may contract with a state agency or private entity to ensure the effective operation of the electronic system.

(2) In consultation with the commission, the authority shall adopt rules for the operation of the electronic prescription monitoring program established under subsection (1) of this section, including

standards for:

(a) Reporting data;

(b) Providing maintenance, security and disclosure of data;

(c) Ensuring accuracy and completeness of data;

(d) Complying with the federal Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191) and regulations adopted under that law, including 45 C.F.R. parts 160 and 164, federal alcohol and drug treatment confidentiality laws and regulations adopted under those laws, including 42 C.F.R. part 2, and state health and mental health confidentiality laws, including ORS 179.505, 192.517 and 192.553 to 192.581;

(e) Ensuring accurate identification of persons or entities requesting information from the database;

(f) Accepting printed or nonelectronic reports from pharmacies **or veterinary facilities** that do not have the capability to provide electronic reports;

(g) Notifying a patient, before or when a drug classified in schedules II through IV is dispensed to the patient, about the prescription monitoring program and the entry of the prescription in the electronic system; and

(h) Registering practitioners with the electronic system.

(3) The authority shall submit an annual report to the commission regarding the prescription monitoring program established under this section.

SECTION 5. ORS 431A.860 is amended to read:

431A.860. (1) Not later than 72 hours after dispensing a prescription drug that is subject to the prescription monitoring program established under ORS 431A.855, a pharmacy **or veterinary facility** shall electronically report to the Oregon Health Authority:

(a) For prescription drugs described in ORS 431A.855 (1)(a)(A) **and (B)** and other drugs identified by the authority by rule[,]**:**

(A) The name, address, phone number, date of birth and sex of the patient for whom the prescription drug was prescribed; **and**

(B) If applicable, the species, name and sex of the animal for which the prescription drug was prescribed;

(b) The identity of the pharmacy **or veterinary facility** that dispensed the prescription drug and the date on which the prescription drug was dispensed;

(c) The identity of the practitioner who prescribed the prescription drug and the date on which the prescription drug was prescribed;

(d) The national drug code number for the prescription drug;

(e) The prescription number assigned to the prescription drug;

(f) The quantity of the prescription drug dispensed;

(g) The number of days for which the prescription drug was dispensed;

(h) The number of refills of the prescription authorized by the practitioner and the number of the refill that the pharmacy **or veterinary facility** dispensed; and

(i) The diagnosis code used by the practitioner and the reason for the prescription.

(2) Notwithstanding subsection (1) of this section, the authority may not:

(a) Require the reporting of prescription drugs administered directly to a patient or dispensed pursuant to ORS 127.800 to 127.897; or

(b) Collect or use Social Security numbers in the prescription monitoring program.

(3) Upon receipt of the data reported pursuant to subsection (1) of this section, the authority

shall record the data in the electronic system established under ORS 431A.855.

(4)(a) The authority may, for good cause as determined by the authority, grant a pharmacy **or a veterinary facility** a waiver of the requirement that the information to be reported under subsection (1) of this section be submitted electronically. The waiver must state the format, method and frequency of the alternate nonelectronic submissions from the pharmacy **or veterinary facility** and the duration of the waiver.

(b) As used in this subsection, "good cause" includes financial hardship.

(5) This section does not apply to pharmacies in institutions as defined in ORS 179.010.

SECTION 6. ORS 431A.870 is amended to read:

431A.870. A pharmacist **or veterinary facility** may not refuse to fill a valid prescription solely because the pharmacist **or veterinary facility** cannot receive patient information from the prescription monitoring program established under ORS 431A.855 at the time the patient requests that the prescription be filled.

SECTION 7. ORS 431A.880 is amended to read:

431A.880. (1) As used in this section, "board" means:

(a) The Oregon Medical Board;

(b) The Oregon Board of Dentistry;

(c) The Oregon Board of Naturopathic Medicine;

(d) The Oregon State Board of Nursing;

(e) The Oregon Board of Optometry; [*and*]

(f) The State Board of Pharmacy**; and**

(g) The Oregon State Veterinary Medical Examining Board.

(2)(a) At the time of issuing or renewing a license, a board shall provide the Oregon Health Authority with the licensing information of each person licensed by the board who is authorized to prescribe or dispense controlled substances. The authority shall use the licensing information to qualify the licensee to report information to, or receive information from, the prescription monitoring program established under ORS 431A.855.

(b) A board by rule may adopt exceptions to the requirement described in paragraph (a) of this subsection.

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

(b) A board shall retain 10 percent of the fees collected under paragraph (a) of this subsection to cover the costs of administering this section.

(c) On the first day of each calendar quarter, a board shall transmit 90 percent of the fees collected under paragraph (a) of this subsection during the preceding calendar quarter to the Electronic Prescription Monitoring Fund established in ORS 431A.885.

(4) A board may adopt rules necessary for the administration of this section.

SECTION 8. ORS 431A.898 is amended to read:

431A.898. (1) Not less than once per year, the Oregon Health Authority, in consultation with the Prescription Monitoring Program Advisory Commission created under ORS 431A.890 and the Prescription Monitoring Program Prescribing Practices Review Subcommittee established under ORS 431A.896, shall develop, through the use of prescription monitoring information, criteria by which a practitioner may be required to receive education or training on the prescribing of opioids or

opiates.

(2) Criteria developed under subsection (1) of this section must include:

(a) Prescribing a high volume of opioids or opiates classified in schedules II and III;

(b) Prescribing an above-average amount of doses of opioids or opiates classified in schedules II and III to a high number of patients; and

(c) Simultaneously prescribing opioids or opiates classified in schedules II and III with other drugs classified in schedules II and III.

(3) The authority shall, in consultation with the Oregon State Veterinary Medical Examining Board, develop criteria specifically tailored for practitioners who are veterinarians.

[*(3)*] **(4)** In developing the criteria developed under subsection (1) of this section, the authority must take into consideration the total quantity and volume of opioids and opiates classified in schedules II and III prescribed by each practitioner.

[*(4)*] **(5)** The subcommittee may review, through the use of prescription monitoring information that does not identify a patient, a practitioner's prescribing history for the three years immediately preceding the date of the review to determine whether a practitioner meets the criteria developed under subsection (1) of this section.

[*(5)*] **(6)** After performing the review described in subsection (4) of this section, the subcommittee may direct the authority to provide to a practitioner who meets the criteria developed under subsection (1) of this section educational information about prescribing opioids and opiates, as determined appropriate by the authority.

[*(6)(a)*] **(7)(a)** For the purposes of evaluating prescriptions made by practitioners of opioids and opiates and other controlled substances, the subcommittee may direct the authority to compare the prescriptions described in this paragraph between similarly situated practitioners and to provide the comparative information to practitioners who meet criteria established by the subcommittee.

(b) The subcommittee may adopt rules to carry out this subsection, including rules to establish criteria to determine to which practitioners to provide the information described in this subsection.

[*(7)*] **(8)** Prescription monitoring information used for purposes of this section and the data created through the use of prescription monitoring information pursuant to this section:

(a) Are confidential and not subject to public disclosure under ORS 192.311 to 192.478; and

(b) Are not admissible as evidence in a civil or criminal proceeding.

SECTION 9. (1) Section 2 of this 2020 Act and the amendments to ORS 431A.850, 431A.855, 431A.860, 431A.870, 431A.880 and 431A.898 by sections 3 to 8 of this 2020 Act become operative on January 1, 2021.

(2) The Oregon Health Authority and the Oregon State Veterinary Medical Examining Board may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the authority and the board to exercise, on or after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the authority and the board by section 2 of this 2020 Act and the amendments to ORS 431A.850, 431A.855, 431A.860, 431A.870, 431A.880 and 431A.898 by sections 3 to 8 of this 2020 Act.

SECTION 10. (1) A veterinary facility, as defined in ORS 686.010, at which more than five individuals are employed shall comply with section 2 of this 2020 Act and the amendments to ORS 431A.850, 431A.855, 431A.860, 431A.870, 431A.880 and 431A.898 by sections 3 to 8 of this 2020 Act not later than January 1, 2021.

(2) A veterinary facility at which five or fewer individuals are employed shall comply with

section 2 of this 2020 Act and the amendments to ORS 431A.850, 431A.855, 431A.860, 431A.870, 431A.880 and 431A.898 by sections 3 to 8 of this 2020 Act not later than January 1, 2022.

SECTION 11. This 2020 Act takes effect on the 91st day after the date on which the 2020 regular session of the Eighteenth Legislative Assembly adjourns sine die.
