



May 23, 2022

Oregon Board of Pharmacy
800 NE Oregon St., Suite 150
Portland, OR 97232

RE: Request for Revision to [OAR 855-019-0210](#)

Dear members of the Oregon Board of Pharmacy:

On behalf of ATA Action, I am writing to request that the Oregon Board of Pharmacy revise OAR 855-019-0210(2)(a) to align with recent changes to Oregon's telemedicine law pursuant to HB 4034.

ATA Action, the American Telemedicine Association's affiliated trade association focused on advocacy, advances policy to ensure all individuals have permanent access to telehealth services across the care continuum. ATA Action supports the enactment of state and federal telehealth coverage and fair payment policies to secure telehealth access for all Americans, including those in rural and underserved communities. ATA Action recognizes that telehealth and virtual care have the potential to truly transform the health care delivery system – by improving patient outcomes, enhancing safety and effectiveness of care, addressing health disparities, and reducing costs – if only allowed to flourish.

Earlier this year, Governor Brown signed [HB 4034](#) into law, which included two positive changes to Oregon's telehealth policy. First, the law made clear that telemedicine means the provision of health care services to a patient from a distance using synchronous ("real time") or asynchronous (non-real time) technologies. Second, the law confirmed that physicians and physician assistants licensed in Oregon may use telemedicine to deliver health care services, including establishing a provider-patient relationship and prescribing medication where appropriate. ATA Action strongly supported HB 4034 as we believe that licensed practitioners should be able to utilize the full range of available telemedicine technologies while delivering virtual care so long as the technologies being used are appropriate to meet the standard of care for the condition presented by the patient.



While Oregon law clearly recognizes that practitioners may deliver – and be reimbursed for¹ – healthcare services provided via telemedicine technologies to both new and established patients, ATA Action has some concerns that an existing Board of Pharmacy regulation regarding the dispensing and filling of prescriptions issued through telemedicine encounters conflicts with this intent. Specifically, OAC 855-019-0210 states:

- 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 relationship.*

While ATA Action understands that older regulations included terms like “questionnaire” and “internet-based relationship” to clamp down on dangerous and rogue pill mills that were primarily prescribing pain medication, we believe these undefined and outdated terms in OAC 855-019-0210 create unnecessary uncertainty for pharmacists dispensing prescriptions resulting from appropriate and permissible telemedicine visits. Oregon’s telemedicine law (see HB 4034, Sec. 14(1)) clearly contemplates telemedicine encounters where a physician “prescr[ibes] drugs” using the internet, permitting such prescriptions not only via video visits but also via asynchronous technologies which “facilitate an exchange of information between a patient and a physician or physician assistant in other than real time.”

ATA Action understands the Oregon Board of Pharmacy is in the midst of the rulemaking process to address other rule changes required under HB 4034. In addition to addressing these other changes, we request and encourage the Board to use this opportunity to align OAR 855-019-0210(2)(a) with the telemedicine provisions of HB 4034. We suggest the following revision:

...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 relationship;*

This revision would not affect the existing protections under OAR 855-019-0210 that ensure patient safety, including requirements that the prescription be issued pursuant to a valid patient-

¹ House Bill 2508 (2021) required that commercial and public payers reimburse providers of telehealth services at the same rates as in-person healthcare services.



practitioner relationship and for a legitimate medical purpose. Rather, it would bring consistency to Oregon's telemedicine policy and ensure that patients can access their medications without unnecessary hurdles or delay.

We hope the Board will consider this revision to provide clarity to providers and patients. If you have any questions or would like to engage in additional discussion regarding ATA Action's perspective, please contact me at kzebley@ataaction.org.

Kind regards,

A handwritten signature in black ink, appearing to read "Kyle Zebley", is written over a light gray circular watermark that contains the text "ATA ACTION".

Kyle Zebley
Executive Director
ATA