

**HOUSE AMENDMENTS TO
HOUSE BILL 2126
(INCLUDING AMENDMENTS TO RESOLVE CONFLICTS)**

By JOINT COMMITTEE ON WAYS AND MEANS

June 26

1 In line 2 of the printed bill, after the semicolon insert “creating new provisions; amending ORS
2 414.325, 414.334 and 414.735 and section 2, chapter _____, Oregon Laws 2009 (Enrolled Senate Bill
3 876); repealing ORS 414.336 and section 300, chapter_____, Oregon Laws 2009 (Enrolled House
4 Bill 2009);”.

5 Delete lines 5 through 11 and insert:

6 “**SECTION 1.** ORS 414.325 is amended to read:

7 “414.325. (1) As used in this section[,];

8 “(a) ‘Legend drug’ means any drug requiring a prescription by a practitioner, as defined in ORS
9 689.005.

10 “[*(2) A licensed practitioner may prescribe such drugs under this chapter as the practitioner in the*
11 *exercise of professional judgment considers appropriate for the diagnosis or treatment of the patient in*
12 *the practitioner’s care and within the scope of practice. Prescriptions shall be dispensed in the generic*
13 *form pursuant to ORS 689.515 and pursuant to rules of the Department of Human Services unless the*
14 *practitioner prescribes otherwise and an exception is granted by the department.]*

15 “[*(3) Except as provided in subsections (4) and (5) of this section, the department shall place no*
16 *limit on the type of legend drug that may be prescribed by a practitioner, but the department shall pay*
17 *only for drugs in the generic form unless an exception has been granted by the department.]*

18 “[*(4) Notwithstanding subsection (3) of this section, an exception must be applied for and granted*
19 *before the department is required to pay for minor tranquilizers and amphetamines and amphetamine*
20 *derivatives, as defined by rule of the department.]*

21 “(b) ‘Mental health drug’ means a type of legend drug defined by the Department of Hu-
22 man Services by rule that includes, but is not limited to:

23 “(A) Therapeutic class 7 ataractics-tranquilizers; and

24 “(B) Therapeutic class 11 psychostimulants-antidepressants.

25 “(c) ‘Urgent medical condition’ means a medical condition that arises suddenly, is not
26 life-threatening and requires prompt treatment to avoid the development of more serious
27 medical problems.

28 “(2) The department shall reimburse the cost of a legend drug prescribed for a recipient
29 of medical assistance only if the legend drug:

30 “(a) Is on the drug list of the Practitioner-Managed Prescription Drug Plan adopted un-
31 der ORS 414.334;

32 “(b) Is in a therapeutic class of non-sedating antihistamines and nasal inhalers, as defined
33 by the department by rule, and is prescribed by an allergist for the treatment of:

34 “(A) Asthma;

1 “(B) Sinusitis;
2 “(C) Rhinitis; or
3 “(D) Allergies; or
4 “(c) Is prescribed and dispensed under this chapter by a licensed practitioner at a rural
5 health clinic for an urgent medical condition and:
6 “(A) There is no pharmacy within 15 miles of the clinic;
7 “(B) The prescription is dispensed for a patient outside of the normal business hours of
8 any pharmacy within 15 miles of the clinic; or
9 “(C) No pharmacy within 15 miles of the clinic dispenses legend drugs under this chapter.
10 “(3) The department shall pay only for drugs in the generic form unless an exception has
11 been granted by the department through the prior authorization process adopted by the de-
12 partment under subsection (4) of this section.
13 “(4) Notwithstanding subsection (2) of this section, the department shall provide re-
14 imbursement for a legend drug that does not meet the criteria in subsection (2) of this sec-
15 tion if:
16 “(a) It is a mental health drug.
17 “(b) The department grants approval through a prior authorization process adopted by
18 the department by rule.
19 “(c) The prescriber contacts the department requesting prior authorization and the de-
20 partment or its agent fails to respond to the telephone call or to a prescriber’s request made
21 by electronic mail within 24 hours.
22 “(d) After consultation with the department or its agent, the prescriber, in the
23 prescriber’s professional judgment, determines that the drug is medically appropriate.
24 “(e) The original prescription was written prior to the effective date of this 2009 Act or
25 the request is for a refill of a prescription for:
26 “(A) The treatment of seizures, cancer, HIV or AIDS; or
27 “(B) An immunosuppressant.
28 “(f) It is a drug in a class not evaluated for the Practitioner-Managed Prescription Drug
29 Plan adopted under ORS 414.334.
30 “(5)[(a)] Notwithstanding subsections (1) to (4) of this section [*and except as provided in para-*
31 *graph (b) of this subsection*], the department is authorized to:
32 “[(A)] (a) Withhold payment for a legend drug when federal financial participation is not avail-
33 able; [*and*]
34 “[(B)] (b) Require prior authorization of payment for drugs that the department has determined
35 should be limited to those conditions generally recognized as appropriate by the medical
36 profession[.]; **and**
37 “(c) **Withhold payment for a legend drug that is not a funded health service on the pri-**
38 **oritized list of health services established by the Health Services Commission under ORS**
39 **414.720.**
40 “[(b) *The department may not require prior authorization for therapeutic classes of nonsedating*
41 *antihistamines and nasal inhalers, as defined by rule by the department, when prescribed by an*
42 *allergist for treatment of any of the following conditions, as described by the Health Services Commis-*
43 *sion on the funded portion of its prioritized list of services:]*
44 “[(A) *Asthma;*]
45 “[(B) *Sinusitis;*]

1 “(C) Rhinitis; or]

2 “(D) Allergies.]

3 “(6)(a) *The department shall pay a rural health clinic for a legend drug prescribed and dispensed*
4 *under this chapter by a licensed practitioner at the rural health clinic for an urgent medical condition*
5 *if:]*

6 “(A) *There is not a pharmacy within 15 miles of the clinic;]*

7 “(B) *The prescription is dispensed for a patient outside of the normal business hours of any*
8 *pharmacy within 15 miles of the clinic; or]*

9 “(C) *No pharmacy within 15 miles of the clinic dispenses legend drugs under this chapter.]*

10 “(b) *As used in this subsection, ‘urgent medical condition’ means a medical condition that arises*
11 *suddenly, is not life-threatening and requires prompt treatment to avoid the development of more serious*
12 *medical problems.]*

13 “(7) (6) Notwithstanding ORS 414.334, the department may conduct prospective drug utilization
14 review prior to payment for drugs for a patient whose prescription drug use exceeded 15 drugs in
15 the preceding six-month period.

16 “(8) (7) Notwithstanding subsection (3) of this section, the department may pay a pharmacy for
17 a particular brand name drug rather than the generic version of the drug after notifying the phar-
18 macy that the cost of the particular brand name drug, after receiving discounted prices and rebates,
19 is equal to or less than the cost of the generic version of the drug.

20 “(8) **The department shall appoint an advisory committee in accordance with ORS 183.333**
21 **for any rulemaking conducted pursuant to this section.**

22 “**SECTION 2. If House Bill 2009, House Bill 2129 and Senate Bill 876 all become law, sec-**
23 **tion 1 of this 2009 Act (amending ORS 414.325) is repealed and ORS 414.325, as amended by**
24 **section 1, chapter _____, Oregon Laws 2009 (Enrolled Senate Bill 876), and section 35,**
25 **chapter _____, Oregon Laws 2009 (Enrolled House Bill 2129), is amended to read:**

26 “414.325. (1) As used in this section[,]:

27 “(a) ‘Legend drug’ means any drug requiring a prescription by a practitioner, as defined in ORS
28 689.005.

29 “(2) *A licensed practitioner may prescribe such drugs under this chapter as the practitioner in the*
30 *exercise of professional judgment considers appropriate for the diagnosis or treatment of the patient in*
31 *the practitioner’s care and within the scope of practice. Prescriptions shall be dispensed in the generic*
32 *form pursuant to ORS 689.515 and pursuant to rules of the Oregon Health Authority unless the prac-*
33 *titioner prescribes otherwise and an exception is granted by the authority.]*

34 “(3) *Except as provided in subsections (4) and (5) of this section, the authority shall place no limit*
35 *on the type of legend drug that may be prescribed by a practitioner, but the authority shall pay only*
36 *for drugs in the generic form unless an exception has been granted by the authority.]*

37 “(4) *Notwithstanding subsection (3) of this section, an exception must be applied for and granted*
38 *before the authority is required to pay for minor tranquilizers and amphetamines and amphetamine*
39 *derivatives, as defined by rule of the authority.]*

40 “(b) **‘Mental health drug’ means a type of legend drug defined by the Oregon Health Au-**
41 **thority by rule that includes, but is not limited to:**

42 “(A) **Therapeutic class 7 ataractics-tranquilizers; and**

43 “(B) **Therapeutic class 11 psychostimulants-antidepressants.**

44 “(c) **‘Urgent medical condition’ means a medical condition that arises suddenly, is not**
45 **life-threatening and requires prompt treatment to avoid the development of more serious**

1 **medical problems.**

2 **“(2) The authority shall reimburse the cost of a legend drug prescribed for a recipient**
3 **of medical assistance only if the legend drug:**

4 **“(a) Is on the drug list of the Practitioner-Managed Prescription Drug Plan adopted un-**
5 **der ORS 414.334;**

6 **“(b) Is in a therapeutic class of nonsedating antihistamines and nasal inhalers, as defined**
7 **by the authority by rule, and is prescribed by an allergist for the treatment of:**

8 **“(A) Asthma;**

9 **“(B) Sinusitis;**

10 **“(C) Rhinitis; or**

11 **“(D) Allergies; or**

12 **“(c) Is prescribed and dispensed under this chapter by a licensed practitioner at a rural**
13 **health clinic for an urgent medical condition and:**

14 **“(A) There is no pharmacy within 15 miles of the clinic;**

15 **“(B) The prescription is dispensed for a patient outside of the normal business hours of**
16 **any pharmacy within 15 miles of the clinic; or**

17 **“(C) No pharmacy within 15 miles of the clinic dispenses legend drugs under this chapter.**

18 **“(3) The authority shall pay only for drugs in the generic form unless an exception has**
19 **been granted by the authority through the prior authorization process adopted by the au-**
20 **thority under subsection (4) of this section.**

21 **“(4) Notwithstanding subsection (2) of this section, the authority shall provide re-**
22 **imbursement for a legend drug that does not meet the criteria in subsection (2) of this sec-**
23 **tion if:**

24 **“(a) It is a mental health drug.**

25 **“(b) The authority grants approval through a prior authorization process adopted by the**
26 **authority by rule.**

27 **“(c) The prescriber contacts the authority requesting prior authorization and the au-**
28 **thority or its agent fails to respond to the telephone call or to a prescriber’s request made**
29 **by electronic mail within 24 hours.**

30 **“(d) After consultation with the authority or its agent, the prescriber, in the prescriber’s**
31 **professional judgment, determines that the drug is medically appropriate.**

32 **“(e) The original prescription was written prior to the effective date of this 2009 Act or**
33 **the request is for a refill of a prescription for:**

34 **“(A) The treatment of seizures, cancer, HIV or AIDS; or**

35 **“(B) An immunosuppressant.**

36 **“(f) It is a drug in a class not evaluated for the Practitioner-Managed Prescription Drug**
37 **Plan adopted under ORS 414.334.**

38 **“(5)[(a)] Notwithstanding subsections (1) to (4) of this section [and except as provided in para-**
39 **graph (b) of this subsection], the authority is authorized to:**

40 **“[(A)] (a) Withhold payment for a legend drug when federal financial participation is not avail-**
41 **able; [and]**

42 **“[(B)] (b) Require prior authorization of payment for drugs that the authority has determined**
43 **should be limited to those conditions generally recognized as appropriate by the medical**
44 **profession[.]; and**

45 **“(c) Withhold payment for a legend drug that is not a funded health service on the pri-**

1 **oritized list of health services established by the Health Services Commission under ORS**
2 **414.720.**

3 “(b) *The authority may not require prior authorization for therapeutic classes of nonседating*
4 *antihistamines and nasal inhalers, as defined by rule by the authority, when prescribed by an allergist*
5 *for treatment of any of the following conditions, as described by the Health Services Commission on the*
6 *funded portion of its prioritized list of services:]*

7 “[A] *Asthma;*]

8 “[B] *Sinusitis;*]

9 “[C] *Rhinitis; or]*

10 “[D] *Allergies.]*

11 “(6)(a) *The authority shall pay a rural health clinic for a legend drug prescribed and dispensed*
12 *under this chapter by a licensed practitioner at the rural health clinic for an urgent medical condition*
13 *if:]*

14 “[A] *There is not a pharmacy within 15 miles of the clinic;]*

15 “[B] *The prescription is dispensed for a patient outside of the normal business hours of any*
16 *pharmacy within 15 miles of the clinic; or]*

17 “[C] *No pharmacy within 15 miles of the clinic dispenses legend drugs under this chapter.]*

18 “(b) *As used in this subsection, ‘urgent medical condition’ means a medical condition that arises*
19 *suddenly, is not life-threatening and requires prompt treatment to avoid the development of more serious*
20 *medical problems.]*

21 “[7] (6) Notwithstanding ORS 414.334, the authority may conduct prospective drug utilization
22 review prior to payment for drugs for a patient whose prescription drug use exceeded 15 drugs in
23 the preceding six-month period.

24 “[8] (7) Notwithstanding subsection (3) of this section, the authority may pay a pharmacy for
25 a particular brand name drug rather than the generic version of the drug after notifying the phar-
26 macy that the cost of the particular brand name drug, after receiving discounted prices and rebates,
27 is equal to or less than the cost of the generic version of the drug.

28 “(9)(a) (8)(a) Within 180 days after the United States patent expires on an immunosuppressant
29 drug used in connection with an organ transplant, the authority shall determine whether the drug
30 is a narrow therapeutic index drug.

31 “(b) As used in this subsection, ‘narrow therapeutic index drug’ means a drug that has a narrow
32 range in blood concentrations between efficacy and toxicity and requires therapeutic drug concen-
33 tration or pharmacodynamic monitoring.

34 “(9) **The authority shall appoint an advisory committee in accordance with ORS 183.333**
35 **for any rulemaking conducted pursuant to this section.**

36 “**SECTION 3.** ORS 414.334 is amended to read:

37 “414.334. (1) The Department of Human Services shall adopt a Practitioner-Managed Pre-
38 scription Drug Plan for the [Oregon Health Plan] **medical assistance program**. The purpose of the
39 plan is to ensure that enrollees of the [Oregon Health Plan] **medical assistance program** receive
40 the most effective prescription drug available at the best possible price.

41 “(2) Before adopting the plan, the department shall conduct public meetings and consult with the
42 Health Resources Commission.

43 “(3) The department shall consult with representatives of the regulatory boards and associations
44 representing practitioners who are prescribers under the [Oregon Health Plan] **medical assistance**
45 **program** and ensure that practitioners receive educational materials and have access to training

1 on the Practitioner-Managed Prescription Drug Plan.

2 “[~~(4)~~ *Notwithstanding the Practitioner-Managed Prescription Drug Plan adopted by the depart-*
3 *ment, a practitioner may prescribe any drug that the practitioner indicates is medically necessary for*
4 *an enrollee as being the most effective available.*]

5 “[~~(5)~~] (4) An enrollee may appeal to the department a decision of a practitioner or the depart-
6 ment to not provide a prescription drug requested by the enrollee.

7 “[~~(6)~~] (5) This section does not limit the decision of a practitioner as to the scope and duration
8 of treatment of chronic conditions, including but not limited to arthritis, diabetes and asthma.

9 “**SECTION 4. If House Bill 2009 becomes law, section 3 of this 2009 Act (amending ORS**
10 **414.334) is repealed and ORS 414.334, as amended by section 299, chapter _____, Oregon**
11 **Laws 2009 (Enrolled House Bill 2009), is amended to read:**

12 “414.334. (1) The Oregon Health Authority shall adopt a Practitioner-Managed Prescription Drug
13 Plan for the medical assistance program. The purpose of the plan is to ensure that enrollees of the
14 medical assistance program receive the most effective prescription drug available at the best possi-
15 ble price.

16 “(2) Before adopting the plan, the authority shall conduct public meetings and consult with the
17 Health Resources Commission.

18 “(3) The authority shall consult with representatives of the regulatory boards and associations
19 representing practitioners who are prescribers under the medical assistance program and ensure
20 that practitioners receive educational materials and have access to training on the Practitioner-
21 Managed Prescription Drug Plan.

22 “[~~(4)~~ *Notwithstanding the Practitioner-Managed Prescription Drug Plan adopted by the authority,*
23 *a practitioner may prescribe any drug that the practitioner indicates is medically necessary for an*
24 *enrollee as being the most effective available.*]

25 “[~~(5)~~] (4) An enrollee may appeal to the authority a decision of a practitioner or the authority
26 to not provide a prescription drug requested by the enrollee.

27 “[~~(6)~~] (5) This section does not limit the decision of a practitioner as to the scope and duration
28 of treatment of chronic conditions, including but not limited to arthritis, diabetes and asthma.

29 “**SECTION 5. The Department of Human Services shall report to the health related**
30 **committees and the Joint Committee on Ways and Means of the Seventy-sixth Legislative**
31 **Assembly on the implementation and effectiveness of the amendments to ORS 414.325 and**
32 **414.334 by sections 1 and 3 of this 2009 Act.**

33 “**SECTION 6.** If House Bill 2009, House Bill 2129 and Senate Bill 876 all become law, section
34 5 of this 2009 Act is amended to read:

35 “**Sec. 5.** The [Department of Human Services] **Oregon Health Authority** shall report to the
36 health related committees and the Joint Committee on Ways and Means of the Seventy-sixth Legis-
37 lative Assembly on the implementation and effectiveness of the amendments to ORS 414.325 and
38 414.334 by sections [1 and 3] **2 and 4** of this 2009 Act.

39 “**SECTION 7.** ORS 414.325, as amended by section 1 of this 2009 Act, is amended to read:

40 “414.325. (1) As used in this section:

41 “(a) ‘Legend drug’ means any drug requiring a prescription by a practitioner, as defined in ORS
42 689.005.

43 “(b) ‘Mental health drug’ means a type of legend drug defined by the Department of Human Ser-
44 vices by rule that includes, but is not limited to:]

45 “[A] Therapeutic class 7 ataractics-tranquilizers; and]

1 *“(B) Therapeutic class 11 psychostimulants-antidepressants.”*

2 *“(c) (b) ‘Urgent medical condition’ means a medical condition that arises suddenly, is not life-*
3 *threatening and requires prompt treatment to avoid the development of more serious medical prob-*
4 *lems.*

5 *“(2) The department shall reimburse the cost of a legend drug prescribed for a recipient of medical*
6 *assistance only if the legend drug:]*

7 *“(a) Is on the drug list of the Practitioner-Managed Prescription Drug Plan adopted under ORS*
8 *414.334;]*

9 *“(b) Is in a therapeutic class of nonседating antihistamines and nasal inhalers, as defined by the*
10 *department by rule, and is prescribed by an allergist for the treatment of any of:]*

11 *“(A) Asthma;]*

12 *“(B) Sinusitis;]*

13 *“(C) Rhinitis; or]*

14 *“(D) Allergies; or]*

15 *“(c) Is prescribed and dispensed under this chapter by a licensed practitioner at a rural health*
16 *clinic for an urgent medical condition and:]*

17 *“(A) There is no pharmacy within 15 miles of the clinic;]*

18 *“(B) The prescription is dispensed for a patient outside of the normal business hours of any*
19 *pharmacy within 15 miles of the clinic; or]*

20 *“(C) No pharmacy within 15 miles of the clinic dispenses legend drugs under this chapter.]*

21 *“(3) The department shall pay only for drugs in the generic form unless an exception has been*
22 *granted by the department through the prior authorization process adopted by the department under*
23 *subsection (4) of this section.]*

24 *“(4) Notwithstanding subsection (2) of this section, the department shall provide reimbursement for*
25 *a legend drug that does not meet the criteria in subsection (2) of this section if:]*

26 *“(a) It is a mental health drug.]*

27 *“(b) The department grants approval through a prior authorization process adopted by the de-*
28 *partment by rule.]*

29 *“(c) The prescriber contacts the department requesting prior authorization and the department or*
30 *its agent fails to respond to the telephone call or to a prescriber’s request made by electronic mail*
31 *within 24 hours.]*

32 *“(d) After consultation with the department or its agent, the prescriber, in the prescriber’s profes-*
33 *sional judgment, determines that the drug is medically appropriate.]*

34 *“(e) The original prescription was written prior to the effective date of this 2009 Act or the request*
35 *is for a refill of a prescription for:]*

36 *“(A) The treatment of seizures, cancer, HIV or AIDS; or]*

37 *“(B) An immunosuppressant.]*

38 *“(f) It is a drug in a class not evaluated for the Practitioner-Managed Prescription Drug Plan*
39 *adopted under ORS 414.334.]*

40 **“(2) A licensed practitioner may prescribe such drugs under this chapter as the practi-**
41 **tioner in the exercise of professional judgment considers appropriate for the diagnosis or**
42 **treatment of the patient in the practitioner’s care and within the scope of practice. Pre-**
43 **scriptions shall be dispensed in the generic form pursuant to ORS 689.515 and pursuant to**
44 **rules of the Department of Human Services unless the practitioner prescribes otherwise and**
45 **an exception is granted by the department.**

1 **“(3) Except as provided in subsections (4) and (5) of this section, the department shall**
2 **place no limit on the type of legend drug that may be prescribed by a practitioner, but the**
3 **department shall pay only for drugs in the generic form unless an exception has been granted**
4 **by the department.**

5 **“(4) Notwithstanding subsection (3) of this section, an exception must be applied for and**
6 **granted before the department is required to pay for minor tranquilizers and amphetamines**
7 **and amphetamine derivatives, as defined by rule of the department.**

8 **“(5)(a) Notwithstanding subsections (1) to (4) of this section and except as provided in para-**
9 **graph (b) of this subsection, the department is authorized to:**

10 **“[(a)] (A) Withhold payment for a legend drug when federal financial participation is not avail-**
11 **able; and**

12 **“[(b)] (B) Require prior authorization of payment for drugs that the department has determined**
13 **should be limited to those conditions generally recognized as appropriate by the medical**
14 **profession[; and].**

15 **“[(c) Withhold payment for a legend drug that is not a funded health service on the prioritized list**
16 **of health services established by the Health Services Commission under ORS 414.720.]**

17 **“(b) The department may not require prior authorization for therapeutic classes of non-**
18 **sedating antihistamines and nasal inhalers, as defined by rule by the department, when pre-**
19 **scribed by an allergist for treatment of any of the following conditions, as described by the**
20 **Health Services Commission on the funded portion of its prioritized list of services:**

21 **“(A) Asthma;**

22 **“(B) Sinusitis;**

23 **“(C) Rhinitis; or**

24 **“(D) Allergies.**

25 **“(6) The department shall pay a rural health clinic for a legend drug prescribed and dis-**
26 **persed under this chapter by a licensed practitioner at the rural health clinic for an urgent**
27 **medical condition if:**

28 **“(a) There is not a pharmacy within 15 miles of the clinic;**

29 **“(b) The prescription is dispensed for a patient outside of the normal business hours of**
30 **any pharmacy within 15 miles of the clinic; or**

31 **“(c) No pharmacy within 15 miles of the clinic dispenses legend drugs under this chapter.**

32 **“[(6)] (7) Notwithstanding ORS 414.334, the department may conduct prospective drug utilization**
33 **review prior to payment for drugs for a patient whose prescription drug use exceeded 15 drugs in**
34 **the preceding six-month period.**

35 **“[(7)] (8) Notwithstanding subsection (3) of this section, the department may pay a pharmacy for**
36 **a particular brand name drug rather than the generic version of the drug after notifying the phar-**
37 **macy that the cost of the particular brand name drug, after receiving discounted prices and rebates,**
38 **is equal to or less than the cost of the generic version of the drug.**

39 **“[(8) The department shall appoint an advisory committee in accordance with ORS 183.333 for any**
40 **rulemaking conducted pursuant to this section.]**

41 **“SECTION 8. If House Bill 2009, House Bill 2129 and Senate Bill 876 all become law, sec-**
42 **tion 7 of this 2009 Act (amending ORS 414.325) is repealed and ORS 414.325, as amended by**
43 **section 1, chapter _____, Oregon Laws 2009 (Enrolled Senate Bill 876), section 35, chapter**
44 **_____, Oregon Laws 2009 (Enrolled House Bill 2129), and section 2 of this 2009 Act, is**
45 **amended to read:**

1 “414.325. (1) As used in this section:
2 “(a) ‘Legend drug’ means any drug requiring a prescription by a practitioner, as defined in ORS
3 689.005.
4 “[(b) ‘Mental health drug’ means a type of legend drug defined by the Oregon Health Authority
5 by rule that includes, but is not limited to:]
6 “[(A) Therapeutic class 7 ataractics-tranquilizers; and]
7 “[(B) Therapeutic class 11 psychostimulants-antidepressants.]
8 “[(c)] (b) ‘Urgent medical condition’ means a medical condition that arises suddenly, is not life-
9 threatening and requires prompt treatment to avoid the development of more serious medical prob-
10 lems.
11 “[(2) The authority shall reimburse the cost of a legend drug prescribed for a recipient of medical
12 assistance only if the legend drug:]
13 “[(a) Is on the drug list of the Practitioner-Managed Prescription Drug Plan adopted under ORS
14 414.334;]
15 “[(b) Is in a therapeutic class of non-sedating antihistamines and nasal inhalers, as defined by the
16 authority by rule, and is prescribed by an allergist for the treatment of:]
17 “[(A) Asthma;]
18 “[(B) Sinusitis;]
19 “[(C) Rhinitis; or]
20 “[(D) Allergies; or]
21 “[(c) Is prescribed and dispensed under this chapter by a licensed practitioner at a rural health
22 clinic for an urgent medical condition and:]
23 “[(A) There is no pharmacy within 15 miles of the clinic;]
24 “[(B) The prescription is dispensed for a patient outside of the normal business hours of any
25 pharmacy within 15 miles of the clinic; or]
26 “[(C) No pharmacy within 15 miles of the clinic dispenses legend drugs under this chapter.]
27 “[(3) The authority shall pay only for drugs in the generic form unless an exception has been
28 granted by the authority through the prior authorization process adopted by the authority under sub-
29 section (4) of this section.]
30 “[(4) Notwithstanding subsection (2) of this section, the authority shall provide reimbursement for
31 a legend drug that does not meet the criteria in subsection (2) of this section if:]
32 “[(a) It is a mental health drug.]
33 “[(b) The authority grants approval through a prior authorization process adopted by the authority
34 by rule.]
35 “[(c) The prescriber contacts the authority requesting prior authorization and the authority or its
36 agent fails to respond to the telephone call or to a prescriber’s request made by electronic mail within
37 24 hours.]
38 “[(d) After consultation with the authority or its agent, the prescriber, in the prescriber’s profes-
39 sional judgment, determines that the drug is medically appropriate.]
40 “[(e) The original prescription was written prior to the effective date of this 2009 Act or the request
41 is for a refill of a prescription for:]
42 “[(A) The treatment of seizures, cancer, HIV or AIDS; or]
43 “[(B) An immunosuppressant.]
44 “[(f) It is a drug in a class not evaluated for the Practitioner-Managed Prescription Drug Plan
45 adopted under ORS 414.334.]

1 “(2) A licensed practitioner may prescribe such drugs under this chapter as the practi-
2 tioner in the exercise of professional judgment considers appropriate for the diagnosis or
3 treatment of the patient in the practitioner’s care and within the scope of practice. Pre-
4 scriptions shall be dispensed in the generic form pursuant to ORS 689.515 and pursuant to
5 rules of the Oregon Health Authority unless the practitioner prescribes otherwise and an
6 exception is granted by the authority.

7 “(3) Except as provided in subsections (4) and (5) of this section, the authority shall place
8 no limit on the type of legend drug that may be prescribed by a practitioner, but the au-
9 thority shall pay only for drugs in the generic form unless an exception has been granted
10 by the authority.

11 “(4) Notwithstanding subsection (3) of this section, an exception must be applied for and
12 granted before the authority is required to pay for minor tranquilizers and amphetamines
13 and amphetamine derivatives, as defined by rule of the authority.

14 “(5)(a) Notwithstanding subsections (1) to (4) of this section and except as provided in para-
15 graph (b) of this subsection, the authority is authorized to:

16 “[(a)] (A) Withhold payment for a legend drug when federal financial participation is not avail-
17 able; and

18 “[(b)] (B) Require prior authorization of payment for drugs that the authority has determined
19 should be limited to those conditions generally recognized as appropriate by the medical
20 profession[; and].

21 “[(c) *Withhold payment for a legend drug that is not a funded health service on the prioritized list
22 of health services established by the Health Services Commission under ORS 414.720.*]

23 “(b) The authority may not require prior authorization for therapeutic classes of nonse-
24 dating antihistamines and nasal inhalers, as defined by rule by the authority, when pre-
25 scribed by an allergist for treatment of any of the following conditions, as described by the
26 Health Services Commission on the funded portion of its prioritized list of services:

27 “(A) Asthma;

28 “(B) Sinusitis;

29 “(C) Rhinitis; or

30 “(D) Allergies.

31 “(6) The authority shall pay a rural health clinic for a legend drug prescribed and dis-
32 pensed under this chapter by a licensed practitioner at the rural health clinic for an urgent
33 medical condition if:

34 “(a) There is not a pharmacy within 15 miles of the clinic;

35 “(b) The prescription is dispensed for a patient outside of the normal business hours of
36 any pharmacy within 15 miles of the clinic; or

37 “(c) No pharmacy within 15 miles of the clinic dispenses legend drugs under this chapter.

38 “[(6)] (7) Notwithstanding ORS 414.334, the authority may conduct prospective drug utilization
39 review prior to payment for drugs for a patient whose prescription drug use exceeded 15 drugs in
40 the preceding six-month period.

41 “[(7)] (8) Notwithstanding subsection (3) of this section, the authority may pay a pharmacy for
42 a particular brand name drug rather than the generic version of the drug after notifying the phar-
43 macy that the cost of the particular brand name drug, after receiving discounted prices and rebates,
44 is equal to or less than the cost of the generic version of the drug.

45 “[(8)(a)] (9)(a) Within 180 days after the United States patent expires on an immunosuppressant

1 drug used in connection with an organ transplant, the authority shall determine whether the drug
2 is a narrow therapeutic index drug.

3 “(b) As used in this subsection, ‘narrow therapeutic index drug’ means a drug that has a narrow
4 range in blood concentrations between efficacy and toxicity and requires therapeutic drug concen-
5 tration or pharmacodynamic monitoring.

6 “[9] *The authority shall appoint an advisory committee in accordance with ORS 183.333 for any*
7 *rulemaking conducted pursuant to this section.*]

8 “**SECTION 9.** ORS 414.334, as amended by section 3 of this 2009 Act, is amended to read:

9 “414.334. (1) The Department of Human Services shall adopt a Practitioner-Managed Pre-
10 scription Drug Plan for the medical assistance program. The purpose of the plan is to ensure that
11 enrollees of the medical assistance program receive the most effective prescription drug available
12 at the best possible price.

13 “(2) Before adopting the plan, the department shall conduct public meetings and consult with the
14 Health Resources Commission.

15 “(3) The department shall consult with representatives of the regulatory boards and associations
16 representing practitioners who are prescribers under the medical assistance program and ensure
17 that practitioners receive educational materials and have access to training on the Practitioner-
18 Managed Prescription Drug Plan.

19 “(4) **Notwithstanding the Practitioner-Managed Prescription Drug Plan adopted by the**
20 **department, a practitioner may prescribe any drug that the practitioner indicates is med-**
21 **ically necessary for an enrollee as being the most effective available.**

22 “[4] (5) An enrollee may appeal to the department a decision of a practitioner or the depart-
23 ment to not provide a prescription drug requested by the enrollee.

24 “[5] (6) This section does not limit the decision of a practitioner as to the scope and duration
25 of treatment of chronic conditions, including but not limited to arthritis, diabetes and asthma.

26 “**SECTION 10. If House Bill 2009 becomes law, section 9 of this 2009 Act (amending ORS**
27 **414.334) is repealed and ORS 414.334, as amended by section 299, chapter _____, Oregon**
28 **Laws 2009 (Enrolled House Bill 2009), and section 4 of this 2009 Act, is amended to read:**

29 “414.334. (1) The Oregon Health Authority shall adopt a Practitioner-Managed Prescription Drug
30 Plan for the medical assistance program. The purpose of the plan is to ensure that enrollees of the
31 medical assistance program receive the most effective prescription drug available at the best possi-
32 ble price.

33 “(2) Before adopting the plan, the authority shall conduct public meetings and consult with the
34 Health Resources Commission.

35 “(3) The authority shall consult with representatives of the regulatory boards and associations
36 representing practitioners who are prescribers under the medical assistance program and ensure
37 that practitioners receive educational materials and have access to training on the Practitioner-
38 Managed Prescription Drug Plan.

39 “(4) **Notwithstanding the Practitioner-Managed Prescription Drug Plan adopted by the**
40 **authority, a practitioner may prescribe any drug that the practitioner indicates is medically**
41 **necessary for an enrollee as being the most effective available.**

42 “[4] (5) An enrollee may appeal to the authority a decision of a practitioner or the authority
43 to not provide a prescription drug requested by the enrollee.

44 “[5] (6) This section does not limit the decision of a practitioner as to the scope and duration
45 of treatment of chronic conditions, including but not limited to arthritis, diabetes and asthma.

1 “**SECTION 11.** The Department of Human Services may not adopt or amend any rule that
2 requires a prescribing practitioner to contact the department to request an exception for a
3 medically appropriate or medically necessary drug that is not listed on the Practitioner-
4 Managed Prescription Drug Plan drug list for that class of drugs adopted under ORS 414.334,
5 unless otherwise authorized by enabling legislation setting forth the requirement for prior
6 authorization.

7 “**SECTION 12.** If House Bill 2009 becomes law, section 11 of this 2009 Act is amended to read:

8 “**Sec. 11.** The [*Department of Human Services*] **Oregon Health Authority** may not adopt or
9 amend any rule that requires a prescribing practitioner to contact the [*department*] **authority** to
10 request an exception for a medically appropriate or medically necessary drug that is not listed on
11 the Practitioner-Managed Prescription Drug Plan drug list for that class of drugs adopted under
12 ORS 414.334, unless otherwise authorized by enabling legislation setting forth the requirement for
13 prior authorization.

14 “**SECTION 13.** The amendments to ORS 414.325 and 414.334 by sections 7 to 10 of this 2009
15 Act become operative on January 2, 2014.

16 “**SECTION 14.** ORS 414.336 is repealed.

17 “**SECTION 15.** If House Bill 2009 becomes law, section 300, chapter _____, Oregon Laws
18 2009 (Enrolled House Bill 2009) (amending ORS 414.336), is repealed.

19 “**SECTION 16.** If House Bill 2009, House Bill 2129 and Senate Bill 876 all become law, section
20 2, chapter ___, Oregon Laws 2009 (Enrolled Senate Bill 876), as amended by section 36, chapter ___,
21 Oregon Laws 2009 (Enrolled House Bill 2129), is amended to read:

22 “**Sec. 2.** Notwithstanding ORS 414.325 [(9)(a)] **(8)(a)**, if the United States patent on an
23 immunosuppressant drug used in connection with an organ transplant expired on or after July 1,
24 2007, and before the effective date of chapter ___, Oregon Laws 2009 (Enrolled Senate Bill 876), the
25 Oregon Health Authority shall determine whether the drug is a narrow therapeutic index drug as
26 defined in ORS 414.325 [(9)(b)] **(8)(b)** before January 1, 2010.

27 “**SECTION 17.** ORS 414.735 is amended to read:

28 “414.735. (1) If insufficient resources are available during a contract period:

29 “(a) The population of eligible persons determined by law shall not be reduced.

30 “(b) The reimbursement rate for providers and plans established under the contractual agree-
31 ment shall not be reduced.

32 “(2) In the circumstances described in subsection (1) of this section, reimbursement shall be ad-
33 justed by reducing the health services for the eligible population by eliminating services in the order
34 of priority recommended by the Health Services Commission, starting with the least important and
35 progressing toward the most important.

36 “(3) The Department of Human Services shall obtain the approval of the Legislative Assembly,
37 or **the** Emergency Board[,] if the Legislative Assembly is not in session, before instituting the re-
38 ductions. In addition, providers contracting to provide health services under ORS 414.705 to 414.750
39 must be notified at least two weeks prior to any legislative consideration of such reductions. Any
40 reductions made under this section shall take effect no sooner than 60 days following final legisla-
41 tive action approving the reductions.

42 “(4) **This section does not apply to reductions made by the Legislative Assembly in a**
43 **legislatively adopted or approved budget.**

44 “**SECTION 18.** If House Bill 2009 becomes law, section 17 of this 2009 Act (amending ORS
45 414.735) is repealed and ORS 414.735, as amended by 328, chapter _____, Oregon Laws 2009

1 **(Enrolled House Bill 2009), is amended to read:**

2 “414.735. (1) If insufficient resources are available during a contract period:

3 “(a) The population of eligible persons determined by law shall not be reduced.

4 “(b) The reimbursement rate for providers and plans established under the contractual agree-
5 ment shall not be reduced.

6 “(2) In the circumstances described in subsection (1) of this section, reimbursement shall be ad-
7 justed by reducing the health services for the eligible population by eliminating services in the order
8 of priority recommended by the Health Services Commission, starting with the least important and
9 progressing toward the most important.

10 “(3) The Oregon Health Policy Board shall obtain the approval of the Legislative Assembly, or
11 **the** Emergency Board[,] if the Legislative Assembly is not in session, before instituting the re-
12 ductions. In addition, providers contracting to provide health services under ORS 414.705 to 414.750
13 must be notified at least two weeks prior to any legislative consideration of such reductions. Any
14 reductions made under this section shall take effect no sooner than 60 days following final legisla-
15 tive action approving the reductions.

16 “(4) **This section does not apply to reductions made by the Legislative Assembly in a**
17 **legislatively adopted or approved budget.**

18 “**SECTION 19. Notwithstanding section 24, chapter 736, Oregon Laws 2003, for the**
19 **biennium beginning July 1, 2009, the Department of Human Services may limit the adminis-**
20 **trative cost and property expense components of the allowable costs that are reimbursed**
21 **pursuant to section 24 (4)(f), chapter 736, Oregon Laws 2003, in accordance with the**
22 **legislatively adopted budget.**

23 “**SECTION 20. Section 19 of this 2009 Act is repealed on June 30, 2011.**

24 “**SECTION 21. Notwithstanding ORS 461.549, the amount allocated from the Administra-**
25 **tive Services Economic Development Fund to the Problem Gambling Treatment Fund under**
26 **ORS 461.549, in the fiscal year beginning July 1, 2009, is reduced by \$2,120,912.**

27 “**SECTION 22. For the biennium beginning July 1, 2009, the Department of Human Ser-**
28 **vices is authorized to implement one or more of the following reductions in temporary as-**
29 **sistance for needy families. The department may, notwithstanding ORS 411.070 and 412.009:**

30 “(1) Deny aid to a family in which a caretaker relative is disqualified from receiving un-
31 employment insurance based upon the reason for the separation from employment.

32 “(2) Reduce the monthly aid paid to a family under ORS 412.124 to \$100 for the period
33 ending September 30, 2010, and to \$50 for the period beginning October 1, 2010.

34 “(3) Establish an income eligibility limit equal to 185 percent of the federal poverty
35 guidelines for aid to a dependent child residing with a caretaker relative who is not the
36 child’s parent.

37 “(4) Restrict access to activities that promote family stability and financial independence
38 described in ORS 412.006 (5).

39 “(5) Deny employment-related day care assistance to a parent who is self-employed.

40 “(6) Eliminate the reduced copayment required for employment-related day care assist-
41 ance in the first month of employment.

42 “(7) Beginning July 1, 2010, restrict employment-related day care assistance to those
43 families that have received temporary assistance for needy families in the 24-month period
44 prior to the date of application for employment-related day care assistance.

45 “**SECTION 23. This 2009 Act being necessary for the immediate preservation of the public**

1 **peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect**
2 **July 1, 2009.”**

3
