

# House Bill 3235

Sponsored by Representative THOMPSON; Representatives HUFFMAN, MAURER, Senator TELFER

## 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 Office of Rural Health to certify pharmacists providing services in critical access pharmacies for purposes of tax credit. Defines "critical access pharmacy."

Requires administrator of Oregon Prescription Drug Program to negotiate with drug manufacturers or purchase drugs in bulk in order to receive discounted prices and rebates. Requires administrator to establish different reimbursement rates or drug prices for critical access pharmacies. Prohibits administrator from contracting with prescription drug claims processor for handling claims of critical access pharmacy.

Authorizes administrator to choose not to contract with prescription drug claims processor.

## A BILL FOR AN ACT

1  
2 Relating to prescription drug sales; creating new provisions; and amending ORS 414.312.

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

4 **SECTION 1. (1) As used in this section, "critical access pharmacy" means a pharmacy**  
5 **that:**

6 **(a) Is not part of a group of six or more pharmacies under common ownership;**

7 **(b) Is located in a medically underserved rural community in Oregon; and**

8 **(c)(A) Is more than a 35-mile drive from any other pharmacy; or**

9 **(B) Is more than a 15-mile drive from another pharmacy and located in an area:**

10 **(i) Of mountainous terrain; or**

11 **(ii) With only secondary roads available.**

12 **(2) The Office of Rural Health shall establish criteria for certifying individuals who are**  
13 **licensed as pharmacists under ORS chapter 689 as eligible for the tax credit authorized by**  
14 **section 2 of this 2009 Act. The office shall certify individuals as eligible for the tax credit if**  
15 **the office finds that the individual is providing services in a critical access pharmacy and**  
16 **otherwise meets the eligibility criteria established by the office.**

17 **SECTION 2. Section 3 of this 2009 Act is added to and made a part of ORS chapter 315.**

18 **SECTION 3. (1) A resident individual licensed as a pharmacist under ORS chapter 689**  
19 **who is certified by the Office of Rural Health under section 1 of this 2009 Act as providing**  
20 **services in a critical access pharmacy and eligible for a tax credit is entitled to an annual**  
21 **credit against taxes due under ORS chapter 316 during the time in which the individual is**  
22 **actively providing services in a critical access pharmacy.**

23 **(2) The tax credit allowed under this section shall be in an amount equal to the difference**  
24 **between the cost of prescription drugs sold by the pharmacy and the reimbursement made**  
25 **by the Oregon Prescription Drug Program for such drugs, which shall be prorated among**  
26 **all pharmacists with an ownership interest.**

27 **(3) A nonresident shall be allowed the credit under this section in the proportion provided**  
28 **in ORS 316.117. If a change in the status of a taxpayer from resident to nonresident or from**

**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.

1 **nonresident to resident occurs, the credit allowed by this section shall be determined in a**  
2 **manner consistent with ORS 316.117.**

3 **SECTION 4.** ORS 414.312 is amended to read:

4 414.312. (1) As used in ORS 414.312 to 414.318:

5 **(a) “Critical access pharmacy” has the meaning given that term in section 1 of this 2009**  
6 **Act.**

7 [(a)] **(b)** “Pharmacy benefit manager” means an entity that, in addition to being a prescription  
8 drug claims processor, negotiates and executes contracts with pharmacies, manages preferred drug  
9 lists, negotiates rebates with prescription drug manufacturers and serves as an intermediary be-  
10 tween the Oregon Prescription Drug Program, prescription drug manufacturers and pharmacies.

11 [(b)] **(c)** “Prescription drug claims processor” means an entity that processes and pays pre-  
12 scription drug claims, adjudicates pharmacy claims, transmits prescription drug prices and claims  
13 data between pharmacies and the Oregon Prescription Drug Program and processes related pay-  
14 ments to pharmacies.

15 [(c)] **(d)** “Program price” means the reimbursement rates and prescription drug prices estab-  
16 lished by the administrator of the Oregon Prescription Drug Program.

17 (2) The Oregon Prescription Drug Program is established in the Department of Human Services.  
18 The purpose of the program is to:

19 (a) [*Purchase prescription drugs or reimburse pharmacies for prescription drugs*] **Purchase pre-**  
20 **scription drugs in bulk or negotiate with prescription drug manufacturers or pharmacies in**  
21 **order to receive discounted prices and rebates;**

22 (b) Make prescription drugs available at the lowest possible cost to participants in the program;  
23 and

24 (c) Maintain a list of prescription drugs recommended as the most effective prescription drugs  
25 available at the best possible prices.

26 (3) The Director of Human Services shall appoint an administrator of the Oregon Prescription  
27 Drug Program. The administrator shall:

28 (a) Negotiate price discounts and rebates on prescription drugs with prescription drug man-  
29 ufacturers;

30 (b) Purchase prescription drugs on behalf of individuals and entities that participate in the  
31 program;

32 (c) **Except with respect to critical access pharmacies,** contract with a prescription drug  
33 claims processor to adjudicate pharmacy claims and transmit program prices to pharmacies;

34 (d) Determine program prices and reimburse pharmacies for prescription drugs;

35 (e) Adopt and implement a preferred drug list for the program;

36 (f) Develop a system for allocating and distributing the operational costs of the program and any  
37 rebates obtained to participants of the program; and

38 (g) Cooperate with other states or regional consortia in the bulk purchase of prescription drugs.

39 (4) The following individuals or entities may participate in the program:

40 (a) Public Employees’ Benefit Board;

41 (b) Local governments as defined in ORS 174.116 and special government bodies as defined in  
42 ORS 174.117 that directly or indirectly purchase prescription drugs;

43 (c) Enrollees in the Senior Prescription Drug Assistance Program created under ORS 414.342;

44 (d) Oregon Health and Science University established under ORS 353.020;

45 (e) State agencies that directly or indirectly purchase prescription drugs, including agencies that

1 dispense prescription drugs directly to persons in state-operated facilities;

2 (f) Residents of this state who lack or are underinsured for prescription drug coverage;

3 (g) Private entities; and

4 (h) Labor organizations.

5 (5) The state agency that receives federal Medicaid funds and is responsible for implementing  
6 the state's medical assistance program may not participate in the program.

7 (6) The administrator [*may*] **shall** establish different reimbursement rates or prescription drug  
8 prices for **critical access** pharmacies [*in rural areas to maintain*] **to ensure** statewide access to the  
9 program.

10 (7) The administrator shall establish the terms and conditions for a pharmacy to enroll in the  
11 program. A licensed pharmacy that is willing to accept the terms and conditions established by the  
12 administrator may apply to enroll in the program.

13 (8) Except as provided in subsection (9) of this section, the administrator may not:

14 (a) Contract with a pharmacy benefit manager;

15 (b) Establish a state-managed [*wholesale or*] retail drug distribution or dispensing system; or

16 (c) Require pharmacies to maintain or allocate separate inventories for prescription drugs dis-  
17 pensed through the program.

18 (9) The administrator [*shall*] **may** contract with one or more entities to provide the functions  
19 of a prescription drug claims processor. The administrator may also contract with a pharmacy ben-  
20 efit manager to negotiate with prescription drug manufacturers on behalf of the administrator.

21 (10) Notwithstanding subsection (4)(f) of this section, individuals who are eligible for Medicare  
22 Part D prescription drug coverage may participate in the program.

23