

Senate Bill 864

Sponsored by Senator WALKER (at the request of Oregon Rheumatology Alliance)

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**.

Prohibits insurance policy or contract with prescription drug coverage from excluding coverage for drugs that are prescribed for covered condition and for which no generic equivalent is available, if in clinical judgment of prescribing physician there is no appropriate therapeutic alternative.

A BILL FOR AN ACT

1
2 Relating to insurance coverage of prescription drugs; creating new provisions; and amending ORS
3 743A.062 and 750.333.

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

5 **SECTION 1.** ORS 743A.062 is amended to read:

6 743A.062. *[(1) No insurance policy or contract providing coverage for a prescription drug to a*
7 *resident of this state shall exclude coverage of that drug for a particular indication solely on the*
8 *grounds that the indication has not been approved by the United States Food and Drug Administration*
9 *if the Health Resources Commission determines that the drug is recognized as effective for the treatment*
10 *of that indication:]*

11 **(1) An insurance policy or contract providing coverage for prescription drugs may not**
12 **exclude coverage of a drug prescribed for treatment of a covered condition:**

13 **(a) If there is no generic equivalent and, in the clinical judgment of the prescribing phy-**
14 **sician, there is no appropriate therapeutic alternative.**

15 **(b) Solely on the grounds that the drug has not been approved by the United States Food**
16 **and Drug Administration for treatment of the covered condition if the Health Resources**
17 **Commission determines that the drug is recognized as effective for the treatment of that**
18 **covered condition:**

19 *[(a)]* **(A)** In publications that the commission determines to be equivalent to:

20 *[(A)]* **(i)** The American Hospital Formulary Services drug information;

21 *[(B)]* **(ii)** "Drug Facts and Comparisons" (Lippincott-Raven Publishers);

22 *[(C)]* **(iii)** The United States Pharmacopoeia drug information; or

23 *[(D)]* **(iv)** Other publications that have been identified by the United States Secretary of Health
24 and Human Services as authoritative;

25 *[(b)]* **(B)** In the majority of relevant peer-reviewed medical literature; or

26 *[(c)]* **(C)** By the United States Secretary of Health and Human Services.

27 **(2)** Required coverage of a prescription drug under this section shall include coverage for med-
28 ically necessary services associated with the administration of that drug.

29 **(3)** Nothing in this section requires coverage for any prescription drug if the United States Food
30 and Drug Administration has determined use of the drug to be contraindicated.

31 **(4)** Nothing in this section requires coverage for experimental drugs not approved for any indi-

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 cation by the United States Food and Drug Administration.

2 (5) This section is exempt from ORS 743A.001.

3 **SECTION 2.** ORS 750.333, as amended by section 7, chapter 22, Oregon Laws 2008, is amended
4 to read:

5 750.333. (1) The following provisions of the Insurance Code apply to trusts carrying out a mul-
6 tiple employer welfare arrangement:

7 (a) ORS 731.004 to 731.150, 731.162, 731.216 to 731.268, 731.296 to 731.316, 731.324, 731.328,
8 731.378, 731.386, 731.390, 731.398, 731.406, 731.410, 731.414, 731.418 to 731.434, 731.454, 731.484,
9 731.486, 731.488, 731.512, 731.574 to 731.620, 731.640 to 731.652 and 731.804 to 731.992.

10 (b) ORS 733.010 to 733.050, 733.140 to 733.170, 733.210, 733.510 to 733.680 and 733.695 to 733.780.

11 (c) ORS chapter 734.

12 (d) ORS 742.001 to 742.009, 742.013, 742.061 and 742.400.

13 (e) ORS 743.028, 743.053, 743.524, 743.526, 743.527, 743.528, 743.529, 743.530, 743.560, 743.562,
14 743.600, 743.601, 743.602, 743.610, 743.730 to 743.773 (except 743.760 to 743.773), 743.801, 743.804,
15 743.807, 743.808, 743.814 to 743.839, 743.842, 743.845, 743.847, 743.854, 743.856, 743.857, 743.858,
16 743.859, 743.861, 743.862, 743.863, 743.864, 743A.012, 743A.064, 743A.080, 743A.100, 743A.104, 743A.110
17 and 743A.184.

18 (f) ORS 743A.010, 743A.014, 743A.024, 743A.028, 743A.032, 743A.036, 743A.040, 743A.044,
19 743A.048, **743A.062**, 743A.066, 743A.068, 743A.084, 743A.088, 743A.090, 743A.140, 743A.148, 743A.168,
20 743A.180, 743A.188 and 743A.190. Multiple employer welfare arrangements to which ORS 743.730 to
21 743.773 apply are subject to the sections referred to in this paragraph only as provided in ORS
22 743.730 to 743.773.

23 (g) Provisions of ORS chapter 744 relating to the regulation of insurance producers and insur-
24 ance consultants, and ORS 744.700 to 744.740.

25 (h) ORS 746.005 to 746.140, 746.160 and 746.220 to 746.370.

26 (i) ORS 731.592 and 731.594.

27 (j) Section 2, chapter 22, Oregon Laws 2008.

28 (2) For the purposes of this section:

29 (a) A trust carrying out a multiple employer welfare arrangement shall be considered an insurer.

30 (b) References to certificates of authority shall be considered references to certificates of mul-
31 tiple employer welfare arrangement.

32 (c) Contributions shall be considered premiums.

33 (3) The provision of health benefits under ORS 750.301 to 750.341 shall be considered to be the
34 transaction of health insurance.

35 **SECTION 3.** ORS 750.333, as amended by section 4, chapter 263, Oregon Laws 2003, section 11,
36 chapter 182, Oregon Laws 2007, section 8, chapter 313, Oregon Laws 2007, section 6, chapter 504,
37 Oregon Laws 2007, section 6, chapter 566, Oregon Laws 2007, section 6, chapter 872, Oregon Laws
38 2007, and section 8, chapter 22, Oregon Laws 2008, is amended to read:

39 750.333. (1) The following provisions of the Insurance Code apply to trusts carrying out a mul-
40 tiple employer welfare arrangement:

41 (a) ORS 731.004 to 731.150, 731.162, 731.216 to 731.268, 731.296 to 731.316, 731.324, 731.328,
42 731.378, 731.386, 731.390, 731.398, 731.406, 731.410, 731.414, 731.418 to 731.434, 731.454, 731.484,
43 731.486, 731.488, 731.512, 731.574 to 731.620, 731.640 to 731.652 and 731.804 to 731.992.

44 (b) ORS 733.010 to 733.050, 733.140 to 733.170, 733.210, 733.510 to 733.680 and 733.695 to 733.780.

45 (c) ORS chapter 734.

- 1 (d) ORS 742.001 to 742.009, 742.013, 742.061 and 742.400.
- 2 (e) ORS 743.028, 743.053, 743.524, 743.526, 743.527, 743.528, 743.529, 743.530, 743.560, 743.562,
3 743.600, 743.601, 743.602, 743.610, 743.730 to 743.773 (except 743.760 to 743.773), 743.801, 743.804,
4 743.807, 743.808, 743.814 to 743.839, 743.842, 743.845, 743.847, 743.854, 743.856, 743.857, 743.858,
5 743.859, 743.861, 743.862, 743.863, 743.864, 743A.012, 743A.064, 743A.080, 743A.100, 743A.104, 743A.110
6 and 743A.184.
- 7 (f) ORS 743A.010, 743A.014, 743A.024, 743A.028, 743A.032, 743A.036, 743A.040, 743A.044,
8 743A.048, **743A.062**, 743A.066, 743A.068, 743A.084, 743A.088, 743A.090, 743A.140, 743A.148, 743A.168,
9 743A.180 and 743A.190. Multiple employer welfare arrangements to which ORS 743.730 to 743.773
10 apply are subject to the sections referred to in this paragraph only as provided in ORS 743.730 to
11 743.773.
- 12 (g) Provisions of ORS chapter 744 relating to the regulation of insurance producers and insur-
13 ance consultants, and ORS 744.700 to 744.740.
- 14 (h) ORS 746.005 to 746.140, 746.160 and 746.220 to 746.370.
- 15 (i) ORS 731.592 and 731.594.
- 16 (j) Section 2, chapter 22, Oregon Laws 2008.
- 17 (2) For the purposes of this section:
- 18 (a) A trust carrying out a multiple employer welfare arrangement shall be considered an insurer.
- 19 (b) References to certificates of authority shall be considered references to certificates of mul-
20 tiple employer welfare arrangement.
- 21 (c) Contributions shall be considered premiums.
- 22 (3) The provision of health benefits under ORS 750.301 to 750.341 shall be considered to be the
23 transaction of health insurance.
- 24 **SECTION 4.** ORS 750.333, as amended by section 8, chapter 137, Oregon Laws 2003, section 4,
25 chapter 263, Oregon Laws 2003, section 3, chapter 446, Oregon Laws 2003, section 6, chapter 418,
26 Oregon Laws 2005, section 12, chapter 182, Oregon Laws 2007, section 9, chapter 313, Oregon Laws
27 2007, section 7, chapter 504, Oregon Laws 2007, section 7, chapter 566, Oregon Laws 2007, section
28 7, chapter 872, Oregon Laws 2007, and section 9, chapter 22, Oregon Laws 2008, is amended to read:
- 29 750.333. (1) The following provisions of the Insurance Code apply to trusts carrying out a mul-
30 tiple employer welfare arrangement:
- 31 (a) ORS 731.004 to 731.150, 731.162, 731.216 to 731.268, 731.296 to 731.316, 731.324, 731.328,
32 731.378, 731.386, 731.390, 731.398, 731.406, 731.410, 731.414, 731.418 to 731.434, 731.454, 731.484,
33 731.486, 731.488, 731.512, 731.574 to 731.620, 731.640 to 731.652 and 731.804 to 731.992.
- 34 (b) ORS 733.010 to 733.050, 733.140 to 733.170, 733.210, 733.510 to 733.680 and 733.695 to 733.780.
- 35 (c) ORS chapter 734.
- 36 (d) ORS 742.001 to 742.009, 742.013, 742.061 and 742.400.
- 37 (e) ORS 743.028, 743.053, 743.524, 743.526, 743.527, 743.528, 743.529, 743.530, 743.560, 743.562,
38 743.600, 743.601, 743.602, 743.610, 743.730 to 743.773 (except 743.760 to 743.773), 743.801, 743.804,
39 743.807, 743.808, 743.814 to 743.839, 743.842, 743.845, 743.847, 743.854, 743.856, 743.857, 743.858,
40 743.859, 743.861, 743.862, 743.863, 743.864, 743A.012, 743A.064, 743A.080, 743A.100, 743A.104, 743A.110
41 and 743A.184.
- 42 (f) ORS 743A.010, 743A.014, 743A.024, 743A.028, 743A.032, 743A.036, 743A.040, 743A.048,
43 **743A.062**, 743A.066, 743A.068, 743A.084, 743A.088, 743A.090, 743A.140, 743A.148, 743A.168, 743A.180
44 and 743A.190. Multiple employer welfare arrangements to which ORS 743.730 to 743.773 apply are
45 subject to the sections referred to in this paragraph only as provided in ORS 743.730 to 743.773.

1 (g) Provisions of ORS chapter 744 relating to the regulation of insurance producers and insur-
2 ance consultants, and ORS 744.700 to 744.740.

3 (h) ORS 746.005 to 746.140, 746.160 and 746.220 to 746.370.

4 (i) ORS 731.592 and 731.594.

5 (j) Section 2, chapter 22, Oregon Laws 2008.

6 (2) For the purposes of this section:

7 (a) A trust carrying out a multiple employer welfare arrangement shall be considered an insurer.

8 (b) References to certificates of authority shall be considered references to certificates of mul-
9 tiple employer welfare arrangement.

10 (c) Contributions shall be considered premiums.

11 (3) The provision of health benefits under ORS 750.301 to 750.341 shall be considered to be the
12 transaction of health insurance.

13 **SECTION 5. The amendments to ORS 743A.062 and 750.333 by sections 1 to 4 of this 2009**
14 **Act apply to policies or contracts of insurance delivered or renewed on or after the effective**
15 **date of this 2009 Act.**

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