

HOUSE AMENDMENTS TO HOUSE BILL 2090

By COMMITTEE ON HEALTH CARE

April 9

- 1 On page 1 of the printed bill, line 3, delete “and 414.334” and delete “ORS 414.337 and”.
- 2 Delete lines 5 through 30 and delete pages 2 through 4 and insert:
- 3 “**SECTION 1.** ORS 414.325, as amended by section 8, chapter 827, Oregon Laws 2009, is
- 4 amended to read:
- 5 “414.325. (1) As used in this section:
- 6 “(a) ‘Legend drug’ means any drug requiring a prescription by a practitioner, as defined in ORS
- 7 689.005.
- 8 “(b) ‘**Mental health drug**’ means a type of legend drug defined by the Oregon Health Au-
- 9 **thority by rule that includes, but is not limited to:**
- 10 “(A) **Therapeutic class 7 ataractics-tranquilizers; and**
- 11 “(B) **Therapeutic class 11 psychostimulants-antidepressants.**
- 12 “[*(b)*] (c) ‘Urgent medical condition’ means a medical condition that arises suddenly, is not life-
- 13 threatening and requires prompt treatment to avoid the development of more serious medical prob-
- 14 lems.
- 15 “[*(2)*] *A licensed practitioner may prescribe such drugs under this chapter as the practitioner in the*
- 16 *exercise of professional judgment considers appropriate for the diagnosis or treatment of the patient in*
- 17 *the practitioner’s care and within the scope of practice. Prescriptions shall be dispensed in the generic*
- 18 *form pursuant to ORS 689.515 and pursuant to rules of the Oregon Health Authority unless the prac-*
- 19 *titioner prescribes otherwise and an exception is granted by the authority.]*
- 20 “[*(3)*] *Except as provided in subsections (4) and (5) of this section, the authority shall place no limit*
- 21 *on the type of legend drug that may be prescribed by a practitioner, but the authority shall pay only*
- 22 *for drugs in the generic form unless an exception has been granted by the authority.]*
- 23 “[*(4)*] *Notwithstanding subsection (3) of this section, an exception must be applied for and granted*
- 24 *before the authority is required to pay for minor tranquilizers and amphetamines and amphetamine*
- 25 *derivatives, as defined by rule of the authority.]*
- 26 “(2) **The Oregon Health Authority shall reimburse the cost of a legend drug prescribed**
- 27 **for a recipient of medical assistance only if the legend drug:**
- 28 “(a) **Is on the drug list of the Practitioner-Managed Prescription Drug Plan adopted un-**
- 29 **der ORS 414.334;**
- 30 “(b) **Is in a therapeutic class of nonsedating antihistamines and nasal inhalers, as defined**
- 31 **by the authority by rule, and is prescribed by an allergist for treatment of:**
- 32 “(A) **Asthma;**
- 33 “(B) **Sinusitis;**
- 34 “(C) **Rhinitis; or**
- 35 “(D) **Allergies; or**

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

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

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

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

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

10 “(4) The authority shall reimburse the cost of a legend drug that does not meet the cri-
11 teria in subsection (2) of this section if:

12 “(a) It is a mental health drug;

13 “(b) The authority grants approval using a prior authorization process adopted by the
14 authority by rule;

15 “(c) The prescriber contacts the authority requesting prior authorization and the au-
16 thority or its agent fails to respond within 24 hours to the telephone call or to a prescriber’s
17 request made through electronic mail;

18 “(d) After consultation with the authority or the authority’s agent, the prescriber, in the
19 prescriber’s professional judgment, determines that the drug is medically appropriate;

20 “(e) The original prescription was written prior to July 28, 2009, or the request is for a
21 refill of a prescription for:

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

23 “(B) An immunosuppressant; or

24 “(f) The drug is in a class not evaluated for the Practitioner-Managed Prescription Drug
25 Plan adopted under ORS 414.334.

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

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

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

33 “(c) Withhold payment for a legend drug that is not a funded health service on the pri-
34 oritized list of health services developed and updated by the Health Evidence Review Com-
35 mission under ORS 414.690.

36 “[(b) *The authority may not require prior authorization for therapeutic classes of nonsedating*
37 *antihistamines and nasal inhalers, as defined by rule by the authority, when prescribed by an allergist*
38 *for treatment of any of the following conditions, as described by the Health Evidence Review Commis-*
39 *sion on the funded portion of its prioritized list of services:]*

40 “[(A) *Asthma;*]

41 “[(B) *Sinusitis;*]

42 “[(C) *Rhinitis; or*]

43 “[(D) *Allergies.*]

44 “[(6) *The authority shall pay a rural health clinic for a legend drug prescribed and dispensed un-*
45 *der this chapter by a licensed practitioner at the rural health clinic for an urgent medical condition*

1 *if:]*
2 *“(a) There is not a pharmacy within 15 miles of the clinic;]*
3 *“(b) The prescription is dispensed for a patient outside of the normal business hours of any*
4 *pharmacy within 15 miles of the clinic; or]*
5 *“(c) No pharmacy within 15 miles of the clinic dispenses legend drugs under this chapter.]*
6 *“(7) (6) Notwithstanding ORS 414.334, the authority may conduct prospective drug utilization*
7 *review prior to payment for drugs for a patient whose prescription drug use exceeded 15 drugs in*
8 *the preceding six-month period.*
9 *“(8) (7) Notwithstanding subsection (3) of this section, the authority may pay a pharmacy for*
10 *a particular brand name drug rather than the generic version of the drug after notifying the phar-*
11 *macy that the cost of the particular brand name drug, after receiving discounted prices and rebates,*
12 *is equal to or less than the cost of the generic version of the drug.*
13 *“(9)(a) (8)(a) Within 180 days after the United States patent expires on an immunosuppressant*
14 *drug used in connection with an organ transplant, the authority shall determine whether the drug*
15 *is a narrow therapeutic index drug.*
16 *“(b) As used in this subsection, ‘narrow therapeutic index drug’ means a drug that has a narrow*
17 *range in blood concentrations between efficacy and toxicity and requires therapeutic drug concen-*
18 *tration or pharmacodynamic monitoring.*
19 **“(9) The authority shall appoint an advisory committee in accordance with ORS 183.333**
20 **for any rulemaking conducted to carry out this section.**
21 **“SECTION 2. Section 13, chapter 827, Oregon Laws 2009, is repealed.”.**
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