

Senate Bill 334

Sponsored by Senator WINTERS (Pre-session filed.)

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, until June 30, 2016, medical assistance coverage of prescription drugs that are immunosuppressant drugs or drugs for treatment of seizures, cancer, HIV or AIDS.

A BILL FOR AN ACT

1
2 Relating to payments for prescription drugs; creating new provisions; and amending ORS 414.325 and
3 section 13, chapter 827, Oregon Laws 2009.

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

5 **SECTION 1.** ORS 414.325, as amended by section 8, chapter 827, Oregon Laws 2009, is amended
6 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 (b) "Urgent medical condition" means a medical condition that arises suddenly, is not life-
11 threatening and requires prompt treatment to avoid the development of more serious medical prob-
12 lems.

13 (2) A licensed practitioner may prescribe such drugs under this chapter as the practitioner in
14 the exercise of professional judgment considers appropriate for the diagnosis or treatment of the
15 patient in the practitioner's care and within the scope of practice. Prescriptions shall be dispensed
16 in the generic form pursuant to ORS 689.515 and pursuant to rules of the Oregon Health Authority
17 unless the practitioner prescribes otherwise and an exception is granted by the authority.

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

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

24 (5)(a) Notwithstanding subsections (1) to (4) of this section and except as provided in paragraph
25 (b) of this subsection, the authority is authorized to:

26 (A) Withhold payment for a legend drug when federal financial participation is not available;
27 and

28 (B) Require prior authorization of payment for drugs that the authority has determined should
29 be limited to those conditions generally recognized as appropriate by the medical profession.

30 (b) The authority may not require prior authorization for:

31 (A) Therapeutic classes of non-sedating antihistamines and nasal inhalers, as defined by rule by

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 the authority, when prescribed by an allergist for treatment of any of the following conditions, as
 2 described by the Health Evidence Review Commission on the funded portion of its prioritized list
 3 of services:

4 [(A)] (i) Asthma;

5 [(B)] (ii) Sinusitis;

6 [(C)] (iii) Rhinitis; or

7 [(D)] (iv) Allergies[.]; or

8 **(B) A drug indicated for the treatment of seizures, cancer, HIV or AIDS or an**
 9 **immunosuppressant drug.**

10 (6) The authority shall pay a rural health clinic for a legend drug prescribed and dispensed un-
 11 der this chapter by a licensed practitioner at the rural health clinic for an urgent medical condition
 12 if:

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

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

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

17 (7) Notwithstanding ORS 414.334, the authority may conduct prospective drug utilization review
 18 prior to payment for drugs for a patient whose prescription drug use exceeded 15 drugs in the pre-
 19 ceding six-month period.

20 (8) Notwithstanding subsection (3) of this section, the authority may pay a pharmacy for a par-
 21 ticular brand name drug rather than the generic version of the drug after notifying the pharmacy
 22 that the cost of the particular brand name drug, after receiving discounted prices and rebates, is
 23 equal to or less than the cost of the generic version of the drug.

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

27 (b) As used in this subsection, “narrow therapeutic index drug” means a drug that has a narrow
 28 range in blood concentrations between efficacy and toxicity and requires therapeutic drug concen-
 29 tration or pharmacodynamic monitoring.

30 **SECTION 2.** ORS 414.325, as amended by section 8, chapter 827, Oregon Laws 2009, and section
 31 2 of this 2013 Act, is amended to read:

32 414.325. (1) As used in this section:

33 (a) “Legend drug” means any drug requiring a prescription by a practitioner, as defined in ORS
 34 689.005.

35 (b) “Urgent medical condition” means a medical condition that arises suddenly, is not life-
 36 threatening and requires prompt treatment to avoid the development of more serious medical prob-
 37 lems.

38 (2) A licensed practitioner may prescribe such drugs under this chapter as the practitioner in
 39 the exercise of professional judgment considers appropriate for the diagnosis or treatment of the
 40 patient in the practitioner’s care and within the scope of practice. Prescriptions shall be dispensed
 41 in the generic form pursuant to ORS 689.515 and pursuant to rules of the Oregon Health Authority
 42 unless the practitioner prescribes otherwise and an exception is granted by the authority.

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

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

4 (5)(a) Notwithstanding subsections (1) to (4) of this section and except as provided in paragraph
 5 (b) of this subsection, the authority is authorized to:

6 (A) Withhold payment for a legend drug when federal financial participation is not available;
 7 and

8 (B) Require prior authorization of payment for drugs that the authority has determined should
 9 be limited to those conditions generally recognized as appropriate by the medical profession.

10 (b) The authority may not require prior authorization for[:]

11 [(A)] therapeutic classes of nonsedating antihistamines and nasal inhalers, as defined by rule by
 12 the authority, when prescribed by an allergist for treatment of any of the following conditions, as
 13 described by the Health Evidence Review Commission on the funded portion of its prioritized list
 14 of services:

15 [(i)] (A) Asthma;

16 [(ii)] (B) Sinusitis;

17 [(iii)] (C) Rhinitis; or

18 [(iv)] (D) Allergies[; or].

19 [(B) A drug indicated for the treatment of seizures, cancer, HIV or AIDS or an
 20 immunosuppressant drug.]

21 (6) The authority shall pay a rural health clinic for a legend drug prescribed and dispensed un-
 22 der this chapter by a licensed practitioner at the rural health clinic for an urgent medical condition
 23 if:

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

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

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

28 (7) Notwithstanding ORS 414.334, the authority may conduct prospective drug utilization review
 29 prior to payment for drugs for a patient whose prescription drug use exceeded 15 drugs in the pre-
 30 ceding six-month period.

31 (8) Notwithstanding subsection (3) of this section, the authority may pay a pharmacy for a par-
 32 ticular brand name drug rather than the generic version of the drug after notifying the pharmacy
 33 that the cost of the particular brand name drug, after receiving discounted prices and rebates, is
 34 equal to or less than the cost of the generic version of the drug.

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

38 (b) As used in this subsection, “narrow therapeutic index drug” means a drug that has a narrow
 39 range in blood concentrations between efficacy and toxicity and requires therapeutic drug concen-
 40 tration or pharmacodynamic monitoring.

41 **SECTION 3.** Section 13, chapter 827, Oregon Laws 2009, is amended to read:

42 **Sec. 13. (1)** The amendments to ORS [414.325 and] 414.334 by [sections 7 to] **section 10**, [of this
 43 2009 Act] **chapter 827, Oregon Laws 2009**, become operative on January 2, 2014.

44 **(2) The amendments to ORS 414.325 by section 8, chapter 827, Oregon Laws 2009, become**
 45 **operative on January 1, 2014.**

