

**PROPOSED AMENDMENTS TO
HOUSE BILL 2090**

1 On page 1 of the printed bill, line 3, delete “and 414.334” and delete “ORS
2 414.337 and”.

3 Delete lines 5 through 30 and delete pages 2 through 4 and insert:

4 **“SECTION 1.** ORS 414.325, as amended by section 8, chapter 827, Oregon
5 Laws 2009, is amended to read:

6 “414.325. (1) As used in this section:

7 “(a) ‘Legend drug’ means any drug requiring a prescription by a practi-
8 tioner, as defined in ORS 689.005.

9 **“(b) ‘Mental health drug’ means a type of legend drug defined by**
10 **the Oregon Health Authority by rule that includes, but is not limited**
11 **to:**

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

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

14 “[~~(b)~~] (c) ‘Urgent medical condition’ means a medical condition that arises
15 suddenly, is not life-threatening and requires prompt treatment to avoid the
16 development of more serious medical problems.

17 “[~~(2)~~] *A licensed practitioner may prescribe such drugs under this chapter*
18 *as the practitioner in the exercise of professional judgment considers appro-*
19 *priate for the diagnosis or treatment of the patient in the practitioner’s care*
20 *and within the scope of practice. Prescriptions shall be dispensed in the ge-*
21 *neric form pursuant to ORS 689.515 and pursuant to rules of the Oregon*
22 *Health Authority unless the practitioner prescribes otherwise and an exception*

1 *is granted by the authority.]*

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

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

10 **“(2) The Oregon Health Authority shall reimburse the cost of a**
11 **legend drug prescribed for a recipient of medical assistance only if the**
12 **legend drug:**

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

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

18 **“(A) Asthma;**

19 **“(B) Sinusitis;**

20 **“(C) Rhinitis; or**

21 **“(D) Allergies; or**

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

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

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

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

1 **“(3) The authority shall pay only for drugs in the generic form un-**
2 **less an exception has been granted by the authority through the prior**
3 **authorization process adopted by the authority under subsection (4)**
4 **of this section.**

5 **“(4) The authority shall reimburse the cost of a legend drug that**
6 **does not meet the criteria in subsection (2) of this section if:**

7 **“(a) It is a mental health drug;**

8 **“(b) The authority grants approval using a prior authorization pro-**
9 **cess adopted by the authority by rule;**

10 **“(c) The prescriber contacts the authority requesting prior author-**
11 **ization and the authority or its agent fails to respond within 24 hours**
12 **to the telephone call or to a prescriber’s request made through elec-**
13 **tronic mail;**

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

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

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

20 **“(B) An immunosuppressant; or**

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

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

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

28 **“[(B)] (b) Require prior authorization of payment for drugs that the au-**
29 **thority has determined should be limited to those conditions generally re-**
30 **cognized as appropriate by the medical profession[.]; and**

1 **“(c) Withhold payment for a legend drug that is not a funded health**
2 **service on the prioritized list of health services developed and updated**
3 **by the Health Evidence Review Commission under ORS 414.690.**

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

9 *“(A) Asthma;]*

10 *“(B) Sinusitis;]*

11 *“(C) Rhinitis; or]*

12 *“(D) Allergies.]*

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

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

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

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

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

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

30 **“(9)(a) (8)(a) Within 180 days after the United States patent expires on**

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

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

8 **“(9) The authority shall appoint an advisory committee in accord-**
9 **ance with ORS 183.333 for any rulemaking conducted to carry out this**
10 **section.**

11 **“SECTION 2. Section 13, chapter 827, Oregon Laws 2009, is**
12 **repealed.”.**

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