

**PROPOSED AMENDMENTS TO
SENATE BILL 402**

1 On page 1 of the printed bill, line 2, delete “; and declaring an
2 emergency”.

3 Delete lines 7 through 31 and delete page 2 and insert:

4 “(b) ‘Maximum allowable cost’ means the maximum amount that a phar-
5 macy benefit manager will reimburse a pharmacy for the cost of a drug.

6 “(c) ‘Multiple source drug’ means a therapeutically equivalent drug that
7 is available from at least two manufacturers.

8 “(d) ‘Network pharmacy’ means a retail drug outlet registered under ORS
9 689.305 that contracts with a pharmacy benefit manager.

10 “(e) ‘Pharmacy benefit manager’ means a third party administrator that
11 contracts with an insurer or a self-insured employer to process claims for the
12 reimbursement of the costs of prescription drugs.

13 “(f) ‘Therapeutically equivalent’ means a drug is identified as
14 therapeutically and pharmaceutically equivalent or ‘A,’ ‘B’ or ‘Z’ rated by the
15 United States Food and Drug Administration.

16 “(2) A pharmacy benefit manager may not place a drug on a list unless:

17 “(a) There are at least two therapeutically equivalent, multiple source
18 drugs, or at least one generic drug available from only one manufacturer,
19 generally available for purchase by network pharmacies from national or
20 regional wholesalers; and

21 “(b) The drug is not obsolete.

22 “(3) A pharmacy benefit manager:

1 “(a) Shall provide to each network pharmacy at the beginning of the term
2 of the contract and upon each renewal of the contract, notice of the sources
3 used by the pharmacy benefit manager to determine maximum allowable
4 costs and the lists that apply to the network pharmacy;

5 “(b) Shall make its lists available to a network pharmacy in a format that
6 is readily accessible to and usable by the pharmacy;

7 “(c) Shall update the lists at least once every seven business days and
8 promptly notify network pharmacies of any changes;

9 “(d) May not set a maximum allowable cost below the cost set by the
10 sources described in paragraph (a) of this subsection; and

11 “(e) May not include dispensing fees in the calculation of the maximum
12 allowable cost.

13 “(4)(a) A pharmacy benefit manager must establish a reasonable adminis-
14 trative process for a network pharmacy to request an adjustment of a maxi-
15 mum allowable cost.

16 “(b) A pharmacy benefit manager must make a determination on a request
17 for adjustment no later than seven business days after the pharmacy makes
18 the request.

19 “(c) If the pharmacy benefit manager makes an adjustment in response to
20 a request by a network pharmacy under this subsection, the pharmacy benefit
21 manager shall apply the adjustment to all network pharmacies retroactive
22 to the date of the determination under paragraph (b) of this subsection.

23 “(5) This section does not apply to the state medical assistance program.

24 **“SECTION 2. Violation of section 1 of this 2013 Act is a Class B**
25 **misdemeanor.**

26 **“SECTION 3. Section 1 of this 2013 Act is added to and made a part**
27 **of the Insurance Code.**

28 **“SECTION 4. Section 1 of this 2013 Act applies to contracts between**
29 **pharmacies and pharmacy benefit managers that are entered into, re-**
30 **newed or extended on or after the effective date of this 2013 Act.”.**

