

10117 SE Sunnyside Rd.
Suite F-408
Clackamas, OR 97015



May 27, 2015

Chair Monnes Anderson
Senate Committee on Health Care
Re: Support of HB 2638 -1 Amendment

Senator Monnes Anderson and Members of the Committee:

We are writing in support of the dash-1 (dash one) amendment to HB 2638. In the interests of the people we provide services to, we feel that this amendment is better option to ensure continued access to medications for Oregonians who rely on the Oregon Health Authority (OHA) and Coordinated Care Organizations (CCO's) for medication.

Our concern with the dash-2 amendment is the way it would bypass existing, and critical, language already codified in Oregon law. We are also concerned that the dash -2 language is in conflict with Federal statues on new drug availability under U.S. Food and Drug Administration (FDA) and Centers for Medicare & Medicaid (CMS) rules.

Many patients living with acute and chronic health conditions have their medications "fail" or lose clinical efficacy over time. For these patients, new drugs, often those newly approved, offer a lifeline. For some these drugs allow maintenance of their current health, and for others these drugs prevent the advancement of disease and death. In placing an arbitrary six months moratorium on newly approved FDA drugs we risk rationing healthcare for some of our most vulnerable citizens.

In accordance with Section 1927 of the Social Security Act¹, State Medicaid Agencies are required to cover the drugs of participating drug manufacturers who have entered into "a national rebate agreement with the Secretary of the Department of Health and Human Services (HHS) in exchange for state Medicaid coverage of most of the manufacturer's drugs.² While States have the option to restrict access to drugs they are not able to completely bar access to them.

These laws include "prescriber prevails" language in ORS 414.325(4)(d): "After consultation with the authority or its agent, the prescriber, in the prescriber's professional judgment, determines that the drug is medically appropriate...."

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We understand that the language in the dash-2 amendment would bypass the safeguards established in ORS 414.325(1)-(4), eliminating “carve-out” protections for:

- The rural health clinic urgent medical condition safeguard [ORS 414.325(2)(c)];
- The mental health drug carve-out [ORS 414.325(4)(a)]; and
- The refill carve-out for drugs for the treatment of seizures, cancer, HIV/AIDS and immunosuppressant drugs [ORS 414.325(4)(e)].

The rising cost of healthcare are a reality to everyone, and we recognize the need to make judicious choices from a finite amount of money to provide care for as many people as possible. We do not believe that placing arbitrary barriers on new drugs is the answer to this problem.

We are proud that we have been able to provide healthcare coverage to more than one million of our neighbors statewide through OHP and CCO’s. We also believe that a patient’s medical outcome should be determined by the care they receive, not by who pays for their insurance.

Sincerely,

BJ Cavnor,
One in Four Chronic Health

Tyler TerMeer,
Cascade AIDS Project

Lorren Sandt,
Caring Ambassadors Program

Madonna McQuire-Smith
Hemophilia Foundation of Oregon

Debbie McCabe,
Molly’s Fund Fighting Lupus

Shelly Bailey,
Central Drugs Pharmacy

1 Compilation Of The Social Security Laws,
http://www.ssa.gov/OP_Home/ssact/title19/1927.htm Accessed May 2015
2 Medicaid Drug Rebate Program, <http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Benefits/Prescription-Drugs/Medicaid-Drug-Rebate-Program.html> Accessed May 2015