

# House Bill 3179

Sponsored by Representatives SMITH, BENTZ

## 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**.

Prohibits pharmacy benefit manager from creating administrative or financial incentives to encourage insureds to obtain prescription drugs from mail order pharmacy instead of retail pharmacy. Requires notification to policyholder or certificate holder of conflicts of interest and other specified financial incentives earned by pharmacy benefit manager from purchases made through mail order pharmacy.

## A BILL FOR AN ACT

1  
2 Relating to prescription drugs; creating new provisions; amending ORS 735.530; and repealing ORS  
3 735.540.

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

5 **SECTION 1. Section 2 of this 2015 Act is added to and made a part of ORS 735.530 to**  
6 **735.552.**

7 **SECTION 2. A pharmacy benefit manager:**

8 (1) **May not require or create financial incentives for an insured to obtain prescription**  
9 **drugs through a mail order pharmacy;**

10 (2) **May not impose additional administrative requirements upon insureds who fill or refill**  
11 **a prescription at a retail pharmacy instead of through a mail order pharmacy;**

12 (3) **Shall reimburse retail pharmacies for the costs of prescription drugs the same**  
13 **amount that the pharmacy benefit manager reimburses a mail order pharmacy owned or**  
14 **controlled by the pharmacy benefit manager for such drugs; and**

15 (4) **Shall notify a health benefit plan policyholder or certificate holder of any conflicts of**  
16 **interest arising between the pharmacy benefit manager and a mail order pharmacy, any fi-**  
17 **ancial incentives offered by a mail order pharmacy to the pharmacy benefit manager that**  
18 **will be provided for using the mail order pharmacy instead of a retail pharmacy and any**  
19 **manufacturer's rebates retained by the pharmacy benefit manager for drugs dispensed by a**  
20 **mail order pharmacy.**

21 **SECTION 3. ORS 735.530 is amended to read:**

22 735.530. As used in ORS 735.530 to 735.552:

23 (1) **"Audit" means an on-site or remote review of the records of a pharmacy by or on**  
24 **behalf of an entity.**

25 [(1)] (2) **"Claim" means a request from a pharmacy or pharmacist to be reimbursed for the cost**  
26 **of filling or refilling a prescription for a drug or for providing a medical supply or service.**

27 (3) **"Clerical error" means a minor error:**

28 (a) **In the keeping, recording or transcribing of records or documents or in the handling**  
29 **of electronic or hard copies of correspondence;**

30 (b) **That does not result in financial harm to an entity; and**

**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 (c) That does not involve dispensing an incorrect dose, amount or type of medication or  
2 dispensing a prescription drug to the wrong person.

3 (4) "Entity" includes:

4 (a) An insurer;

5 (b) A third party administrator;

6 (c) A state agency; or

7 (d) A person that represents or is employed by one of the entities described in this sub-  
8 section.

9 (5) "Fraud" means the knowing and willful execution or attempted execution of a scheme,  
10 in connection with the delivery of or payment for health care benefits, items or services, that  
11 uses false or misleading pretenses, representations or promises to obtain any money or  
12 property owned by or under the custody or control of any person.

13 (6) "Health benefit plan" has the meaning given that term in ORS 743.730.

14 [(2) "Insurer" has the meaning given that term in ORS 731.106.]

15 (7) "Mail order pharmacy" means a pharmacy whose primary business is to receive pre-  
16 scriptions by mail, telephone, facsimile or electronic transmission and to dispense drugs to  
17 patients through the use of the United States Postal Service or a commercial delivery ser-  
18 vice.

19 [(3)] (8) "Pharmacist" has the meaning given that term in ORS 689.005.

20 [(4)] (9) "Pharmacy" has the meaning given that term in ORS 689.005.

21 [(5)(a)] (10)(a) "Pharmacy benefit manager" means a [person] **third party administrator** that  
22 contracts with pharmacies on behalf of an insurer, [a third party administrator] **a self-insured plan**  
23 or the Oregon Prescription Drug Program established in ORS 414.312 to:

24 (A) Process claims for prescription drugs or medical supplies or provide retail network man-  
25 agement for pharmacies or pharmacists;

26 (B) Pay pharmacies or pharmacists for prescription drugs or medical supplies; or

27 (C) Negotiate rebates with manufacturers for drugs paid for or procured as described in this  
28 paragraph.

29 (b) "Pharmacy benefit manager" does not include a health care service contractor as defined in  
30 ORS 750.005.

31 (11) "**Retail pharmacy**" means a pharmacy that is open to the public, serves walk-in  
32 customers and makes available an in-person consultation with a pharmacist.

33 [(6)] (12) "Third party administrator" means a person licensed under ORS 744.702.

34 **SECTION 4. ORS 735.540 is repealed.**

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