HB 2638-4
(LC 2194)
5/28/15 (LHF/ps)

PROPOSED AMENDMENTS TO
HOUSE BILL 2638

On page 2 of the printed bill, delete lines 44 and 45 and delete pages 3 through 5 and insert:

"SECTION 2. ORS 414.325 is amended to read:

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

"(a) 'Legend drug' means any drug requiring a prescription by a practitioner, as defined in ORS 689.005.

"(b) 'Mental health drug' means a type of legend drug defined by the Oregon Health Authority by rule that includes, but is not limited to:

"(A) Therapeutic class 7 ataractics-tranquilizers; and

"(B) Therapeutic class 11 psychostimulants-antidepressants.

"(c) 'Urgent medical condition' means a medical condition that arises suddenly, is not life-threatening and requires prompt treatment to avoid the development of more serious medical problems.

"(2) The authority shall reimburse the cost of a legend drug prescribed for a recipient of medical assistance only if the legend drug:

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

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

"(A) Asthma;

"(B) Sinusitis;

"(C) Rhinitis; or

"(D) Allergies; or

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

"(A) There is no pharmacy within 15 miles of the clinic;

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

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

"(3) The authority shall pay only for drugs in the generic form unless an exception has been granted by the authority through the prior authorization process adopted by the authority under subsection (4) of this section.

"(4) Notwithstanding subsection (2) of this section, the authority shall provide reimbursement for a legend drug that does not meet the criteria in subsection (2) of this section if:

"(a) It is a mental health drug.

"(b) The authority grants approval through a prior authorization process adopted by the authority by rule.

"(c) The prescriber contacts the authority requesting prior authorization and the authority or its agent fails to respond to the telephone call or to a prescriber's request made by electronic mail within 24 hours.

"(d) After consultation with the authority or its agent, the prescriber, in the prescriber's professional judgment, determines that the drug is medically appropriate.

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

"(A) The treatment of seizures, cancer, HIV or AIDS; or

"(B) An immunosuppressant.

"(f) It is a drug in a class not evaluated for the Practitioner-Managed Prescription Drug Plan adopted under ORS 414.334.

"(5) Notwithstanding subsections (1) to (4) of this section, the authority is authorized to:

"(a) Withhold payment for a legend drug when federal financial participation is not available;

"(b) Require prior authorization of payment for drugs that the authority has determined should be limited to those conditions generally recognized as appropriate by the medical profession; and

"(c) Withhold payment for a legend drug that is not a funded health service on the prioritized list of health services established by the Health Evidence Review Commission under ORS [*414.720*] **414.690**.

"**(6) Except as provided in subsections (2) and (4) of this section, the authority may require prior authorization, in accordance with 42 U.S.C. 1396r-8(d)(5) and the prior authorization requirements of this section, for a drug that:**

"(a) Has not been evaluated by the Pharmacy and Therapeutics Committee to determine whether the drug has a meaningful therapeutic advantage in terms of safety, effectiveness or clinical outcomes; and

"(b) Is dispensed six months or less after the date the United States Food and Drug Administration approves the drug for marketing.

"[*(6)*] **(7)** Notwithstanding ORS 414.334, the authority may conduct prospective drug utilization review prior to payment for drugs for a patient whose prescription drug use exceeded 15 drugs in the preceding six-month period.

"[*(7)*] **(8)** Notwithstanding subsection (3) of this section, the authority may pay a pharmacy for a particular brand name drug rather than the generic version of the drug after notifying the pharmacy that the cost of the particular brand name drug, after receiving discounted prices and rebates, is equal to or less than the cost of the generic version of the drug.

"[*(8)(a)*] **(9)(a)** Within 180 days after the United States patent expires on

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

"(b) As used in this subsection, 'narrow therapeutic index drug' means a drug that has a narrow range in blood concentrations between efficacy and toxicity and requires therapeutic drug concentration or pharmacodynamic monitoring.

"[*(9)*] **(10)** The authority shall appoint an advisory committee in accordance with ORS 183.333 for any rulemaking conducted pursuant to this section.

"SECTION 3. ORS 414.325, as amended by section 8, chapter 827, Oregon Laws 2009, is amended to read:

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

"(a) 'Legend drug' means any drug requiring a prescription by a practitioner, as defined in ORS 689.005.

"(b) 'Urgent medical condition' means a medical condition that arises suddenly, is not life-threatening and requires prompt treatment to avoid the development of more serious medical problems.

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

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

"(4) Notwithstanding subsection (3) of this section, an exception must be

applied for and granted before the authority is required to pay for minor tranquilizers and amphetamines and amphetamine derivatives, as defined by rule of the authority.

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

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

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

"(b) The authority may not require prior authorization for therapeutic classes of nonsedating antihistamines and nasal inhalers, as defined by rule by the authority, when prescribed by an allergist for treatment of any of the following conditions, as described by the Health Evidence Review Commission on the funded portion of its prioritized list of services:

"(A) Asthma;

"(B) Sinusitis;

"(C) Rhinitis; or

"(D) Allergies.

"**(6) Except as provided in subsection (5)(b) of this section, the authority may require prior authorization, in accordance with 42 U.S.C. 1396r-8(d)(5) and the prior authorization requirements of this section, for a drug that:**

"(a) Has not been evaluated by the Pharmacy and Therapeutics Committee to determine whether the drug has a meaningful therapeutic advantage in terms of safety, effectiveness or clinical outcomes; and

"(b) Is dispensed six months or less after the date the United States Food and Drug Administration approves the drug for marketing.

"[*(6)*] **(7)** The authority shall pay a rural health clinic for a legend drug prescribed and dispensed under this chapter by a licensed practitioner at the rural health clinic for an urgent medical condition if:

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

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

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

"[*(7)*] **(8)** Notwithstanding ORS 414.334, the authority may conduct prospective drug utilization review prior to payment for drugs for a patient whose prescription drug use exceeded 15 drugs in the preceding six-month period.

"[*(8)*] **(9)** Notwithstanding subsection (3) of this section, the authority may pay a pharmacy for a particular brand name drug rather than the generic version of the drug after notifying the pharmacy that the cost of the particular brand name drug, after receiving discounted prices and rebates, is equal to or less than the cost of the generic version of the drug.

"[*(9)(a)*] **(10)(a)** Within 180 days after the United States patent expires on an immunosuppressant drug used in connection with an organ transplant, the authority shall determine whether the drug is a narrow therapeutic index drug.

"(b) As used in this subsection, 'narrow therapeutic index drug' means a drug that has a narrow range in blood concentrations between efficacy and toxicity and requires therapeutic drug concentration or pharmacodynamic monitoring.".
