

## SENATE AMENDMENTS TO SENATE BILL 1505

By COMMITTEE ON HEALTH CARE

February 11

1 On page 1 of the printed bill, line 3, delete "735.534,".

2 Delete lines 5 through 27 and delete pages 2 through 5 and insert:

### "FEES

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6 "**SECTION 1.** ORS 735.532 is amended to read:

7 "735.532. (1) To conduct business in this state, a pharmacy benefit manager must register with  
8 the Department of Consumer and Business Services and annually renew the registration.

9 "(2) To register under this section, a pharmacy benefit manager must:

10 "(a) Submit an application to the department on a form prescribed by the department by rule.

11 "(b) Pay a registration fee[, *not to exceed \$50,*] adopted by the department by rule.

12 "(3) To renew a registration under this section, a pharmacy benefit manager must pay a renewal  
13 fee[, *not to exceed \$50,*] adopted by the department by rule.

14 "**(4) Fees adopted under subsections (2)(b) and (3) of this section must be reasonably**  
15 **calculated to pay the costs incurred by the department under ORS 735.530 to 735.552.**

16 "[~~(4)~~ (5) The department shall deposit all moneys collected under this section into the Consumer  
17 and Business Services Fund created in ORS 705.145. **Moneys deposited into the fund pursuant**  
18 **to this section are continuously appropriated to the department for purposes of administer-**  
19 **ing and enforcing ORS 735.530 to 735.552.**

### "ENFORCEMENT

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23 "**SECTION 2.** Sections 3, 4, 5 and 6 of this 2016 Act are added to and made a part of ORS  
24 **735.530 to 735.552.**

25 "**SECTION 3.** (1) Subject to the provisions of ORS chapter 183, the Department of Con-  
26 sumer and Business Services, upon receiving a complaint or upon the department's own  
27 motion, may:

28 "(a) Condition, suspend, revoke or refuse to renew the registration of a pharmacy benefit  
29 manager under ORS 735.532 for violating a provision of ORS 735.530 to 735.552; or

30 "(b) Impose a civil penalty not to exceed \$10,000 on a pharmacy benefit manager for vio-  
31 lating a provision of ORS 735.530 to 735.552.

32 "(2) The department shall deposit all moneys collected under this section into the Con-  
33 sumer and Business Services Fund created in ORS 705.145. **Moneys deposited into the fund**  
34 **pursuant to this section are continuously appropriated to the department for purposes of**  
35 **administering and enforcing ORS 735.530 to 735.552.**



1 paragraph.

2 “(b) ‘Pharmacy benefit manager’ does not include a health care service contractor as defined in  
3 ORS 750.005.

4 “(6) ‘Third party administrator’ means a person licensed under ORS 744.702.

5 “**SECTION 8.** ORS 735.544 is amended to read:

6 “735.544. An [entity’s] **entity or an independent third party that contracts with an entity**  
7 **must base a** finding that a claim was incorrectly presented or paid [*must be based*] on identified  
8 transactions and not [*based*] on probability sampling, extrapolation or other means that project an  
9 error using the number of patients served who have a similar diagnosis or the number of similar  
10 prescriptions or refills for similar drugs.

11 “**SECTION 9.** ORS 735.550 is amended to read:

12 “735.550. (1)(a) After conducting an audit **or having an audit conducted**, an entity must provide  
13 the pharmacy that is the subject of the audit with a preliminary report of the audit. The preliminary  
14 report must be received by the pharmacy no later than 45 days after the date on which the audit  
15 was completed and must be sent:

16 “(A) By mail or common carrier with a return receipt requested; or

17 “(B) Electronically with electronic receipt confirmation.

18 “(b) An entity shall provide a pharmacy receiving a preliminary report under this subsection  
19 no fewer than 45 days after receiving the report to contest the report or any findings in the report  
20 in accordance with the appeals procedure established under ORS 735.542 (1) and to provide addi-  
21 tional documentation in support of the claim. The entity shall consider a reasonable request for an  
22 extension of time to submit documentation to contest the report or any findings in the report.

23 “(2) If an audit results in the dispute or denial of a claim, the entity conducting the audit shall  
24 allow the pharmacy to resubmit the claim using any commercially reasonable method, including  
25 facsimile, mail or electronic mail.

26 “(3) An entity must provide a pharmacy that is the subject of an audit with a final report of the  
27 audit no later than 60 days after the later of the date the preliminary report was received or the  
28 date the pharmacy contested the report using the appeals procedure established under ORS 735.542  
29 (1). The final report must include a final accounting of all moneys to be recovered by the entity.

30 “(4) Recoupment of disputed funds from a pharmacy by an entity or repayment of funds to an  
31 entity by a pharmacy, unless otherwise agreed to by the entity and the pharmacy, shall occur after  
32 the audit and the appeals procedure established under ORS 735.542 (1) are final. If the identified  
33 discrepancy for an individual audit exceeds \$40,000, any future payments to the pharmacy may be  
34 withheld by the entity until the audit and the appeals procedure established under ORS 735.542 (1)  
35 are final.

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37 **“UNIT CAPTIONS**

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39 **“SECTION 10. The unit captions used in this 2016 Act are provided only for the conven-**  
40 **ience of the reader and do not become part of the statutory law of this state or express any**  
41 **legislative intent in the enactment of this 2016 Act.”**  
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