SB 1505-2 (LC 155) 2/8/16 (MBM/ps)

Requested by Senator KRUSE

PROPOSED AMENDMENTS TO SENATE BILL 1505

1	On <u>page 1</u> of the printed bill, line 2, delete "735.530,".	
2	In line 3, delete "735.534,".	

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

4 5

6

"FEES

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

8 "735.532. (1) To conduct business in this state, a pharmacy benefit man-9 ager must register with the Department of Consumer and Business Services 10 and annually renew the registration.

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

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

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

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

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

"[(4)] (5) The department shall deposit all moneys collected under this section into the Consumer and Business Services Fund created in ORS 705.145. Moneys deposited into the fund pursuant to this section are continuously appropriated to the department for purposes of administering and enforcing ORS 735.530 to 735.552.

"ENFORCEMENT

9 "SECTION 2. Sections 3 and 4 of this 2016 Act are added to and
10 made a part of ORS 735.530 to 735.552.

¹¹ "<u>SECTION 3.</u> (1) Subject to the provisions of ORS chapter 183, the ¹² Department of Consumer and Business Services, upon receiving a ¹³ complaint or upon the department's own motion, may impose a civil ¹⁴ penalty on a pharmacy benefit manager that knowingly or inten-¹⁵ tionally violates a provision of ORS 735.530 to 735.552. The aggregate ¹⁶ amount of civil penalties imposed under this section may not exceed ¹⁷ \$10,000 per day.

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

23 "SECTION 4. (1) A pharmacy benefit manager shall provide to the 24 Department of Consumer and Business Services, in a form and manner 25 prescribed by the department, the telephone number at which a net-26 work pharmacy may contact the pharmacy benefit manager and speak 27 with an individual who is responsible for processing appeals, as re-28 quired by ORS 735.534 (4)(a).

"(2) The department shall post on the department's website the
 telephone number provided to the department under subsection (1) of

6

7

8

1 this section by each pharmacy benefit manager.

 $\mathbf{2}$

"OTHER AMENDMENTS

3 4

 $\mathbf{5}$

"SECTION 5. ORS 735.544 is amended to read:

6 "735.544. An [entity's] entity or an independent third party that con-7 tracts with an entity must base a finding that a claim was incorrectly 8 presented or paid [must be based] on identified transactions and not [based] 9 on probability sampling, extrapolation or other means that project an error 10 using the number of patients served who have a similar diagnosis or the 11 number of similar prescriptions or refills for similar drugs.

¹² "SECTION 6. ORS 735.550 is amended to read:

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

18 "(A) By mail or common carrier with a return receipt requested; or

¹⁹ "(B) Electronically with electronic receipt confirmation.

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

"(2) If an audit results in the dispute or denial of a claim, the entity conducting the audit shall allow the pharmacy to resubmit the claim using any commercially reasonable method, including facsimile, mail or electronic mail. "(3) An entity must provide a pharmacy that is the subject of an audit with a final report of the audit no later than 60 days after the later of the date the preliminary report was received or the date the pharmacy contested the report using the appeals procedure established under ORS 735.542 (1). The final report must include a final accounting of all moneys to be recovered by the entity.

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

"TINIT

"UNIT CAPTIONS

16

14

15

17 "<u>SECTION 7.</u> The unit captions used in this 2016 Act are provided 18 only for the convenience of the reader and do not become part of the 19 statutory law of this state or express any legislative intent in the 20 enactment of this 2016 Act.".

21