

D R A F T

SUMMARY

Requires health benefit plan that covers opioid analgesic drug products to cover abuse-deterrent opioid analgesic drug products, at no greater cost to insured than other preferred drugs under plan, and specifies other requirements regarding coverage.

A BILL FOR AN ACT

1
2 Relating to opioid analgesic drug products; creating new provisions; and
3 amending ORS 750.055 and 750.333.

4 Whereas the Legislative Assembly finds that the abuse of opioids is a
5 serious problem that affects the health and the social and economic welfare
6 of this state; and

7 Whereas the Legislative Assembly finds that in 2015 an estimated two
8 million people in the United States suffered from substance use disorders
9 related to prescription opioid pain relievers; and

10 Whereas the Legislative Assembly finds that the number of unintentional
11 overdose deaths from prescription opioid pain relievers has more than qua-
12 drupled since 1999; and

13 Whereas the members of the Legislative Assembly are convinced that it
14 is imperative that individuals who suffer from pain get the relief they need
15 while minimizing the potential for negative consequences; now, therefore,

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

17 **SECTION 1. Section 2 of this 2017 Act is added to and made a part**
18 **of the Insurance Code.**

19 **SECTION 2. (1) As used in this section:**

20 **(a) “Abuse-deterrent opioid analgesic drug product” means an**

1 **opioid analgesic drug product with labeling approved by the United**
2 **States Food and Drug Administration that indicates the product has**
3 **properties that are expected to reduce abuse.**

4 (b) **“Cost-sharing” means any coverage limit, copayment,**
5 **coinsurance, deductible or similar out-of-pocket expense incurred by**
6 **an insured under a policy or certificate of health insurance.**

7 (c) **“Health benefit plan” has the meaning given that term in ORS**
8 **743B.005.**

9 (d) **“Lowest cost-sharing level” means the cost-sharing require-**
10 **ments applied to a drug product for which an insured incurs the least**
11 **amount of out-of-pocket expenses.**

12 (e) **“Opioid analgesic drug product” means a drug product in the**
13 **opioid analgesic drug class that is prescribed to treat moderate to se-**
14 **vere pain, regardless of whether the drug is combined with other sub-**
15 **stances in a single product or dosage form.**

16 (2) **A health benefit plan that provides coverage of opioid analgesic**
17 **drug products must provide coverage of abuse-deterrent opioid**
18 **analgesic drug products.**

19 (3) **A health benefit plan may not impose cost-sharing requirements**
20 **on the coverage of abuse-deterrent opioid analgesic drug products that**
21 **exceed the lowest cost-sharing level for any other prescription drug**
22 **covered by the plan.**

23 (4) **A health benefit plan may not impose prior authorization re-**
24 **quirements or other utilization control measures to require initial**
25 **treatment using an opioid analgesic drug product without abuse-**
26 **deterrent properties before an insured may be prescribed or dispensed**
27 **an abuse-deterrent opioid analgesic drug product.**

28 (5) **A health benefit plan may impose prior authorization require-**
29 **ments or other utilization control measures on abuse-deterrent opioid**
30 **analgesic drug products only if the same requirements or measures**
31 **are applied to opioid analgesic drug products without abuse-deterrent**

1 **properties.**

2 **(6) An insurer may not increase the lowest cost-sharing level im-**
3 **posed on drugs covered by the plan in order to comply with this sec-**
4 **tion, or create financial disincentives for prescribers and dispensers**
5 **to prescribe or dispense abuse-deterrent opioid analgesic drug pro-**
6 **ducts.**

7 **(7) This section is exempt from ORS 743A.001.**

8 **SECTION 3.** ORS 750.055, as amended by section 7, chapter 59, Oregon
9 Laws 2015, is amended to read:

10 750.055. (1) The following provisions of the Insurance Code apply to
11 health care service contractors to the extent not inconsistent with the ex-
12 press provisions of ORS 750.005 to 750.095:

13 (a) ORS 705.137, 705.139, 731.004 to 731.150, 731.162, 731.216 to 731.362,
14 731.382, 731.385, 731.386, 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454,
15 731.488, 731.504, 731.508, 731.509, 731.510, 731.511, 731.512, 731.574 to 731.620,
16 731.592, 731.594, 731.640 to 731.652, 731.730, 731.731, 731.735, 731.737, 731.750,
17 731.752, 731.804, 731.844 to 731.992, 731.870 and 743A.252.

18 (b) ORS 731.485, except in the case of a group practice health maintenance
19 organization that is federally qualified pursuant to Title XIII of the Public
20 Health Service Act and that wholly owns and operates an in-house drug
21 outlet.

22 (c) ORS 732.215, 732.220, 732.230, 732.245, 732.250, 732.320, 732.325 and
23 732.517 to 732.592, not including ORS 732.582.

24 (d) ORS 733.010 to 733.050, 733.080, 733.140 to 733.170, 733.210, 733.510 to
25 733.680 and 733.695 to 733.780.

26 (e) ORS chapter 734.

27 (f) ORS 735.600 to 735.650.

28 (g) ORS 742.001 to 742.009, 742.013, 742.061, 742.065, 742.150 to 742.162,
29 742.400, 742.520 to 742.540, 743.004, 743.008, 743.010, 743.018, 743.022, 743.023,
30 743.028, 743.029, 743.038, 743.040, 743.044, 743.050, 743.100 to 743.109, 743.402,
31 743.406, 743.417, 743.472, 743.492, 743.495, 743.498, 743.522, 743.523, 743.524,

1 743.526, 743.535, 743.550, 743.650 to 743.656, 743.680 to 743.689, 743.788, 743.790,
2 743A.010, 743A.012, 743A.020, 743A.034, 743A.036, 743A.048, 743A.051,
3 743A.058, 743A.062, 743A.064, 743A.065, 743A.066, 743A.068, 743A.070,
4 743A.080, 743A.082, 743A.084, 743A.088, 743A.090, 743A.100, 743A.104,
5 743A.105, 743A.110, 743A.140, 743A.141, 743A.144, 743A.148, 743A.150,
6 743A.160, 743A.164, 743A.168, 743A.170, 743A.175, 743A.184, 743A.185,
7 743A.188, 743A.190, 743A.192, 743A.250, 743B.003 to 743B.127, 743B.195 to
8 743B.206, 743B.220, 743B.222, 743B.225, 743B.227, 743B.250, 743B.252, 743B.253,
9 743B.254, 743B.255, 743B.256, 743B.257, 743B.258, 743B.300, 743B.310, 743B.320,
10 743B.323, 743B.330, 743B.340, 743B.341, 743B.343 to 743B.347, 743B.400,
11 743B.403, 743B.407, 743B.420, 743B.423, 743B.450, 743B.451, 743B.452, 743B.453,
12 743B.470, 743B.475, 743B.505, 743B.550, 743B.555, 743B.601 and 743B.800 and
13 section 2, chapter 771, Oregon Laws 2013, **and section 2 of this 2017 Act.**

14 (h) The provisions of ORS chapter 744 relating to the regulation of in-
15 surance producers and third party administrators.

16 (i) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605,
17 746.607, 746.608, 746.610, 746.615, 746.625, 746.635, 746.650, 746.655, 746.660,
18 746.668, 746.670, 746.675, 746.680 and 746.690.

19 (j) ORS 743A.024, except in the case of group practice health maintenance
20 organizations that are federally qualified pursuant to Title XIII of the Public
21 Health Service Act unless the patient is referred by a physician, physician
22 assistant or nurse practitioner associated with a group practice health
23 maintenance organization.

24 (2) For the purposes of this section, health care service contractors shall
25 be deemed insurers.

26 (3) Any for-profit health care service contractor organized under the laws
27 of any other state that is not governed by the insurance laws of the other
28 state is subject to all requirements of ORS chapter 732.

29 (4) The Director of the Department of Consumer and Business Services
30 may, after notice and hearing, adopt reasonable rules not inconsistent with
31 this section and ORS 750.003, 750.005, 750.025 and 750.045 that are deemed

1 necessary for the proper administration of these provisions.

2 **SECTION 4.** ORS 750.055, as amended by section 33, chapter 698, Oregon
3 Laws 2013, section 6, chapter 25, Oregon Laws 2014, section 81, chapter 45,
4 Oregon Laws 2014, section 8, chapter 59, Oregon Laws 2015, section 6, chap-
5 ter 100, Oregon Laws 2015, section 6, chapter 224, Oregon Laws 2015, section
6 10, chapter 362, Oregon Laws 2015, section 9, chapter 470, Oregon Laws 2015,
7 and section 29, chapter 515, Oregon Laws 2015, is amended to read:

8 750.055. (1) The following provisions of the Insurance Code apply to
9 health care service contractors to the extent not inconsistent with the ex-
10 press provisions of ORS 750.005 to 750.095:

11 (a) ORS 705.137, 705.139, 731.004 to 731.150, 731.162, 731.216 to 731.362,
12 731.382, 731.385, 731.386, 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454,
13 731.488, 731.504, 731.508, 731.509, 731.510, 731.511, 731.512, 731.574 to 731.620,
14 731.592, 731.594, 731.640 to 731.652, 731.730, 731.731, 731.735, 731.737, 731.750,
15 731.752, 731.804, 731.844 to 731.992, 731.870 and 743A.252.

16 (b) ORS 731.485, except in the case of a group practice health maintenance
17 organization that is federally qualified pursuant to Title XIII of the Public
18 Health Service Act and that wholly owns and operates an in-house drug
19 outlet.

20 (c) ORS 732.215, 732.220, 732.230, 732.245, 732.250, 732.320, 732.325 and
21 732.517 to 732.592, not including ORS 732.582.

22 (d) ORS 733.010 to 733.050, 733.080, 733.140 to 733.170, 733.210, 733.510 to
23 733.680 and 733.695 to 733.780.

24 (e) ORS chapter 734.

25 (f) ORS 735.600 to 735.650.

26 (g) ORS 742.001 to 742.009, 742.013, 742.061, 742.065, 742.150 to 742.162,
27 742.400, 742.520 to 742.540, 743.004, 743.008, 743.010, 743.018, 743.022, 743.023,
28 743.028, 743.029, 743.038, 743.040, 743.044, 743.050, 743.100 to 743.109, 743.402,
29 743.406, 743.417, 743.472, 743.492, 743.495, 743.498, 743.522, 743.523, 743.524,
30 743.526, 743.535, 743.550, 743.650 to 743.656, 743.680 to 743.689, 743.788, 743.790,
31 743A.010, 743A.012, 743A.020, 743A.034, 743A.036, 743A.048, 743A.051,

1 743A.058, 743A.062, 743A.064, 743A.065, 743A.066, 743A.068, 743A.070,
2 743A.080, 743A.082, 743A.084, 743A.088, 743A.090, 743A.100, 743A.104,
3 743A.105, 743A.110, 743A.140, 743A.141, 743A.144, 743A.148, 743A.150,
4 743A.160, 743A.164, 743A.168, 743A.170, 743A.175, 743A.184, 743A.185,
5 743A.188, 743A.190, 743A.192, 743A.250, 743B.003 to 743B.127, 743B.195 to
6 743B.206, 743B.220, 743B.222, 743B.225, 743B.227, 743B.250, 743B.252, 743B.253,
7 743B.254, 743B.255, 743B.256, 743B.257, 743B.258, 743B.300, 743B.310, 743B.320,
8 743B.323, 743B.330, 743B.340, 743B.341, 743B.343 to 743B.347, 743B.400,
9 743B.403, 743B.407, 743B.420, 743B.423, 743B.450, 743B.451, 743B.452, 743B.453,
10 743B.470, 743B.475, 743B.505, 743B.550, 743B.555, 743B.601 and 743B.800 and
11 section 2, chapter 771, Oregon Laws 2013, **and section 2 of this 2017 Act.**

12 (h) The provisions of ORS chapter 744 relating to the regulation of in-
13 surance producers and third party administrators.

14 (i) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605,
15 746.607, 746.608, 746.610, 746.615, 746.625, 746.635, 746.650, 746.655, 746.660,
16 746.668, 746.670, 746.675, 746.680 and 746.690.

17 (j) ORS 743A.024, except in the case of group practice health maintenance
18 organizations that are federally qualified pursuant to Title XIII of the Public
19 Health Service Act unless the patient is referred by a physician, physician
20 assistant or nurse practitioner associated with a group practice health
21 maintenance organization.

22 (2) For the purposes of this section, health care service contractors shall
23 be deemed insurers.

24 (3) Any for-profit health care service contractor organized under the laws
25 of any other state that is not governed by the insurance laws of the other
26 state is subject to all requirements of ORS chapter 732.

27 (4) The Director of the Department of Consumer and Business Services
28 may, after notice and hearing, adopt reasonable rules not inconsistent with
29 this section and ORS 750.003, 750.005, 750.025 and 750.045 that are deemed
30 necessary for the proper administration of these provisions.

31 **SECTION 5.** ORS 750.055, as amended by section 21, chapter 771, Oregon

1 Laws 2013, section 7, chapter 25, Oregon Laws 2014, section 82, chapter 45,
2 Oregon Laws 2014, section 9, chapter 59, Oregon Laws 2015, section 7, chap-
3 ter 100, Oregon Laws 2015, section 7, chapter 224, Oregon Laws 2015, section
4 11, chapter 362, Oregon Laws 2015, section 10, chapter 470, Oregon Laws
5 2015, and section 30, chapter 515, Oregon Laws 2015, is amended to read:

6 750.055. (1) The following provisions of the Insurance Code apply to
7 health care service contractors to the extent not inconsistent with the ex-
8 press provisions of ORS 750.005 to 750.095:

9 (a) ORS 705.137, 705.139, 731.004 to 731.150, 731.162, 731.216 to 731.362,
10 731.382, 731.385, 731.386, 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454,
11 731.488, 731.504, 731.508, 731.509, 731.510, 731.511, 731.512, 731.574 to 731.620,
12 731.592, 731.594, 731.640 to 731.652, 731.730, 731.731, 731.735, 731.737, 731.750,
13 731.752, 731.804, 731.844 to 731.992, 731.870 and 743A.252.

14 (b) ORS 731.485, except in the case of a group practice health maintenance
15 organization that is federally qualified pursuant to Title XIII of the Public
16 Health Service Act and that wholly owns and operates an in-house drug
17 outlet.

18 (c) ORS 732.215, 732.220, 732.230, 732.245, 732.250, 732.320, 732.325 and
19 732.517 to 732.592, not including ORS 732.582.

20 (d) ORS 733.010 to 733.050, 733.080, 733.140 to 733.170, 733.210, 733.510 to
21 733.680 and 733.695 to 733.780.

22 (e) ORS chapter 734.

23 (f) ORS 735.600 to 735.650.

24 (g) ORS 742.001 to 742.009, 742.013, 742.061, 742.065, 742.150 to 742.162,
25 742.400, 742.520 to 742.540, 743.004, 743.008, 743.010, 743.018, 743.022, 743.023,
26 743.028, 743.029, 743.038, 743.040, 743.044, 743.050, 743.100 to 743.109, 743.402,
27 743.406, 743.417, 743.472, 743.492, 743.495, 743.498, 743.522, 743.523, 743.524,
28 743.526, 743.535, 743.550, 743.650 to 743.656, 743.680 to 743.689, 743.788, 743.790,
29 743A.010, 743A.012, 743A.020, 743A.034, 743A.036, 743A.048, 743A.051,
30 743A.058, 743A.062, 743A.064, 743A.065, 743A.066, 743A.068, 743A.070,
31 743A.080, 743A.082, 743A.084, 743A.088, 743A.090, 743A.100, 743A.104,

1 743A.105, 743A.110, 743A.140, 743A.141, 743A.144, 743A.148, 743A.150,
2 743A.160, 743A.164, 743A.168, 743A.170, 743A.175, 743A.184, 743A.185,
3 743A.188, 743A.190, 743A.192, 743A.250, 743B.003 to 743B.127, 743B.195 to
4 743B.206, 743B.220, 743B.222, 743B.225, 743B.227, 743B.250, 743B.252, 743B.253,
5 743B.254, 743B.255, 743B.256, 743B.257, 743B.258, 743B.300, 743B.310, 743B.320,
6 743B.323, 743B.330, 743B.340, 743B.341, 743B.343 to 743B.347, 743B.400,
7 743B.403, 743B.407, 743B.420, 743B.423, 743B.450, 743B.451, 743B.452, 743B.453,
8 743B.470, 743B.475, 743B.505, 743B.550, 743B.555, 743B.601 and 743B.800 **and**
9 **section 2 of this 2017 Act.**

10 (h) The provisions of ORS chapter 744 relating to the regulation of in-
11 surance producers and third party administrators.

12 (i) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605,
13 746.607, 746.608, 746.610, 746.615, 746.625, 746.635, 746.650, 746.655, 746.660,
14 746.668, 746.670, 746.675, 746.680 and 746.690.

15 (j) ORS 743A.024, except in the case of group practice health maintenance
16 organizations that are federally qualified pursuant to Title XIII of the Public
17 Health Service Act unless the patient is referred by a physician, physician
18 assistant or nurse practitioner associated with a group practice health
19 maintenance organization.

20 (2) For the purposes of this section, health care service contractors shall
21 be deemed insurers.

22 (3) Any for-profit health care service contractor organized under the laws
23 of any other state that is not governed by the insurance laws of the other
24 state is subject to all requirements of ORS chapter 732.

25 (4) The Director of the Department of Consumer and Business Services
26 may, after notice and hearing, adopt reasonable rules not inconsistent with
27 this section and ORS 750.003, 750.005, 750.025 and 750.045 that are deemed
28 necessary for the proper administration of these provisions.

29 **SECTION 6.** ORS 750.333, as amended by section 10, chapter 59, Oregon
30 Laws 2015, is amended to read:

31 750.333. (1) The following provisions of the Insurance Code apply to trusts

1 carrying out a multiple employer welfare arrangement:

2 (a) ORS 731.004 to 731.150, 731.162, 731.216 to 731.268, 731.296 to 731.316,
3 731.324, 731.328, 731.378, 731.386, 731.390, 731.398, 731.406, 731.410, 731.414,
4 731.418 to 731.434, 731.454, 731.484, 731.486, 731.488, 731.512, 731.574 to 731.620,
5 731.640 to 731.652, 731.804 to 731.992, 743.029 and 743A.252.

6 (b) ORS 733.010 to 733.050, 733.140 to 733.170, 733.210, 733.510 to 733.680
7 and 733.695 to 733.780.

8 (c) ORS chapter 734.

9 (d) ORS 742.001 to 742.009, 742.013, 742.061 and 742.400.

10 (e) ORS 743.004, 743.008, 743.028, 743.053, 743.406, 743.524, 743.526, 743.528,
11 743.535, 743A.012, 743A.020, 743A.034, 743A.051, 743A.052, 743A.064, 743A.065,
12 743A.080, 743A.082, 743A.100, 743A.104, 743A.110, 743A.144, 743A.150,
13 743A.170, 743A.175, 743A.184, 743A.192, 743A.250, 743B.001, 743B.003 to
14 743B.127 (except 743B.125 to 743B.127), 743B.195 to 743B.206, 743B.220,
15 743B.222, 743B.225, 743B.227, 743B.250, 743B.252, 743B.253, 743B.254, 743B.255,
16 743B.256, 743B.257, 743B.258, 743B.310, 743B.320, 743B.321, 743B.330, 743B.340,
17 743B.341, 743B.342, 743B.343, 743B.344, 743B.345, 743B.347, 743B.400, 743B.403,
18 743B.407, 743B.420, 743B.423, 743B.451, 743B.453, 743B.470, 743B.505, 743B.550,
19 743B.555 and 743B.601.

20 (f) ORS 743A.010, 743A.014, 743A.024, 743A.028, 743A.032, 743A.036,
21 743A.040, 743A.048, 743A.058, 743A.066, 743A.068, 743A.070, 743A.084,
22 743A.088, 743A.090, 743A.105, 743A.140, 743A.141, 743A.148, 743A.168,
23 743A.180, 743A.185, 743A.188 and 743A.190 **and section 2 of this 2017 Act.**
24 Multiple employer welfare arrangements to which ORS 743.004, 743.022,
25 743.535 and 743B.003 to 743B.127 apply are subject to the sections referred
26 to in this paragraph only as provided in ORS 743.004, 743.022, 743.535 and
27 743B.003 to 743B.127.

28 (g) Provisions of ORS chapter 744 relating to the regulation of insurance
29 producers and insurance consultants, and ORS 744.700 to 744.740.

30 (h) ORS 746.005 to 746.140, 746.160 and 746.220 to 746.370.

31 (i) ORS 731.592 and 731.594.

1 (j) ORS 731.870.

2 (2) For the purposes of this section:

3 (a) A trust carrying out a multiple employer welfare arrangement shall
4 be considered an insurer.

5 (b) References to certificates of authority shall be considered references
6 to certificates of multiple employer welfare arrangement.

7 (c) Contributions shall be considered premiums.

8 (3) The provision of health benefits under ORS 750.301 to 750.341 shall be
9 considered to be the transaction of health insurance.

10 **SECTION 7. Section 2 of this 2017 Act applies to health benefit plans**
11 **issued, extended or renewed on or after the effective date of this 2017**
12 **Act.**

13
