

# Senate Bill 818

Sponsored by COMMITTEE ON HEALTH CARE (at the request of Rocky Dallum, Tonkon Torp LLC)

## 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**.

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 amending ORS 750.055 and  
3 750.333.

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

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

8 Whereas the Legislative Assembly finds that the number of unintentional overdose deaths from  
9 prescription opioid pain relievers has more than quadrupled since 1999; and

10 Whereas the members of the Legislative Assembly are convinced that it is imperative that in-  
11 dividuals who suffer from pain get the relief they need while minimizing the potential for negative  
12 consequences; now, therefore,

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

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

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

16 (a) **"Abuse-deterrent opioid analgesic drug product" means an opioid analgesic drug**  
17 **product with labeling approved by the United States Food and Drug Administration that in-**  
18 **dicates the product has properties that are expected to reduce abuse.**

19 (b) **"Cost-sharing" means any coverage limit, copayment, coinsurance, deductible or**  
20 **similar out-of-pocket expense incurred by an insured under a policy or certificate of health**  
21 **insurance.**

22 (c) **"Health benefit plan" has the meaning given that term in ORS 743B.005.**

23 (d) **"Lowest cost-sharing level" means the cost-sharing requirements applied to a drug**  
24 **product for which an insured incurs the least amount of out-of-pocket expenses.**

25 (e) **"Opioid analgesic drug product" means a drug product in the opioid analgesic drug**  
26 **class that is prescribed to treat moderate to severe pain, regardless of whether the drug is**  
27 **combined with other substances in a single product or dosage form.**

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

30 (3) **A health benefit plan may not impose cost-sharing requirements on the coverage of**  
31 **abuse-deterrent opioid analgesic drug products that exceed the lowest cost-sharing level for**

**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 **any other prescription drug covered by the plan.**

2 **(4) A health benefit plan may not impose prior authorization requirements or other**  
 3 **utilization control measures to require initial treatment using an opioid analgesic drug**  
 4 **product without abuse-deterrent properties before an insured may be prescribed or dispensed**  
 5 **an abuse-deterrent opioid analgesic drug product.**

6 **(5) A health benefit plan may impose prior authorization requirements or other utiliza-**  
 7 **tion control measures on abuse-deterrent opioid analgesic drug products only if the same**  
 8 **requirements or measures are applied to opioid analgesic drug products without abuse-**  
 9 **deterrent properties.**

10 **(6) An insurer may not increase the lowest cost-sharing level imposed on drugs covered**  
 11 **by the plan in order to comply with this section, or create financial disincentives for**  
 12 **prescribers and dispensers to prescribe or dispense abuse-deterrent opioid analgesic drug**  
 13 **products.**

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

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

17 750.055. (1) The following provisions of the Insurance Code apply to health care service con-  
 18 tractors to the extent not inconsistent with the express provisions of ORS 750.005 to 750.095:

19 (a) ORS 705.137, 705.139, 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385, 731.386,  
 20 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454, 731.488, 731.504, 731.508, 731.509, 731.510,  
 21 731.511, 731.512, 731.574 to 731.620, 731.592, 731.594, 731.640 to 731.652, 731.730, 731.731, 731.735,  
 22 731.737, 731.750, 731.752, 731.804, 731.844 to 731.992, 731.870 and 743A.252.

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

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

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

30 (e) ORS chapter 734.

31 (f) ORS 735.600 to 735.650.

32 (g) ORS 742.001 to 742.009, 742.013, 742.061, 742.065, 742.150 to 742.162, 742.400, 742.520 to  
 33 742.540, 743.004, 743.008, 743.010, 743.018, 743.022, 743.023, 743.028, 743.029, 743.038, 743.040, 743.044,  
 34 743.050, 743.100 to 743.109, 743.402, 743.406, 743.417, 743.472, 743.492, 743.495, 743.498, 743.522,  
 35 743.523, 743.524, 743.526, 743.535, 743.550, 743.650 to 743.656, 743.680 to 743.689, 743.788, 743.790,  
 36 743A.010, 743A.012, 743A.020, 743A.034, 743A.036, 743A.048, 743A.051, 743A.058, 743A.062, 743A.064,  
 37 743A.065, 743A.066, 743A.068, 743A.070, 743A.080, 743A.082, 743A.084, 743A.088, 743A.090, 743A.100,  
 38 743A.104, 743A.105, 743A.110, 743A.140, 743A.141, 743A.144, 743A.148, 743A.150, 743A.160, 743A.164,  
 39 743A.168, 743A.170, 743A.175, 743A.184, 743A.185, 743A.188, 743A.190, 743A.192, 743A.250, 743B.003  
 40 to 743B.127, 743B.195 to 743B.206, 743B.220, 743B.222, 743B.225, 743B.227, 743B.250, 743B.252,  
 41 743B.253, 743B.254, 743B.255, 743B.256, 743B.257, 743B.258, 743B.300, 743B.310, 743B.320, 743B.323,  
 42 743B.330, 743B.340, 743B.341, 743B.343 to 743B.347, 743B.400, 743B.403, 743B.407, 743B.420, 743B.423,  
 43 743B.450, 743B.451, 743B.452, 743B.453, 743B.470, 743B.475, 743B.505, 743B.550, 743B.555, 743B.601  
 44 and 743B.800 and section 2, chapter 771, Oregon Laws 2013, **and section 2 of this 2017 Act.**

45 (h) The provisions of ORS chapter 744 relating to the regulation of insurance producers and

1 third party administrators.

2 (i) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605, 746.607, 746.608, 746.610,  
3 746.615, 746.625, 746.635, 746.650, 746.655, 746.660, 746.668, 746.670, 746.675, 746.680 and 746.690.

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

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

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

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

15 **SECTION 4.** ORS 750.055, as amended by section 33, chapter 698, Oregon Laws 2013, section  
16 6, chapter 25, Oregon Laws 2014, section 81, chapter 45, Oregon Laws 2014, section 8, chapter 59,  
17 Oregon Laws 2015, section 6, chapter 100, Oregon Laws 2015, section 6, chapter 224, Oregon Laws  
18 2015, section 10, chapter 362, Oregon Laws 2015, section 9, chapter 470, Oregon Laws 2015, and  
19 section 29, chapter 515, Oregon Laws 2015, is amended to read:

20 750.055. (1) The following provisions of the Insurance Code apply to health care service con-  
21 tractors to the extent not inconsistent with the express provisions of ORS 750.005 to 750.095:

22 (a) ORS 705.137, 705.139, 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385, 731.386,  
23 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454, 731.488, 731.504, 731.508, 731.509, 731.510,  
24 731.511, 731.512, 731.574 to 731.620, 731.592, 731.594, 731.640 to 731.652, 731.730, 731.731, 731.735,  
25 731.737, 731.750, 731.752, 731.804, 731.844 to 731.992, 731.870 and 743A.252.

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

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

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

33 (e) ORS chapter 734.

34 (f) ORS 735.600 to 735.650.

35 (g) ORS 742.001 to 742.009, 742.013, 742.061, 742.065, 742.150 to 742.162, 742.400, 742.520 to  
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42 743A.168, 743A.170, 743A.175, 743A.184, 743A.185, 743A.188, 743A.190, 743A.192, 743A.250, 743B.003  
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2 and 743B.800 and section 2, chapter 771, Oregon Laws 2013, **and section 2 of this 2017 Act.**

3 (h) The provisions of ORS chapter 744 relating to the regulation of insurance producers and  
4 third party administrators.

5 (i) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605, 746.607, 746.608, 746.610,  
6 746.615, 746.625, 746.635, 746.650, 746.655, 746.660, 746.668, 746.670, 746.675, 746.680 and 746.690.

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

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

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

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

18 **SECTION 5.** ORS 750.055, as amended by section 21, chapter 771, Oregon Laws 2013, section  
19 7, chapter 25, Oregon Laws 2014, section 82, chapter 45, Oregon Laws 2014, section 9, chapter 59,  
20 Oregon Laws 2015, section 7, chapter 100, Oregon Laws 2015, section 7, chapter 224, Oregon Laws  
21 2015, section 11, chapter 362, Oregon Laws 2015, section 10, chapter 470, Oregon Laws 2015, and  
22 section 30, chapter 515, Oregon Laws 2015, is amended to read:

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28 731.737, 731.750, 731.752, 731.804, 731.844 to 731.992, 731.870 and 743A.252.

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

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

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

36 (e) ORS chapter 734.

37 (f) ORS 735.600 to 735.650.

38 (g) ORS 742.001 to 742.009, 742.013, 742.061, 742.065, 742.150 to 742.162, 742.400, 742.520 to  
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40 743.050, 743.100 to 743.109, 743.402, 743.406, 743.417, 743.472, 743.492, 743.495, 743.498, 743.522,  
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43 743A.065, 743A.066, 743A.068, 743A.070, 743A.080, 743A.082, 743A.084, 743A.088, 743A.090, 743A.100,  
44 743A.104, 743A.105, 743A.110, 743A.140, 743A.141, 743A.144, 743A.148, 743A.150, 743A.160, 743A.164,  
45 743A.168, 743A.170, 743A.175, 743A.184, 743A.185, 743A.188, 743A.190, 743A.192, 743A.250, 743B.003

1 to 743B.127, 743B.195 to 743B.206, 743B.220, 743B.222, 743B.225, 743B.227, 743B.250, 743B.252,  
 2 743B.253, 743B.254, 743B.255, 743B.256, 743B.257, 743B.258, 743B.300, 743B.310, 743B.320, 743B.323,  
 3 743B.330, 743B.340, 743B.341, 743B.343 to 743B.347, 743B.400, 743B.403, 743B.407, 743B.420, 743B.423,  
 4 743B.450, 743B.451, 743B.452, 743B.453, 743B.470, 743B.475, 743B.505, 743B.550, 743B.555, 743B.601  
 5 and 743B.800 **and section 2 of this 2017 Act.**

6 (h) The provisions of ORS chapter 744 relating to the regulation of insurance producers and  
 7 third party administrators.

8 (i) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605, 746.607, 746.608, 746.610,  
 9 746.615, 746.625, 746.635, 746.650, 746.655, 746.660, 746.668, 746.670, 746.675, 746.680 and 746.690.

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

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

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

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

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

23 750.333. (1) The following provisions of the Insurance Code apply to trusts carrying out a mul-  
 24 tiple employer welfare arrangement:

25 (a) ORS 731.004 to 731.150, 731.162, 731.216 to 731.268, 731.296 to 731.316, 731.324, 731.328,  
 26 731.378, 731.386, 731.390, 731.398, 731.406, 731.410, 731.414, 731.418 to 731.434, 731.454, 731.484,  
 27 731.486, 731.488, 731.512, 731.574 to 731.620, 731.640 to 731.652, 731.804 to 731.992, 743.029 and  
 28 743A.252.

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

30 (c) ORS chapter 734.

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

32 (e) ORS 743.004, 743.008, 743.028, 743.053, 743.406, 743.524, 743.526, 743.528, 743.535, 743A.012,  
 33 743A.020, 743A.034, 743A.051, 743A.052, 743A.064, 743A.065, 743A.080, 743A.082, 743A.100, 743A.104,  
 34 743A.110, 743A.144, 743A.150, 743A.170, 743A.175, 743A.184, 743A.192, 743A.250, 743B.001, 743B.003  
 35 to 743B.127 (except 743B.125 to 743B.127), 743B.195 to 743B.206, 743B.220, 743B.222, 743B.225,  
 36 743B.227, 743B.250, 743B.252, 743B.253, 743B.254, 743B.255, 743B.256, 743B.257, 743B.258, 743B.310,  
 37 743B.320, 743B.321, 743B.330, 743B.340, 743B.341, 743B.342, 743B.343, 743B.344, 743B.345, 743B.347,  
 38 743B.400, 743B.403, 743B.407, 743B.420, 743B.423, 743B.451, 743B.453, 743B.470, 743B.505, 743B.550,  
 39 743B.555 and 743B.601.

40 (f) ORS 743A.010, 743A.014, 743A.024, 743A.028, 743A.032, 743A.036, 743A.040, 743A.048,  
 41 743A.058, 743A.066, 743A.068, 743A.070, 743A.084, 743A.088, 743A.090, 743A.105, 743A.140, 743A.141,  
 42 743A.148, 743A.168, 743A.180, 743A.185, 743A.188 and 743A.190 **and section 2 of this 2017 Act.**  
 43 Multiple employer welfare arrangements to which ORS 743.004, 743.022, 743.535 and 743B.003 to  
 44 743B.127 apply are subject to the sections referred to in this paragraph only as provided in ORS  
 45 743.004, 743.022, 743.535 and 743B.003 to 743B.127.

1 (g) Provisions of ORS chapter 744 relating to the regulation of insurance producers and insur-  
2 ance consultants, and ORS 744.700 to 744.740.

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

4 (i) ORS 731.592 and 731.594.

5 (j) ORS 731.870.

6 (2) For the purposes of this section:

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

8 (b) References to certificates of authority shall be considered references to certificates of mul-  
9 tiple employer welfare arrangement.

10 (c) Contributions shall be considered premiums.

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

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

15