

B-Engrossed
House Bill 2678

Ordered by the House June 19
Including House Amendments dated April 16 and June 19

Sponsored by Representative NOSSE; Representative KENY-GUYER (Pre-session filed.)

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.

Requires Oregon Health Authority to adopt partially aligned preferred drug list for coordinated care organizations.

Subject to exceptions, allows authority to require prior authorization for prescription drugs that are not listed on Practitioner-Managed Prescription Drug Plan and that are reimbursed on fee-for-service basis.

A BILL FOR AN ACT

Relating to prescription drugs; amending ORS 414.325, 414.334, 414.337 and 689.185.

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

SECTION 1. 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) "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.

(3) Notwithstanding subsection (2) of this section:

(a) 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]* **prior authorization** 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)] **(b)** *[Notwithstanding subsection (3) of this section, an exception]* **Prior authorization** must be applied for and granted before the authority is required to pay for:

(A) Minor tranquilizers and amphetamines and amphetamine derivatives, as defined by rule of the authority.

(B) Drugs for which prior authorization is required under rules adopted or amended by the authority pursuant to ORS 414.337.

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 [(5)(a)] (c) [Notwithstanding subsections (1) to (4) of this section and except as provided in para-
2 graph (b) of this subsection,] The authority is authorized to:

3 (A) Withhold payment for a legend drug when federal financial participation is not available;
4 [and]

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

7 (C) **Withhold payment for a legend drug that is not a funded health service on the pri-
8 oritized list of health services developed and maintained by the Health Evidence Review
9 Commission under ORS 414.690.**

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

14 [(A) Asthma;]

15 [(B) Sinusitis;]

16 [(C) Rhinitis; or]

17 [(D) Allergies.]

18 (4)(a) **For a drug that is not on a preferred drug list, the authority shall approve a
19 practitioner’s request for prior authorization of the drug for a specific patient if the practi-
20 tioner submits evidence to the authority to establish that the requested drug is clinically
21 superior to or more medically appropriate than the drug that is on the preferred drug list
22 for the patient’s treatment regimen.**

23 (b) **The authority shall respond by telephone or other telecommunication device within
24 24 hours of a request for prior authorization.**

25 [(6)] (5) The authority shall pay a rural health clinic for a legend drug prescribed and dispensed
26 under this chapter by a licensed practitioner at the rural health clinic for an urgent medical con-
27 dition if:

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

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

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

32 [(7)] (6) [Notwithstanding ORS 414.334,] **This section does not prohibit** the authority [may
33 conduct] **from conducting** prospective drug utilization review in accordance with ORS 414.351 to
34 414.414.

35 [(8)] (7) Notwithstanding subsection (3)(a) of this section, the authority may pay a pharmacy for
36 a particular brand name drug rather than the generic version of the drug after notifying the phar-
37 macy that the cost of the particular brand name drug, after receiving discounted prices and rebates,
38 is equal to or less than the cost of the generic version of the drug.

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

42 [(b) As used in this subsection, “narrow therapeutic index drug” means a drug that has a narrow
43 range in blood concentrations between efficacy and toxicity and requires therapeutic drug concentration
44 or pharmacodynamic monitoring.]

45 **SECTION 2.** ORS 414.334 is amended to read:

1 414.334. (1) The Oregon Health Authority shall adopt **and maintain** a Practitioner-Managed
2 Prescription Drug Plan *[for]* **consisting of:**

3 (a) **A preferred drug list for drugs prescribed in the medical assistance program for which**
4 **the costs are reimbursed on a fee-for-service basis; and**

5 (b) **A partially aligned preferred drug list for coordinated care organizations that consists**
6 **of portions of the Practitioner-Managed Prescription Drug Plan preferred drug list that apply**
7 **to certain drugs or therapeutic classes of prescription drugs paid for from a coordinated care**
8 **organization's global budget.**

9 (2) The purpose of the plan is to *[ensure that enrollees in the medical assistance program receive*
10 *the most effective prescription drug available at the best possible price]:*

11 (a) **Improve the health of medical assistance recipients;**

12 (b) **Simplify the administrative burden on practitioners;**

13 (c) **Reduce costs to the state medical assistance program; and**

14 (d) **Minimize disruptions to recipients' treatment regimens.**

15 [(2)] (3) In adopting the plan, the authority shall consider recommendations of the Pharmacy and
16 Therapeutics Committee.

17 [(3)] (4) The authority shall consult with representatives of the regulatory boards and associ-
18 ations representing practitioners who are prescribers under the medical assistance program and
19 ensure that practitioners receive educational materials and have access to training on the
20 Practitioner-Managed Prescription Drug Plan.

21 [(4)] (5) Notwithstanding the Practitioner-Managed Prescription Drug Plan adopted by the au-
22 thority, a practitioner may prescribe any drug that the practitioner indicates is medically necessary
23 for an enrollee as being the most effective available.

24 [(5)] (6) *[An enrollee]* **A recipient** may appeal to the authority a decision of a practitioner, **a**
25 **coordinated care organization** or the authority to *[not provide]* **deny coverage of** a prescription
26 drug requested by the *[enrollee]* **recipient.**

27 [(6)] (7) This section does not limit the decision of a practitioner as to the scope and duration
28 of treatment of chronic conditions, including but not limited to arthritis, diabetes and asthma.

29 **(8) The authority shall update the partially aligned preferred drug list regularly through**
30 **a collaborative process engaging all of the coordinated care organizations.**

31 **SECTION 3.** ORS 414.337 is amended to read:

32 414.337. The Oregon Health Authority may *[not]* adopt or amend *[any]* **a rule** that requires a
33 prescribing practitioner to contact the authority to request *[an exception]* **prior authorization** for
34 a *[medically appropriate or medically necessary]* **prescription** drug that is not listed on the
35 Practitioner-Managed Prescription Drug Plan drug list **adopted under ORS 414.334 (1)(a)** for that
36 class of drugs *[adopted under ORS 414.334, unless otherwise authorized by enabling legislation setting*
37 *forth the requirement for prior authorization].*

38 **SECTION 4.** ORS 689.185 is amended to read:

39 689.185. (1) The State Board of Pharmacy shall meet at least once every three months to trans-
40 act its business. One such meeting held during each fiscal year of the state shall be designated by
41 rule as the annual meeting and shall be for the purpose of electing officers and for the reorganiza-
42 tion of the board. The board shall meet at such additional times as it may determine. Such addi-
43 tional meetings may be called by the president of the board or by majority of members of the board.

44 (2) The board shall meet at such place as it may from time to time determine. The place for each
45 meeting shall be determined prior to giving notice of such meeting and shall not be changed after

1 such notice is given without adequate subsequent notice.

2 (3) Notice of all meetings of the board shall be given in the manner and pursuant to require-
3 ments prescribed by the state's applicable rules.

4 (4) A majority of the members of the board shall constitute a quorum for the conduct of a board
5 meeting and, except where a greater number is required by [*ORS 167.203, 414.325, 430.405, 435.010,*
6 *453.025, 475.005, 475.135, 475.185, 475.752, 475.906 and 616.855 and this chapter*] **law**, or by any rule
7 of the board, all actions of the board shall be by a majority of a quorum.

8 (5) All board meetings and hearings shall be open to the public. The board may, in its discretion
9 and according to law, conduct any portion of its meeting in executive session closed to the public.

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