

House Bill 2678

Sponsored by Representative NOSSE (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 **as introduced**.

Subject to exceptions, allows Oregon Health Authority to require prior authorization for prescription drugs, other than mental health 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

1
2 Relating to prescription drugs; creating new provisions; and amending ORS 414.325, 414.334, 414.337
3 and 689.185 and section 3, chapter 619, Oregon Laws 2017.

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

5 **SECTION 1.** ORS 414.325 is amended to read:

6 414.325. (1) As used in this section:

7 (a) "Legend drug" means any drug requiring a prescription by a practitioner, as defined in ORS
8 689.005.

9 (b) "Urgent medical condition" means a medical condition that arises suddenly, is not life-
10 threatening and requires prompt treatment to avoid the development of more serious medical prob-
11 lems.

12 (2) A licensed practitioner may prescribe such drugs under this chapter as the practitioner in
13 the exercise of professional judgment considers appropriate for the diagnosis or treatment of the
14 patient in the practitioner's care and within the scope of practice.

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

16 (a) Prescriptions shall be dispensed in the generic form pursuant to ORS 689.515 and pursuant
17 to rules of the Oregon Health Authority unless the practitioner prescribes otherwise and [*an ex-*
18 *ception*] **prior authorization** is granted by the authority.

19 [*(3) Except as provided in subsections (4) and (5) of this section, the authority shall place no limit*
20 *on the type of legend drug that may be prescribed by a practitioner, but the authority shall pay only*
21 *for drugs in the generic form unless an exception has been granted by the authority.]*

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

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

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

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

30 (A) Withhold payment for a legend drug when federal financial participation is not available;
31 and

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

3 [(b)] (4) The authority may not require prior authorization for therapeutic classes of nonsedating
4 antihistamines and nasal inhalers, as defined by rule by the authority, when prescribed by an
5 allergist for treatment of any of the following conditions, as described by the Health Evidence Re-
6 view Commission on the funded portion of its prioritized list of services:

7 (A) Asthma;

8 (B) Sinusitis;

9 (C) Rhinitis; or

10 (D) Allergies.

11 [(6)] (5) The authority shall pay a rural health clinic for a legend drug prescribed and dispensed
12 under this chapter by a licensed practitioner at the rural health clinic for an urgent medical con-
13 dition if:

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

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

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

18 [(7)] (6) [Notwithstanding ORS 414.334,] **This section does not prohibit** the authority [may
19 conduct] **from conducting** prospective drug utilization review in accordance with ORS 414.351 to
20 414.414.

21 [(8)] (7) Notwithstanding subsection (3)(a) of this section, the authority may pay a pharmacy for
22 a particular brand name drug rather than the generic version of the drug after notifying the phar-
23 macy that the cost of the particular brand name drug, after receiving discounted prices and rebates,
24 is equal to or less than the cost of the generic version of the drug.

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

28 [(b) *As used in this subsection, "narrow therapeutic index drug" means a drug that has a narrow
29 range in blood concentrations between efficacy and toxicity and requires therapeutic drug concentration
30 or pharmacodynamic monitoring.*]

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

32 414.334. (1) The Oregon Health Authority shall adopt a Practitioner-Managed Prescription Drug
33 Plan for the medical assistance program. The purpose of the plan is to ensure that enrollees in the
34 medical assistance program receive the most effective prescription drug available at the best possi-
35 ble price.

36 (2) In adopting the plan, the authority shall consider recommendations of the Pharmacy and
37 Therapeutics Committee.

38 (3) The authority shall consult with representatives of the regulatory boards and associations
39 representing practitioners who are prescribers under the medical assistance program and ensure
40 that practitioners receive educational materials and have access to training on the Practitioner-
41 Managed Prescription Drug Plan.

42 [(4) *Notwithstanding the Practitioner-Managed Prescription Drug Plan adopted by the authority,
43 a practitioner may prescribe any drug that the practitioner indicates is medically necessary for an
44 enrollee as being the most effective available.*]

45 [(5)] (4) An enrollee may appeal to the authority a decision of a practitioner or the authority

1 to not provide a prescription drug requested by the enrollee.

2 [(6)] (5) This section does not limit the decision of a practitioner as to the scope and duration
3 of treatment of chronic conditions, including but not limited to arthritis, diabetes and asthma.

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

5 414.337. The Oregon Health Authority may [not] adopt or amend [any] a rule that requires a
6 prescribing practitioner to contact the authority to request [an exception] **prior authorization** for
7 a [medically appropriate or medically necessary] **prescription** drug that is not listed on the
8 Practitioner-Managed Prescription Drug Plan drug list **adopted under ORS 414.334** for that class
9 of drugs [adopted under ORS 414.334, unless otherwise authorized by enabling legislation setting forth
10 the requirement for prior authorization].

11 **SECTION 4. (1) If the Oregon Health Authority adopts or amends a rule under ORS**
12 **414.337 that requires a prescribing practitioner to request prior authorization for a drug that**
13 **is not listed on the Practitioner-Managed Prescription Drug Plan drug list for that class of**
14 **drugs, the rule may not apply to:**

15 (a) **The renewal of a prescription that was written by a prescribing practitioner and dis-**
16 **persed to a patient prior to the effective date of this 2019 Act; or**

17 (b) **Drugs reimbursed by means of a global budget paid to a coordinated care organiza-**
18 **tion.**

19 (2) **As used in this section, “coordinated care organization” and “global budget” have the**
20 **meanings given those terms in ORS 414.025.**

21 **SECTION 5.** Section 3, chapter 619, Oregon Laws 2017, is amended to read:

22 **Sec. 3.** (1) As used in this section, “mental health drug” means a type of legend drug defined
23 by the Oregon Health Authority by rule that includes but is not limited to:

24 (a) Therapeutic class 7 ataractics-tranquilizers; and

25 (b) Therapeutic class 11 psychostimulants-antidepressants.

26 (2) Notwithstanding ORS 414.334 **and 414.337**, the authority shall reimburse the cost of a mental
27 health drug prescribed for a medical assistance recipient if federal financial participation in the cost
28 **of the drug** is available.

29 **SECTION 6.** ORS 689.185 is amended to read:

30 689.185. (1) The State Board of Pharmacy shall meet at least once every three months to trans-
31 act its business. One such meeting held during each fiscal year of the state shall be designated by
32 rule as the annual meeting and shall be for the purpose of electing officers and for the reorganiza-
33 tion of the board. The board shall meet at such additional times as it may determine. Such addi-
34 tional meetings may be called by the president of the board or by majority of members of the board.

35 (2) The board shall meet at such place as it may from time to time determine. The place for each
36 meeting shall be determined prior to giving notice of such meeting and shall not be changed after
37 such notice is given without adequate subsequent notice.

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

40 (4) A majority of the members of the board shall constitute a quorum for the conduct of a board
41 meeting and, except where a greater number is required by [ORS 167.203, 414.325, 430.405, 435.010,
42 453.025, 475.005, 475.135, 475.185, 475.752, 475.906 and 616.855 and this chapter] **law**, or by any rule
43 of the board, all actions of the board shall be by a majority of a quorum.

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

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SECTION 7. Section 4 of this 2019 Act is repealed on January 2, 2029.

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