

A-Engrossed Senate Bill 9

Ordered by the Senate February 20
Including Senate Amendments dated February 20

Sponsored by Senators COURTNEY, LINTHICUM; Senator MONNES ANDERSON (at the request of Secretary of State Dennis Richardson) (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.

Allows pharmacists to prescribe and dispense emergency refills of insulin and associated insulin-related devices and supplies. **Defines "insulin" and "insulin-related devices and supplies." Prohibits person from receiving more than three emergency refills of insulin and insulin-related devices and supplies in calendar year.** Requires medical assistance programs and health benefit plans to reimburse for prescriptions made by pharmacists **and services provided by pharmacists related to prescriptions for emergency refills of insulin and insulin-related devices and supplies.**

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to insulin; creating new provisions; amending ORS 689.005 and 743A.051; and declaring an
3 emergency.

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

5 **SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS chapter 689.**

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

7 (a) **"Insulin" includes various types of insulin analogs and insulin-like medications, re-**
8 **gardless of activation period or whether the solution is mixed before or after dispensation.**

9 (b) **"Insulin-related devices and supplies":**

10 (A) **Includes needles, syringes, cartridge systems, prefilled pen systems, glucose meters**
11 **and test strips.**

12 (B) **Does not include insulin pump devices.**

13 (2)(a) **A pharmacist may prescribe and dispense emergency refills of insulin and associ-**
14 **ated insulin-related devices and supplies to a person who has evidence of a previous pre-**
15 **scription from a licensed health care provider.**

16 (b) **The insulin prescribed and dispensed under this section must be the lesser of a 30-day**
17 **supply or the smallest available package.**

18 (c) **A person may be prescribed and receive not more than three emergency refills of**
19 **insulin and associated insulin-related devices and supplies in a calendar year.**

20 (3) **A pharmacist who prescribes and dispenses emergency refills of insulin and associated**
21 **insulin-related devices and supplies under this section shall:**

22 (a) **Complete a training program approved by the State Board of Pharmacy that is related**
23 **to prescribing emergency refills of insulin and associated insulin-related devices and supplies;**

24 (b) **Complete a patient assessment to determine whether the prescription of emergency**

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 **refills of insulin and associated insulin-related devices and supplies is appropriate;**

2 (c) **Document the patient visit and include notations regarding evidence of the patient's**
3 **previous prescription from the patient's licensed health care provider, information relating**
4 **to the patient's diabetes management and other relevant information; and**

5 (d) **Make a reasonable attempt to inform the person's primary care provider, and the li-**
6 **censed health care provider who made the previous prescription, of the pharmacist's pre-**
7 **scription for emergency refills of insulin and associated insulin-related devices and supplies.**

8 (4) **The board shall adopt rules to carry out this section. In approving the training pro-**
9 **gram described in subsection (3)(a) of this section, the board shall consult with and approve**
10 **a training program accredited by the Accreditation Council for Pharmacy Education or its**
11 **successor organization.**

12 **SECTION 3.** Section 2 of this 2019 Act is amended to read:

13 **Sec. 2.** (1) As used in this section:

14 (a) "Insulin" includes various types of insulin analogs and insulin-like medications, regardless
15 of activation period or whether the solution is mixed before or after dispensation.

16 (b) "Insulin-related devices and supplies":

17 (A) Includes needles, syringes, cartridge systems, prefilled pen systems, glucose meters and test
18 strips.

19 (B) Does not include insulin pump devices.

20 (2)(a) A pharmacist may prescribe and dispense emergency refills of insulin and associated
21 insulin-related devices and supplies to a person who has evidence of a previous prescription from a
22 licensed health care provider.

23 (b) The insulin prescribed and dispensed under this section must be the lesser of a 30-day supply
24 or the smallest available package.

25 (c) A person may be prescribed and receive not more than three emergency refills of insulin and
26 associated insulin-related devices and supplies in a calendar year.

27 (3) A pharmacist who prescribes and dispenses emergency refills of insulin and associated
28 insulin-related devices and supplies under this section shall:

29 *[(a) Complete a training program approved by the State Board of Pharmacy that is related to*
30 *prescribing emergency refills of insulin and associated insulin-related devices and supplies;]*

31 *[(b)] (a) Complete a patient assessment to determine whether the prescription of emergency re-*
32 *fills of insulin and associated insulin-related devices and supplies is appropriate;*

33 *[(c)] (b) Document the patient visit and include notations regarding evidence of the patient's*
34 *previous prescription from the patient's licensed health care provider, information relating to the*
35 *patient's diabetes management and other relevant information; and*

36 *[(d)] (c) Make a reasonable attempt to inform the person's primary care provider, and the li-*
37 *censed health care provider who made the previous prescription, of the pharmacist's prescription for*
38 *emergency refills of insulin and associated insulin-related devices and supplies.*

39 (4) The board shall adopt rules to carry out this section. *[In approving the training program*
40 *described in subsection (3)(a) of this section, the board shall consult with and approve a training pro-*
41 *gram accredited by the Accreditation Council for Pharmacy Education or its successor organization.]*

42 **SECTION 4.** ORS 689.005 is amended to read:

43 689.005. As used in this chapter:

44 (1) "Administer" means the direct application of a drug or device whether by injection,
45 inhalation, ingestion, or any other means, to the body of a patient or research subject by:

- 1 (a) A practitioner or the practitioner's authorized agent; or
2 (b) The patient or research subject at the direction of the practitioner.
- 3 (2) "Approved continuing pharmacy education program" means those seminars, classes,
4 meetings, workshops and other educational programs on the subject of pharmacy approved by the
5 board.
- 6 (3) "Board of pharmacy" or "board" means the State Board of Pharmacy.
- 7 (4) "Clinical pharmacy agreement" means an agreement between a pharmacist or pharmacy and
8 a health care organization or a physician as defined in ORS 677.010 or a naturopathic physician as
9 defined in ORS 685.010 that permits the pharmacist to engage in the practice of clinical pharmacy
10 for the benefit of the patients of the health care organization, physician or naturopathic physician.
- 11 (5) "Continuing pharmacy education" means:
- 12 (a) Professional, pharmaceutical post-graduate education in the general areas of socio-economic
13 and legal aspects of health care;
- 14 (b) The properties and actions of drugs and dosage forms; and
- 15 (c) The etiology, characteristics and therapeutics of the disease state.
- 16 (6) "Continuing pharmacy education unit" means the unit of measurement of credits for ap-
17 proved continuing education courses and programs.
- 18 (7) "Deliver" or "delivery" means the actual, constructive or attempted transfer of a drug or
19 device other than by administration from one person to another, whether or not for a consideration.
- 20 (8) "Device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro
21 reagent or other similar or related article, including any component part or accessory, which is re-
22 quired under federal or state law to be prescribed by a practitioner and dispensed by a pharmacist.
- 23 (9) "Dispense" or "dispensing" means the preparation and delivery of a prescription drug pur-
24 suant to a lawful order of a practitioner in a suitable container appropriately labeled for subsequent
25 administration to or use by a patient or other individual entitled to receive the prescription drug.
- 26 (10) "Distribute" means the delivery of a drug other than by administering or dispensing.
- 27 (11) "Drug" means:
- 28 (a) Articles recognized as drugs in the official United States Pharmacopoeia, official National
29 Formulary, official Homeopathic Pharmacopoeia, other drug compendium or any supplement to any
30 of them;
- 31 (b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of dis-
32 ease in a human or other animal;
- 33 (c) Articles, other than food, intended to affect the structure or any function of the body of hu-
34 mans or other animals; and
- 35 (d) Articles intended for use as a component of any articles specified in paragraph (a), (b) or (c)
36 of this subsection.
- 37 (12) "Drug order" means a written order, in a hospital or other inpatient care facility, for an
38 ultimate user of any drug or device issued and signed by a practitioner, or an order transmitted by
39 other means of communication from a practitioner, that is immediately reduced to writing by a
40 pharmacist, licensed nurse or other practitioner.
- 41 (13) "Drug outlet" means a pharmacy, nursing home, shelter home, convalescent home, extended
42 care facility, drug abuse treatment center, penal institution, hospital, family planning clinic, student
43 health center, retail store, wholesaler, manufacturer, mail-order vendor or other establishment with
44 facilities located within or out of this state that is engaged in dispensing, delivery or distribution
45 of drugs within this state.

1 (14) "Drug room" means a secure and lockable location within an inpatient care facility that
2 does not have a licensed pharmacy.

3 (15) "Electronically transmitted" or "electronic transmission" means a communication sent or
4 received through technological apparatuses, including computer terminals or other equipment or
5 mechanisms linked by telephone or microwave relays, or similar apparatus having electrical, digital,
6 magnetic, wireless, optical, electromagnetic or similar capabilities.

7 (16) "Injectable hormonal contraceptive" means a drug composed of a hormone or a combination
8 of hormones that is approved by the United States Food and Drug Administration to prevent preg-
9 nancy and that a health care practitioner administers to the patient by injection.

10 (17) "Institutional drug outlet" means hospitals and inpatient care facilities where medications
11 are dispensed to another health care professional for administration to patients served by the hos-
12 pitals or facilities.

13 (18) "Intern" means a person who is enrolled in or has completed a course of study at a school
14 or college of pharmacy approved by the board and who is licensed with the board as an intern.

15 (19) "Internship" means a professional experiential program approved by the board under the
16 supervision of a licensed pharmacist registered with the board as a preceptor.

17 (20) "Itinerant vendor" means a person who sells or distributes nonprescription drugs by passing
18 from house to house, or by haranguing the people on the public streets or in public places, or who
19 uses the customary devices for attracting crowds, recommending their wares and offering them for
20 sale.

21 (21) "Labeling" means the process of preparing and affixing of a label to any drug container
22 exclusive, however, of the labeling by a manufacturer, packer or distributor of a nonprescription
23 drug or commercially packaged legend drug or device.

24 (22) "Manufacture" means the production, preparation, propagation, compounding, conversion
25 or processing of a device or a drug, either directly or indirectly by extraction from substances of
26 natural origin or independently by means of chemical synthesis or by a combination of extraction
27 and chemical synthesis and includes any packaging or repackaging of the substances or labeling or
28 relabeling of its container, except that this term does not include the preparation or compounding
29 of a drug by an individual for their own use or the preparation, compounding, packaging or labeling
30 of a drug:

31 (a) By a practitioner as an incident to administering or dispensing of a drug in the course of
32 professional practice; or

33 (b) By a practitioner or by the practitioner's authorization under supervision of the practitioner
34 for the purpose of or as an incident to research, teaching or chemical analysis and not for sale.

35 (23) "Manufacturer" means a person engaged in the manufacture of drugs.

36 (24) "Nonprescription drug outlet" means shopkeepers and itinerant vendors registered under
37 ORS 689.305.

38 (25) "Nonprescription drugs" means drugs which may be sold without a prescription and which
39 are prepackaged for use by the consumer and labeled in accordance with the requirements of the
40 statutes and regulations of this state and the federal government.

41 (26) "Person" means an individual, corporation, partnership, association or other legal entity.

42 (27) "Pharmacist" means an individual licensed by this state to engage in the practice of phar-
43 macy or to engage in the practice of clinical pharmacy.

44 (28) "Pharmacy" means a place that meets the requirements of rules of the board, is licensed
45 and approved by the board where the practice of pharmacy may lawfully occur and includes

1 apothecaries, drug stores, dispensaries, hospital outpatient pharmacies, pharmacy departments and
2 prescription laboratories but does not include a place used by a manufacturer or wholesaler.

3 (29) "Pharmacy technician" means a person licensed by the State Board of Pharmacy who assists
4 the pharmacist in the practice of pharmacy pursuant to rules of the board.

5 (30) "Practice of clinical pharmacy" means:

6 (a) The health science discipline in which, in conjunction with the patient's other practitioners,
7 a pharmacist provides patient care to optimize medication therapy and to promote disease pre-
8 vention and the patient's health and wellness;

9 (b) The provision of patient care services, including but not limited to post-diagnostic disease
10 state management services; and

11 (c) The practice of pharmacy by a pharmacist pursuant to a clinical pharmacy agreement.

12 (31) "Practice of pharmacy" means:

13 (a) The interpretation and evaluation of prescription orders;

14 (b) The compounding, dispensing and labeling of drugs and devices, except labeling by a man-
15 ufacturer, packer or distributor of nonprescription drugs and commercially packaged legend drugs
16 and devices;

17 (c) The prescribing and administering of vaccines and immunizations and the providing of pa-
18 tient care services pursuant to ORS 689.645;

19 (d) The administering of drugs and devices to the extent permitted under ORS 689.655;

20 (e) The participation in drug selection and drug utilization reviews;

21 (f) The proper and safe storage of drugs and devices and the maintenance of proper records re-
22 garding the safe storage of drugs and devices;

23 (g) The responsibility for advising, where necessary or where regulated, of therapeutic values,
24 content, hazards and use of drugs and devices;

25 (h) The monitoring of therapeutic response or adverse effect to drug therapy;

26 (i) The optimizing of drug therapy through the practice of clinical pharmacy;

27 (j) Patient care services, including medication therapy management and comprehensive
28 medication review;

29 (k) The offering or performing of those acts, services, operations or transactions necessary in
30 the conduct, operation, management and control of pharmacy; [*and*]

31 (L) The prescribing and administering of injectable hormonal contraceptives and the prescribing
32 and dispensing of self-administered hormonal contraceptives pursuant to ORS 689.689; **and**

33 **(m) The prescribing and dispensing of emergency refills of insulin and associated**
34 **insulin-related devices and supplies pursuant to section 2 of this 2019 Act.**

35 (32) "Practitioner" means a person licensed and operating within the scope of such license to
36 prescribe, dispense, conduct research with respect to or administer drugs in the course of profes-
37 sional practice or research:

38 (a) In this state; or

39 (b) In another state or territory of the United States if the person does not reside in Oregon and
40 is registered under the federal Controlled Substances Act.

41 (33) "Preceptor" means a pharmacist or a person licensed by the board to supervise the
42 internship training of a licensed intern.

43 (34) "Prescription drug" or "legend drug" means a drug which is:

44 (a) Required by federal law, prior to being dispensed or delivered, to be labeled with either of
45 the following statements:

1 (A) "Caution: Federal law prohibits dispensing without prescription"; or

2 (B) "Caution: Federal law restricts this drug to use by or on the order of a licensed
3 veterinarian"; or

4 (b) Required by any applicable federal or state law or regulation to be dispensed on prescription
5 only or is restricted to use by practitioners only.

6 (35) "Prescription" or "prescription drug order" means a written, oral or electronically trans-
7 mitted direction, given by a practitioner authorized to prescribe drugs, for the preparation and use
8 of a drug. When the context requires, "prescription" also means the drug prepared under such
9 written, oral or electronically transmitted direction.

10 (36) "Retail drug outlet" means a place used for the conduct of the retail sale, administering or
11 dispensing or compounding of drugs or chemicals or for the administering or dispensing of pre-
12 scriptions and licensed by the board as a place where the practice of pharmacy may lawfully occur.

13 (37) "Self-administered hormonal contraceptive" means a drug composed of a hormone or a
14 combination of hormones that is approved by the United States Food and Drug Administration to
15 prevent pregnancy and that the patient to whom the drug is prescribed may administer to oneself.
16 "Self-administered hormonal contraceptive" includes, but is not limited to, hormonal contraceptive
17 patches and hormonal contraceptive pills.

18 (38) "Shopkeeper" means a business or other establishment, open to the general public, for the
19 sale or nonprofit distribution of drugs.

20 (39) "Unit dose" means a sealed single-unit container so designed that the contents are admin-
21 istered to the patient as a single dose, direct from the container. Each unit dose container must bear
22 a separate label, be labeled with the name and strength of the medication, the name of the man-
23 ufacturer or distributor, an identifying lot number and, if applicable, the expiration date of the
24 medication.

25 (40) "Wholesale drug outlet" means a person who imports, stores, distributes or sells for resale
26 drugs, including legend drugs and nonprescription drugs.

27 **SECTION 5.** ORS 743A.051 is amended to read:

28 743A.051. Notwithstanding any provisions of a health benefit plan as defined in ORS 743B.005,
29 whenever the plan provides for payment or reimbursement for a service that is within the lawful
30 scope of practice of a pharmacist, the insurer:

31 (1) May provide payment or reimbursement for the service when the service is provided by a
32 pharmacist; **and**

33 **(2) Shall provide payment or reimbursement for:**

34 **(a) The prescription of emergency refills of insulin and associated insulin-related devices**
35 **and supplies as described in section 2 of this 2019 Act; and**

36 **(b) The service provided by the pharmacist.**

37 **SECTION 6.** The Oregon Health Authority shall assign billing codes for reimbursement
38 in medical assistance programs for the services described in section 2 of this 2019 Act.

39 **SECTION 7.** Section 6 of this 2019 Act is repealed on December 31, 2020.

40 **SECTION 8.** (1) Sections 2 and 6 of this 2019 Act and the amendments to ORS 689.005 and
41 743A.051 by sections 4 and 5 of this 2019 Act become operative on January 1, 2020.

42 (2) The amendments to section 2 of this 2019 Act by section 3 of this 2019 Act become
43 operative on January 1, 2023.

44 (3) The Oregon Health Authority and the State Board of Pharmacy may take any action
45 before the operative date specified in subsection (1) of this section that enables the authority

1 and the board to exercise, on and after the operative date specified in subsection (1) of this
2 section, all of the duties, functions and powers conferred on the authority and the board by
3 sections 2 and 6 of this 2019 Act and the amendments to ORS 689.005 and 743A.051 by sections
4 4 and 5 of this 2019 Act.

5 SECTION 9. This 2019 Act being necessary for the immediate preservation of the public
6 peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect
7 on its passage.

8
