

Requested by Representative NOBLE

**PROPOSED AMENDMENTS TO
HOUSE BILL 2840**

1 In line 2 of the printed bill, delete the period and insert “; creating new
2 provisions; and amending ORS 735.533.”

3 Delete lines 6 through 24 and insert:

4 **“SECTION 2. (1) A pharmacy benefit manager registered under ORS
5 735.532 may not:**

6 **“(a) Require an insured to fill or refill prescriptions using a mail-
7 order service.**

8 **“(b) Prohibit a pharmacist or pharmacy from providing to a patient
9 information regarding the patient’s cost share for a prescription drug
10 and, if available, the clinical efficacy of a lower cost alternative drug.**

11 **“(c) Prohibit a pharmacist or pharmacy from selling an insured a
12 lower cost alternative drug.**

13 **“(d) Prohibit a pharmacist or pharmacy from offering or providing
14 delivery as an ancillary service.**

15 **“(e) Charge or collect from an insured a copayment for a drug in
16 an amount that exceeds the reimbursement the pharmacy benefit
17 manager pays to the pharmacist or pharmacy for the drug.**

18 **“(f) Hold a pharmacist or pharmacy responsible for a fee for the
19 adjudication of a claim for reimbursement.**

20 **“(g) Recoup from a pharmacist or pharmacy costs associated with
21 claims for which the pharmacist or pharmacy has already been paid,**

1 **unless otherwise required by law.**

2 **“(h) Penalize a pharmacist or pharmacy or retaliate against a**
3 **pharmacist or pharmacy for providing information described in para-**
4 **graph (b) of this subsection, selling a lower cost alternative drug or**
5 **offering or providing delivery as described in paragraph (d) of this**
6 **subsection.**

7 **“(2) The Department of Consumer and Business Services may adopt**
8 **rules necessary to enforce this section.**

9 **“SECTION 3.** ORS 735.533 is amended to read:

10 **“735.533. (1) In accordance with ORS chapter 183, the Department of**
11 **Consumer and Business Services may deny an application for registration**
12 **as a pharmacy benefit manager or an application for renewal of a registra-**
13 **tion as a pharmacy benefit manager, and may suspend or revoke a registra-**
14 **tion as a pharmacy benefit manager, if the department finds that an**
15 **applicant or registrant:**

16 **“(a) Falsified an application for registration or for the renewal of a reg-**
17 **istration or engaged in any dishonest act in relation to the application;**

18 **“(b) Engaged in dishonesty, fraud or gross negligence in the conduct of**
19 **business as a pharmacy benefit manager;**

20 **“(c) Engaged in conduct that resulted in a conviction of a felony under**
21 **the laws of any state or of the United States, to the extent that such conduct**
22 **may be considered under ORS 670.280;**

23 **“(d) Was convicted under the laws of any state or of the United States**
24 **of any crime of which an essential element is dishonesty or fraud;**

25 **“(e) Had a certificate of authority or authority to conduct business as a**
26 **pharmacy benefit manager denied, revoked or suspended in another state;**

27 **“(f) Failed to pay a civil penalty imposed by final order of the department**
28 **or to comply with the terms of suspension set by the department;**

29 **“(g) Failed to meet the terms of a consent decree approved by a court of**
30 **competent jurisdiction in this state, or a consent order made between the**

1 department and the pharmacy benefit manager;

2 “(h) Refused to be examined or to produce accounts, records or files for
3 examination, including the refusal by any officer of the applicant or regis-
4 trant to give information with respect to the affairs of the pharmacy benefit
5 manager, or refused to perform any other legal obligation with respect to an
6 examination by the department; [*or*]

7 **“(i) Violated section 2 of this 2019 Act; or**

8 **“[*i*] (j) Violated any rule or order of the department or any provision**
9 **of the Insurance Code.**

10 “(2) The department may prescribe by rule a procedure by which a phar-
11 macy or an entity acting on behalf of a pharmacy may file a complaint with
12 the department alleging that a pharmacy benefit manager has engaged in
13 conduct described in this section. The department may restrict the right of
14 a pharmacy or entity to file a complaint only to the extent necessary to
15 prevent abuse of the complaint process.”.

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