

Requested by Representative HAYDEN

**PROPOSED AMENDMENTS TO
HOUSE BILL 2678**

1 On page 1 of the printed bill, line 2, after “414.325” delete the rest of the
2 line and line 3 and insert “and 689.185.”

3 Delete lines 5 through 31 and delete page 2.

4 On page 3, delete lines 1 through 28 and insert:

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 practi-
8 tioner, as defined in ORS 689.005.

9 **“(b) ‘Mental health drug’ means a type of legend drug defined by**
10 **the Oregon Health Authority by rule that includes, but is not limited**
11 **to:**

12 **“(A) Therapeutic class 7 ataractics-tranquilizers; and**

13 **“(B) Therapeutic class 11 psychostimulants-antidepressants.**

14 “[~~(b)~~] (c) ‘Urgent medical condition’ means a medical condition that arises
15 suddenly, is not life-threatening and requires prompt treatment to avoid the
16 development of more serious medical problems.

17 “[~~(2)~~] *A licensed practitioner may prescribe such drugs under this chapter*
18 *as the practitioner in the exercise of professional judgment considers appro-*
19 *priate for the diagnosis or treatment of the patient in the practitioner’s care*
20 *and within the scope of practice. Prescriptions shall be dispensed in the ge-*
21 *neric form pursuant to ORS 689.515 and pursuant to rules of the Oregon*

1 *Health Authority unless the practitioner prescribes otherwise and an exception*
2 *is granted by the authority.]*

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

7 *“(4) Notwithstanding subsection (3) of this section, an exception must be*
8 *applied for and granted before the authority is required to pay for minor*
9 *tranquilizers and amphetamines and amphetamine derivatives, as defined by*
10 *rule of the authority.]*

11 **“(2) The authority shall reimburse the cost of a legend drug pre-**
12 **scribed for a recipient of medical assistance only if the legend drug:**

13 **“(a) Is on the drug list of the Practitioner-Managed Prescription**
14 **Drug Plan adopted under ORS 414.334;**

15 **“(b) Is in a therapeutic class of nonsedating antihistamines and**
16 **nasal inhalers, as defined by the authority by rule, and is prescribed**
17 **by an allergist for the treatment of:**

18 **“(A) Asthma;**

19 **“(B) Sinusitis;**

20 **“(C) Rhinitis; or**

21 **“(D) Allergies; or**

22 **“(c) Is prescribed and dispensed under this chapter by a licensed**
23 **practitioner at a rural health clinic for an urgent medical condition**
24 **and:**

25 **“(A) There is no pharmacy within 15 miles of the clinic;**

26 **“(B) The prescription is dispensed for a patient outside of the**
27 **normal business hours of any pharmacy within 15 miles of the clinic;**
28 **or**

29 **“(C) No pharmacy within 15 miles of the clinic dispenses legend**
30 **drugs under this chapter.**

1 **“(3) The authority shall pay only for drugs in the generic form un-**
2 **less an exception has been granted by the authority through the prior**
3 **authorization process adopted by the authority under subsection (4)**
4 **of this section.**

5 **“(4) Notwithstanding subsection (2) of this section, the authority**
6 **shall provide reimbursement for a legend drug that does not meet the**
7 **criteria in subsection (2) of this section if:**

8 **“(a) It is a mental health drug.**

9 **“(b) The authority grants approval through a prior authorization**
10 **process adopted by the authority by rule.**

11 **“(c) The prescriber contacts the authority requesting prior author-**
12 **ization and the authority or its agent fails to respond to the telephone**
13 **call or to a prescriber’s request made by electronic mail within 24**
14 **hours.**

15 **“(d) After consultation with the authority or its agent, the**
16 **prescriber, in the prescriber’s professional judgment, determines that**
17 **the drug is medically appropriate.**

18 **“(e) The original prescription was written prior to July 28, 2009, or**
19 **the request is for a refill of a prescription for:**

20 **“(A) The treatment of seizures, cancer, HIV or AIDS; or**

21 **“(B) An immunosuppressant.**

22 **“(f) It is a drug in a class not evaluated for the Practitioner-**
23 **Managed Prescription Drug Plan adopted under ORS 414.334.**

24 **“(5)[(a)] Notwithstanding subsections (1) to (4) of this section [*and except***
25 ***as provided in paragraph (b) of this subsection,*] the authority is authorized**
26 **to:**

27 **“[(A)] (a) Withhold payment for a legend drug when federal financial**
28 **participation is not available; [*and*]**

29 **“[(B)] (b) Require prior authorization of payment for drugs that the au-**
30 **thority has determined should be limited to those conditions generally re-**

1 cognized as appropriate by the medical profession[.]; **and**

2 **“(c) Withhold payment for a legend drug that is not a funded health**
3 **service on the prioritized list of health services established by the**
4 **Health Services Commission under ORS 414.690.**

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

10 *“(A) Asthma;]*

11 *“(B) Sinusitis;]*

12 *“(C) Rhinitis; or]*

13 *“(D) Allergies.]*

14 *“(6) The authority shall pay a rural health clinic for a legend drug pre-*
15 *scribed and dispensed under this chapter by a licensed practitioner at the rural*
16 *health clinic for an urgent medical condition if:]*

17 *“(a) There is not a pharmacy within 15 miles of the clinic;]*

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

20 *“(c) No pharmacy within 15 miles of the clinic dispenses legend drugs*
21 *under this chapter.]*

22 *“(7) (6) Notwithstanding ORS 414.334, the authority may conduct pro-*
23 *spective drug utilization review in accordance with ORS 414.351 to 414.414.*

24 *“(8) (7) Notwithstanding subsection (3) of this section, the authority may*
25 *pay a pharmacy for a particular brand name drug rather than the generic*
26 *version of the drug after notifying the pharmacy that the cost of the partic-*
27 *ular brand name drug, after receiving discounted prices and rebates, is equal*
28 *to or less than the cost of the generic version of the drug.*

29 *“(9)(a) (8)(a) Within 180 days after the United States patent expires on*
30 *an immunosuppressant drug used in connection with an organ transplant, the*

1 authority shall determine whether the drug is a narrow therapeutic index
2 drug.

3 “(b) As used in this subsection, ‘narrow therapeutic index drug’ means a
4 drug that has a narrow range in blood concentrations between efficacy and
5 toxicity and requires therapeutic drug concentration or pharmacodynamic
6 monitoring.

7 “(9) **The authority shall appoint an advisory committee in accord-**
8 **ance with ORS 183.333 for any rulemaking conducted pursuant to this**
9 **section.**

10 “**SECTION 2.** ORS 414.325, as amended by section 1 of this 2019 Act, is
11 amended to read:

12 “414.325. (1) As used in this section:

13 “(a) ‘Legend drug’ means any drug requiring a prescription by a practi-
14 tioner, as defined in ORS 689.005.

15 “[*(b) ‘Mental health drug’ means a type of legend drug defined by the*
16 *Oregon Health Authority by rule that includes, but is not limited to:*]

17 “[*(A) Therapeutic class 7 ataractics-tranquilizers; and*]

18 “[*(B) Therapeutic class 11 psychostimulants-antidepressants.*]

19 “[*(c)*] **(b)** ‘Urgent medical condition’ means a medical condition that arises
20 suddenly, is not life-threatening and requires prompt treatment to avoid the
21 development of more serious medical problems.

22 “[*(2) The authority shall reimburse the cost of a legend drug prescribed for*
23 *a recipient of medical assistance only if the legend drug:*]

24 “[*(a) Is on the drug list of the Practitioner-Managed Prescription Drug*
25 *Plan adopted under ORS 414.334;*]

26 “[*(b) Is in a therapeutic class of nonsedating antihistamines and nasal*
27 *inhalers, as defined by the authority by rule, and is prescribed by an allergist*
28 *for the treatment of:*]

29 “[*(A) Asthma;*]

30 “[*(B) Sinusitis;*]

1 *“(C) Rhinitis; or]*
2 *“(D) Allergies; or]*
3 *“(c) Is prescribed and dispensed under this chapter by a licensed practi-*
4 *tioner at a rural health clinic for an urgent medical condition and:]*
5 *“(A) There is no pharmacy within 15 miles of the clinic;]*
6 *“(B) The prescription is dispensed for a patient outside of the normal*
7 *business hours of any pharmacy within 15 miles of the clinic; or]*
8 *“(C) No pharmacy within 15 miles of the clinic dispenses legend drugs*
9 *under this chapter.]*
10 *“(3) The authority shall pay only for drugs in the generic form unless an*
11 *exception has been granted by the authority through the prior authorization*
12 *process adopted by the authority under subsection (4) of this section.]*
13 *“(4) Notwithstanding subsection (2) of this section, the authority shall*
14 *provide reimbursement for a legend drug that does not meet the criteria in*
15 *subsection (2) of this section if:]*
16 *“(a) It is a mental health drug.]*
17 *“(b) The authority grants approval through a prior authorization process*
18 *adopted by the authority by rule.]*
19 *“(c) The prescriber contacts the authority requesting prior authorization*
20 *and the authority or its agent fails to respond to the telephone call or to a*
21 *prescriber’s request made by electronic mail within 24 hours.]*
22 *“(d) After consultation with the authority or its agent, the prescriber, in*
23 *the prescriber’s professional judgment, determines that the drug is medically*
24 *appropriate.]*
25 *“(e) The original prescription was written prior to July 28, 2009, or the*
26 *request is for a refill of a prescription for:]*
27 *“(A) The treatment of seizures, cancer, HIV or AIDS; or]*
28 *“(B) An immunosuppressant.]*
29 *“(f) It is a drug in a class not evaluated for the Practitioner-Managed*
30 *Prescription Drug Plan adopted under ORS 414.334.]*

1 “(2) A licensed practitioner may prescribe such drugs under this
2 chapter as the practitioner in the exercise of professional judgment
3 considers appropriate for the diagnosis or treatment of the patient in
4 the practitioner’s care and within the scope of practice. Prescriptions
5 shall be dispensed in the generic form pursuant to ORS 689.515 and
6 pursuant to rules of the Oregon Health Authority unless the practi-
7 tioner prescribes otherwise and an exception is granted by the au-
8 thority.

9 “(3) Except as provided in subsections (4) and (5) of this section, the
10 authority shall place no limit on the type of legend drug that may be
11 prescribed by a practitioner, but the authority shall pay only for drugs
12 in the generic form unless an exception has been granted by the au-
13 thority.

14 “(4) Notwithstanding subsection (3) of this section, an exception
15 must be applied for and granted before the authority is required to pay
16 for minor tranquilizers and amphetamines and amphetamine deriva-
17 tives, as defined by rule of the authority.

18 “(5)(a) Notwithstanding subsections (1) to (4) of this section **and except**
19 **as provided in paragraph (b) of this subsection**, the authority is author-
20 ized to:

21 “[(a)] (A) Withhold payment for a legend drug when federal financial
22 participation is not available; **and**

23 “[(b)] (B) Require prior authorization of payment for drugs that the au-
24 thority has determined should be limited to those conditions generally re-
25 cognized as appropriate by the medical profession[; *and*].

26 “[(c) *Withhold payment for a legend drug that is not a funded health ser-*
27 *vice on the prioritized list of health services established by the Health Services*
28 *Commission under ORS 414.690.*]

29 “(b) **The authority may not require prior authorization for**
30 **therapeutic classes of nonsedating antihistamines and nasal inhalers,**

1 as defined by rule by the authority, when prescribed by an allergist for
2 treatment of any of the following conditions, as described by the
3 Health Evidence Review Commission on the funded portion of its pri-
4 oritized list of services:

5 “(A) Asthma;

6 “(B) Sinusitis;

7 “(C) Rhinitis; or

8 “(D) Allergies.

9 “(6) The authority shall pay a rural health clinic for a legend drug
10 prescribed and dispensed under this chapter by a licensed practitioner
11 at the rural health clinic for an urgent medical condition if:

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

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

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

18 “[6] (7) Notwithstanding ORS 414.334, the authority may conduct pro-
19 spective drug utilization review in accordance with ORS 414.351 to 414.414.

20 “[7] (8) Notwithstanding subsection (3) of this section, the authority may
21 pay a pharmacy for a particular brand name drug rather than the generic
22 version of the drug after notifying the pharmacy that the cost of the partic-
23 ular brand name drug, after receiving discounted prices and rebates, is equal
24 to or less than the cost of the generic version of the drug.

25 “[8(a)] (9)(a) Within 180 days after the United States patent expires on
26 an immunosuppressant drug used in connection with an organ transplant, the
27 authority shall determine whether the drug is a narrow therapeutic index
28 drug.

29 “(b) As used in this subsection, ‘narrow therapeutic index drug’ means a
30 drug that has a narrow range in blood concentrations between efficacy and

1 toxicity and requires therapeutic drug concentration or pharmacodynamic
2 monitoring.

3 “[*9*] *The authority shall appoint an advisory committee in accordance with*
4 *ORS 183.333 for any rulemaking conducted pursuant to this section.*”.

5 In line 29, delete “6” and insert “3”.

6 Delete page 4 and insert:

7 **“SECTION 4. The amendments to ORS 414.325 by section 2 of this**
8 **2019 Act become operative on January 1, 2024.”.**

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