SB 848-3
(LC 3696)
4/2/21 (LHF/ps)

Requested by SENATE COMMITTEE ON HEALTH CARE

PROPOSED AMENDMENTS TO
SENATE BILL 848

On page 1 of the printed bill, line 2, delete "and".

In line 3, after "414.334" delete the rest of the line and insert "and 689.185; and repealing ORS 414.337.".

On page 5, delete lines 37 through 45 and delete page 6.

On page 7, delete lines 1 through 44 and insert:

"SECTION 7. 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.**

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

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

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

"**(C) Withhold payment for a legend drug that is prescribed to treat a health condition that is not a funded health condition on the prioritized list of health services developed and maintained by the Health Evidence Review Commission under ORS 414.690**.

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

"[*(A) Asthma;*]

"[*(B) Sinusitis;*]

"[*(C) Rhinitis; or*]

"[*(D) Allergies.*]

"**(4) The authority shall provide a clear, readily accessible and convenient process for a practitioner to request prior authorization for a prescription drug. The authority shall post to the authority's website a clear explanation of the process that is easily accessible to practitioners and patients.**

"(5) The authority may not require prior authorization for a drug in a class not evaluated for the Practitioner-Managed Prescription Drug Plan under ORS 414.334, except to ensure that the drug is prescribed to treat a health condition that is a funded health condition on the prioritized list of health services developed and maintained by the Health Evidence Review Commission under ORS 414.690 and the treatment is consistent with rules adopted by the United States Food and Drug Administration related to labeling or packaging.

"(6) The authority shall approve a practitioner's prior authorization request for a drug that is not on a preferred drug list if:

"(a) The request is for a refill of a prescription drug for the treatment of seizures, cancer, HIV or AIDS; or

"(b) The practitioner, after consultation with the authority or an agent of the authority, determines that the prescribed drug is more appropriate for the patient than the products on the preferred drug list for treatment of the patient's condition.

"(7) The authority shall approve or deny a request for prior authorization no later 72 hours or two business days after receipt of the request, whichever is later, unless exigent circumstances exist. If exigent circumstances exist, the authority shall respond no later than one business day after receipt of the request. A request for prior authorization shall be deemed approved if the authority fails to deny the request within the time frames specified in this paragraph.

"[*(6)*] **(8)** The authority shall pay a rural health clinic for a legend drug prescribed and dispensed under this chapter by a licensed practitioner at the rural health clinic for an urgent medical condition if:

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

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

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

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

"[*(8)*] **(10)** Notwithstanding subsection (3)**(a)** of this section, the authority may pay a pharmacy for a particular brand name drug rather than the generic version of the drug after notifying the pharmacy that the cost of the particular brand name drug, after receiving discounted prices and rebates, is equal to or less than the cost of the generic version of the drug.

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

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

"SECTION 8. ORS 414.334 is amended to read:

"414.334. (1) The Oregon Health Authority shall adopt **and maintain** a Practitioner-Managed Prescription Drug Plan [*for the medical assistance program*] **consisting of a preferred drug list for drugs other than those that are purchased by coordinated care organizations**. The purpose of the plan is to ensure that enrollees in the medical assistance program receive

the most effective prescription drug available at the best possible price.

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

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

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

"(5) [*An enrollee*] **A patient** may appeal to the authority a decision of a practitioner or the authority to not provide a prescription drug requested by the enrollee.

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

"**(7) The authority, in collaboration with coordinated care organizations, shall evaluate prescription drug purchasing to:**

"(a) Improve the quality of care from the perspective of members of coordinated care organizations and practitioners; and

"(b) Reduce costs to the state.

"(8) The authority may not require a coordinated care organization to adhere to a single or partially aligned preferred drug list. A coordinated care organization may voluntarily participate in a single or partially aligned preferred drug list.".

On page 8, line 3, delete "10" and insert "9".

After line 19, insert:

"REPEAL

"SECTION 10. ORS 414.337 is repealed.".
