

HB 2958-A8  
(LC 2695)  
5/21/21 (SCT/ps)

Requested by SENATE COMMITTEE ON HEALTH CARE

**PROPOSED AMENDMENTS TO RESOLVE CONFLICTS TO  
A-ENGROSSED HOUSE BILL 2958**

1 On page 1 of the printed A-engrossed bill, line 3, after “743B.602” insert  
2 “and section 12, chapter \_\_\_, Oregon Laws 2021 (Enrolled House Bill 2517);  
3 repealing section 6, chapter \_\_\_, Oregon Laws 2021 (Enrolled House Bill  
4 2517)”.

5 On page 7, after line 13, insert:

6 **“SECTION 6a. If House Bill 2517 becomes law, section 6, chapter \_\_\_,**  
7 **Oregon Laws 2021 (Enrolled House Bill 2517) (amending ORS 743B.602),**  
8 **is repealed and ORS 743B.602, as amended by section 6 of this 2021 Act,**  
9 **is amended to read:**

10 “743B.602. (1) As used in this section:

11 **“(a) ‘Beneficiary’ means an individual receiving health care that is**  
12 **provided or reimbursed by an entity that provides health care cover-**  
13 **age.**

14 **“[(a)] (b) ‘Health care coverage’ includes any of the following that reim-**  
15 **burse the cost of prescription drugs:**

16 **“(A) A health benefit plan[, as defined in ORS 743B.005];**

17 **“(B) An insurance policy or certificate;**

18 **“(C) A medical services contract[, as defined in ORS 743B.001];**

19 **“(D) A multiple employer welfare arrangement, as defined in ORS 750.301;**

20 **“(E) A contract or agreement with a health care service contractor, as**  
21 **defined in ORS 750.005, or a preferred provider organization;**

1 “(F) [*Payment of claims*] **Claims payments** by a pharmacy benefit man-  
2 ager, as defined in ORS 735.530, or other third party administrator; and

3 “(G) An accident insurance policy or any other insurance contract.

4 “[*(b) ‘Step therapy’ means a drug protocol in which an entity that provides*  
5 *health care coverage will reimburse the cost of a prescribed drug only if the*  
6 *patient has first tried a specified drug or series of drugs.*]

7 “[*(2) An entity that provides health care coverage that requires step therapy*  
8 *shall make easily accessible to prescribing practitioners, clear explanations*  
9 *of:*]

10 “**(2) An entity that provides health care coverage that requires step**  
11 **therapy shall:**

12 “**(a) Post to the entity’s website clear explanations that are easily**  
13 **accessible to prescribing practitioners and beneficiaries of the cover-**  
14 **age, written in plain language and understandable to practitioners and**  
15 **beneficiaries, of:**

16 “[*(a)*] **(A) The clinical criteria for each step therapy protocol and the**  
17 **criteria for approving an exception to step therapy;**

18 “[*(b)*] **(B) The procedure by which a practitioner may submit to the entity**  
19 **the practitioner’s medical rationale for determining that a particular step**  
20 **therapy [*protocol*] is not appropriate for a particular [*patient*] beneficiary**  
21 **based on the [*patient’s*] beneficiary’s medical condition and history; and**

22 “[*(c)*] **(C) The documentation, if any, that a practitioner must submit to**  
23 **the entity for the entity to determine the appropriateness of step therapy for**  
24 **a specific [*patient*] beneficiary.**

25 “**(b) Provide a clear, readily accessible and convenient process for**  
26 **a prescribing practitioner to request an exception to step therapy,**  
27 **which may be the same process used to request exceptions to other**  
28 **coverage restrictions or limitations.**

29 “**(c) Approve a request for an exception to step therapy if the entity**  
30 **determines that the evidence submitted by the prescribing practitioner**

1 **is sufficient to establish that:**

2 **“(A) The prescription drug required by the step therapy is**  
3 **contraindicated or will cause the beneficiary to experience a clinically**  
4 **predictable adverse reaction;**

5 **“(B) The prescription drug required by the step therapy is expected**  
6 **to be ineffective based on the known clinical characteristics of the**  
7 **beneficiary and the known characteristics of the prescription drug**  
8 **regimen;**

9 **“(C) The beneficiary has tried the drug required by the step therapy,**  
10 **a drug in the same pharmacologic class as the drug required by the**  
11 **step therapy or a drug with the same mechanism of action as the drug**  
12 **required by the step therapy, and the beneficiary’s use of the drug**  
13 **required by the step therapy was discontinued due to the lack of effi-**  
14 **cacy or effectiveness, a diminished effect or an adverse reaction;**

15 **“(D) For a period of at least 90 days the beneficiary has experienced**  
16 **a positive therapeutic outcome from the drug for which the exception**  
17 **is requested while enrolled in the current or immediately preceding**  
18 **health care coverage and changing to the drug required by the step**  
19 **therapy may cause a clinically predictable adverse reaction or physical**  
20 **or mental harm to the beneficiary; or**

21 **“(E) The prescription drug required by the step therapy is not in the**  
22 **best interest of the beneficiary based on medical necessity.**

23 **“(d) Grant or deny a request for an exception to step therapy or an**  
24 **appeal of a denial of coverage no later than 72 hours or two business**  
25 **days, whichever is later, after receipt of the request unless exigent**  
26 **circumstances exist. If exigent circumstances exist the entity shall**  
27 **grant or deny the request for an exception no later than one business**  
28 **day after receipt of the request. A request for an exception to step**  
29 **therapy or an appeal of a denial of coverage shall be deemed granted**  
30 **if the entity fails to act within the time frames specified in this para-**

1 graph.

2 “(3) A prescribing practitioner may not use a pharmaceutical sam-  
3 ple for the sole purpose of qualifying for an exception to step therapy  
4 under subsection (2)(c)(C) or (D) of this section.

5 “(4) This section does not prevent:

6 “(a) An entity that provides health care coverage from requiring a  
7 beneficiary to try an AB-rated generic equivalent or a biological  
8 product that is a biosimilar agent approved by the United States Food  
9 and Drug Administration prior to covering the equivalent brand name  
10 prescription drug;

11 “(b) An entity that provides health care coverage from denying a  
12 request for an exception to allow coverage of a drug that has been  
13 removed from the market due to the safety concerns of the United  
14 States Food and Drug Administration; or

15 “(c) A practitioner from prescribing a prescription drug that is  
16 medically appropriate regardless of coverage.

17 “**SECTION 6b.** If House Bill 2517 becomes law, the amendments to  
18 ORS 743B.602 by section 6a of this 2021 Act become operative on Jan-  
19 uary 1, 2022.

20 “**SECTION 6c.** If House Bill 2517 becomes law, section 12, chapter \_\_\_\_,  
21 Oregon Laws 2021 (Enrolled House bill 2517), is amended to read:

22 “**Sec. 12.** (1) An entity subject to ORS 743B.423 must meet the website  
23 requirements in ORS 743B.423, as amended by section 5, [*of this 2021 Act*]  
24 **chapter \_\_\_\_, Oregon Laws 2021 (Enrolled House Bill 2517)**, no later than  
25 June 1, 2022.

26 “(2) An entity described in ORS 743B.602 must meet the website require-  
27 ments in ORS 743B.602, as amended by [*section 6 of this 2021 Act*] **section**  
28 **6a of this 2021 Act**, no later than June 1, 2022.”.

29