

A-Engrossed House Bill 4149

Ordered by the House February 22
Including House Amendments dated February 22

Sponsored by Representatives NATHANSON, GOODWIN, NOSSE, LEVY B, SMITH G, Senators GELSER BLOUIN, MANNING JR; Representatives BOWMAN, DEXTER, GAMBA, GRAYBER, HOLVEY, MARSH, OWENS, WALLAN, WALTERS, Senators DEMBROW, HANSELL, TAYLOR (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. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act requires PBMs to be licensed and changes the definition of a PBM. The Act changes the way PBMs can audit drug stores. The Act requires PBMs to report certain information each year to DCBS. The Act makes changes to the way 340B drugs are covered by insurance. The Act protects certain information that is provided to or developed by the OPDP from being released to the public. (Flesch Readability Score: 65.3).

[Digest: The Act requires PBMs to be licensed and changes the definition of a PBM. The Act changes how drug stores can appeal the amounts that a PBM pays the drug store for drugs sold by the drug store. The Act changes the way PBMs can audit drug stores. The Act requires PBMs to report certain information each year to DCBS. The Act requires health insurance policies to allow the individuals covered by the policies to choose their own drug store or druggist. The Act requires insurers that offer health insurance to contract with any drug store that is willing to agree to the terms of the insurance contract. The Act makes changes to the way 340B drugs are covered by insurance. (Flesch Readability Score: 67.4).]

Requires pharmacy benefit managers to be licensed by the Department of Consumer and Business Services beginning January 1, 2025. Modifies the definition of "pharmacy benefit manager" and imposes new requirements on pharmacy benefit managers. *[Modifies the procedures for a pharmacy to appeal the payment made by a pharmacy benefit manager on a claim for reimbursement.]* Restricts audits of pharmacy claims for reimbursement.

Requires pharmacy benefit managers to report specified information to the department on an annual basis.

[Requires policies or certificates of health insurance and contracts providing for the reimbursement of the cost of prescription drugs to allow a policyholder, certificate holder and beneficiary to select a pharmacy or pharmacist for filling prescriptions and for prescription renewals. Requires policies, certificates and contracts to contract with any pharmacy or pharmacist willing to abide by the terms and conditions of the policy, certificate or contract.] Imposes new requirements with respect to the insurance coverage of 340B drugs.

Protects from public disclosure certain information provided to or developed by the Oregon Prescription Drug Program.

Declares an emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to pharmacy benefits; creating new provisions; amending ORS 192.355, 646A.694, 735.530,
3 735.532, 735.533, 735.534, 735.536, 735.537, 735.540, 735.542 and 743A.062; and declaring an
4 emergency.

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

6 **SECTION 1. Section 2 of this 2024 Act is added to and made a part of ORS 735.530 to**
7 **735.552.**

8 **SECTION 2. (1) As used in this section, "pharmacy services administrative**
9 **organization" means an entity that:**

10 **(a) Contracts with a pharmacy to act as the pharmacy's agent with respect to matters**
11 **involving a pharmacy benefit manager, third party payer or other entity, including by nego-**

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 **tiating, executing or administering contracts with the pharmacy benefit manager, third party**
2 **payer or other entity; and**

3 **(b) Provides administrative services to pharmacies.**

4 **(2) Upon the request of the Department of Consumer and Business Services, a pharmacy**
5 **benefit manager shall submit to the department the pharmacy benefit manager's contracts**
6 **and amendments to contracts with pharmacies or pharmacy services administrative organ-**
7 **izations and the pharmacy benefit manager's provider manuals.**

8 **(3) Contracts, contract amendments and provider manuals submitted to the department**
9 **under this section are exempt from disclosure under ORS 192.311 to 192.478.**

10 **SECTION 3.** ORS 735.530 is amended to read:

11 735.530. As used in ORS 735.530 to 735.552:

12 (1) "Claim" means a request from a pharmacy or pharmacist to be reimbursed for the cost of
13 filling or refilling a prescription for a drug or for providing a medical supply or service.

14 (2) "Enrollee" means an individual who has enrolled for coverage in a health benefit plan for
15 which a pharmacy benefit manager has contracted with the insurer to reimburse claims submitted
16 by pharmacies or pharmacists for the costs of drugs prescribed for the individual.

17 (3) "Health benefit plan" has the meaning given that term in ORS 743B.005.

18 (4) "Insurer" has the meaning given that term in ORS 731.106.

19 (5) "Long term care pharmacy" means a pharmacy for which the primary business is to serve
20 a:

21 (a) Licensed long term care facility, as defined in ORS 442.015;

22 (b) Licensed residential facility, as defined in ORS 443.400; or

23 (c) Licensed adult foster home, as defined in ORS 443.705.

24 (6) "Mail order pharmacy" means a pharmacy for which the primary business is to receive pre-
25 scriptions by mail, telephone or electronic transmission and dispense drugs to patients through the
26 use of the United States Postal Service, a package delivery service or home delivery.

27 (7) "Network pharmacy" means a pharmacy that contracts with a pharmacy benefit manager.

28 (8) "Pharmacist" has the meaning given that term in ORS 689.005.

29 (9) "Pharmacy" includes:

30 (a) A pharmacy as defined in ORS 689.005;

31 (b) A long term care pharmacy; and

32 (c) An entity that provides or oversees administrative services for two or more pharmacies.

33 (10) "Pharmacy benefit" means the payment for or reimbursement of an enrollee's cost for pre-
34 scription drugs.

35 (11)(a) "Pharmacy benefit manager" means a person that contracts with pharmacies on behalf
36 of [*an insurer offering a health benefit plan, a third party administrator*] **an insurer, coordinated**
37 **care organizations as defined in ORS 414.025** or the Oregon Prescription Drug Program estab-
38 lished in ORS 414.312 to:

39 (A) Process claims for prescription drugs or medical supplies or provide retail network man-
40 agement for pharmacies or pharmacists;

41 (B) Pay pharmacies or pharmacists for prescription drugs or medical supplies; [*or*]

42 (C) Negotiate rebates, **discounts or other financial incentives or arrangements** with man-
43 ufacturers for drugs paid for or procured as described in this paragraph;

44 **(D) Receive payments for pharmacy services;**

45 **(E) Disburse or distribute rebates;**

1 (F) Manage or participate in incentive programs or arrangements with manufacturers
2 of drugs;

3 (G) Negotiate or enter into contracts with pharmacies;

4 (H) Develop formularies;

5 (I) Design pharmacy benefit programs; or

6 (J) Advertise or promote pharmacy services.

7 (b) "Pharmacy benefit manager" does not include a health care service contractor as defined in
8 ORS 750.005.

9 (12) "Pharmacy services" means the provision of products, goods or services in the
10 course of the practice of pharmacy.

11 [(12)] (13) "Specialty drug" means a drug that:

12 (a) Is subject to restricted distribution by the United States Food and Drug Administration; or

13 (b) Requires special handling, provider coordination or patient education that cannot be pro-
14 vided by a retail pharmacy.

15 [(13)] (14) "Specialty pharmacy" means a pharmacy capable of meeting the requirements appli-
16 cable to specialty drugs.

17 [(14)] (15) "Third party administrator" means a person licensed under ORS 744.702.

18 [(15)] (16) "340B pharmacy" means a pharmacy that is authorized to purchase drugs at a dis-
19 count under 42 U.S.C. 256b.

20 **SECTION 4.** ORS 735.532 is amended to read:

21 735.532. [(1) To conduct business in this state, a pharmacy benefit manager must register with the
22 Department of Consumer and Business Services and annually renew the registration.]

23 [(2) To register under this section, a pharmacy benefit manager must:]

24 (1) **A person may not transact business or purport to transact business in this state as**
25 **a pharmacy benefit manager unless the person has a license to transact business as a**
26 **pharmacy benefit manager issued by the Department of Consumer and Business Services.**

27 (2) **To obtain a license under this section, a person must:**

28 (a) Submit an application to the department on a form prescribed by the department by rule.

29 (b) Pay a [registration] fee in an amount adopted by the department by rule.

30 (3) **A license to transact business as a pharmacy benefit manager must be renewed every**
31 **12 months.** To renew a [registration] license under this [section] subsection, a pharmacy benefit
32 manager must pay a renewal fee in an amount adopted by the department by rule.

33 (4) The department shall deposit all moneys collected under this section into the Consumer and
34 Business Services Fund created in ORS 705.145.

35 (5) Any fee adopted by the department under this section must be [based on] **sufficient to pay**
36 the department's reasonable costs in administering ORS 735.530 to 735.552.

37 **SECTION 5.** ORS 735.533 is amended to read:

38 735.533. (1) In accordance with ORS chapter 183, the Department of Consumer and Business
39 Services may deny an application for [registration] **a license to transact business** as a pharmacy
40 benefit manager or **deny** an application for renewal of a [registration] **license to transact business**
41 as a pharmacy benefit manager, and may suspend or revoke a [registration] **a license to transact**
42 **business** as a pharmacy benefit manager, if the department finds that an applicant or [registrant]
43 **licensee:**

44 (a) Falsified an application for [registration] **a license** or for the renewal of a [registration] **li-**
45 **cence** or engaged in any dishonest act in relation to the application;

1 (b) Engaged in dishonesty, fraud or gross negligence in the conduct of business as a pharmacy
2 benefit manager;

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

5 (d) Was convicted under the laws of any state or of the United States of any crime of which an
6 essential element is dishonesty or fraud;

7 (e) Had a certificate of authority or authority to conduct business as a pharmacy benefit man-
8 ager denied, revoked or suspended in another state;

9 (f) Failed to pay a civil penalty imposed by final order of the department or to comply with the
10 terms of suspension set by the department;

11 (g) Failed to meet the terms of a consent decree approved by a court of competent jurisdiction
12 in this state, or a consent order made between the department and the pharmacy benefit manager;

13 (h) Refused to be examined or to produce accounts, records or files for examination, including
14 the refusal by any officer of the applicant or [*registrant*] **licensee** to give information with respect
15 to the affairs of the pharmacy benefit manager, or refused to perform any other legal obligation with
16 respect to an examination by the department; or

17 (i) Violated any [*rule or order of the department or any*] provision of the Insurance Code, **any**
18 **rule adopted by the department pursuant to the Insurance Code or any order of the depart-**
19 **ment.**

20 (2) The department may prescribe by rule a procedure by which a pharmacy or an entity acting
21 on behalf of a pharmacy may file a complaint with the department alleging that a pharmacy benefit
22 manager has engaged in conduct [*described in this section*] **in violation of ORS 735.530 to 735.552.**
23 The department may restrict the right of a pharmacy or entity to file a complaint only to the extent
24 necessary to prevent abuse of the complaint process.

25 **SECTION 6.** ORS 735.534 is amended to read:

26 735.534. (1) As used in this section:

27 (a)(A) “Generally available for purchase” means a drug is available for purchase in this state
28 by a pharmacy from a national or regional wholesaler at the time a claim for reimbursement is
29 submitted by a network pharmacy.

30 (B) A drug is not “generally available for purchase” if the drug:

31 (i) May be dispensed only in a hospital or inpatient care facility;

32 (ii) Is unavailable due to a shortage of the product or an ingredient;

33 (iii) Is available to a pharmacy at a price that is at or below the maximum allowable cost only
34 if purchased in substantial quantities that are inconsistent with the business needs of a pharmacy;

35 (iv) Is sold at a discount due to a short expiration date on the drug; or

36 (v) Is the subject of an active or pending recall.

37 (b) “List” means the list of drugs for which maximum allowable costs have been established.

38 (c) “Maximum allowable cost” means the maximum amount that a pharmacy benefit manager
39 will reimburse a pharmacy for the cost of a drug.

40 (d) “Multiple source drug” means a therapeutically equivalent drug that is available from at
41 least two manufacturers.

42 (e) “Therapeutically equivalent” has the meaning given that term in ORS 689.515.

43 (2) A pharmacy benefit manager [*registered*] **licensed** under ORS 735.532:

44 (a) May not place a drug on a list unless there are at least two multiple source drugs, or at least
45 one generic drug generally available for purchase.

- 1 (b) Shall ensure that all drugs on a list are generally available for purchase.
- 2 (c) Shall ensure that no drug on a list is obsolete.
- 3 (d) Shall make available to each network pharmacy at the beginning of the term of a contract,
4 and upon renewal of a contract, the specific authoritative industry sources, other than proprietary
5 sources, the pharmacy benefit manager uses to determine the maximum allowable cost set by the
6 pharmacy benefit manager.
- 7 (e) Shall make a list available to a network pharmacy upon request in a format that:
- 8 (A) Is electronic;
- 9 (B) Is computer accessible and searchable;
- 10 (C) Identifies all drugs for which maximum allowable costs have been established; and
- 11 (D) For each drug specifies:
- 12 (i) The national drug code; and
- 13 (ii) The maximum allowable cost.
- 14 (f) Shall update each list maintained by the pharmacy benefit manager every seven business days
15 and make the updated lists, including all changes in the price of drugs, available to network phar-
16 macies in the format described in paragraph (e) of this subsection.
- 17 (g) Shall ensure that dispensing fees are not included in the calculation of maximum allowable
18 cost.
- 19 (h) May not reimburse a 340B pharmacy differently than any other network pharmacy based on
20 its status as a 340B pharmacy.
- 21 **(i) Shall comply with the provisions of ORS 743A.062.**
- 22 [(i)] (j) May not retroactively deny or reduce payment on a claim for reimbursement of the cost
23 of services after the claim has been adjudicated by the pharmacy benefit manager unless the:
- 24 (A) Adjudicated claim was submitted fraudulently;
- 25 (B) Pharmacy benefit manager's payment on the adjudicated claim was incorrect because the
26 pharmacy had already been paid for the services;
- 27 (C) Services were improperly rendered by the pharmacy **in violation of state or federal law;**
28 **or**
- 29 [(D) Pharmacy agrees to the denial or reduction prior to the pharmacy benefit manager notifying
30 the pharmacy that the claim has been denied or reduced; or]
- 31 [(E)] (D) [The] Payment was incorrect due to an error that the pharmacy and pharmacy benefit
32 manager agree was a clerical error.
- 33 [(j)] (k) May not impose a fee on a pharmacy after the point of sale.
- 34 [(k)] (L) Shall provide notice to a pharmacy of any claim for reimbursement of the cost of a
35 prescription drug that is denied or reduced. The notice shall identify the specific disaggregated
36 claim that was denied or reduced and a detailed explanation for why the specific claim was denied
37 or reduced.
- 38 (3) Subsection [(2)(i)] (2)(j) of this section may not be construed to limit pharmacy claim audits
39 under ORS 735.540 to 735.552.
- 40 (4) A pharmacy benefit manager must establish a process by which a network pharmacy may
41 appeal its reimbursement for a drug subject to maximum allowable cost pricing. A network phar-
42 macy may appeal a maximum allowable cost if the reimbursement for the drug is less than the net
43 amount that the network pharmacy paid to the supplier of the drug. The process must allow a net-
44 work pharmacy a period of no less than 60 days after a claim is reimbursed in which to file the
45 appeal. An appeal requested under this section must be completed within 30 calendar days of the

1 pharmacy making the claim for which appeal has been requested.

2 (5) A pharmacy benefit manager shall allow a network pharmacy to submit the documentation
3 in support of its appeal on paper or electronically and may not:

4 (a) Refuse to accept an appeal submitted by a person authorized to act on behalf of the network
5 pharmacy;

6 (b) Refuse to adjudicate an appeal for the reason that the appeal is submitted along with other
7 claims that are denied; or

8 (c) Impose requirements or establish procedures that have the effect of unduly obstructing or
9 delaying an appeal.

10 (6) A pharmacy benefit manager must provide as part of the appeals process established under
11 subsection (4) of this section:

12 (a) A telephone number at which a network pharmacy may contact the pharmacy benefit man-
13 ager and speak with an individual who is responsible for processing appeals;

14 (b) A final response to an appeal of [*a maximum allowable cost*] **the reimbursement for a drug**
15 within seven business days; and

16 (c) If the appeal is denied, the reason for the denial and the national drug code of a drug that
17 may be purchased by similarly situated pharmacies at a price that is equal to or less than the
18 maximum allowable cost.

19 (7)(a) If an appeal is upheld under this section, the pharmacy benefit manager shall:

20 (A) Make an adjustment for the pharmacy that requested the appeal from the date of initial
21 adjudication forward; and

22 (B) Allow the pharmacy to reverse the claim and resubmit an adjusted claim without any addi-
23 tional charges.

24 (b) If the request for an adjustment has come from a critical access pharmacy, as defined by the
25 Oregon Health Authority by rule for purposes related to the Oregon Prescription Drug Program, the
26 adjustment approved under paragraph (a) of this subsection shall apply only to critical access
27 pharmacies.

28 [*(8) This section does not apply to the state medical assistance program.*]

29 **(8) A pharmacy may file a complaint with the Department of Consumer and Business**
30 **Services to contest a finding of a pharmacy benefit manager in response to an appeal under**
31 **subsection (4) of this section or a pharmacy benefit manager's failure to comply with the**
32 **provisions of this section.**

33 (9) The Department of Consumer and Business Services may adopt rules to carry out the pro-
34 visions of this section.

35 **SECTION 7.** ORS 735.536 is amended to read:

36 735.536. (1) As used in this section, "out-of-pocket cost" means the amount paid by an enrollee
37 under the enrollee's coverage, including deductibles, copayments, coinsurance or other expenses as
38 prescribed by the Department of Consumer and Business Services by rule.

39 (2) A pharmacy benefit manager [*registered*] **licensed** under ORS 735.532:

40 (a) May not require a prescription to be filled or refilled by a mail order pharmacy as a condi-
41 tion for reimbursing the cost of the drug.

42 (b) Except as provided in paragraph (c) of this subsection, may require a prescription for a
43 specialty drug to be filled or refilled at a specialty pharmacy as a condition for the reimbursement
44 of the cost of a drug.

45 (c) Shall reimburse the cost of a specialty drug that is filled or refilled at a network pharmacy

1 that is a long term care pharmacy.

2 (d)(A) Shall allow a network pharmacy to mail, ship or deliver prescription drugs to its patients
3 as an ancillary service.

4 (B) Is not required to reimburse a delivery fee charged by a pharmacy for a delivery described
5 in subparagraph (A) of this paragraph unless the fee is specified in the contract between the phar-
6 macy benefit manager and the pharmacy.

7 (e) May not require a patient signature as proof of delivery of a mailed or shipped prescription
8 drug if the network pharmacy:

9 (A)(i) Maintains a mailing or shipping log signed by a representative of the pharmacy; or

10 (ii) Maintains each notification of delivery provided by the United States Postal Service or a
11 package delivery service; and

12 (B) Is responsible for the cost of mailing, shipping or delivering a replacement for a drug that
13 was mailed or shipped but not received by the enrollee.

14 (f) May not penalize a network pharmacy **by imposing charges or fees, requiring contract**
15 **amendments, canceling or terminating contracts or demanding recoupment or otherwise re-**
16 **taliate against a network pharmacy** for: [*or otherwise directly or indirectly prevent a network*
17 *pharmacy from*]

18 (A) Informing an enrollee of the difference between the out-of-pocket cost to the enrollee to
19 purchase a prescription drug using the enrollee's pharmacy benefit and the pharmacy's usual and
20 customary charge for the prescription drug[.];

21 (B) **Filing an appeal;**

22 (C) **Filing a complaint against the pharmacy benefit manager with the Department of**
23 **Consumer and Business Services;**

24 (D) **Engaging in the legislative process; or**

25 (E) **Challenging the pharmacy benefit manager's practices or agreements.**

26 (g) **May not charge a fee to a pharmacy for submitting claims or for the adjudication of**
27 **claims.**

28 (3) The Department of Consumer and Business Services may adopt rules to carry out the pro-
29 visions of this section.

30 **SECTION 8.** ORS 735.537 is amended to read:

31 735.537. (1) As used in this section:

32 (a) **"Administrative fee" means the administrative and service fees charged by pharmacy**
33 **benefit managers to manufacturers and carriers that are typically a percentage of the list**
34 **price of a prescription drug.**

35 [(a)] (b) "Carrier" has the meaning given that term in ORS 743B.005.

36 [(b)] (c) "Manufacturer" has the meaning given that term in ORS 646A.689.

37 [(c)] (d) "Prescription drug" has the meaning given that term in ORS 646A.689.

38 (e) **"Spread pricing" means the difference between the amount an insurer pays a phar-**
39 **macy benefit manager and the amount that the pharmacy benefit manager reimburses a**
40 **pharmacy for a beneficiary's prescription.**

41 (2) Not later than June 1 of each calendar year, a pharmacy benefit manager [*registered*] **li-**
42 **censed** under ORS 735.532 shall file a report with the Department of Consumer and Business Ser-
43 vices. The report must contain, for the immediately preceding calendar year[.];

44 (a) The aggregated dollar amount of rebates, fees, price protection payments and any other
45 payments the pharmacy benefit manager received from manufacturers:

1 [(a)] (A) Related to managing the pharmacy benefits for carriers issuing health benefit plans in
2 this state; and

3 [(b)] (B) That were:

4 [(A)] (i) Passed on to carriers issuing health benefit plans in this state or enrollees at the point
5 of sale of a prescription drug in this state; or

6 [(B)] (ii) Retained as revenue by the pharmacy benefit manager.

7 (b) **The total dispensing fees paid to the pharmacy benefit manager and to pharmacies.**

8 (c) **The total administrative fees obtained and retained from manufacturers and carriers.**

9 (d) **Moneys obtained through spread pricing, pay-for-performance or similar means.**

10 (3) The report described in subsection (2) of this section may not disclose:

11 (a) The identity of a carrier or an enrollee;

12 (b) The price charged for a specific prescription drug or class of drugs; or

13 (c) The amount of any rebate or fee provided for a specific prescription drug or class of pre-
14 scription drugs.

15 (4) Information submitted to the department under this section is confidential and not subject
16 to disclosure except as provided in subsection (5) of this section and ORS 705.137.

17 (5) Not later than October 1 of each calendar year, the department shall publish on the
18 department's website the aggregated data from all reports filed by pharmacy benefit managers under
19 this section for the preceding calendar year. The department shall publish the data in a manner that
20 does not disclose confidential information of pharmacy benefit managers.

21 **SECTION 9.** ORS 735.540 is amended to read:

22 735.540. As used in ORS 735.540 to 735.552:

23 (1) "Audit" means an on-site or remote review of the records of a pharmacy, **or a request for**
24 **records from a pharmacy for the purpose of an audit**, by or on behalf of an entity.

25 (2) "Clerical error" means a minor error:

26 (a) In the keeping, recording or transcribing of records or documents or in the handling of
27 electronic or hard copies of correspondence;

28 (b) That does not result in financial harm to an entity; and

29 (c) That does not involve dispensing an incorrect dose, amount or type of medication or dis-
30 pensing a prescription drug to the wrong person.

31 (3) "Entity" includes:

32 (a) A pharmacy benefit manager;

33 (b) An insurer;

34 (c) A third party administrator;

35 (d) A state agency; or

36 (e) A person that represents or is employed by one of the entities described in this subsection.

37 (4) "Fraud" means knowingly and willfully executing or attempting to execute a scheme, in
38 connection with the delivery of or payment for health care benefits, items or services, that uses false
39 or misleading pretenses, representations or promises to obtain any money or property owned by or
40 under the custody or control of any person.

41 **SECTION 10.** ORS 735.542 is amended to read:

42 735.542. An entity that audits claims or an independent third party that contracts with an entity
43 to audit claims:

44 (1) Must establish, in writing, a procedure for a pharmacy to appeal the entity's findings with
45 respect to a claim and must provide a pharmacy with a notice regarding the procedure, in writing

1 or electronically, prior to conducting an audit of the pharmacy's claims;

2 **(2) Must submit requests for records from a pharmacy for the purpose of an audit by:**

3 **(a) Electronic mail; and**

4 **(b) Facsimile or certified mail;**

5 [(2)] **(3)** May not conduct an audit of a claim more than [24] **12** months after the date the claim
6 was adjudicated by the entity;

7 [(3)] **(4)** Must give at least 15 days' advance written notice of an on-site audit to the pharmacy
8 or corporate headquarters of the pharmacy **by electronic mail;**

9 [(4)] **(5)** May not conduct an on-site audit during the first five days of any month without the
10 pharmacy's consent;

11 [(5)] **(6)** Must conduct the audit in consultation with a pharmacist who is licensed by this or
12 another state if the audit involves clinical or professional judgment;

13 [(6)] **(7)(a)** May not [conduct an on-site] audit, [of more than 250 unique prescriptions of a phar-
14 macy] in any 12-month period [except in cases of alleged fraud;], **more than:**

15 **(A) 250 unique prescriptions during an on-site audit; or**

16 **(B) 250 unique prescriptions through a remote audit.**

17 **(b) The limits on the number of drugs that may be audited described in paragraph (a) of
18 this subsection do not include an audit conducted by a pharmacy benefit manager resulting
19 from a reasonable suspicion by the pharmacy benefit manager of fraud, waste or abuse sup-
20 ported by preliminary evidence that the pharmacy benefit manager produces for the phar-
21 macy.**

22 [(7)] **(8)** May not conduct more than one on-site audit of a pharmacy in any 12-month period;

23 **(9) Must give a pharmacy at least 30 days to respond to an audit;**

24 [(8)] **(10)** Must audit each pharmacy under the same standards and parameters that the entity
25 uses to audit other similarly situated pharmacies;

26 [(9)] **(11)** Must pay any outstanding claims of a pharmacy no more than 45 days after the earlier
27 of the date all appeals are concluded or the date a final report is issued under ORS 735.550 (3);

28 [(10)] **(12)** May not include dispensing fees or interest in the amount of any overpayment as-
29 sessed on a claim unless the overpaid claim was for a prescription that was not filled correctly;

30 [(11)] **(13)** May not recoup costs associated with:

31 (a) Clerical errors; or

32 (b) Other errors that do not result in financial harm to the entity or a consumer; and

33 [(12)] **(14)** May not charge a pharmacy for a denied or disputed claim until the audit and the
34 appeals procedure established under subsection (1) of this section are final.

35 **SECTION 11.** ORS 743A.062 is amended to read:

36 743A.062. (1) As used in this section[,]:

37 **(a)** "Medical assistance program" means the state program that provides medical assistance as
38 defined in ORS 414.025.

39 **(b)** "340B drug" means a covered drug dispensed by a covered entity, as those terms are
40 defined in 42 U.S.C. 256b, that is subject to the cap on amounts required to be paid in 42
41 U.S.C. 256b(a)(1).

42 (2) [An insurance policy or] **A policy or certificate of health insurance or other** contract
43 providing [coverage for] **for the reimbursement of the cost of** a prescription drug to a resident
44 of this state may not:

45 (a) Exclude coverage of the drug for a particular indication solely on the grounds that the in-

1 dication has not been approved by the United States Food and Drug Administration if the Health
2 Evidence Review Commission established under ORS 414.688 or the Pharmacy and Therapeutics
3 Committee established under ORS 414.353 determines that the drug is recognized as effective for the
4 treatment of that indication:

5 (A) In publications that the commission or the committee determines to be equivalent to:

6 (i) The American Hospital Formulary Service drug information;

7 (ii) "Drug Facts and Comparisons" (Lippincott-Raven Publishers);

8 (iii) The United States Pharmacopoeia drug information; or

9 (iv) Other publications that have been identified by the United States Secretary of Health and
10 Human Services as authoritative;

11 (B) In the majority of relevant peer-reviewed medical literature; or

12 (C) By the United States Secretary of Health and Human Services; [or]

13 (b) For an insured who is enrolled in the medical assistance program:

14 (A) Except as provided in subsection (3) of this section, require a prescription for the drug to
15 be filled or refilled at a mail order pharmacy; or

16 (B) Require a prescription for the drug to be filled or refilled at a pharmacy that is not a local
17 pharmacy enrolled in the medical assistance program[.];

18 (c) **Discriminate in the reimbursement of a prescription for 340B drugs from other pre-**
19 **scription drugs;**

20 (d) **Assess a fee, chargeback, clawback or other adjustment for the dispensing of a 340B**
21 **drug;**

22 (e) **Exclude a pharmacy from a pharmacy network on the basis that the pharmacy dis-**
23 **pensates a 340B drug;**

24 (f) **Restrict the methods by which a 340B drug may be dispensed or delivered; or**

25 (g) **Restrict the number of pharmacies within a pharmacy network that may dispense or**
26 **deliver 340B drugs.**

27 (3) Subsection (2)(b)(A) of this section does not prohibit an insurer from requiring a medical as-
28 sistance recipient to fill or refill a prescription for a specialty drug at a mail order pharmacy that
29 is a specialty pharmacy.

30 (4) Required coverage of a prescription drug under this section shall include coverage for med-
31 ically necessary services associated with the administration of that drug.

32 (5) Nothing in this section requires coverage for any prescription drug if the United States Food
33 and Drug Administration has determined use of the drug to be contraindicated.

34 (6) Nothing in this section requires coverage for experimental drugs not approved for any indi-
35 cation by the United States Food and Drug Administration.

36 (7) **Notwithstanding ORS 750.055 (1)(h), this section does not apply to a health mainte-**
37 **nance organization as defined in ORS 750.005.**

38 [(7)] (8) This section is exempt from ORS 743A.001.

39 **SECTION 12.** ORS 646A.694 is amended to read:

40 646A.694. (1) The Department of Consumer and Business Services shall provide to the Pre-
41 scription Drug Affordability Board each calendar quarter a list of prescription drugs included in
42 reports submitted to the department under ORS 646A.689 (2) and (6), a list of drugs included in re-
43 ports submitted to the department under ORS 646A.683 and 743.025 and a list of insulin drugs mar-
44 keted in this state during the previous calendar year. Each calendar year, the board shall identify
45 nine drugs and at least one insulin product from the lists provided under this subsection that the

1 board determines may create affordability challenges for health care systems or high out-of-pocket
2 costs for patients in this state based on criteria adopted by the board by rule, including but not
3 limited to:

4 (a) Whether the prescription drug has led to health inequities in communities of color;

5 (b) The number of residents in this state prescribed the prescription drug;

6 (c) The price for the prescription drug sold in this state;

7 (d) The estimated average monetary price concession, discount or rebate the manufacturer pro-
8 vides to health insurance plans in this state or is expected to provide to health insurance plans in
9 this state, expressed as a percentage of the price for the prescription drug under review;

10 (e) The estimated total amount of the price concession, discount or rebate the manufacturer
11 provides to each pharmacy benefit manager [*registered*] **licensed** in this state for the prescription
12 drug under review, expressed as a percentage of the prices;

13 (f) The estimated price for therapeutic alternatives to the drug that are sold in this state;

14 (g) The estimated average price concession, discount or rebate the manufacturer provides or is
15 expected to provide to health insurance plans and pharmacy benefit managers in this state for
16 therapeutic alternatives;

17 (h) The estimated costs to health insurance plans based on patient use of the drug consistent
18 with the labeling approved by the United States Food and Drug Administration and recognized
19 standard medical practice;

20 (i) The impact on patient access to the drug considering standard prescription drug benefit de-
21 signs in health insurance plans offered in this state;

22 (j) The relative financial impacts to health, medical or social services costs as can be quantified
23 and compared to the costs of existing therapeutic alternatives;

24 (k) The estimated average patient copayment or other cost-sharing for the prescription drug in
25 this state;

26 (L) Any information a manufacturer chooses to provide; and

27 (m) Any other factors as determined by the board in rules adopted by the board.

28 (2) A drug that is designated by the Secretary of the United States Food and Drug Adminis-
29 tration, under 21 U.S.C. 360bb, as a drug for a rare disease or condition is not subject to review
30 under subsection (1) of this section.

31 (3) The board shall accept testimony from patients and caregivers affected by a condition or
32 disease that is treated by a prescription drug under review by the board and from individuals with
33 scientific or medical training with respect to the disease or condition.

34 (4)(a) If the board considers the cost-effectiveness of a prescription drug in criteria adopted by
35 the board under subsection (1) of this section, the board may not use quality-adjusted life-years, or
36 similar formulas that take into account a patient's age or severity of illness or disability, to identify
37 subpopulations for which a prescription drug would be less cost-effective. For any prescription drug
38 that extends life, the board's analysis of cost-effectiveness must weigh the value of the quality of life
39 equally for all patients, regardless of the patients' age or severity of illness or disability.

40 (b) As used in this subsection:

41 (A) "Health utility" means a measure of the degree to which having a particular form of disease
42 or disability or having particular functional limitations negatively impacts the quality of life as
43 compared to a state of perfect health, expressed as a number between zero and one.

44 (B) "Quality-adjusted life-year" is the product of a health utility multiplied by the extra months
45 or years of life that a patient might gain as a result of a treatment.

1 (5) To the extent practicable, the board shall access pricing information for prescription drugs
2 by:

3 (a) Accessing pricing information collected by the department under ORS 646A.689 and 743.025;

4 (b) Accessing data reported to the Oregon Health Authority under ORS 442.373;

5 (c) Entering into a memorandum of understanding with another state to which manufacturers
6 already report pricing information; and

7 (d) Accessing other publicly available pricing information.

8 (6) The information used to conduct an affordability review may include any document and re-
9 search related to the introductory price or price increase of a prescription drug, including life cycle
10 management, net average price in this state, market competition and context, projected revenue and
11 the estimated value or cost-effectiveness of the prescription drug.

12 (7) The department and the board shall keep strictly confidential any information collected, used
13 or relied upon for the review conducted under this section if the information is:

14 (a) Information submitted to the department by a manufacturer under ORS 646A.689; and

15 (b) Confidential, proprietary or a trade secret as defined in ORS 192.345.

16 **SECTION 13.** ORS 192.355 is amended to read:

17 192.355. The following public records are exempt from disclosure under ORS 192.311 to 192.478:

18 (1) Communications within a public body or between public bodies of an advisory nature to the
19 extent that they cover other than purely factual materials and are preliminary to any final agency
20 determination of policy or action. This exemption shall not apply unless the public body shows that
21 in the particular instance the public interest in encouraging frank communication between officials
22 and employees of public bodies clearly outweighs the public interest in disclosure.

23 (2)(a) Information of a personal nature such as but not limited to that kept in a personal, med-
24 ical or similar file, if public disclosure would constitute an unreasonable invasion of privacy, unless
25 the public interest by clear and convincing evidence requires disclosure in the particular instance.
26 The party seeking disclosure shall have the burden of showing that public disclosure would not
27 constitute an unreasonable invasion of privacy.

28 (b) Images of a dead body, or parts of a dead body, that are part of a law enforcement agency
29 investigation, if public disclosure would create an unreasonable invasion of privacy of the family of
30 the deceased person, unless the public interest by clear and convincing evidence requires disclosure
31 in the particular instance. The party seeking disclosure shall have the burden of showing that public
32 disclosure would not constitute an unreasonable invasion of privacy.

33 (3) Upon compliance with ORS 192.363, public body employee or volunteer residential addresses,
34 residential telephone numbers, personal cellular telephone numbers, personal electronic mail ad-
35 dresses, driver license numbers, employer-issued identification card numbers, emergency contact in-
36 formation, Social Security numbers, dates of birth and other telephone numbers contained in
37 personnel records maintained by the public body that is the employer or the recipient of volunteer
38 services. This exemption:

39 (a) Does not apply to the addresses, dates of birth and telephone numbers of employees or vol-
40 unteers who are elected officials, except that a judge or district attorney subject to election may
41 seek to exempt the judge's or district attorney's address or telephone number, or both, under the
42 terms of ORS 192.368;

43 (b) Does not apply to employees or volunteers to the extent that the party seeking disclosure
44 shows by clear and convincing evidence that the public interest requires disclosure in a particular
45 instance pursuant to ORS 192.363;

1 (c) Does not apply to a substitute teacher as defined in ORS 342.815 when requested by a pro-
2 fessional education association of which the substitute teacher may be a member; and

3 (d) Does not relieve a public employer of any duty under ORS 243.650 to 243.809.

4 (4) Information submitted to a public body in confidence and not otherwise required by law to
5 be submitted, where such information should reasonably be considered confidential, the public body
6 has obliged itself in good faith not to disclose the information, and when the public interest would
7 suffer by the disclosure.

8 (5) Information or records of the Department of Corrections, including the State Board of Parole
9 and Post-Prison Supervision, to the extent that disclosure would interfere with the rehabilitation of
10 a person in custody of the department or substantially prejudice or prevent the carrying out of the
11 functions of the department, if the public interest in confidentiality clearly outweighs the public in-
12 terest in disclosure.

13 (6) Records, reports and other information received or compiled by the Director of the Depart-
14 ment of Consumer and Business Services in the administration of ORS chapters 723 and 725 not
15 otherwise required by law to be made public, to the extent that the interests of lending institutions,
16 their officers, employees and customers in preserving the confidentiality of such information out-
17 weighs the public interest in disclosure.

18 (7) Reports made to or filed with the court under ORS 137.077 or 137.530.

19 (8) Any public records or information the disclosure of which is prohibited by federal law or
20 regulations.

21 (9)(a) Public records or information the disclosure of which is prohibited or restricted or other-
22 wise made confidential or privileged under Oregon law.

23 (b) Subject to ORS 192.360, paragraph (a) of this subsection does not apply to factual information
24 compiled in a public record when:

25 (A) The basis for the claim of exemption is ORS 40.225;

26 (B) The factual information is not prohibited from disclosure under any applicable state or fed-
27 eral law, regulation or court order and is not otherwise exempt from disclosure under ORS 192.311
28 to 192.478;

29 (C) The factual information was compiled by or at the direction of an attorney as part of an
30 investigation on behalf of the public body in response to information of possible wrongdoing by the
31 public body;

32 (D) The factual information was not compiled in preparation for litigation, arbitration or an
33 administrative proceeding that was reasonably likely to be initiated or that has been initiated by
34 or against the public body; and

35 (E) The holder of the privilege under ORS 40.225 has made or authorized a public statement
36 characterizing or partially disclosing the factual information compiled by or at the attorney's di-
37 rection.

38 (10) Public records or information described in this section, furnished by the public body ori-
39 ginally compiling, preparing or receiving them to any other public officer or public body in con-
40 nection with performance of the duties of the recipient, if the considerations originally giving rise
41 to the confidential or exempt nature of the public records or information remain applicable.

42 (11) Records of the Energy Facility Siting Council concerning the review or approval of security
43 programs pursuant to ORS 469.530.

44 (12) Employee and retiree address, telephone number and other nonfinancial membership records
45 and employee financial records maintained by the Public Employees Retirement System pursuant to

1 ORS chapters 238 and 238A or by another retirement system operated by a public body.

2 (13) Records of or submitted to the State Treasurer, the Oregon Investment Council or the
3 agents of the treasurer or the council relating to active or proposed publicly traded investments
4 under ORS chapter 293, including but not limited to records regarding the acquisition, exchange or
5 liquidation of the investments. For the purposes of this subsection:

6 (a) The exemption does not apply to:

7 (A) Information in investment records solely related to the amount paid directly into an invest-
8 ment by, or returned from the investment directly to, the treasurer or council; or

9 (B) The identity of the entity to which the amount was paid directly or from which the amount
10 was received directly.

11 (b) An investment in a publicly traded investment is no longer active when acquisition, exchange
12 or liquidation of the investment has been concluded.

13 (14)(a) Records of or submitted to the State Treasurer, the Oregon Investment Council, the
14 Oregon Growth Board or the agents of the treasurer, council or board relating to actual or proposed
15 investments under ORS chapter 293 or 348 in a privately placed investment fund or a private asset
16 including but not limited to records regarding the solicitation, acquisition, deployment, exchange or
17 liquidation of the investments including but not limited to:

18 (A) Due diligence materials that are proprietary to an investment fund, to an asset ownership
19 or to their respective investment vehicles.

20 (B) Financial statements of an investment fund, an asset ownership or their respective invest-
21 ment vehicles.

22 (C) Meeting materials of an investment fund, an asset ownership or their respective investment
23 vehicles.

24 (D) Records containing information regarding the portfolio positions in which an investment
25 fund, an asset ownership or their respective investment vehicles invest.

26 (E) Capital call and distribution notices of an investment fund, an asset ownership or their re-
27 spective investment vehicles.

28 (F) Investment agreements and related documents.

29 (b) The exemption under this subsection does not apply to:

30 (A) The name, address and vintage year of each privately placed investment fund.

31 (B) The dollar amount of the commitment made to each privately placed investment fund since
32 inception of the fund.

33 (C) The dollar amount of cash contributions made to each privately placed investment fund since
34 inception of the fund.

35 (D) The dollar amount, on a fiscal year-end basis, of cash distributions received by the State
36 Treasurer, the Oregon Investment Council, the Oregon Growth Board or the agents of the treasurer,
37 council or board from each privately placed investment fund.

38 (E) The dollar amount, on a fiscal year-end basis, of the remaining value of assets in a privately
39 placed investment fund attributable to an investment by the State Treasurer, the Oregon Investment
40 Council, the Oregon Growth Board or the agents of the treasurer, council or board.

41 (F) The net internal rate of return of each privately placed investment fund since inception of
42 the fund.

43 (G) The investment multiple of each privately placed investment fund since inception of the fund.

44 (H) The dollar amount of the total management fees and costs paid on an annual fiscal year-end
45 basis to each privately placed investment fund.

1 (I) The dollar amount of cash profit received from each privately placed investment fund on a
2 fiscal year-end basis.

3 (15) The monthly reports prepared and submitted under ORS 293.761 and 293.766 concerning the
4 Public Employees Retirement Fund and the Industrial Accident Fund may be uniformly treated as
5 exempt from disclosure for a period of up to 90 days after the end of the calendar quarter.

6 (16) Reports of unclaimed property filed by the holders of such property to the extent permitted
7 by ORS 98.352.

8 (17)(a) The following records, communications and information submitted to the Oregon Business
9 Development Commission, the Oregon Business Development Department, the State Department of
10 Agriculture, the Oregon Growth Board, the Port of Portland or other ports as defined in ORS
11 777.005, or a county or city governing body and any board, department, commission, council or
12 agency thereof, by applicants for investment funds, grants, loans, services or economic development
13 moneys, support or assistance including, but not limited to, those described in ORS 285A.224:

14 (A) Personal financial statements.

15 (B) Financial statements of applicants.

16 (C) Customer lists.

17 (D) Information of an applicant pertaining to litigation to which the applicant is a party if the
18 complaint has been filed, or if the complaint has not been filed, if the applicant shows that such
19 litigation is reasonably likely to occur; this exemption does not apply to litigation which has been
20 concluded, and nothing in this subparagraph shall limit any right or opportunity granted by discov-
21 ery or deposition statutes to a party to litigation or potential litigation.

22 (E) Production, sales and cost data.

23 (F) Marketing strategy information that relates to applicant's plan to address specific markets
24 and applicant's strategy regarding specific competitors.

25 (b) The following records, communications and information submitted to the State Department
26 of Energy by applicants for tax credits or for grants awarded under ORS 469B.256:

27 (A) Personal financial statements.

28 (B) Financial statements of applicants.

29 (C) Customer lists.

30 (D) Information of an applicant pertaining to litigation to which the applicant is a party if the
31 complaint has been filed, or if the complaint has not been filed, if the applicant shows that such
32 litigation is reasonably likely to occur; this exemption does not apply to litigation which has been
33 concluded, and nothing in this subparagraph shall limit any right or opportunity granted by discov-
34 ery or deposition statutes to a party to litigation or potential litigation.

35 (E) Production, sales and cost data.

36 (F) Marketing strategy information that relates to applicant's plan to address specific markets
37 and applicant's strategy regarding specific competitors.

38 (18) Records, reports or returns submitted by private concerns or enterprises required by law
39 to be submitted to or inspected by a governmental body to allow it to determine the amount of any
40 transient lodging tax payable and the amounts of such tax payable or paid, to the extent that such
41 information is in a form which would permit identification of the individual concern or enterprise.
42 Nothing in this subsection shall limit the use which can be made of such information for regulatory
43 purposes or its admissibility in any enforcement proceedings. The public body shall notify the tax-
44 payer of the delinquency immediately by certified mail. However, in the event that the payment or
45 delivery of transient lodging taxes otherwise due to a public body is delinquent by over 60 days, the

1 public body shall disclose, upon the request of any person, the following information:

2 (a) The identity of the individual concern or enterprise that is delinquent over 60 days in the
3 payment or delivery of the taxes.

4 (b) The period for which the taxes are delinquent.

5 (c) The actual, or estimated, amount of the delinquency.

6 (19) All information supplied by a person under ORS 151.485 for the purpose of requesting ap-
7 pointed counsel, and all information supplied to the court from whatever source for the purpose of
8 verifying the financial eligibility of a person pursuant to ORS 151.485.

9 (20) Workers' compensation claim records of the Department of Consumer and Business Services,
10 except in accordance with rules adopted by the Director of the Department of Consumer and Busi-
11 ness Services, in any of the following circumstances:

12 (a) When necessary for insurers, self-insured employers and third party claim administrators to
13 process workers' compensation claims.

14 (b) When necessary for the director, other governmental agencies of this state or the United
15 States to carry out their duties, functions or powers.

16 (c) When the disclosure is made in such a manner that the disclosed information cannot be used
17 to identify any worker who is the subject of a claim.

18 (d) When a worker or the worker's representative requests review of the worker's claim record.

19 (21) Sensitive business records or financial or commercial information of the Oregon Health and
20 Science University that is not customarily provided to business competitors.

21 (22) Records of Oregon Health and Science University regarding candidates for the position of
22 president of the university.

23 (23) The records of a library, including:

24 (a) Circulation records, showing use of specific library material by a named person;

25 (b) The name of a library patron together with the address or telephone number of the patron;
26 and

27 (c) The electronic mail address of a patron.

28 (24) The following records, communications and information obtained by the Housing and Com-
29 munity Services Department in connection with the department's monitoring or administration of
30 financial assistance or of housing or other developments:

31 (a) Personal and corporate financial statements and information, including tax returns.

32 (b) Credit reports.

33 (c) Project appraisals, excluding appraisals obtained in the course of transactions involving an
34 interest in real estate that is acquired, leased, rented, exchanged, transferred or otherwise disposed
35 of as part of the project, but only after the transactions have closed and are concluded.

36 (d) Market studies and analyses.

37 (e) Articles of incorporation, partnership agreements and operating agreements.

38 (f) Commitment letters.

39 (g) Project pro forma statements.

40 (h) Project cost certifications and cost data.

41 (i) Audits.

42 (j) Project tenant correspondence.

43 (k) Personal information about a tenant.

44 (L) Housing assistance payments.

45 (25) Raster geographic information system (GIS) digital databases, provided by private forestland

1 owners or their representatives, voluntarily and in confidence to the State Forestry Department,
2 that is not otherwise required by law to be submitted.

3 (26) Sensitive business, commercial or financial information furnished to or developed by a
4 public body engaged in the business of providing electricity or electricity services, if the information
5 is directly related to a transaction described in ORS 261.348, or if the information is directly related
6 to a bid, proposal or negotiations for the sale or purchase of electricity or electricity services, and
7 disclosure of the information would cause a competitive disadvantage for the public body or its re-
8 tail electricity customers. This subsection does not apply to cost-of-service studies used in the de-
9 velopment or review of generally applicable rate schedules.

10 (27) Sensitive business, commercial or financial information furnished to or developed by the
11 City of Klamath Falls, acting solely in connection with the ownership and operation of the Klamath
12 Cogeneration Project, if the information is directly related to a transaction described in ORS 225.085
13 and disclosure of the information would cause a competitive disadvantage for the Klamath
14 Cogeneration Project. This subsection does not apply to cost-of-service studies used in the develop-
15 ment or review of generally applicable rate schedules.

16 (28) Personally identifiable information about customers of a municipal electric utility or a
17 people's utility district or the names, dates of birth, driver license numbers, telephone numbers,
18 electronic mail addresses or Social Security numbers of customers who receive water, sewer or
19 storm drain services from a public body as defined in ORS 174.109. The utility or district may re-
20 lease personally identifiable information about a customer, and a public body providing water, sewer
21 or storm drain services may release the name, date of birth, driver license number, telephone num-
22 ber, electronic mail address or Social Security number of a customer, if the customer consents in
23 writing or electronically, if the disclosure is necessary for the utility, district or other public body
24 to render services to the customer, if the disclosure is required pursuant to a court order or if the
25 disclosure is otherwise required by federal or state law. The utility, district or other public body
26 may charge as appropriate for the costs of providing such information. The utility, district or other
27 public body may make customer records available to third party credit agencies on a regular basis
28 in connection with the establishment and management of customer accounts or in the event such
29 accounts are delinquent.

30 (29) A record of the street and number of an employee's address submitted to a special district
31 to obtain assistance in promoting an alternative to single occupant motor vehicle transportation.

32 (30) Sensitive business records, capital development plans or financial or commercial information
33 of Oregon Corrections Enterprises that is not customarily provided to business competitors.

34 (31) Documents, materials or other information submitted to the Director of the Department of
35 Consumer and Business Services in confidence by a state, federal, foreign or international regulatory
36 or law enforcement agency or by the National Association of Insurance Commissioners, its affiliates
37 or subsidiaries under ORS 86A.095 to 86A.198, 697.005 to 697.095, 697.602 to 697.842, 705.137, 717.200
38 to 717.320, 717.900 or 717.905, ORS chapter 59, 723, 725 or 726, the Bank Act or the Insurance Code
39 when:

40 (a) The document, material or other information is received upon notice or with an under-
41 standing that it is confidential or privileged under the laws of the jurisdiction that is the source of
42 the document, material or other information; and

43 (b) The director has obligated the Department of Consumer and Business Services not to dis-
44 close the document, material or other information.

45 (32) A county elections security plan developed and filed under ORS 254.074.

1 (33) Information about review or approval of programs relating to the security of:

2 (a) Generation, storage or conveyance of:

3 (A) Electricity;

4 (B) Gas in liquefied or gaseous form;

5 (C) Hazardous substances as defined in ORS 453.005 (7)(a), (b) and (d);

6 (D) Petroleum products;

7 (E) Sewage; or

8 (F) Water.

9 (b) Telecommunication systems, including cellular, wireless or radio systems.

10 (c) Data transmissions by whatever means provided.

11 (34) The information specified in ORS 25.020 (8) if the Chief Justice of the Supreme Court des-
12 ignates the information as confidential by rule under ORS 1.002.

13 (35)(a) Employer account records of the State Accident Insurance Fund Corporation.

14 (b) As used in this subsection, "employer account records" means all records maintained in any
15 form that are specifically related to the account of any employer insured, previously insured or un-
16 der consideration to be insured by the State Accident Insurance Fund Corporation and any infor-
17 mation obtained or developed by the corporation in connection with providing, offering to provide
18 or declining to provide insurance to a specific employer. "Employer account records" includes, but
19 is not limited to, an employer's payroll records, premium payment history, payroll classifications,
20 employee names and identification information, experience modification factors, loss experience and
21 dividend payment history.

22 (c) The exemption provided by this subsection may not serve as the basis for opposition to the
23 discovery documents in litigation pursuant to applicable rules of civil procedure.

24 (36)(a) Claimant files of the State Accident Insurance Fund Corporation.

25 (b) As used in this subsection, "claimant files" includes, but is not limited to, all records held
26 by the corporation pertaining to a person who has made a claim, as defined in ORS 656.005, and all
27 records pertaining to such a claim.

28 (c) The exemption provided by this subsection may not serve as the basis for opposition to the
29 discovery documents in litigation pursuant to applicable rules of civil procedure.

30 (37) Except as authorized by ORS 408.425, records that certify or verify an individual's discharge
31 or other separation from military service.

32 (38) Records of or submitted to a domestic violence service or resource center that relate to the
33 name or personal information of an individual who visits a center for service, including the date of
34 service, the type of service received, referrals or contact information or personal information of a
35 family member of the individual. As used in this subsection, "domestic violence service or resource
36 center" means an entity, the primary purpose of which is to assist persons affected by domestic or
37 sexual violence by providing referrals, resource information or other assistance specifically of ben-
38 efit to domestic or sexual violence victims.

39 (39) Information reported to the Oregon Health Authority under ORS 431A.860, except as pro-
40 vided in ORS 431A.865 (3)(b), information disclosed by the authority under ORS 431A.865 and any
41 information related to disclosures made by the authority under ORS 431A.865, including information
42 identifying the recipient of the information.

43 (40)(a) Electronic mail addresses in the possession or custody of an agency or subdivision of the
44 executive department, as defined in ORS 174.112, the legislative department, as defined in ORS
45 174.114, a local government or local service district, as defined in ORS 174.116, or a special gov-

1 ernment body, as defined in ORS 174.117.

2 (b) This subsection does not apply to electronic mail addresses assigned by a public body to
3 public employees for use by the employees in the ordinary course of their employment.

4 (c) This subsection and ORS 244.040 do not prohibit the campaign office of the current
5 officeholder or current candidates who have filed to run for that elective office from receiving upon
6 request the electronic mail addresses used by the current officeholder's legislative office for news-
7 letter distribution, except that a campaign office that receives electronic mail addresses under this
8 paragraph may not make a further disclosure of those electronic mail addresses to any other person.

9 (41) Residential addresses, residential telephone numbers, personal cellular telephone numbers,
10 personal electronic mail addresses, driver license numbers, emergency contact information, Social
11 Security numbers, dates of birth and other telephone numbers of individuals currently or previously
12 certified or licensed by the Department of Public Safety Standards and Training contained in the
13 records maintained by the department.

14 (42) Personally identifiable information and contact information of veterans as defined in ORS
15 408.225 and of persons serving on active duty or as reserve members with the Armed Forces of the
16 United States, National Guard or other reserve component that was obtained by the Department of
17 Veterans' Affairs in the course of performing its duties and functions, including but not limited to
18 names, residential and employment addresses, dates of birth, driver license numbers, telephone
19 numbers, electronic mail addresses, Social Security numbers, marital status, dependents, the char-
20 acter of discharge from military service, military rating or rank, that the person is a veteran or has
21 provided military service, information relating to an application for or receipt of federal or state
22 benefits, information relating to the basis for receipt or denial of federal or state benefits and in-
23 formation relating to a home loan or grant application, including but not limited to financial infor-
24 mation provided in connection with the application.

25 (43) Business, commercial, financial, operational and research data and information, including
26 but not limited to pricing, intellectual property and customer records, furnished to, developed by or
27 generated in connection with the ownership and operation of an unmanned aerial system test range,
28 if disclosure of the information would cause a competitive disadvantage to the test range or its us-
29 ers.

30 (44) Personally identifiable information about a child under the age of 16 years that is submitted
31 to the State Fish and Wildlife Commission or an agent of the commission to obtain a license, tag
32 or permit under the wildlife laws.

33 (45) Proprietary information subject to a nondisclosure agreement that is provided to the Oregon
34 Broadband Office pursuant to ORS 285A.176.

35 (46) With respect to records held by the State Treasurer relating to unclaimed properties under
36 ORS 98.302 to 98.436:

37 (a) All materials or communications received during an examination under ORS 98.412 (2) and
38 (3), except to the extent that the information in the materials or communications appears within a
39 report under ORS 98.412 (4) or 98.352 and the information is not otherwise exempt under ORS 98.352
40 (4).

41 (b) All materials or communications assembled or used by the state or its auditor during the
42 preparation of a report under ORS 98.412 (4), including drafts, correspondence, working papers and
43 other preparatory documents.

44 (c) Information obtained during an examination under ORS 98.412 (2) and (3) concerning an un-
45 claimed property holder's potential liability in a state other than Oregon, even if that information

1 is included in a report under ORS 98.412 (4) or 98.352.

2 (d) Information in or supporting claims to unclaimed property under ORS 98.392, except to the
3 extent that the claimant consents to the information's disclosure.

4 (47) Any document, record or plan for protection relating to the existence, nature, location or
5 function of cybersecurity devices, programs or systems designed to protect computer, information
6 technology or communications systems against threat or attack, including but not limited to:

7 (a) Records pertaining to devices, programs or systems that depend for their effectiveness in
8 whole or part upon a lack of public knowledge; and

9 (b) Contractual records or insurance records that set forth cybersecurity specifications, insur-
10 ance application and coverage details.

11 **(48) Sensitive business, commercial or financial information, that is not customarily**
12 **provided to business competitors, that is furnished to or developed by the Oregon Pre-**
13 **scription Drug Program in connection with purchasing prescription drugs or contracting for**
14 **the services of a pharmacy benefit manager or pharmacy networks pursuant to ORS 414.312.**

15 **SECTION 14. No later than January 1, 2025, the Department of Consumer and Business**
16 **Services shall hire at least one additional full-time employee to assist in the regulation of**
17 **pharmacy benefit managers under ORS 735.530 to 735.552.**

18 **SECTION 15. The amendments to ORS 735.534, 735.536, 735.540 and 735.542 by sections 6,**
19 **7, 9 and 10 of this 2024 Act apply to contracts between pharmacies and pharmacy benefit**
20 **managers that are entered into, renewed, extended or automatically renewed on or after**
21 **January 1, 2025.**

22 **SECTION 16. (1) Section 2 of this 2024 Act and the amendments to ORS 646A.694, 735.530,**
23 **735.532, 735.533, 735.534, 735.536, 735.537, 735.540, 735.542 and 743A.062 by sections 3 to 12 of**
24 **this 2024 Act become operative on January 1, 2025.**

25 **(2) The Department of Consumer and Business Services shall take all steps necessary**
26 **before January 1, 2025, to carry out the amendments to ORS 735.532 and 735.533 by sections**
27 **4 and 5 of this 2024 Act on and after January 1, 2025.**

28 **SECTION 17. Notwithstanding any other law limiting expenditures, the amount of**
29 **\$_____ is established for the biennium ending June 30, 2025, as the maximum limit for**
30 **payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts,**
31 **but excluding lottery funds and federal funds, collected or received by the Department of**
32 **Consumer and Business Services for the purpose of carrying out sections 2 and 14 of this**
33 **2024 Act and the amendments to ORS 646A.694, 735.530, 735.532, 735.533, 735.534, 735.536,**
34 **735.537, 735.540, 735.542 and 743A.062 by sections 3 to 12 of this 2024 Act.**

35 **SECTION 18. Section 14 of this 2024 Act is repealed on January 2, 2025.**

36 **SECTION 19. This 2024 Act being necessary for the immediate preservation of the public**
37 **peace, health and safety, an emergency is declared to exist, and this 2024 Act takes effect**
38 **on its passage.**

39