

**PROPOSED AMENDMENTS TO
SENATE BILL 334**

1 On page 1 of the printed bill, delete lines 5 through 31 and delete page
2 2.

3 On page 3, delete lines 1 through 40 and insert:

4 **“SECTION 1.** ORS 414.325, as amended by section 8, chapter 827, Oregon
5 Laws 2009, 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) The authority shall reimburse the cost of a legend drug pre-**
18 **scribed for a recipient of medical assistance only if the legend drug:**

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

21 **“(b) Is in a therapeutic class of nonsedating antihistamines and**
22 **nasal inhalers, as defined by the authority by rule, and is prescribed**

1 **by an allergist for the treatment of:**

2 **“(A) Asthma;**

3 **“(B) Sinusitis;**

4 **“(C) Rhinitis; or**

5 **“(D) Allergies;**

6 **“(e) Is a mental health drug; or**

7 **“(d) Is a drug indicated for the treatment of seizures, cancer, HIV**
8 **or AIDS or is an immunosuppressant drug.**

9 **“(3) Notwithstanding subsection (2) of this section, the authority**
10 **shall provide reimbursement for a legend drug that does not meet the**
11 **criteria in subsection (2) of this section if:**

12 **“(a) The authority grants approval through a prior authorization**
13 **process adopted by the authority by rule.**

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

18 **“(c) After consultation with the authority or its agent, the**
19 **prescriber, in the prescriber’s professional judgment, determines that**
20 **the drug is medically appropriate.**

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

23 **“[(2)] (4) A licensed practitioner may prescribe such drugs under this**
24 **chapter as the practitioner in the exercise of professional judgment considers**
25 **appropriate for the diagnosis or treatment of the patient in the practitioner’s**
26 **care and within the scope of practice. Prescriptions shall be dispensed in the**
27 **generic form pursuant to ORS 689.515 and pursuant to rules of the Oregon**
28 **Health Authority unless the practitioner prescribes otherwise and an excep-**
29 **tion is granted by the authority.**

30 **“[(3)] (5) Except as provided in subsections [(4) and (5)] (6) and (7) of this**

1 section, the authority shall place no limit on the type of legend drug that
2 may be prescribed by a practitioner, but the authority shall pay only for
3 drugs in the generic form unless an exception has been granted by the au-
4 thority.

5 “[~~(4)~~] **(6)** Notwithstanding subsection [~~(3)~~] **(5)** of this section, an exception
6 must be applied for and granted before the authority is required to pay for
7 minor tranquilizers and amphetamines and amphetamine derivatives, as de-
8 fined by rule of the authority.

9 “[~~(5)(a)~~] **(7)(a)** Notwithstanding subsections [~~(1) to (4)~~] **(2) to (6)** of this
10 section and except as provided in paragraph (b) of this subsection, the au-
11 thority is authorized to:

12 “(A) Withhold payment for a legend drug when federal financial partic-
13 ipation is not available; and

14 “(B) Require prior authorization of payment for drugs that the authority
15 has determined should be limited to those conditions generally recognized
16 as appropriate by the medical profession.

17 “(b) The authority may not require prior authorization for therapeutic
18 classes of nonsedating antihistamines and nasal inhalers, as defined by rule
19 by the authority, when prescribed by an allergist for treatment of any of the
20 following conditions, as described by the Health Evidence Review Commis-
21 sion on the funded portion of its prioritized list of services:

22 “(A) Asthma;

23 “(B) Sinusitis;

24 “(C) Rhinitis; or

25 “(D) Allergies.

26 “[~~(6)~~] **(8)** The authority shall pay a rural health clinic for a legend drug
27 prescribed and dispensed under this chapter by a licensed practitioner at the
28 rural health clinic for an urgent medical condition if:

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

30 “(b) The prescription is dispensed for a patient outside of the normal

1 business hours of any pharmacy within 15 miles of the clinic; or

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

4 “[7] (9) Notwithstanding ORS 414.334, the authority may conduct pro-
5 spective drug utilization review prior to payment for drugs for a patient
6 whose prescription drug use exceeded 15 drugs in the preceding six-month
7 period.

8 “[8] (10) Notwithstanding subsection [(3)] (5) of this section, the au-
9 thority may pay a pharmacy for a particular brand name drug rather than
10 the generic version of the drug after notifying the pharmacy that the cost
11 of the particular brand name drug, after receiving discounted prices and re-
12 bates, is equal to or less than the cost of the generic version of the drug.

13 “[9(a)] (11)(a) Within 180 days after the United States patent expires on
14 an immunosuppressant drug used in connection with an organ transplant, the
15 authority shall determine whether the drug is a narrow therapeutic index
16 drug.

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

21 **“SECTION 2.** ORS 414.325, as amended by section 8, chapter 827, Oregon
22 Laws 2009, and section 1 of this 2013 Act, is amended to read:

23 “414.325. (1) As used in this section:

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

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

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

29 “(B) Therapeutic class 11 psychostimulants-antidepressants.

30 “(c) ‘Urgent medical condition’ means a medical condition that arises

1 suddenly, is not life-threatening and requires prompt treatment to avoid the
2 development of more serious medical problems.

3 “(2) The authority shall reimburse the cost of a legend drug prescribed
4 for a recipient of medical assistance only if the legend drug:

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

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

10 “(A) Asthma;

11 “(B) Sinusitis;

12 “(C) Rhinitis; or

13 “(D) Allergies; **or**

14 “(c) Is a mental health drug.[; or]

15 “[*(d) Is a drug indicated for the treatment of seizures, cancer, HIV or*
16 *AIDS or is an immunosuppressant drug.*]

17 “(3) Notwithstanding subsection (2) of this section, the authority shall
18 provide reimbursement for a legend drug that does not meet the criteria in
19 subsection (2) of this section if:

20 “(a) The authority grants approval through a prior authorization process
21 adopted by the authority by rule.

22 “(b) The prescriber contacts the authority requesting prior authorization
23 and the authority or its agent fails to respond to the telephone call or to a
24 prescriber’s request made by electronic mail within 24 hours.

25 “(c) After consultation with the authority or its agent, the prescriber, in
26 the prescriber’s professional judgment, determines that the drug is medically
27 appropriate.

28 “(d) It is a drug in a class not evaluated for the Practitioner-Managed
29 Prescription Drug Plan adopted under ORS 414.334.

30 “(4) A licensed practitioner may prescribe such drugs under this chapter

1 as the practitioner in the exercise of professional judgment considers appro-
2 priate for the diagnosis or treatment of the patient in the practitioner's care
3 and within the scope of practice. Prescriptions shall be dispensed in the ge-
4 neric form pursuant to ORS 689.515 and pursuant to rules of the Oregon
5 Health Authority unless the practitioner prescribes otherwise and an excep-
6 tion is granted by the authority.

7 “(5) Except as provided in subsections (6) and (7) of this section, the au-
8 thority shall place no limit on the type of legend drug that may be prescribed
9 by a practitioner, but the authority shall pay only for drugs in the generic
10 form unless an exception has been granted by the authority.

11 “(6) Notwithstanding subsection (5) of this section, an exception must be
12 applied for and granted before the authority is required to pay for minor
13 tranquilizers and amphetamines and amphetamine derivatives, as defined by
14 rule of the authority.

15 “(7)(a) Notwithstanding subsections (2) to (6) of this section and except
16 as provided in paragraph (b) of this subsection, the authority is authorized
17 to:

18 “(A) Withhold payment for a legend drug when federal financial partic-
19 ipation is not available; and

20 “(B) Require prior authorization of payment for drugs that the authority
21 has determined should be limited to those conditions generally recognized
22 as appropriate by the medical profession.

23 “(b) The authority may not require prior authorization for therapeutic
24 classes of nonsedating antihistamines and nasal inhalers, as defined by rule
25 by the authority, when prescribed by an allergist for treatment of any of the
26 following conditions, as described by the Health Evidence Review Commis-
27 sion on the funded portion of its prioritized list of services:

28 “(A) Asthma;

29 “(B) Sinusitis;

30 “(C) Rhinitis; or

1 “(D) Allergies.

2 “(8) The authority shall pay a rural health clinic for a legend drug pre-
3 scribed and dispensed under this chapter by a licensed practitioner at the
4 rural health clinic for an urgent medical condition if:

5 “(a) There is not a 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 “(9) Notwithstanding ORS 414.334, the authority may conduct prospective
11 drug utilization review prior to payment for drugs for a patient whose pre-
12 scription drug use exceeded 15 drugs in the preceding six-month period.

13 “(10) Notwithstanding subsection (5) of this section, the authority may
14 pay a pharmacy for a particular brand name drug rather than the generic
15 version of the drug after notifying the pharmacy that the cost of the partic-
16 ular brand name drug, after receiving discounted prices and rebates, is equal
17 to or less than the cost of the generic version of the drug.

18 “(11)(a) Within 180 days after the United States patent expires on an
19 immunosuppressant drug used in connection with an organ transplant, the
20 authority shall determine whether the drug is a narrow therapeutic index
21 drug.

22 “(b) As used in this subsection, ‘narrow therapeutic index drug’ means a
23 drug that has a narrow range in blood concentrations between efficacy and
24 toxicity and requires therapeutic drug concentration or pharmacodynamic
25 monitoring.”.

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