

## SENATE AMENDMENTS TO RESOLVE CONFLICTS TO A-ENGROSSED HOUSE BILL 2958

By COMMITTEE ON HEALTH CARE

June 7

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

4 On page 7, after line 13, insert:

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6 **(Enrolled House Bill 2517) (amending ORS 743B.602), is repealed and ORS 743B.602, as**  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

8 “743B.602. (1) As used in this section:

9 **“(a) ‘Beneficiary’ means an individual receiving health care that is provided or reim-**  
10 **bursed by an entity that provides health care coverage.**

11 “[*(a)*] **(b) ‘Health care coverage’** includes any of the following that reimburse the cost of pre-  
12 scription drugs:

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

14 “(B) An insurance policy or certificate;

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

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

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

19 “(F) [*Payment of claims*] **Claims payments** by a pharmacy benefit manager, as defined in ORS  
20 735.530, or other third party administrator; and

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

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

25 “[*(2)*] **An entity that provides health care coverage that requires step therapy shall make easily ac-**  
26 **cessible to prescribing practitioners, clear explanations of:]**

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

28 **“(a) Post to the entity’s website clear explanations that are easily accessible to pre-**  
29 **scribing practitioners and beneficiaries of the coverage, written in plain language and un-**  
30 **derstandable to practitioners and beneficiaries, of:**

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

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

1 and

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

4 “(b) Provide a clear, readily accessible and convenient process for a prescribing practi-  
5 tioner to request an exception to step therapy, which may be the same process used to re-  
6 quest exceptions to other coverage restrictions or limitations.

7 “(c) Approve a request for an exception to step therapy if the entity determines that the  
8 evidence submitted by the prescribing practitioner is sufficient to establish that:

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

11 “(B) The prescription drug required by the step therapy is expected to be ineffective  
12 based on the known clinical characteristics of the beneficiary and the known characteristics  
13 of the prescription drug regimen;

14 “(C) The beneficiary has tried the drug required by the step therapy, a drug in the same  
15 pharmacologic class as the drug required by the step therapy or a drug with the same  
16 mechanism of action as the drug required by the step therapy, and the beneficiary’s use of  
17 the drug required by the step therapy was discontinued due to the lack of efficacy or effec-  
18 tiveness, a diminished effect or an adverse reaction;

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

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

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

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

35 “(4) This section does not prevent:

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

40 “(b) An entity that provides health care coverage from denying a request for an exception  
41 to allow coverage of a drug that has been removed from the market due to the safety con-  
42 cerns of the United States Food and Drug Administration; or

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

45 “SECTION 6b. If House Bill 2517 becomes law, the amendments to ORS 743B.602 by sec-

1 **tion 6a of this 2021 Act become operative on January 1, 2022.**

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

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

7 **“(2)** An entity described in ORS 743B.602 must meet the website requirements in ORS 743B.602,  
8 as amended by [*section 6 of this 2021 Act*] **section 6a of this 2021 Act**, no later than June 1,  
9 2022.”.

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