

SB 1524-8  
(LC 161)  
2/7/22 (CMT/ps)

Requested by SENATE COMMITTEE ON FINANCE AND REVENUE

**PROPOSED AMENDMENTS TO  
SENATE BILL 1524**

1 On page 1 of the printed bill, line 2, delete “and” and insert a comma.

2 In line 3, after “317A.137” insert “and 735.536”.

3 On page 12, after line 22, insert:

4 **“SECTION 9. Section 10 of this 2022 Act is added to and made a part**  
5 **of ORS 317A.100 to 317A.158.**

6 **“SECTION 10. (1) As used in this section:**

7 **“(a) ‘Eligible pharmacy’ means a pharmacy that has fewer than six**  
8 **locations under common ownership in the United States. ‘Eligible**  
9 **pharmacy’ does not include a pharmacy business that owns a phar-**  
10 **macy benefit manager. ‘Eligible pharmacy’ does not include a phar-**  
11 **macy that caters primarily to veterinary customers.**

12 **“(b) ‘Pharmacy’ has the meaning given that term in ORS 689.005.**

13 **“(c) ‘Pharmacy benefit manager’ has the meaning given that term**  
14 **in ORS 414.312.**

15 **“(2) Notwithstanding ORS 317A.100, amounts received by an eligible**  
16 **pharmacy in receipt for the sale of prescription drugs are excluded**  
17 **from the definition of commercial activity and are exempt from the**  
18 **tax imposed under ORS 317A.116.**

19 **“(3) The exemption allowed under subsection (2) of this section does**  
20 **not apply to amounts received by a pharmacy benefit manager from**  
21 **the sale of prescription drugs.**

1       **“SECTION 11.** ORS 735.536 is amended to read:

2       “735.536. (1) As used in this section, ‘out-of-pocket cost’ means the amount  
3 paid by an enrollee under the enrollee’s coverage, including deductibles,  
4 copayments, coinsurance or other expenses as prescribed by the Department  
5 of Consumer and Business Services by rule.

6       “(2) A pharmacy benefit manager registered under ORS 735.532:

7       “(a) May not require a prescription to be filled or refilled by a mail order  
8 pharmacy as a condition for reimbursing the cost of the drug.

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

12       “(c) Shall reimburse the cost of a specialty drug that is filled or refilled  
13 at a network pharmacy that is a long term care pharmacy.

14       “(d)(A) Shall allow a network pharmacy to mail, ship or deliver pre-  
15 scription drugs to its patients as an ancillary service.

16       “(B) Is not required to reimburse a delivery fee charged by a pharmacy  
17 for a delivery described in subparagraph (A) of this paragraph unless the fee  
18 is specified in the contract between the pharmacy benefit manager and the  
19 pharmacy.

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

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

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

26       “(B) Is responsible for the cost of mailing, shipping or delivering a re-  
27 placement for a drug that was mailed or shipped but not received by the  
28 enrollee.

29       “(f) May not penalize a network pharmacy for or otherwise directly or  
30 indirectly prevent a network pharmacy from informing an enrollee of the

1 difference between the out-of-pocket cost to the enrollee to purchase a pre-  
2 scription drug using the enrollee’s pharmacy benefit and the pharmacy’s  
3 usual and customary charge for the prescription drug.

4 **“(g) May not engage in retaliatory action against a network phar-  
5 macy related to the pharmacy benefit manager’s liability for the tax  
6 imposed under ORS 317A.116. Prohibited retaliatory actions by the  
7 pharmacy benefit manager under this paragraph may include:**

8 **“(A) Adjustments to service terms or contract conditions or to fi-  
9 nancial terms such as fees, or increased charges.**

10 **“(B) Unilateral cancelation of contracts within the initial five years  
11 of the contract’s term.**

12 **“(C) Nonrenewal of a contract with a network pharmacy, unless the  
13 pharmacy benefit manager provides at least 10 months’ notice to the  
14 network pharmacy.**

15 **“(3) The Department of Consumer and Business Services may adopt rules  
16 to carry out the provisions of this section.”.**

17 In line 23, delete “9” and insert “12”.

18 After line 33, insert:

19 **“(5) Section 10 of this 2022 Act applies to tax years beginning on or after  
20 January 1, 2022, and before January 1, 2026.**

21 **“(6) The amendments to ORS 735.536 by section 11 of this 2022 Act apply  
22 to contracts entered into on or after January 1, 2023.”.**

23 In line 34, delete “10” and insert “13”.

24 In line 38, delete “11” and insert “14”.

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