

House Bill 2011

Sponsored by Representative DIEHL (Presession 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 **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: Makes it an unlawful practice of law for health insurers and PBMs to stop covering drugs given out by doctors that are obtained by some drug stores. (Flesch Readability Score: 60.3). Prohibits health insurers and pharmacy benefit managers from restricting coverage of physician-administered prescription drugs that are obtained by nonparticipating pharmacies. Designates violation of the prohibition as an unlawful practice.

A BILL FOR AN ACT

1
2 Relating to insurance coverage of prescription drugs; creating new provisions; and amending ORS
3 646.608.

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

5 **SECTION 1. Section 2 of this 2025 Act is added to and made a part of the Insurance Code.**

6 **SECTION 2. (1) As used in this section:**

7 (a) **"Participating pharmacy" means a pharmacy or pharmacist that:**

8 (A) **Contracts with an insurer or a pharmacy benefit manager to provide prescription**
9 **drugs to enrollees in policies or certificates of health insurance issued by the insurer or ad-**
10 **ministered by the pharmacy benefit manager; or**

11 (B) **Is under the ownership or control of an insurer or pharmacy benefit manager.**

12 (b) **"Participating provider" means a health care provider that contracts with an insurer**
13 **or a pharmacy benefit manager to provide health care items or services to enrollees in poli-**
14 **cies or certificates of health insurance issued by the insurer or administered by the phar-**
15 **macy benefit manager and any clinic, hospital outpatient department or pharmacy under the**
16 **common ownership or control of the health care provider.**

17 (c) **"Physician-administered drug" means a prescription drug, other than a vaccine, that**
18 **requires administration by a health professional and is not approved for self-administration.**

19 (2) **An insurer offering a policy or certificate of health insurance in this state that re-**
20 **imburses the cost of prescription drugs or a pharmacy benefit manager licensed under ORS**
21 **735.532 in this state may not deny or in any way restrict the coverage of a physician-**
22 **administered drug that is obtained by a participating provider from a pharmacy that is not**
23 **a participating pharmacy if the drug:**

24 (a) **Is a covered prescription drug under the terms of the policy, certificate or contract;**

25 (b) **Is medically necessary; and**

26 (c) **Meets supply chain security controls and chain of distribution requirements of federal**
27 **law.**

28 (3) **An insurer or pharmacy benefit manager restricts the coverage of a drug under sub-**
29 **section (2) of this section if the insurer or pharmacy benefit manager:**

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 (a) Refuses to authorize coverage of the drug;

2 (b) Imposes a restriction or condition on the coverage that does not apply to prescription
3 drugs obtained by the participating provider from a participating pharmacy;

4 (c) Pays less reimbursement than the reimbursement paid for the drug when obtained
5 by the participating provider from a participating pharmacy; or

6 (d) Imposes higher copayments or other out-of-pocket costs on enrollees receiving the
7 drug from a participating provider than are imposed when the participating provider admin-
8 isters the same drug obtained from a participating pharmacy.

9 (4) Medical necessity criteria for coverage of a physician-administered drug may not be
10 based, in whole or in part, on the location of the health care provider administering the drug.

11 (5) This section does not prohibit an insurer from establishing, for enrollees, centers of
12 excellence based on nationally recognized, objective quality measures that are centered on
13 specific drug treatments and designed to improve the safety, quality, affordability and ex-
14 pertise in the administration of the treatment.

15 (6) Any contract provision that is contrary to the provisions of this section or that pur-
16 ports to waive the provisions of this section is void and unenforceable.

17 (7) Violation of this section is an unlawful practice under ORS 646.608.

18 **SECTION 3.** ORS 646.608, as amended by section 6, chapter 410, Oregon Laws 2023, is amended
19 to read:

20 646.608. (1) A person engages in an unlawful practice if in the course of the person's business,
21 vocation or occupation the person does any of the following:

22 (a) Passes off real estate, goods or services as the real estate, goods or services of another.

23 (b) Causes likelihood of confusion or of misunderstanding as to the source, sponsorship, ap-
24 proval, or certification of real estate, goods or services.

25 (c) Causes likelihood of confusion or of misunderstanding as to affiliation, connection, or asso-
26 ciation with, or certification by, another.

27 (d) Uses deceptive representations or designations of geographic origin in connection with real
28 estate, goods or services.

29 (e) Represents that real estate, goods or services have sponsorship, approval, characteristics,
30 ingredients, uses, benefits, quantities or qualities that the real estate, goods or services do not have
31 or that a person has a sponsorship, approval, status, qualification, affiliation, or connection that the
32 person does not have.

33 (f) Represents that real estate or goods are original or new if the real estate or goods are de-
34 teriorated, altered, reconditioned, reclaimed, used or secondhand.

35 (g) Represents that real estate, goods or services are of a particular standard, quality, or grade,
36 or that real estate or goods are of a particular style or model, if the real estate, goods or services
37 are of another.

38 (h) Disparages the real estate, goods, services, property or business of a customer or another
39 by false or misleading representations of fact.

40 (i) Advertises real estate, goods or services with intent not to provide the real estate, goods or
41 services as advertised, or with intent not to supply reasonably expectable public demand, unless the
42 advertisement discloses a limitation of quantity.

43 (j) Makes false or misleading representations of fact concerning the reasons for, existence of,
44 or amounts of price reductions.

45 (k) Makes false or misleading representations concerning credit availability or the nature of the

1 transaction or obligation incurred.

2 (L) Makes false or misleading representations relating to commissions or other compensation to
3 be paid in exchange for permitting real estate, goods or services to be used for model or demon-
4 stration purposes or in exchange for submitting names of potential customers.

5 (m) Performs service on or dismantles any goods or real estate if the owner or apparent owner
6 of the goods or real estate does not authorize the service or dismantling.

7 (n) Solicits potential customers by telephone or door to door as a seller unless the person pro-
8 vides the information required under ORS 646.611.

9 (o) In a sale, rental or other disposition of real estate, goods or services, gives or offers to give
10 a rebate or discount or otherwise pays or offers to pay value to the customer in consideration of
11 the customer giving to the person the names of prospective purchasers, lessees, or borrowers, or
12 otherwise aiding the person in making a sale, lease, or loan to another person, if earning the rebate,
13 discount or other value is contingent upon an event occurring after the time the customer enters
14 into the transaction.

15 (p) Makes any false or misleading statement about a prize, contest or promotion used to publi-
16 cize a product, business or service.

17 (q) Promises to deliver real estate, goods or services within a certain period of time with intent
18 not to deliver the real estate, goods or services as promised.

19 (r) Organizes or induces or attempts to induce membership in a pyramid club.

20 (s) Makes false or misleading representations of fact concerning the offering price of, or the
21 person's cost for real estate, goods or services.

22 (t) Concurrent with tender or delivery of any real estate, goods or services, fails to disclose any
23 known material defect or material nonconformity.

24 (u) Engages in any other unfair or deceptive conduct in trade or commerce.

25 (v) Violates any of the provisions relating to auction sales, consignment sales, auctioneers,
26 consignees or auction marts under ORS 698.640, whether in a commercial or noncommercial situ-
27 ation.

28 (w) Manufactures mercury fever thermometers.

29 (x) Sells or supplies mercury fever thermometers unless the thermometer is required by federal
30 law, or is:

31 (A) Prescribed by a person licensed under ORS chapter 677; and

32 (B) Supplied with instructions on the careful handling of the thermometer to avoid breakage and
33 on the proper cleanup of mercury should breakage occur.

34 (y) Sells a thermostat that contains mercury, unless the thermostat is labeled in a manner to
35 inform the purchaser that mercury is present in the thermostat and that the thermostat may not be
36 disposed of until the mercury is removed, reused, recycled or otherwise managed to ensure that the
37 mercury does not become part of the solid waste stream or wastewater. For purposes of this para-
38 graph, "thermostat" means a device commonly used to sense and, through electrical communication
39 with heating, cooling or ventilation equipment, control room temperature.

40 (z) Sells or offers for sale a motor vehicle manufactured after January 1, 2006, that contains
41 mercury light switches.

42 (aa) Violates the provisions of ORS 803.375, 803.385 or 815.410 to 815.430.

43 (bb) Violates ORS 646A.070 (1).

44 (cc) Violates any requirement of ORS 646A.030 to 646A.040.

45 (dd) Violates the provisions of ORS 128.801 to 128.898.

- 1 (ee) Violates ORS 646.883 or 646.885.
- 2 (ff) Violates ORS 646.569 or 646A.374.
- 3 (gg) Violates the provisions of ORS 646A.142.
- 4 (hh) Violates ORS 646A.360.
- 5 (ii) Violates ORS 646.553 or 646.557 or any rule adopted pursuant thereto.
- 6 (jj) Violates ORS 646.563.
- 7 (kk) Violates ORS 759.680 or any rule adopted pursuant thereto.
- 8 (LL) Violates the provisions of ORS 759.705, 759.710 and 759.720 or any rule adopted pursuant
- 9 thereto.
- 10 (mm) Violates ORS 646A.210 or 646A.214.
- 11 (nn) Violates any provision of ORS 646A.124 to 646A.134.
- 12 (oo) Violates ORS 646A.095.
- 13 (pp) Violates ORS 822.046.
- 14 (qq) Violates ORS 128.001.
- 15 (rr) Violates ORS 646A.800 (2) to (4).
- 16 (ss) Violates ORS 646A.090 (2) to (5).
- 17 (tt) Violates ORS 87.686.
- 18 (uu) Violates ORS 646A.803.
- 19 (vv) Violates ORS 646A.362.
- 20 (ww) Violates ORS 646A.052 or any rule adopted under ORS 646A.052 or 646A.054.
- 21 (xx) Violates ORS 180.440 (1) or 180.486 (1).
- 22 (yy) Commits the offense of acting as a vehicle dealer without a certificate under ORS 822.005.
- 23 (zz) Violates ORS 87.007 (2) or (3).
- 24 (aaa) Violates ORS 92.405 (1), (2) or (3).
- 25 (bbb) Engages in an unlawful practice under ORS 646.648.
- 26 (ccc) Violates ORS 646A.365.
- 27 (ddd) Violates ORS 98.853, 98.854, 98.856 or 98.858.
- 28 (eee) Sells a gift card in violation of ORS 646A.276.
- 29 (fff) Violates ORS 646A.102, 646A.106 or 646A.108.
- 30 (ggg) Violates ORS 646A.430 to 646A.450.
- 31 (hhh) Violates a provision of ORS 744.318 to 744.384.
- 32 (iii) Violates a provision of ORS 646A.702 to 646A.720.
- 33 (jjj) Violates ORS 646A.530 30 or more days after a recall notice, warning or declaration de-
- 34 scribed in ORS 646A.530 is issued for the children's product, as defined in ORS 646A.525, that is the
- 35 subject of the violation.
- 36 (kkk) Violates a provision of ORS 697.612, 697.642, 697.652, 697.662, 697.682, 697.692 or 697.707.
- 37 (LLL) Violates the consumer protection provisions of the Servicemembers Civil Relief Act, 50
- 38 U.S.C. 3901 et seq., as in effect on January 1, 2010.
- 39 (mmm) Violates a provision of ORS 646A.480 to 646A.495.
- 40 (nnn) Violates ORS 646A.082.
- 41 (ooo) Violates ORS 646.647.
- 42 (ppp) Violates ORS 646A.115.
- 43 (qqq) Violates a provision of ORS 646A.405.
- 44 (rrr) Violates ORS 646A.092.
- 45 (sss) Violates a provision of ORS 646.644.

- 1 (ttt) Violates a provision of ORS 646A.295.
 - 2 (uuu) Engages in the business of, or acts in the capacity of, an immigration consultant, as de-
 - 3 fined in ORS 9.280, in this state and for compensation, unless federal law authorizes the person to
 - 4 do so or unless the person is an active member of the Oregon State Bar.
 - 5 (vvv) Violates ORS 702.012, 702.029 or 702.054.
 - 6 (www) Violates ORS 646A.806.
 - 7 (xxx) Violates ORS 646A.810 (2).
 - 8 (yyy) Violates ORS 443.376.
 - 9 (zzz) Violates a provision of ORS 646A.770 to 646A.787.
 - 10 (aaaa) Violates ORS 815.077.
 - 11 **(bbbb) Violates section 2 of this 2025 Act.**
 - 12 (2) A representation under subsection (1) of this section or ORS 646.607 may be any manifesta-
 - 13 tion of any assertion by words or conduct, including, but not limited to, a failure to disclose a fact.
 - 14 (3) In order to prevail in an action or suit under ORS 336.184 and 646.605 to 646.652, a prose-
 - 15 cuting attorney need not prove competition between the parties or actual confusion or misunder-
 - 16 standing.
 - 17 (4) An action or suit may not be brought under subsection (1)(u) of this section unless the At-
 - 18 torney General has first established a rule in accordance with the provisions of ORS chapter 183
 - 19 declaring the conduct to be unfair or deceptive in trade or commerce.
 - 20 (5) Notwithstanding any other provision of ORS 336.184 and 646.605 to 646.652, if an action or
 - 21 suit is brought under subsection (1)(xx) of this section by a person other than a prosecuting attor-
 - 22 ney, relief is limited to an injunction, and the prevailing party may be awarded reasonable attorney
 - 23 fees.
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