

HB 4040-27  
(LC 241)  
2/9/26 (RH/ps)

Requested by Representative NOSSE

**PROPOSED AMENDMENTS TO  
HOUSE BILL 4040**

- 1      On page 2 of the printed bill, line 1, after “414.211,” insert “414.325.”
- 2      On page 9, after line 41, insert:
- 3      **“SECTION 13b.** ORS 414.325 is amended to read:
- 4      “414.325. (1) As used in this section:
- 5          “(a) ‘Legend drug’ means any drug requiring a prescription by a practi-  
6      tioner, as defined in ORS 689.005.
- 7          “(b) ‘Urgent medical condition’ means a medical condition that arises  
8      suddenly, is not life-threatening and requires prompt treatment to avoid the  
9      development of more serious medical problems.
- 10     “(2) A licensed practitioner may prescribe such drugs under this chapter  
11    as the practitioner in the exercise of professional judgment considers appro-  
12    priate for the diagnosis or treatment of the patient in the practitioner’s care  
13    and within the scope of practice. Prescriptions shall be dispensed in the ge-  
14    neric form pursuant to ORS 689.515 and pursuant to rules of the Oregon  
15    Health Authority unless the practitioner prescribes otherwise and an excep-  
16    tion is granted by the authority.
- 17     “(3) Except as provided in subsections (4) and (5) of this section, the au-  
18    thority shall place no limit on the type of legend drug that may be prescribed  
19    by a practitioner, but the authority shall pay only for drugs in the generic  
20    form unless an exception has been granted by the authority.
- 21     “(4) Notwithstanding subsection (3) of this section, an exception must be

1 applied for and granted before the authority is required to pay for minor  
2 tranquilizers and amphetamines and amphetamine derivatives, as defined by  
3 rule of the authority.

4 “(5)(a) Notwithstanding subsections (1) to (4) of this section and except  
5 as provided in paragraph (b) of this subsection, the authority is authorized  
6 to:

7 “(A) Withhold payment for a legend drug when federal financial partic-  
8 iation is not available; and

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

12 “(b) The authority may not require prior authorization for[:]

13 “[**(A)**] therapeutic classes of nonsedating antihistamines and nasal  
14 inhalers, as defined by rule by the authority, when prescribed by an allergist  
15 for treatment of any of the following conditions, as described by the Health  
16 Evidence Review Commission on the funded portion of its prioritized list of  
17 services:

18 “[**(i)**] **(A)** Asthma;

19 “[**(ii)**] **(B)** Sinusitis;

20 “[**(iii)**] **(C)** Rhinitis; or

21 “[**(iv)**] **(D)** Allergies.

22 “[**(B)**] Any mental health drug prescribed for a medical assistance recipient  
23 if:]

24 “[**(i)**] The claims history available to the authority shows that the recipient  
25 has been in a course of treatment with the drug during the preceding 365-day  
26 period; or]

27 “[**(ii)**] The prescriber specifies on the prescription ‘dispense as written’ or  
28 includes the notation ‘D.A.W.’ or words of similar meaning.]

29 “(6) The authority shall pay a rural health clinic for a legend drug pre-  
30 scribed and dispensed under this chapter by a licensed practitioner at the

1 rural health clinic for an urgent medical condition if:  
2       “(a) There is not a pharmacy within 15 miles of the clinic;  
3       “(b) The prescription is dispensed for a patient outside of the normal  
4 business hours of any pharmacy within 15 miles of the clinic; or  
5       “(c) No pharmacy within 15 miles of the clinic dispenses legend drugs  
6 under this chapter.

7       “(7) Notwithstanding ORS 414.334[.]:  
8       “(a) The authority may conduct prospective drug utilization review in  
9 accordance with ORS 414.351 to 414.414.

10       **“(b) The authority shall reimburse the cost of a mental health drug  
11 prescribed for a medical assistance recipient if federal financial par-  
12 ticipation in the cost is available.**

13       “(8) Notwithstanding subsection (3) of this section, the authority may pay  
14 a pharmacy for a particular brand name drug rather than the generic version  
15 of the drug after notifying the pharmacy that the cost of the particular brand  
16 name drug, after receiving discounted prices and rebates, is equal to or less  
17 than the cost of the generic version of the drug.

18       “(9)(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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