

Senate Bill 661

Sponsored by COMMITTEE ON HEALTH CARE

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**.

Requires health benefit plan that covers opioid analgesic drug products to cover abuse-deterrent opioid analgesic drug products, at no greater cost to insured than other preferred drugs under plan, and specifies other requirements regarding coverage.

A BILL FOR AN ACT

1
2 Relating to opioid analgesic drug products; creating new provisions; and amending ORS 750.055 and
3 750.333.

4 Whereas the Legislative Assembly finds that the abuse of opioids is a serious problem that af-
5 fects the health and the social and economic welfare of this state; and

6 Whereas the Legislative Assembly finds that in 2012 an estimated 2.1 million people in the
7 United States suffered from substance use disorders related to prescription opioid pain relievers; and

8 Whereas the Legislative Assembly finds that the number of unintentional overdose deaths from
9 prescription opioid pain relievers has more than quadrupled since 1999; and

10 Whereas the members of the Legislative Assembly are convinced that it is imperative that in-
11 dividuals who suffer from pain get the relief they need while minimizing the potential for negative
12 consequences; now, therefore,

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

14 **SECTION 1. Section 2 of this 2015 Act is added to and made a part of the Insurance Code.**

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

16 (a) **"Abuse-deterrent opioid analgesic drug product" means an opioid analgesic drug**
17 **product with labeling approved by the United States Food and Drug Administration that in-**
18 **dicates the product has properties that are expected to reduce abuse.**

19 (b) **"Cost-sharing" means any coverage limit, copayment, coinsurance, deductible or**
20 **similar out-of-pocket expense incurred by an insured under a policy or certificate of health**
21 **insurance.**

22 (c) **"Health benefit plan" has the meaning given that term in ORS 743.730.**

23 (d) **"Lowest cost-sharing level" means the cost-sharing requirements applied to a drug**
24 **product for which an insured incurs the least amount of out-of-pocket expenses.**

25 (e) **"Opioid analgesic drug product" means a drug product in the opioid analgesic drug**
26 **class that is prescribed to treat moderate to severe pain, regardless of whether the drug is**
27 **combined with other substances in a single product or dosage form.**

28 (2) **A health benefit plan that provides coverage of opioid analgesic drug products must**
29 **provide coverage of abuse-deterrent opioid analgesic drug products.**

30 (3) **A health benefit plan may not impose cost-sharing requirements on the coverage of**
31 **abuse-deterrent opioid analgesic drug products that exceed the lowest cost-sharing level for**

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 **any other prescription drug covered by the plan.**

2 **(4) A health benefit plan may not impose prior authorization requirements or other**
 3 **utilization control measures to require initial treatment using an opioid analgesic drug**
 4 **product without abuse-deterrent properties before an insured may be prescribed or dispensed**
 5 **an abuse-deterrent opioid analgesic drug product.**

6 **(5) A health benefit plan may impose on abuse-deterrent opioid analgesic drug products**
 7 **prior authorization requirements or other utilization control measures only if the same re-**
 8 **quirements or measures are applied to opioid analgesic drug products without abuse-**
 9 **deterrent properties.**

10 **(6) An insurer may not increase the lowest cost-sharing level imposed on drugs covered**
 11 **by the plan in order to comply with this section, or create financial disincentives for**
 12 **prescribers and dispensers to prescribe or dispense abuse-deterrent opioid analgesic drug**
 13 **products.**

14 **SECTION 3.** ORS 750.055, as amended by section 5, chapter 25, Oregon Laws 2014, and section
 15 80, chapter 45, Oregon Laws 2014, is amended to read:

16 750.055. (1) The following provisions of the Insurance Code apply to health care service con-
 17 tractors to the extent not inconsistent with the express provisions of ORS 750.005 to 750.095:

18 (a) ORS 705.137, 705.139, 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385, 731.386,
 19 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454, 731.488, 731.504, 731.508, 731.509, 731.510,
 20 731.511, 731.512, 731.574 to 731.620, 731.592, 731.594, 731.640 to 731.652, 731.730, 731.731, 731.735,
 21 731.737, 731.750, 731.752, 731.804, 731.844 to 731.992, 731.870 and 743.061.

22 (b) ORS 732.215, 732.220, 732.230, 732.245, 732.250, 732.320, 732.325 and 732.517 to 732.592, not
 23 including ORS 732.582.

24 (c) ORS 733.010 to 733.050, 733.080, 733.140 to 733.170, 733.210, 733.510 to 733.680 and 733.695
 25 to 733.780.

26 (d) ORS chapter 734.

27 (e) ORS 742.001 to 742.009, 742.013, 742.061, 742.065, 742.150 to 742.162, 742.400, 742.520 to
 28 742.540, 743.010, 743.013, 743.018 to 743.030, 743.050, 743.100 to 743.109, 743.402, 743.472, 743.492,
 29 743.495, 743.498, 743.499, 743.522, 743.523, 743.524, 743.526, 743.527, 743.528, 743.529, 743.550 to
 30 743.552, 743.560, 743.600 to 743.610, 743.650 to 743.656, 743.764, 743.804, 743.807, 743.808, 743.814 to
 31 743.839, 743.845, 743.847, 743.854, 743.856, 743.857, 743.858, 743.859, 743.861, 743.862, 743.863, 743.864,
 32 743.894, 743.911, 743.912, 743.913, 743.917, 743A.010, 743A.012, 743A.020, 743A.034, 743A.036,
 33 743A.048, 743A.058, 743A.062, 743A.064, 743A.065, 743A.066, 743A.068, 743A.070, 743A.080, 743A.082,
 34 743A.084, 743A.088, 743A.090, 743A.100, 743A.104, 743A.105, 743A.110, 743A.140, 743A.141, 743A.144,
 35 743A.148, 743A.150, 743A.160, 743A.164, 743A.168, 743A.170, 743A.175, 743A.184, 743A.185, 743A.188,
 36 743A.190, 743A.192 and 743A.250 and section 2, chapter 771, Oregon Laws 2013, and section 2,
 37 chapter 25, Oregon Laws 2014, **and section 2 of this 2015 Act.**

38 (f) The provisions of ORS chapter 744 relating to the regulation of insurance producers.

39 (g) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605, 746.607, 746.608, 746.610,
 40 746.615, 746.625, 746.635, 746.650, 746.655, 746.660, 746.668, 746.670, 746.675, 746.680 and 746.690.

41 (h) ORS 743A.024, except in the case of group practice health maintenance organizations that
 42 are federally qualified pursuant to Title XIII of the Public Health Service Act unless the patient is
 43 referred by a physician, physician assistant or nurse practitioner associated with a group practice
 44 health maintenance organization.

45 (i) ORS 735.600 to 735.650.

1 (j) ORS 743.680 to 743.689.

2 (k) ORS 744.700 to 744.740.

3 (L) ORS 743.730 to 743.773.

4 (m) ORS 731.485, except in the case of a group practice health maintenance organization that
5 is federally qualified pursuant to Title XIII of the Public Health Service Act and that wholly owns
6 and operates an in-house drug outlet.

7 (2) For the purposes of this section, health care service contractors shall be deemed insurers.

8 (3) Any for-profit health care service contractor organized under the laws of any other state that
9 is not governed by the insurance laws of the other state is subject to all requirements of ORS
10 chapter 732.

11 (4) The Director of the Department of Consumer and Business Services may, after notice and
12 hearing, adopt reasonable rules not inconsistent with this section and ORS 750.003, 750.005, 750.025
13 and 750.045 that are deemed necessary for the proper administration of these provisions.

14 **SECTION 4.** ORS 750.055, as amended by section 33, chapter 698, Oregon Laws 2013, section
15 6, chapter 25, Oregon Laws 2014, and section 81, chapter 45, Oregon Laws 2014, is amended to read:

16 750.055. (1) The following provisions of the Insurance Code apply to health care service con-
17 tractors to the extent not inconsistent with the express provisions of ORS 750.005 to 750.095:

18 (a) ORS 705.137, 705.139, 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385, 731.386,
19 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454, 731.488, 731.504, 731.508, 731.509, 731.510,
20 731.511, 731.512, 731.574 to 731.620, 731.592, 731.594, 731.640 to 731.652, 731.730, 731.731, 731.735,
21 731.737, 731.750, 731.752, 731.804, 731.844 to 731.992, 731.870 and 743.061.

22 (b) ORS 732.215, 732.220, 732.230, 732.245, 732.250, 732.320, 732.325 and 732.517 to 732.592, not
23 including ORS 732.582.

24 (c) ORS 733.010 to 733.050, 733.080, 733.140 to 733.170, 733.210, 733.510 to 733.680 and 733.695
25 to 733.780.

26 (d) ORS chapter 734.

27 (e) ORS 742.001 to 742.009, 742.013, 742.061, 742.065, 742.150 to 742.162, 742.400, 742.520 to
28 742.540, 743.010, 743.013, 743.018 to 743.030, 743.050, 743.100 to 743.109, 743.402, 743.472, 743.492,
29 743.495, 743.498, 743.499, 743.522, 743.523, 743.524, 743.526, 743.527, 743.528, 743.529, 743.550, 743.552,
30 743.560, 743.600 to 743.610, 743.650 to 743.656, 743.764, 743.804, 743.807, 743.808, 743.814 to 743.839,
31 743.845, 743.847, 743.854, 743.856, 743.857, 743.858, 743.859, 743.861, 743.862, 743.863, 743.864, 743.894,
32 743.911, 743.912, 743.913, 743.917, 743A.010, 743A.012, 743A.020, 743A.034, 743A.036, 743A.048,
33 743A.058, 743A.062, 743A.064, 743A.065, 743A.066, 743A.068, 743A.070, 743A.080, 743A.082, 743A.084,
34 743A.088, 743A.090, 743A.100, 743A.104, 743A.105, 743A.110, 743A.140, 743A.141, 743A.144, 743A.148,
35 743A.150, 743A.160, 743A.164, 743A.168, 743A.170, 743A.175, 743A.184, 743A.185, 743A.188, 743A.190,
36 743A.192 and 743A.250 and section 2, chapter 771, Oregon Laws 2013, and section 2, chapter 25,
37 Oregon Laws 2014, **and section 2 of this 2015 Act.**

38 (f) The provisions of ORS chapter 744 relating to the regulation of insurance producers.

39 (g) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605, 746.607, 746.608, 746.610,
40 746.615, 746.625, 746.635, 746.650, 746.655, 746.660, 746.668, 746.670, 746.675, 746.680 and 746.690.

41 (h) ORS 743A.024, except in the case of group practice health maintenance organizations that
42 are federally qualified pursuant to Title XIII of the Public Health Service Act unless the patient is
43 referred by a physician, physician assistant or nurse practitioner associated with a group practice
44 health maintenance organization.

45 (i) ORS 743.680 to 743.689.

1 (j) ORS 744.700 to 744.740.

2 (k) ORS 743.730 to 743.773.

3 (L) ORS 731.485, except in the case of a group practice health maintenance organization that is
4 federally qualified pursuant to Title XIII of the Public Health Service Act and that wholly owns and
5 operates an in-house drug outlet.

6 (2) For the purposes of this section, health care service contractors shall be deemed insurers.

7 (3) Any for-profit health care service contractor organized under the laws of any other state that
8 is not governed by the insurance laws of the other state is subject to all requirements of ORS
9 chapter 732.

10 (4) The Director of the Department of Consumer and Business Services may, after notice and
11 hearing, adopt reasonable rules not inconsistent with this section and ORS 750.003, 750.005, 750.025
12 and 750.045 that are deemed necessary for the proper administration of these provisions.

13 **SECTION 5.** ORS 750.055, as amended by section 33, chapter 698, Oregon Laws 2013, section
14 21, chapter 771, Oregon Laws 2013, section 7, chapter 25, Oregon Laws 2014, and section 82, chapter
15 45, Oregon Laws 2014, is amended to read:

16 750.055. (1) The following provisions of the Insurance Code apply to health care service con-
17 tractors to the extent not inconsistent with the express provisions of ORS 750.005 to 750.095:

18 (a) ORS 705.137, 705.139, 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385, 731.386,
19 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454, 731.488, 731.504, 731.508, 731.509, 731.510,
20 731.511, 731.512, 731.574 to 731.620, 731.592, 731.594, 731.640 to 731.652, 731.730, 731.731, 731.735,
21 731.737, 731.750, 731.752, 731.804, 731.844 to 731.992, 731.870 and 743.061.

22 (b) ORS 732.215, 732.220, 732.230, 732.245, 732.250, 732.320, 732.325 and 732.517 to 732.592, not
23 including ORS 732.582.

24 (c) ORS 733.010 to 733.050, 733.080, 733.140 to 733.170, 733.210, 733.510 to 733.680 and 733.695
25 to 733.780.

26 (d) ORS chapter 734.

27 (e) ORS 742.001 to 742.009, 742.013, 742.061, 742.065, 742.150 to 742.162, 742.400, 742.520 to
28 742.540, 743.010, 743.013, 743.018 to 743.030, 743.050, 743.100 to 743.109, 743.402, 743.472, 743.492,
29 743.495, 743.498, 743.499, 743.522, 743.523, 743.524, 743.526, 743.527, 743.528, 743.529, 743.550, 743.552,
30 743.560, 743.600 to 743.610, 743.650 to 743.656, 743.764, 743.804, 743.807, 743.808, 743.814 to 743.839,
31 743.845, 743.847, 743.854, 743.856, 743.857, 743.858, 743.859, 743.861, 743.862, 743.863, 743.864, 743.894,
32 743.911, 743.912, 743.913, 743.917, 743A.010, 743A.012, 743A.020, 743A.034, 743A.036, 743A.048,
33 743A.058, 743A.062, 743A.064, 743A.065, 743A.066, 743A.068, 743A.070, 743A.080, 743A.082, 743A.084,
34 743A.088, 743A.090, 743A.100, 743A.104, 743A.105, 743A.110, 743A.140, 743A.141, 743A.144, 743A.148,
35 743A.150, 743A.160, 743A.164, 743A.168, 743A.170, 743A.175, 743A.184, 743A.185, 743A.188, 743A.190,
36 743A.192 and 743A.250 and section 2, chapter 25, Oregon Laws 2014, **and section 2 of this 2015**
37 **Act.**

38 (f) The provisions of ORS chapter 744 relating to the regulation of insurance producers.

39 (g) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605, 746.607, 746.608, 746.610,
40 746.615, 746.625, 746.635, 746.650, 746.655, 746.660, 746.668, 746.670, 746.675, 746.680 and 746.690.

41 (h) ORS 743A.024, except in the case of group practice health maintenance organizations that
42 are federally qualified pursuant to Title XIII of the Public Health Service Act unless the patient is
43 referred by a physician, physician assistant or nurse practitioner associated with a group practice
44 health maintenance organization.

45 (i) ORS 743.680 to 743.689.

1 (j) ORS 744.700 to 744.740.

2 (k) ORS 743.730 to 743.773.

3 (L) ORS 731.485, except in the case of a group practice health maintenance organization that is
4 federally qualified pursuant to Title XIII of the Public Health Service Act and that wholly owns and
5 operates an in-house drug outlet.

6 (2) For the purposes of this section, health care service contractors shall be deemed insurers.

7 (3) Any for-profit health care service contractor organized under the laws of any other state that
8 is not governed by the insurance laws of the other state is subject to all requirements of ORS
9 chapter 732.

10 (4) The Director of the Department of Consumer and Business Services may, after notice and
11 hearing, adopt reasonable rules not inconsistent with this section and ORS 750.003, 750.005, 750.025
12 and 750.045 that are deemed necessary for the proper administration of these provisions.

13 **SECTION 6.** ORS 750.333, as amended by section 8, chapter 25, Oregon Laws 2014, is amended
14 to read:

15 750.333. (1) The following provisions of the Insurance Code apply to trusts carrying out a mul-
16 tiple employer welfare arrangement:

17 (a) ORS 731.004 to 731.150, 731.162, 731.216 to 731.268, 731.296 to 731.316, 731.324, 731.328,
18 731.378, 731.386, 731.390, 731.398, 731.406, 731.410, 731.414, 731.418 to 731.434, 731.454, 731.484,
19 731.486, 731.488, 731.512, 731.574 to 731.620, 731.640 to 731.652, 731.804 to 731.992 and 743.061.

20 (b) ORS 733.010 to 733.050, 733.140 to 733.170, 733.210, 733.510 to 733.680 and 733.695 to 733.780.

21 (c) ORS chapter 734.

22 (d) ORS 742.001 to 742.009, 742.013, 742.061 and 742.400.

23 (e) ORS 743.028, 743.053, 743.499, 743.524, 743.526, 743.527, 743.528, 743.529, 743.530, 743.560,
24 743.562, 743.600, 743.601, 743.602, 743.610, 743.730 to 743.773 (except 743.766 to 743.773), 743.801,
25 743.804, 743.807, 743.808, 743.814 to 743.839, 743.845, 743.847, 743.854, 743.856, 743.857, 743.858,
26 743.859, 743.861, 743.862, 743.863, 743.864, 743.894, 743.912, 743.917, 743A.012, 743A.020, 743A.034,
27 743A.052, 743A.064, 743A.065, 743A.080, 743A.082, 743A.100, 743A.104, 743A.110, 743A.144, 743A.150,
28 743A.170, 743A.175, 743A.184, 743A.192 and 743A.250 and section 2, chapter 25, Oregon Laws 2014,
29 **and section 2 of this 2015 Act.**

30 (f) ORS 743A.010, 743A.014, 743A.024, 743A.028, 743A.032, 743A.036, 743A.040, 743A.048,
31 743A.058, 743A.066, 743A.068, 743A.070, 743A.084, 743A.088, 743A.090, 743A.105, 743A.140, 743A.141,
32 743A.148, 743A.168, 743A.180, 743A.185, 743A.188 and 743A.190. Multiple employer welfare arrange-
33 ments to which ORS 743.730 to 743.773 apply are subject to the sections referred to in this para-
34 graph only as provided in ORS 743.730 to 743.773.

35 (g) Provisions of ORS chapter 744 relating to the regulation of insurance producers and insur-
36 ance consultants, and ORS 744.700 to 744.740.

37 (h) ORS 746.005 to 746.140, 746.160 and 746.220 to 746.370.

38 (i) ORS 731.592 and 731.594.

39 (j) ORS 731.870.

40 (2) For the purposes of this section:

41 (a) A trust carrying out a multiple employer welfare arrangement shall be considered an insurer.

42 (b) References to certificates of authority shall be considered references to certificates of mul-
43 tiple employer welfare arrangement.

44 (c) Contributions shall be considered premiums.

45 (3) The provision of health benefits under ORS 750.301 to 750.341 shall be considered to be the

1 transaction of health insurance.

2 **SECTION 7. Section 2 of this 2015 Act applies to health benefit plans issued, extended or**
3 **renewed on or after the effective date of this 2015 Act.**

4
