

# Senate Bill 272

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Health Care for American Cancer Society-Cancer Action Network)

## 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**.

Defines "prescription drug formulary" for purposes of Insurance Code.

Requires carrier offering health benefit plan to small employers, groups or individuals to make specified information about prescription drug formularies available on carrier's website and through toll-free telephone number. Prohibits carrier from making changes to prescription drug formulary more than once every 12-month period unless based on alert issued by United States Food and Drug Administration.

## A BILL FOR AN ACT

1  
2 Relating to insurance coverage of prescription drugs; creating new provisions; and amending ORS  
3 743B.013, 743B.105 and 743B.125.

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

## DEFINITION OF PRESCRIPTION DRUG FORMULARY

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8 **SECTION 1. Section 2 of this 2017 Act is added to and made a part of the Insurance Code.**

9 **SECTION 2. "Prescription drug formulary" or "formulary" means the complete list of**  
10 **drugs preferred for use and eligible for reimbursement under a policy or certificate of health**  
11 **insurance, including drugs covered as a pharmacy benefit and drugs covered as a medical**  
12 **benefit.**

## SMALL EMPLOYER HEALTH BENEFIT PLANS

13  
14  
15  
16 **SECTION 3. ORS 743B.013 is amended to read:**

17 743B.013. (1) A health benefit plan issued to a small employer:

18 (a) Other than a grandfathered health plan, must cover essential health benefits consistent with  
19 42 U.S.C. 300gg-11.

20 (b) May require an affiliation period that does not exceed two months for an enrollee or 90 days  
21 for a late enrollee.

22 (c) May not apply a preexisting condition exclusion to any enrollee.

23 (2) Late enrollees in a small employer health benefit plan may be subjected to a group eligibility  
24 waiting period that does not exceed 90 days.

25 (3) Each small employer health benefit plan shall be renewable with respect to all eligible  
26 enrollees at the option of the policyholder, small employer or contract holder unless:

27 (a) The policyholder, small employer or contract holder fails to pay the required premiums.

28 (b) The policyholder, small employer or contract holder or, with respect to coverage of individ-

**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 ual enrollees, an enrollee or a representative of an enrollee engages in fraud or makes an inten-  
2 tional misrepresentation of a material fact as prohibited by the terms of the plan.

3 (c) The number of enrollees covered under the plan is less than the number or percentage of  
4 enrollees required by participation requirements under the plan.

5 (d) The small employer fails to comply with the contribution requirements under the health  
6 benefit plan.

7 (e) The carrier discontinues both offering and renewing all of its small employer health benefit  
8 plans in this state or in a specified service area within this state. In order to discontinue plans un-  
9 der this paragraph, the carrier:

10 (A) Must give notice of the decision to the Department of Consumer and Business Services and  
11 to all policyholders covered by the plans;

12 (B) May not cancel coverage under the plans for 180 days after the date of the notice required  
13 under subparagraph (A) of this paragraph if coverage is discontinued in the entire state or, except  
14 as provided in subparagraph (C) of this paragraph, in a specified service area; and

15 (C) May not cancel coverage under the plans for 90 days after the date of the notice required  
16 under subparagraph (A) of this paragraph if coverage is discontinued in a specified service area  
17 because of an inability to reach an agreement with the health care providers or organization of  
18 health care providers to provide services under the plans within the service area.

19 (f) The carrier discontinues both offering and renewing a small employer health benefit plan in  
20 a specified service area within this state because of an inability to reach an agreement with the  
21 health care providers or organization of health care providers to provide services under the plan  
22 within the service area. In order to discontinue a plan under this paragraph, the carrier:

23 (A) Must give notice to the department and to all policyholders covered by the plan;

24 (B) May not cancel coverage under the plan for 90 days after the date of the notice required  
25 under subparagraph (A) of this paragraph; and

26 (C) Must offer in writing to each small employer covered by the plan, all other small employer  
27 health benefit plans that the carrier offers to small employers in the specified service area. The  
28 carrier shall issue any such plans pursuant to the provisions of ORS 743B.010 to 743B.013. The  
29 carrier shall offer the plans at least 90 days prior to discontinuation.

30 (g) The carrier discontinues both offering and renewing a health benefit plan, other than a  
31 grandfathered health plan, for all small employers in this state or in a specified service area within  
32 this state, other than a plan discontinued under paragraph (f) of this subsection.

33 (h) The carrier discontinues both offering and renewing a grandfathered health plan for all small  
34 employers in this state or in a specified service area within this state, other than a plan discontin-  
35 ued under paragraph (f) of this subsection.

36 (i) With respect to plans that are being discontinued under paragraph (g) or (h) of this sub-  
37 section, the carrier must:

38 (A) Offer in writing to each small employer covered by the plan, all other health benefit plans  
39 that the carrier offers to small employers in the specified service area.

40 (B) Issue any such plans pursuant to the provisions of ORS 743B.010 to 743B.013.

41 (C) Offer the plans at least 90 days prior to discontinuation.

42 (D) Act uniformly without regard to the claims experience of the affected policyholders or the  
43 health status of any current or prospective enrollee.

44 (j) The Director of the Department of Consumer and Business Services orders the carrier to  
45 discontinue coverage in accordance with procedures specified or approved by the director upon

1 finding that the continuation of the coverage would:

2 (A) Not be in the best interests of the enrollees; or

3 (B) Impair the carrier's ability to meet contractual obligations.

4 (k) In the case of a small employer health benefit plan that delivers covered services through  
5 a specified network of health care providers, there is no longer any enrollee who lives, resides or  
6 works in the service area of the provider network.

7 (L) In the case of a health benefit plan that is offered in the small employer market only to one  
8 or more bona fide associations, the membership of an employer in the association ceases and the  
9 termination of coverage is not related to the health status of any enrollee.

10 (4) A carrier may modify a small employer health benefit plan at the time of coverage renewal.  
11 The modification is not a discontinuation of the plan under subsection (3)(e), (g) and (h) of this sec-  
12 tion.

13 (5) Notwithstanding any provision of subsection (3) of this section to the contrary, a carrier may  
14 not rescind the coverage of an enrollee in a small employer health benefit plan unless:

15 (a) The enrollee or a person seeking coverage on behalf of the enrollee:

16 (A) Performs an act, practice or omission that constitutes fraud; or

17 (B) Makes an intentional misrepresentation of a material fact as prohibited by the terms of the  
18 plan;

19 (b) The carrier provides at least 30 days' advance written notice, in the form and manner pre-  
20 scribed by the department, to the enrollee; and

21 (c) The carrier provides notice of the rescission to the department in the form, manner and time  
22 frame prescribed by the department by rule.

23 (6) Notwithstanding any provision of subsection (3) of this section to the contrary, a carrier may  
24 not rescind a small employer health benefit plan unless:

25 (a) The small employer or a representative of the small employer:

26 (A) Performs an act, practice or omission that constitutes fraud; or

27 (B) Makes an intentional misrepresentation of a material fact as prohibited by the terms of the  
28 plan;

29 (b) The carrier provides at least 30 days' advance written notice, in the form and manner pre-  
30 scribed by the department, to each plan enrollee who would be affected by the rescission of cover-  
31 age; and

32 (c) The carrier provides notice of the rescission to the department in the form, manner and time  
33 frame prescribed by the department by rule.

34 (7)(a) A carrier may continue to enforce reasonable employer participation and contribution re-  
35 quirements on small employers. However, participation and contribution requirements shall be ap-  
36 plied uniformly among all small employer groups with the same number of eligible employees  
37 applying for coverage or receiving coverage from the carrier. In determining minimum participation  
38 requirements, a carrier shall count only those employees who are not covered by an existing group  
39 health benefit plan, Medicaid, Medicare, TRICARE, Indian Health Service or a publicly sponsored  
40 or subsidized health plan, including but not limited to the medical assistance program under ORS  
41 chapter 414.

42 (b) A carrier may not deny a small employer's application for coverage under a health benefit  
43 plan based on participation or contribution requirements but may require small employers that do  
44 not meet participation or contribution requirements to enroll during the open enrollment period  
45 beginning November 15 and ending December 15.

1 (8) Premium rates for small employer health benefit plans, except grandfathered health plans,  
2 shall be subject to the following provisions:

3 (a) Each carrier must file with the department the initial geographic average rate and any  
4 changes in the geographic average rate with respect to each health benefit plan issued by the car-  
5 rier to small employers.

6 (b)(A) The variations in premium rates charged during a rating period for health benefit plans  
7 issued to small employers shall be based solely on the factors specified in subparagraph (B) of this  
8 paragraph. A carrier may elect which of the factors specified in subparagraph (B) of this paragraph  
9 apply to premium rates for health benefit plans for small employers. All other factors must be ap-  
10 plied in the same actuarially sound way to all small employer health benefit plans.

11 (B) The variations in premium rates described in subparagraph (A) of this paragraph may be  
12 based only on one or more of the following factors as prescribed by the department by rule:

13 (i) The ages of enrolled employees and their dependents, except that the rate for adults may not  
14 vary by more than three to one;

15 (ii) The level at which enrolled employees and their dependents 18 years of age and older engage  
16 in tobacco use, except that the rate may not vary by more than 1.5 to one; and

17 (iii) Adjustments to reflect differences in family composition.

18 (C) A carrier shall apply the carrier's schedule of premium rate variations as approved by the  
19 department and in accordance with this paragraph. Except as otherwise provided in this section, the  
20 premium rate established by a carrier for a small employer health benefit plan shall apply uniformly  
21 to all employees of the small employer enrolled in that plan.

22 (c) Except as provided in paragraph (b) of this subsection, the variation in premium rates be-  
23 tween different health benefit plans offered by a carrier to small employers must be based solely on  
24 objective differences in plan design or coverage, age, tobacco use and family composition and must  
25 not include differences based on the risk characteristics of groups assumed to select a particular  
26 health benefit plan.

27 (d) A carrier may not increase the rates of a health benefit plan issued to a small employer more  
28 than once in a 12-month period. Annual rate increases shall be effective on the plan anniversary  
29 date of the health benefit plan issued to a small employer. The percentage increase in the premium  
30 rate charged to a small employer for a new rating period may not exceed the sum of the following:

31 (A) The percentage change in the geographic average rate measured from the first day of the  
32 prior rating period to the first day of the new period; and

33 (B) Any adjustment attributable to changes in age and differences in family composition.

34 (9) Premium rates for grandfathered health plans shall be subject to requirements prescribed by  
35 the department by rule.

36 (10) In connection with the offering for sale of any health benefit plan to a small employer, each  
37 carrier shall make a reasonable disclosure as part of its solicitation and sales materials of:

38 (a) The full array of health benefit plans that are offered to small employers by the carrier;

39 (b) The authority of the carrier to adjust rates and premiums, and the extent to which the car-  
40 rier considers age, tobacco use, family composition and geographic factors in establishing and ad-  
41 justing rates and premiums; and

42 (c) The benefits and premiums for all health insurance coverage for which the employer is  
43 qualified.

44 (11)(a) Each carrier shall maintain at its principal place of business a complete and detailed  
45 description of its rating practices and renewal underwriting practices relating to its small employer

1 health benefit plans, including information and documentation that demonstrate that its rating  
2 methods and practices are based upon commonly accepted actuarial practices and are in accordance  
3 with sound actuarial principles.

4 (b) A carrier offering a small employer health benefit plan shall file with the department at least  
5 once every 12 months an actuarial certification that the carrier is in compliance with ORS 743B.010  
6 to 743B.013 and that the rating methods of the carrier are actuarially sound. Each certification shall  
7 be in a uniform form and manner and shall contain such information as specified by the department.  
8 A copy of each certification shall be retained by the carrier at its principal place of business. A  
9 carrier is not required to file the actuarial certification under this paragraph if the department has  
10 approved the carrier's rate filing within the preceding 12-month period.

11 (c) A carrier shall make the information and documentation described in paragraph (a) of this  
12 subsection available to the department upon request. Except as provided in ORS 743.018 and except  
13 in cases of violations of ORS 743B.010 to 743B.013, the information shall be considered proprietary  
14 and trade secret information and shall not be subject to disclosure to persons outside the depart-  
15 ment except as agreed to by the carrier or as ordered by a court of competent jurisdiction.

16 (12) A carrier shall not provide any financial or other incentive to any insurance producer that  
17 would encourage the insurance producer to sell health benefit plans of the carrier to small employer  
18 groups based on a small employer group's anticipated claims experience.

19 (13) For purposes of this section, the date a small employer health benefit plan is continued shall  
20 be the anniversary date of the first issuance of the health benefit plan.

21 (14) A carrier must include a provision that offers coverage to all eligible employees of a small  
22 employer and to all dependents of the eligible employees to the extent the employer chooses to offer  
23 coverage to dependents.

24 (15) All small employer health benefit plans shall contain special enrollment periods during  
25 which eligible employees and dependents may enroll for coverage, as provided by federal law and  
26 rules adopted by the department.

27 (16) A small employer health benefit plan may not impose annual or lifetime limits on the dollar  
28 amount of essential health benefits.

29 **(17) A carrier that offers a small employer health benefit plan that reimburses the costs**  
30 **of prescription drugs sold by a retail pharmacy or administered by a health care provider:**

31 **(a) Shall make publicly available on the carrier's website, without the necessity of en-**  
32 **tering a password, user name or personally identifying information, all of the following:**

33 **(A) The prescription drug formulary for each health benefit plan, electronically**  
34 **searchable by drug name.**

35 **(B) Notice of any change to the prescription drug formulary due to the deletion or addi-**  
36 **tion of a drug, no later than 72 hours after the effective date of the change.**

37 **(C) Notice of any change to the prescription drug formulary other than changes described**  
38 **in subparagraph (B) of this paragraph, such as changes to drug strength or form, no later**  
39 **than 14 calendar days after the effective date of the change.**

40 **(D) The cost sharing typically paid by an enrollee for each drug on the prescription drug**  
41 **formulary, indicated by the following dollar ranges:**

42 **(i) \$100 and less.**

43 **(ii) More than \$100 but not more than \$250.**

44 **(iii) More than \$250 but not more than \$500.**

45 **(iv) More than \$500 but not more than \$1,000.**

1 (v) More than \$1,000.

2 (E) Any prior authorization, step therapy or other utilization control applicable to each  
3 drug on the prescription drug formulary.

4 (b) Shall also provide all of the information described in paragraph (a) of this section  
5 through a toll-free telephone number.

6 (c) Except in response to an alert issued by the United States Food and Drug Adminis-  
7 tration, may not make a change to the plan's drug formulary more than once in any  
8 12-month period.

9 (18) The department shall adopt by rule requirements for the display of information de-  
10 scribed in subsection (17) of this section in order to promote consistency and clarity in the  
11 disclosure of formularies and to facilitate comparison shopping among health benefit plans.

12  
13 **GROUP HEALTH BENEFIT PLANS**

14  
15 **SECTION 4.** ORS 743B.105 is amended to read:

16 743B.105. The following requirements apply to all group health benefit plans other than small  
17 employer health benefit plans covering two or more certificate holders:

18 (1) A carrier offering a group health benefit plan may not decline to offer coverage to any eli-  
19 gible prospective enrollee and may not impose different terms or conditions on the coverage, pre-  
20 miums or contributions of any enrollee in the group that are based on the actual or expected health  
21 status of the enrollee.

22 (2) A group health benefit plan may not apply a preexisting condition exclusion to any enrollee  
23 but may impose:

24 (a) An affiliation period that does not exceed two months for an enrollee or three months for a  
25 late enrollee; or

26 (b) A group eligibility waiting period for late enrollees that does not exceed 90 days.

27 (3) Each group health benefit plan shall contain a special enrollment period during which eligi-  
28 ble employees and dependents may enroll for coverage, as provided by federal law and rules adopted  
29 by the Department of Consumer and Business Services.

30 (4)(a) A carrier shall issue to a group any of the carrier's group health benefit plans offered by  
31 the carrier for which the group is eligible, if the group applies for the plan, agrees to make the re-  
32 quired premium payments and agrees to satisfy the other requirements of the plan.

33 (b) The department may waive the requirements of this subsection if the department finds that  
34 issuing a plan to a group or groups would endanger the carrier's ability to fulfill its contractual  
35 obligations or result in financial impairment of the carrier.

36 (5) Each group health benefit plan shall be renewable with respect to all eligible enrollees at  
37 the option of the policyholder unless:

38 (a) The policyholder fails to pay the required premiums.

39 (b) The policyholder or, with respect to coverage of individual enrollees, an enrollee or a rep-  
40 resentative of an enrollee engages in fraud or makes an intentional misrepresentation of a material  
41 fact as prohibited by the terms of the plan.

42 (c) The number of enrollees covered under the plan is less than the number or percentage of  
43 enrollees required by participation requirements under the plan.

44 (d) The policyholder fails to comply with the contribution requirements under the plan.

45 (e) The carrier discontinues both offering and renewing, all of its group health benefit plans in

1 this state or in a specified service area within this state. In order to discontinue plans under this  
2 paragraph, the carrier:

3 (A) Must give notice of the decision to the department and to all policyholders covered by the  
4 plans;

5 (B) May not cancel coverage under the plans for 180 days after the date of the notice required  
6 under subparagraph (A) of this paragraph if coverage is discontinued in the entire state or, except  
7 as provided in subparagraph (C) of this paragraph, in a specified service area; and

8 (C) May not cancel coverage under the plans for 90 days after the date of the notice required  
9 under subparagraph (A) of this paragraph if coverage is discontinued in a specified service area  
10 because of an inability to reach an agreement with the health care providers or organization of  
11 health care providers to provide services under the plans within the service area.

12 (f) The carrier discontinues both offering and renewing a group health benefit plan in a specified  
13 service area within this state because of an inability to reach an agreement with the health care  
14 providers or organization of health care providers to provide services under the plan within the  
15 service area. In order to discontinue a plan under this paragraph, the carrier:

16 (A) Must give notice of the decision to the department and to all policyholders covered by the  
17 plan;

18 (B) May not cancel coverage under the plan for 90 days after the date of the notice required  
19 under subparagraph (A) of this paragraph; and

20 (C) Must offer in writing to each policyholder covered by the plan, all other group health benefit  
21 plans that the carrier offers in the specified service area. The carrier shall offer the plans at least  
22 90 days prior to discontinuation.

23 (g) The carrier discontinues both offering and renewing a group health benefit plan, other than  
24 a grandfathered health plan, for all groups in this state or in a specified service area within this  
25 state, other than a plan discontinued under paragraph (f) of this subsection.

26 (h) The carrier discontinues both offering and renewing a grandfathered health plan for all  
27 groups in this state or in a specified service area within this state, other than a plan discontinued  
28 under paragraph (f) of this subsection.

29 (i) With respect to plans that are being discontinued under paragraph (g) or (h) of this sub-  
30 section, the carrier must:

31 (A) Offer in writing to each policyholder covered by the plan, one or more health benefit plans  
32 that the carrier offers to groups in the specified service area.

33 (B) Offer the plans at least 90 days prior to discontinuation.

34 (C) Act uniformly without regard to the claims experience of the affected policyholders or the  
35 health status of any current or prospective enrollee.

36 (j) The Director of the Department of Consumer and Business Services orders the carrier to  
37 discontinue coverage in accordance with procedures specified or approved by the director upon  
38 finding that the continuation of the coverage would:

39 (A) Not be in the best interests of the enrollees; or

40 (B) Impair the carrier's ability to meet contractual obligations.

41 (k) In the case of a group health benefit plan that delivers covered services through a specified  
42 network of health care providers, there is no longer any enrollee who lives, resides or works in the  
43 service area of the provider network.

44 (L) In the case of a health benefit plan that is offered in the group market only to one or more  
45 bona fide associations, the membership of an employer in the association ceases and the termination

1 of coverage is not related to the health status of any enrollee.

2 (6) A carrier may modify a group health benefit plan at the time of coverage renewal. The  
3 modification is not a discontinuation of the plan under subsection (5)(e), (g) and (h) of this section.

4 (7) Notwithstanding any provision of subsection (5) of this section to the contrary, a carrier may  
5 not rescind the coverage of an enrollee under a group health benefit plan unless:

6 (a) The enrollee:

7 (A) Performs an act, practice or omission that constitutes fraud; or

8 (B) Makes an intentional misrepresentation of a material fact as prohibited by the terms of the  
9 plan;

10 (b) The carrier provides at least 30 days' advance written notice, in the form and manner pre-  
11 scribed by the department, to the enrollee; and

12 (c) The carrier provides notice of the rescission to the department in the form, manner and time  
13 frame prescribed by the department by rule.

14 (8) Notwithstanding any provision of subsection (5) of this section to the contrary, a carrier may  
15 not rescind a group health benefit plan unless:

16 (a) The plan sponsor or a representative of the plan sponsor:

17 (A) Performs an act, practice or omission that constitutes fraud; or

18 (B) Makes an intentional misrepresentation of a material fact as prohibited by the terms of the  
19 plan;

20 (b) The carrier provides at least 30 days' advance written notice, in the form and manner pre-  
21 scribed by the department, to each plan enrollee who would be affected by the rescission of cover-  
22 age; and

23 (c) The carrier provides notice of the rescission to the department in the form, manner and time  
24 frame prescribed by the department by rule.

25 (9) A group health benefit plan may not impose annual or lifetime limits on the dollar amount  
26 of essential health benefits.

27 **(10) A carrier that offers a group health benefit plan that reimburses the costs of pre-**  
28 **scription drugs sold by a retail pharmacy or administered by a health care provider:**

29 **(a) Shall make publicly available on the carrier's website, without the necessity of en-**  
30 **tering a password, user name or personally identifying information, all of the following:**

31 **(A) The prescription drug formulary for each health benefit plan, electronically**  
32 **searchable by drug name.**

33 **(B) Notice of any change to the prescription drug formulary due to the deletion or addi-**  
34 **tion of a drug, no later than 72 hours after the effective date of the change.**

35 **(C) Notice of any change to the prescription drug formulary other than changes described**  
36 **in subparagraph (B) of this paragraph, such as changes to drug strength or form, no later**  
37 **than 14 calendar days after the effective date of the change.**

38 **(D) The cost sharing typically paid by an enrollee for each drug on the prescription drug**  
39 **formulary, indicated by the following dollar ranges:**

40 **(i) \$100 and less.**

41 **(ii) More than \$100 but not more than \$250.**

42 **(iii) More than \$250 but not more than \$500.**

43 **(iv) More than \$500 but not more than \$1,000.**

44 **(v) More than \$1,000.**

45 **(E) Any prior authorization, step therapy or other utilization control applicable to each**



1 **drug on the prescription drug formulary.**

2 **(b) Shall also provide all of the information described in paragraph (a) of this section**  
3 **through a toll-free telephone number.**

4 **(c) Except in response to an alert issued by the United States Food and Drug Adminis-**  
5 **tration, may not make a change to the plan's drug formulary more than once in any**  
6 **12-month period.**

7 **(11) The department shall adopt by rule requirements for the display of information de-**  
8 **scribed in subsection (10) of this section in order to promote consistency and clarity in the**  
9 **disclosure of formularies and to facilitate comparison shopping among health benefit plans.**

## 10 **INDIVIDUAL HEALTH BENEFIT PLANS**

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12  
13 **SECTION 5.** ORS 743B.125 is amended to read:

14 743B.125. (1) With respect to coverage under an individual health benefit plan, a carrier may  
15 not impose an individual coverage waiting period.

16 (2) With respect to individual coverage under a grandfathered health plan, a carrier:

17 (a) May impose an exclusion period for specified covered services applicable to all individuals  
18 enrolling for the first time in the individual health benefit plan.

19 (b) May not impose a preexisting condition exclusion unless the exclusion complies with the  
20 following requirements:

21 (A) The exclusion applies only to a condition for which medical advice, diagnosis, care or  
22 treatment was recommended or received during the six-month period immediately preceding the  
23 individual's effective date of coverage.

24 (B) The exclusion expires no later than six months after the individual's effective date of cov-  
25 erage.

26 (3) An individual health benefit plan other than a grandfathered health plan must cover, at a  
27 minimum, all essential health benefits.

28 (4) A carrier shall renew an individual health benefit plan, including a health benefit plan issued  
29 through a bona fide association, unless:

30 (a) The policyholder fails to pay the required premiums.

31 (b) The policyholder or a representative of the policyholder engages in fraud or makes an in-  
32 tentional misrepresentation of a material fact as prohibited by the terms of the policy.

33 (c) The carrier discontinues both offering and renewing all of its individual health benefit plans  
34 in this state or in a specified service area within this state. In order to discontinue the plans under  
35 this paragraph, the carrier:

36 (A) Must give notice of the decision to the Department of Consumer and Business Services and  
37 to all policyholders covered by the plans;

38 (B) May not cancel coverage under the plans for 180 days after the date of the notice required  
39 under subparagraph (A) of this paragraph if coverage is discontinued in the entire state or, except  
40 as provided in subparagraph (C) of this paragraph, in a specified service area; and

41 (C) May not cancel coverage under the plans for 90 days after the date of the notice required  
42 under subparagraph (A) of this paragraph if coverage is discontinued in a specified service area  
43 because of an inability to reach an agreement with the health care providers or organization of  
44 health care providers to provide services under the plans within the service area.

45 (d) The carrier discontinues both offering and renewing an individual health benefit plan in a

1 specified service area within this state because of an inability to reach an agreement with the health  
2 care providers or organization of health care providers to provide services under the plan within the  
3 service area. In order to discontinue a plan under this paragraph, the carrier:

4 (A) Must give notice of the decision to the department and to all policyholders covered by the  
5 plan;

6 (B) May not cancel coverage under the plan for 90 days after the date of the notice required  
7 under subparagraph (A) of this paragraph; and

8 (C) Must offer in writing to each policyholder covered by the plan, all other individual health  
9 benefit plans that the carrier offers in the specified service area. The carrier shall offer the plans  
10 at least 90 days prior to discontinuation.

11 (e) The carrier discontinues both offering and renewing an individual health benefit plan, other  
12 than a grandfathered health plan, for all individuals in this state or in a specified service area  
13 within this state, other than a plan discontinued under paragraph (d) of this subsection.

14 (f) The carrier discontinues both offering and renewing a grandfathered health plan for all in-  
15 dividuals in this state or in a specified service area within this state, other than a plan discontinued  
16 under paragraph (d) of this subsection.

17 (g) With respect to plans that are being discontinued under paragraph (e) or (f) of this sub-  
18 section, the carrier must:

19 (A) Offer in writing to each policyholder covered by the plan, all health benefit plans that the  
20 carrier offers to individuals in the specified service area.

21 (B) Offer the plans at least 90 days prior to discontinuation.

22 (C) Act uniformly without regard to the claims experience of the affected policyholders or the  
23 health status of any current or prospective enrollee.

24 (h) The Director of the Department of Consumer and Business Services orders the carrier to  
25 discontinue coverage in accordance with procedures specified or approved by the director upon  
26 finding that the continuation of the coverage would:

27 (A) Not be in the best interests of the enrollee; or

28 (B) Impair the carrier's ability to meet its contractual obligations.

29 (i) In the case of an individual health benefit plan that delivers covered services through a  
30 specified network of health care providers, the enrollee no longer lives, resides or works in the  
31 service area of the provider network and the termination of coverage is not related to the health  
32 status of any enrollee.

33 (j) In the case of a health benefit plan that is offered in the individual market only through one  
34 or more bona fide associations, the membership of an individual in the association ceases and the  
35 termination of coverage is not related to the health status of any enrollee.

36 (5) A carrier may modify an individual health benefit plan at the time of coverage renewal. The  
37 modification is not a discontinuation of the plan under subsection (4)(c), (e) and (f) of this section.

38 (6) Notwithstanding any other provision of this section, and subject to the provisions of ORS  
39 743B.310 (2) and (4), a carrier may rescind an individual health benefit plan if the policyholder or  
40 a representative of the policyholder:

41 (a) Performs an act, practice or omission that constitutes fraud; or

42 (b) Makes an intentional misrepresentation of a material fact as prohibited by the terms of the  
43 policy.

44 (7) A carrier that continues to offer coverage in the individual market in this state is not re-  
45 quired to offer coverage in all of the carrier's individual health benefit plans. However, if a carrier

1 elects to continue a plan that is closed to new individual policyholders instead of offering alterna-  
 2 tive coverage in its other individual health benefit plans, the coverage for all existing policyholders  
 3 in the closed plan is renewable in accordance with subsection (4) of this section.

4 (8) An individual health benefit plan may not impose annual or lifetime limits on the dollar  
 5 amount of essential health benefits.

6 (9) A grandfathered health plan may not impose lifetime limits on the dollar amount of essential  
 7 health benefits.

8 (10) This section does not require a carrier to actively market, offer, issue or accept applications  
 9 for:

10 (a) A bona fide association health benefit plan from individuals who are not members of the bona  
 11 fide association; or

12 (b) A grandfathered health plan from individuals who are not eligible for coverage under the  
 13 plan.

14 **(11) A carrier that offers an individual health benefit plan that reimburses the costs of**  
 15 **prescription drugs sold by a retail pharmacy or administered by a health care provider:**

16 **(a) Shall make publicly available on the carrier's website, without the necessity of en-**  
 17 **tering a password, user name or personally identifying information, all of the following:**

18 **(A) The prescription drug formulary for each health benefit plan, electronically**  
 19 **searchable by drug name.**

20 **(B) Notice of any change to the prescription drug formulary due to the deletion or addi-**  
 21 **tion of a drug, no later than 72 hours after the effective date of the change.**

22 **(C) Notice of any change to the prescription drug formulary other than changes described**  
 23 **in subparagraph (B) of this paragraph, such as changes to drug strength or form, no later**  
 24 **than 14 calendar days after the effective date of the change.**

25 **(D) The cost sharing typically paid by an enrollee for each drug on the prescription drug**  
 26 **formulary, indicated by the following dollar ranges:**

27 **(i) \$100 and less.**

28 **(ii) More than \$100 but not more than \$250.**

29 **(iii) More than \$250 but not more than \$500.**

30 **(iv) More than \$500 but not more than \$1,000.**

31 **(v) More than \$1,000.**

32 **(E) Any prior authorization, step therapy or other utilization control applicable to each**  
 33 **drug on the prescription drug formulary.**

34 **(b) Shall also provide all of the information described in paragraph (a) of this section**  
 35 **through a toll-free telephone number.**

36 **(c) Except in response to an alert issued by the United States Food and Drug Adminis-**  
 37 **tration, may not make a change to the plan's drug formulary more than once in any**  
 38 **12-month period.**

39 **(12) The department shall adopt by rule requirements for the display of information de-**  
 40 **scribed in subsection (11) of this section in order to promote consistency and clarity in the**  
 41 **disclosure of formularies and to facilitate comparison shopping among health benefit plans.**

#### 42 UNIT CAPTIONS

43  
 44  
 45 **SECTION 6. The unit captions used in this 2017 Act are provided only for the convenience**

1 **of the reader and do not become part of the statutory law of this state or express any leg-**  
2 **islative intent in the enactment of this 2017 Act.**

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