

A-Engrossed
House Bill 4151

Ordered by the House February 19
Including House Amendments dated February 19

Sponsored by Representatives SALINAS, GREENLICK; Representatives KENY-GUYER, SANCHEZ, SOLLMAN, WITT (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.

[Requires state agencies that purchase prescription drugs and Public Employees' Benefit Board, Oregon Educators Benefit Board, Public Employees Retirement System and Oregon Health and Science University to purchase prescription drugs through Oregon Prescription Drug Program. Authorizes exemptions.]

Requires administrator of Oregon Prescription Drug Program to establish advisory committee to study and make recommendations regarding changes to program. Requires administrator to submit final report to interim committee of House of Representatives related to health within 18 months.

Permits coordinated care organizations to participate in program.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to bulk purchasing of prescription drugs; creating new provisions; amending ORS 414.312;
3 and prescribing an effective date.

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

5 **SECTION 1. (1) The administrator of the Oregon Prescription Drug Program shall es-**
6 **tablish an advisory committee to study and make recommendations regarding changes to the**
7 **Oregon Prescription Drug Program. As part of the study, the advisory committee shall:**

8 (a) **Consider requiring all entities described in ORS 414.312 (4)(a) to (d) and (h) to partic-**
9 **ipate in the program;**

10 (b) **Identify barriers to participation in the program;**

11 (c) **Identify opportunities to take advantage of existing purchasing arrangements that**
12 **may be available to the program;**

13 (d) **Identify flexibility required to serve the needs of specific populations;**

14 (e) **Develop a plan to implement group purchasing of prescription drugs by the program;**
15 **and**

16 (f) **Analyze the savings from the program by each participating agency and the aggregate**
17 **savings to the state.**

18 (2) **The membership of the advisory committee must include:**

19 (a) **A representative of each governmental unit or state agency described in ORS 414.312**
20 **(4), including:**

21 (A) **The Department of Corrections;**

22 (B) **The Oregon Youth Authority;**

23 (C) **The Oregon Health Authority division that is responsible for public health; and**

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 **(D) Other state agencies identified by the Oregon Department of Administrative Services**
2 **that directly or indirectly purchase prescription drugs;**

3 **(b) Representatives of tribal governments;**

4 **(c) A member of an association representing county governments;**

5 **(d) A member of an association representing local health officials; and**

6 **(e) Representatives of coordinated care organizations.**

7 **(3) The Oregon Health Authority shall contract with a person that has appropriate ex-**
8 **pertise to conduct a comprehensive analysis of the data collected by the advisory committee.**

9 **(4)(a) No later than December 31, 2018, the administrator shall report to the interim**
10 **committee of the House of Representatives related to health the status of the advisory**
11 **committee's study, information collected and data analyzed.**

12 **(b) The advisory committee shall complete its study no later than 18 months after the**
13 **effective date of this 2018 Act and shall report its findings and analysis to the authority. The**
14 **administrator shall report to the interim committee of the House of Representatives related**
15 **to health, in the manner provided in ORS 192.245, the advisory committee's recommendations**
16 **for the program and for legislative changes, if any, necessary to implement the recommen-**
17 **dations.**

18 **SECTION 2.** ORS 414.312 is amended to read:

19 414.312. (1) As used in ORS 414.312 to 414.318:

20 (a) "Pharmacy benefit manager" means an entity that negotiates and executes contracts with
21 pharmacies, manages preferred drug lists, negotiates rebates with prescription drug manufacturers
22 and serves as an intermediary between the Oregon Prescription Drug Program, prescription drug
23 manufacturers and pharmacies.

24 (b) "Prescription drug claims processor" means an entity that processes and pays prescription
25 drug claims, adjudicates pharmacy claims, transmits prescription drug prices and claims data be-
26 tween pharmacies and the Oregon Prescription Drug Program and processes related payments to
27 pharmacies.

28 (c) "Program price" means the reimbursement rates and prescription drug prices established by
29 the administrator of the Oregon Prescription Drug Program.

30 (2) The Oregon Prescription Drug Program is established in the Oregon Health Authority. The
31 purpose of the program is to:

32 (a) Purchase prescription drugs, replenish (a) prescription drugs dispensed or reimburse pharmacies
33 for prescription drugs in order to receive discounted prices and rebates;

34 (b) Make prescription drugs available at the lowest possible cost to participants in the program
35 as a means to promote health;

36 (c) Maintain a list of prescription drugs recommended as the most effective prescription drugs
37 available at the best possible prices; and

38 (d) Promote health through the purchase and provision of discount prescription drugs and co-
39 ordination of comprehensive prescription benefit services for eligible entities and members.

40 (3) The Director of the Oregon Health Authority shall appoint an administrator of the Oregon
41 Prescription Drug Program. The administrator may:

42 (a) Negotiate price discounts and rebates on prescription drugs with prescription drug man-
43 ufacturers or group purchasing organizations;

44 (b) Purchase prescription drugs on behalf of individuals and entities that participate in the
45 program;

1 (c) Contract with a prescription drug claims processor to adjudicate pharmacy claims and
2 transmit program prices to pharmacies;

3 (d) Determine program prices and reimburse or replenish pharmacies for prescription drugs
4 dispensed or transferred;

5 (e) Adopt and implement a preferred drug list for the program;

6 (f) Develop a system for allocating and distributing the operational costs of the program and any
7 rebates obtained to participants of the program; and

8 (g) Cooperate with other states or regional consortia in the bulk purchase of prescription drugs.

9 (4) The following individuals or entities may participate in the program:

10 (a) Public Employees' Benefit Board, Oregon Educators Benefit Board and Public Employees
11 Retirement System;

12 (b) Local governments as defined in ORS 174.116 and special government bodies as defined in
13 ORS 174.117 that directly or indirectly purchase prescription drugs;

14 (c) Oregon Health and Science University established under ORS 353.020;

15 (d) State agencies that directly or indirectly purchase prescription drugs, including agencies that
16 dispense prescription drugs directly to persons in state-operated facilities;

17 (e) Residents of this state who lack or are underinsured for prescription drug coverage;

18 (f) Private entities; *[and]*

19 (g) Labor organizations; **and**

20 **(h) Coordinated care organizations as defined in ORS 414.025.**

21 (5) The administrator may establish different program prices for pharmacies in rural areas to
22 maintain statewide access to the program.

23 (6) The administrator may establish the terms and conditions for a pharmacy to enroll in the
24 program. A licensed pharmacy that is willing to accept the terms and conditions established by the
25 administrator may apply to enroll in the program.

26 (7) Except as provided in subsection (8) of this section, the administrator may not:

27 (a) Contract with a pharmacy benefit manager;

28 (b) Establish a state-managed wholesale or retail drug distribution or dispensing system; or

29 (c) Require pharmacies to maintain or allocate separate inventories for prescription drugs dis-
30 pensed through the program.

31 (8) The administrator shall contract with one or more entities to perform any of the functions
32 of the program, including but not limited to:

33 (a) Contracting with a pharmacy benefit manager and directly or indirectly with such pharmacy
34 networks as the administrator considers necessary to maintain statewide access to the program.

35 (b) Negotiating with prescription drug manufacturers on behalf of the administrator.

36 (9) Notwithstanding subsection (4)(e) of this section, individuals who are eligible for Medicare
37 Part D prescription drug coverage may participate in the program.

38 (10) The program may contract with vendors as necessary to utilize discount purchasing pro-
39 grams, including but not limited to group purchasing organizations established to meet the criteria
40 of the Nonprofit Institutions Act, 15 U.S.C. 13c, or that are exempt under the Robinson-Patman Act,
41 15 U.S.C. 13.

42 **SECTION 3. Section 1 of this 2018 Act is repealed on December 31, 2020.**

43 **SECTION 4. This 2018 Act takes effect on the 91st day after the date on which the 2018**
44 **regular session of the Seventy-ninth Legislative Assembly adjourns sine die.**