

House Bill 4005

Sponsored by Representatives NOSSE, NOBLE, Senators BEYER, LINTHICUM; Representatives ALONSO LEON, KOTEK, LIVELY, SALINAS, SMITH DB, Senators BOQUIST, MONNES ANDERSON (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**.

Requires prescription drug manufacturer to report annually information to Department of Consumer and Business Services regarding prices of prescription drugs and costs associated with developing and marketing prescription drugs. Authorizes department to impose civil penalties on manufacturer for failing to comply with reporting requirements.

Requires health insurers that offer prescription drug benefit to report to department specified information about prescription drug prices and impact of prescription drug prices on premium rates. Authorizes department to adopt by rule fees on manufacturers.

Requires department to conduct annual public hearing on prescription drug prices and related information reported by manufacturers.

A BILL FOR AN ACT

1
2 Relating to the price of prescription drugs; creating new provisions; and amending ORS 743.018 and
3 750.055.

4 Whereas the state has a substantial public interest in the price and cost of prescription drugs;
5 and

6 Whereas the state is a major purchaser of prescription drugs through the Public Employees'
7 Benefit Board, the Oregon Health Authority, the Department of Human Services and the Department
8 of Corrections; and

9 Whereas the state also provides major tax expenditures for health care through the tax exclu-
10 sion of employer-sponsored health insurance coverage and the deductibility of the excess medical
11 costs of individuals and families; and

12 Whereas the Legislative Assembly intends by sections 2, 3 and 5 of this 2018 Act to provide
13 notice and disclosure of information relating to the cost and pricing of prescription drugs in order
14 to provide accountability for prescription drug pricing; and

15 Whereas the Legislative Assembly intends by this 2018 Act to permit a manufacturer of a pre-
16 scription drug to voluntarily make pricing decisions regarding a prescription drug, including deci-
17 sions that result in price increases; and

18 Whereas the Legislative Assembly intends by this 2018 Act to permit purchasers, both public
19 and private, as well as pharmacy benefit managers, to negotiate discounts and rebates for pre-
20 scription drugs consistent with existing state and federal law; now, therefore,

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

22 **SECTION 1. Sections 2 and 3 of this 2018 Act shall be known and may be cited as the**
23 **Prescription Drug Price Transparency Act.**

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

25 (a) **"Drug" has the meaning given that term in ORS 689.005.**

26 (b) **"Health care facility" has the meaning given that term in ORS 442.015.**

27 (c) **"Health care service contractor" has the meaning given that term in ORS 750.005.**

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)(A) “Manufacture” means:

2 (i) The production, preparation, propagation, compounding, conversion or processing of
3 a drug, either directly or indirectly by extraction from substances of natural origin or inde-
4 pendently by means of chemical synthesis, or by a combination of extraction and chemical
5 synthesis; and

6 (ii) The packaging or repackaging of a drug or labeling or relabeling of a drug container.

7 (B) “Manufacture” does not include the preparation or compounding of a drug by an in-
8 dividual for the individual’s own use or the preparation, compounding, packaging or labeling
9 of a drug:

10 (i) By a health care practitioner incidental to administering or dispensing a drug in the
11 course of professional practice;

12 (ii) By a health care practitioner or at the practitioner’s authorization and supervision
13 for the purpose of or incidental to research, teaching or chemical analysis activities and not
14 for sale;

15 (iii) By a health care service contractor for dispensing to a subscriber or delivery to a
16 health care facility or outpatient clinic owned or operated by the health care service con-
17 tractor or an affiliate of the health care service contractor;

18 (iv) By a centralized repackaging operation for distribution to subscribers of health care
19 service contractors or to pharmacies, health care facilities or outpatient clinics operated by
20 or affiliated with a health care service contractor; or

21 (v) By a health care facility for dispensing to a patient of the health care facility.

22 (e) “Manufacturer” means a person that manufactures a prescription drug that is sold
23 in this state.

24 (f) “New prescription drug” has the meaning prescribed by the Department of Consumer
25 and Business Services by rule.

26 (g) “Patient assistance program” means a program that a manufacturer offers to the
27 general public in which a consumer may reduce the consumer’s out-of-pocket costs for pre-
28 scription drugs by using coupons or discount cards, receiving copayment assistance or by
29 other means.

30 (h) “Prescription drug” means a drug that must:

31 (A) Under federal law, be labeled “Caution: Federal law prohibits dispensing without
32 prescription” prior to being dispensed or delivered; or

33 (B) Under any applicable federal or state law or regulation, be dispensed only by pre-
34 scription or restricted to use only by health care practitioners.

35 (i) “Price” means the wholesale acquisition cost as defined in 42 U.S.C. 1395w-3a(c)(6)(B).

36 (2) No later than March 15 of each year, a manufacturer shall report the information
37 described in subsection (3) of this section to the department regarding each prescription drug
38 for which:

39 (a) The price was \$100 or more for a one-month supply or for a course of treatment
40 lasting less than one month; and

41 (b) There was a cumulative increase of 10 percent or more in the price of the prescription
42 drug described in paragraph (a) of this subsection during the previous calendar year.

43 (3) For each prescription drug described in subsection (2) of this section, a manufacturer
44 shall report to the department, in the form and manner prescribed by the department:

45 (a) The name and price of the prescription drug and the cumulative percentage price in-

1 crease during the previous calendar year;

2 (b) The length of time the prescription drug has been on the market;

3 (c) The factors that contributed to the price increase;

4 (d) The name of any generic version of the prescription drug available on the market;

5 (e) The research and development costs associated with the prescription drug that were
6 paid using public funds;

7 (f) The direct costs incurred by the manufacturer:

8 (A) To manufacture the prescription drug;

9 (B) To market the prescription drug;

10 (C) To distribute the prescription drug; and

11 (D) For ongoing safety and effectiveness research associated with the prescription drug;

12 (g) The total sales revenue for the prescription drug during the previous calendar year;

13 (h) The manufacturer's profit attributable to the prescription drug during the previous
14 calendar year;

15 (i) The introductory price of the prescription drug when it was approved for marketing
16 by the United States Food and Drug Administration and the cumulative yearly increase, by
17 calendar year, in the price of the prescription drug during the previous five years;

18 (j) The 10 highest prices paid for the prescription drug during the previous calendar year
19 in any country other than the United States; and

20 (k) The documentation necessary to support the information reported under this sub-
21 section.

22 (4) The department may use any prescription drug price information the department
23 deems appropriate to verify that manufacturers have properly reported price increases as
24 required by subsections (2) and (3) of this section.

25 (5) A manufacturer shall accompany the report provided under subsection (2) of this
26 section with the following information about each patient assistance program offered by the
27 manufacturer to consumers residing in this state for the prescription drugs described in
28 subsection (2) of this section:

29 (a) The number of consumers who participated in the program;

30 (b) The total value of the coupons, discounts, copayment assistance or other reduction
31 in costs provided to consumers in this state who participated in the program;

32 (c) For each drug, the number of refills that qualify for the program, if applicable;

33 (d) If the program expires after a specified period of time, the period of time that the
34 program is available to each consumer; and

35 (e) The eligibility criteria for the program and how eligibility is verified for accuracy.

36 (6)(a) At least 60 days before a planned increase in the price of a prescription drug de-
37 scribed in subsection (2) of this section, a manufacturer shall notify the department, in the
38 form and manner prescribed by the department, of all the following information about the
39 prescription drug:

40 (A) The date that the increase will become effective;

41 (B) The current price of the prescription drug;

42 (C) The dollar amount of the intended increase in the price of the prescription drug; and

43 (D) A statement of whether the price increase is necessitated by a change or improve-
44 ment of the prescription drug and, if so, a description of the change or improvement.

45 (b) The department shall provide an opportunity for any interested person, including a

1 state agency, health care service contractor or health insurer, to receive the notifications
 2 of planned increases reported under this subsection.

3 (7) No later than 30 days after a manufacturer introduces a new prescription drug for
 4 sale in the United States at a price that exceeds the threshold established by the Centers for
 5 Medicare and Medicaid Services for specialty drugs in the Medicare Part D program, the
 6 manufacturer shall notify the department, in the form and manner prescribed by the de-
 7 partment, of all the following information:

8 (a) A description of the marketing used in the introduction of the new prescription drug;

9 (b) The methodology used to establish the price of the new prescription drug;

10 (c) Whether the United States Food and Drug Administration granted the new pre-
 11 scription drug a breakthrough therapy designation or a priority review;

12 (d) If the new prescription drug was not developed by the manufacturer, the date of and
 13 the price paid for acquisition of the new prescription drug by the manufacturer;

14 (e) The manufacturer's estimate of the average number of patients who will be prescribed
 15 the new prescription drug each month; and

16 (f) The research and development costs associated with the new prescription drug that
 17 were paid using public funds.

18 (8)(a) After receiving the report or information described in subsections (2), (3), (5), (6)
 19 or (7) of this section, the department may make a written request to the manufacturer for
 20 supporting documentation or additional information concerning the report. The department
 21 shall prescribe by rule the periods:

22 (A) Following the receipt of the report or information during which the department may
 23 request additional information; and

24 (B) Following a request by the department for additional information during which a
 25 manufacturer may respond to the request.

26 (b) The department may extend the period prescribed under paragraph (a)(B) of this
 27 subsection, as necessary, on a case-by-case basis.

28 (9) A manufacturer may be subject to a civil penalty, as provided in section 3 of this 2018
 29 Act, for:

30 (a) Failing to submit timely reports or notices as required by this section;

31 (b) Failing to provide information required under this section;

32 (c) Failing to respond in a timely manner to a written request by the department for
 33 additional information under subsection (8) of this section; or

34 (d) Providing inaccurate or incomplete information under this section.

35 (10) Except as provided in subsection (11) of this section, the department shall post to its
 36 website all of the following information:

37 (a) A list of the prescription drugs reported under subsection (2) of this section and the
 38 manufacturers of those prescription drugs;

39 (b) The cumulative percentage increase, during the applicable calendar year, in the price
 40 of prescription drugs reported under subsection (2) of this section;

41 (c) Information reported to the department under subsections (3) and (5) to (8) of this
 42 section; and

43 (d) Written requests by the department for additional information under subsection (8)
 44 of this section.

45 (11)(a) The department may not post to its website any information described in sub-

1 section (10) of this section if:

2 (A) The information is conditionally exempt from disclosure under ORS 192.345 as a trade
3 secret; and

4 (B) The public interest does not require disclosure of the information.

5 (b) If the department withholds any information from public disclosure pursuant to this
6 subsection, the department shall post to its website a report describing the nature of the
7 information and the department's basis for withholding the information from disclosure.

8 (c) A person may petition the Attorney General, as provided in ORS 192.411, to review a
9 decision by the department to withhold information pursuant to paragraph (a) of this sub-
10 section.

11 (12) The department shall make available to consumers, online and by telephone, a pro-
12 cess for consumers to notify the department about an increase in the price of a prescription
13 drug.

14 (13) The department may adopt rules as necessary for carrying out the provisions of this
15 section, including but not limited to rules establishing fees to be paid by manufacturers to
16 be used solely to pay the costs of the department in carrying out the provisions of this sec-
17 tion.

18 (14) No later than December 15 of each year, the department shall compile and report the
19 information collected by the department under this section to the interim committees of the
20 Legislative Assembly related to health. The report shall include recommendations for legis-
21 lative changes, if any, to contain the cost of prescription drugs and reduce the impact of
22 price increases on consumers, the Department of Corrections, the Public Employees' Benefit
23 Board, the Oregon Health Authority, the Department of Human Services, the Oregon Edu-
24 cators Benefit Board and health insurance premiums in the commercial market.

25 **SECTION 3.** (1) A manufacturer that fails to report or provide information as required
26 by section 2 of this 2018 Act may be subject to a civil penalty as provided in this section.

27 (2) The Department of Consumer and Business Services shall adopt a schedule of penal-
28 ties, not to exceed \$10,000 per day of violation, based on the severity of each violation.

29 (3) The department shall impose civil penalties under this section as provided in ORS
30 183.745.

31 (4) The department may remit or mitigate civil penalties under this section upon terms
32 and conditions the department considers proper and consistent with the public health and
33 safety.

34 (5) Civil penalties collected under this section shall be paid over to the State Treasurer
35 and deposited in the General Fund to be made available for general governmental expenses.

36 **SECTION 4.** Section 5 of this 2018 Act is added to and made a part of the Insurance Code.

37 **SECTION 5.** (1) An insurer shall include with any filing under ORS 743.018 the following
38 information regarding drugs reimbursed by the insurer under policies or certificates issued
39 in this state:

40 (a) The 25 most frequently prescribed drugs;

41 (b) The 25 most costly drugs as a portion of total annual spending;

42 (c) The 25 drugs that have caused the greatest increase in total plan spending from one
43 year to the next; and

44 (d) The impact of the costs of prescription drugs on premium rates.

45 (2) The Department of Consumer and Business Services shall conduct a public hearing

1 **annually on prescription drug prices, information reported to the department under section**
 2 **2 of this 2018 Act and information described in subsection (1) of this section.**

3 **(3) The department shall regularly update the interim committees of the Legislative As-**
 4 **sembly related to health on the information described in subsection (1) of this section.**

5 **(4) Subsection (1) of this section applies to an insurer that issues policies or certificates**
 6 **of health insurance for sale in this state that include a prescription drug benefit.**

7 **SECTION 6.** ORS 743.018 is amended to read:

8 743.018. (1) Except for group life and health insurance, and except as provided in ORS 743.015,
 9 every insurer shall file with the Director of the Department of Consumer and Business Services all
 10 schedules and tables of premium rates for life and health insurance to be used on risks in this state,
 11 and shall file any amendments to or corrections of such schedules and tables. Premium rates are
 12 subject to approval, disapproval or withdrawal of approval by the director as provided in ORS
 13 742.003, 742.005, 742.007 and 743.019.

14 (2) Except as provided in ORS 743B.013 and subsection (3) of this section, a rate filing by a
 15 carrier for any of the following health benefit plans subject to ORS 743.004, 743.022, 743.535 and
 16 743B.003 to 743B.127 shall be available for public inspection immediately upon submission of the
 17 filing to the director:

18 (a) Health benefit plans for small employers.

19 (b) Individual health benefit plans.

20 (3) The director may by rule:

21 (a) Specify all information a carrier must submit as part of a rate filing under this section; and

22 (b) Identify the information submitted that will be exempt from disclosure under this section
 23 because the information constitutes a trade secret and would, if disclosed, harm competition.

24 (4) The director, after conducting an actuarial review of the rate filing, may approve a proposed
 25 premium rate for a health benefit plan for small employers or for an individual health benefit plan
 26 if, in the director's discretion, the proposed rates are:

27 (a) Actuarially sound;

28 (b) Reasonable and not excessive, inadequate or unfairly discriminatory; and

29 (c) Based upon reasonable administrative expenses.

30 (5) In order to determine whether the proposed premium rates for a health benefit plan for small
 31 employers or for an individual health benefit plan are reasonable and not excessive, inadequate or
 32 unfairly discriminatory, the director may consider:

33 (a) The insurer's financial position, including but not limited to profitability, surplus, reserves
 34 and investment savings.

35 (b) Historical and projected administrative costs and medical and hospital expenses, **including**
 36 **expenses for drugs reported under section 5 of this 2018 Act.**

37 (c) Historical and projected loss ratio between the amounts spent on medical services and
 38 earned premiums.

39 (d) Any anticipated change in the number of enrollees if the proposed premium rate is approved.

40 (e) Changes to covered benefits or health benefit plan design.

41 (f) Changes in the insurer's health care cost containment and quality improvement efforts since
 42 the insurer's last rate filing for the same category of health benefit plan.

43 (g) Whether the proposed change in the premium rate is necessary to maintain the insurer's
 44 solvency or to maintain rate stability and prevent excessive rate increases in the future.

45 (h) Any public comments received under ORS 743.019 pertaining to the standards set forth in

1 subsection (4) of this section and this subsection.

2 (6) The requirements of this section do not supersede other provisions of law that require
 3 insurers, health care service contractors or multiple employer welfare arrangements providing
 4 health insurance to file schedules or tables of premium rates or proposed premium rates with the
 5 director or to seek the director's approval of rates or changes to rates.

6 **SECTION 7.** ORS 750.055 is amended to read:

7 750.055. (1) The following provisions apply to health care service contractors to the extent not
 8 inconsistent with the express provisions of ORS 750.005 to 750.095:

9 (a) ORS 705.137, 705.138 and 705.139.

10 (b) ORS 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385, 731.386, 731.390, 731.398
 11 to 731.430, 731.428, 731.450, 731.454, 731.485, as provided in subsection (2) of this section, ORS
 12 731.488, 731.504, 731.508, 731.509, 731.510, 731.511, 731.512, 731.574 to 731.620, 731.640 to 731.652,
 13 731.730, 731.731, 731.735, 731.737, 731.750, 731.752, 731.804, 731.808 and 731.844 to 731.992.

14 (c) ORS 732.215, 732.220, 732.230, 732.245, 732.250, 732.320, 732.325 and 732.517 to 732.596, not
 15 including ORS 732.582.

16 (d) ORS 733.010 to 733.050, 733.080, 733.140 to 733.170, 733.210, 733.510 to 733.680 and 733.695
 17 to 733.780.

18 (e) ORS 734.014 to 734.440.

19 (f) ORS 735.600 to 735.650.

20 (g) ORS 742.001 to 742.009, 742.013, 742.016, 742.061, 742.065, 742.150 to 742.162 and 742.518 to
 21 742.542.

22 (h) ORS 743.004, 743.005, 743.007, 743.008, 743.010, 743.018, 743.019, 743.020, 743.022, 743.023,
 23 743.028, 743.029, 743.038, 743.040, 743.044, 743.050, 743.100 to 743.109, 743.402, 743.405, 743.406,
 24 743.417, 743.472, 743.492, 743.495, 743.498, 743.522, 743.523, 743.524, 743.526, 743.535, 743.550, 743.650
 25 to 743.656, 743.680 to 743.689, 743.788 and 743.790.

26 (i) ORS 743A.010, 743A.012, 743A.014, 743A.020, 743A.034, 743A.036, 743A.040, 743A.044,
 27 743A.048, 743A.051, 743A.052, 743A.058, 743A.060, 743A.062, 743A.063, 743A.064, 743A.065, 743A.066,
 28 743A.068, 743A.070, 743A.080, 743A.082, 743A.084, 743A.088, 743A.090, 743A.100, 743A.104, 743A.105,
 29 743A.108, 743A.110, 743A.124, 743A.140, 743A.141, 743A.148, 743A.150, 743A.160, 743A.168, 743A.170,
 30 743A.175, 743A.185, 743A.188, 743A.190, 743A.192, 743A.250, 743A.252 and 743A.260 and section 2,
 31 chapter 771, Oregon Laws 2013.

32 (j) ORS 743B.001, 743B.003 to 743B.127, 743B.128, 743B.130, 743B.195 to 743B.204, 743B.220,
 33 743B.222, 743B.225, 743B.227, 743B.250, 743B.252, 743B.253, 743B.254, 743B.255, 743B.256, 743B.257,
 34 743B.258, 743B.280 to 743B.285, 743B.287, 743B.300, 743B.310, 743B.320, 743B.323, 743B.330, 743B.340,
 35 743B.341, 743B.342, 743B.343 to 743B.347, 743B.400, 743B.403, 743B.407, 743B.420, 743B.423, 743B.450,
 36 743B.451, 743B.452, 743B.453, 743B.470, 743B.475, 743B.505, 743B.550, 743B.555, 743B.601, 743B.602
 37 and 743B.800 **and section 5 of this 2018 Act.**

38 (k) The following provisions of ORS chapter 744:

39 (A) ORS 744.001 to 744.009, 744.011, 744.013, 744.014, 744.018, 744.022 to 744.033, 744.037, 744.052
 40 to 744.089, 744.091 and 744.093, relating to the regulation of insurance producers;

41 (B) ORS 744.605, 744.609, 744.619, 744.621, 744.626, 744.631, 744.635, 744.650, 744.655 and 744.665,
 42 relating to the regulation of insurance consultants; and

43 (C) ORS 744.700 to 744.740, relating to the regulation of third party administrators.

44 (L) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605, 746.607, 746.608, 746.610,
 45 746.615, 746.625, 746.635, 746.650, 746.655, 746.660, 746.668, 746.670, 746.675, 746.680 and 746.690.

1 (2) The following provisions of the Insurance Code apply to health care service contractors ex-
 2 cept in the case of group practice health maintenance organizations that are federally qualified
 3 pursuant to Title XIII of the Public Health Service Act:

4 (a) ORS 731.485, if the group practice health maintenance organization wholly owns and oper-
 5 ates an in-house drug outlet.

6 (b) ORS 743A.024, unless the patient is referred by a physician, physician assistant or nurse
 7 practitioner associated with a group practice health maintenance organization.

8 (3) For the purposes of this section, health care service contractors are insurers.

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

12 (5)(a) A health care service contractor is a domestic insurance company for the purpose of de-
 13 termining whether the health care service contractor is a debtor, as defined in 11 U.S.C. 109.

14 (b) A health care service contractor's classification as a domestic insurance company under
 15 paragraph (a) of this subsection does not subject the health care service contractor to ORS 734.510
 16 to 734.710.

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

20 **SECTION 8.** ORS 750.055, as amended by section 21, chapter 771, Oregon Laws 2013, section
 21 7, chapter 25, Oregon Laws 2014, section 82, chapter 45, Oregon Laws 2014, section 9, chapter 59,
 22 Oregon Laws 2015, section 7, chapter 100, Oregon Laws 2015, section 7, chapter 224, Oregon Laws
 23 2015, section 11, chapter 362, Oregon Laws 2015, section 10, chapter 470, Oregon Laws 2015, section
 24 30, chapter 515, Oregon laws 2015, section 10, chapter 206, Oregon Laws 2017, section 6, chapter
 25 417, Oregon Laws 2017, and section 22, chapter 479, Oregon Laws 2017, is amended to read:

26 750.055. (1) The following provisions apply to health care service contractors to the extent not
 27 inconsistent with the express provisions of ORS 750.005 to 750.095:

28 (a) ORS 705.137, 705.138 and 705.139.

29 (b) ORS 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385, 731.386, 731.390, 731.398
 30 to 731.430, 731.428, 731.450, 731.454, 731.485, as provided in subsection (2) of this section, ORS
 31 731.488, 731.504, 731.508, 731.509, 731.510, 731.511, 731.512, 731.574 to 731.620, 731.640 to 731.652,
 32 731.730, 731.731, 731.735, 731.737, 731.750, 731.752, 731.804, 731.808 and 731.844 to 731.992.

33 (c) ORS 732.215, 732.220, 732.230, 732.245, 732.250, 732.320, 732.325 and 732.517 to 732.596, not
 34 including ORS 732.582.

35 (d) ORS 733.010 to 733.050, 733.080, 733.140 to 733.170, 733.210, 733.510 to 733.680 and 733.695
 36 to 733.780.

37 (e) ORS 734.014 to 734.440.

38 (f) ORS 735.600 to 735.650.

39 (g) ORS 742.001 to 742.009, 742.013, 742.016, 742.061, 742.065, 742.150 to 742.162 and 742.518 to
 40 742.542.

41 (h) ORS 743.004, 743.005, 743.007, 743.008, 743.010, 743.018, 743.019, 743.020, 743.022, 743.023,
 42 743.028, 743.029, 743.038, 743.040, 743.044, 743.050, 743.100 to 743.109, 743.402, 743.405, 743.406,
 43 743.417, 743.472, 743.492, 743.495, 743.498, 743.522, 743.523, 743.524, 743.526, 743.535, 743.550, 743.650
 44 to 743.656, 743.680 to 743.689, 743.788 and 743.790.

45 (i) ORS 743A.010, 743A.012, 743A.014, 743A.020, 743A.034, 743A.036, 743A.040, 743A.044,

1 743A.048, 743A.051, 743A.052, 743A.058, 743A.060, 743A.062, 743A.063, 743A.064, 743A.065, 743A.066,
2 743A.068, 743A.070, 743A.080, 743A.082, 743A.084, 743A.088, 743A.090, 743A.100, 743A.104, 743A.105,
3 743A.108, 743A.110, 743A.124, 743A.140, 743A.141, 743A.148, 743A.150, 743A.160, 743A.168, 743A.170,
4 743A.175, 743A.185, 743A.188, 743A.190, 743A.192, 743A.250, 743A.252 and 743A.260.

5 (j) ORS 743B.001, 743B.003 to 743B.127, 743B.128, 743B.130, 743B.195 to 743B.204, 743B.220,
6 743B.222, 743B.225, 743B.227, 743B.250, 743B.252, 743B.253, 743B.254, 743B.255, 743B.256, 743B.257,
7 743B.258, 743B.280 to 743B.285, 743B.287, 743B.300, 743B.310, 743B.320, 743B.323, 743B.330, 743B.340,
8 743B.341, 743B.342, 743B.343 to 743B.347, 743B.400, 743B.403, 743B.407, 743B.420, 743B.423, 743B.450,
9 743B.451, 743B.452, 743B.453, 743B.470, 743B.475, 743B.505, 743B.550, 743B.555, 743B.601, 743B.602
10 and 743B.800 **and section 5 of this 2018 Act.**

11 (k) The following provisions of ORS chapter 744:

12 (A) ORS 744.001 to 744.009, 744.011, 744.013, 744.014, 744.018, 744.022 to 744.033, 744.037, 744.052
13 to 744.089, 744.091 and 744.093, relating to the regulation of insurance producers;

14 (B) ORS 744.605, 744.609, 744.619, 744.621, 744.626, 744.631, 744.635, 744.650, 744.655 and 744.665,
15 relating to the regulation of insurance consultants; and

16 (C) ORS 744.700 to 744.740, relating to the regulation of third party administrators.

17 (L) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605, 746.607, 746.608, 746.610,
18 746.615, 746.625, 746.635, 746.650, 746.655, 746.660, 746.668, 746.670, 746.675, 746.680 and 746.690.

19 (2) The following provisions of the Insurance Code apply to health care service contractors ex-
20 cept in the case of group practice health maintenance organizations that are federally qualified
21 pursuant to Title XIII of the Public Health Service Act:

22 (a) ORS 731.485, if the group practice health maintenance organization wholly owns and oper-
23 ates an in-house drug outlet.

24 (b) ORS 743A.024, unless the patient is referred by a physician, physician assistant or nurse
25 practitioner associated with a group practice health maintenance organization.

26 (3) For the purposes of this section, health care service contractors are insurers.

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

30 (5)(a) A health care service contractor is a domestic insurance company for the purpose of de-
31 termining whether the health care service contractor is a debtor, as defined in 11 U.S.C. 109.

32 (b) A health care service contractor's classification as a domestic insurance company under
33 paragraph (a) of this subsection does not subject the health care service contractor to ORS 734.510
34 to 734.710.

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

38