A-Engrossed
Senate Bill 910

Ordered by the Senate April 15
Including Senate Amendments dated April 15

Sponsored by Senator STEINER HAYWARD (at the request of Multnomah County)

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 retail or hospital pharmacy to provide written notice in conspicuous manner of availability of naloxone at pharmacy. Requires pharmacist, upon being presented with prescription for opiate or opioid of specified strength, to offer to prescribe and provide naloxone kit.

Removes requirement for written approval by parole or probation officer for administration of synthetic opiate as treatment for opiate addiction if requirements of statute are met.

[*Narrows*] **Allows county or local public health authority to waive** siting restrictions on methadone clinics to [*clinics providing outpatient treatment*] **extent necessary to remove unreasonable barriers to patients' access to treatment**.

Requires monitoring of naloxone equivalents by prescription drug monitoring program. Permits Oregon Health Authority to identify by rule other drugs that are subject to monitoring under program. Removes requirement for pharmacy to report name, address, phone number, date of birth and sex of patient for whom naloxone was prescribed.

Allows pharmacy, health care professional or pharmacist to distribute multiple naloxone kits to social service agencies or other persons who work with individuals who have experienced opiate overdose and allows subsequent distribution to individual likely to experience opiate overdose or family member of individual.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to drug treatment; creating new provisions; amending ORS 430.560, 430.590, 431A.855, 431A.860, 689.681 and 689.682; and prescribing an effective date.

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

SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS chapter 689.

SECTION 2. (1) A retail or hospital outpatient pharmacy shall provide written notice in a conspicuous manner that naloxone and the necessary medical supplies to administer naloxone are available at the pharmacy.

(2) The State Board of Pharmacy may adopt rules to carry out this section.

SECTION 3. ORS 430.560 is amended to read:

430.560. (1) The Oregon Health Authority shall adopt rules to establish requirements, in accordance with ORS 430.357, for drug treatment programs that contract with the authority and that involve:

(a) Detoxification;

(b) Detoxification with acupuncture and counseling; and

(c) The supplying of synthetic opiates to such persons under close supervision and control. However, the supplying of synthetic opiates shall be used only when detoxification or detoxification with acupuncture and counseling has proven ineffective or upon a written request of a physician

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.

licensed by the Oregon Medical Board or a naturopathic physician licensed by the Oregon Board of Naturopathic Medicine showing medical need for synthetic opiates [*if the request is approved in writing by the parole and probation officer, if any, of the drug-dependent person. The*]**. A** copy of the request [*and the approval*] must be included in the client's permanent treatment and releasing authority records.

(2) Notwithstanding subsection (1) of this section, synthetic opiates may be made available to a pregnant woman with her informed consent without prior resort to the treatment programs described in subsection (1)(a) and (b) of this section.

SECTION 4. ORS 430.590 is amended to read:

430.590. (1) It is unlawful for any person to commence operating a methadone clinic:

(a) Within 1,000 feet of the real property comprising an existing public or private elementary, secondary or career school attended primarily by minors; or

(b) Within 1,000 feet of the real property comprising an existing licensed child care facility. As used in this section, "licensed child care facility" means a child care center certified under ORS 329A.280 that is operating under authority of a valid business license.

(2) Commencing operation of a methadone clinic within 1,000 feet of a school or licensed child care facility is a nuisance and operation of the clinic shall be enjoined and abated as provided in ORS 105.550 to 105.600.

(3) For purposes of this section, "within 1,000 feet" means a straight line measurement in a radius extending for 1,000 feet or less in every direction from any point on the boundary line of the real property comprising an existing public or private elementary, secondary or career school or an existing licensed child care facility under this section.

(4) A county or a local public health authority, as defined in ORS 431.003, may waive the siting restrictions under this section to the extent necessary to remove unreasonable barriers to patients' accessing medically necessary treatment at methadone clinics.

SECTION 5. ORS 431A.855, as amended by section 8, chapter 45, Oregon Laws 2018, is amended to read:

431A.855. (1)(a) The Oregon Health Authority, in consultation with the Prescription Monitoring Program Advisory Commission, shall establish and maintain a prescription monitoring program for monitoring and reporting:

(A) Prescription drugs dispensed by pharmacies licensed by the State Board of Pharmacy that are classified in schedules II through IV under the federal Controlled Substances Act, 21 U.S.C. 811 and 812, as modified by the board by rule under ORS 475.035; [*and*]

(B) Prescribed naloxone**, or equivalents to naloxone,** dispensed by pharmacies**; and**

(C) Other drugs identified by rules adopted by the authority.

(b)(A) To fulfill the requirements of this subsection, the authority shall establish, maintain and operate an electronic system to monitor and report drugs described in paragraph (a) of this subsection that are dispensed by prescription.

(B) The electronic system must:

(i) Operate and be accessible by practitioners and pharmacies 24 hours a day, seven days a week; and

(ii) Allow practitioners to register as required under section 7, chapter 45, Oregon Laws 2018, and to apply for access to the electronic system in accordance with rules adopted by the authority under subsection (2) of this section.

(C) The authority may contract with a state agency or private entity to ensure the effective

operation of the electronic system.

(2) In consultation with the commission, the authority shall adopt rules for the operation of the electronic prescription monitoring program established under subsection (1) of this section, including standards for:

(a) Reporting data;

(b) Providing maintenance, security and disclosure of data;

(c) Ensuring accuracy and completeness of data;

(d) Complying with the federal Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191) and regulations adopted under that law, including 45 C.F.R. parts 160 and 164, federal alcohol and drug treatment confidentiality laws and regulations adopted under those laws, including 42 C.F.R. part 2, and state health and mental health confidentiality laws, including ORS 179.505, 192.517 and 192.553 to 192.581;

(e) Ensuring accurate identification of persons or entities requesting information from the database;

(f) Accepting printed or nonelectronic reports from pharmacies that do not have the capability to provide electronic reports;

(g) Notifying a patient, before or when a drug classified in schedules II through IV is dispensed to the patient, about the prescription monitoring program and the entry of the prescription in the electronic system; and

(h) Registering practitioners with the electronic system.

(3) The authority shall submit an annual report to the commission regarding the prescription monitoring program established under this section.

SECTION 6. ORS 431A.860 is amended to read:

431A.860. (1) Not later than 72 hours after dispensing a prescription drug that is subject to the prescription monitoring program established under ORS 431A.855, a pharmacy shall electronically report to the Oregon Health Authority:

(a) [*If the prescription drug is classified in schedules II through IV under the federal Controlled Substances Act, 21 U.S.C. 811 and 812, as modified by the State Board of Pharmacy by rule under ORS 475.035*] **For prescription drugs described in ORS 431A.855 (1)(a)(A)**, the name, address, phone number, date of birth and sex of the patient for whom the prescription drug was prescribed;

(b) The identity of the pharmacy that dispensed the prescription drug and the date on which the prescription drug was dispensed;

(c) The identity of the practitioner who prescribed the prescription drug and the date on which the prescription drug was prescribed;

(d) The national drug code number for the prescription drug;

(e) The prescription number assigned to the prescription drug;

(f) The quantity of the prescription drug dispensed;

(g) The number of days for which the prescription drug was dispensed; and

(h) The number of refills of the prescription authorized by the practitioner and the number of the refill that the pharmacy dispensed.

(2)(a) Notwithstanding subsection (1) of this section, the authority may not:

(A) Require the reporting of prescription drugs administered directly to a patient or dispensed pursuant to ORS 127.800 to 127.897;

(B) Collect or use Social Security numbers in the prescription monitoring program; or

(C) Disclose under ORS 431A.865 (2)(a) the sex of the patient for whom a drug was prescribed.

(b) The sex of the patient for whom a drug was prescribed may be disclosed only for the purpose of research or epidemiological study under ORS 431A.865 (2)(b).

(3) Upon receipt of the data reported pursuant to subsection (1) of this section, the authority shall record the data in the electronic system established under ORS 431A.855.

(4)(a) The authority may, for good cause as determined by the authority, grant a pharmacy a waiver of the requirement that the information to be reported under subsection (1) of this section be submitted electronically. The waiver must state the format, method and frequency of the alternate nonelectronic submissions from the pharmacy and the duration of the waiver.

(b) As used in this subsection, "good cause" includes financial hardship.

(5) This section does not apply to pharmacies in institutions as defined in ORS 179.010.

SECTION 7. ORS 689.681 is amended to read:

689.681. (1) As used in this section:

(a) "Kit" means a dose of naloxone and the necessary medical supplies to administer the naloxone.

[*(a)*] **(b)** "Opiate" means a narcotic drug that contains:

(A) Opium;

(B) Any chemical derivative of opium; or

(C) Any synthetic or semisynthetic drug with opium-like effects.

[*(b)*] **(c)** "Opiate overdose" means a medical condition that causes depressed consciousness and mental functioning, decreased movement, depressed respiratory function and the impairment of the vital functions as a result of ingesting opiates in an amount larger than can be physically tolerated.

(2) Notwithstanding any other provision of law, a pharmacy, a health care professional or a pharmacist with prescription and dispensing privileges or any other person designated by the State Board of Pharmacy by rule may distribute and administer naloxone and distribute the necessary medical supplies to administer the naloxone. **The pharmacy, health care professional or pharmacist may also distribute multiple kits to social service agencies under ORS 689.684 or to other persons who work with individuals who have experienced an opiate overdose. The social services agencies or other persons may redistribute the kits to individuals likely to experience an opiate overdose or to family members of the individuals.**

(3) A person acting in good faith, if the act does not constitute wanton misconduct, is immune from civil liability for any act or omission of an act committed during the course of distributing and administering naloxone and distributing the necessary medical supplies to administer the naloxone under this section.

SECTION 8. ORS 689.682 is amended to read:

689.682. **(1)** In accordance with rules adopted by the State Board of Pharmacy under ORS 689.205, a pharmacist may prescribe naloxone and the necessary medical supplies to administer the naloxone.

(2) If a prescription is presented to a pharmacist for dispensing an opiate or opioid in excess of 50 morphine equivalent doses per day, the pharmacist may offer to prescribe and provide, in addition to the prescribed opiate or opioid, a naloxone kit consisting of a dose of naloxone and the necessary medical supplies to administer the naloxone.

SECTION 9. This 2019 Act takes effect on the 91st day after the date on which the 2019 regular session of the Eightieth Legislative Assembly adjourns sine die.
