

# Enrolled House Bill 4098

Sponsored by Representative SANCHEZ, Senators SOLLMAN, MANNING JR, FREDERICK; Representatives ALONSO LEON, DEXTER, HIEB, HOY, NELSON, NOSSE, WILLIAMS, Senators GELSER BLOUIN, JAMA, PATTERSON (at the request of Alcohol and Drug Policy Commission) (Pre-session filed.)

CHAPTER .....

## AN ACT

Relating to behavioral health; creating new provisions; amending ORS 430.220, 430.221 and 430.223; and declaring an emergency.

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

**SECTION 1.** ORS 430.220 is amended to read:

430.220. (1) The Governor shall appoint a Director of the Alcohol and Drug Policy Commission who shall serve at the pleasure of the Governor and be responsible for the dissemination and implementation of the Alcohol and Drug Policy Commission’s policies and the performance of the commission’s duties, functions and powers.

(2) The director shall be paid a salary as provided by law or, if not so provided, as prescribed by the Governor.

(3) Subject to ORS chapter 240, the director shall appoint all employees of the commission, prescribe their duties and fix their compensation.

(4) The director has all powers necessary to effectively and expeditiously carry out the duties, functions and powers of the commission.

(5) The director shall enter into agreements with [*the Oregon Health Authority, the Department of Justice, the Department of Human Services and other state and local*] **participating state** agencies for the sharing of information as necessary to carry out the duties of the commission. The agreements shall ensure the confidentiality of all information that is protected from disclosure by state and federal laws.

**SECTION 2.** ORS 430.221 is amended to read:

430.221. (1) As used in this section and ORS **430.220 and** 430.223:

(a) “Participating state agency” means the Department of Corrections, the Department of Human Services, the Oregon Health Authority, the Department of Education, the Oregon Criminal Justice Commission, the Oregon State Police, the Oregon Youth Authority, [*or any other state agency that is approved by the Alcohol and Drug Policy Commission to license, contract for, provide or coordinate*] **the Department of Consumer and Business Services, the Housing and Community Services Department, the Youth Development Division, the Higher Education Coordinating Commission, the Oregon State Lottery Commission, the Oregon Liquor and Cannabis Commission, the Department of Veterans’ Affairs or any state agency that administers or funds alcohol or drug abuse prevention or treatment services.**

(b) "Provider" means any person that is licensed by the Oregon Health Authority to provide alcohol or drug abuse prevention or treatment services.

(2) There is created the Alcohol and Drug Policy Commission, which is charged with improving the effectiveness and efficiency of state and local alcohol and drug abuse prevention and treatment services.

(3) The membership of the commission consists of:

(a) No more than 17 members appointed by the Governor, subject to confirmation by the Senate in the manner prescribed in ORS 171.562 and 171.565 and appointed, as the Governor deems practicable, to ensure representation from stakeholders directly impacted by the work of the commission, as follows:

(A) At least 75 percent of the members appointed by the Governor must be representatives of the following public health and health care stakeholder groups:

(i) County commissioners, managers and administrators;

(ii) Indian tribes;

(iii) The following providers of addiction prevention and recovery services:

(I) Treatment providers employed by an outpatient addiction treatment program;

(II) Directors of inpatient addiction treatment centers;

(III) Addiction treatment providers who are culturally competent to serve specific cultural or ethnic populations;

(IV) Certified prevention specialists;

(V) Certified addiction counselors; and

(VI) Certified addiction recovery mentors;

(iv) Alcohol or drug treatment researchers or epidemiologists;

(v) The health insurance industry or hospitals;

(vi) Consumers of addiction recovery services who are in recovery and the family members of consumers;

(vii) Experts in addiction medicine;

(viii) Entities that provide housing to individuals who are in recovery; and

(ix) Social service providers.

(B) Up to 25 percent of the members appointed by the Governor shall be representatives of one or more of the following stakeholder groups:

(i) District attorneys.

(ii) County sheriffs.

(iii) Chiefs of police.

(iv) Criminal defense attorneys.

(v) County community corrections agencies.

(b) Two members of the Legislative Assembly appointed to the commission as nonvoting members of the commission, acting in an advisory capacity only and including:

(A) One member from among members of the Senate appointed by the President of the Senate; and

(B) One member from among members of the House of Representatives appointed by the Speaker of the House of Representatives.

(c) A judge of a circuit court appointed to the commission as a nonvoting member by the Chief Justice of the Supreme Court.

(d) The director of the behavioral health program of the Oregon Health Authority as a nonvoting member.

(e) A representative of a coordinated care organization appointed to the commission as a nonvoting member by the Governor.

(4) The Alcohol and Drug Policy Commission shall select one of its members as chairperson and another as vice chairperson, for such terms and with duties and powers necessary for the performance of the functions of such offices as the commission determines.

(5)(a) A majority of the voting members of the commission constitutes a quorum for the transaction of business.

(b) If a member of the commission is absent for more than two consecutive scheduled meetings of the commission, the Director of the Alcohol and Drug Policy Commission appointed under ORS 430.220 may recommend to the Governor that the member be replaced.

(6) Official action of the commission requires the approval of a majority of a quorum.

(7) The commission may establish a steering committee and subcommittees. These committees may be continuing or temporary. A person who is not a member of the commission may be appointed by the commission to serve on a subcommittee. The commission shall appoint subcommittee members to ensure representation from all stakeholders directly impacted by the work of the commission.

(8) The term of office of each commission member appointed by the Governor is four years, but a member serves at the pleasure of the Governor. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective.

(9) The Oregon Health Authority shall provide staff support to the commission. Subject to available funding, the commission may contract with a public or private entity to provide staff support.

(10) Members of the commission who are not members of the Legislative Assembly are entitled to compensation and expenses incurred by them in the performance of their official duties in the manner and amounts provided for in ORS 292.495. Claims for compensation and expenses shall be paid out of funds appropriated to the Oregon Health Authority or funds appropriated to the commission for purposes of the commission.

**SECTION 3.** ORS 430.223 is amended to read:

430.223. (1) For purposes of this section, "program" means a state, local or tribal alcohol and drug abuse prevention and treatment program.

(2) The Alcohol and Drug Policy Commission established under ORS 430.221 shall develop a comprehensive addiction, prevention, treatment and recovery plan for this state. The plan must include, but is not limited to, recommendations regarding:

- (a) Capacity, type and utilization of programs;
- (b) Methods to assess the effectiveness and performance of programs;
- (c) The best use of existing programs;
- (d) Budget policy priorities for participating state agencies;
- (e) Standards for licensing programs;

(f) Minimum standards for contracting for, providing and coordinating alcohol and drug abuse prevention and treatment services among programs that use federal, private or state funds administered by the state; and

(g) The most effective and efficient use of participating state agency resources to support programs.

**(3) All participating state agencies shall:**

**(a) Meet with the commission on a quarterly basis to review and report on each agency's progress on implementing the plan; and**

**(b) Report to the commission, in the manner prescribed by the commission, each agency's process and outcome measures established under the plan.**

[3] **(4) The commission shall review and update the plan [developed under subsection (2) of this section] no later than July 1 of each even-numbered year and shall produce and publish a report on the metrics and other indicators of progress in achieving the goals of the plan.**

[4] **(5) The commission may:**

(a) Conduct studies related to the duties of the commission in collaboration with other state agencies;

(b) Apply for and receive gifts and grants for public and private sources; and

(c) Use funds received by the commission to carry out the purposes of ORS 430.220 and 430.221 and this section.

[5] (6) All **participating** state **agencies** and local agencies shall assist the commission in developing the comprehensive addiction, prevention, treatment and recovery plan.

[6] (7) The commission may adopt rules to carry out its duties under this section.

**SECTION 4. As used in sections 4 to 6 of this 2022 Act:**

(1) **“Distributor Settlement Agreement”** means the settlement agreement between the State of Oregon and participating subdivisions and McKesson, Cardinal and AmerisourceBergen dated as of July 21, 2021, and any revision thereto.

(2) **“Janssen Settlement Agreement”** means the settlement agreement between the State of Oregon and participating subdivisions and Johnson & Johnson, Janssen Pharmaceuticals, Incorporated, and Ortho-McNeil-Janssen Pharmaceuticals, Incorporated, dated as of July 21, 2021, and any revision thereto.

(3) **“Participating subdivisions”** means cities and counties in this state with populations of at least 10,000 residents.

**SECTION 5.** (1) The Opioid Settlement Prevention, Treatment and Recovery Fund is established in the State Treasury, separate and distinct from the General Fund, consisting of moneys, other than attorney fees and costs, paid to the state pursuant to:

(a) The Distributor Settlement Agreement;

(b) The Janssen Settlement Agreement; and

(c) Judgments or settlements identified by the Attorney General as arising from the liability of distributors of opioids, manufacturers of opioids, pharmacies for the selling of opioids or the consultants, agents or associates of distributors, manufacturers or pharmacies.

(2) Moneys in the Opioid Settlement Prevention, Treatment and Recovery Fund are continuously appropriated to the Oregon Health Authority for the purpose of administering the Opioid Settlement Prevention, Treatment and Recovery Board and for the allocation of moneys as directed by the board in accordance with section 6 of this 2022 Act.

**SECTION 6.** (1) The Opioid Settlement Prevention, Treatment and Recovery Board is created in the Oregon Health Authority for the purpose of determining the allocation of funding from the Opioid Settlement Prevention, Treatment and Recovery Fund established in section 5 of this 2022 Act. The board consists of:

(a) The following members appointed by the Governor:

(A) A policy advisor to the Governor;

(B) A representative of the Department of Justice;

(C) A representative of the Oregon Health Authority; and

(D) A representative of the Department of Human Services;

(b) The Director of the Alcohol and Drug Policy Commission or the director’s designee;

(c) The chairperson of the Oversight and Accountability Council established in ORS 430.388 or the chairperson’s designee;

(d) The following members appointed by the Governor from a list of candidates provided by the Association of Oregon Counties and the League of Oregon Cities or the successor organizations to the Association of Oregon Counties and the League of Oregon Cities:

(A) An individual representing Clackamas, Washington or Multnomah County;

(B) An individual representing Clatsop, Columbia, Coos, Curry, Jackson, Josephine, Lane or Yamhill County;

(C) An individual representing the City of Portland;

(D) An individual representing a city with a population above 10,000 residents as of July 21, 2021;

(E) An individual representing a city with a population at or below 10,000 residents as of July 21, 2021; and

(F) A representative of the Oregon Coalition of Local Health Officials or its successor organization;

(e) The following members appointed by the Governor from a list of candidates provided by the members described in paragraphs (a) to (d) of this subsection:

(A) A representative of a community mental health program;

(B) An individual who has experienced a substance use disorder or a representative of an organization that advocates on behalf of individuals with substance use disorders; and

(C) An individual representing law enforcement, first responders or jail commanders or wardens;

(f) A member of the House of Representatives appointed by the Speaker of the House of Representatives, who shall be a nonvoting member of the board;

(g) A member of the Senate appointed by the President of the Senate, who shall be a nonvoting member of the board; and

(h) The State Court Administrator or the administrator's designee, who shall be a non-voting member of the board.

(2) The Governor shall select from the members described in subsections (1)(a), (b) and (c) of this section one cochairperson to represent state entities, and the members described in subsection (1)(d) of this section shall select from one of their members a cochairperson to represent cities or counties.

(3) The term of each member of the board who is not an ex officio member is four years, but a member serves at the pleasure of the appointing authority. Before the expiration of a member's term, the appointing authority shall appoint a successor whose term begins on January 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective for the unexpired term.

(4) Decision-making by the board shall be based on consensus and supported by at least a majority of the members. The board shall document all objections to board decisions.

(5) The board shall conduct at least four public meetings in accordance with ORS 192.610 to 192.690, which shall be publicized to facilitate attendance at the meetings and during which the board shall receive testimony and input from the community. The board shall also establish a process for the public to provide written comments and proposals at each meeting of the board.

(6) In determining the allocation of moneys from the Opioid Settlement Prevention, Treatment and Recovery Fund:

(a) No more than five percent of the moneys may be spent on administering the board and the fund.

(b) A portion of the moneys shall be allocated toward a unified and evidence-based state system for collecting, analyzing and publishing data about the availability and efficacy of substance use prevention, treatment and recovery services statewide.

(c) Moneys remaining after allocations in accordance with paragraphs (a) and (b) of this subsection shall be allocated for funding statewide and regional programs identified in the Distributor Settlement Agreement, the Janssen Settlement Agreement and any other judgment or settlement described in section 5 (1)(c) of this 2022 Act, including but not limited to:

(A) Programs that use evidence-based or evidence-informed strategies to treat opioid use disorders and any co-occurring substance use disorders or mental health conditions;

(B) Programs that use evidence-based or evidence-informed strategies to support individuals in recovery from opioid use disorders and any co-occurring substance use disorders or mental health conditions;

(C) Programs that use evidence-based or evidence-informed strategies to provide connections to care for individuals who have or are at risk of developing opioid use disorders and any co-occurring substance use disorders or mental health conditions;

(D) Programs that use evidence-based or evidence-informed strategies to address the needs of individuals with opioid use disorders and any co-occurring substance use disorders

or mental health conditions and who are involved in, at risk of becoming involved in, or in transition from, the criminal justice system;

(E) Programs that use evidence-based or evidence-informed strategies to address the needs of pregnant or parenting women with opioid use disorders and any co-occurring substance use disorders or mental health conditions, and the needs of their families, including babies with neonatal abstinence syndrome;

(F) Programs that use evidence-based or evidence-informed strategies to support efforts to prevent over-prescribing of opioids and ensure appropriate prescribing and dispensing of opioids;

(G) Programs that use evidence-based or evidence-informed strategies to support efforts to discourage or prevent misuse of opioids;

(H) Programs that use evidence-based or evidence-informed strategies to support efforts to prevent or reduce overdose deaths or other opioid-related harms;

(I) Programs to educate law enforcement or other first responders regarding appropriate practices and precautions when dealing with users of fentanyl or other opioids;

(J) Programs to provide wellness and support services for first responders and others who experience secondary trauma associated with opioid-related emergency events;

(K) Programs to support efforts to provide leadership, planning, coordination, facilitation, training and technical assistance to abate the opioid epidemic through activities, programs or strategies; or

(L) Funding to support opioid abatement research.

(d) The board shall be guided and informed by:

(A) The comprehensive addiction, prevention, treatment and recovery plan developed by the Alcohol and Drug Policy Commission in accordance with ORS 430.223;

(B) The board's ongoing evaluation of the efficacy of the funding allocations;

(C) Evidence-based and evidence-informed strategies and best practices;

(D) Input the board receives from the public;

(E) Equity considerations for underserved populations; and

(F) The terms of the settlement agreements.

(7) The Oregon Health Authority shall provide staff support to the board.

**SECTION 7.** Notwithstanding the term of office specified by section 6 of this 2022 Act, of the members first appointed by the Governor to the Opioid Settlement Prevention, Treatment and Recovery Board:

(1) Four shall serve for terms ending January 2, 2024;

(2) Four shall serve for terms ending January 2, 2025; and

(3) Five shall serve for terms ending January 2, 2026.

**SECTION 8.** Sections 4 to 7 of this 2022 Act are repealed on January 2, 2040.

**SECTION 9.** Notwithstanding any other law limiting expenditures, the amount of \$625,733 is established for the biennium ending June 30, 2023, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, tobacco tax receipts, marijuana tax receipts, beer and wine tax receipts, provider taxes and Medicare receipts, but excluding lottery funds and federal funds not described in this section, collected or received by the Oregon Health Authority, for carrying out section 6 of this 2022 Act.

**SECTION 10.** This 2022 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2022 Act takes effect on its passage.

**Passed by House March 2, 2022**

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Timothy G. Sekerak, Chief Clerk of House

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Dan Rayfield, Speaker of House

**Passed by Senate March 3, 2022**

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Peter Courtney, President of Senate

**Received by Governor:**

.....M.,....., 2022

**Approved:**

.....M.,....., 2022

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Kate Brown, Governor

**Filed in Office of Secretary of State:**

.....M.,....., 2022

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Shemia Fagan, Secretary of State