HB 4034-3
(LC 192)
2/10/22 (SCT/ps)

Requested by HOUSE COMMITTEE ON HEALTH CARE (at the request of Representative Rachel Prusak)

PROPOSED AMENDMENTS TO
HOUSE BILL 4034

On page 1 of the printed bill, line 2, after "ORS" delete the rest of the line and lines 3 and 4 and insert "435.205, 442.015, 475.230, 677.135, 689.005, 689.225, 689.522, 689.700, 743A.067 and 807.750 and section 4, chapter 92, Oregon Laws 2021, and sections 1, 2 and 5, chapter 619, Oregon Laws 2021; and declaring an emergency.".

Delete lines 6 through 24 and delete pages 2 through 16 and insert:

"**PSEUDOEPHEDRINE**

"SECTION 1. ORS 475.230 is amended to read:

"475.230. (1) As used in this section, **'intern,'** 'pharmacist,' 'pharmacy' and 'pharmacy technician' have the meanings given those terms in ORS 689.005.

"(2) A pharmacist**, intern** or pharmacy technician may transfer a drug containing pseudoephedrine or ephedrine or a salt, isomer or salt of an isomer of pseudoephedrine or ephedrine without a prescription from a practitioner to a person who is 18 years of age or older and who provides to the pharmacist**, intern** or pharmacy technician the person's valid government-issued photo identification.

"(3) Prior to the transfer of a drug described in subsection (2) of this section, a pharmacist**, intern** or pharmacy technician shall submit the fol-

lowing information to the electronic system described in subsection (6) of this section:

"(a) The date and time of the transfer;

"(b) The name, address and date of birth of the person to whom the transfer will be made;

"(c) The form of government-issued photo identification and identification number of the person to whom the transfer will be made;

"(d) The name of the government agency that issued the photo identification; and

"(e) The name of the drug that will be transferred and the amount of pseudoephedrine or ephedrine or a salt, isomer or salt of an isomer of pseudoephedrine or ephedrine, specified in grams, to be transferred.

"(4) If, after receiving the information submitted under subsection (3) of this section, the electronic system generates an alert to not proceed with the transfer, the pharmacist**, intern** or pharmacy technician may not transfer the drug described in subsection (2) of this section to the person, except as provided in subsection (6) of this section.

"(5)(a) Upon transferring a drug described in subsection (2) of this section, the pharmacist**, intern** or pharmacy technician shall require the person to whom the drug is transferred to sign an electronic or written log that shows the date of the transfer, the name of the person to whom the transfer is made and the amount transferred of pseudoephedrine or ephedrine or a salt, isomer or salt of an isomer of pseudoephedrine or ephedrine, specified in grams.

"(b) The log described in this subsection must be retained at the pharmacy where the transfer was made for at least two years from the date of the transaction.

"(c) A law enforcement agency may obtain information contained in a log described in this subsection through a lawfully issued subpoena accepted by the State Board of Pharmacy. The board shall accept a lawfully issued

subpoena under this paragraph, and shall adopt rules to carry out this paragraph. The board may designate a third party vendor as the custodian of records, including of a log described in this subsection.

"(6)(a) For purposes of tracking the transfer of drugs described in subsection (2) of this section, a pharmacy shall use an electronic system designed to prevent illegal transfer of drugs described in subsection (2) of this section. The electronic system must:

"(A) Be capable of tracking transfers nationwide in real time;

"(B) Be capable of generating an alert described in subsection (4) of this section;

"(C) Allow a pharmacist to override an alert described in subsection (4) of this section if, in the discretion of the pharmacist, the transfer is necessary to protect the person to whom the transfer will be made from imminent bodily harm;

"(D) Be able to communicate in real time with similar systems operated in other states and the District of Columbia, including with similar systems that contain information submitted by more than one state;

"(E) For each transfer, allow for the recording of:

"(i) The information described in subsection (3) of this section;

"(ii) The number of packages of the drug transferred;

"(iii) The total amount of pseudoephedrine or ephedrine or a salt, isomer or salt of an isomer of pseudoephedrine or ephedrine transferred, specified in grams;

"(iv) The name of the drug transferred;

"(v) Either the signature of the person to whom the drug is transferred or a unique number connecting the transfer transaction to an electronic or written log described in subsection (5) of this section; and

"(vi) The name or initials of the pharmacist**, intern** or pharmacy technician who transferred the drug;

"(F) Be free of charge to a pharmacy;

"(G) Be accessible at no charge to law enforcement and to other authorized personnel, as determined by the board, through an online portal or at the pharmacy;

"(H) Retain information submitted for at least two years from the date of transaction; and

"(I) Be accompanied by training, 24-hour online support and a toll-free support telephone hotline.

"(b) A pharmacist who uses the override function described in this subsection shall record in the electronic system the use of the override.

"(7) A drug described in subsection (2) of this section must be:

"(a) Transferred from behind a pharmacy counter; and

"(b) Stored behind the pharmacy counter in an area that is closed to the public.

"(8) A person, other than a pharmacy, may not receive more than 3.6 grams per transfer, or more than nine grams in a 30-day period, of pseudoephedrine or ephedrine or a salt, isomer or salt of an isomer of pseudoephedrine or ephedrine.

"(9) This section does not apply to a drug that contains pseudoephedrine or ephedrine or a salt, isomer or salt of an isomer of pseudoephedrine or ephedrine when the drug is transferred pursuant to a prescription.

"(10) In addition to rules adopted under subsection (5) of this section, the board may adopt other rules as necessary to carry out this section.

"(11) Violation of this section, or a rule adopted pursuant to this section, is a Class A misdemeanor.

"SECTION 2. ORS 807.750 is amended to read:

"807.750. (1) As used in this section:

"(a) 'Driver license' means a license or permit issued by this state or any other jurisdiction as evidence of a grant of driving privileges.

"(b) 'Financial institution' has the meaning given that term in ORS 706.008.

"(c) 'Identification card' means the card issued under ORS 807.400 or a comparable provision in another state.

"(d) 'Personal information' means an individual's name, address, date of birth, photograph, fingerprint, biometric data, driver license number, identification card number or any other unique personal identifier or number.

"(e) 'Private entity' means any nongovernmental entity, such as a corporation, partnership, company or nonprofit organization, any other legal entity or any natural person.

"(f) 'Swipe' means the act of passing a driver license or identification card through a device that is capable of deciphering, in an electronically readable format, the information electronically encoded in a magnetic strip or bar code on the driver license or identification card.

"(2) Except as provided in subsection (6) of this section, a private entity may not swipe an individual's driver license or identification card, except for the following purposes:

"(a) To verify the authenticity of a driver license or identification card or to verify the identity of the individual if the individual pays for a good or service with a method other than cash, returns an item or requests a refund.

"(b) To verify the individual's age when providing an age-restricted good or service to any person about whom there is any reasonable doubt of the person's having reached 21 years of age.

"(c) To prevent fraud or other criminal activity if an individual returns an item or requests a refund and the private entity uses a fraud prevention service company or system.

"(d) To transmit information to a check services company for the purpose of approving negotiable instruments, electronic funds transfers or similar methods of payment.

"(e) To collect information about the individual for the purpose of processing an application for a deposit account or loan for the individual, if the

private entity is a financial institution.

"**(f) To enable a pharmacist, pharmacy technician or intern, as those terms are defined in ORS 689.005, to submit information to the electronic system described in ORS 475.230 for the purpose of transferring a drug containing pseudoephedrine or ephedrine or a salt, isomer or salt of an isomer of pseudoephedrine or ephedrine without a prescription from a practitioner to a person who is 18 years of age or older.**

"(3) A private entity that swipes an individual's driver license or identification card under subsection (2)(a) or (b) of this section may not store, sell or share personal information collected from swiping the driver license or identification card.

"(4) A private entity that swipes an individual's driver license or identification card under subsection (2)(c) or (d) of this section may store or share the following information collected from swiping an individual's driver license or identification card for the purpose of preventing fraud or other criminal activity against the private entity:

"(a) Name;

"(b) Address;

"(c) Date of birth; and

"(d) Driver license number or identification card number.

"(5)(a) A person other than an entity regulated by the federal Fair Credit Reporting Act, 15 U.S.C. 1681 et seq., who receives personal information from a private entity under subsection (4) of this section may use the personal information received only to prevent fraud or other criminal activity against the private entity that provided the personal information.

"(b) A person who is regulated by the federal Fair Credit Reporting Act and who receives personal information from a private entity under subsection (4) of this section may use or provide the personal information received only to effect, administer or enforce a transaction or prevent fraud

or other criminal activity, if the person provides or receives personal information under contract from the private entity.

"(6)(a) Subject to the provisions of this subsection, a private entity that is a commercial radio service provider that provides service nationally and that is subject to the Telephone Records and Privacy Protection Act of 2006 (18 U.S.C. 1039) may swipe an individual's driver license or identification card if the entity obtains permission from the individual to swipe the individual's driver license or identification card.

"(b) The private entity may swipe the individual's driver license or identification card only for the purpose of establishing or maintaining a contract between the private entity and the individual. Information collected by swiping an individual's driver license or identification card for the establishment or maintenance of a contract shall be limited to the following information from the individual:

"(A) Name;

"(B) Address;

"(C) Date of birth; and

"(D) Driver license number or identification card number.

"(c) If the individual does not want the private entity to swipe the individual's driver license or identification card, the private entity may manually collect the following information from the individual:

"(A) Name;

"(B) Address;

"(C) Date of birth; and

"(D) Driver license number or identification card number.

"(d) The private entity may not withhold the provision of goods or services solely as a result of the individual requesting the collection of the following information from the individual through manual means:

"(A) Name;

"(B) Address;

"(C) Date of birth; and

"(D) Driver license number or identification card number.

"(7) A governmental entity may swipe an individual's driver license or identification card only if:

"(a) The individual knowingly makes the driver license or identification card available to the governmental entity;

"(b) The governmental entity lawfully confiscates the driver license or identification card;

"(c) The governmental entity is providing emergency assistance to the individual who is unconscious or otherwise unable to make the driver license or identification card available; or

"(d) A court rule requires swiping of the driver license or identification card to facilitate accurate linking of court records pertaining to the individual.

"(8) In addition to any other remedy provided by law, an individual may bring an action to recover actual damages or $1,000, whichever is greater, and to obtain equitable relief, if equitable relief is available, against an entity that swipes, stores, shares, sells or otherwise uses the individual's personal information in violation of this section. A court shall award a prevailing plaintiff reasonable costs and attorney fees. If a court finds that a violation of this section was willful or knowing, the court may increase the amount of the award to no more than three times the amount otherwise available.

"(9) Any waiver of a provision of this section is contrary to public policy and is void and unenforceable.

"SECTION 3. The amendments to ORS 807.750 by section 2 of this 2022 Act apply to conduct occurring on or after January 1, 2022.

"COVID-19 DATA COLLECTION

"SECTION 4. Section 4, chapter 92, Oregon Laws 2021, is amended to read:

"**Sec. 4.** (1) Section 1 [*of this 2021 Act*]**, chapter 92, Oregon Laws 2021,** is repealed [*on June 30, 2022*] **one year after the date on which the state of emergency declared by the Governor on March 8, 2020, for the COVID-19 pandemic, and any extension of the state of emergency, is no longer in effect**.

"(2) The amendments to ORS 433.008 by section 3 [*of this 2021 Act*]**, chapter 92, Oregon Laws 2021,** become operative on June 30, 2022.

"**BIOLOGICAL PRODUCTS**

"SECTION 5. ORS 689.522 is amended to read:

"689.522. (1) A pharmacy or pharmacist filling a prescription order for a biological product may not substitute a biological product for the prescribed biological product unless:

"(a) The substitute biological product has been determined by the United States Food and Drug Administration to be interchangeable with the prescribed biological product;

"(b) The prescribing practitioner has not designated on the prescription that substitution is prohibited;

"(c) The patient for whom the biological product is prescribed is informed of the substitution in a manner reasonable under the circumstances; and

"(d) The pharmacy or pharmacist retains a record of the substitution for a period of not less than three years.

"**(2) Not later than five business days after the dispensing of a biological product, the pharmacy or pharmacist, or the pharmacist's designee, shall communicate the specific biological product dispensed to the patient, including the name and manufacturer of the biological product, by making an entry into an electronic system that the pre-**

scribing practitioner can access electronically and that is:

"(a) An interoperable electronic medical records system;

"(b) An electronic prescribing technology;

"(c) A pharmacy benefit management system; or

"(d) A pharmacy record.

"(3) If the pharmacy or pharmacist, or the pharmacist's designee, does not have access to an electronic system described in subsection (2) of this section, the pharmacy or pharmacist, or the pharmacist's designee, shall communicate not later than five business days to the prescribing practitioner the specific biological product dispensed to the patient, including the name and manufacturer of the biological product. The communication may be by facsimile, electronic mail, telephone or another method.

"(4) If the biological product is dispensed to a patient in a clinic, community-based care facility, hospital or long term care facility, an entry made to the patient's medical record of the specific biological product dispensed to the patient, including the name and manufacturer of the biological product, satisfies the communication requirements of subsection (2) of this section.

"(5) Notwithstanding subsections (2) and (3) of this section, the pharmacy or pharmacist, or the pharmacist's designee, is not required to communicate to the prescribing practitioner the specific biological product dispensed to the patient if:

"(a) The United States Food and Drug Administration has not approved an interchangeable biological product for the prescribed biological product;

"(b) The pharmacy or pharmacist is refilling a prescription and the pharmacy or pharmacist is dispensing the same biological product that was dispensed the last time the pharmacy or pharmacist filled or refilled the patient's prescription; or

"(c) The pharmacy or pharmacist is filling a prescription for a vaccine.

"(6) The entries described in subsections (2) and (4) of this section or the communication described in subsection (3) of this section provides notice to the prescribing provider of the dispensation of a biological product to a patient.

"[*(2)*] **(7)** The State Board of Pharmacy shall, on a website maintained by the board, maintain a link to the current list, if available, of biological products determined by the United States Food and Drug Administration to be interchangeable.

"[*(3)(a)*] **(8)(a)** For purposes of this section, the board shall adopt by rule definitions for the terms 'biological product' and 'interchangeable.'

"(b) The rule defining the term 'biological product' must be consistent with 42 U.S.C. 262(i)(1).

"(c) The rule defining the term 'interchangeable' must:

"(A) For biological products licensed under the Public Health Service Act, define the biological products that may be substituted for other biological products as having been determined by the United States Food and Drug Administration as meeting the standards in 42 U.S.C. 262(k)(4); and

"(B) For biological products approved by the United States Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 et seq., define the biological products that may be substituted for other biological products as having been determined by the United States Food and Drug Administration as therapeutically equivalent as set forth in the latest edition or supplement of the Approved Drug Products with Therapeutic Equivalence Evaluations.

"SECTION 6. ORS 689.522, as amended by section 5 of this 2022 Act, is amended to read:

"689.522. (1) A pharmacy or pharmacist filling a prescription order for a biological product may not substitute a biological product for the prescribed

biological product unless:

"(a) The substitute biological product has been determined by the United States Food and Drug Administration to be interchangeable with the prescribed biological product;

"(b) The prescribing practitioner has not designated on the prescription that substitution is prohibited;

"(c) The patient for whom the biological product is prescribed is informed of the substitution in a manner reasonable under the circumstances; and

"(d) The pharmacy or pharmacist retains a record of the substitution for a period of not less than three years.

"[*(2) Not later than five business days after the dispensing of a biological product, the pharmacy or pharmacist, or the pharmacist's designee, shall communicate the specific biological product dispensed to the patient, including the name and manufacturer of the biological product, by making an entry into an electronic system that the prescribing practitioner can access electronically and that is:*]

"[*(a) An interoperable electronic medical records system;*]

"[*(b) An electronic prescribing technology;*]

"[*(c) A pharmacy benefit management system; or*]

"[*(d) A pharmacy record.*]

"[*(3) If the pharmacy or pharmacist, or the pharmacist's designee, does not have access to an electronic system described in subsection (2) of this section, the pharmacy or pharmacist, or the pharmacist's designee, shall communicate not later than five business days to the prescribing practitioner the specific biological product dispensed to the patient, including the name and manufacturer of the biological product. The communication may be by facsimile, electronic mail, telephone or another method.*]

"[*(4) If the biological product is dispensed to a patient in a clinic, community-based care facility, hospital or long term care facility, an entry made to the patient's medical record of the specific biological product dis-*

pensed to the patient, including the name and manufacturer of the biological product, satisfies the communication requirements of subsection (2) of this section.]

"[*(5) Notwithstanding subsections (2) and (3) of this section, the pharmacy or pharmacist, or the pharmacist's designee, is not required to communicate to the prescribing practitioner the specific biological product dispensed to the patient if:*]

"[*(a) The United States Food and Drug Administration has not approved an interchangeable biological product for the prescribed biological product;*]

"[*(b) The pharmacy or pharmacist is refilling a prescription and the pharmacy or pharmacist is dispensing the same biological product that was dispensed the last time the pharmacy or pharmacist filled or refilled the patient's prescription; or*]

"[*(c) The pharmacy or pharmacist is filling a prescription for a vaccine.*]

"[*(6) The entries described in subsections (2) and (4) of this section or the communication described in subsection (3) of this section provides notice to the prescribing provider of the dispensation of a biological product to a patient.*]

"[*(7)*] **(2)** The State Board of Pharmacy shall, on a website maintained by the board, maintain a link to the current list, if available, of biological products determined by the United States Food and Drug Administration to be interchangeable.

"[*(8)(a)*] **(3)(a)** For purposes of this section, the board shall adopt by rule definitions for the terms 'biological product' and 'interchangeable.'

"(b) The rule defining the term 'biological product' must be consistent with 42 U.S.C. 262(i)(1).

"(c) The rule defining the term 'interchangeable' must:

"(A) For biological products licensed under the Public Health Service Act, define the biological products that may be substituted for other biological products as having been determined by the United States Food and Drug Administration as meeting the standards in 42 U.S.C. 262(k)(4); and

"(B) For biological products approved by the United States Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 et seq., define the biological products that may be substituted for other biological products as having been determined by the United States Food and Drug Administration as therapeutically equivalent as set forth in the latest edition or supplement of the Approved Drug Products with Therapeutic Equivalence Evaluations.

"SECTION 7. The amendments to ORS 689.522 by section 5 of this 2022 Act apply to prescriptions filled on and after the effective date of this 2022 Act.

"SECTION 8. The amendments to ORS 689.522 by section 6 of this 2022 Act become operative on January 1, 2026.

"**REPRODUCTIVE HEALTH AND FAMILY PLANNING SERVICES**

"SECTION 9. Section 10 of this 2022 Act is added to and made a part of ORS 435.205 to 435.235.

"SECTION 10. (1) The Oregon Health Authority may, subject to available funds, implement reproductive health services and education programs and provide funding for reproductive health services and education in this state.

"(2) In order to receive state or federal funding or reimbursement from the authority for the provision of reproductive health services, a health care provider must be certified by the authority pursuant to rules adopted under subsection (3) of this section.

"(3) The authority may adopt rules necessary to carry out this section, including but not limited to rules to:

"(a) Establish the programs described in subsection (1) of this section;

"(b) Establish a health care provider certification process; and

"(c) Adopt fees.

"SECTION 11. ORS 435.205 is amended to read:

"435.205. (1) The Oregon Health Authority and every local health department shall offer family planning and birth control services within the limits of available funds. Both agencies jointly may offer [*such*] **the** services **described in this subsection**. The Director of the Oregon Health Authority or a designee shall initiate and conduct discussions of family planning with each person who might have an interest in and benefit from [*such service*] **the services**. The authority shall furnish consultation and assistance to local health departments.

"(2) Family planning and birth control services may include**, but are not limited to:**

"(a) Interviews with trained personnel;

"**(b)** Distribution of literature;

"**(c)** Referral to a [*licensed*] physician **licensed under ORS chapter 677**, physician assistant licensed under ORS 677.505 to 677.525, naturopathic physician licensed under ORS chapter 685 or nurse practitioner licensed under ORS 678.375 to 678.390 for consultation, examination, medical treatment and prescription; and[,]

"**(d)** To the extent so prescribed, the distribution of rhythm charts, the initial supply of a drug or other medical preparation, contraceptive devices and similar products.

"(3) Any literature, charts or other family planning and birth control information offered under this section in counties in which a significant segment of the population does not speak English [*shall*] **must** be made available in the appropriate [*foreign*] language for that segment of the population.

"(4) In carrying out its duties under this section, and with the consent of the local public health authority as defined in ORS 431.003, the local health department may adopt a fee schedule for services provided by the lo-

cal health department. The fees shall be reasonably calculated not to exceed costs of services provided and may be adjusted on a sliding scale reflecting ability to pay.

"(5) The local health department shall collect fees according to the schedule adopted under subsection (4) of this section. [*Such*] **Moneys from** fees **collected** may be used to meet the expenses of providing the services authorized by this section.

"SECTION 12. ORS 743A.067 is amended to read:

"743A.067. (1) As used in this section:

"(a) 'Contraceptives' means health care services, drugs, devices, products or medical procedures to prevent a pregnancy.

"(b) 'Enrollee' means an insured individual and the individual's spouse, domestic partner and dependents who are beneficiaries under the insured individual's health benefit plan.

"(c) 'Health benefit plan' has the meaning given that term in ORS 743B.005, excluding Medicare Advantage Plans and including health benefit plans offering pharmacy benefits administered by a third party administrator or pharmacy benefit manager.

"(d) 'Prior authorization' has the meaning given that term in ORS 743B.001.

"(e) 'Religious employer' has the meaning given that term in ORS 743A.066.

"(f) 'Utilization review' has the meaning given that term in ORS 743B.001.

"(2) A health benefit plan offered in this state must provide coverage for all of the following services, drugs, devices, products and procedures:

"(a) Well-woman care prescribed by the Department of Consumer and Business Services by rule consistent with guidelines published by the United States Health Resources and Services Administration.

"(b) Counseling for sexually transmitted infections, including but not limited to human immunodeficiency virus and acquired immune deficiency

syndrome.

"(c) Screening for:

"(A) Chlamydia;

"(B) Gonorrhea;

"(C) Hepatitis B;

"(D) Hepatitis C;

"(E) Human immunodeficiency virus and acquired immune deficiency syndrome;

"(F) Human papillomavirus;

"(G) Syphilis;

"(H) Anemia;

"(I) Urinary tract infection;

"(J) Pregnancy;

"(K) Rh incompatibility;

"(L) Gestational diabetes;

"(M) Osteoporosis;

"(N) Breast cancer; and

"(O) Cervical cancer.

"(d) Screening to determine whether counseling related to the BRCA1 or BRCA2 genetic mutations is indicated and counseling related to the BRCA1 or BRCA2 genetic mutations if indicated.

"(e) Screening and appropriate counseling or interventions for:

"(A) Tobacco use; and

"(B) Domestic and interpersonal violence.

"(f) Folic acid supplements.

"(g) Abortion.

"(h) Breastfeeding comprehensive support, counseling and supplies.

"(i) Breast cancer chemoprevention counseling.

"(j) Any contraceptive drug, device or product approved by the United States Food and Drug Administration, subject to all of the following:

"(A) If there is a therapeutic equivalent of a contraceptive drug, device or product approved by the United States Food and Drug Administration, a health benefit plan may provide coverage for either the requested contraceptive drug, device or product or for one or more therapeutic equivalents of the requested drug, device or product.

"(B) If a contraceptive drug, device or product covered by the health benefit plan is deemed medically inadvisable by the enrollee's provider, the health benefit plan must cover an alternative contraceptive drug, device or product prescribed by the provider.

"(C) A health benefit plan must pay pharmacy claims for reimbursement of all contraceptive drugs available for over-the-counter sale that are approved by the United States Food and Drug Administration.

"(D) A health benefit plan may not infringe upon an enrollee's choice of contraceptive drug, device or product and may not require prior authorization, step therapy or other utilization review techniques for medically appropriate covered contraceptive drugs, devices or other products approved by the United States Food and Drug Administration.

"(k) Voluntary sterilization.

"(L) As a single claim or combined with other claims for covered services provided on the same day:

"(A) Patient education and counseling on contraception and sterilization.

"(B) Services related to sterilization or the administration and monitoring of contraceptive drugs, devices and products, including but not limited to:

"(i) Management of side effects;

"(ii) Counseling for continued adherence to a prescribed regimen;

"(iii) Device insertion and removal; and

"(iv) Provision of alternative contraceptive drugs, devices or products deemed medically appropriate in the judgment of the enrollee's provider.

"(m) Any additional preventive services for women that must be covered without cost sharing under 42 U.S.C. 300gg-13, as identified by the United

States Preventive Services Task Force or the Health Resources and Services Administration of the United States Department of Health and Human Services as of January 1, 2017.

"(3) A health benefit plan may not impose on an enrollee a deductible, coinsurance, copayment or any other cost-sharing requirement on the coverage required by this section. A health care provider shall be reimbursed for providing the services described in this section without any deduction for coinsurance, copayments or any other cost-sharing amounts.

"(4) Except as authorized under this section, a health benefit plan may not impose any restrictions or delays on the coverage required by this section.

"(5) This section does not exclude coverage for contraceptive drugs, devices or products prescribed by a provider, acting within the provider's scope of practice, for:

"(a) Reasons other than contraceptive purposes, such as decreasing the risk of ovarian cancer or eliminating symptoms of menopause; or

"(b) Contraception that is necessary to preserve the life or health of an enrollee.

"(6) This section does not limit the authority of the Department of Consumer and Business Services to ensure compliance with ORS 743A.063 and 743A.066.

"(7) This section does not require a health benefit plan to cover:

"(a) Experimental or investigational treatments;

"(b) Clinical trials or demonstration projects, except as provided in ORS 743A.192;

"(c) Treatments that do not conform to acceptable and customary standards of medical practice;

"(d) Treatments for which there is insufficient data to determine efficacy; or

"(e) Abortion if the insurer offering the health benefit plan excluded

coverage for abortion in all of its individual, small employer and large employer group plans during the 2017 plan year.

"(8) If services, drugs, devices, products or procedures required by this section are provided by an out-of-network provider, the health benefit plan must cover the services, drugs, devices, products or procedures without imposing any cost-sharing requirement on the enrollee if:

"(a) There is no in-network provider to furnish the service, drug, device, product or procedure that is geographically accessible or accessible in a reasonable amount of time, as defined by the Department of Consumer and Business Services by rule consistent with the requirements for provider networks in ORS 743B.505; or

"(b) An in-network provider is unable or unwilling to provide the service in a timely manner.

"(9) An insurer may offer to a religious employer a health benefit plan that does not include coverage for contraceptives or abortion procedures that are contrary to the religious employer's religious tenets only if the insurer notifies in writing all employees who may be enrolled in the health benefit plan of the contraceptives and procedures the employer refuses to cover for religious reasons.

"(10) If the Department of Consumer and Business Services concludes that enforcement of this section may adversely affect the allocation of federal funds to this state, the department may grant an exemption to the requirements but only to the minimum extent necessary to ensure the continued receipt of federal funds.

"(11) An insurer that is subject to this section shall make readily accessible to enrollees and potential enrollees, in a consumer-friendly format, information about the coverage of contraceptives by each health benefit plan and the coverage of other services, drugs, devices, products and procedures described in this section. The insurer must provide the information:

"(a) On the insurer's website; and

"(b) In writing upon request by an enrollee or potential enrollee.

"(12) This section does not prohibit an insurer from using reasonable medical management techniques to determine the frequency, method, treatment or setting for the coverage of services, drugs, devices, products and procedures described in subsection (2) of this section, other than coverage required by subsection (2)(g) and (j) of this section, if the techniques:

"(a) Are consistent with the coverage requirements of subsection (2) of this section; and

"(b) Do not result in the wholesale or indiscriminate denial of coverage for a service.

"**(13) This section is exempt from ORS 743A.001.**

"**TELEMEDICINE**

"SECTION 13. Section 14 of this 2022 Act is added to and made a part of ORS chapter 677.

"SECTION 14. (1) As used in this section, 'telemedicine' means the provision of health care services to a patient by a physician or physician assistant from a distance using electronic communications, including synchronous technologies to facilitate an exchange of information between a patient and physician or physician assistant in real time or asynchronous technologies to facilitate an exchange of information between a patient and a physician or physician assistant in other than real time.

"(2) A physician licensed under ORS 677.100 to 677.228, a physician assistant licensed under ORS 677.505 to 677.525 or a physician or physician assistant licensed under ORS 677.139 may use telemedicine to provide health care services, including the establishment of a patient-provider relationship, the diagnosis or treatment of a medical condition or the prescription of drugs, to a patient physically located in this

state. The physician or physician assistant is not required to be physically located in this state when providing health care services through telemedicine.

"SECTION 15. ORS 442.015 is amended to read:

"442.015. As used in ORS chapter 441 and this chapter, unless the context requires otherwise:

"(1) 'Acquire' or 'acquisition' means obtaining equipment, supplies, components or facilities by any means, including purchase, capital or operating lease, rental or donation, for the purpose of using such equipment, supplies, components or facilities to provide health services in Oregon. When equipment or other materials are obtained outside of this state, acquisition is considered to occur when the equipment or other materials begin to be used in Oregon for the provision of health services or when such services are offered for use in Oregon.

"(2) 'Affected persons' has the same meaning as given to 'party' in ORS 183.310.

"(3)(a) 'Ambulatory surgical center' means a facility or portion of a facility that operates exclusively for the purpose of providing surgical services to patients who do not require hospitalization and for whom the expected duration of services does not exceed 24 hours following admission.

"(b) 'Ambulatory surgical center' does not mean:

"(A) Individual or group practice offices of private physicians or dentists that do not contain a distinct area used for outpatient surgical treatment on a regular and organized basis, or that only provide surgery routinely provided in a physician's or dentist's office using local anesthesia or conscious sedation; or

"(B) A portion of a licensed hospital designated for outpatient surgical treatment.

"(4) 'Delegated credentialing agreement' means a written agreement between an originating-site hospital and a distant-site hospital that provides

that the medical staff of the originating-site hospital will rely upon the credentialing and privileging decisions of the distant-site hospital in making recommendations to the governing body of the originating-site hospital as to whether to credential a telemedicine provider, practicing at the distant-site hospital either as an employee or under contract, to provide telemedicine services to patients in the originating-site hospital.

"(5) 'Develop' means to undertake those activities that on their completion will result in the offer of a new institutional health service or the incurring of a financial obligation, as defined under applicable state law, in relation to the offering of such a health service.

"(6) 'Distant-site hospital' means the hospital where a telemedicine provider, at the time the telemedicine provider is providing telemedicine services, is practicing as an employee or under contract.

"(7) 'Expenditure' or 'capital expenditure' means the actual expenditure, an obligation to an expenditure, lease or similar arrangement in lieu of an expenditure, and the reasonable value of a donation or grant in lieu of an expenditure but not including any interest thereon.

"(8) 'Extended stay center' means a facility licensed in accordance with ORS 441.026.

"(9) 'Freestanding birthing center' means a facility licensed for the primary purpose of performing low risk deliveries.

"(10) 'Governmental unit' means the state, or any county, municipality or other political subdivision, or any related department, division, board or other agency.

"(11) 'Gross revenue' means the sum of daily hospital service charges, ambulatory service charges, ancillary service charges and other operating revenue. 'Gross revenue' does not include contributions, donations, legacies or bequests made to a hospital without restriction by the donors.

"(12)(a) 'Health care facility' means:

"(A) A hospital;

"(B) A long term care facility;

"(C) An ambulatory surgical center;

"(D) A freestanding birthing center;

"(E) An outpatient renal dialysis facility; or

"(F) An extended stay center.

"(b) 'Health care facility' does not mean:

"(A) A residential facility licensed by the Department of Human Services or the Oregon Health Authority under ORS 443.415;

"(B) An establishment furnishing primarily domiciliary care as described in ORS 443.205;

"(C) A residential facility licensed or approved under the rules of the Department of Corrections;

"(D) Facilities established by ORS 430.335 for treatment of substance abuse disorders; or

"(E) Community mental health programs or community developmental disabilities programs established under ORS 430.620.

"(13) 'Health maintenance organization' or 'HMO' means a public organization or a private organization organized under the laws of any state that:

"(a) Is a qualified HMO under section 1310(d) of the U.S. Public Health Services Act; or

"(b)(A) Provides or otherwise makes available to enrolled participants health care services, including at least the following basic health care services:

"(i) Usual physician services;

"(ii) Hospitalization;

"(iii) Laboratory;

"(iv) X-ray;

"(v) Emergency and preventive services; and

"(vi) Out-of-area coverage;

"(B) Is compensated, except for copayments, for the provision of the basic

health care services listed in subparagraph (A) of this paragraph to enrolled participants on a predetermined periodic rate basis; and

"(C) Provides physicians' services primarily directly through physicians who are either employees or partners of such organization, or through arrangements with individual physicians or one or more groups of physicians organized on a group practice or individual practice basis.

"(14) 'Health services' means clinically related diagnostic, treatment or rehabilitative services, and includes alcohol, drug or controlled substance abuse and mental health services that may be provided either directly or indirectly on an inpatient or ambulatory patient basis.

"(15) 'Hospital' means:

"(a) A facility with an organized medical staff and a permanent building that is capable of providing 24-hour inpatient care to two or more individuals who have an illness or injury and that provides at least the following health services:

"(A) Medical;

"(B) Nursing;

"(C) Laboratory;

"(D) Pharmacy; and

"(E) Dietary; or

"(b) A special inpatient care facility as that term is defined by the authority by rule.

"(16) 'Institutional health services' means health services provided in or through health care facilities and the entities in or through which such services are provided.

"(17) 'Intermediate care facility' means a facility that provides, on a regular basis, health-related care and services to individuals who do not require the degree of care and treatment that a hospital or skilled nursing facility is designed to provide, but who because of their mental or physical condition require care and services above the level of room and board that can be made

available to them only through institutional facilities.

"(18)(a) 'Long term care facility' means a permanent facility with inpatient beds, providing:

"(A) Medical services, including nursing services but excluding surgical procedures except as may be permitted by the rules of the Director of Human Services; and

"(B) Treatment for two or more unrelated patients.

"(b) 'Long term care facility' includes skilled nursing facilities and intermediate care facilities but does not include facilities licensed and operated pursuant to ORS 443.400 to 443.455.

"(19) 'New hospital' means:

"(a) A facility that did not offer hospital services on a regular basis within its service area within the prior 12-month period and is initiating or proposing to initiate such services; or

"(b) Any replacement of an existing hospital that involves a substantial increase or change in the services offered.

"(20) 'New skilled nursing or intermediate care service or facility' means a service or facility that did not offer long term care services on a regular basis by or through the facility within the prior 12-month period and is initiating or proposing to initiate such services. 'New skilled nursing or intermediate care service or facility' also includes the rebuilding of a long term care facility, the relocation of buildings that are a part of a long term care facility, the relocation of long term care beds from one facility to another or an increase in the number of beds of more than 10 or 10 percent of the bed capacity, whichever is the lesser, within a two-year period.

"(21) 'Offer' means that the health care facility holds itself out as capable of providing, or as having the means for the provision of, specified health services.

"(22) 'Originating-site hospital' means a hospital in which a patient is located while receiving telemedicine services.

"(23) 'Outpatient renal dialysis facility' means a facility that provides renal dialysis services directly to outpatients.

"(24) 'Person' means an individual, a trust or estate, a partnership, a corporation (including associations, joint stock companies and insurance companies), a state, or a political subdivision or instrumentality, including a municipal corporation, of a state.

"(25) 'Skilled nursing facility' means a facility or a distinct part of a facility, that is primarily engaged in providing to inpatients skilled nursing care and related services for patients who require medical or nursing care, or an institution that provides rehabilitation services for the rehabilitation of individuals who are injured or sick or who have disabilities.

"(26) 'Telemedicine' means the provision of health services to patients by physicians and health care practitioners from a distance using electronic communications**, including synchronous technologies to facilitate an exchange of information between a patient and physician or health care practitioner in real time or asynchronous technologies to facilitate an exchange of information between a patient and a physician or health care practitioner in other than real time**.

"SECTION 16. ORS 677.135 is amended to read:

"677.135. As used in ORS 677.135 to 677.141, 'the practice of medicine across state lines' means:

"(1) The rendering directly to a person of a written or otherwise documented medical opinion concerning the diagnosis or treatment of that person located within this state for the purpose of patient care by a physician or physician assistant located outside this state as a result of the transmission of individual patient data by [*electronic or other means*] **telemedicine, as defined in section 14 of this 2022 Act,** from within this state to that physician, the physician's agent or a physician assistant; or

"(2) The rendering of medical treatment directly to a person located within this state by a physician or a physician assistant located outside this

state as a result of the outward transmission of individual patient data by [*electronic or other means*] **telemedicine** from within this state to that physician, the physician's agent or a physician assistant.

"TELEPHARMACY

"SECTION 17. Section 18 of this 2022 Act is added to and made a part of ORS chapter 689.

"SECTION 18. (1) A pharmacist, pharmacy technician or intern, or an individual similarly licensed or otherwise authorized by another state, who is contracted or employed by a pharmacy may access the pharmacy's electronic database regardless of whether the pharmacist, pharmacy technician or intern or other individual described in this subsection is physically located inside the pharmacy if:

"(a) The pharmacy has established standards and controls to protect the confidentiality and integrity of any patient information contained in the electronic database when the electronic database is accessed from inside the pharmacy or remotely; and

"(b) No information from the electronic database is duplicated, downloaded or removed from the electronic database when the electronic database is accessed remotely.

"(2) The State Board of Pharmacy may adopt rules to carry out this section. In adopting rules under this subsection, the board may not establish standards for the remote access of a pharmacy's electronic database that are more restrictive than standards for accessing the electronic database from inside the pharmacy. This subsection may not be construed to limit the authority of the board to adopt rules to require compliance with any applicable federal law.

"SECTION 19. ORS 689.700 is amended to read:

"689.700. (1) As used in this section, 'telepharmacy' means the delivery

of pharmacy services by a pharmacist, through the use of a variety of electronic and telecommunications technologies, to a patient at a remote location staffed by a pharmacy technician.

"(2) The pharmacy services for which a pharmacist may use telepharmacy include the supervision of the dispensation of prescription drugs to a patient.

"(3) The remote location at which a patient receives pharmacy services through the use of telepharmacy must be affiliated with the pharmacy where the pharmacist providing the pharmacy services through telepharmacy regularly engages in the practice of pharmacy.

"(4)**(a)** The State Board of Pharmacy shall adopt rules to carry out this section. The rules adopted under this section must include rules:

"[*(a)*] **(A)** Regarding remote supervision of a pharmacy technician in order to facilitate the use of telepharmacy; and

"[*(b)*] **(B)** Describing the pharmacy services that a pharmacist may provide through telepharmacy.

"**(b) In adopting rules under this section, the board may not establish standards for telepharmacy that are more restrictive than standards for the delivery of in-person pharmacy services, including standards regarding prescription and dispensation of drugs. This paragraph may not be construed to limit the authority of the board to adopt rules to require compliance with any applicable federal law.**

"**SCHOOL-BASED HEALTH SERVICES**

"SECTION 20. Section 1, chapter 619, Oregon Laws 2021, is amended to read:

"**Sec. 1.** (1) As used in this section:

"(a) 'School-based health center' has the meaning given that term in ORS 413.225.

"(b) 'School nurse model' means a model for providing school-based health

services that is in accord with guidance from the division of the Oregon Health Authority that addresses adolescent health.

"(2) The authority, in consultation with the Department of Education, shall select **up to** 10 school districts or education service districts to receive planning grants for district planning and technical assistance. Each district receiving a grant, beginning on or after July 1, 2021, and concluding before July 1, 2023, shall:

"(a) Evaluate the need for school-based health services in their respective communities; and

"(b) Develop a school-based health services plan that addresses the need identified in paragraph (a) of this subsection.

"(3) The authority shall contract with a nonprofit organization with experience in facilitating school health planning initiatives and supporting school-based health centers to facilitate and oversee the planning process and to provide technical assistance to grantees to reduce costs and ensure better coordination and continuity statewide. To the greatest extent practicable, the nonprofit organization shall engage with culturally specific organizations, in the grantees' communities, that have experience providing culturally and linguistically specific services in schools or after-school programs.

"(4) Each grantee shall solicit community participation in the planning process, including the participation of the local public health authority, any federally qualified health centers located in the district, a regional health equity coalition, if any, serving the district and every coordinated care organization with members residing in the district.

"(5) At the conclusion of the two-year planning process each grantee shall receive funding to operate a school-based health center or school nurse model in each respective grantee school district or education service district.

"SECTION 21. Section 2, chapter 619, Oregon Laws 2021, is amended to read:

"**Sec. 2.** (1) As used in this section, 'mobile school-linked health center' means a mobile medical van that:

"(a) Provides primary care services, and may provide other services, to children on or near school grounds by licensed or certified health care providers; and

"(b) Is sponsored by a school district or an [*educational*] **education** service district.

"(2) The Oregon Health Authority shall develop grant requirements and ongoing operations criteria for mobile school-linked health centers and may award up to [*three*] **four** grants to school districts or education service districts for planning, technical assistance and operations to implement a mobile school-linked health center.

"(3) A mobile school-linked health center operated using grants provided under this section shall comply with the billing, electronic medical records and data reporting requirements established for grantees under section 1 (5), chapter 601, Oregon Laws 2019, but is not subject to the school-based certification requirements or funding formulas established for school-based health centers under ORS 413.225.

"SECTION 22. Section 5, chapter 619, Oregon Laws 2021, is amended to read:

"**Sec. 5.** There is appropriated to the Oregon Health Authority, for the biennium beginning July 1, 2021, out of the General Fund, the amount of $2,555,000 to be used as follows:

"[*(1) $995,000 for grants to school districts or education service districts and for technical assistance under section 1 of this 2021 Act.*]

"[*(2) $285,000 for grants to school districts and education service districts under section 2 of this 2021 Act.*]

"[*(3) $975,000 for grants and technical assistance to school-based health centers under section 3 of this 2021 Act.*]

"**(1) $2,255,000 to be used for the grants described in sections 1 to 3,**

chapter 619, Oregon Laws 2021.

"[*(4)*] **(2)** $300,000 for the costs of the authority in carrying out sections 1 to 3 [*of this 2021 Act*]**, chapter 619, Oregon Laws 2021**.

"**PHARMACY**

"SECTION 23. Section 24 of this 2022 Act is added to and made a part of ORS chapter 689.

"SECTION 24. (1) As used in this section, 'final verification' means, after prescription information is entered into a pharmacy's electronic system and reviewed by a pharmacist for accuracy, a physical verification that the drug and drug dosage, device or product selected from a pharmacy's inventory pursuant to the electronic system entry is the prescribed drug and drug dosage, device or product.

"(2) A pharmacist may delegate, and a pharmacy technician may perform under the supervision of the pharmacist, final verification. In delegating final verification under this section, a pharmacist shall use the pharmacist's reasonable professional judgment and shall ensure that the final verification does not require the exercise of discretion by the pharmacy technician.

"(3) The State Board of Pharmacy may adopt rules to carry out this section. In adopting rules under this section, the board may not impose standards or requirements stricter than those specified in this section.

"SECTION 25. ORS 689.005 is amended to read:

"689.005. As used in this chapter:

"(1) 'Administer' means the direct application of a drug or device whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

"(a) A practitioner or the practitioner's authorized agent; or

"(b) The patient or research subject at the direction of the practitioner.

"(2) 'Approved continuing pharmacy education program' means those seminars, classes, meetings, workshops and other educational programs on the subject of pharmacy approved by the board.

"(3) 'Board of pharmacy' or 'board' means the State Board of Pharmacy.

"(4) 'Clinical pharmacy agreement' means an agreement between a pharmacist or pharmacy and a health care organization or a physician as defined in ORS 677.010 or a naturopathic physician as defined in ORS 685.010 that permits the pharmacist to engage in the practice of clinical pharmacy for the benefit of the patients of the health care organization, physician or naturopathic physician.

"(5) 'Continuing pharmacy education' means:

"(a) Professional, pharmaceutical post-graduate education in the general areas of socio-economic and legal aspects of health care;

"(b) The properties and actions of drugs and dosage forms; and

"(c) The etiology, characteristics and therapeutics of the disease state.

"(6) 'Continuing pharmacy education unit' means the unit of measurement of credits for approved continuing education courses and programs.

"(7) 'Deliver' or 'delivery' means the actual, constructive or attempted transfer of a drug or device other than by administration from one person to another, whether or not for a consideration.

"(8) 'Device' means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent or other similar or related article, including any component part or accessory, which is required under federal or state law to be prescribed by a practitioner and dispensed by a pharmacist.

"(9) 'Dispense' or 'dispensing' means the preparation and delivery of a prescription drug pursuant to a lawful order of a practitioner in a suitable container appropriately labeled for subsequent administration to or use by a patient or other individual entitled to receive the prescription drug.

"(10) 'Distribute' means the delivery of a drug other than by administering or dispensing.

"(11) 'Drug' means:

"(a) Articles recognized as drugs in the official United States Pharmacopoeia, official National Formulary, official Homeopathic Pharmacopoeia, other drug compendium or any supplement to any of them;

"(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in a human or other animal;

"(c) Articles, other than food, intended to affect the structure or any function of the body of humans or other animals; and

"(d) Articles intended for use as a component of any articles specified in paragraph (a), (b) or (c) of this subsection.

"(12) 'Drug order' means a written order, in a hospital or other inpatient care facility, for an ultimate user of any drug or device issued and signed by a practitioner, or an order transmitted by other means of communication from a practitioner, that is immediately reduced to writing by a pharmacist, licensed nurse or other practitioner.

"(13) 'Drug outlet' means a pharmacy, nursing home, shelter home, convalescent home, extended care facility, drug abuse treatment center, penal institution, hospital, family planning clinic, student health center, retail store, wholesaler, manufacturer, mail-order vendor or other establishment with facilities located within or out of this state that is engaged in dispensing, delivery or distribution of drugs within this state.

"(14) 'Drug room' means a secure and lockable location within an inpatient care facility that does not have a licensed pharmacy.

"(15) 'Electronically transmitted' or 'electronic transmission' means a communication sent or received through technological apparatuses, including computer terminals or other equipment or mechanisms linked by telephone or microwave relays, or similar apparatus having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

"(16) 'Injectable hormonal contraceptive' means a drug composed of a hormone or a combination of hormones that is approved by the United States Food and Drug Administration to prevent pregnancy and that a health care practitioner administers to the patient by injection.

"(17) 'Institutional drug outlet' means hospitals and inpatient care facilities where medications are dispensed to another health care professional for administration to patients served by the hospitals or facilities.

"(18) 'Intern' means a person who is enrolled in or has completed a course of study at a school or college of pharmacy approved by the board and who is licensed with the board as an intern.

"(19) 'Internship' means a professional experiential program approved by the board under the supervision of a licensed pharmacist registered with the board as a preceptor.

"(20) 'Itinerant vendor' means a person who sells or distributes nonprescription drugs by passing from house to house, or by haranguing the people on the public streets or in public places, or who uses the customary devices for attracting crowds, recommending their wares and offering them for sale.

"(21) 'Labeling' means the process of preparing and affixing of a label to any drug container exclusive, however, of the labeling by a manufacturer, packer or distributor of a nonprescription drug or commercially packaged legend drug or device.

"(22) 'Manufacture' means the production, preparation, propagation, compounding, conversion or processing of a device or a drug, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substances or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a drug by an individual for their own use or the preparation, compounding, packaging or labeling of a

drug:

"(a) By a practitioner as an incident to administering or dispensing of a drug in the course of professional practice; or

"(b) By a practitioner or by the practitioner's authorization under supervision of the practitioner for the purpose of or as an incident to research, teaching or chemical analysis and not for sale.

"(23) 'Manufacturer' means a person engaged in the manufacture of drugs.

"(24) 'Nonprescription drug outlet' means shopkeepers and itinerant vendors registered under ORS 689.305.

"(25) 'Nonprescription drugs' means drugs which may be sold without a prescription and which are prepackaged for use by the consumer and labeled in accordance with the requirements of the statutes and regulations of this state and the federal government.

"(26) 'Person' means an individual, corporation, partnership, association or other legal entity.

"(27) 'Pharmacist' means an individual licensed by this state to engage in the practice of pharmacy or to engage in the practice of clinical pharmacy.

"(28) 'Pharmacy' means a place that meets the requirements of rules of the board, is licensed and approved by the board where the practice of pharmacy may lawfully occur and includes apothecaries, drug stores, dispensaries, hospital outpatient pharmacies, pharmacy departments and prescription laboratories but does not include a place used by a manufacturer or wholesaler.

"(29) 'Pharmacy technician' means a person licensed by the State Board of Pharmacy who assists [*the pharmacist*] in the practice of pharmacy pursuant to rules of the board.

"(30) 'Practice of clinical pharmacy' means:

"(a) The health science discipline in which, in conjunction with the patient's other practitioners, a pharmacist provides patient care to optimize medication therapy and to promote disease prevention and the patient's

health and wellness;

"(b) The provision of patient care services, including but not limited to post-diagnostic disease state management services; and

"(c) The practice of pharmacy by a pharmacist pursuant to a clinical pharmacy agreement.

"(31) 'Practice of pharmacy' means:

"(a) The interpretation and evaluation of prescription orders;

"(b) The compounding, dispensing and labeling of drugs and devices, except labeling by a manufacturer, packer or distributor of nonprescription drugs and commercially packaged legend drugs and devices;

"(c) The prescribing and administering of vaccines and immunizations and the providing of patient care services pursuant to ORS 689.645;

"(d) The administering of drugs and devices to the extent permitted under ORS 689.655;

"(e) The participation in drug selection and drug utilization reviews;

"(f) The proper and safe storage of drugs and devices and the maintenance of proper records regarding the safe storage of drugs and devices;

"(g) The responsibility for advising, where necessary or where regulated, of therapeutic values, content, hazards and use of drugs and devices;

"(h) The monitoring of therapeutic response or adverse effect to drug therapy;

"(i) The optimizing of drug therapy through the practice of clinical pharmacy;

"(j) Patient care services, including medication therapy management and comprehensive medication review;

"(k) The offering or performing of those acts, services, operations or transactions necessary in the conduct, operation, management and control of pharmacy;

"(L) The prescribing and administering of injectable hormonal contraceptives and the prescribing and dispensing of self-administered

hormonal contraceptives pursuant to ORS 689.689;

"(m) The prescribing and dispensing of emergency refills of insulin and associated insulin-related devices and supplies pursuant to ORS 689.696; [*and*]

"(n) The prescribing, dispensing and administering of preexposure prophylactic antiretroviral therapies and post-exposure prophylactic antiretroviral therapies, pursuant to ORS 689.704 and rules adopted by the board under ORS 689.645 and 689.704[.]**; and**

"(o) The delegation of tasks to other health care providers who are appropriately trained and authorized to perform the delegated tasks.

"(32) 'Practitioner' means a person licensed and operating within the scope of such license to prescribe, dispense, conduct research with respect to or administer drugs in the course of professional practice or research:

"(a) In this state; or

"(b) In another state or territory of the United States if the person does not reside in Oregon and is registered under the federal Controlled Substances Act.

"(33) 'Preceptor' means a pharmacist or a person licensed by the board to supervise the internship training of a licensed intern.

"(34) 'Prescription drug' or 'legend drug' means a drug which is:

"(a) Required by federal law, prior to being dispensed or delivered, to be labeled with either of the following statements:

"(A) 'Caution: Federal law prohibits dispensing without prescription'; or

"(B) 'Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian'; or

"(b) Required by any applicable federal or state law or regulation to be dispensed on prescription only or is restricted to use by practitioners only.

"(35) 'Prescription' or 'prescription drug order' means a written, oral or electronically transmitted direction, given by a practitioner authorized to prescribe drugs, for the preparation and use of a drug. When the context

requires, 'prescription' also means the drug prepared under such written, oral or electronically transmitted direction.

"(36) 'Retail drug outlet' means a place used for the conduct of the retail sale, administering or dispensing or compounding of drugs or chemicals or for the administering or dispensing of prescriptions and licensed by the board as a place where the practice of pharmacy may lawfully occur.

"(37) 'Self-administered hormonal contraceptive' means a drug composed of a hormone or a combination of hormones that is approved by the United States Food and Drug Administration to prevent pregnancy and that the patient to whom the drug is prescribed may administer to oneself. 'Self-administered hormonal contraceptive' includes, but is not limited to, hormonal contraceptive patches and hormonal contraceptive pills.

"(38) 'Shopkeeper' means a business or other establishment, open to the general public, for the sale or nonprofit distribution of drugs.

"(39) 'Unit dose' means a sealed single-unit container so designed that the contents are administered to the patient as a single dose, direct from the container. Each unit dose container must bear a separate label, be labeled with the name and strength of the medication, the name of the manufacturer or distributor, an identifying lot number and, if applicable, the expiration date of the medication.

"(40) 'Wholesale drug outlet' means a person who imports, stores, distributes or sells for resale drugs, including legend drugs and nonprescription drugs.

"SECTION 26. ORS 689.225 is amended to read:

"689.225. (1) A person may not engage in the practice of pharmacy unless the person is licensed under this chapter. Nothing in this section prevents physicians, dentists, veterinarians or other practitioners of the healing arts who are licensed under the laws of this state from dispensing and administering prescription drugs to their patients in the practice of their respective professions where specifically authorized to do so by law of this state.

"(2) A person may not take, use or exhibit the title of pharmacist or the title of druggist or apothecary, or any other title or description of like import unless the person is licensed to practice pharmacy under this chapter.

"(3) A pharmacist may not possess personally or store drugs other than in a licensed pharmacy except for those drugs legally prescribed for the personal use of the pharmacist or when the pharmacist possesses or stores the drugs in the usual course of business and within the pharmacist's scope of practice. An employee, agent or owner of any registered manufacturer, wholesaler or pharmacy may lawfully possess legend drugs if the person is acting in the usual course of the business or employment of the person.

"(4) The State Board of Pharmacy shall adopt rules relating to the use of pharmacy technicians [*working under the supervision, direction and control of a pharmacist*]. For retail and institutional drug outlets, the board shall adopt rules [*which*] **that** include requirements for training, including provisions for appropriate on-the-job training, guidelines for adequate supervision, standards and appropriate ratios for the use of pharmacy technicians. Improper use of pharmacy technicians is subject to the reporting requirements of ORS 689.455.

"(5) The mixing of intravenous admixtures by pharmacy technicians working under the supervision, direction and control of a pharmacist is authorized and does not constitute the practice of pharmacy by the pharmacy technicians.

"(6) Any person who is found to have unlawfully engaged in the practice of pharmacy is guilty of a Class A misdemeanor.

"**CAPTIONS**

"SECTION 27. The unit captions used in this 2022 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the

enactment of this 2022 Act.

"**EFFECTIVE DATE**

"**SECTION 28. 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.**".
