

B-Engrossed House Bill 2395

Ordered by the Senate June 21
Including House Amendments dated February 27 and Senate Amendments
dated June 21

Sponsored by Representatives DEXTER, BYNUM, GRAYBER, HIEB, REYNOLDS, Senators JAMA, PATTERSON, STEINER; Representatives ANDERSEN, BOWMAN, CHAICHI, EVANS, FAHEY, GAMBA, HARTMAN, HOLVEY, HUDSON, JAVADI, KROPF, MARSH, NELSON, NERON, NOSSE, PHAM H, PHAM K, RUIZ, TRAN, WALTERS, Senators FREDERICK, GELSER BLOUIN, LIEBER, SOLLMAN, TAYLOR (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Allows specified persons to distribute and administer short-acting opioid antagonist and distribute kits. Defines "kit" and "short-acting opioid antagonist." Allows pharmacist to prescribe kit. Allows Public Health Officer or physician employed by Oregon Health Authority to issue standing order to prescribe kit to specified persons, and allows person that obtained kit to possess, store, deliver or distribute kit and administer short-acting opioid antagonist. Provides that person is immune from criminal and civil liability when acting in good faith.

Allows owner of building or facility to which public has legal access to store kits for use by member of public. Provides that building or facility owner and staff are immune from criminal and civil liability related to use of kit stored in building or facility.

Directs State Board of Education to adopt rules for administration of short-acting opioid antagonist to any individual on school premises. **Directs school district board to provide to parents or legal guardians of minor students specified information about short-acting opioid antagonists. Requires school district board to ensure parent or legal guardian of minor student is immediately notified when short-acting opioid antagonist is administered to student.** Allows school administrator, teacher or other school employee to administer, without written permission and instruction from parent or guardian, short-acting opioid antagonist to student who experienced or is experiencing opioid overdose. *[Provides criminal and civil immunity for school administrator, teacher, other school employee, school district and members of school district board for actions related to administration of short-acting opioid antagonist.]* **Prohibits person from maintaining action for injury, death or loss against school administrator, teacher, other school employee, school district or member of school district board resulting from certain administration of short-acting opioid antagonist except if person administering short-acting opioid antagonist was grossly negligent. Removes protection for school administrator, school nurse, teacher, other school employee, school district and members of school district board from criminal or civil liability for administration of short-acting opioid antagonist.**

[Allows minor to obtain outpatient diagnosis or treatment of substance use disorder by mental health care provider without parental knowledge or consent. Provides that mental health care provider is immune from civil liability for diagnosis or treatment.]

Prohibits providing single-use drug test strips or drug testing tools to minor under 15 years of age unless strips or tools are part of minor's substance use disorder treatment and provided by mental health care provider. Exempts from definition of "drug paraphernalia" certain items designed to prevent or reduce potential harm associated with use of controlled substances. **Prohibits selling or giving pipe to minor unless minor demonstrates lawful need for pipe and obtains parental consent to possess pipe. Defines "pipe."**

[Allows administrator of Oregon Prescription Drug Program to undertake bulk purchases of short-acting opioid antagonists.]

Requires Oregon Health Authority to provide guidance for communication among local mental health authorities related to certain deaths. Directs district medical examiner or medical-legal death investigator to notify local mental health authority if death of individual is suspected to be result of opioid or other overdose.

Declares emergency, effective on passage.

1

A BILL FOR AN ACT

2 Relating to substance use; creating new provisions; amending ORS 146.100, 339.867, 339.869, 339.870,

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 339.871, 430.389, 431A.855, 431A.865, 475.525, 475.744, 689.681, 689.682, 689.684 and 689.686; re-
2 pealing section 7a, chapter ___, Oregon Laws 2023 (Enrolled House Bill 2421); and declaring an
3 emergency.

4 Whereas the residents of the State of Oregon acknowledge that the opioid crisis in which we
5 see ourselves is the result of a complex set of political, economic and societal factors emanating
6 from policy and systemic decisions going back decades; and

7 Whereas the residents of this state acknowledge the need to act quickly to prevent more un-
8 necessary loss of life; and

9 Whereas the residents of this state acknowledge that a multipronged approach focused on sub-
10 stance use prevention, harm reduction and treatment must be adopted; and

11 Whereas the residents of this state acknowledge the need to make data-driven and scientifically
12 based decisions when possible; and

13 Whereas the residents of this state acknowledge that drug use does not define a person and we
14 must remember to act courageously and compassionately; and

15 Whereas the residents of this state acknowledge that we must make conscious efforts to mini-
16 mize and remove stigma around substance use treatment; and

17 Whereas the Legislative Assembly created the Opioid Settlement Prevention, Treatment and
18 Recovery Board and tasked the board with allocating funds from the Opioid Settlement Prevention,
19 Treatment and Recovery Fund to support access to harm reduction, drug treatment and opioid data;
20 now, therefore,

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

22
23 **SHORT-ACTING OPIOID ANTAGONISTS**

24
25 **SECTION 1.** ORS 689.681 is amended to read:

26 689.681. (1) As used in this section:

27 (a) “Kit” means a [*dose of naloxone*] **package of one or more doses of a short-acting opioid**
28 **antagonist** and the necessary medical supplies to administer the [*naloxone*] **short-acting opioid**
29 **antagonist.**

30 [(b) “Opiate” means a narcotic drug that contains:]

31 [(A) *Opium*;

32 [(B) *Any chemical derivative of opium*; or]

33 [(C) *Any synthetic or semisynthetic drug with opium-like effects.*]

34 [(c) “Opiate overdose” means a medical condition that causes depressed consciousness and mental
35 functioning, decreased movement, depressed respiratory function and the impairment of the vital func-
36 tions as a result of ingesting opiates in an amount larger than can be physically tolerated.]

37 (b) “Opioid” means a natural, synthetic or semisynthetic chemical that interacts with
38 opioid receptors on nerve cells in the body and brain to reduce the intensity of pain signals
39 and feelings of pain.

40 (c) “Opioid overdose” means a medical condition that causes depressed consciousness,
41 depressed respiratory function or the impairment of vital bodily functions as a result of
42 ingesting opioids.

43 (d) “Short-acting opioid antagonist” means any short-acting drug approved by the United
44 States Food and Drug Administration for the complete or partial reversal of an opioid over-
45 dose.

1 (2) Notwithstanding any other provision of law, a pharmacy, a health care professional *[or]*, a
2 pharmacist with prescription and dispensing privileges, **a law enforcement officer, a firefighter,**
3 **an emergency medical services provider** or any other person designated by the State Board of
4 Pharmacy by rule may:

5 (a) Distribute and administer *[naloxone]* **a short-acting opioid antagonist** and distribute the
6 necessary medical supplies to administer the *[naloxone]* **short-acting opioid antagonist**;

7 (b) **Distribute multiple kits to:**

8 (A) **An individual who has experienced an opioid overdose or is likely to experience an**
9 **opioid overdose;**

10 (B) **Family members of an individual described in subparagraph (A) of this paragraph; and**

11 (C) **Any other individual who requests one or more kits; and**

12 (c) *[The pharmacy, health care professional or pharmacist may also]* Distribute multiple kits to
13 social service agencies under ORS 689.684 or to other persons who work with individuals who have
14 experienced an *[opiate overdose]* **opioid overdose**. The social services agencies or other persons may
15 redistribute the kits to individuals likely to experience an *[opiate overdose]* **opioid overdose** or to
16 family members of the individuals.

17 (3)(a) A person acting in good faith, if the act does not constitute wanton misconduct, is immune
18 from **criminal and** civil liability for any act or omission of an act committed during the course of
19 distributing and administering *[naloxone]* **a short-acting opioid antagonist** and distributing the
20 necessary medical supplies to administer the *[naloxone]* **short-acting opioid antagonist** under this
21 section.

22 (b) **A person acting in good faith is immune from criminal and civil liability for the**
23 **person's failure or refusal to distribute or administer a short-acting opioid antagonist or**
24 **distribute the necessary medical supplies to administer a short-acting opioid antagonist un-**
25 **der this section, if the person's failure or refusal does not constitute wanton misconduct.**

26 **SECTION 2.** ORS 689.682 is amended to read:

27 689.682. (1) **As used in this section:**

28 (a) **"Opioid" means a natural, synthetic or semisynthetic chemical that interacts with**
29 **opioid receptors on nerve cells in the body and brain to reduce the intensity of pain signals**
30 **and feelings of pain.**

31 (b) **"Opioid overdose" means a medical condition that causes depressed consciousness,**
32 **depressed respiratory function or the impairment of vital bodily functions as a result of**
33 **ingesting opioids.**

34 (c) **"Short-acting opioid antagonist" means any short-acting drug approved by the United**
35 **States Food and Drug Administration for the complete or partial reversal of an opioid over-**
36 **dose.**

37 *[(1)]* (2) In accordance with rules adopted by the State Board of Pharmacy under ORS 689.205,
38 a pharmacist may prescribe *[naloxone]* **a short-acting opioid antagonist** and the necessary medical
39 supplies to administer the *[naloxone]* **short-acting opioid antagonist**.

40 *[(2)]* (3) If a prescription is presented to a pharmacist for dispensing an opiate or opioid in ex-
41 cess of a morphine equivalent dose established by rule by the board, the pharmacist may offer to
42 prescribe and provide, in addition to the prescribed opiate or opioid, a *[naloxone kit consisting of a*
43 *dose of naloxone]* **short-acting opioid antagonist** and the necessary medical supplies to administer
44 the *[naloxone]* **short-acting opioid antagonist**.

45 **SECTION 3.** ORS 689.684 is amended to read:

1 689.684. (1) For purposes of this section, “social services agency” includes, but is not limited to,
2 homeless shelters and crisis centers.

3 (2) A person may administer to an individual [*naloxone*] **a short-acting opioid antagonist, as**
4 **defined in ORS 689.681**, that was not distributed to the person if:

5 (a) The individual to whom the [*naloxone*] **short-acting opioid antagonist** is being administered
6 appears to be experiencing an [*opiate overdose*] **opioid overdose** as defined in ORS 689.681; and

7 (b) The person who administers the [*naloxone*] **short-acting opioid antagonist** is an employee
8 of a social services agency or is trained under rules adopted by the State Board of Education pur-
9 suant to ORS 339.869.

10 (3) For the purposes of protecting public health and safety, the Oregon Health Authority may
11 adopt rules for the administration of [*naloxone*] **short-acting opioid antagonists** by employees of
12 a social services agency under this section.

13 **SECTION 4.** ORS 689.686 is amended to read:

14 689.686. (1) A retail or hospital outpatient pharmacy shall provide written notice in a conspicu-
15 ous manner that [*naloxone*] **a short-acting opioid antagonist, as defined in ORS 689.681**, and the
16 necessary medical supplies to administer [*naloxone*] **the short-acting opioid antagonist** are avail-
17 able at the pharmacy.

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

19 **SECTION 5.** (1) **The amendments to ORS 689.681, 689.682, 689.684 and 689.686 by sections**
20 **1 to 4 of this 2023 Act become operative on January 1, 2024.**

21 (2) **The State Board of Pharmacy may take any action before the operative date specified**
22 **in subsection (1) of this section that is necessary to enable the board to exercise, on and**
23 **after the operative date specified in subsection (1) of this section, all of the duties, functions**
24 **and powers conferred on the board by the amendments to ORS 689.681, 689.682, 689.684 and**
25 **689.686 by sections 1 to 4 of this 2023 Act.**

26
27 **STANDING ORDERS**
28

29 **SECTION 6.** Sections 7 and 8 of this 2023 Act are added to and made a part of ORS
30 chapter 689.

31 **SECTION 7.** (1) As used in this section, “opioid,” “opioid overdose” and “short-acting
32 opioid antagonist” have the meanings given those terms in ORS 689.681.

33 (2)(a) **The Public Health Officer appointed under ORS 431.045, or a physician licensed**
34 **under ORS chapter 677 who is employed by the Oregon Health Authority, may issue a**
35 **standing order to prescribe a short-acting opioid antagonist, and the necessary medical sup-**
36 **plies to administer the short-acting opioid antagonist, to:**

37 (A) **An individual who is at risk of experiencing an opioid overdose;**

38 (B) **An individual who or entity that may encounter an individual who is likely to expe-**
39 **rience an opioid overdose; and**

40 (C) **The owner of a building or facility described in section 8 of this 2023 Act.**

41 (b) **The Public Health Officer or physician may issue a standing order within certain ge-**
42 **ographic areas of the state or statewide, and may withdraw a standing order at any time.**

43 (3) **Upon the request of an individual or entity, a pharmacist shall dispense a short-acting**
44 **opioid antagonist and the necessary medical supplies to administer the short-acting opioid**
45 **antagonist pursuant to a standing order issued under subsection (2) of this section.**

1 (4) An individual or an entity may possess, store, deliver or distribute a short-acting
2 opioid antagonist and the necessary medical supplies to administer the short-acting opioid
3 antagonist, and may administer a short-acting opioid antagonist, pursuant to a standing or-
4 der issued under subsection (2) of this section.

5 (5)(a) An individual acting in good faith, if the act does not constitute wanton miscon-
6 duct, is immune from criminal and civil liability for any act or omission of an act committed
7 during the course of possessing, storing, delivering or distributing a short-acting opioid an-
8 tagonist and the necessary medical supplies to administer the short-acting opioid antagonist
9 and during the course of administering a short-acting opioid antagonist.

10 (b) An individual is immune from criminal and civil liability for the individual's failure
11 or refusal to possess, store, deliver or distribute a short-acting opioid antagonist and the
12 necessary medical supplies to administer the short-acting opioid antagonist, or failure or
13 refusal to administer a short-acting opioid antagonist.

14 (6) The State Board of Pharmacy and the authority, in consultation with one another,
15 may adopt rules to carry out this section.

16 **SECTION 8.** (1) As used in this section, "kit," "opioid," "opioid overdose" and "short-
17 acting opioid antagonist" have the meanings given those terms in ORS 689.681.

18 (2) The owner of any building or facility to which the public has legal access may have
19 in the building or facility one or more kits stored in a location in the building or facility
20 easily accessible by members of the public if the kit or kits are obtained pursuant to a
21 standing order issued under section 7 of this 2023 Act.

22 (3)(a) A member of the public may administer the short-acting opioid antagonist con-
23 tained in a kit described in subsection (2) of this section to an individual experiencing, or
24 who appears to be experiencing, an opioid overdose. The member of the public acting in good
25 faith, if the act does not constitute wanton misconduct, is immune from criminal and civil
26 liability for:

27 (A) Any act or omission of an act committed during the course of administering the
28 short-acting opioid antagonist under this section; and

29 (B) Not administering the short-acting opioid antagonist.

30 (b) The owner and any staff members of a building or facility described in subsection (2)
31 of this section in which a kit, obtained pursuant to a standing order issued under section 7
32 of this 2023 Act, is located, are immune from criminal and civil liability for any act or
33 omission of an act committed during the course of the administration of, or for the failure
34 or refusal to administer, the short-acting opioid antagonist contained in the kit located in
35 the building or facility.

36 (4) The Oregon Health Authority shall publish, on a website operated by or on behalf of
37 the authority, a list of the types of buildings and facilities, and the locations of buildings and
38 facilities, described in subsection (2) of this section, for which the authority prioritizes the
39 provision of kits.

40 (5) The authority may adopt rules to carry out this section. In adopting rules under this
41 subsection, the authority shall consult with the State Board of Pharmacy.

42 **SECTION 9.** (1) Sections 7 and 8 of this 2023 Act become operative on January 1, 2024.

43 (2) The Oregon Health Authority and State Board of Pharmacy may take any action be-
44 fore the operative date specified in subsection (1) of this section that is necessary to enable
45 the authority and the board to exercise, on and after the operative date specified in sub-

1 **section (1) of this section, all of the duties, functions and powers conferred on the authority**
2 **and the board by sections 7 and 8 of this 2023 Act.**

3
4 **SCHOOLS**

5
6 **SECTION 10.** ORS 339.867 is amended to read:

7 339.867. As used in ORS 339.869 and 339.870:

8 (1)(a) “Medication” means:

9 [(a)] (A) Medication that is not injected;

10 [(b)] (B) Premeasured doses of epinephrine that are injected;

11 [(c)] (C) Medication that is available for treating adrenal insufficiency; and

12 [(d)] (D) Naloxone or any similar medication that is in any form available for safe administration
13 and that is designed to rapidly reverse an overdose of an opioid drug.

14 [(2)] (b) “Medication” does not include nonprescription sunscreen.

15 **(2) “Opioid overdose” has the meaning given that term in ORS 689.681.**

16 **(3) “Short-acting opioid antagonist” has the meaning given that term in ORS 689.681.**

17 **SECTION 11.** ORS 339.869 is amended to read:

18 339.869. (1) The State Board of Education, in consultation with the Oregon Health Authority, the
19 Oregon State Board of Nursing and the State Board of Pharmacy, shall adopt:

20 (a) Rules for the administration of prescription and nonprescription medication to students by
21 trained school personnel and for student self-medication. The rules shall include age appropriate
22 guidelines and training requirements for school personnel.

23 (b) Rules for the administration of premeasured doses of epinephrine by school personnel trained
24 as provided by ORS 433.815 to any student or other individual on school premises who the personnel
25 believe in good faith is experiencing a severe allergic reaction, regardless of whether the student
26 or individual has a prescription for epinephrine.

27 (c)(A) Rules for the administration of medication that treats adrenal insufficiency by school
28 personnel trained as provided by ORS 433.815 to any student on school premises whose parent or
29 guardian has provided for the personnel the medication as described in ORS 433.825 (3) and who the
30 personnel believe in good faith is experiencing an adrenal crisis, as defined in ORS 433.800.

31 (B) Rules adopted under this paragraph must:

32 (i) Include guidelines on the designation and training of school personnel who will be responsible
33 for administering medication; and

34 (ii) Specify that a school district is only required to train school personnel when the school
35 district has been notified by a parent or guardian that a student enrolled in a school of the school
36 district has been diagnosed with adrenal insufficiency.

37 (d) Guidelines for the management of students with life-threatening food allergies and adrenal
38 insufficiency, which must include:

39 (A) Standards for the education and training of school personnel to manage students with life-
40 threatening allergies or adrenal insufficiency.

41 (B) Procedures for responding to life-threatening allergic reactions or an adrenal crisis, as de-
42 fined in ORS 433.800.

43 (C) A process for the development of individualized health care and allergy or adrenal insuffi-
44 ciency plans for every student with a known life-threatening allergy or adrenal insufficiency.

45 (D) Protocols for preventing exposures to allergens.

1 (e) Rules for the administration of *[naloxone or any similar medication that is in any form avail-*
2 *able for safe administration and that is designed to rapidly reverse an overdose of an opioid drug by*
3 *trained school personnel]* **a short-acting opioid antagonist** to any student or other individual on
4 school premises who the *[personnel believe]* **individual administering the short-acting opioid an-**
5 **tagonist believes** in good faith is experiencing an **opioid** overdose *[of an opioid drug]*.

6 (2)(a) School district boards shall adopt policies and procedures that provide for:

7 (A) The administration of prescription and nonprescription medication to students by trained
8 school personnel, including the administration of medications that treat adrenal insufficiency;

9 (B) Student self-medication; and

10 (C) The administration of premeasured doses of epinephrine to students and other individuals.

11 (b) Policies and procedures adopted under paragraph (a) of this subsection shall be consistent
12 with the rules adopted by the State Board of Education under subsection (1) of this section. A school
13 district board shall not require school personnel who have not received appropriate training to ad-
14 minister medication.

15 (3)(a) School district boards may adopt policies and procedures that provide for the adminis-
16 tration of *[naloxone or any similar medication that is in any form available for safe administration*
17 *and that is designed to rapidly reverse an overdose of an opioid drug]* **a short-acting opioid antag-**
18 **onist**.

19 (b) Policies and procedures adopted under paragraph (a) of this subsection shall be consistent
20 with the rules adopted by the State Board of Education under subsection (1) of this section.

21 (4)(a) **A school district board shall provide to the parent or legal guardian of each minor**
22 **student enrolled in a school in the school district information regarding short-acting opioid**
23 **antagonists. The information described in this subsection must include at least:**

24 (A) **A description of short-acting opioid antagonists and their purpose;**

25 (B) **A statement regarding, in an emergency situation, the risks of administering to an**
26 **individual a short-acting opioid antagonist and the risks of not administering to an individual**
27 **a short-acting opioid antagonist;**

28 (C) **A statement that all schools within the school district have access to short-acting**
29 **opioid antagonists and the necessary medical supplies to administer the short-acting opioid**
30 **antagonist on site; and**

31 (D) **A statement that a representative of a school may administer to a student a short-**
32 **acting opioid antagonist in an emergency if the student appears to be unconscious and ex-**
33 **periencing an opioid overdose.**

34 (b) **A school district board shall ensure that the parent or legal guardian of a minor**
35 **student enrolled in a school within the school district is immediately notified when a short-**
36 **acting opioid antagonist is administered to the student if the short-acting opioid antagonist**
37 **is administered while the student is at school, on school property under the jurisdiction of**
38 **the school district or at any activity under the jurisdiction of the school district.**

39 **SECTION 12.** ORS 339.870 is amended to read:

40 339.870. *[(1)]* (1)(a) A school administrator, teacher or other school employee designated by the
41 school administrator is not liable in a criminal action or for civil damages as a result of the ad-
42 ministration of nonprescription medication, if the school administrator, teacher or other school em-
43 ployee in good faith administers nonprescription medication to a *[pupil]* **student** pursuant to written
44 permission and instructions of the *[pupil's]* **student's** parents or guardian.

45 (b) **A school administrator, teacher or other school employee may administer a short-**

1 **acting opioid antagonist to a student who experienced or is experiencing an opioid overdose**
2 **without written permission and instructions of the student's parents or guardian.**

3 [(2)] (2)(a) A school administrator, teacher or other school employee designated by the school
4 administrator is not liable in a criminal action or for civil damages as a result of the administration
5 of prescription medication, if the school administrator, teacher or other school employee in compli-
6 ance with the instructions of a physician, physician assistant, nurse practitioner, naturopathic phy-
7 sician or clinical nurse specialist, in good faith administers prescription medication to a [*pupil*]
8 **student** pursuant to written permission and instructions of the [*pupil's*] **student's** parents or
9 guardian.

10 (b) **A person may not maintain an action for injury, death or loss that results from acts**
11 **or omissions of a school administrator, teacher or other school employee during the admin-**
12 **istration of a short-acting opioid antagonist as described in subsection (1)(b) of this section**
13 **unless it is alleged and proved by the complaining party that the school administrator,**
14 **teacher or other school employee was grossly negligent in administering the short-acting**
15 **opioid antagonist.**

16 (c) **Unless it is alleged and proved by the complaining party that the school district or**
17 **member of the school district board was grossly negligent in administering the short-acting**
18 **opioid antagonist, a person may not maintain an action for damages for injury, death or loss**
19 **that results from acts or omissions of a school district or members of the school district**
20 **board during the administration of a short-acting opioid antagonist:**

21 (A) **As described in subsection (1)(b) of this section; or**

22 (B) **By any person who administers the short-acting opioid antagonist to a student or**
23 **other individual who the person believes is experiencing an opioid overdose and the admin-**
24 **istration occurs on school premises, including at a school, on school property under the ju-**
25 **risdiction of the school district or at any activity under the jurisdiction of the school district.**

26 (3) The civil and criminal immunities imposed by subsections (1) and [(2)] (2)(a) of this section
27 do not apply to an act or omission amounting to gross negligence or willful and wanton misconduct.

28 **SECTION 13.** ORS 339.871 is amended to read:

29 339.871. (1) A school administrator, school nurse, teacher or other school employee designated
30 by the school administrator is not liable in a criminal action or for civil damages as a result of a
31 student's self-administration of medication, as described in ORS 339.866, if the school administrator,
32 school nurse, teacher or other school employee, in compliance with the instructions of the student's
33 Oregon licensed health care professional, in good faith assists the student's self-administration of the
34 medication, if the medication is available to the student pursuant to written permission and in-
35 structions of the student's parent, guardian or Oregon licensed health care professional.

36 (2) A school administrator, school nurse, teacher or other school employee designated by the
37 school administrator is not liable in a criminal action or for civil damages as a result of the use of
38 medication if the school administrator, school nurse, teacher or other school employee in good faith
39 administers[.]

40 [(a)] autoinjectable epinephrine to a student or other individual with a severe allergy who is
41 unable to self-administer the medication, regardless of whether the student or individual has a pre-
42 scription for epinephrine[; or]

43 [(b)] *Naloxone or any similar medication that is in any form available for safe administration and*
44 *that is designed to rapidly reverse an overdose of an opioid drug to a student or other individual who*
45 *the school administrator, school nurse, teacher or other school employee believes in good faith is expe-*

1 *riencing an overdose of an opioid drug].*

2 (3) A school district and the members of a school district board are not liable in a criminal
3 action or for civil damages as a result of the use of medication if:

4 (a) Any person in good faith administers autoinjectable epinephrine to a student or other indi-
5 vidual with a severe allergy who is unable to self-administer the medication, regardless of whether
6 the student or individual has a prescription for epinephrine; and

7 (b) The person administered the autoinjectable epinephrine on school premises, including at a
8 school, on school property under the jurisdiction of the district or at an activity under the juris-
9 diction of the school district.

10 [(4) A school district and the members of a school district board are not liable in a criminal action
11 or for civil damages as a result of the use of medication if:]

12 [(a) Any person in good faith administers naloxone or any similar medication that is in any form
13 available for safe administration and that is designed to rapidly reverse an overdose of an opioid drug
14 to a student or other individual who the person believes in good faith is experiencing an overdose of
15 an opioid drug; and]

16 [(b) The person administered the naloxone or similar medication on school premises, including at
17 a school, on school property under the jurisdiction of the district or at an activity under the jurisdiction
18 of the school district.]

19 [(5)] (4) The civil and criminal immunities imposed by this section do not apply to an act or
20 omission amounting to gross negligence or willful and wanton misconduct.

21 **SECTION 14.** (1) The amendments to ORS 339.867, 339.869, 339.870 and 339.871 by sections
22 10 to 13 of this 2023 Act become operative on January 1, 2024.

23 (2) The State Board of Education may take any action before the operative date specified
24 in subsection (1) of this section that is necessary to enable the board to exercise, on and
25 after the operative date specified in subsection (1) of this section, all of the duties, functions
26 and powers conferred on the board by the amendments to ORS 339.867, 339.869, 339.870 and
27 339.871 by sections 10 to 13 of this 2023 Act.

28
29 **DRUG PARAPHERNALIA**

30
31 **SECTION 15.** Section 16 of this 2023 Act is added to and made a part of ORS 475.525 to
32 475.565.

33 **SECTION 16.** (1) Notwithstanding ORS 475.525 (3), it is unlawful to provide single-use
34 drug test strips or drug testing tools to a minor who is under 15 years of age unless the
35 strips or tools are provided to the minor as part of the minor's substance use disorder
36 treatment provided by a mental health care provider and the strips or tools are provided by
37 the mental health care provider.

38 (2) As used in this section, "mental health care provider" means a:

39 (a) Physician licensed under ORS chapter 677;

40 (b) Physician assistant licensed under ORS 677.505 to 677.525;

41 (c) Psychologist licensed under ORS 675.010 to 675.150;

42 (d) Nurse practitioner licensed under ORS 678.375 to 678.390;

43 (e) Clinical social worker licensed under ORS 675.530;

44 (f) Licensed professional counselor licensed under ORS 675.715;

45 (g) Licensed marriage and family therapist licensed under ORS 675.715;

- 1 **(h) Naturopathic physician licensed under ORS chapter 685;**
- 2 **(i) Chiropractic physician licensed under ORS chapter 684;**
- 3 **(j) Community mental health program established and operated pursuant to ORS 430.620**
- 4 **when approved to do so by the Oregon Health Authority pursuant to rule; or**
- 5 **(k) Organizational provider, as defined in ORS 430.637, that holds a certificate of ap-**
- 6 **proval.**

7 **SECTION 17.** ORS 475.525 is amended to read:

8 475.525. (1) It is unlawful for any person to sell or deliver, possess with intent to sell or deliver
9 or manufacture with intent to sell or deliver drug paraphernalia, knowing that it will be used to
10 unlawfully plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce,
11 process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or other-
12 wise introduce into the human body a controlled substance as defined by ORS 475.005.

13 (2) For the purposes of this section, “drug paraphernalia” means all equipment, products and
14 materials of any kind that are marketed for use or designed for use in planting, propagating, culti-
15 vating, growing, harvesting, manufacturing, compounding, converting, producing, processing, pre-
16 paring, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting,
17 ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation
18 of ORS 475.752 to 475.980. Drug paraphernalia includes, but is not limited to:

19 (a) Kits marketed for use or designed for use in unlawfully planting, propagating, cultivating,
20 growing or harvesting of any species of plant that is a controlled substance or from which a con-
21 trolled substance can be derived;

22 (b) Kits marketed for use or designed for use in manufacturing, compounding, converting,
23 producing, processing or preparing controlled substances;

24 (c) Isomerization devices marketed for use or designed for use in increasing the potency of any
25 species of plant that is a controlled substance;

26 [(d) *Testing equipment marketed for use or designed for use in identifying or in analyzing the*
27 *strength, effectiveness or purity of controlled substances;*]

28 [(e)] (d) Scales and balances marketed for use or designed for use in weighing or measuring
29 controlled substances;

30 [(f)] (e) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and
31 lactose, marketed for use or designed for use in cutting controlled substances;

32 [(g)] (f) Lighting equipment specifically designed for growing controlled substances;

33 [(h)] (g) Containers and other objects marketed for use or designed for use in storing or con-
34 cealing controlled substances; and

35 [(i)] (h) Objects marketed for use or designed specifically for use in ingesting, inhaling or oth-
36 erwise introducing a controlled substance into the human body, such as:

37 [(A) *Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens;*]

38 [(B) *Water pipes;*]

39 [(C) *Carburetion tubes and devices;*]

40 [(D)] (A) Smoking and carburetion masks;

41 [(E)] (B) Roach clips, meaning objects used to hold burning material that has become too small
42 or too short to be held in the hand; **or**

43 [(F)] (C) Miniature cocaine spoons and cocaine vials[;].

44 [(G) *Chamber pipes;*]

45 [(H) *Carburetor pipes;*]

1 *[(I) Electric pipes;]*

2 *[(J) Air-driven pipes;]*

3 *[(K) Chillums;]*

4 *[(L) Bongs; and]*

5 *[(M) Ice pipes or chillers.]*

6 (3) For purposes of this section, “drug paraphernalia” does not include hypodermic syringes or
7 needles, **single-use drug test strips, drug testing tools or any other item designed to prevent**
8 **or reduce the potential harm associated with the use of controlled substances, including but**
9 **not limited to items that reduce the transmission of infectious disease or prevent injury,**
10 **infection or overdose.**

11 (4) The provisions of ORS 475.525 to 475.565 do not apply to persons registered under the pro-
12 visions of ORS 475.125 or to persons specified as exempt from registration under the provisions of
13 that statute.

14 (5)(a) The provisions of ORS 475.525 to 475.565 do not apply to a person who sells or delivers
15 marijuana paraphernalia as defined in ORS 475C.373 to a person 21 years of age or older.

16 (b) In determining whether an object is drug paraphernalia under this section or marijuana
17 paraphernalia under ORS 475C.373, a trier of fact shall consider, in addition to any other relevant
18 factor, the following:

19 (A) Any oral or written instruction provided with the object related to the object’s use;

20 (B) Any descriptive material packaged with the object that explains or depicts the object’s use;

21 (C) Any national or local advertising related to the object’s use;

22 (D) Any proffered expert testimony related to the object’s use;

23 (E) The manner in which the object is displayed for sale, if applicable; and

24 (F) Any other proffered evidence substantiating the object’s intended use.

25 **(6) A person acting in good faith is immune from civil liability for any act or omission**
26 **of an acting committed during the course of distributing an item described in subsection (3)**
27 **of this section.**

28 **SECTION 18.** ORS 475.744 is amended to read:

29 475.744. (1) A person may not sell or give a:

30 (a) Hypodermic device to a minor unless the minor demonstrates a lawful need for the
31 hypodermic device by authorization of a physician, naturopathic physician licensed under ORS
32 chapter 685, physician assistant licensed under ORS 677.505 to 677.525, nurse practitioner licensed
33 under ORS 678.375 to 678.390, parent or legal guardian or by other means acceptable to the seller
34 or donor.

35 **(b)(A) Pipe to a minor unless the minor demonstrates a lawful need for the pipe by au-**
36 **thorization of a physician, naturopathic physician licensed under ORS chapter 685, physician**
37 **assistant licensed under ORS 677.505 to 677.525 or nurse practitioner licensed under ORS**
38 **678.375 to 678.390, or the minor’s parent or legal guardian; and**

39 **(B) The minor obtains the consent of the minor’s parent or legal guardian to possess the**
40 **pipe.**

41 (2) As used in this section[,]:

42 (a) “Hypodermic device” means a hypodermic needle or syringe or medication packaged in a
43 hypodermic syringe or any instrument adapted for the subcutaneous injection of a controlled sub-
44 stance as defined in ORS 475.005.

45 (b) “Pipe” means:

- 1 (A) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens;
- 2 (B) Water pipes;
- 3 (C) Carburetion tubes and devices;
- 4 (D) Chamber pipes;
- 5 (E) Carburetor pipes;
- 6 (F) Electric pipes;
- 7 (G) Air-driven pipes; and
- 8 (H) Ice pipes or chillers.

9 **SECTION 19.** Section 16 of this 2023 Act and the amendments to ORS 475.525 and 475.744
10 by sections 17 and 18 of this 2023 Act apply to conduct occurring on or after the effective
11 date of this 2023 Act.

12 OVERDOSE REPORTING

13
14
15 **SECTION 20.** (1) As used in this section:

16 (a) “Cause of death” has the meaning given that term in ORS 146.003.

17 (b) “Local mental health authority” has the meaning given that term in ORS 430.630.

18 (c) “Manner of death” has the meaning given that term in ORS 146.003.

19 (d) “Opioid” means a natural, synthetic or semisynthetic chemical that interacts with
20 opioid receptors on nerve cells in the body and brain to reduce the intensity of pain signals
21 and feelings of pain.

22 (e) “Opioid overdose” means a medical condition that causes depressed consciousness,
23 depressed respiratory function or the impairment of vital bodily functions as a result of
24 ingesting opioids.

25 (f) “Third-party notification” means notification from a source other than a patient in a
26 program administered by a local mental health authority during the patient’s treatment.

27 (g) “Urban Indian health program” means an urban Indian health program in this state
28 that is operated by an urban Indian organization pursuant to 25 U.S.C. 1651 et seq.

29 (2)(a) The Oregon Health Authority shall provide guidance for communication among lo-
30 cal mental health authorities to improve notifications and information sharing when an in-
31 dividual who is 24 years of age or younger dies and the presumed cause of death is suspected
32 to be the result of an opioid overdose or other overdose. The guidance may address commu-
33 nity opioid overdose and other overdose response and efforts to address the potential of fu-
34 ture related deaths. The Oregon Health Authority may collaborate with the following entities
35 in providing the guidance described in this subsection:

36 (A) Local mental health authorities;

37 (B) The nine federally recognized Indian tribes in this state;

38 (C) County juvenile departments;

39 (D) Community-based substance use disorder treatment programs;

40 (E) Urban Indian health programs;

41 (F) The Oregon Youth Authority;

42 (G) The Department of Human Services;

43 (H) Community developmental disabilities programs; and

44 (I) Any other organization identified by the Oregon Health Authority or a local mental
45 health authority as necessary to preserve the public health.

1 **(b) The Oregon Health Authority may develop post-intervention guidance to enable local**
2 **mental health authorities to deploy uniform and effective post-intervention efforts. In de-**
3 **veloping the guidance, the authority may consult with the entities described in paragraph (a)**
4 **of this subsection.**

5 **(3) No later than 72 hours after receiving a third-party notification, including notice un-**
6 **der ORS 146.100, of the death of an individual described in subsection (2)(a) of this section,**
7 **if the decedent was not domiciled in the county where the death occurred, the local mental**
8 **health authority shall provide notice of the death to the local mental health authority in the**
9 **county where the decedent was domiciled.**

10 **(4) The local mental health authority in the county where an individual described in**
11 **subsection (2)(a) of this section was domiciled may notify the local mental health authority**
12 **in any other county in which the decedent had significant contacts, as described by the**
13 **Oregon Health Authority by rule.**

14 **(5) After receiving notice of the death of an individual described in subsection (2)(a) of**
15 **this section, each local mental health authority in a county in which the decedent had sig-**
16 **nificant contacts may inform the Oregon Health Authority, in a manner and format deter-**
17 **mined by the authority, of activities implemented to support individuals and any local**
18 **entities affected by the death and to prevent the risk of future related deaths. The Oregon**
19 **Health Authority may serve as a resource to the local mental health authorities as needed**
20 **by the community.**

21 **(6) In compliance with any state or federal laws regulating public disclosure of such in-**
22 **formation, the notification described in subsections (3) and (4) of this section must contain**
23 **the following information regarding the decedent to enable the local mental health authori-**
24 **ties described in subsections (3) and (4) of this section to deploy effective post-intervention**
25 **efforts:**

26 **(a) The name of the decedent;**

27 **(b) The dates of birth and death of the decedent;**

28 **(c) The suspected manner of death;**

29 **(d) The suspected cause of death; and**

30 **(e) Any other information that the local mental health authority determines necessary**
31 **to preserve the public health.**

32 **SECTION 21.** ORS 146.100 is amended to read:

33 146.100. (1) Death investigations shall be under the direction of the district medical examiner
34 and the district attorney for the county where the death occurs.

35 (2) For purposes of ORS 146.003 to 146.189, if the county where death occurs is unknown, the
36 death shall be deemed to have occurred in the county where the body is found, except that if in an
37 emergency the body is moved by conveyance to another county and is dead on arrival, the death
38 shall be deemed to have occurred in the county from which the body was originally removed.

39 (3) The district medical examiner or an assistant district medical examiner for the county where
40 death occurs shall be immediately notified of:

41 (a) All deaths requiring investigation; and

42 (b) All deaths of persons admitted to a hospital or institution for less than 24 hours, although
43 the medical examiner need not investigate nor certify such deaths.

44 (4) No person having knowledge of a death requiring investigation shall intentionally or know-
45 ingly fail to make notification thereof as required by subsection (3) of this section.

1 (5) The district medical examiner or medical-legal death investigator shall immediately notify the
2 district attorney for the county where death occurs of all deaths requiring investigation except for
3 those specified by ORS 146.090 (1)(d) to (g).

4 (6) All peace officers, health care providers as defined in ORS 192.556, supervisors of penal in-
5 stitutions, supervisors of youth correction facilities, juvenile community supervision officers as de-
6 fined in ORS 420.905, and supervisors of hospitals or institutions caring for the ill or helpless shall
7 cooperate with the medical examiner or medical-legal death investigator by providing a decedent's
8 medical records and tissue samples and any other material necessary to conduct the death investi-
9 gation of the decedent and shall make notification of deaths as required by subsection (3) of this
10 section. A person who cooperates with the medical examiner or medical-legal death investigator in
11 accordance with this subsection does not:

12 (a) Waive any claim of privilege applicable to, or the confidentiality of, the materials and re-
13 cords provided.

14 (b) Waive any claim that the materials and records are subject to an exemption from disclosure
15 under ORS 192.311 to 192.478.

16 (c) Violate the restrictions on disclosing or providing copies of reports and other materials in
17 ORS 419A.257.

18 (7) Records or materials described in subsection (6) of this section may be released by the
19 medical examiner or medical-legal death investigator only pursuant to a valid court order.

20 (8)(a) If a death is suspected to be suicide and the decedent was 24 years of age or younger, the
21 district medical examiner or medical-legal death investigator shall notify the local mental health
22 authority in the county where the death occurred and, if the decedent was a member of a federally
23 recognized [*Oregon tribe*] **Indian tribe in Oregon**, shall also notify the tribe's mental health au-
24 thority.

25 (b) For the purposes of this subsection, the manner of death is suspected to be suicide if the
26 district medical examiner, the assistant district medical examiner, a pathologist authorized under
27 ORS 146.045 (2)(b) or a designee of the district medical examiner, including a medical-legal death
28 investigator, confirms orally or in writing that the district medical examiner, assistant district
29 medical examiner, pathologist or designee of the district medical examiner reasonably believes that
30 the manner of death was suicide.

31 (c) The notification under this subsection must include the decedent's name, date of birth, date
32 of death, suspected manner of death and cause of death.

33 (d) The notification under this subsection may include any other information that the district
34 medical examiner or medical-legal death investigator determines is necessary to preserve the public
35 health and that is not otherwise protected from public disclosure by state or federal law, including
36 information regarding the decedent's school attended and extracurricular activities.

37 (e) The district medical examiner or medical-legal death investigator must provide the notifica-
38 tion under this subsection no later than:

39 (A) 48 hours after receiving notification of the death if the county where the death occurred has
40 a population of 400,000 or more; or

41 (B) 72 hours after receiving notification of the death if the county where the death occurred has
42 a population of fewer than 400,000.

43 **(9)(a) If a death is suspected to be the result of an opioid overdose or other overdose and**
44 **the decedent was 24 years of age or younger, the district medical examiner or medical-legal**
45 **death investigator shall notify the local mental health authority in the county where the**

1 death occurred and, if the decedent was a member of a federally recognized Indian tribe in
2 Oregon, shall also notify the tribe’s mental health authority.

3 (b) For purposes of this subsection, the cause of death is suspected to be the result of
4 an opioid overdose or other overdose if the district medical examiner, the assistant district
5 medical examiner, a pathologist authorized under ORS 146.045 (2)(b) or a designee of the
6 district medical examiner, including a medical-legal death investigator, confirms orally or in
7 writing that the district medical examiner, assistant district medical examiner, pathologist
8 or designee of the district medical examiner reasonably believes that the cause of death was
9 the result of an opioid overdose or other overdose.

10 (c) The notification under this subsection must include the decedent’s name, date of
11 birth, date of death, suspected manner of death and cause of death. The notification may
12 include the information described in subsection (8)(d) of this section and be provided as re-
13 quired under subsection (8)(e) of this section.

14 [(f)] (10) As used in this [subsection,] section:

15 (a) “Local mental health authority” has the meaning given that term in ORS 430.630.

16 (b) “Opioid” means a natural, synthetic or semisynthetic chemical that interacts with
17 opioid receptors on nerve cells in the body and brain to reduce the intensity of pain signals
18 and feelings of pain.

19 (c) “Opioid overdose” means a medical condition that causes depressed consciousness,
20 depressed respiratory function or the impairment of vital bodily functions as a result of
21 ingesting opioids.

22 **SECTION 22.** Section 20 of this 2023 Act and the amendments to ORS 146.100 by section
23 21 of this 2023 Act apply to deaths occurring on and after the operative date specified in
24 section 23 of this 2023 Act.

25 **SECTION 23.** (1) Section 20 of this 2023 Act and the amendments to ORS 146.100 by sec-
26 tion 21 of this 2023 Act become operative on January 1, 2024.

27 (2) The Oregon Health Authority may take any action before the operative date specified
28 in subsection (1) of this section that is necessary to enable the authority to exercise, on and
29 after the operative date specified in subsection (1) of this section, all of the duties, functions
30 and powers conferred on the authority by section 20 of this 2023 Act and the amendments
31 to ORS 146.100 by section 21 of this 2023 Act.

32
33 **CONFORMING AMENDMENTS**
34

35 **SECTION 24.** ORS 430.389 is amended to read:

36 430.389. (1) The Oversight and Accountability Council shall oversee and approve grants and
37 funding to implement Behavioral Health Resource Networks and increase access to community care,
38 as set forth below. A Behavioral Health Resource Network is an entity or collection of entities that
39 individually or jointly provide some or all of the services described in subsection (2)(d) of this sec-
40 tion.

41 (2)(a) The Oversight and Accountability Council, in consultation with the Oregon Health Au-
42 thority, shall provide grants and funding to agencies or organizations, whether government or com-
43 munity based, to establish Behavioral Health Resource Networks for the purposes of immediately
44 screening the acute needs of people who use drugs and assessing and addressing any ongoing needs
45 through ongoing case management, harm reduction, treatment, housing and linkage to other care

1 and services. Recipients of grants or funding to provide substance use disorder treatment or ser-
2 vices must be licensed, certified or credentialed by the state, including certification under ORS
3 743A.168 (8), or meet criteria prescribed by rule by the Oversight and Accountability Council under
4 ORS 430.390. A recipient of a grant or funding under this subsection may not use the grant or
5 funding to supplant the recipient's existing funding.

6 (b) The council and the authority shall ensure that residents of each county have access to all
7 of the services described in paragraph (d) of this subsection.

8 (c) Applicants for grants and funding may apply individually or jointly with other network par-
9 ticipants to provide services in one or more counties.

10 (d) A network must have the capacity to provide the following services and any other services
11 specified by the council by rule:

12 (A) Screening by certified addiction peer support or wellness specialists or other qualified per-
13 sons designated by the council to determine a client's need for immediate medical or other treatment
14 to determine what acute care is needed and where it can be best provided, identify other needs and
15 link the client to other appropriate local or statewide services, including treatment for substance
16 [abuse] use and coexisting health problems, housing, employment, training and child care. Networks
17 shall provide this service 24 hours a day, seven days a week, every calendar day of the year.
18 Notwithstanding paragraph (b) of this subsection, only one grantee in each network within each
19 county is required to provide the screenings described in this subparagraph.

20 (B) Comprehensive behavioral health needs assessment, including a substance use disorder
21 screening by a certified alcohol and drug counselor or other credentialed addiction treatment pro-
22 fessional. The assessment shall prioritize the self-identified needs of a client.

23 (C) Individual intervention planning, case management and connection to services. If, after the
24 completion of a screening, a client indicates a desire to address some or all of the identified needs,
25 a case manager shall work with the client to design an individual intervention plan. The plan must
26 address the client's need for substance use disorder treatment, coexisting health problems, housing,
27 employment and training, child care and other services.

28 (D) Ongoing peer counseling and support from screening and assessment through implementation
29 of individual intervention plans as well as peer outreach workers to engage directly with
30 marginalized community members who could potentially benefit from the network's services.

31 (E) Assessment of the need for, and provision of, mobile or virtual outreach services to:

32 (i) Reach clients who are unable to access the network; and

33 (ii) Increase public awareness of network services.

34 (F) Harm reduction services and information and education about harm reduction services.

35 (G) Low-barrier substance use disorder treatment.

36 (H) Transitional and supportive housing for individuals with substance use disorders.

37 (e) If an applicant for a grant or funding under this subsection is unable to provide all of the
38 services described in paragraph (d) of this subsection, the applicant may identify how the applicant
39 intends to partner with other entities to provide the services, and the Oregon Health Authority and
40 the council may facilitate collaboration among applicants.

41 (f) All services provided through the networks must be evidence-informed, trauma-informed,
42 culturally specific, linguistically responsive, person-centered and nonjudgmental. The goal shall be
43 to address effectively the client's substance use and any other social determinants of health.

44 (g) The networks must be adequately staffed to address the needs of people with substance use
45 disorders within their regions as prescribed by the council by rule, including, at a minimum, at least

1 one person qualified by the Oregon Health Authority in each of the following categories:

2 (A) Certified alcohol and drug counselor or other credentialed addiction treatment professional;

3 (B) Case manager; and

4 (C) Certified addiction peer support or wellness specialist.

5 (h) Verification of a screening by a certified addiction peer support specialist, wellness specialist
6 or other person in accordance with subsection (2)(d)(A) of this section shall promptly be provided
7 to the client by the entity conducting the screening. If the client executes a valid release of infor-
8 mation, the entity shall provide verification of the screening to the Oregon Health Authority or a
9 contractor of the authority and the authority or the authority's contractor shall forward the verifi-
10 cation to the court, in the manner prescribed by the Chief Justice of the Supreme Court, to satisfy
11 the conditions for dismissal under ORS 153.062 or 475.237.

12 (3)(a) If moneys remain in the Drug Treatment and Recovery Services Fund after the council
13 has committed grants and funding to establish behavioral health resource networks serving every
14 county in this state, the council shall provide grants and funding to other agencies or organizations,
15 whether government or community based, and to the nine federally recognized tribes in this state
16 and service providers that are affiliated with the nine federally recognized tribes in this state to
17 increase access to one or more of the following:

18 (A) Low-barrier substance use disorder treatment that is evidence-informed, trauma-informed,
19 culturally specific, linguistically responsive, person-centered and nonjudgmental;

20 (B) Peer support and recovery services;

21 (C) Transitional, supportive and permanent housing for persons with substance use disorder;

22 (D) Harm reduction interventions including, but not limited to, overdose prevention education,
23 access to [*naloxone hydrochloride*] **short-acting opioid antagonists, as defined in ORS 689.681,**
24 and sterile syringes and stimulant-specific drug education and outreach; or

25 (E) Incentives and supports to expand the behavioral health workforce to support the services
26 delivered by behavioral health resource networks and entities receiving grants or funding under this
27 subsection.

28 (b) A recipient of a grant or funding under this subsection may not use the grant or funding to
29 supplant the recipient's existing funding.

30 (4) In awarding grants and funding under subsections (2) and (3) of this section, the council
31 shall:

32 (a) Distribute grants and funding to ensure access to:

33 (A) Historically underserved populations; and

34 (B) Culturally specific and linguistically responsive services.

35 (b) Consider any inventories or surveys of currently available behavioral health services.

36 (c) Consider available regional data related to the substance use disorder treatment needs and
37 the access to culturally specific and linguistically responsive services in communities in this state.

38 (d) Consider the needs of residents of this state for services, supports and treatment at all ages.

39 (5) The council shall require any government entity that applies for a grant to specify in the
40 application details regarding subgrantees and how the government entity will fund culturally spe-
41 cific organizations and culturally specific services. A government entity receiving a grant must
42 make an explicit commitment not to supplant or decrease any existing funding used to provide ser-
43 vices funded by the grant.

44 (6) In determining grants and funding to be awarded, the council may consult the comprehensive
45 addiction, prevention, treatment and recovery plan established by the Alcohol and Drug Policy

1 Commission under ORS 430.223 and the advice of any other group, agency, organization or individual
2 that desires to provide advice to the council that is consistent with the terms of this section.

3 (7) Services provided by grantees, including services provided by a Behavioral Health Resource
4 Network, shall be free of charge to the clients receiving the services. Grantees in each network
5 shall seek reimbursement from insurance issuers, the medical assistance program or any other third
6 party responsible for the cost of services provided to a client and grants and funding provided by
7 the council or the authority under subsection (2) of this section may be used for copayments,
8 deductibles or other out-of-pocket costs incurred by the client for the services.

9 (8) Subsection (7) of this section does not require the medical assistance program to reimburse
10 the cost of services for which another third party is responsible in violation of 42 U.S.C. 1396a(25).

11 **SECTION 25.** ORS 431A.855 is amended to read:

12 431A.855. (1)(a) The Oregon Health Authority, in consultation with the Prescription Monitoring
13 Program Advisory Commission, shall establish and maintain a prescription monitoring program for
14 monitoring and reporting:

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

18 (B) Prescribed gabapentin and [*naloxone*] **short-acting opioid antagonists, as defined in ORS**
19 **689.681**, dispensed by pharmacies; and

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

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

24 (B) The electronic system must:

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

27 (ii) Allow practitioners to register as required under ORS 431A.877 and to apply for access to
28 the electronic system in accordance with rules adopted by the authority under subsection (2) of this
29 section.

30 (C) The authority may contract with a state agency or private entity to ensure the effective
31 operation of the electronic system.

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

35 (a) Reporting data;

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

37 (c) Ensuring accuracy and completeness of data;

38 (d) Complying with the federal Health Insurance Portability and Accountability Act of 1996 (P.L.
39 104-191) and regulations adopted under that law, including 45 C.F.R. parts 160 and 164, federal al-
40cohol and drug treatment confidentiality laws and regulations adopted under those laws, including
41 42 C.F.R. part 2, and state health and mental health confidentiality laws, including ORS 179.505,
42 192.517 and 192.553 to 192.581;

43 (e) Ensuring accurate identification of persons or entities requesting information from the da-
44 tabase;

45 (f) Accepting printed or nonelectronic reports from pharmacies that do not have the capability

1 to provide electronic reports;

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

5 (h) Registering practitioners with the electronic system.

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

8 **SECTION 26.** ORS 431A.865 is amended to read:

9 431A.865. (1)(a) Except as provided under subsections (2) and (3) of this section, prescription
10 monitoring information submitted under ORS 431A.860 to the prescription monitoring program es-
11 tablished in ORS 431A.855:

12 (A) Is protected health information under ORS 192.553 to 192.581.

13 (B) Is confidential and not subject to disclosure under ORS 192.311 to 192.478.

14 (b) Except as provided under subsection (3)(a)(H) of this section, prescription monitoring infor-
15 mation submitted under ORS 431A.860 to the prescription monitoring program may not be used to
16 evaluate a practitioner's professional practice.

17 (2) The Oregon Health Authority may review the prescription monitoring information of an in-
18 dividual who dies from a drug overdose.

19 (3)(a) Except as provided in paragraph (c) of this subsection, the Oregon Health Authority shall
20 disclose prescription monitoring information reported to the authority under ORS 431A.860:

21 (A) To a practitioner or pharmacist, or, if a practitioner or pharmacist authorizes the authority
22 to disclose the information to a member of the practitioner's or pharmacist's staff, to a member of
23 the practitioner's or pharmacist's staff. If a practitioner or pharmacist authorizes disclosing the in-
24 formation to a member of the practitioner's or pharmacist's staff under this subparagraph, the
25 practitioner or pharmacist remains responsible for the use or misuse of the information by the staff
26 member. To receive information under this subparagraph, or to authorize the receipt of information
27 by a staff member under this subparagraph, a practitioner or pharmacist must certify that the re-
28 quested information is for the purpose of evaluating the need for or providing medical or pharma-
29 ceutical treatment for a patient to whom the practitioner or pharmacist anticipates providing, is
30 providing or has provided care.

31 (B) To a dental director, medical director or pharmacy director, or, if a dental director, medical
32 director or pharmacy director authorizes the authority to disclose the information to a member of
33 the dental director's, medical director's or pharmacy director's staff, to a member of the dental
34 director's, medical director's or pharmacy director's staff. If a dental director, medical director or
35 pharmacy director authorizes disclosing the information to a member of the dental director's, med-
36 ical director's or pharmacy director's staff under this subparagraph, the dental director, medical
37 director or pharmacy director remains responsible for the use or misuse of the information by the
38 staff member. To receive information under this subparagraph, or to authorize the receipt of infor-
39 mation by a staff member under this subparagraph:

40 (i) A dental director must certify that the requested information is for the purposes of oversee-
41 ing the operations of a coordinated care organization, dental clinic or office, or a system of dental
42 clinics or offices, and ensuring the delivery of quality dental care within the coordinated care or-
43 ganization, clinic, office or system.

44 (ii) A medical director must certify that the requested information is for the purposes of over-
45 seeing the operations of a coordinated care organization, hospital, health care clinic or system of

1 hospitals or health care clinics and ensuring the delivery of quality health care within the coordi-
2 nated care organization, hospital, clinic or system.

3 (iii) A pharmacy director must certify that the requested information is for the purposes of
4 overseeing the operations of a coordinated care organization, pharmacy or system of pharmacies and
5 ensuring the delivery of quality pharmaceutical care within the coordinated care organization,
6 pharmacy or system.

7 (C) In accordance with subparagraphs (A) and (B) of this paragraph, to an individual described
8 in subparagraphs (A) and (B) of this paragraph through a health information technology system that
9 is used by the individual to access information about patients if:

10 (i) The individual is authorized to access the information in the health information technology
11 system;

12 (ii) The information is not permanently retained in the health information technology system,
13 except for purposes of conducting audits and maintaining patient records; and

14 (iii) The health information technology system meets any privacy and security requirements and
15 other criteria, including criteria required by the federal Health Insurance Portability and Account-
16 ability Act, established by the authority by rule.

17 (D) To a practitioner in a form that catalogs all prescription drugs prescribed by the practi-
18 tioner according to the number assigned to the practitioner by the Drug Enforcement Adminis-
19 tration of the United States Department of Justice.

20 (E) To the Chief Medical Examiner or designee of the Chief Medical Examiner, for the purpose
21 of conducting a medicolegal investigation or autopsy.

22 (F) To designated representatives of the authority or any vendor or contractor with whom the
23 authority has contracted to establish or maintain the electronic system established under ORS
24 431A.855.

25 (G) Pursuant to a valid court order based on probable cause and issued at the request of a
26 federal, state or local law enforcement agency engaged in an authorized drug-related investigation
27 involving a person to whom the requested information pertains.

28 (H) To a health professional regulatory board that certifies in writing that the requested infor-
29 mation is necessary for an investigation related to licensure, license renewal or disciplinary action
30 involving the applicant, licensee or registrant to whom the requested information pertains.

31 (I) Pursuant to an agreement entered into under ORS 431A.869.

32 (b) The authority may disclose information from the prescription monitoring program that does
33 not identify a patient, practitioner or drug outlet:

34 (A) For educational, research or public health purposes;

35 (B) For the purpose of educating practitioners about the prescribing of opioids and other con-
36 trolled substances;

37 (C) To a health professional regulatory board;

38 (D) To a local public health authority, as defined in ORS 431.003; or

39 (E) To officials of the authority who are conducting special epidemiologic morbidity and mor-
40 tality studies in accordance with ORS 413.196 and rules adopted under ORS 431.001 to 431.550 and
41 431.990.

42 (c) The authority may not disclose, except as provided in paragraph (b) of this subsection:

43 (A) Prescription drug monitoring information to the extent that the disclosure fails to comply
44 with applicable provisions of the federal Health Insurance Portability and Accountability Act of
45 1996 (P.L. 104-191) and regulations adopted under that law, including 45 C.F.R. parts 160 and 164,

1 federal alcohol and drug treatment confidentiality laws and regulations, including 42 C.F.R. part 2,
2 and state health and mental health confidentiality laws, including ORS 179.505, 192.517 and 192.553
3 to 192.581.

4 (B) The sex of a patient for whom a drug was prescribed.

5 (C) The identity of a patient for whom [*naloxone*] **a short-acting opioid antagonist, as defined**
6 **in ORS 689.681**, was prescribed.

7 (d) The authority shall disclose information relating to a patient maintained in the electronic
8 system established under ORS 431A.855 to that patient at no cost to the patient within 10 business
9 days after the authority receives a request from the patient for the information.

10 (e)(A) A patient may request the authority to correct any information related to the patient that
11 is maintained in the electronic system established under ORS 431A.855 that is erroneous. The au-
12 thority shall grant or deny a request to correct information within 10 business days after the au-
13 thority receives the request. If a request to correct information cannot be granted because the error
14 occurred at the pharmacy where the information was inputted, the authority shall inform the patient
15 that the information cannot be corrected because the error occurred at the pharmacy.

16 (B) If the authority denies a patient's request to correct information under this paragraph, or
17 fails to grant a patient's request to correct information under this paragraph within 10 business days
18 after the authority receives the request, the patient may appeal the denial or failure to grant the
19 request. Upon receiving notice of an appeal under this subparagraph, the authority shall conduct
20 a contested case hearing as provided in ORS chapter 183. Notwithstanding ORS 183.450, the au-
21 thority has the burden in the contested case hearing of establishing that the information is correct.

22 (f) The information in the prescription monitoring program may not be used for any commercial
23 purpose.

24 (g) In accordance with ORS 192.553 to 192.581 and federal laws and regulations related to pri-
25 vacy, any person authorized to prescribe or dispense a prescription drug who is entitled to access
26 a patient's prescription monitoring information may discuss the information with or release the in-
27 formation to other health care providers involved with the patient's care for the purpose of provid-
28 ing safe and appropriate care coordination.

29 (4)(a) The authority shall maintain records of the information disclosed through the prescription
30 monitoring program including:

31 (A) The identity of each person who requests or receives information from the program and any
32 organization the person represents;

33 (B) The information released to each person or organization; and

34 (C) The date and time the information was requested and the date and time the information was
35 provided.

36 (b) Records maintained as required by this subsection may be reviewed by the Prescription
37 Monitoring Program Advisory Commission.

38 (5) Information in the prescription monitoring program that identifies an individual patient must
39 be removed no later than three years from the date the information is entered into the program.

40 (6) The authority shall notify the Attorney General and each individual affected by an improper
41 disclosure of information from the prescription monitoring program of the disclosure.

42 (7)(a) If the authority or a person or entity required to report or authorized to receive or release
43 prescription information under this section violates this section or ORS 431A.860 or 431A.870, a
44 person injured by the violation may bring a civil action against the authority, person or entity and
45 may recover damages in the amount of \$1,000 or actual damages, whichever is greater.

1 (b) Notwithstanding paragraph (a) of this subsection, the authority and a person or entity re-
2 quired to report or authorized to receive or release prescription information under this section are
3 immune from civil liability for violations of this section or ORS 431A.860 or 431A.870 unless the
4 authority, person or entity acts with malice, criminal intent, gross negligence, recklessness or willful
5 intent.

6 (8) Nothing in ORS 431A.855 to 431A.900 requires a practitioner or pharmacist who prescribes
7 or dispenses a prescription drug to obtain information about a patient from the prescription moni-
8 toring program. A practitioner or pharmacist who prescribes or dispenses a prescription drug may
9 not be held liable for damages in any civil action on the basis that the practitioner or pharmacist
10 did or did not request or obtain information from the prescription monitoring program.

11 (9) The authority shall, at regular intervals, ensure compliance of a health information technol-
12 ogy system described in subsection (3) of this section with the privacy and security requirements
13 and other criteria established by the authority under subsection (3) of this section.

14 **SECTION 27. If House Bill 2421 becomes law, section 7a, chapter __, Oregon Laws 2023**
15 **(Enrolled House Bill 2421) (amending ORS 109.675), is repealed.**

16
17 **CAPTIONS**

18
19 **SECTION 28. The unit captions used in this 2023 Act are provided only for the conven-**
20 **ience of the reader and do not become part of the statutory law of this state or express any**
21 **legislative intent in the enactment of this 2023 Act.**

22
23 **EFFECTIVE DATE**

24
25 **SECTION 29. This 2023 Act being necessary for the immediate preservation of the public**
26 **peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect**
27 **on its passage.**

28 _____