HOUSE AMENDMENTS TO HOUSE BILL 2395

By COMMITTEE ON BEHAVIORAL HEALTH AND HEALTH CARE

February 27

In line 2 of the printed bill, delete the period and insert "; creating new provisions; amending ORS 109.675, 109.680, 109.685, 146.100, 339.867, 339.869, 339.870, 339.871, 414.320, 430.389, 431A.855, 431A.865, 475.525, 689.681, 689.682, 689.684 and 689.686; and declaring an emergency.

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

"Whereas the residents of this state acknowledge the need to act quickly to prevent more unnecessary loss of life; and

"Whereas the residents of this state acknowledge that a multipronged approach focused on substance use prevention, harm reduction and treatment must be adopted; and

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

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

"Whereas the residents of this state acknowledge that we must make conscious efforts to minimize and remove stigma around substance use treatment; and

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

Delete lines 4 through 8 and insert:

"**SHORT-ACTING OPIOID ANTAGONISTS**

"**SECTION 1.** ORS 689.681 is amended to read:

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

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

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

"[*(A) Opium;*]

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

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

"[*(c) 'Opiate overdose' means a medical condition that causes depressed consciousness and mental functioning, decreased movement, depressed respiratory function and the impairment of the vital func-*

tions as a result of ingesting opiates in an amount larger than can be physically tolerated.]

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

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

"(d) 'Short-acting opioid antagonist' means any short-acting drug approved by the United States Food and Drug Administration for the complete or partial reversal of an opioid overdose.

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

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

"(b) Distribute multiple kits to:

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

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

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

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

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

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

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

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

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

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

"(c) 'Short-acting opioid antagonist' means any short-acting drug approved by the United

States Food and Drug Administration for the complete or partial reversal of an opioid overdose.

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

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

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

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

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

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

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

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

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

"689.686. (1) A retail or hospital outpatient pharmacy shall provide written notice in a conspicuous manner that [*naloxone*] **a short-acting opioid antagonist, as defined in ORS 689.681,** and the necessary medical supplies to administer [*naloxone*] **the short-acting opioid antagonist** are available at the pharmacy.

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

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

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

"STANDING ORDERS

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

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

"(2)(a) The Public Health Officer appointed under ORS 431.045, or a physician licensed

under ORS chapter 677 who is employed by the Oregon Health Authority, may issue a standing order to prescribe a short-acting opioid antagonist, and the necessary medical supplies to administer the short-acting opioid antagonist, to:

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

"(B) An individual who or entity that may encounter an individual who is likely to experience an opioid overdose; and

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

"(b) The Public Health Officer or physician may issue a standing order within certain geographic areas of the state or statewide, and may withdraw a standing order at any time.

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

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

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

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

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

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

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

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

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

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

"(b) The owner and any staff members of a building or facility described in subsection (2) of this section in which a kit, obtained pursuant to a standing order issued under section 7 of this 2023 Act, is located, are immune from criminal and civil liability for any act or omission of an act committed during the course of the administration of, or for the failure

or refusal to administer, the short-acting opioid antagonist contained in the kit located in the building or facility.

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

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

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

"(2) The Oregon Health Authority and State Board of Pharmacy may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the authority and the board to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the authority and the board by sections 7 and 8 of this 2023 Act.

"**SCHOOLS**

"**SECTION 10.** ORS 339.867 is amended to read:

"339.867. As used in ORS 339.869 and 339.870:

"(1) 'Medication' means:

"(a) Medication that is not injected;

"(b) Premeasured doses of epinephrine that are injected;

"(c) Medication that is available for treating adrenal insufficiency; and

"(d) [*Naloxone or any similar medication that is in any form available for safe administration and that is designed to rapidly reverse an overdose of an opioid drug*] **A short-acting opioid antagonist, as defined in ORS 689.681**.

"(2) 'Medication' does not include nonprescription sunscreen.

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

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

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

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

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

"(B) Rules adopted under this paragraph must:

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

"(ii) Specify that a school district is only required to train school personnel when the school

district has been notified by a parent or guardian that a student enrolled in a school of the school district has been diagnosed with adrenal insufficiency.

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

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

"(B) Procedures for responding to life-threatening allergic reactions or an adrenal crisis, as defined in ORS 433.800.

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

"(D) Protocols for preventing exposures to allergens.

"(e) Rules for the administration of [*naloxone or any similar medication that is in any form available for safe administration and that is designed to rapidly reverse an overdose of an opioid drug by trained school personnel*] **a short-acting opioid antagonist** to any student or other individual on school premises who the [*personnel believe*] **individual administering the short-acting opioid antagonist believes** in good faith is experiencing an **opioid** overdose [*of an opioid drug*]**, as defined in ORS 689.681**.

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

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

"(B) Student self-medication; and

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

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

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

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

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

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

"**(b) A school administrator, teacher or other school employee may administer a short-acting opioid antagonist, as defined in ORS 689.681, to a student who experienced or is experiencing an opioid overdose, as defined in ORS 689.681, without written permission and instructions of the student's parents or guardian.**

"[*(2)*] **(2)(a)** A school administrator, teacher or other school employee designated by the school administrator is not liable in a criminal action or for civil damages as a result of the administration of prescription medication, if the school administrator, teacher or other school employee in compli-

ance with the instructions of a physician, physician assistant, nurse practitioner, naturopathic physician or clinical nurse specialist, in good faith administers prescription medication to a [*pupil*] **student** pursuant to written permission and instructions of the [*pupil's*] **student's** parents or guardian.

"**(b)(A) A school administrator, teacher or other school employee who acts in good faith in administering a short-acting opioid antagonist as described in subsection (1)(b) of this section is not liable in a criminal action or for civil damages for any act or omission of an act committed during the course of administering the short-acting opioid antagonist.**

"(B) A school administrator, teacher or other school employee is not liable in a criminal action or for civil damages for the failure or refusal to administer a short-acting opioid antagonist as described in subsection (1)(b) of this section.

"(c) A school district and the members of a school district board are not liable in a criminal action or for civil damages as a result of the administration of, or failure or refusal to administer, a short-acting opioid antagonist:

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

"(B) By any person acting in good faith who administers, or fails or refuses to administer, the short-acting opioid antagonist to a student or other individual who the person believes is experiencing an opioid overdose and the administration, or failure or refusal to administer, occurs on school premises, including at a school, on school property under the jurisdiction of the school district or at any activity under the jurisdiction of the school district.

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

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

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

"(2) A school administrator, school nurse, teacher or other school employee designated by the school administrator is not liable in a criminal action or for civil damages as a result of the use of medication if the school administrator, school nurse, teacher or other school employee in good faith administers:

"(a) Autoinjectable epinephrine to a student or other individual with a severe allergy who is unable to self-administer the medication, regardless of whether the student or individual has a prescription for epinephrine; or

"(b) [*Naloxone or any similar medication that is in any form available for safe administration and that is designed to rapidly reverse an overdose of an opioid drug*] **A short-acting opioid antagonist, as defined in ORS 689.681,** to a student or other individual who the school administrator, school nurse, teacher or other school employee believes in good faith is experiencing an **opioid** overdose [*of an opioid drug*]**, as defined in ORS 689.681**.

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

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

"(b) The person administered the autoinjectable epinephrine on school premises, including at a school, on school property under the jurisdiction of the district or at an activity under the jurisdiction of the school district.

"(4) A school district and the members of a school district board are not liable in a criminal action or for civil damages as a result of the [*use of medication*] **administration of, or failure or refusal to administer, a short-acting opioid antagonist** if:

"(a)**(A)** Any person in good faith administers [*naloxone or any similar medication that is in any form available for safe administration and that is designed to rapidly reverse an overdose of an opioid drug*] **the short-acting opioid antagonist** to a student or other individual who the person believes in good faith is experiencing an **opioid** overdose [*of an opioid drug*]; **or**

"**(B) Any person fails or refuses to administer the short-acting opioid antagonist to a student or other individual who the person believes is experiencing an opioid overdose;** and

"(b) The person administered**, or failed or refused to administer,** the [*naloxone or similar medication*] **short-acting opioid antagonist** on school premises, including at a school, on school property under the jurisdiction of the district or at an activity under the jurisdiction of the school district.

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

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

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

"SERVICES PROVIDED TO MINORS

"**SECTION 15. Section 16 of this 2023 Act is added to and made a part of ORS 109.675 to 109.695.**

"**SECTION 16. As used in ORS 109.675 to 109.695:**

"(1) 'Mental health care provider' means a:

"(a) Physician licensed under ORS chapter 677;

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

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

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

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

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

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

"(h) Naturopathic physician licensed under ORS chapter 685;

"(i) Chiropractic physician licensed under ORS chapter 684;

"(j) Community mental health program established and operated pursuant to ORS 430.620

when approved to do so by the Oregon Health Authority pursuant to rule; or

"(k) Organizational provider, as defined in ORS 430.637, that holds a certificate of approval.

"(2) 'Minor' means a person who has not arrived at the age of majority, as described in ORS 109.510.

"**SECTION 17.** ORS 109.675 is amended to read:

"109.675. (1)**(a) A minor may obtain, without parental knowledge or consent, outpatient diagnosis or treatment of a substance use disorder, excluding methadone treatment, by a mental health care provider.**

"(b) A minor 14 years of age or older may obtain, without parental knowledge or consent, outpatient diagnosis or treatment of a mental or emotional disorder [*or a chemical dependency, excluding methadone maintenance,*] by a **mental health care provider.** [*physician or physician assistant licensed by the Oregon Medical Board, a psychologist licensed by the Oregon Board of Psychology, a nurse practitioner registered by the Oregon State Board of Nursing, a clinical social worker licensed by the State Board of Licensed Social Workers, a professional counselor or marriage and family therapist licensed by the Oregon Board of Licensed Professional Counselors and Therapists, a naturopathic physician licensed by the Oregon Board of Naturopathic Medicine or a community mental health program established and operated pursuant to ORS 430.620 when approved to do so by the Oregon Health Authority pursuant to rule.*]

"(2) [*However,*] The person providing treatment **under this section** shall have the parents of the minor involved before the end of treatment unless the parents refuse or unless there are clear clinical indications to the contrary, which shall be documented in the treatment record. The provisions of this subsection do not apply to:

"(a) A minor who has been sexually abused by a parent; or

"(b) An emancipated minor, whether emancipated under the provisions of ORS 109.510 and 109.520 or 419B.550 to 419B.558 or, for the purpose of this section only, emancipated by virtue of having lived apart from the parents or legal guardian while being self-sustaining for a period of 90 days prior to obtaining treatment as provided by this section.

"**SECTION 18.** ORS 109.680 is amended to read:

"109.680. [*(1) As used in this section, 'mental health care provider' means a physician or physician assistant licensed by the Oregon Medical Board, psychologist licensed by the Oregon Board of Psychology, nurse practitioner registered by the Oregon State Board of Nursing, clinical social worker licensed under ORS 675.530, professional counselor or marriage and family therapist licensed by the Oregon Board of Licensed Professional Counselors and Therapists, naturopathic physician licensed under ORS chapter 685 or community mental health program established and operated pursuant to ORS 430.620 when approved to do so by the Oregon Health Authority pursuant to rule.*]

"[*(2)(a)*] **(1)(a)** A mental health care provider that is providing services to a minor pursuant to ORS 109.675 may disclose relevant health information about the minor without the minor's consent as provided in ORS 109.675 (2) and this subsection.

"(b) If the minor's condition has deteriorated or the risk of a suicide attempt has become such that inpatient treatment is necessary, or if the minor's condition requires detoxification in a residential or acute care facility, the minor's mental health care provider may disclose the relevant information regarding the minor's diagnosis and treatment to the minor's parent or legal guardian to the extent the mental health care provider determines the disclosure is clinically appropriate and will serve the best interests of the minor's treatment.

"(c) If the mental health care provider assesses the minor to be at serious and imminent risk of a suicide attempt but inpatient treatment is not necessary or practicable:

"(A) The mental health care provider shall disclose relevant information about the minor to and engage in safety planning with the minor's parent, legal guardian or other individuals the provider reasonably believes may be able to prevent or lessen the minor's risk of a suicide attempt.

"(B) The mental health care professional may disclose relevant information regarding the minor's treatment and diagnosis that the mental health care professional determines is necessary to further the minor's treatment to those organizations, including appropriate schools and social service entities, that the mental health care provider reasonably believes will provide treatment support to the minor to the extent the mental health care provider determines necessary.

"(d) Except as provided in ORS 109.675 (2) and paragraphs (a) and (b) of this subsection, if a mental health care provider has provided the minor with the opportunity to object to the disclosure and the minor has not expressed an objection, the mental health care provider may disclose information related to the minor's treatment and diagnosis to individuals, including the minor's parent or legal guardian, and organizations when the information directly relates to the individual's or organization's involvement in the minor's treatment.

"[*(3)*] **(2)** Notwithstanding **ORS 109.675 (2) or** subsection [*(2)(c)(A)*] **(1)(c)(A)** of this section, a mental health care provider is not required to disclose the minor's treatment and diagnosis information to an individual if the mental health care provider:

"(a) Reasonably believes the individual has abused or neglected the minor or subjected the minor to domestic violence or may abuse or neglect the minor or subject the minor to domestic violence;

"(b) Reasonably believes disclosure of the minor's information to the individual could endanger the minor; or

"(c) Determines that it is not in the minor's best interest to disclose the information to the individual.

"[*(4)*] **(3)** Nothing in this section is intended to limit a mental health care provider's authority to disclose information related to the minor with the minor's consent.

"[*(5)*] **(4)** If a mental health care provider discloses a minor's information as provided in subsection (1) [*or (2)*] of this section in good faith, the mental health care provider is immune from civil liability for making the disclosure without the consent of the minor.

"**SECTION 19.** ORS 109.685 is amended to read:

"109.685. A [*physician, physician assistant, psychologist, nurse practitioner, clinical social worker licensed under ORS 675.530, professional counselor or marriage and family therapist licensed by the Oregon Board of Licensed Professional Counselors and Therapists, naturopathic physician licensed under ORS chapter 685 or community mental health program described in ORS 109.675*] **mental health care provider** who in good faith provides diagnosis or treatment to a minor as authorized by ORS 109.675 [*shall not be*] **is not** subject to any civil liability for providing such diagnosis or treatment without consent of the parent or legal guardian of the minor.

"**SECTION 20. Section 16 of this 2023 Act and the amendments to ORS 109.675, 109.680 and 109.685 by sections 17 to 19 of this 2023 Act apply to services provided to minors on or after the effective date of this 2023 Act.**

"**DRUG PARAPHERNALIA**

"**SECTION 21.** ORS 475.525 is amended to read:

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

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

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

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

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

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

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

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

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

"[*(h)*] **(g)** Containers and other objects marketed for use or designed for use in storing or concealing controlled substances; and

"[*(i)*] **(h)** Objects marketed for use or designed specifically for use in ingesting, inhaling or otherwise introducing a controlled substance into the human body, such as:

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

"[*(B) Water pipes;*]

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

"[*(D)*] **(A)** Smoking and carburetion masks;

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

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

"[*(G) Chamber pipes;*]

"[*(H) Carburetor pipes;*]

"[*(I) Electric pipes;*]

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

"[*(K) Chillums;*]

"[*(L) Bongs; and*]

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

"(3) For purposes of this section, 'drug paraphernalia' does not include hypodermic syringes or

needles**, single-use drug test strips, drug testing tools or any other item designed to prevent or reduce the potential harm associated with the use of controlled substances, including but not limited to items that reduce the transmission of infectious disease or prevent injury, infection or overdose**.

"(4) The provisions of ORS 475.525 to 475.565 do not apply to persons registered under the provisions of ORS 475.125 or to persons specified as exempt from registration under the provisions of that statute.

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

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

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

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

"(C) Any national or local advertising related to the object's use;

"(D) Any proffered expert testimony related to the object's use;

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

"(F) Any other proffered evidence substantiating the object's intended use.

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

"**SECTION 22. The amendments to ORS 475.525 by section 21 of this 2023 Act apply to conduct occurring on or after the effective date of this 2023 Act.**

"**OREGON HEALTH AUTHORITY BULK PURCHASES**

"**SECTION 23. The administrator of the Oregon Prescription Drug Program may, using powers and duties prescribed in ORS 414.312, undertake bulk purchases of short-acting opioid antagonists, as defined in ORS 689.681, for the purpose of expanding access to short-acting opioid antagonists throughout this state by entities that serve vulnerable populations, including but not limited to:**

"(1) Hospitals and emergency departments;

"(2) First responders;

"(3) Law enforcement agencies;

"(4) Courts and other departments within the criminal justice system;

"(5) Organizations that provide services to homeless individuals;

"(6) Veterans' organizations;

"(7) Religious organizations;

"(8) Schools and universities;

"(9) Substance use treatment and recovery facilities, including inpatient, outpatient, residential facilities and sobering centers;

"(10) Public libraries;

"(11) County public health or behavioral health agencies; and

"(12) Special districts.

"**SECTION 24.** ORS 414.320 is amended to read:

"414.320. The Oregon Health Authority shall adopt rules to implement and administer ORS 414.312 to 414.318 **and section 23 of this 2023 Act**. The rules shall include but are not limited to establishing procedures for:

"(1) Issuing prescription drug identification cards to individuals and entities that participate in the Oregon Prescription Drug Program; and

"(2) Enrolling pharmacies in the **Oregon Prescription Drug** Program.

"**SECTION 25. (1) Section 23 of this 2023 Act and the amendments to ORS 414.320 by section 24 of this 2023 Act become operative on January 1, 2024.**

"(2) The Oregon Health Authority may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the authority to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the authority by section 23 of this 2023 Act and the amendments to ORS 414.320 by section 24 of this 2023 Act.

"**OVERDOSE REPORTING**

"**SECTION 26. (1) As used in this section:**

"(a) 'Cause of death' has the meaning given that term in ORS 146.003.

"(b) 'Local mental health authority' has the meaning given that term in ORS 430.630.

"(c) 'Manner of death' has the meaning given that term in ORS 146.003.

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

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

"(f) 'Third-party notification' means notification from a source other than a patient in a program administered by a local mental health authority during the patient's treatment.

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

"(2)(a) The Oregon Health Authority shall provide guidance for communication among local mental health authorities to improve notifications and information sharing when an individual who is 24 years of age or younger dies and the presumed manner of death is suspected to be the result of an opioid overdose or other overdose. The guidance may address community opioid overdose and other overdose response and efforts to address the potential of future related deaths. The Oregon Health Authority may collaborate with the following entities in providing the guidance described in this subsection:

"(A) Local mental health authorities;

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

"(C) County juvenile departments;

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

"(E) Urban Indian health programs;

"(F) The Oregon Youth Authority;

"(G) The Department of Human Services;

"(H) Community developmental disabilities programs; and

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

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

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

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

"(5) After receiving notice of the death of an individual described in subsection (2)(a) of this section, each local mental health authority in a county in which the decedent had significant contacts may inform the Oregon Health Authority, in a manner and format determined by the authority, of activities implemented to support individuals and any local entities affected by the death and to prevent the risk of future related deaths. The Oregon Health Authority may serve as a resource to the local mental health authorities as needed by the community.

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

"(a) The name of the decedent;

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

"(c) The suspected manner of death;

"(d) The suspected cause of death; and

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

"**SECTION 27.** ORS 146.100 is amended to read:

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

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

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

"(a) All deaths requiring investigation; and

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

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

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

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

"(a) Waive any claim of privilege applicable to, or the confidentiality of, the materials and records provided.

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

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

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

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

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

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

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

"(e) The district medical examiner or medical-legal death investigator must provide the notification under this subsection no later than:

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

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

"**(9)(a) If a death is suspected to be the result of an opioid overdose or other overdose**

and the decedent was 24 years of age or younger, the district medical examiner or medical-legal death investigator shall notify the local mental health authority in the county where the death occurred and, if the decedent was a member of a federally recognized Indian tribe in Oregon, shall also notify the tribe's mental health authority.

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

"(c) The notification under this subsection must include the decedent's name, date of birth, date of death, suspected manner of death and cause of death. The notification may include the information described in subsection (8)(d) of this section and be provided as required under subsection (8)(e) of this section.

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

"(a) 'Local mental health authority' has the meaning given that term in ORS 430.630.

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

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

"**SECTION 28. Section 26 of this 2023 Act and the amendments to ORS 146.100 by section 29 of this 2023 Act apply to deaths occurring on and after the operative date specified in section 29 of this 2023 Act.**

"**SECTION 29. (1) Section 26 of this 2023 Act and the amendments to ORS 146.100 by section 27 of this 2023 Act become operative on January 1, 2024.**

"(2) The Oregon Health Authority may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the authority to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the authority by section 26 of this 2023 Act and the amendments to ORS 146.100 by section 27 of this 2023 Act.

"**CONFORMING AMENDMENTS**

"**SECTION 30.** ORS 430.389 is amended to read:

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

"(2)(a) The Oversight and Accountability Council, in consultation with the Oregon Health Authority, shall provide grants and funding to agencies or organizations, whether government or community based, to establish Behavioral Health Resource Networks for the purposes of immediately

screening the acute needs of people who use drugs and assessing and addressing any ongoing needs through ongoing case management, harm reduction, treatment, housing and linkage to other care and services. Recipients of grants or funding to provide substance use disorder treatment or services must be licensed, certified or credentialed by the state, including certification under ORS 743A.168 (8), or meet criteria prescribed by rule by the Oversight and Accountability Council under ORS 430.390. A recipient of a grant or funding under this subsection may not use the grant or funding to supplant the recipient's existing funding.

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

"(c) Applicants for grants and funding may apply individually or jointly with other network participants to provide services in one or more counties.

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

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

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

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

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

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

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

"(ii) Increase public awareness of network services.

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

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

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

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

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

"(g) The networks must be adequately staffed to address the needs of people with substance use disorders within their regions as prescribed by the council by rule, including, at a minimum, at least one person qualified by the Oregon Health Authority in each of the following categories:

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

"(B) Case manager; and

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

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

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

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

"(B) Peer support and recovery services;

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

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

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

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

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

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

"(A) Historically underserved populations; and

"(B) Culturally specific and linguistically responsive services.

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

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

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

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

"(6) In determining grants and funding to be awarded, the council may consult the comprehensive addiction, prevention, treatment and recovery plan established by the Alcohol and Drug Policy Commission under ORS 430.223 and the advice of any other group, agency, organization or individual that desires to provide advice to the council that is consistent with the terms of this section.

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

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

"**SECTION 31.** ORS 431A.855 is amended to read:

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

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

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

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

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

"(B) The electronic system must:

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

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

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

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

"(a) Reporting data;

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

"(c) Ensuring accuracy and completeness of data;

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

"(e) Ensuring accurate identification of persons or entities requesting information from the da-

tabase;

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

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

"(h) Registering practitioners with the electronic system.

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

"**SECTION 32.** ORS 431A.865 is amended to read:

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

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

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

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

"(2) The Oregon Health Authority may review the prescription monitoring information of an individual who dies from a drug overdose.

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

"(A) To a practitioner or pharmacist, or, if a practitioner or pharmacist authorizes the authority to disclose the information to a member of the practitioner's or pharmacist's staff, to a member of the practitioner's or pharmacist's staff. If a practitioner or pharmacist authorizes disclosing the information to a member of the practitioner's or pharmacist's staff under this subparagraph, the practitioner or pharmacist remains responsible for the use or misuse of the information by the staff member. To receive information under this subparagraph, or to authorize the receipt of information by a staff member under this subparagraph, a practitioner or pharmacist must certify that the requested information is for the purpose of evaluating the need for or providing medical or pharmaceutical treatment for a patient to whom the practitioner or pharmacist anticipates providing, is providing or has provided care.

"(B) To a dental director, medical director or pharmacy director, or, if a dental director, medical director or pharmacy director authorizes the authority to disclose the information to a member of the dental director's, medical director's or pharmacy director's staff, to a member of the dental director's, medical director's or pharmacy director's staff. If a dental director, medical director or pharmacy director authorizes disclosing the information to a member of the dental director's, medical director's or pharmacy director's staff under this subparagraph, the dental director, medical director or pharmacy director remains responsible for the use or misuse of the information by the staff member. To receive information under this subparagraph, or to authorize the receipt of information by a staff member under this subparagraph:

"(i) A dental director must certify that the requested information is for the purposes of overseeing the operations of a coordinated care organization, dental clinic or office, or a system of dental clinics or offices, and ensuring the delivery of quality dental care within the coordinated care organization, clinic, office or system.

"(ii) A medical director must certify that the requested information is for the purposes of overseeing the operations of a coordinated care organization, hospital, health care clinic or system of hospitals or health care clinics and ensuring the delivery of quality health care within the coordinated care organization, hospital, clinic or system.

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

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

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

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

"(iii) The health information technology system meets any privacy and security requirements and other criteria, including criteria required by the federal Health Insurance Portability and Accountability Act, established by the authority by rule.

"(D) To a practitioner in a form that catalogs all prescription drugs prescribed by the practitioner according to the number assigned to the practitioner by the Drug Enforcement Administration of the United States Department of Justice.

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

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

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

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

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

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

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

"(B) For the purpose of educating practitioners about the prescribing of opioids and other controlled substances;

"(C) To a health professional regulatory board;

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

"(E) To officials of the authority who are conducting special epidemiologic morbidity and mortality studies in accordance with ORS 413.196 and rules adopted under ORS 431.001 to 431.550 and 431.990.

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

"(A) Prescription drug monitoring information to the extent that the disclosure fails to comply

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

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

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

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

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

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

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

"(g) In accordance with ORS 192.553 to 192.581 and federal laws and regulations related to privacy, any person authorized to prescribe or dispense a prescription drug who is entitled to access a patient's prescription monitoring information may discuss the information with or release the information to other health care providers involved with the patient's care for the purpose of providing safe and appropriate care coordination.

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

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

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

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

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

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

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

"(7)(a) If the authority or a person or entity required to report or authorized to receive or re-

lease prescription information under this section violates this section or ORS 431A.860 or 431A.870, a person injured by the violation may bring a civil action against the authority, person or entity and may recover damages in the amount of $1,000 or actual damages, whichever is greater.

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

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

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

"CAPTIONS

"**SECTION 33. The unit captions used in this 2023 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 2023 Act.**

"EFFECTIVE DATE

"**SECTION 34. This 2023 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect on its passage.**".
