

MAXINE E. DEXTER
STATE REPRESENTATIVE

DISTRICT 33



HOUSE OF REPRESENTATIVES

To: Members of the Senate Committee on Health Care

Date: April 24, 2023

Subject: Support HB 2395 A

Chair Patterson, Vice Chair Hayden, and members of the Committee,

For the record, my name is Dr. Maxine Dexter, and I am honored to be the State Representative for House District 33, which includes NW & Downtown Portland, Linnton, and Cathedral Park. I am grateful for this opportunity today to present to you HB 2395 A, the Opioid Harm Reduction Omnibus Bill, and ask for your support. This bill comes to your committee with a unanimous vote out of the House Committee on Behavioral Health and Health Care (with one member absent), and a bipartisan 48-9 vote on the House floor.

It is impossible to ignore the profoundly tragic impact illicitly-manufactured fentanyl is having across Oregon. The threat it poses to every member of our community is very real. Our responsibility, as elected leaders, is to ensure the health and safety of Oregonians. This package is an opportunity to urgently take data-driven action that will start saving lives almost immediately upon passage. I am deeply grateful to testify to you in solidarity with a broad coalition of partners who have worked with my team for many months to bring to you this omnibus package that centers harm reduction using a public-health approach. Courageous leaders across many sectors have leaned in and elevated the importance of this work to get to where we are today - a well-considered, **bipartisan** package that has earned the support of harm reduction advocates, law enforcement, clinicians, students, educators, local governments and our public health system.

I have the privilege of serving my community not just as a legislator, but also as a practicing pulmonary and critical care physician. Being in medical practice for over 20 years, I have experienced first-hand the implementation of policies that led to dramatically increased opiate use, and the consequence this had had on my patients. These presumably well-intentioned policies have contributed to nearly a million deaths due to drug overdoses since 1999¹. I very much understand how policies can influence the public's health, and too often, we don't understand the enormous impact we as policymakers can have - both good and bad. Today I hope you will join me in pursuit of policy changes that can help undo the harm that has evolved for over 30 years.

Before I give a brief overview of the package, I will set some context. In December 1990, Dr. Max Mitchell, the President of the American Pain Society and an NIH research physician, published an

¹ <https://www.cdc.gov/drugoverdose/deaths/index.html>

editorial in an influential medical journal, *The Annals Of Internal Medicine*, asserting that clinicians were categorically undertreating pain. He asserted that patients' pain levels needed to be "visible" and that clinicians needed to be held accountable for addressing pain. His assertions gained support, and by the time I entered medical school in 1997, pain was adopted as "the fifth vital sign." This was a nationally-imposed practice change, which some experts assert was the beginning of the surge of chronic pain medication overuse.

This shift in approach did not happen in a vacuum, but was intentionally influenced by a very motivated special interest group – drug makers. The movement was led by the Sackler family (Purdue Pharma) to maximize sales of their new pain medication, Oxycontin (FDA approved in 1995)². We now know that this company strategically targeted physicians and policymakers through a massive, manipulative outreach. Medical students, residents and practicing physicians were systematically "educated" by drug company representatives about Oxycontin, a long-acting, sustained release pain medication that they asserted was safe, effective, and "less likely to cause abuse and addiction" than shorter-acting options. Their persistent outreach, made with FDA validation, proved to be profoundly effective at shaping opiate prescribing practices in our country.

By 2001, the year I entered residency, standardized evaluation of medical providers on how aggressively we were treating pain was required by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO)³. This well-intentioned, but woefully under-informed mandate to aggressively treat pain, often with these "safe" long-acting narcotics, has had devastating impacts that clinicians continue to grapple with every day. The reverberating harm that has been done as a result of this shift in the national approach to pain control, influenced by those who profited enormously, has been pervasive and devastating.

I am also a mother to two teenagers who are growing up in a world where counterfeit pills, often laced with illicitly-manufactured fentanyl, can be purchased on Snapchat and delivered to a home without ever having to leave a bedroom. The tragic number of youth in our state who have died as a result of unintentional opioid overdoses after taking such pills is a downstream effect of the opioid policies of the past. As a mother who knows very well that teens are developmentally meant to experiment and take risks, I am frightened by the threat these pills pose to all of our children for both their addictive properties as well as their potential to kill with the ingestion of just one pill. Although we all do our best to educate our children and help them develop skills to make responsible decisions, a single moment of impulsivity can result in fatal consequences. We must do everything in our power to minimize this risk to our children and our communities.

² Van Zee A. The promotion and marketing of oxycontin: commercial triumph, public health tragedy. *Am J Public Health*. 2009;99(2):221-7.

³ Baker, DW. The Joint Commission's Pain Standards: Origins and Evolution; May 5, 2017. https://www.jointcommission.org/-/media/tjc/documents/resources/pain-management/pain_std_history_web_version_05122017pdf.pdf?db=web&hash=E7D12A5C3BE9DF031F3D8FE0D8509580&hash=E7D12A5C3BE9DF031F3D8FE0D8509580#:~:text=Pain%3A%20The%20Fifth%20Vital%20Sign.,-Department%20of%20Veterans

This package will help protect all Oregonians through the following policy changes:

- We will decriminalize the distribution of fentanyl test strips and other tools, which are proven interventions to reduce the risk of overdose and drug-related death^{4,5}.
- We will remove barriers to naloxone availability in publicly-accessible buildings and will allow OHA to issue standing prescriptions for short-acting opioid antagonists. This ensures that building owner, and anyone who may utilize the available naloxone are protected from civil and criminal liability when acting in good faith.
- We will allow first responders to distribute short-acting opioid antagonist kits to any individual who may need or request one. This will free up capacity to respond to other emergency situations and ensure better access in the community to this lifesaving category of medications.
- We will allow cross-county notification when a youth dies as a result of an overdose outside of their home county. This will allow for a localized public health response in the decedent's community.
- We will allow clinicians to provide confidential substance use disorder treatment to minors under 15 years *only if* disclosing their desire for treatment is suspected to put the patient at risk of harm.
- We will provide protection for school staff from civil and criminal liability, when acting in good faith, should they administer naloxone to students suspected to be suffering from an overdose.
- We will change any reference to "naloxone" in current statute to "short-acting opioid antagonist".

I am grateful for the many partners who will also share their testimony and to each of you for your attention and consideration today. I will also note that my office has a companion bill in HB 2397 which would establish a fund for OHA to continue their lifesaving work of the clearinghouse project which provides low-to-no-cost naloxone to qualifying entities. I'm happy to answer any questions.

Sincerely,



Representative Maxine Dexter, M.D.
House District 33 (NW & Downtown Portland, Linnton, & Cathedral Park)

⁴ Krieger, M. S., Goedel, W. C., Buxton, J. A., Lysyshyn, M., Bernstein, E., Sherman, S. G., Rich, J. D., Hadland, S. E., Green, T. C., & Marshall, B. D. L. (2018). Use of rapid fentanyl test strips among young adults who use drugs. *The International journal on drug policy*, 61, 52–58. <https://doi.org/10.1016/j.drugpo.2018.09.009>

⁵ Darke, S., Hall, W. Heroin overdose: Research and evidence-based intervention. *J Urban Health* 80, 189–200 (2003). <https://doi.org/10.1093/jurban/jtg022>