

HOUSE AMENDMENTS TO HOUSE BILL 2100

By COMMITTEE ON HEALTH CARE

April 26

- 1 On page 1 of the printed bill, line 4, after “181.735,” insert “185.140,” and after “243.878,” insert
2 “279A.050,”.
- 3 In line 8, after “411.640,” insert “411.660,”.
- 4 In line 9, after “411.703,” insert “411.708,” and after “413.032,” insert “413.033,”.
- 5 In line 10, delete “414.325,” and insert “414.332,” and delete “414.337,”.
- 6 In line 12, after “418.985,” insert “419C.529,”.
- 7 In line 15, after “433.407,” insert “441.021,” and after “442.700,” insert “443.410,” and after
8 “448.465,” insert “475.495,”.
- 9 In line 19, delete “414.332,”.
- 10 In line 21, after “430.170,” insert “431.190,” and delete “and sec-” and insert a semicolon.
- 11 In line 22, delete “tion 13, chapter 827, Oregon Laws 2009;”.
- 12 On page 3, line 9, delete “a nine-member” and insert “an 11-member”.
- 13 In line 16, delete “Four” and insert “Five”.
- 14 In line 19, delete “Three” and insert “Four”.
- 15 Delete lines 23 through 27 and insert:
- 16 “(3) If the committee determines that it lacks current clinical or treatment expertise with re-
17 spect to a particular therapeutic class, or at the request of an interested outside party, the director
18 shall appoint one or more medical experts otherwise qualified as described in subsection (2)(a) of
19 this section who have such expertise. The medical experts shall have full voting rights with respect
20 to recommendations made under section 4 (3) and (4) of this 2011 Act. The medical experts may
21 participate but may not vote in any other activities of the committee.”.
- 22 In line 34, delete “Three” and insert “Five”.
- 23 On page 4, line 31, after “appropriate” delete the rest of the line and delete line 32.
- 24 In line 33, delete “any other evidence review process”.
- 25 Delete line 38 and insert:
- 26 “(c) Substantial differences in the costs of drugs within the same therapeutic class.
- 27 “(5) The committee shall post a recommendation to the website of the authority no later than
28 30 days after the date the committee approves the recommendation. The director shall approve,
29 disapprove or modify any recommendation of the committee as soon as practicable, shall publish the
30 decision on the website and shall notify persons who have requested notification of the decision. A
31 recommendation adopted by the director, in whole or in part, with respect to the inclusion of a drug
32 on a preferred drug list or the Practitioner-Managed Prescription Drug Plan may not become effec-
33 tive less than 60 days after the date that the director’s decision is published.
- 34 “(6) The director shall reconsider any decision to adopt or modify a recommendation of the
35 committee with respect to the inclusion of a particular drug on a preferred drug list or the

1 Practitioner-Managed Prescription Drug Plan, upon the request of any interested person filed no
2 later than 30 days after the director’s decision is published on the website. The decision on recon-
3 sideration shall be sent to the requester and posted to the website without undue delay.”.

4 On page 6, line 26, delete “may” and insert “shall”.

5 In line 31, delete “as” and insert “, including substantial cost differences between drugs within
6 the same therapeutic class, that is”.

7 Delete lines 35 and 36.

8 On page 7, after line 3, insert:

9 “(6) The committee shall meet no less than four times each year at a place, day and hour de-
10 termined by the director. The committee also shall meet at other times and places specified by the
11 call of the director or a majority of the members of the committee. No less than 30 days prior to a
12 meeting the committee shall post to the authority website:

13 “(a) The agenda for the meeting;

14 “(b) A list of the drug classes to be considered at the meeting; and

15 “(c) Background materials and supporting documentation provided to committee members with
16 respect to drugs and drug classes that are before the committee for review.

17 “(7) The committee shall provide appropriate opportunity for public testimony at each regularly
18 scheduled committee meeting. Immediately prior to deliberating on any recommendations regarding
19 a drug or a class of drugs, the committee shall accept testimony, in writing or in person, that is
20 offered by a manufacturer of those drugs or another interested party.

21 “(8) The committee may consider more than 20 classes of drugs at a meeting only if:

22 “(a) There is no new clinical evidence for the additional class of drugs; and

23 “(b) The committee is considering only substantial cost differences between drugs within the
24 same therapeutic class.”.

25 On page 8, line 43, delete “on January 1, 2012” and insert “31 calendar days after the effective
26 date of this 2011 Act”.

27 On page 9, line 7, delete “Four” and insert “Five”.

28 In line 10, before the period insert “, and one must be a hospital representative or a physician
29 whose practice is significantly hospital-based”.

30 In line 13, delete “representative who may be a” and delete “, physician” and insert a period.

31 Delete line 14.

32 In line 17, delete “Four” and insert “Two”.

33 In line 18, delete “complementary and alternative medicine, hospitals,”.

34 After line 19, insert:

35 “(f) One member must be a complementary or alternative medicine provider who is a
36 chiropractic physician licensed under ORS chapter 684, a naturopathic physician licensed under ORS
37 chapter 685 or an acupuncturist licensed under ORS chapter 677.”.

38 In line 20, delete “(f)” and insert “(g)”.

39 In line 22, delete “(g)” and insert “(h)”.

40 On page 10, line 21, after “services” insert “, including drug therapies,”.

41 Delete lines 24 through 26.

42 On page 11, line 1, delete “drugs,”.

43 In line 26, after the period insert “The commission may consider evidence relating to pre-
44 scription drugs that is relevant to a medical technology assessment but may not conduct a drug
45 class evidence review or medical technology assessment solely of a prescription drug.”.

1 Delete lines 33 through 35 and insert:

2 **“SECTION 26a. The Health Evidence Review Commission, in ranking health services or**
3 **developing guidelines under section 24 of this 2011 Act or in assessing medical technologies**
4 **under section 26 of this 2011 Act, and the Pharmacy and Therapeutics Committee, in con-**
5 **sidering a recommendation for a drug to be included on any preferred drug list or on the**
6 **Practitioner-Managed Prescription Drug Plan, may not rely solely on the results of compar-**
7 **ative effectiveness research.”.**

8 On page 16, line 23, delete “public assistance” and delete the second “for”.

9 On page 17, line 4, before the period insert “that the authority and the department are respon-

10 sible for administering”.

11 In line 6, after “or” delete the rest of the line and insert “, if requested by the recipient of the

12 notice, by electronic mail. The”.

13 After line 35, insert:

14 **“SECTION 50a. (1) As used in this section:**

15 **“(a) ‘Care’ means treatment, education, training, instruction, placement services, recre-**
16 **ational opportunities, support services or case management, or the supervision of such ser-**
17 **vices, for clients of the Oregon Health Authority.**

18 **“(b) ‘Subject individual’ means a person who is:**

19 **“(A) Employed or who seeks to be employed by the authority to provide care;**

20 **“(B) A volunteer or who seeks to be a volunteer to provide care on behalf of the au-**
21 **thority; or**

22 **“(C) Providing care or who seeks to provide care on behalf of the authority.**

23 **“(2) The Oregon Health Authority may use abuse and neglect reports, as defined in ORS**
24 **409.025, for the purpose of providing protective services or screening subject individuals.**

25 **“(3) The authority shall adopt rules to carry out the provisions of subsection (2) of this**
26 **section.**

27 **“(4) The rules adopted in subsection (3) of this section may include:**

28 **“(a) Notice and opportunity for due process for an employee of the authority who is found**
29 **to be unfit; and**

30 **“(b) Notice and opportunity for hearing in accordance with ORS chapter 183 for a subject**
31 **individual described in subsection (1)(b)(C) of this section.**

32 **“(5) Reports used by the authority under this section are confidential and may not be**
33 **disclosed for any purpose other than in accordance with this section or any other provision**
34 **of law.”.**

35 On page 18, line 35, after “ORS” insert “411.708, 411.795 and”.

36 On page 24, line 23, after “416.340” insert “, 416.350”.

37 In line 24, after “416.340” insert “, 416.350”.

38 In line 26, delete “department” and insert “agency”.

39 On page 33, after line 5, insert:

40 **“SECTION 68a. ORS 185.140 is amended to read:**

41 **“185.140. (1) The Oregon Disabilities Commission shall:**

42 **“(a) Advise the Department of Human Services, the Oregon Health Authority, the Governor,**
43 **the Legislative Assembly and appropriate state agency administrators on services and resources**
44 **needed to serve individuals with disabilities and recommend action by the Governor, the Legislative**
45 **Assembly, state agencies, other governmental entities and the private sector appropriate to meet**

1 such needs.

2 “(b) Advise the Governor, state and local elected officials and managers of public and private
3 firms and agencies on issues related to achieving full economic, social, legal and political equity for
4 individuals with disabilities.

5 “(2) The commission in no way shall impinge upon the authority or responsibilities of any other
6 existing or duly appointed commissions, boards, councils or committees. The commission shall act
7 as a coordinating link between and among public and private organizations serving individuals with
8 disabilities.”.

9 On page 36, after line 26, insert:

10 “**SECTION 73a.** ORS 279A.050 is amended to read:

11 “279A.050. (1)(a) Except as otherwise provided in the Public Contracting Code, a contracting
12 agency shall exercise all procurement authority in accordance with the provisions of the Public
13 Contracting Code.

14 “(b) When a contracting agency has authority under this section to carry out functions de-
15 scribed in this section, or has authority to make procurements under a provision of law other than
16 the Public Contracting Code, the contracting agency is not required to exercise that authority in
17 accordance with the provisions of the code if, under ORS 279A.025, the code does not apply to the
18 contract or contracting authority.

19 “(2) Except as otherwise provided in the Public Contracting Code, for state agencies the Direc-
20 tor of the Oregon Department of Administrative Services has all the authority to carry out the
21 provisions of the Public Contracting Code.

22 “(3) Except as otherwise provided in the Public Contracting Code, the Director of Transporta-
23 tion has all the authority to:

24 “(a) Procure or supervise the procurement of all services and personal services to construct,
25 acquire, plan, design, maintain and operate passenger terminal facilities and motor vehicle parking
26 facilities in connection with any public transportation system in accordance with ORS 184.689 (5);

27 “(b) Procure or supervise the procurement of all goods, services, public improvements and per-
28 sonal services relating to the operation, maintenance or construction of highways, bridges and other
29 transportation facilities that are subject to the authority of the Department of Transportation; and

30 “(c) Establish standards for, prescribe forms for and conduct the prequalification of prospective
31 bidders on public improvement contracts related to the operation, maintenance or construction of
32 highways, bridges and other transportation facilities that are subject to the authority of the De-
33 partment of Transportation.

34 “(4) Except as otherwise provided in the Public Contracting Code, the Secretary of State has
35 all the authority to procure or supervise the procurement of goods, services and personal services
36 related to programs under the authority of the Secretary of State.

37 “(5) Except as otherwise provided in the Public Contracting Code, the State Treasurer has all
38 the authority to procure or supervise the procurement of goods, services and personal services re-
39 lated to programs under the authority of the State Treasurer.

40 “(6) The state agencies listed in this subsection have all the authority to do the following in
41 accordance with the Public Contracting Code:

42 “(a) The Department of Human Services to procure or supervise the procurement of goods, ser-
43 vices and personal services under ORS 179.040 for the department’s institutions and the procurement
44 of goods, services and personal services for the construction, demolition, exchange, maintenance,
45 operation and equipping of housing for the purpose of providing care to individuals with mental re-

1 tardation or other developmental disabilities, subject to applicable provisions of ORS 427.335;

2 “(b) The Oregon Health Authority to procure or supervise the procurement of goods, services
3 and personal services under ORS 179.040 **and construction materials, equipment and supplies** for
4 the authority’s institutions and the procurement of goods, services, [and] personal services, **con-**
5 **struction materials, equipment and supplies** for the construction, demolition, exchange, mainte-
6 nance, operation and equipping of housing for persons with chronic mental illness, subject to
7 applicable provisions of ORS 426.504;

8 “(c) The State Department of Fish and Wildlife to procure or supervise the procurement of
9 construction materials, equipment, supplies, services and personal services for public improvements,
10 public works or ordinary construction described in ORS 279C.320 that is subject to the authority
11 of the State Department of Fish and Wildlife;

12 “(d) The State Parks and Recreation Department to procure or supervise the procurement of all
13 goods, services, public improvements and personal services relating to state parks;

14 “(e) The Oregon Department of Aviation to procure or supervise the procurement of con-
15 struction materials, equipment, supplies, services and personal services for public improvements,
16 public works or ordinary construction described in ORS 279C.320 that is subject to the authority
17 of the Oregon Department of Aviation;

18 “(f) The Oregon Business Development Department to procure or supervise the procurement of
19 all goods, services, personal services and public improvements related to its foreign trade offices
20 operating outside the state;

21 “(g) The Housing and Community Services Department to procure or supervise the procurement
22 of goods, services and personal services as provided in ORS 279A.025 (2)(o);

23 “(h) The Department of Corrections to procure or supervise the procurement of construction
24 materials, equipment, supplies, services and personal services for public improvements, public works
25 or ordinary construction described in ORS 279C.320 that is subject to the authority of the Depart-
26 ment of Corrections;

27 “(i) The Department of Corrections, subject to any applicable provisions of ORS 279A.120,
28 279A.125, 279A.145 and 283.110 to 283.395, to procure or supervise the procurement of goods, ser-
29 vices and personal services under ORS 179.040 for its institutions;

30 “(j) The Department of Veterans’ Affairs to procure or supervise the procurement of real estate
31 broker and principal real estate broker services related to programs under the department’s au-
32 thority;

33 “(k) The Oregon Military Department to procure or supervise the procurement of construction
34 materials, equipment, supplies, services and personal services for public improvements, public works
35 or ordinary construction described in ORS 279C.320 that is subject to the authority of the Oregon
36 Military Department;

37 “(L) The Department of Education, subject to any applicable provisions of ORS 329.075, 329.085
38 and 329.485 and the federal No Child Left Behind Act of 2001 (P.L. 107-110, 115 Stat. 1425), to pro-
39 cure or supervise the procurement of goods, services, personal services and information technology
40 relating to student assessment; and

41 “(m) Any state agency to conduct a procurement when the agency is specifically authorized by
42 any provision of law other than the Public Contracting Code to enter into a contract.

43 “(7) Notwithstanding this section and ORS 279A.140 (1), the Director of the Oregon Department
44 of Administrative Services has exclusive authority, unless the director delegates this authority, to
45 procure or supervise the procurement of all price agreements on behalf of the state agencies iden-

1 tified in subsection (6)(a) to (k) of this section under which more than one state agency may order
2 goods, services or personal services and, **except for contracts procured by the Oregon Health**
3 **Authority**, all state agency information technology contracts. This subsection does not apply to
4 contracts under which the contractor delivers to the state agency information technology products
5 or services incidental to the performance of personal services contracts described in ORS chapter
6 279C or construction contracts described in ORS chapter 279C. A state agency identified in sub-
7 section (3) or (6)(a) to (k) of this section may not establish a price agreement or enter into a con-
8 tract for goods, services, [or] personal services, **construction materials, equipment or supplies**
9 without the approval of the director if the director has established a price agreement for the goods,
10 services or personal services.”.

11 On page 39, line 37, delete “or” and insert “and to seniors” and delete “for seniors”.

12 On page 44, line 15, restore “programs” and delete “program” and insert “and”.

13 On page 45, line 24, before the period insert “or the Oregon Health Authority”.

14 In line 25, after “department” insert “or the authority”.

15 In line 29, after “department” insert “or the authority”.

16 In line 30, after “department” insert “or the authority”.

17 In line 41, delete “Oregon Health”.

18 On page 47, line 19, delete the boldfaced material and insert “or, if requested by the recipient
19 of the notice, by electronic mail”.

20 On page 48, line 16, delete “public assistance” and delete the second “for”.

21 On page 54, after line 28, insert:

22 “**SECTION 119a.** ORS 411.660 is amended to read:

23 “411.660. (1) If any person is convicted of a violation of any provision of ORS 411.630, any grant
24 of general assistance or public assistance made wholly or partially to meet the needs of such person
25 shall be modified, canceled or suspended for such time and under such terms and conditions as may
26 be prescribed by or pursuant to rules or regulations of the Department of Human Services **or the**
27 **Oregon Health Authority**.

28 “(2) Subsection (1) of this section does not prohibit a grant of general assistance or public as-
29 sistance to meet the needs of a child under the age of 18 years.”.

30 On page 56, after line 36, insert:

31 “**SECTION 124a.** ORS 411.708 is amended to read:

32 “411.708. (1) The amount of any assistance paid under ORS 411.706 is a claim against the prop-
33 erty or interest in the property belonging to and a part of the estate of any deceased recipient. If
34 the deceased recipient has no estate, the estate of the surviving spouse of the deceased recipient,
35 if any, shall be charged for assistance granted under ORS 411.706 to the deceased recipient or the
36 surviving spouse. There shall be no adjustment or recovery of assistance correctly paid on behalf
37 of any deceased recipient under ORS 411.706 except after the death of the surviving spouse of the
38 deceased recipient, if any, and only at a time when the deceased recipient has no surviving child
39 who is under 21 years of age or who is blind or has a disability. Transfers of real or personal
40 property by recipients of assistance without adequate consideration are voidable and may be set
41 aside under ORS 411.620 (2).

42 “(2) Except when there is a surviving spouse, or a surviving child who is under 21 years of age
43 or who is blind or has a disability, the amount of any assistance paid under ORS 411.706 is a claim
44 against the estate in any conservatorship proceedings and may be paid pursuant to ORS 125.495.

45 “[*(3) A claim under this section shall exclude benefits paid to or on behalf of a beneficiary under*

1 a policy of qualified long term care insurance, as defined in ORS 414.025 (2)(t).]

2 “[(4)] (3) Nothing in this section authorizes the recovery of the amount of any assistance from
3 the estate or surviving spouse of a recipient to the extent that the need for assistance resulted from
4 a crime committed against the recipient.”.

5 On page 58, line 12, delete “board” and insert “authority”.

6 In line 14, delete “board” and insert “authority”.

7 Delete lines 31 through 33 and insert “of addictions;

8 “(g) Assess, promote and protect the health of the public as specified by state and federal
9 law;”.

10 On page 59, after line 32, insert:

11 “**SECTION 126a.** ORS 413.033 is amended to read:

12 “413.033. (1) The Oregon Health Authority is under the supervision and control of a director,
13 who is responsible for the performance of the duties, functions and powers of the authority.

14 “(2) The Governor shall appoint the Director of the Oregon Health Authority, who holds office
15 at the pleasure of the Governor. The appointment of the director shall be subject to confirmation
16 by the Senate in the manner provided by ORS 171.562 and 171.565.

17 “(3)(a) **In addition to the procurement authority granted by ORS 179.040 and 279A.050, the**
18 **director shall have [the power to:] all powers necessary to effectively and expeditiously carry**
19 **out the duties, functions and powers vested in the authority by ORS 413.032 and section 19,**
20 **chapter 595, Oregon Laws 2009, and the duties, functions and powers that are shared by or**
21 **delegated to the authority with respect to the following agencies:**

22 “(A) **The Oregon Department of Administrative Services;**

23 “(B) **The Department of Consumer and Business Services; and**

24 “(C) **The Department of Human Services.**

25 “[a) *Contract for and procure, on a fee or part-time basis, or both, such actuarial, technical or*
26 *other professional services as may be required for the discharge of duties.*]

27 “(b) **With respect to procurements and contracts that the authority is authorized to**
28 **conduct or manage, the director may make procurements on behalf of, and supervise the**
29 **procurement, establishment and administration of contracts entered into by, the depart-**
30 **ments described in paragraph (a) of this subsection.**

31 “(c) **Notwithstanding ORS 279B.085, the director may approve a special procurement un-**
32 **der paragraph (b) of this subsection that:**

33 “(A) **Describes the proposed contracting procedure and the goods or services, or the class**
34 **of goods or services, to be acquired through the special procurement;**

35 “(B) **Is unlikely to encourage favoritism in the awarding of public contracts or to sub-**
36 **stantially diminish competition for public contracts; and**

37 “(C) **Is reasonably expected to result in substantial cost savings to the authority or to**
38 **the public.**

39 “(d) **The director shall give public notice of the approval of a proposed special procure-**
40 **ment as provided by the authority by rule. The requirements applicable to the Director of**
41 **the Oregon Department of Administrative Services under ORS 279B.400 apply to the Director**
42 **of the Oregon Health Authority with respect to special procurements under this subsection.**

43 “(e) **Notwithstanding ORS 279C.335, the director may exempt a public improvement con-**
44 **tract or a class of public improvement contracts that the authority is authorized to conduct**
45 **or manage from the competitive bidding requirements of ORS 279C.335 (1) if the director**

1 **makes the findings described in ORS 279C.335 (2). The provisions in ORS 279C.335 (3) to (8)**
2 **with respect to the Director of the Oregon Department of Administrative Services apply to**
3 **the Director of the Oregon Health Authority for exemptions granted by the director under**
4 **this subsection.**

5 “[*b*] (4) **The director shall have the power to** obtain such other services as the director
6 considers necessary or desirable, including participation in organizations of state insurance super-
7 visory officials and appointment of advisory committees. A member of an advisory committee so
8 appointed shall receive no compensation for services as a member, but, subject to any other appli-
9 cable law regulating travel and other expenses of state officers, shall receive actual and necessary
10 travel and other expenses incurred in the performance of official duties.

11 “[*4*] (5) The director may apply for, receive and accept grants, gifts or other payments, in-
12 cluding property or services from any governmental or other public or private person and may make
13 arrangement for the use of the receipts, including the undertaking of special studies and other
14 projects relating to the costs of health care, access to health care, public health and health care
15 reform.”.

16 On page 66, delete lines 41 through 45 and delete pages 67 and 68.

17 On page 69, delete lines 1 through 16 and insert:

18 “**SECTION 137.** ORS 414.332 is amended to read:

19 “414.332. It is the policy of the State of Oregon that a Practitioner-Managed Prescription Drug
20 Plan will ensure that:

21 “(1) Oregonians have access to the most effective prescription drugs appropriate for their clin-
22 ical conditions;

23 “(2) Decisions concerning the clinical effectiveness of prescription drugs are made by licensed
24 health practitioners, are informed by the latest peer-reviewed research and consider the health
25 condition of a patient or characteristics of a patient, including the patient’s gender, race or
26 ethnicity; and

27 “(3) The cost of prescription drugs in the medical assistance program is managed through mar-
28 ket competition among pharmaceutical manufacturers by [*publicly*] considering, first, the effective-
29 ness **and safety** of a given drug and, second, [*its relative cost*] **any substantial cost differences**
30 **between drugs within the same therapeutic class.”.**

31 In line 25, after “Committee” delete the rest of the line and insert a period.

32 In line 43, after “Committee” delete the rest of the line and insert a period.

33 On page 70, delete lines 10 through 20 and insert:

34 “**NOTE:** Section 140 was deleted by amendment. Subsequent sections were not renumbered.”.

35 On page 74, line 6, delete “Policy Board” and insert “Authority”.

36 On page 75, line 14, delete the boldfaced material.

37 In line 30, after “paid” insert “to or”.

38 On page 76, after line 1, insert:

39 “(5) Amounts recovered under this section do not include the value of benefits paid to or on
40 behalf of a beneficiary under a qualified long term care insurance policy or certificate, described in
41 ORS 414.025 (2)(t), that were disregarded in determining eligibility for or the amount of medical as-
42 sistance provided to the beneficiary.”.

43 In line 2, delete “(5)” and insert “(6)”.

44 On page 78, after line 41, insert:

45 “**SECTION 159a.** ORS 419C.529, as amended by section 10, chapter 89, Oregon Laws 2010, is

1 amended to read:

2 “419C.529. (1) After the entry of a jurisdictional order under ORS 419C.411 (2), if the court finds
3 by a preponderance of the evidence that the young person, at the time of disposition, has a serious
4 mental condition or has a mental disease or defect other than a serious mental condition and pre-
5 sents a substantial danger to others, requiring conditional release or commitment to a hospital or
6 facility designated on an individual case basis by the Department of Human Services or the Oregon
7 Health Authority as provided in subsection (6) of this section, the court shall order the young person
8 placed under the jurisdiction of the Psychiatric Security Review Board.

9 “(2) The court shall determine whether the young person should be committed to a hospital or
10 facility designated on an individual case basis by the department or the authority, as provided in
11 subsection (6) of this section, or conditionally released pending a hearing before the juvenile panel
12 of the Psychiatric Security Review Board as follows:

13 “(a) If the court finds that the young person is not a proper subject for conditional release, the
14 court shall order the young person committed to a secure hospital or a secure intensive community
15 inpatient facility designated on an individual case basis by the department or the authority, as
16 provided in subsection (6) of this section, for custody, supervision and treatment pending a hearing
17 before the juvenile panel in accordance with ORS 419C.532, 419C.535, 419C.538, 419C.540 and
18 419C.542 and shall order the young person placed under the jurisdiction of the board.

19 “(b) If the court finds that the young person can be adequately controlled with supervision and
20 treatment services if conditionally released and that necessary supervision and treatment services
21 are available, the court may order the young person conditionally released, subject to those super-
22 visory orders of the court that are in the best interests of justice and the young person. The court
23 shall designate a qualified mental health or developmental disabilities treatment provider or state,
24 county or local agency to supervise the young person on release, subject to those conditions as the
25 court directs in the order for conditional release. Prior to the designation, the court shall notify the
26 qualified mental health or developmental disabilities treatment provider or agency to whom condi-
27 tional release is contemplated and provide the qualified mental health or developmental disabilities
28 treatment provider or agency an opportunity to be heard before the court. After receiving an order
29 entered under this paragraph, the qualified mental health or developmental disabilities treatment
30 provider or agency designated shall assume supervision of the young person subject to the direction
31 of the juvenile panel. The qualified mental health or developmental disabilities treatment provider
32 or agency designated as supervisor shall report in writing no less than once per month to the ju-
33 venile panel concerning the supervised young person’s compliance with the conditions of release.

34 “(c) For purposes of determining whether to order commitment to a hospital or facility or con-
35 ditional release, the primary concern of the court is the protection of society.

36 “(3) In determining whether a young person should be conditionally released, the court may or-
37 der examinations or evaluations deemed necessary.

38 “(4) Upon placing a young person on conditional release and ordering the young person placed
39 under the jurisdiction of the board, the court shall notify the juvenile panel in writing of the court’s
40 conditional release order, the supervisor designated and all other conditions of release pending a
41 hearing before the juvenile panel in accordance with ORS 419C.532, 419C.535, 419C.538, 419C.540
42 and 419C.542.

43 “(5) When making an order under this section, the court shall:

44 “(a) Determine whether the parent or guardian of the young person is able and willing to assist
45 the young person in obtaining necessary mental health or developmental disabilities services and is

1 willing to acquiesce in the decisions of the juvenile panel. If the court finds that the parent or
2 guardian:

3 “(A) Is able and willing to do so, the court shall order the parent or guardian to sign an irrev-
4 ocable consent form in which the parent agrees to any placement decision made by the juvenile
5 panel.

6 “(B) Is unable or unwilling to do so, the court shall order that the young person be placed in
7 the legal custody of the Department of Human Services for the purpose of obtaining necessary de-
8 velopmental disabilities services or [*the Oregon Health Authority for the purpose of obtaining neces-*
9 *sary*] mental health services.

10 “(b) Make specific findings on whether there is a victim and, if so, whether the victim wishes
11 to be notified of any board hearings and orders concerning the young person and of any conditional
12 release, discharge or escape of the young person.

13 “(c) Include in the order a list of the persons who wish to be notified of any board hearing
14 concerning the young person.

15 “(d) Determine on the record the act committed by the young person for which the young person
16 was found responsible except for insanity.

17 “(e) State on the record the mental disease or defect on which the young person relied for the
18 responsible except for insanity defense.

19 “(6) When the department designates a facility for the commitment of a developmentally disabled
20 young person under this section, or the authority designates a hospital or facility for commitment
21 of a mentally ill young person under this section, the department and the authority shall take into
22 account the care and treatment needs of the young person, the resources available to the depart-
23 ment or the authority and the safety of the public.”.

24 On page 82, line 11, after “(b)” insert “Originates in and”.

25 In line 13, delete “and”.

26 In line 14, after “to” insert “other conditions including, but not limited to,”.

27 In line 16, delete the period and insert “; and

28 “(e) Requires training and support similar to that required by an individual with an intellectual
29 disability.”.

30 After line 36, insert:

31 “(11) ‘Intellectual disability’ means significantly subaverage general intellectual functioning, de-
32 fined as intelligence quotients under 70 as measured by a qualified professional and existing con-
33 currently with significant impairment in adaptive behavior, that is manifested before the individual
34 is 18 years of age. An individual with intelligence quotients of 70 through 75 may be considered to
35 have an intellectual disability if there is also significant impairment in adaptive behavior, as diag-
36 nosed and measured by a qualified professional. The impairment in adaptive behavior must be di-
37 rectly related to the intellectual disability. Intellectual disability is synonymous with mental
38 retardation.”.

39 In line 37, delete “(11)” and insert “(12)”.

40 Delete lines 39 through 44 and insert:

41 “(13) ‘Mental retardation’ is synonymous with intellectual disability.”.

42 In line 45, delete “(13)” and insert “(14)”.

43 On page 83, line 1, delete “(14)” and insert “(15)”.

44 In line 3, delete “(15)” and insert “(16)”.

45 In line 7, delete “(16)” and insert “(17)”.

1 In line 9, delete “(17)” and insert “(18)”.

2 Delete lines 11 through 13 and insert:

3 “(19) ‘State training center’ means any facility that is an intermediate care facility for the

4 mentally retarded as defined in 42 U.S.C. 1396d(d).”.

5 In line 14, delete “(19)” and insert “(20)”.

6 In line 20, delete “(20)” and insert “(21)”.

7 On page 96, line 28, delete the second comma.

8 In line 29, delete “subject to the availability of funds, shall” and insert “may contract with the

9 department to”.

10 On page 110, after line 35, insert:

11 **“SECTION 195a.** ORS 441.021 is amended to read:

12 “441.021. (1) In addition to an annual fee, the Oregon Health Authority may charge a hospital

13 a fee for:

14 “(a) Complaint investigation, in an amount not to exceed \$850.

15 “(b) Full compliance survey, in an amount not to exceed \$7,520.

16 “(c) On-site follow-up survey to verify compliance with a plan of correction, in an amount not

17 to exceed \$225.

18 “(d) Off-site follow-up survey to verify compliance with a plan of correction, in an amount not

19 to exceed \$85.

20 “(2) During one calendar year, the authority may charge to all hospitals a total amount not to

21 exceed:

22 “(a) \$91,000 for complaint investigations.

23 “(b) \$15,000 for full compliance surveys.

24 “(c) \$6,700 for follow-up surveys.

25 “(3)(a) The authority shall apportion the total amount charged under subsection (2) of this sec-

26 tion among hospitals at the end of each calendar year based on the number of complaint investi-

27 gations, full compliance surveys and follow-up surveys performed at each hospital during the

28 calendar year.

29 “(b) The authority may not include investigations of employee complaints in a hospital’s total

30 number of complaint investigations.

31 “[*(c) A hospital that was licensed in 2008 may not be charged fees under this subsection for more*

32 *complaint investigations than the number of complaint investigations that occurred at the hospital in*

33 *2008.*]

34 “[*(d) A hospital that was not licensed in 2008 may be charged fees under this subsection for an*

35 *unlimited number of complaint investigations.*]

36 **“(c) A hospital may not be charged fees in any calendar year under subsection (2) of this**

37 **section for more complaint investigations than the greater of:**

38 **“(A) The rolling average for the hospital for the previous three years; or**

39 **“(B) Two complaint investigations for a small hospital and five complaint investigations**

40 **for a large hospital.**

41 **“(d) Notwithstanding paragraph (c) of this subsection, the authority may not charge a**

42 **hospital for a number of complaint investigations that exceeds the number of complaint in-**

43 **vestigations actually conducted at the hospital during the calendar year.**

44 “(4) As used in this section, ‘full compliance survey’ means a survey conducted by the authority

45 following a complaint investigation to determine a hospital’s compliance with the Centers for Med-

icare and Medicaid Services Conditions of Participation.”.

On page 111, after line 38, insert:

“**SECTION 198a.** ORS 443.410 is amended to read:

“443.410. (1) A license issued by the Department of Human Services is required in order to operate or maintain a residential care facility, residential training facility or residential training home. [In the case of a combination of residents, the category of licensure shall be determined by the Director of Human Services.]

“(2) A license issued by the Oregon Health Authority is required in order to operate or maintain a residential treatment facility or residential treatment home.

“(3) **A facility may not be subject to licensing by both the department and the authority under this section. If a facility could be licensed under either subsection (1) or (2) of this section, the Director of Human Services and the Director of the Oregon Health Authority shall determine the category of licensure that applies to the facility.**”.

On page 113, after line 34, insert:

“**SECTION 205a.** ORS 475.495 is amended to read:

“475.495. (1) The Illegal Drug Cleanup Fund is established separate and distinct from the General Fund in the State Treasury.

“(2) The following moneys shall be deposited into the State Treasury and credited to the Illegal Drug Cleanup Fund:

“(a) Moneys recovered or otherwise received from responsible parties for cleanup costs;

“(b) Moneys received from a state agency, local government unit or any agency of a local government unit for cleanup of illegal drug manufacturing sites, including moneys received from forfeiture proceeds under the provisions of ORS 131A.360 and 131A.365;

“(c) Moneys received from the federal government for cleanup of illegal drug manufacturing sites; and

“(d) Any penalty, fine or punitive damages recovered under ORS 475.435, 475.455 or 475.485.

“(3) The State Treasurer may invest and reinvest moneys in the Illegal Drug Cleanup Fund in the manner provided by law. Interest earned by the fund shall be credited to the fund.

“(4) The moneys in the Illegal Drug Cleanup Fund are appropriated continuously to the Department of Environmental Quality to be used as provided for in subsection (5) of this section.

“(5) Moneys in the Illegal Drug Cleanup Fund may be used for the following purposes:

“(a) Payment of the state’s cleanup costs; and

“(b) Funding any action or activity authorized by ORS 475.415 to 475.455, 475.475 and 475.485.

“(6) In addition to the purposes provided for in subsection (5) of this section, moneys in the Illegal Drug Cleanup Fund received from forfeiture proceeds under the provisions of ORS 131A.360 and 131A.365 may be transferred to the [Department of Human Services] **Oregon Health Authority** to support the administration of the illegal drug manufacturing cleanup program provided for in ORS 453.855 to 453.912.

“(7) The department may not expend more than \$250,000 in each biennium of the forfeiture proceeds that are paid into the Illegal Drug Cleanup Fund by political subdivisions under the provisions of ORS 131A.360. If at the end of a biennium more than \$250,000 has been paid into the Illegal Drug Cleanup Fund under the provisions of ORS 131A.360, the department shall refund to each political subdivision that made payments into the fund a pro rata share of the excess amount, based on the amount of forfeiture proceeds paid into the fund by the political subdivision.”.

On page 130, line 19, delete “414.332.”.

- 1 In line 21, after "430.170," insert "431.190,".
- 2 Delete line 22 and insert "are repealed."
- 3 _____