

Requested by Representative POST

**PROPOSED AMENDMENTS TO
HOUSE BILL 2303**

1 On page 1 of the printed bill, line 2, delete “and 475.973; repealing”.

2 In line 3, delete “ORS 475.754”.

3 Delete lines 7 through 28 and delete pages 2 through 4 and insert:

4 **“SECTION 2. (1) As used in this section, ‘pharmacist,’ ‘pharmacy’**
5 **and ‘pharmacy technician’ have the meanings given those terms in**
6 **ORS 689.005.**

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

13 **“(3) Prior to the transfer of a drug described in subsection (2) of this**
14 **section, a pharmacist or pharmacy technician shall submit the fol-**
15 **lowing information to the electronic system described in subsection (6)**
16 **of this section:**

17 **“(a) The date and time of the transfer;**

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

20 **“(c) The form of government-issued photo identification and iden-**
21 **tification number of the person to whom the transfer will be made;**

1 “(d) The name of the government agency that issued the photo
2 identification; and

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

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

11 “(5)(a) Upon transferring a drug described in subsection (2) of this
12 section, the pharmacist or pharmacy technician shall require the per-
13 son to whom the drug is transferred to sign an electronic or written
14 log that shows the date of the transfer, the name of the person to
15 whom the transfer is made and the amount transferred of
16 pseudoephedrine or ephedrine or a salt, isomer or salt of an isomer
17 of pseudoephedrine or ephedrine, specified in grams.

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

21 “(c) A law enforcement agency may obtain information contained
22 in a log described in this subsection through a lawfully issued
23 subpoena accepted by the State Board of Pharmacy. The board shall
24 accept a lawfully issued subpoena under this paragraph, and shall
25 adopt rules to carry out this paragraph. The board may designate a
26 third party vendor as the custodian of records, including of a log de-
27 scribed in this subsection.

28 “(6)(a) For purposes of tracking the transfer of drugs described in
29 subsection (2) of this section, a pharmacy shall use an electronic sys-
30 tem designed to prevent illegal transfer of drugs described in sub-

1 section (2) of this section. The electronic system must:

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

3 “(B) Be capable of generating an alert described in subsection (4)

4 of this section;

5 “(C) Allow a pharmacist to override an alert described in subsection

6 (4) of this section if, in the discretion of the pharmacist, the transfer

7 is necessary to protect the person to whom the transfer will be made

8 from imminent bodily harm;

9 “(D) Be able to communicate in real time with similar systems op-

10 erated in other states and the District of Columbia, including with

11 similar systems that contain information submitted by more than one

12 state;

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

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

15 “(ii) The number of packages of the drug transferred;

16 “(iii) The total amount of pseudoephedrine or ephedrine or a salt,

17 isomer or salt of an isomer of pseudoephedrine or ephedrine trans-

18 ferred, specified in grams;

19 “(iv) The name of the drug transferred;

20 “(v) Either the signature of the person to whom the drug is trans-

21 ferred or a unique number connecting the transfer transaction to an

22 electronic or written log described in subsection (5) of this section; and

23 “(vi) The name or initials of the pharmacist or pharmacy technician

24 who transferred the drug;

25 “(F) Be free of charge to a pharmacy;

26 “(G) Be accessible at no charge to law enforcement and to other

27 authorized personnel, as determined by the board, through an online

28 portal or at the pharmacy;

29 “(H) Retain information submitted for at least two years from the

30 date of transaction; and

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

3 **“(b) A pharmacist who uses the override function described in this**
4 **subsection shall record in the electronic system the use of the over-**
5 **ride.**

6 **“(7) A drug described in subsection (2) of this section must be:**

7 **“(a) Transferred from behind a pharmacy counter; and**

8 **“(b) Stored behind the pharmacy counter in an area that is closed**
9 **to the public.**

10 **“(8)(a) A person, other than a pharmacy, may not receive more**
11 **than 3.6 grams per transfer, or more than 9 grams in a 30-day period,**
12 **of pseudoephedrine or ephedrine or a salt, isomer or salt of an isomer**
13 **of pseudoephedrine or ephedrine.**

14 **“(b) The limit described in this subsection does not apply to drugs**
15 **described in subsection (2) of this section when transferred pursuant**
16 **to a prescription.**

17 **“(9) In addition to rules adopted under subsection (5) of this section,**
18 **the board may adopt other rules as necessary to carry out this section.**

19 **“(10) Violation of this section, or a rule adopted pursuant to this**
20 **section, is a Class A misdemeanor.**

21 **“SECTION 3. ORS 475.950 is amended to read:**

22 **“475.950. (1) A person commits the offense of failure to report a precursor**
23 **substances transaction if the person does any of the following:**

24 **“(a) Sells, transfers or otherwise furnishes any precursor substance de-**
25 **scribed in ORS 475.940 (3)(a) to (hh) and (oo) and does not, at least three**
26 **days before delivery of the substance, submit to the Department of State**
27 **Police a report that meets the reporting requirements established by rule**
28 **under ORS 475.945.**

29 **“(b) Receives any precursor substance described in ORS 475.940 (3)(a) to**
30 **(hh) and (oo) and does not, within 10 days after receipt of the substance,**

1 submit to the [*Department of State Police*] **department** a report that meets
2 the reporting requirements established by rule under ORS 475.945.

3 “(2) This section does not apply to any of the following:

4 “(a) Any pharmacist or other authorized person who sells or furnishes a
5 precursor substance upon the prescription of a physician licensed under ORS
6 chapter 677, physician assistant licensed under ORS 677.505 to 677.525, nurse
7 practitioner licensed under ORS 678.375 to 678.390, naturopathic physician
8 licensed under ORS chapter 685, dentist or veterinarian.

9 “(b) Any practitioner, as defined in ORS 475.005, who administers or fur-
10 nishes a precursor substance to patients upon prescription.

11 “(c) Any person licensed by the State Board of Pharmacy who sells,
12 transfers or otherwise furnishes a precursor substance to a licensed phar-
13 macy, physician licensed under ORS chapter 677, physician assistant licensed
14 under ORS 677.505 to 677.525, nurse practitioner licensed under ORS 678.375
15 to 678.390, naturopathic physician licensed under ORS chapter 685, dentist
16 or veterinarian for distribution to patients upon prescription.

17 “(d) Any person who is authorized by rule under ORS 475.945 to report
18 in an alternate manner if the person complies with the alternate reporting
19 requirements.

20 “(e) Any patient of a practitioner, as defined in ORS 475.005, who obtains
21 a precursor substance from a licensed pharmacist, physician licensed under
22 ORS chapter 677, physician assistant licensed under ORS 677.505 to 677.525,
23 nurse practitioner licensed under ORS 678.375 to 678.390, naturopathic phy-
24 sician licensed under ORS chapter 685, dentist or veterinarian pursuant to
25 a prescription.

26 “(f) Any person who sells or transfers ephedrine, pseudoephedrine or
27 phenylpropanolamine in compliance with ORS 475.973 **or section 2 of this**
28 **2019 Act.**

29 “(g) Any practitioner, as defined in ORS 475.005, who dispenses a precu-
30 sor substance to a person with whom the practitioner has a professional re-

1 lationship.

2 “(h) Any person who obtains a precursor substance from a practitioner,
3 as defined in ORS 475.005, with whom the person has a professional re-
4 lationship.

5 “(i) Any person who sells or transfers an isomer of a precursor substance,
6 unless it is an optical isomer.

7 “(3) Penalties related to providing false information on a report required
8 under this section are provided under ORS 475.965.

9 “(4) The Department of State Police and any law enforcement agency may
10 inspect and remove copies of the sales records of any retail or wholesale
11 distributor of methyl sulfonyl methane or a precursor substance during the
12 normal business hours of the retail or wholesale distributor or may require
13 the retail or wholesale distributor to provide copies of the records.

14 “(5) Failure to report a precursor substances transaction is a Class A
15 misdemeanor.

16 “**SECTION 4.** ORS 475.950, as amended by section 3 of this 2019 Act, is
17 amended to read:

18 “475.950. (1) A person commits the offense of failure to report a precursor
19 substances transaction if the person does any of the following:

20 “(a) Sells, transfers or otherwise furnishes any precursor substance de-
21 scribed in ORS 475.940 (3)(a) to (hh) and (oo) and does not, at least three
22 days before delivery of the substance, submit to the Department of State
23 Police a report that meets the reporting requirements established by rule
24 under ORS 475.945.

25 “(b) Receives any precursor substance described in ORS 475.940 (3)(a) to
26 (hh) and (oo) and does not, within 10 days after receipt of the substance,
27 submit to the department a report that meets the reporting requirements es-
28 tablished by rule under ORS 475.945.

29 “(2) This section does not apply to any of the following:

30 “(a) Any pharmacist or other authorized person who sells or furnishes a

1 precursor substance upon the prescription of a physician licensed under ORS
2 chapter 677, physician assistant licensed under ORS 677.505 to 677.525, nurse
3 practitioner licensed under ORS 678.375 to 678.390, naturopathic physician
4 licensed under ORS chapter 685, dentist or veterinarian.

5 “(b) Any practitioner, as defined in ORS 475.005, who administers or fur-
6 nishes a precursor substance to patients upon prescription.

7 “(c) Any person licensed by the State Board of Pharmacy who sells,
8 transfers or otherwise furnishes a precursor substance to a licensed phar-
9 macy, physician licensed under ORS chapter 677, physician assistant licensed
10 under ORS 677.505 to 677.525, nurse practitioner licensed under ORS 678.375
11 to 678.390, naturopathic physician licensed under ORS chapter 685, dentist
12 or veterinarian for distribution to patients upon prescription.

13 “(d) Any person who is authorized by rule under ORS 475.945 to report
14 in an alternate manner if the person complies with the alternate reporting
15 requirements.

16 “(e) Any patient of a practitioner, as defined in ORS 475.005, who obtains
17 a precursor substance from a licensed pharmacist, physician licensed under
18 ORS chapter 677, physician assistant licensed under ORS 677.505 to 677.525,
19 nurse practitioner licensed under ORS 678.375 to 678.390, naturopathic phy-
20 sician licensed under ORS chapter 685, dentist or veterinarian pursuant to
21 a prescription.

22 “(f) Any person who sells or transfers ephedrine, pseudoephedrine or
23 phenylpropanolamine in compliance with ORS 475.973 [*or section 2 of this*
24 *2019 Act*].

25 “(g) Any practitioner, as defined in ORS 475.005, who dispenses a precu-
26 sor substance to a person with whom the practitioner has a professional re-
27 lationship.

28 “(h) Any person who obtains a precursor substance from a practitioner,
29 as defined in ORS 475.005, with whom the person has a professional re-
30 lationship.

1 “(i) Any person who sells or transfers an isomer of a precursor substance,
2 unless it is an optical isomer.

3 “(3) Penalties related to providing false information on a report required
4 under this section are provided under ORS 475.965.

5 “(4) The Department of State Police and any law enforcement agency may
6 inspect and remove copies of the sales records of any retail or wholesale
7 distributor of methyl sulfonyl methane or a precursor substance during the
8 normal business hours of the retail or wholesale distributor or may require
9 the retail or wholesale distributor to provide copies of the records.

10 “(5) Failure to report a precursor substances transaction is a Class A
11 misdemeanor.

12 **“SECTION 5. Section 1 of this 2019 Act and the amendments to ORS
13 475.950 by section 3 of this 2019 Act apply to conduct occurring on and
14 after the operative date specified in section 7 of this 2019 Act.**

15 **“SECTION 6. Section 2 of this 2019 Act is repealed on December 31,
16 2023.**

17 **“SECTION 7. (1) Section 2 of this 2019 Act and the amendments to
18 ORS 475.950 by section 3 of this 2019 Act become operative on January
19 1, 2020.**

20 **“(2) The amendments to ORS 475.950 by section 4 of this 2019 Act
21 become operative on January 1, 2024.**

22 **“(3) The State Board of Pharmacy may take any action before the
23 operative date specified in subsection (1) of this section that is neces-
24 sary to enable the board to exercise, on and after the operative date
25 specified in subsection (1) of this section, all of the duties, functions
26 and powers conferred on the board by section 2 of this 2019 Act and
27 the amendments to ORS 475.950 by section 3 of this 2019 Act.**

28 **“SECTION 8. This 2019 Act takes effect on the 91st day after the
29 date on which the 2019 regular session of the Eightieth Legislative
30 Assembly adjourns sine die.”.**

