LC 192
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D R A F T

SUMMARY

Deletes requirement that coordinated care organization collect specified data from members and submit data to Oregon Health Authority. Allows authority to make certain releases of data. Allows pharmacy intern to transfer drug containing pseudoephedrine or ephedrine to person 18 years of age or older without prescription. Extends sunset on provisions regulating sharing of COVID-19 data to one year after date on which state of emergency declared by Governor on March 8, 2020, for COVID-19 pandemic, and any extension of state of emergency, is no longer in effect. Extends requirements related to biological products to January 1, 2026. Authorizes authority to implement reproductive health services and education programs. Allows physicians and physician assistants to use telemedicine. Defines "telemedicine." Prohibits Oregon Medical Board from establishing standards for telemedicine that are stricter than standards for in-person delivery of health care services. Prohibits State Board of Pharmacy from establishing standards for telepharmacy that are stricter than standards for in-person delivery of pharmacy services.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to health care; creating new provisions; amending ORS 413.163, 413.164, 435.205, 442.015, 475.230, 689.522, 689.700 and 743A.067 and section 4, chapter 92, Oregon Laws 2021; and declaring an emergency.

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

DATA COLLECTION AND USE

SECTION 1. ORS 413.163 is amended to read:

413.163. The Oregon Health Authority shall establish a data system for

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

data on race, ethnicity, preferred spoken and written languages, disability status, sexual orientation and gender identity collected under ORS 413.164. The data system established under this section must include:

(1) A data registry to receive and store the data described in this section from coordinated care organizations, health care providers and health insurers, patients, clients and members of coordinated care organizations, health care providers and health insurers, the authority and the Department of Human Services. The registry must allow for coordinated care organizations, health care providers and health insurers to:

(a) Electronically submit data collected under ORS 413.164; and

(b) **Subject to ORS 413.164,** query the data registry to determine whether the registry contains current data for a patient, member or client.

(2) Functionality that allows a patient, member or client to directly submit to the data system their data described in this section.

SECTION 2. ORS 413.164 is amended to read:

413.164. (1) As used in this section and ORS 413.163 and 413.167:

(a) "Board" means the:

(A) State Board of Examiners for Speech-Language Pathology and Audiology;

(B) State Board of Chiropractic Examiners;

(C) State Board of Licensed Social Workers;

(D) Oregon Board of Licensed Professional Counselors and Therapists;

(E) Oregon Board of Dentistry;

(F) State Board of Massage Therapists;

(G) Oregon Board of Naturopathic Medicine;

(H) Oregon State Board of Nursing;

(I) Oregon Board of Optometry;

(J) State Board of Pharmacy;

(K) Oregon Medical Board;

(L) Occupational Therapy Licensing Board;

(M) Oregon Board of Physical Therapy;

(N) Oregon Board of Psychology;

(O) Board of Medical Imaging;

(P) Long Term Care Administrators Board;

(Q) State Board of Direct Entry Midwifery;

(R) State Board of Denture Technology;

(S) Respiratory Therapist and Polysomnographic Technologist Licensing Board;

(T) Board of Licensed Dietitians; and

(U) Oregon Health Authority, to the extent that the authority:

(i) Licenses emergency medical services providers under ORS 682.216; and

(ii) Regulates traditional health workers under ORS 414.665.

(b) "Coordinated care organization" has the meaning given that term in ORS 414.025.

(c) "Health care provider" means an individual licensed, certified, registered or otherwise authorized to practice by a board.

(d) "Health insurer" has the meaning given that term in ORS 746.600.

(2) At least once each calendar year and in accordance with timelines established by the authority by rule, [*a coordinated care organization,*] a health care provider or health care provider's designee[,] or a health insurer shall collect data on race, ethnicity, preferred spoken and written languages, disability status, sexual orientation and gender identity from the [*coordinated care organization's,*] health care provider's or health insurer's patients[,] **and** clients [*and members*], in accordance with standards adopted by the authority pursuant to ORS 413.161. A [*coordinated care organization,*] health care provider or health insurer shall submit the data to the authority in the manner prescribed by the authority by rule.

(3)(a) The authority shall adopt rules, including but not limited to rules:

(A) Establishing standards for collecting, securely transmitting and reporting the data described in subsection (2) of this section;

(B) Establishing the timelines for collection and submission of data described in subsection (2) of this section;

(C) Permitting [*coordinated care organizations,*] health care providers and health insurers to report to the authority that a patient[,] **or** client [*or member*] refused to answer questions regarding race, ethnicity, preferred spoken and written languages, disability status, sexual orientation and gender identity;

(D) Establishing criteria for extensions of timelines established under this subsection and a process for reviewing requests for extensions; and

(E) Establishing criteria for exempting certain health care providers or classes of health care providers from the requirements of subsection (2) of this section and a process for reviewing requests for exemptions.

(b) In adopting rules under subsection (2) of this section, the authority shall:

(A) Consult with the advisory committee established under ORS 413.161;

(B) Allow [*coordinated care organizations,*] health care providers and health insurers to collect the data described in subsection (2) of this section on electronic or paper forms; and

(C) Require [*coordinated care organizations,*] health care providers and health insurers to inform patients[,] **and** clients [*and members*]:

(i) That data collected under subsection (2) of this section is reported to the authority;

(ii) How the authority, [*coordinated care organization,*] health care provider and health insurer use the data;

(iii) Of the purposes for which the data may not be used; and

(iv) That the patient[,] **or** client [*or member*] is not required to answer questions regarding race, ethnicity, preferred spoken and written languages, disability status, sexual orientation and gender identity.

(4)**(a)** Data collected under this section is confidential and not subject to disclosure under ORS 192.311 to 192.478. **Except as provided in paragraph (c) of this subsection,** the authority may release the data collected under this section only if the data to be released is anonymized and aggregated so that the data released does not reasonably allow an individual whose infor-

mation is included in the data to be identified.

(b) Subject to the limitations described in paragraph (a) of this subsection, the authority may use data collected under this section for any purpose related to the authority's duties under this section.

(c) The authority may release to a coordinated care organization, health care provider or health insurer, and a coordinated care organization, health care provider or health insurer may access, the individually identifiable information for a client, member or patient of the coordinated care organization, health care provider or health insurer, pursuant to rules adopted by the authority.

(5) A [*coordinated care organization or*] health insurer transacting insurance in this state may not consider any data collected under subsection (2) of this section:

(a) In determining whether to deny, limit, cancel, rescind or refuse to renew an insurance policy;

(b) To establish premium rates for an insurance policy; or

(c) To establish the terms and conditions of an insurance policy.

(6) The authority may provide incentives to [*coordinated care organizations,*] health care providers and health insurers to assist in deferring the costs of making changes to electronic health records systems or similar systems to facilitate the collection of data described in subsection (2) of this section.

(7)(a) The authority shall monitor [*coordinated care organizations,*] health care providers and health insurers for compliance with the standards established under subsection (1) of this section.

(b) The authority may impose on a [*coordinated care organization,*] health care provider or health insurer a civil penalty for a violation of the requirements of this section or rules adopted under this section:

(A) Not to exceed $200 for the first violation;

(B) Not to exceed $400 for the second violation; and

(C) Not to exceed $500 for the third and subsequent violations.

(c) Prior to imposing a penalty under paragraph (b) of this subsection, the authority shall provide notice to the [*coordinated care organization,*] health care provider or health insurer of the alleged violation and provide the [*coordinated care organization,*] health care provider or health insurer a reasonable time in which to correct the violation.

PSEUDOEPHEDRINE

SECTION 3. ORS 475.230 is amended to read:

475.230. (1) As used in this section, **"intern,"** "pharmacist," "pharmacy" and "pharmacy technician" have the meanings given those terms in ORS 689.005.

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

(3) Prior to the transfer of a drug described in subsection (2) of this section, a pharmacist**, intern** or pharmacy technician shall submit the following information to the electronic system described in subsection (6) of this section:

(a) The date and time of the transfer;

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

(c) The form of government-issued photo identification and identification number of the person to whom the transfer will be made;

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

(e) The name of the drug that will be transferred and the amount of pseudoephedrine or ephedrine or a salt, isomer or salt of an isomer of

pseudoephedrine or ephedrine, specified in grams, to be transferred.

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

(5)(a) Upon transferring a drug described in subsection (2) of this section, the pharmacist**, intern** or pharmacy technician shall require the person to whom the drug is transferred to sign an electronic or written log that shows the date of the transfer, the name of the person to whom the transfer is made and the amount transferred of pseudoephedrine or ephedrine or a salt, isomer or salt of an isomer of pseudoephedrine or ephedrine, specified in grams.

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

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

(6)(a) For purposes of tracking the transfer of drugs described in subsection (2) of this section, a pharmacy shall use an electronic system designed to prevent illegal transfer of drugs described in subsection (2) of this section. The electronic system must:

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

(B) Be capable of generating an alert described in subsection (4) of this section;

(C) Allow a pharmacist to override an alert described in subsection (4) of this section if, in the discretion of the pharmacist, the transfer is necessary to protect the person to whom the transfer will be made from imminent

bodily harm;

(D) Be able to communicate in real time with similar systems operated in other states and the District of Columbia, including with similar systems that contain information submitted by more than one state;

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

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

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

(iii) The total amount of pseudoephedrine or ephedrine or a salt, isomer or salt of an isomer of pseudoephedrine or ephedrine transferred, specified in grams;

(iv) The name of the drug transferred;

(v) Either the signature of the person to whom the drug is transferred or a unique number connecting the transfer transaction to an electronic or written log described in subsection (5) of this section; and

(vi) The name or initials of the pharmacist**, intern** or pharmacy technician who transferred the drug;

(F) Be free of charge to a pharmacy;

(G) Be accessible at no charge to law enforcement and to other authorized personnel, as determined by the board, through an online portal or at the pharmacy;

(H) Retain information submitted for at least two years from the date of transaction; and

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

(b) A pharmacist who uses the override function described in this subsection shall record in the electronic system the use of the override.

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

(a) Transferred from behind a pharmacy counter; and

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

(8) A person, other than a pharmacy, may not receive more than 3.6 grams

per transfer, or more than nine grams in a 30-day period, of pseudoephedrine or ephedrine or a salt, isomer or salt of an isomer of pseudoephedrine or ephedrine.

(9) This section does not apply to a drug that contains pseudoephedrine or ephedrine or a salt, isomer or salt of an isomer of pseudoephedrine or ephedrine when the drug is transferred pursuant to a prescription.

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

(11) Violation of this section, or a rule adopted pursuant to this section, is a Class A misdemeanor.

COVID-19 DATA COLLECTION

SECTION 4. Section 4, chapter 92, Oregon Laws 2021, is amended to read:

Sec. 4. (1) Section 1 [*of this 2021 Act*]**, chapter 92, Oregon Laws 2021,** is repealed [*on June 30, 2022*] **one year after the date on which the state of emergency declared by the Governor on March 8, 2020, for the COVID-19 pandemic, and any extension of the state of emergency, is no longer in effect**.

(2) The amendments to ORS 433.008 by section 3 [*of this 2021 Act*]**, chapter 92, Oregon Laws 2021,** become operative on June 30, 2022.

BIOLOGICAL PRODUCTS

SECTION 5. ORS 689.522 is amended to read:

689.522. (1) A pharmacy or pharmacist filling a prescription order for a biological product may not substitute a biological product for the prescribed biological product unless:

(a) The substitute biological product has been determined by the United States Food and Drug Administration to be interchangeable with the prescribed biological product;

(b) The prescribing practitioner has not designated on the prescription that substitution is prohibited;

(c) The patient for whom the biological product is prescribed is informed of the substitution in a manner reasonable under the circumstances; and

(d) The pharmacy or pharmacist retains a record of the substitution for a period of not less than three years.

(2) Not later than five business days after the dispensing of a biological product, the pharmacy or pharmacist, or the pharmacist's designee, shall communicate the specific biological product dispensed to the patient, including the name and manufacturer of the biological product, by making an entry into an electronic system that the prescribing practitioner can access electronically and that is:

(a) An interoperable electronic medical records system;

(b) An electronic prescribing technology;

(c) A pharmacy benefit management system; or

(d) A pharmacy record.

(3) If the pharmacy or pharmacist, or the pharmacist's designee, does not have access to an electronic system described in subsection (2) of this section, the pharmacy or pharmacist, or the pharmacist's designee, shall communicate not later than five business days to the prescribing practitioner the specific biological product dispensed to the patient, including the name and manufacturer of the biological product. The communication may be by facsimile, electronic mail, telephone or another method.

(4) If the biological product is dispensed to a patient in a clinic, community-based care facility, hospital or long term care facility, an entry made to the patient's medical record of the specific biological product dispensed to the patient, including the name and manufacturer of the biological product, satisfies the communication requirements of subsection (2) of this section.

(5) Notwithstanding subsections (2) and (3) of this section, the

pharmacy or pharmacist, or the pharmacist's designee, is not required to communicate to the prescribing practitioner the specific biological product dispensed to the patient if:

(a) The United States Food and Drug Administration has not approved an interchangeable biological product for the prescribed biological product;

(b) The pharmacy or pharmacist is refilling a prescription and the pharmacy or pharmacist is dispensing the same biological product that was dispensed the last time the pharmacy or pharmacist filled or refilled the patient's prescription; or

(c) The pharmacy or pharmacist is filling a prescription for a vaccine.

(6) The entries described in subsections (2) and (4) of this section or the communication described in subsection (3) of this section provides notice to the prescribing provider of the dispensation of a biological product to a patient.

[*(2)*] **(7)** The State Board of Pharmacy shall, on a website maintained by the board, maintain a link to the current list, if available, of biological products determined by the United States Food and Drug Administration to be interchangeable.

[*(3)(a)*] **(8)(a)** For purposes of this section, the board shall adopt by rule definitions for the terms "biological product" and "interchangeable."

(b) The rule defining the term "biological product" must be consistent with 42 U.S.C. 262(i)(1).

(c) The rule defining the term "interchangeable" must:

(A) For biological products licensed under the Public Health Service Act, define the biological products that may be substituted for other biological products as having been determined by the United States Food and Drug Administration as meeting the standards in 42 U.S.C. 262(k)(4); and

(B) For biological products approved by the United States Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C.

301 et seq., define the biological products that may be substituted for other biological products as having been determined by the United States Food and Drug Administration as therapeutically equivalent as set forth in the latest edition or supplement of the Approved Drug Products with Therapeutic Equivalence Evaluations.

SECTION 6. ORS 689.522, as amended by section 5 of this 2022 Act, is amended to read:

689.522. (1) A pharmacy or pharmacist filling a prescription order for a biological product may not substitute a biological product for the prescribed biological product unless:

(a) The substitute biological product has been determined by the United States Food and Drug Administration to be interchangeable with the prescribed biological product;

(b) The prescribing practitioner has not designated on the prescription that substitution is prohibited;

(c) The patient for whom the biological product is prescribed is informed of the substitution in a manner reasonable under the circumstances; and

(d) The pharmacy or pharmacist retains a record of the substitution for a period of not less than three years.

[*(2) Not later than five business days after the dispensing of a biological product, the pharmacy or pharmacist, or the pharmacist's designee, shall communicate the specific biological product dispensed to the patient, including the name and manufacturer of the biological product, by making an entry into an electronic system that the prescribing practitioner can access electronically and that is:*]

[*(a) An interoperable electronic medical records system;*]

[*(b) An electronic prescribing technology;*]

[*(c) A pharmacy benefit management system; or*]

[*(d) A pharmacy record.*]

[*(3) If the pharmacy or pharmacist, or the pharmacist's designee, does not have access to an electronic system described in subsection (2) of this section,*

the pharmacy or pharmacist, or the pharmacist's designee, shall communicate not later than five business days to the prescribing practitioner the specific biological product dispensed to the patient, including the name and manufacturer of the biological product. The communication may be by facsimile, electronic mail, telephone or another method.]

[*(4) If the biological product is dispensed to a patient in a clinic, community-based care facility, hospital or long term care facility, an entry made to the patient's medical record of the specific biological product dispensed to the patient, including the name and manufacturer of the biological product, satisfies the communication requirements of subsection (2) of this section.*]

[*(5) Notwithstanding subsections (2) and (3) of this section, the pharmacy or pharmacist, or the pharmacist's designee, is not required to communicate to the prescribing practitioner the specific biological product dispensed to the patient if:*]

[*(a) The United States Food and Drug Administration has not approved an interchangeable biological product for the prescribed biological product;*]

[*(b) The pharmacy or pharmacist is refilling a prescription and the pharmacy or pharmacist is dispensing the same biological product that was dispensed the last time the pharmacy or pharmacist filled or refilled the patient's prescription; or*]

[*(c) The pharmacy or pharmacist is filling a prescription for a vaccine.*]

[*(6) The entries described in subsections (2) and (4) of this section or the communication described in subsection (3) of this section provides notice to the prescribing provider of the dispensation of a biological product to a patient.*]

[*(7)*] **(2)** The State Board of Pharmacy shall, on a website maintained by the board, maintain a link to the current list, if available, of biological products determined by the United States Food and Drug Administration to be interchangeable.

[*(8)(a)*] **(3)(a)** For purposes of this section, the board shall adopt by rule definitions for the terms "biological product" and "interchangeable."

(b) The rule defining the term "biological product" must be consistent with 42 U.S.C. 262(i)(1).

(c) The rule defining the term "interchangeable" must:

(A) For biological products licensed under the Public Health Service Act, define the biological products that may be substituted for other biological products as having been determined by the United States Food and Drug Administration as meeting the standards in 42 U.S.C. 262(k)(4); and

(B) For biological products approved by the United States Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 et seq., define the biological products that may be substituted for other biological products as having been determined by the United States Food and Drug Administration as therapeutically equivalent as set forth in the latest edition or supplement of the Approved Drug Products with Therapeutic Equivalence Evaluations.

SECTION 7. The amendments to ORS 689.522 by section 5 of this 2022 Act apply to prescriptions filled on and after the effective date of this 2022 Act.

SECTION 8. The amendments to ORS 689.522 by section 6 of this 2022 Act become operative on January 1, 2026.

REPRODUCTIVE HEALTH AND FAMILY PLANNING SERVICES

SECTION 9. Section 10 of this 2022 Act is added to and made a part of ORS 435.205 to 435.235.

SECTION 10. (1) The Oregon Health Authority may, subject to available funds, implement reproductive health services and education programs and provide funding for reproductive health services and education in this state.

(2) In order to receive state or federal funding or reimbursement from the authority for the provision of reproductive health services, a health care provider must be certified by the authority pursuant to

rules adopted under subsection (3) of this section.

(3) The authority may adopt rules necessary to carry out this section, including but not limited to rules to:

(a) Establish the programs described in subsection (1) of this section;

(b) Establish a health care provider certification process; and

(c) Adopt fees.

SECTION 11. ORS 435.205 is amended to read:

435.205. (1) The Oregon Health Authority and every local health department shall offer family planning and birth control services within the limits of available funds. Both agencies jointly may offer [*such*] **the** services **described in this subsection**. The Director of the Oregon Health Authority or a designee shall initiate and conduct discussions of family planning with each person who might have an interest in and benefit from [*such service*] **the services**. The authority shall furnish consultation and assistance to local health departments.

(2) Family planning and birth control services may include**, but are not limited to:**

(a) Interviews with trained personnel;

(b) Distribution of literature;

(c) Referral to a [*licensed*] physician **licensed under ORS chapter 677**, physician assistant licensed under ORS 677.505 to 677.525, naturopathic physician licensed under ORS chapter 685 or nurse practitioner licensed under ORS 678.375 to 678.390 for consultation, examination, medical treatment and prescription; and[,]

(d) To the extent so prescribed, the distribution of rhythm charts, the initial supply of a drug or other medical preparation, contraceptive devices and similar products.

(3) Any literature, charts or other family planning and birth control information offered under this section in counties in which a significant segment of the population does not speak English [*shall*] **must** be made

available in the appropriate [*foreign*] language for that segment of the population.

(4) In carrying out its duties under this section, and with the consent of the local public health authority as defined in ORS 431.003, the local health department may adopt a fee schedule for services provided by the local health department. The fees shall be reasonably calculated not to exceed costs of services provided and may be adjusted on a sliding scale reflecting ability to pay.

(5) The local health department shall collect fees according to the schedule adopted under subsection (4) of this section. [*Such*] **Moneys from** fees **collected** may be used to meet the expenses of providing the services authorized by this section.

SECTION 12. ORS 743A.067 is amended to read:

743A.067. (1) As used in this section:

(a) "Contraceptives" means health care services, drugs, devices, products or medical procedures to prevent a pregnancy.

(b) "Enrollee" means an insured individual and the individual's spouse, domestic partner and dependents who are beneficiaries under the insured individual's health benefit plan.

(c) "Health benefit plan" has the meaning given that term in ORS 743B.005, excluding Medicare Advantage Plans and including health benefit plans offering pharmacy benefits administered by a third party administrator or pharmacy benefit manager.

(d) "Prior authorization" has the meaning given that term in ORS 743B.001.

(e) "Religious employer" has the meaning given that term in ORS 743A.066.

(f) "Utilization review" has the meaning given that term in ORS 743B.001.

(2) A health benefit plan offered in this state must provide coverage for all of the following services, drugs, devices, products and procedures:

(a) Well-woman care prescribed by the Department of Consumer and

Business Services by rule consistent with guidelines published by the United States Health Resources and Services Administration.

(b) Counseling for sexually transmitted infections, including but not limited to human immunodeficiency virus and acquired immune deficiency syndrome.

(c) Screening for:

(A) Chlamydia;

(B) Gonorrhea;

(C) Hepatitis B;

(D) Hepatitis C;

(E) Human immunodeficiency virus and acquired immune deficiency syndrome;

(F) Human papillomavirus;

(G) Syphilis;

(H) Anemia;

(I) Urinary tract infection;

(J) Pregnancy;

(K) Rh incompatibility;

(L) Gestational diabetes;

(M) Osteoporosis;

(N) Breast cancer; and

(O) Cervical cancer.

(d) Screening to determine whether counseling related to the BRCA1 or BRCA2 genetic mutations is indicated and counseling related to the BRCA1 or BRCA2 genetic mutations if indicated.

(e) Screening and appropriate counseling or interventions for:

(A) Tobacco use; and

(B) Domestic and interpersonal violence.

(f) Folic acid supplements.

(g) Abortion.

(h) Breastfeeding comprehensive support, counseling and supplies.

(i) Breast cancer chemoprevention counseling.

(j) Any contraceptive drug, device or product approved by the United States Food and Drug Administration, subject to all of the following:

(A) If there is a therapeutic equivalent of a contraceptive drug, device or product approved by the United States Food and Drug Administration, a health benefit plan may provide coverage for either the requested contraceptive drug, device or product or for one or more therapeutic equivalents of the requested drug, device or product.

(B) If a contraceptive drug, device or product covered by the health benefit plan is deemed medically inadvisable by the enrollee's provider, the health benefit plan must cover an alternative contraceptive drug, device or product prescribed by the provider.

(C) A health benefit plan must pay pharmacy claims for reimbursement of all contraceptive drugs available for over-the-counter sale that are approved by the United States Food and Drug Administration.

(D) A health benefit plan may not infringe upon an enrollee's choice of contraceptive drug, device or product and may not require prior authorization, step therapy or other utilization review techniques for medically appropriate covered contraceptive drugs, devices or other products approved by the United States Food and Drug Administration.

(k) Voluntary sterilization.

(L) As a single claim or combined with other claims for covered services provided on the same day:

(A) Patient education and counseling on contraception and sterilization.

(B) Services related to sterilization or the administration and monitoring of contraceptive drugs, devices and products, including but not limited to:

(i) Management of side effects;

(ii) Counseling for continued adherence to a prescribed regimen;

(iii) Device insertion and removal; and

(iv) Provision of alternative contraceptive drugs, devices or products deemed medically appropriate in the judgment of the enrollee's provider.

(m) Any additional preventive services for women that must be covered without cost sharing under 42 U.S.C. 300gg-13, as identified by the United States Preventive Services Task Force or the Health Resources and Services Administration of the United States Department of Health and Human Services as of January 1, 2017.

(3) A health benefit plan may not impose on an enrollee a deductible, coinsurance, copayment or any other cost-sharing requirement on the coverage required by this section. A health care provider shall be reimbursed for providing the services described in this section without any deduction for coinsurance, copayments or any other cost-sharing amounts.

(4) Except as authorized under this section, a health benefit plan may not impose any restrictions or delays on the coverage required by this section.

(5) This section does not exclude coverage for contraceptive drugs, devices or products prescribed by a provider, acting within the provider's scope of practice, for:

(a) Reasons other than contraceptive purposes, such as decreasing the risk of ovarian cancer or eliminating symptoms of menopause; or

(b) Contraception that is necessary to preserve the life or health of an enrollee.

(6) This section does not limit the authority of the Department of Consumer and Business Services to ensure compliance with ORS 743A.063 and 743A.066.

(7) This section does not require a health benefit plan to cover:

(a) Experimental or investigational treatments;

(b) Clinical trials or demonstration projects, except as provided in ORS 743A.192;

(c) Treatments that do not conform to acceptable and customary standards of medical practice;

(d) Treatments for which there is insufficient data to determine efficacy; or

(e) Abortion if the insurer offering the health benefit plan excluded cov-

erage for abortion in all of its individual, small employer and large employer group plans during the 2017 plan year.

(8) If services, drugs, devices, products or procedures required by this section are provided by an out-of-network provider, the health benefit plan must cover the services, drugs, devices, products or procedures without imposing any cost-sharing requirement on the enrollee if:

(a) There is no in-network provider to furnish the service, drug, device, product or procedure that is geographically accessible or accessible in a reasonable amount of time, as defined by the Department of Consumer and Business Services by rule consistent with the requirements for provider networks in ORS 743B.505; or

(b) An in-network provider is unable or unwilling to provide the service in a timely manner.

(9) An insurer may offer to a religious employer a health benefit plan that does not include coverage for contraceptives or abortion procedures that are contrary to the religious employer's religious tenets only if the insurer notifies in writing all employees who may be enrolled in the health benefit plan of the contraceptives and procedures the employer refuses to cover for religious reasons.

(10) If the Department of Consumer and Business Services concludes that enforcement of this section may adversely affect the allocation of federal funds to this state, the department may grant an exemption to the requirements but only to the minimum extent necessary to ensure the continued receipt of federal funds.

(11) An insurer that is subject to this section shall make readily accessible to enrollees and potential enrollees, in a consumer-friendly format, information about the coverage of contraceptives by each health benefit plan and the coverage of other services, drugs, devices, products and procedures described in this section. The insurer must provide the information:

(a) On the insurer's website; and

(b) In writing upon request by an enrollee or potential enrollee.

(12) This section does not prohibit an insurer from using reasonable medical management techniques to determine the frequency, method, treatment or setting for the coverage of services, drugs, devices, products and procedures described in subsection (2) of this section, other than coverage required by subsection (2)(g) and (j) of this section, if the techniques:

(a) Are consistent with the coverage requirements of subsection (2) of this section; and

(b) Do not result in the wholesale or indiscriminate denial of coverage for a service.

(13) This section is exempt from ORS 743A.001.

TELEMEDICINE

SECTION 13. Section 14 of this 2022 Act is added to and made a part of ORS chapter 677.

SECTION 14. (1) As used in this section, "telemedicine" means the provision of health care services to a patient by a physician or physician assistant from a distance using synchronous or asynchronous electronic communications.

(2) A physician licensed under ORS 677.100 to 677.228 or a physician assistant licensed under ORS 677.505 to 677.525 may use telemedicine to provide health care services to a patient physically located in this state. The physician or physician assistant is not required to be physically located in this state when providing health care services through telemedicine.

(3) The Oregon Medical Board may adopt rules to carry out this section. The rules adopted under this section may not establish standards for the provision of health care services through telemedicine that are more restrictive than standards for the provision of health care services in person.

SECTION 15. ORS 442.015 is amended to read:

442.015. As used in ORS chapter 441 and this chapter, unless the context requires otherwise:

(1) "Acquire" or "acquisition" means obtaining equipment, supplies, components or facilities by any means, including purchase, capital or operating lease, rental or donation, for the purpose of using such equipment, supplies, components or facilities to provide health services in Oregon. When equipment or other materials are obtained outside of this state, acquisition is considered to occur when the equipment or other materials begin to be used in Oregon for the provision of health services or when such services are offered for use in Oregon.

(2) "Affected persons" has the same meaning as given to "party" in ORS 183.310.

(3)(a) "Ambulatory surgical center" means a facility or portion of a facility that operates exclusively for the purpose of providing surgical services to patients who do not require hospitalization and for whom the expected duration of services does not exceed 24 hours following admission.

(b) "Ambulatory surgical center" does not mean:

(A) Individual or group practice offices of private physicians or dentists that do not contain a distinct area used for outpatient surgical treatment on a regular and organized basis, or that only provide surgery routinely provided in a physician's or dentist's office using local anesthesia or conscious sedation; or

(B) A portion of a licensed hospital designated for outpatient surgical treatment.

(4) "Delegated credentialing agreement" means a written agreement between an originating-site hospital and a distant-site hospital that provides that the medical staff of the originating-site hospital will rely upon the credentialing and privileging decisions of the distant-site hospital in making recommendations to the governing body of the originating-site hospital as to whether to credential a telemedicine provider, practicing at the distant-site hospital either as an employee or under contract, to provide telemedicine

services to patients in the originating-site hospital.

(5) "Develop" means to undertake those activities that on their completion will result in the offer of a new institutional health service or the incurring of a financial obligation, as defined under applicable state law, in relation to the offering of such a health service.

(6) "Distant-site hospital" means the hospital where a telemedicine provider, at the time the telemedicine provider is providing telemedicine services, is practicing as an employee or under contract.

(7) "Expenditure" or "capital expenditure" means the actual expenditure, an obligation to an expenditure, lease or similar arrangement in lieu of an expenditure, and the reasonable value of a donation or grant in lieu of an expenditure but not including any interest thereon.

(8) "Extended stay center" means a facility licensed in accordance with ORS 441.026.

(9) "Freestanding birthing center" means a facility licensed for the primary purpose of performing low risk deliveries.

(10) "Governmental unit" means the state, or any county, municipality or other political subdivision, or any related department, division, board or other agency.

(11) "Gross revenue" means the sum of daily hospital service charges, ambulatory service charges, ancillary service charges and other operating revenue. "Gross revenue" does not include contributions, donations, legacies or bequests made to a hospital without restriction by the donors.

(12)(a) "Health care facility" means:

(A) A hospital;

(B) A long term care facility;

(C) An ambulatory surgical center;

(D) A freestanding birthing center;

(E) An outpatient renal dialysis facility; or

(F) An extended stay center.

(b) "Health care facility" does not mean:

(A) A residential facility licensed by the Department of Human Services or the Oregon Health Authority under ORS 443.415;

(B) An establishment furnishing primarily domiciliary care as described in ORS 443.205;

(C) A residential facility licensed or approved under the rules of the Department of Corrections;

(D) Facilities established by ORS 430.335 for treatment of substance abuse disorders; or

(E) Community mental health programs or community developmental disabilities programs established under ORS 430.620.

(13) "Health maintenance organization" or "HMO" means a public organization or a private organization organized under the laws of any state that:

(a) Is a qualified HMO under section 1310(d) of the U.S. Public Health Services Act; or

(b)(A) Provides or otherwise makes available to enrolled participants health care services, including at least the following basic health care services:

(i) Usual physician services;

(ii) Hospitalization;

(iii) Laboratory;

(iv) X-ray;

(v) Emergency and preventive services; and

(vi) Out-of-area coverage;

(B) Is compensated, except for copayments, for the provision of the basic health care services listed in subparagraph (A) of this paragraph to enrolled participants on a predetermined periodic rate basis; and

(C) Provides physicians' services primarily directly through physicians who are either employees or partners of such organization, or through arrangements with individual physicians or one or more groups of physicians organized on a group practice or individual practice basis.

(14) "Health services" means clinically related diagnostic, treatment or rehabilitative services, and includes alcohol, drug or controlled substance abuse and mental health services that may be provided either directly or indirectly on an inpatient or ambulatory patient basis.

(15) "Hospital" means:

(a) A facility with an organized medical staff and a permanent building that is capable of providing 24-hour inpatient care to two or more individuals who have an illness or injury and that provides at least the following health services:

(A) Medical;

(B) Nursing;

(C) Laboratory;

(D) Pharmacy; and

(E) Dietary; or

(b) A special inpatient care facility as that term is defined by the authority by rule.

(16) "Institutional health services" means health services provided in or through health care facilities and the entities in or through which such services are provided.

(17) "Intermediate care facility" means a facility that provides, on a regular basis, health-related care and services to individuals who do not require the degree of care and treatment that a hospital or skilled nursing facility is designed to provide, but who because of their mental or physical condition require care and services above the level of room and board that can be made available to them only through institutional facilities.

(18)(a) "Long term care facility" means a permanent facility with inpatient beds, providing:

(A) Medical services, including nursing services but excluding surgical procedures except as may be permitted by the rules of the Director of Human Services; and

(B) Treatment for two or more unrelated patients.

(b) "Long term care facility" includes skilled nursing facilities and intermediate care facilities but does not include facilities licensed and operated pursuant to ORS 443.400 to 443.455.

(19) "New hospital" means:

(a) A facility that did not offer hospital services on a regular basis within its service area within the prior 12-month period and is initiating or proposing to initiate such services; or

(b) Any replacement of an existing hospital that involves a substantial increase or change in the services offered.

(20) "New skilled nursing or intermediate care service or facility" means a service or facility that did not offer long term care services on a regular basis by or through the facility within the prior 12-month period and is initiating or proposing to initiate such services. "New skilled nursing or intermediate care service or facility" also includes the rebuilding of a long term care facility, the relocation of buildings that are a part of a long term care facility, the relocation of long term care beds from one facility to another or an increase in the number of beds of more than 10 or 10 percent of the bed capacity, whichever is the lesser, within a two-year period.

(21) "Offer" means that the health care facility holds itself out as capable of providing, or as having the means for the provision of, specified health services.

(22) "Originating-site hospital" means a hospital in which a patient is located while receiving telemedicine services.

(23) "Outpatient renal dialysis facility" means a facility that provides renal dialysis services directly to outpatients.

(24) "Person" means an individual, a trust or estate, a partnership, a corporation (including associations, joint stock companies and insurance companies), a state, or a political subdivision or instrumentality, including a municipal corporation, of a state.

(25) "Skilled nursing facility" means a facility or a distinct part of a facility, that is primarily engaged in providing to inpatients skilled nursing

care and related services for patients who require medical or nursing care, or an institution that provides rehabilitation services for the rehabilitation of individuals who are injured or sick or who have disabilities.

(26) "Telemedicine" means the provision of health services to patients by physicians and health care practitioners from a distance using **synchronous or asynchronous** electronic communications.

SECTION 16. ORS 689.700 is amended to read:

689.700. (1) As used in this section, "telepharmacy" means the delivery of pharmacy services by a pharmacist, through the use of a variety of electronic and telecommunications technologies, to a patient at a remote location staffed by a pharmacy technician.

(2) The pharmacy services for which a pharmacist may use telepharmacy include the supervision of the dispensation of prescription drugs to a patient.

(3) The remote location at which a patient receives pharmacy services through the use of telepharmacy must be affiliated with the pharmacy where the pharmacist providing the pharmacy services through telepharmacy regularly engages in the practice of pharmacy.

(4)**(a)** The State Board of Pharmacy shall adopt rules to carry out this section. The rules adopted under this section must include rules:

[*(a)*] **(A)** Regarding remote supervision of a pharmacy technician in order to facilitate the use of telepharmacy; and

[*(b)*] **(B)** Describing the pharmacy services that a pharmacist may provide through telepharmacy.

(b) In adopting rules under this section, the board may not establish standards for telepharmacy that are more restrictive than standards for the delivery of in-person pharmacy services, including standards regarding prescription and dispensation of drugs. This paragraph shall not be construed to limit the board from adopting rules to require compliance with any applicable federal law.

CAPTIONS

SECTION 17. **The unit captions used in this 2022 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 2022 Act.**

EFFECTIVE DATE

SECTION 18. **This 2022 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2022 Act takes effect on its passage.**