

House Bill 3377

Sponsored by Representative SANCHEZ; Representative WILLIAMS

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Establishes Addiction Crisis Recovery Fund. Prescribes uses of fund. Establishes Office of Intervention and Engagement in Oregon Health Authority to oversee expansion of substance use disorder treatment and peer services. Establishes Office of Behavioral Health Workforce Development in Oregon Health Authority to oversee recovery workforce development.

Requires Oregon Health Authority to increase payments for reimbursement to addiction treatment providers for services provided to medical assistance recipients.

Requires Oregon Health Authority to study optimum minimum pricing of malt beverages, wine and cider to allow consumer access and discourage overconsumption. Requires report to interim committee of Legislative Assembly related to health by November 30, 2021. Sunsets January 1, 2022.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to substance use; creating new provisions; amending ORS 430.220 and 743A.168; and de-
3 claring an emergency.

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

5 **SECTION 1. The Addiction Crisis Recovery Fund is established in the State Treasury,**
6 **separate and distinct from the General Fund. Interest earned by the Addiction Crisis Re-**
7 **covery Fund must be credited to the General Fund. The Addiction Crisis Recovery Fund**
8 **consists of moneys transferred to the fund by the Legislative Assembly or otherwise allo-**
9 **cated or appropriated to the fund. The moneys in the fund shall be used at the direction of**
10 **the Alcohol and Drug Policy Commission, in alignment with the commission's biennial stra-**
11 **tegic plan recommendations, and are continuously appropriated to the Oregon Health Au-**
12 **thority to be used as follows:**

13 (1) **The lesser, for each biennium, of 10 percent of the moneys received in the fund during**
14 **the biennium or \$74 million shall be used by the authority's public health division to provide**
15 **prevention services. This amount shall be distributed as follows:**

16 (a) **61 percent for interventions at the state and local level;**

17 (b) **12 percent for health systems and recovery supports;**

18 (c) **12 percent for mass-reach health communications, including statewide public educa-**
19 **tion campaigns on the harms of addiction and on the promotion of recovery;**

20 (d) **10 percent for data and evaluation programs; and**

21 (e) **5 percent for statewide administration and management.**

22 (2) **The lesser, for each biennium, of 20 percent of the moneys received in the fund during**
23 **the biennium or \$149 million shall be used to fund substance use treatment and services in**
24 **primary care settings, hospitals and educational facilities.**

25 (3) **The lesser, for each biennium, of 35 percent of the moneys received in the fund during**
26 **the biennium or \$261 million shall be used to increase access to outpatient and residential**
27 **treatment, including through the establishment of culturally specific outpatient and resi-**

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.

1 **dential treatment in each geographic region of this state, as determined by a statewide needs**
 2 **assessment conducted by the commission, including but not limited to:**

3 **(a) Establishing an Addiction Recovery District for each geographic region of and tribe**
 4 **in this state, and within each district:**

5 **(A) Funding one residential treatment bed per 2,000 residents;**

6 **(B) Funding one detoxification center per 3,000 residents;**

7 **(C) Funding one intensive outpatient opening per 1,000 residents;**

8 **(D) Funding culturally relevant services reimbursed at a rate that reflects the demo-**
 9 **graphic breakdown of the district's population;**

10 **(E) Establishing medication-assisted treatment provider incentive programs that result**
 11 **in one medication-assisted treatment provider per 1,000 residents; and**

12 **(F) Funding one youth addiction treatment bed per 4,000 residents.**

13 **(b) Funding a statewide needs assessment conducted by the commission and an inventory**
 14 **of all levels of addiction treatment.**

15 **(4) The lesser, for each biennium, of 25 percent of the moneys received in the fund during**
 16 **the biennium or \$186.5 million shall be used to establish a statewide comprehensive recovery**
 17 **support service model and distributed as follows:**

18 **(a) \$5 million to establish a safety net grant fund for rapid access to early recovery child**
 19 **care, transportation and financial support;**

20 **(b) \$5 million to establish a restorative justice fund to assist with the expunction of**
 21 **criminal records and the downward reclassification of convictions;**

22 **(c) \$5 million to establish a fund to provide post-incarceration reentry services; and**

23 **(d) The remainder for the creation of:**

24 **(A) A Recovery Manager in the Oregon Health Authority who is responsible for over-**
 25 **seeing the creation of Recovery Community Centers;**

26 **(B) A full-time Recovery Manager Advocate in the division of the authority that admin-**
 27 **isters addiction treatment, recovery and prevention programs who shall be responsible for**
 28 **creating and managing recovery peer support services, including developing and maintaining**
 29 **a network of Recovery Community Organizations;**

30 **(C) A network of at least 24 Addiction Recovery Centers with at least three in each Ad-**
 31 **dition Recovery District, based on the population and cultural demographics of each district,**
 32 **managed by and delivering services through local recovery communities, to provide:**

33 **(i) Culturally relevant peer support;**

34 **(ii) Telephone and Internet chat access to peer recovery support 24 hours a day, seven**
 35 **days a week;**

36 **(iii) In-person peer support services for 12 hours a day, seven days a week; and**

37 **(iv) Multiple forms of community-based recovery supports that embrace multiple path-**
 38 **ways to recovery, including but not limited to:**

39 **(I) 12-step mutual aid meetings;**

40 **(II) Mindfulness-based recovery support;**

41 **(III) Skill-building groups and activities; and**

42 **(IV) Other activities and events that support a recovery lifestyle;**

43 **(D) At least five recovery groups for youth under 18 years of age, such as recovery high**
 44 **schools and alternative peer groups;**

45 **(E) A collegiate recovery program on every college campus in this state; and**

1 (F) At least one recovery house that meets the national standard set by the National
 2 Alliance for Recovery Residences per _____ residents in each Addiction Recovery Dis-
 3 trict.

4 (5) The lesser, for each biennium, of nine percent of the moneys received in the fund
 5 during the biennium or \$74 million shall be used to develop a rapid treatment and recovery
 6 workforce.

7 (6) The lesser, for each biennium, of one percent of the moneys received in the fund
 8 during the biennium or \$7.4 million shall be used for administrative costs of the commission.

9 **SECTION 2.** (1) The Office of Intervention and Engagement is established in the Oregon
 10 Health Authority. The office shall oversee expansion of substance use disorder treatment and
 11 peer service in primary care settings, hospitals and educational facilities. The office shall:

12 (a) Establish a program to provide incentives to primary care provider organizations,
 13 hospital emergency departments, the Department of Corrections and local corrections de-
 14 partments to employ or contract with certified alcohol and drug counselors and peer men-
 15 tors.

16 (b) Identify, and establish as necessary, programs to provide training on addiction, re-
 17 covery and harm reduction for employees and contractors in the health care industry, the
 18 criminal justice system, educational facilities and the private sector.

19 (c) Establish a primary care provider incentive program to provide financial incentives
 20 to physicians licensed under ORS chapter 677, nurse practitioners licensed under ORS 678.375
 21 to 678.390, physician assistants licensed under ORS 677.505 to 677.525, clinical nurse special-
 22 ists licensed under ORS 678.370 and 678.372 and certified registered nurse anesthetists as
 23 defined in ORS 678.245 to obtain a practitioner waiver from the United States Food and Drug
 24 Administration to prescribe buprenorphine for the purposes of medication-assisted treat-
 25 ment.

26 (d) Establish in each Addiction Recovery District described in section 1 of this 2021 Act
 27 a program that provides services including sterile needles and syringes and safe disposal for
 28 used needles and syringes.

29 (2) The office may adopt rules as necessary to carry out this section.

30 **SECTION 3.** (1) The Office of Behavioral Workforce Development is established in the
 31 Oregon Health Authority. The office shall oversee the retention and expansion of the recov-
 32 ery workforce in this state. The office shall establish a tuition assistance and loan
 33 forgiveness program for certified alcohol and drug counselors and certified recovery men-
 34 tors. In establishing the program described in this subsection, the office shall prioritize the
 35 recruitment and retention of recovery professionals who are individual who are Black,
 36 Indigenous and other people of color.

37 (2) The office may adopt rules as necessary to carry out this section.

38 **SECTION 4.** (1) The Oregon Health Authority shall adopt rules to require each hospital
 39 licensed in this state to provide:

40 (a) 24-hour access to certified alcohol and drug counselors and peer mentors for patients
 41 of the hospital; and

42 (b) Medical management of withdrawal.

43 (2) The authority shall provide funding to hospitals to defray the costs of the services
 44 described in subsection (1) of this section.

45 **SECTION 5.** The Oregon Health Authority shall ensure that, in each county in this state,

1 at least 30 percent of the addiction treatment providers have the capacity and expertise to
 2 provide mental health services to clients with co-occurring mental health and substance use
 3 disorders.

4 **SECTION 6. (1) The Oregon Health Authority shall:**

5 (a) Increase by 25 percent the amount of payments, in effect on the effective date of this
 6 2021 Act, made to reimburse addiction treatment providers for services provided to medical
 7 assistance recipients.

8 (b) Every two years, increase the amount of payments described in paragraph (a) of this
 9 subsection by the percentage increase, if any, in the cost of living for the previous two cal-
 10 endar years, based on changes in the Consumer Price Index for All Urban Consumers, West
 11 Region (All Items), as published by the Bureau of Labor Statistics of the United States De-
 12 partment of Labor.

13 (c) Ensure that all claims for reimbursement for the cost of addiction treatment provided
 14 to medical assistance recipients are paid by coordinated care organizations and the authority
 15 no later than 90 following receipt of the claim.

16 (d) Adopt by rule a rapid arbitration system for disputed payments.

17 (2) The Alcohol and Drug Policy Commission shall establish minimum levels for payments
 18 by the authority or coordinated care organizations to addiction treatment providers that al-
 19 low providers to absorb the cost of no-shows or unfilled appointments and to ensure access
 20 to any modality of treatment within each geographic region of the state without delay. The
 21 authority shall increase the reimbursement paid under subsection (1) of this section if nec-
 22 cessary to meet the minimum levels established by the commission under this subsection. The
 23 levels of payment established by the commission must ensure 100 percent reimbursement for
 24 the cost of peer mentors.

25 **SECTION 7.** ORS 743A.168 is amended to read:

26 743A.168. (1) As used in this section:

27 (a) “Behavioral health assessment” means an evaluation by a provider, in person or using tele-
 28 medicine, to determine a patient’s need for behavioral health treatment.

29 (b) “Behavioral health crisis” means a disruption in an individual’s mental or emotional stability
 30 or functioning resulting in an urgent need for immediate outpatient treatment in an emergency de-
 31 partment or admission to a hospital to prevent a serious deterioration in the individual’s mental or
 32 physical health.

33 (c) “Chemical dependency” means the addictive relationship with any drug or alcohol charac-
 34 terized by a physical or psychological relationship, or both, that interferes on a recurring basis with
 35 the individual’s social, psychological or physical adjustment to common problems. For purposes of
 36 this section, “chemical dependency” does not include addiction to, or dependency on, tobacco, to-
 37 bacco products or foods.

38 (d) “Facility” means a corporate or governmental entity or other provider of services for the
 39 treatment of chemical dependency or for the treatment of mental or nervous conditions.

40 (e) “Group health insurer” means an insurer, a health maintenance organization or a health care
 41 service contractor.

42 (f) “Prior authorization” has the meaning given that term in ORS 743B.001.

43 (g) “Program” means a particular type or level of service that is organizationally distinct within
 44 a facility.

45 (h) “Provider” means:

1 (A) An individual who has met the credentialing requirement of a group health insurer or an
 2 issuer of an individual health benefit plan that is not a grandfathered health plan as defined in ORS
 3 743B.005, is otherwise eligible to receive reimbursement for coverage under the policy and is a be-
 4 havioral health professional or a medical professional licensed or certified in this state;

5 (B) A health care facility as defined in ORS 433.060;

6 (C) A residential facility as defined in ORS 430.010;

7 (D) A day or partial hospitalization program;

8 (E) An outpatient service as defined in ORS 430.010; or

9 (F) A provider organization certified by the Oregon Health Authority under subsection (7) of this
 10 section.

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

12 (2) A group health insurance policy or an individual health benefit plan that is not a grandfa-
 13 thered health plan providing coverage for hospital or medical expenses, other than limited benefit
 14 coverage, shall provide coverage for expenses arising from the diagnosis of and treatment for
 15 chemical dependency, including alcoholism, and for mental or nervous conditions at the same level
 16 as, and subject to limitations no more restrictive than, those imposed on coverage or reimbursement
 17 of expenses arising from treatment for other medical conditions. **Expenses described in this sub-**
 18 **section must be reimbursed at no less than the levels of payments established by the Alcohol**
 19 **and Drug Policy Commission under section 6 (2) of this 2021 Act.** The following apply to cov-
 20 erage for chemical dependency and for mental or nervous conditions:

21 (a) The coverage may be made subject to provisions of the policy that apply to other benefits
 22 under the policy, including but not limited to provisions relating to deductibles and coinsurance.
 23 Deductibles and coinsurance for treatment in health care facilities or residential facilities may not
 24 be greater than those under the policy for expenses of hospitalization in the treatment of other
 25 medical conditions. Deductibles and coinsurance for outpatient treatment may not be greater than
 26 those under the policy for expenses of outpatient treatment of other medical conditions.

27 (b) The coverage may not be made subject to treatment limitations, limits on total payments for
 28 treatment, limits on duration of treatment or financial requirements unless similar limitations or
 29 requirements are imposed on coverage of other medical conditions. The coverage of eligible expenses
 30 may be limited to treatment that is medically necessary as determined under the policy for other
 31 medical conditions.

32 (c) The coverage must include:

33 (A) A behavioral health assessment;

34 (B) No less than the level of services determined to be medically necessary in a behavioral
 35 health assessment of a patient or in a patient's care plan:

36 (i) To treat the patient's behavioral health condition; and

37 (ii) For care following a behavioral health crisis, to transition the patient to a lower level of
 38 care; and

39 (C) Coordinated care and case management as defined by the Department of Consumer and
 40 Business Services by rule.

41 (d) A provider is eligible for reimbursement under this section if:

42 (A) The provider is approved or certified by the Oregon Health Authority;

43 (B) The provider is accredited for the particular level of care for which reimbursement is being
 44 requested by the Joint Commission or the Commission on Accreditation of Rehabilitation Facilities;

45 (C) The patient is staying overnight at the facility and is involved in a structured program at

1 least eight hours per day, five days per week; or

2 (D) The provider is providing a covered benefit under the policy.

3 (e) If specified in the policy, outpatient coverage may include follow-up in-home service or out-
4 patient services. The policy may limit coverage for in-home service to persons who are homebound
5 under the care of a physician.

6 (f)(A) Subject to the patient or client confidentiality provisions of ORS 40.235 relating to physi-
7 cians, ORS 40.240 relating to nurse practitioners, ORS 40.230 relating to psychologists, ORS 40.250
8 and 675.580 relating to licensed clinical social workers and ORS 40.262 relating to licensed profes-
9 sional counselors and licensed marriage and family therapists, a group health insurer or issuer of
10 an individual health benefit plan may provide for review for level of treatment of admissions and
11 continued stays for treatment in health facilities, residential facilities, day or partial hospitalization
12 programs and outpatient services by either staff of a group health insurer or issuer of an individual
13 health benefit plan or personnel under contract to the group health insurer or issuer of an individual
14 health benefit plan that is not a grandfathered health plan, or by a utilization review contractor,
15 who shall have the authority to certify for or deny level of payment.

16 (B) Review shall be made according to criteria made available to providers in advance upon
17 request.

18 (C) Review shall be performed by or under the direction of a physician licensed under ORS
19 677.100 to 677.228, a psychologist licensed by the Oregon Board of Psychology, a clinical social
20 worker licensed by the State Board of Licensed Social Workers or a professional counselor or mar-
21 riage and family therapist licensed by the Oregon Board of Licensed Professional Counselors and
22 Therapists, in accordance with standards of the National Committee for Quality Assurance or
23 Medicare review standards of the Centers for Medicare and Medicaid Services.

24 (D) Review may involve prior approval, concurrent review of the continuation of treatment,
25 post-treatment review or any combination of these. However, if prior approval is required, provision
26 shall be made to allow for payment of urgent or emergency admissions, subject to subsequent re-
27 view. If prior approval is not required, group health insurers and issuers of individual health benefit
28 plans that are not grandfathered health plans shall permit providers, policyholders or persons acting
29 on their behalf to make advance inquiries regarding the appropriateness of a particular admission
30 to a treatment program. Group health insurers and issuers of individual health benefit plans that
31 are not grandfathered health plans shall provide a timely response to such inquiries. Noncontracting
32 providers must cooperate with these procedures to the same extent as contracting providers to be
33 eligible for reimbursement.

34 (g) Health maintenance organizations may limit the receipt of covered services by enrollees to
35 services provided by or upon referral by providers contracting with the health maintenance organ-
36 ization. Health maintenance organizations and health care service contractors may create substan-
37 tive plan benefit and reimbursement differentials at the same level as, and subject to limitations no
38 more restrictive than, those imposed on coverage or reimbursement of expenses arising out of other
39 medical conditions and apply them to contracting and noncontracting providers.

40 (3) This section does not prohibit a group health insurer or issuer of an individual health benefit
41 plan that is not a grandfathered health plan from managing the provision of benefits through com-
42 mon methods, including but not limited to selectively contracted panels, health plan benefit differ-
43 ential designs, preadmission screening, prior authorization of services, utilization review or other
44 mechanisms designed to limit eligible expenses to those described in subsection (2)(b) of this section.

45 (4) The Legislative Assembly finds that health care cost containment is necessary and intends

1 to encourage health insurance plans designed to achieve cost containment by ensuring that re-
2 imbursement is limited to appropriate utilization under criteria incorporated into the insurance, ei-
3 ther directly or by reference.

4 (5) This section does not prevent a group health insurer or issuer of an individual health benefit
5 plan that is not a grandfathered health plan from contracting with providers of health care services
6 to furnish services to policyholders or certificate holders according to ORS 743B.460 or 750.005,
7 subject to the following conditions:

8 (a) A group health insurer or issuer of an individual health benefit plan that is not a grandfa-
9 thered health plan is not required to contract with all providers that are eligible for reimbursement
10 under this section.

11 (b) An insurer or health care service contractor shall, subject to subsection (2) of this section,
12 pay benefits toward the covered charges of noncontracting providers of services for the treatment
13 of chemical dependency or mental or nervous conditions. The insured shall, subject to subsection
14 (2) of this section, have the right to use the services of a noncontracting provider of services for the
15 treatment of chemical dependency or mental or nervous conditions, whether or not the services for
16 chemical dependency or mental or nervous conditions are provided by contracting or noncontracting
17 providers.

18 (6)(a) This section does not require coverage for:

19 (A) Educational or correctional services or sheltered living provided by a school or halfway
20 house;

21 (B) A long-term residential mental health program that lasts longer than 45 days;

22 (C) Psychoanalysis or psychotherapy received as part of an educational or training program,
23 regardless of diagnosis or symptoms that may be present;

24 (D) A court-ordered sex offender treatment program; or

25 (E) Support groups.

26 (b) Notwithstanding paragraph (a)(A) of this subsection, an insured may receive covered outpa-
27 tient services under the terms of the insured's policy while the insured is living temporarily in a
28 sheltered living situation.

29 (7) The Oregon Health Authority shall establish a process for the certification of an organiza-
30 tion described in subsection (1)(h)(F) of this section that:

31 (a) Is not otherwise subject to licensing or certification by the authority; and

32 (b) Does not contract with the authority, a subcontractor of the authority or a community
33 mental health program.

34 (8) The Oregon Health Authority shall adopt by rule standards for the certification provided
35 under subsection (7) of this section to ensure that a certified provider organization offers a distinct
36 and specialized program for the treatment of mental or nervous conditions.

37 (9) The Oregon Health Authority may adopt by rule an application fee or a certification fee, or
38 both, to be imposed on any provider organization that applies for certification under subsection (7)
39 of this section. Any fees collected shall be paid into the Oregon Health Authority Fund established
40 in ORS 413.101 and shall be used only for carrying out the provisions of subsection (7) of this sec-
41 tion.

42 (10) The intent of the Legislative Assembly in adopting this section is to reserve benefits for
43 different types of care to encourage cost effective care and to ensure continuing access to levels
44 of care most appropriate for the insured's condition and progress. This section does not prohibit an
45 insurer from requiring a provider organization certified by the Oregon Health Authority under sub-

1 section (7) of this section to meet the insurer’s credentialing requirements as a condition of entering
 2 into a contract.

3 (11) The Director of the Department of Consumer and Business Services and the Oregon Health
 4 Authority, after notice and hearing, may adopt reasonable rules not inconsistent with this section
 5 that are considered necessary for the proper administration of this section.

6 **SECTION 8.** ORS 430.220 is amended to read:

7 430.220. (1) The Governor shall appoint a Director of the Alcohol and Drug Policy Commission
 8 who shall **be confirmed by the Senate in the manner prescribed in ORS 171.562 and 171.565.**
 9 **The director shall** serve at the pleasure of the Governor and **shall** be responsible for the dissem-
 10 ination and implementation of the Alcohol and Drug Policy Commission’s policies and the perform-
 11 ance of the commission’s duties, functions and powers.

12 (2) The director shall be paid a salary as provided by law or, if not so provided, as prescribed
 13 by the Governor.

14 (3) Subject to ORS chapter 240, the director shall appoint all employees of the commission,
 15 prescribe their duties and fix their compensation.

16 (4) The director has all powers necessary to effectively and expeditiously carry out the duties,
 17 functions and powers of the commission.

18 (5) The director shall enter into agreements with the Oregon Health Authority, the Department
 19 of Justice, the Department of Human Services and other state and local agencies for the sharing of
 20 information as necessary to carry out the duties of the commission. The agreements shall ensure the
 21 confidentiality of all information that is protected from disclosure by state and federal laws.

22 **SECTION 9.** (1) **The Oregon Health Authority shall study the optimum minimum pricing**
 23 **for malt beverages and wine, as those terms are defined in ORS 471.001, and cider, as defined**
 24 **in ORS 471.023, in this state to allow consumer access to malt beverages, wine and cider and**
 25 **to dissuade the overconsumption and abuse of malt beverages, wine and cider. The authority**
 26 **shall consult with manufacturers and sellers of malt beverages, wine and cider, public health**
 27 **professionals with expertise in alcohol overconsumption and abuse, and representatives of**
 28 **cities and counties and community organizations that offer addiction services.**

29 (2) **The authority shall report its findings and recommendations to an interim committee**
 30 **of the Legislative Assembly related to health not later than November 30, 2021.**

31 **SECTION 10.** Section 9 of this 2021 Act is repealed on January 1, 2022.

32 **SECTION 11.** **This 2021 Act being necessary for the immediate preservation of the public**
 33 **peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect**
 34 **on its passage.**