

**A-Engrossed**  
**House Bill 4034**

Ordered by the House February 16  
Including House Amendments dated February 16

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Health Care for Representative Rachel Prusak)

**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.

*[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.

**Allows pharmacist, pharmacy technician or intern to swipe person's driver license for purpose of transferring drug containing pseudoephedrine or ephedrine 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of emergency declared by Governor on March 8, 2020, for COVID-19 pandemic, and any extension of state of emergency, is no longer in effect.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 **Oregon Health 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.]*

**Allows pharmacist, pharmacy technician or intern to access pharmacy's electronic database from inside pharmacy or remotely.** Prohibits State Board of Pharmacy from establishing standards for telepharmacy that are stricter than standards for in-person delivery of pharmacy services.

**Allows authority to select up to 10 school districts or education service districts to receive specified grants relating to school-based health centers. Directs authority to award up to four grants to school districts or education service districts for mobile school-linked health centers.**

**Allows pharmacist to delegate and pharmacy technician to perform final verification of prescription. Defines "final verification."**

Declares emergency, effective on passage.

**A BILL FOR AN ACT**

Relating to health care; creating new provisions; amending ORS 435.205, 442.015, 475.230, 677.135, 689.005, 689.225, 689.522, 689.700, 743A.067 and 807.750 and section 4, chapter 92, Oregon Laws 2021, and sections 1, 2 and 5, chapter 619, Oregon Laws 2021; and declaring an emergency.

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

**PSEUDOEPHEDRINE**

**SECTION 1.** 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

**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 provides to the pharmacist, **intern** or pharmacy technician the person's valid government-issued  
2 photo identification.

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

6 (a) The date and time of the transfer;

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

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

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

11 (e) The name of the drug that will be transferred and the amount of pseudoephedrine or  
12 ephedrine or a salt, isomer or salt of an isomer of pseudoephedrine or ephedrine, specified in grams,  
13 to be transferred.

14 (4) If, after receiving the information submitted under subsection (3) of this section, the elec-  
15 tronic system generates an alert to not proceed with the transfer, the pharmacist, **intern** or phar-  
16 macy technician may not transfer the drug described in subsection (2) of this section to the person,  
17 except as provided in subsection (6) of this section.

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

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

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

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

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

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

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

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

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

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

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

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

1 (iv) The name of the drug transferred;

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

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

7 (F) Be free of charge to a pharmacy;

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

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

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

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

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

15 (a) Transferred from behind a pharmacy counter; and

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

17 (8) A person, other than a pharmacy, may not receive more than 3.6 grams per transfer, or more  
18 than nine grams in a 30-day period, of pseudoephedrine or ephedrine or a salt, isomer or salt of an  
19 isomer of pseudoephedrine or ephedrine.

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

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

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

27 **SECTION 2.** ORS 807.750 is amended to read:

28 807.750. (1) As used in this section:

29 (a) "Driver license" means a license or permit issued by this state or any other jurisdiction as  
30 evidence of a grant of driving privileges.

31 (b) "Financial institution" has the meaning given that term in ORS 706.008.

32 (c) "Identification card" means the card issued under ORS 807.400 or a comparable provision in  
33 another state.

34 (d) "Personal information" means an individual's name, address, date of birth, photograph, fin-  
35 gerprint, biometric data, driver license number, identification card number or any other unique  
36 personal identifier or number.

37 (e) "Private entity" means any nongovernmental entity, such as a corporation, partnership,  
38 company or nonprofit organization, any other legal entity or any natural person.

39 (f) "Swipe" means the act of passing a driver license or identification card through a device that  
40 is capable of deciphering, in an electronically readable format, the information electronically en-  
41 coded in a magnetic strip or bar code on the driver license or identification card.

42 (2) Except as provided in subsection (6) of this section, a private entity may not swipe an  
43 individual's driver license or identification card, except for the following purposes:

44 (a) To verify the authenticity of a driver license or identification card or to verify the identity  
45 of the individual if the individual pays for a good or service with a method other than cash, returns

1 an item or requests a refund.

2 (b) To verify the individual's age when providing an age-restricted good or service to any person  
3 about whom there is any reasonable doubt of the person's having reached 21 years of age.

4 (c) To prevent fraud or other criminal activity if an individual returns an item or requests a  
5 refund and the private entity uses a fraud prevention service company or system.

6 (d) To transmit information to a check services company for the purpose of approving negotiable  
7 instruments, electronic funds transfers or similar methods of payment.

8 (e) To collect information about the individual for the purpose of processing an application for  
9 a deposit account or loan for the individual, if the private entity is a financial institution.

10 **(f) To enable a pharmacist, pharmacy technician or intern, as those terms are defined in**  
11 **ORS 689.005, to submit information to the electronic system described in ORS 475.230 for the**  
12 **purpose of transferring a drug containing pseudoephedrine or ephedrine or a salt, isomer or**  
13 **salt of an isomer of pseudoephedrine or ephedrine without a prescription from a practitioner**  
14 **to a person who is 18 years of age or older.**

15 (3) A private entity that swipes an individual's driver license or identification card under sub-  
16 section (2)(a) or (b) of this section may not store, sell or share personal information collected from  
17 swiping the driver license or identification card.

18 (4) A private entity that swipes an individual's driver license or identification card under sub-  
19 section (2)(c) or (d) of this section may store or share the following information collected from  
20 swiping an individual's driver license or identification card for the purpose of preventing fraud or  
21 other criminal activity against the private entity:

- 22 (a) Name;
- 23 (b) Address;
- 24 (c) Date of birth; and
- 25 (d) Driver license number or identification card number.

26 (5)(a) A person other than an entity regulated by the federal Fair Credit Reporting Act, 15  
27 U.S.C. 1681 et seq., who receives personal information from a private entity under subsection (4) of  
28 this section may use the personal information received only to prevent fraud or other criminal ac-  
29 tivity against the private entity that provided the personal information.

30 (b) A person who is regulated by the federal Fair Credit Reporting Act and who receives per-  
31 sonal information from a private entity under subsection (4) of this section may use or provide the  
32 personal information received only to effect, administer or enforce a transaction or prevent fraud  
33 or other criminal activity, if the person provides or receives personal information under contract  
34 from the private entity.

35 (6)(a) Subject to the provisions of this subsection, a private entity that is a commercial radio  
36 service provider that provides service nationally and that is subject to the Telephone Records and  
37 Privacy Protection Act of 2006 (18 U.S.C. 1039) may swipe an individual's driver license or identifi-  
38 cation card if the entity obtains permission from the individual to swipe the individual's driver li-  
39 cense or identification card.

40 (b) The private entity may swipe the individual's driver license or identification card only for  
41 the purpose of establishing or maintaining a contract between the private entity and the individual.  
42 Information collected by swiping an individual's driver license or identification card for the estab-  
43 lishment or maintenance of a contract shall be limited to the following information from the indi-  
44 vidual:

- 45 (A) Name;

- 1 (B) Address;
- 2 (C) Date of birth; and
- 3 (D) Driver license number or identification card number.

4 (c) If the individual does not want the private entity to swipe the individual's driver license or  
5 identification card, the private entity may manually collect the following information from the indi-  
6 vidual:

- 7 (A) Name;
- 8 (B) Address;
- 9 (C) Date of birth; and
- 10 (D) Driver license number or identification card number.

11 (d) The private entity may not withhold the provision of goods or services solely as a result of  
12 the individual requesting the collection of the following information from the individual through  
13 manual means:

- 14 (A) Name;
- 15 (B) Address;
- 16 (C) Date of birth; and
- 17 (D) Driver license number or identification card number.

18 (7) A governmental entity may swipe an individual's driver license or identification card only  
19 if:

20 (a) The individual knowingly makes the driver license or identification card available to the  
21 governmental entity;

22 (b) The governmental entity lawfully confiscates the driver license or identification card;

23 (c) The governmental entity is providing emergency assistance to the individual who is uncon-  
24 scious or otherwise unable to make the driver license or identification card available; or

25 (d) A court rule requires swiping of the driver license or identification card to facilitate accu-  
26 rate linking of court records pertaining to the individual.

27 (8) In addition to any other remedy provided by law, an individual may bring an action to re-  
28 cover actual damages or \$1,000, whichever is greater, and to obtain equitable relief, if equitable  
29 relief is available, against an entity that swipes, stores, shares, sells or otherwise uses the  
30 individual's personal information in violation of this section. A court shall award a prevailing  
31 plaintiff reasonable costs and attorney fees. If a court finds that a violation of this section was  
32 willful or knowing, the court may increase the amount of the award to no more than three times the  
33 amount otherwise available.

34 (9) Any waiver of a provision of this section is contrary to public policy and is void and  
35 unenforceable.

36 **SECTION 3. The amendments to ORS 807.750 by section 2 of this 2022 Act apply to con-**  
37 **duct occurring on or after January 1, 2022.**

38  
39 **COVID-19 DATA COLLECTION**

40  
41 **SECTION 4.** Section 4, chapter 92, Oregon Laws 2021, is amended to read:

42 **Sec. 4.** (1) Section 1 [*of this 2021 Act*], **chapter 92, Oregon Laws 2021**, is repealed [*on June 30,*  
43 **2022**] **one year after the date on which the state of emergency declared by the Governor on**  
44 **March 8, 2020, for the COVID-19 pandemic, and any extension of the state of emergency, is**  
45 **no longer in effect.**

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

3  
4 **BIOLOGICAL PRODUCTS**

5  
6 **SECTION 5.** ORS 689.522 is amended to read:

7 689.522. (1) A pharmacy or pharmacist filling a prescription order for a biological product may  
8 not substitute a biological product for the prescribed biological product unless:

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

11 (b) The prescribing practitioner has not designated on the prescription that substitution is pro-  
12 hibited;

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

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

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

22 (a) **An interoperable electronic medical records system;**

23 (b) **An electronic prescribing technology;**

24 (c) **A pharmacy benefit management system; or**

25 (d) **A pharmacy record.**

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

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

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

40 (a) **The United States Food and Drug Administration has not approved an interchangea-**  
41 **ble biological product for the prescribed biological product;**

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

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

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

4       [(2)] (7) The State Board of Pharmacy shall, on a website maintained by the board, maintain a  
5 link to the current list, if available, of biological products determined by the United States Food and  
6 Drug Administration to be interchangeable.

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

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

10       (c) The rule defining the term “interchangeable” must:

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

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

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

20       689.522. (1) A pharmacy or pharmacist filling a prescription order for a biological product may  
21 not substitute a biological product for the prescribed biological product unless:

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

24       (b) The prescribing practitioner has not designated on the prescription that substitution is pro-  
25 hibited;

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

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

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

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

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

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

37       [(d) *A pharmacy record.*]

38       [(3) *If the pharmacy or pharmacist, or the pharmacist's designee, does not have access to an elec-*  
39 *tronic system described in subsection (2) of this section, the pharmacy or pharmacist, or the*  
40 *pharmacist's designee, shall communicate not later than five business days to the prescribing practi-*  
41 *tioner the specific biological product dispensed to the patient, including the name and manufacturer of*  
42 *the biological product. The communication may be by facsimile, electronic mail, telephone or another*  
43 *method.*]

44       [(4) *If the biological product is dispensed to a patient in a clinic, community-based care facility,*  
45 *hospital or long term care facility, an entry made to the patient's medical record of the specific bi-*

1 *ological product dispensed to the patient, including the name and manufacturer of the biological prod-*  
2 *uct, satisfies the communication requirements of subsection (2) of this section.]*

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

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

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

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

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

15 *[(7)]* (2) The State Board of Pharmacy shall, on a website maintained by the board, maintain a  
16 link to the current list, if available, of biological products determined by the United States Food and  
17 Drug Administration to be interchangeable.

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

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

21 (c) The rule defining the term “interchangeable” must:

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

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

30 **SECTION 7. The amendments to ORS 689.522 by section 5 of this 2022 Act apply to pre-**  
31 **scriptions filled on and after the effective date of this 2022 Act.**

32 **SECTION 8. The amendments to ORS 689.522 by section 6 of this 2022 Act become oper-**  
33 **ative on January 1, 2026.**

34  
35 **REPRODUCTIVE HEALTH AND FAMILY PLANNING SERVICES**

36  
37 **SECTION 9. Section 10 of this 2022 Act is added to and made a part of ORS 435.205 to**  
38 **435.235.**

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

42 **(2) In order to receive state or federal funding or reimbursement from the authority for**  
43 **the provision of reproductive health services, a health care provider must be certified by the**  
44 **authority pursuant to rules adopted under subsection (3) of this section.**

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



1 **limited to rules to:**

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

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

4 (c) **Adopt fees.**

5 **SECTION 11.** ORS 435.205 is amended to read:

6 435.205. (1) The Oregon Health Authority and every local health department shall offer family  
7 planning and birth control services within the limits of available funds. Both agencies jointly may  
8 offer [*such*] **the services described in this subsection.** The Director of the Oregon Health Author-  
9 ity or a designee shall initiate and conduct discussions of family planning with each person who  
10 might have an interest in and benefit from [*such service*] **the services.** The authority shall furnish  
11 consultation and assistance to local health departments.

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

13 (a) Interviews with trained personnel;

14 (b) Distribution of literature;

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

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

21 (3) Any literature, charts or other family planning and birth control information offered under  
22 this section in counties in which a significant segment of the population does not speak English  
23 [*shall*] **must** be made available in the appropriate [*foreign*] language for that segment of the popu-  
24 lation.

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

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

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

33 743A.067. (1) As used in this section:

34 (a) “Contraceptives” means health care services, drugs, devices, products or medical procedures  
35 to prevent a pregnancy.

36 (b) “Enrollee” means an insured individual and the individual’s spouse, domestic partner and  
37 dependents who are beneficiaries under the insured individual’s health benefit plan.

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

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

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

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

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

1 (a) Well-woman care prescribed by the Department of Consumer and Business Services by rule  
2 consistent with guidelines published by the United States Health Resources and Services Adminis-  
3 tration.

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

6 (c) Screening for:

7 (A) Chlamydia;

8 (B) Gonorrhea;

9 (C) Hepatitis B;

10 (D) Hepatitis C;

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

12 (F) Human papillomavirus;

13 (G) Syphilis;

14 (H) Anemia;

15 (I) Urinary tract infection;

16 (J) Pregnancy;

17 (K) Rh incompatibility;

18 (L) Gestational diabetes;

19 (M) Osteoporosis;

20 (N) Breast cancer; and

21 (O) Cervical cancer.

22 (d) Screening to determine whether counseling related to the BRCA1 or BRCA2 genetic  
23 mutations is indicated and counseling related to the BRCA1 or BRCA2 genetic mutations if indi-  
24 cated.

25 (e) Screening and appropriate counseling or interventions for:

26 (A) Tobacco use; and

27 (B) Domestic and interpersonal violence.

28 (f) Folic acid supplements.

29 (g) Abortion.

30 (h) Breastfeeding comprehensive support, counseling and supplies.

31 (i) Breast cancer chemoprevention counseling.

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

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

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

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

44 (D) A health benefit plan may not infringe upon an enrollee's choice of contraceptive drug, de-  
45 vice or product and may not require prior authorization, step therapy or other utilization review

1 techniques for medically appropriate covered contraceptive drugs, devices or other products ap-  
2 proved by the United States Food and Drug Administration.

3 (k) Voluntary sterilization.

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

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

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

9 (i) Management of side effects;

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

11 (iii) Device insertion and removal; and

12 (iv) Provision of alternative contraceptive drugs, devices or products deemed medically appro-  
13 priate in the judgment of the enrollee's provider.

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

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

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

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

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

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

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

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

32 (a) Experimental or investigational treatments;

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

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

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

36 (e) Abortion if the insurer offering the health benefit plan excluded coverage for abortion in all  
37 of its individual, small employer and large employer group plans during the 2017 plan year.

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

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

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

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

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

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

- 14 (a) On the insurer's website; and
- 15 (b) In writing upon request by an enrollee or potential enrollee.

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

- 20 (a) Are consistent with the coverage requirements of subsection (2) of this section; and
- 21 (b) Do not result in the wholesale or indiscriminate denial of coverage for a service.

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

## 23 24 TELEMEDICINE

25  
26 **SECTION 13. Section 14 of this 2022 Act is added to and made a part of ORS chapter 677.**

27 **SECTION 14. (1) As used in this section, "telemedicine" means the provision of health**  
28 **care services to a patient by a physician or physician assistant from a distance using elec-**  
29 **tronic communications, including synchronous technologies to facilitate an exchange of in-**  
30 **formation between a patient and physician or physician assistant in real time or**  
31 **asynchronous technologies to facilitate an exchange of information between a patient and a**  
32 **physician or physician assistant in other than real time.**

33 **(2) A physician licensed under ORS 677.100 to 677.228, a physician assistant licensed under**  
34 **ORS 677.505 to 677.525 or a physician or physician assistant licensed under ORS 677.139 may**  
35 **use telemedicine to provide health care services, including the establishment of a patient-**  
36 **provider relationship, the diagnosis or treatment of a medical condition or the prescription**  
37 **of drugs, to a patient physically located in this state. The physician or physician assistant**  
38 **is not required to be physically located in this state when providing health care services**  
39 **through telemedicine.**

40 **SECTION 15. ORS 442.015 is amended to read:**

41 442.015. As used in ORS chapter 441 and this chapter, unless the context requires otherwise:

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

1 when the equipment or other materials begin to be used in Oregon for the provision of health ser-  
2 vices or when such services are offered for use in Oregon.

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

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

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

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

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

14 (4) "Delegated credentialing agreement" means a written agreement between an originating-site  
15 hospital and a distant-site hospital that provides that the medical staff of the originating-site hospi-  
16 tal will rely upon the credentialing and privileging decisions of the distant-site hospital in making  
17 recommendations to the governing body of the originating-site hospital as to whether to credential  
18 a telemedicine provider, practicing at the distant-site hospital either as an employee or under con-  
19 tract, to provide telemedicine services to patients in the originating-site hospital.

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

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

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

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

30 (9) "Freestanding birthing center" means a facility licensed for the primary purpose of per-  
31 forming low risk deliveries.

32 (10) "Governmental unit" means the state, or any county, municipality or other political subdivi-  
33 sion, or any related department, division, board or other agency.

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

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

38 (A) A hospital;

39 (B) A long term care facility;

40 (C) An ambulatory surgical center;

41 (D) A freestanding birthing center;

42 (E) An outpatient renal dialysis facility; or

43 (F) An extended stay center.

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

45 (A) A residential facility licensed by the Department of Human Services or the Oregon Health

1 Authority under ORS 443.415;

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

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

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

5 (E) Community mental health programs or community developmental disabilities programs es-  
6 tablished under ORS 430.620.

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

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

10 (b)(A) Provides or otherwise makes available to enrolled participants health care services, in-  
11 cluding at least the following basic health care services:

12 (i) Usual physician services;

13 (ii) Hospitalization;

14 (iii) Laboratory;

15 (iv) X-ray;

16 (v) Emergency and preventive services; and

17 (vi) Out-of-area coverage;

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

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

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

27 (15) "Hospital" means:

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

31 (A) Medical;

32 (B) Nursing;

33 (C) Laboratory;

34 (D) Pharmacy; and

35 (E) Dietary; or

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

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

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

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

45 (A) Medical services, including nursing services but excluding surgical procedures except as

1 may be permitted by the rules of the Director of Human Services; and

2 (B) Treatment for two or more unrelated patients.

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

5 (19) “New hospital” means:

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

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

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

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

19 (22) “Originating-site hospital” means a hospital in which a patient is located while receiving  
20 telemedicine services.

21 (23) “Outpatient renal dialysis facility” means a facility that provides renal dialysis services  
22 directly to outpatients.

23 (24) “Person” means an individual, a trust or estate, a partnership, a corporation (including as-  
24 sociations, joint stock companies and insurance companies), a state, or a political subdivision or  
25 instrumentality, including a municipal corporation, of a state.

26 (25) “Skilled nursing facility” means a facility or a distinct part of a facility, that is primarily  
27 engaged in providing to inpatients skilled nursing care and related services for patients who require  
28 medical or nursing care, or an institution that provides rehabilitation services for the rehabilitation  
29 of individuals who are injured or sick or who have disabilities.

30 (26) “Telemedicine” means the provision of health services to patients by physicians and health  
31 care practitioners from a distance using electronic communications, **including synchronous tech-**  
32 **nologies to facilitate an exchange of information between a patient and physician or health**  
33 **care practitioner in real time or asynchronous technologies to facilitate an exchange of in-**  
34 **formation between a patient and a physician or health care practitioner in other than real**  
35 **time.**

36 **SECTION 16.** ORS 677.135 is amended to read:

37 677.135. As used in ORS 677.135 to 677.141, “the practice of medicine across state lines” means:

38 (1) The rendering directly to a person of a written or otherwise documented medical opinion  
39 concerning the diagnosis or treatment of that person located within this state for the purpose of  
40 patient care by a physician or physician assistant located outside this state as a result of the  
41 transmission of individual patient data by *[electronic or other means]* **telemedicine, as defined in**  
42 **section 14 of this 2022 Act**, from within this state to that physician, the physician’s agent or a  
43 physician assistant; or

44 (2) The rendering of medical treatment directly to a person located within this state by a phy-  
45 sician or a physician assistant located outside this state as a result of the outward transmission of

1 individual patient data by [*electronic or other means*] **telemedicine** from within this state to that  
2 physician, the physician’s agent or a physician assistant.

3  
4 **TELEPHARMACY**

5  
6 **SECTION 17.** Section 18 of this 2022 Act is added to and made a part of ORS chapter 689.

7 **SECTION 18.** (1) A pharmacist, pharmacy technician or intern, or an individual similarly  
8 licensed or otherwise authorized by another state, who is contracted or employed by a  
9 pharmacy may access the pharmacy’s electronic database regardless of whether the  
10 pharmacist, pharmacy technician or intern or other individual described in this subsection  
11 is physically located inside the pharmacy if:

12 (a) The pharmacy has established standards and controls to protect the confidentiality  
13 and integrity of any patient information contained in the electronic database when the elec-  
14 tronic database is accessed from inside the pharmacy or remotely; and

15 (b) No information from the electronic database is duplicated, downloaded or removed  
16 from the electronic database when the electronic database is accessed remotely.

17 (2) The State Board of Pharmacy may adopt rules to carry out this section. In adopting  
18 rules under this subsection, the board may not establish standards for the remote access of  
19 a pharmacy’s electronic database that are more restrictive than standards for accessing the  
20 electronic database from inside the pharmacy. This subsection may not be construed to limit  
21 the authority of the board to adopt rules to require compliance with any applicable federal  
22 law.

23 **SECTION 19.** ORS 689.700 is amended to read:

24 689.700. (1) As used in this section, “telepharmacy” means the delivery of pharmacy services by  
25 a pharmacist, through the use of a variety of electronic and telecommunications technologies, to a  
26 patient at a remote location staffed by a pharmacy technician.

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

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

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

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

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

37 (b) In adopting rules under this section, the board may not establish standards for tele-  
38 pharmacy that are more restrictive than standards for the delivery of in-person pharmacy  
39 services, including standards regarding prescription and dispensation of drugs. This para-  
40 graph may not be construed to limit the authority of the board to adopt rules to require  
41 compliance with any applicable federal law.

42  
43 **SCHOOL-BASED HEALTH SERVICES**

44  
45 **SECTION 20.** Section 1, chapter 619, Oregon Laws 2021, is amended to read:



1       **Sec. 1.** (1) As used in this section:

2       (a) “School-based health center” has the meaning given that term in ORS 413.225.

3       (b) “School nurse model” means a model for providing school-based health services that is in  
4 accord with guidance from the division of the Oregon Health Authority that addresses adolescent  
5 health.

6       (2) The authority, in consultation with the Department of Education, shall select **up to** 10 school  
7 districts or education service districts to receive planning grants for district planning and technical  
8 assistance. Each district receiving a grant, beginning on or after July 1, 2021, and concluding before  
9 July 1, 2023, shall:

10       (a) Evaluate the need for school-based health services in their respective communities; and

11       (b) Develop a school-based health services plan that addresses the need identified in paragraph  
12 (a) of this subsection.

13       (3) The authority shall contract with a nonprofit organization with experience in facilitating  
14 school health planning initiatives and supporting school-based health centers to facilitate and over-  
15 see the planning process and to provide technical assistance to grantees to reduce costs and ensure  
16 better coordination and continuity statewide. To the greatest extent practicable, the nonprofit or-  
17 ganization shall engage with culturally specific organizations, in the grantees’ communities, that  
18 have experience providing culturally and linguistically specific services in schools or after-school  
19 programs.

20       (4) Each grantee shall solicit community participation in the planning process, including the  
21 participation of the local public health authority, any federally qualified health centers located in  
22 the district, a regional health equity coalition, if any, serving the district and every coordinated care  
23 organization with members residing in the district.

24       (5) At the conclusion of the two-year planning process each grantee shall receive funding to  
25 operate a school-based health center or school nurse model in each respective grantee school dis-  
26 trict or education service district.

27       **SECTION 21.** Section 2, chapter 619, Oregon Laws 2021, is amended to read:

28       **Sec. 2.** (1) As used in this section, “mobile school-linked health center” means a mobile medical  
29 van that:

30       (a) Provides primary care services, and may provide other services, to children on or near  
31 school grounds by licensed or certified health care providers; and

32       (b) Is sponsored by a school district or an [*educational*] **education** service district.

33       (2) The Oregon Health Authority shall develop grant requirements and ongoing operations cri-  
34 teria for mobile school-linked health centers and may award up to [*three*] **four** grants to school  
35 districts or education service districts for planning, technical assistance and operations to imple-  
36 ment a mobile school-linked health center.

37       (3) A mobile school-linked health center operated using grants provided under this section shall  
38 comply with the billing, electronic medical records and data reporting requirements established for  
39 grantees under section 1 (5), chapter 601, Oregon Laws 2019, but is not subject to the school-based  
40 certification requirements or funding formulas established for school-based health centers under ORS  
41 413.225.

42       **SECTION 22.** Section 5, chapter 619, Oregon Laws 2021, is amended to read:

43       **Sec. 5.** There is appropriated to the Oregon Health Authority, for the biennium beginning July  
44 1, 2021, out of the General Fund, the amount of \$2,555,000 to be used as follows:

45       [*(1) \$995,000 for grants to school districts or education service districts and for technical assistance*

1 *under section 1 of this 2021 Act.]*

2 *[(2) \$285,000 for grants to school districts and education service districts under section 2 of this*  
3 *2021 Act.]*

4 *[(3) \$975,000 for grants and technical assistance to school-based health centers under section 3 of*  
5 *this 2021 Act.]*

6 **(1) \$2,255,000 to be used for the grants described in sections 1 to 3, chapter 619, Oregon**  
7 **Laws 2021.**

8 *[(4)]* **(2) \$300,000 for the costs of the authority in carrying out sections 1 to 3 [of this 2021**  
9 **Act], chapter 619, Oregon Laws 2021.**

10  
11 **PHARMACY**

12  
13 **SECTION 23. Section 24 of this 2022 Act is added to and made a part of ORS chapter 689.**

14 **SECTION 24. (1) As used in this section, “final verification” means, after prescription**  
15 **information is entered into a pharmacy’s electronic system and reviewed by a pharmacist for**  
16 **accuracy, a physical verification that the drug and drug dosage, device or product selected**  
17 **from a pharmacy’s inventory pursuant to the electronic system entry is the prescribed drug**  
18 **and drug dosage, device or product.**

19 **(2) A pharmacist may delegate, and a pharmacy technician may perform under the**  
20 **supervision of the pharmacist, final verification. In delegating final verification under this**  
21 **section, a pharmacist shall use the pharmacist’s reasonable professional judgment and shall**  
22 **ensure that the final verification does not require the exercise of discretion by the pharmacy**  
23 **technician.**

24 **(3) The State Board of Pharmacy may adopt rules to carry out this section. In adopting**  
25 **rules under this section, the board may not impose standards or requirements stricter than**  
26 **those specified in this section.**

27 **SECTION 25. ORS 689.005 is amended to read:**

28 689.005. As used in this chapter:

29 (1) “Administer” means the direct application of a drug or device whether by injection,  
30 inhalation, ingestion, or any other means, to the body of a patient or research subject by:

- 31 (a) A practitioner or the practitioner’s authorized agent; or
- 32 (b) The patient or research subject at the direction of the practitioner.

33 (2) “Approved continuing pharmacy education program” means those seminars, classes,  
34 meetings, workshops and other educational programs on the subject of pharmacy approved by the  
35 board.

36 (3) “Board of pharmacy” or “board” means the State Board of Pharmacy.

37 (4) “Clinical pharmacy agreement” means an agreement between a pharmacist or pharmacy and  
38 a health care organization or a physician as defined in ORS 677.010 or a naturopathic physician as  
39 defined in ORS 685.010 that permits the pharmacist to engage in the practice of clinical pharmacy  
40 for the benefit of the patients of the health care organization, physician or naturopathic physician.

41 (5) “Continuing pharmacy education” means:

- 42 (a) Professional, pharmaceutical post-graduate education in the general areas of socio-economic  
43 and legal aspects of health care;
- 44 (b) The properties and actions of drugs and dosage forms; and
- 45 (c) The etiology, characteristics and therapeutics of the disease state.

1 (6) "Continuing pharmacy education unit" means the unit of measurement of credits for ap-  
2 proved continuing education courses and programs.

3 (7) "Deliver" or "delivery" means the actual, constructive or attempted transfer of a drug or  
4 device other than by administration from one person to another, whether or not for a consideration.

5 (8) "Device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro  
6 reagent or other similar or related article, including any component part or accessory, which is re-  
7 quired under federal or state law to be prescribed by a practitioner and dispensed by a pharmacist.

8 (9) "Dispense" or "dispensing" means the preparation and delivery of a prescription drug pur-  
9 suant to a lawful order of a practitioner in a suitable container appropriately labeled for subsequent  
10 administration to or use by a patient or other individual entitled to receive the prescription drug.

11 (10) "Distribute" means the delivery of a drug other than by administering or dispensing.

12 (11) "Drug" means:

13 (a) Articles recognized as drugs in the official United States Pharmacopoeia, official National  
14 Formulary, official Homeopathic Pharmacopoeia, other drug compendium or any supplement to any  
15 of them;

16 (b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of dis-  
17 ease in a human or other animal;

18 (c) Articles, other than food, intended to affect the structure or any function of the body of hu-  
19 mans or other animals; and

20 (d) Articles intended for use as a component of any articles specified in paragraph (a), (b) or (c)  
21 of this subsection.

22 (12) "Drug order" means a written order, in a hospital or other inpatient care facility, for an  
23 ultimate user of any drug or device issued and signed by a practitioner, or an order transmitted by  
24 other means of communication from a practitioner, that is immediately reduced to writing by a  
25 pharmacist, licensed nurse or other practitioner.

26 (13) "Drug outlet" means a pharmacy, nursing home, shelter home, convalescent home, extended  
27 care facility, drug abuse treatment center, penal institution, hospital, family planning clinic, student  
28 health center, retail store, wholesaler, manufacturer, mail-order vendor or other establishment with  
29 facilities located within or out of this state that is engaged in dispensing, delivery or distribution  
30 of drugs within this state.

31 (14) "Drug room" means a secure and lockable location within an inpatient care facility that  
32 does not have a licensed pharmacy.

33 (15) "Electronically transmitted" or "electronic transmission" means a communication sent or  
34 received through technological apparatuses, including computer terminals or other equipment or  
35 mechanisms linked by telephone or microwave relays, or similar apparatus having electrical, digital,  
36 magnetic, wireless, optical, electromagnetic or similar capabilities.

37 (16) "Injectable hormonal contraceptive" means a drug composed of a hormone or a combination  
38 of hormones that is approved by the United States Food and Drug Administration to prevent preg-  
39 nancy and that a health care practitioner administers to the patient by injection.

40 (17) "Institutional drug outlet" means hospitals and inpatient care facilities where medications  
41 are dispensed to another health care professional for administration to patients served by the hos-  
42 pitals or facilities.

43 (18) "Intern" means a person who is enrolled in or has completed a course of study at a school  
44 or college of pharmacy approved by the board and who is licensed with the board as an intern.

45 (19) "Internship" means a professional experiential program approved by the board under the

1 supervision of a licensed pharmacist registered with the board as a preceptor.

2 (20) "Itinerant vendor" means a person who sells or distributes nonprescription drugs by passing  
3 from house to house, or by haranguing the people on the public streets or in public places, or who  
4 uses the customary devices for attracting crowds, recommending their wares and offering them for  
5 sale.

6 (21) "Labeling" means the process of preparing and affixing of a label to any drug container  
7 exclusive, however, of the labeling by a manufacturer, packer or distributor of a nonprescription  
8 drug or commercially packaged legend drug or device.

9 (22) "Manufacture" means the production, preparation, propagation, compounding, conversion  
10 or processing of a device or a drug, either directly or indirectly by extraction from substances of  
11 natural origin or independently by means of chemical synthesis or by a combination of extraction  
12 and chemical synthesis and includes any packaging or repackaging of the substances or labeling or  
13 relabeling of its container, except that this term does not include the preparation or compounding  
14 of a drug by an individual for their own use or the preparation, compounding, packaging or labeling  
15 of a drug:

16 (a) By a practitioner as an incident to administering or dispensing of a drug in the course of  
17 professional practice; or

18 (b) By a practitioner or by the practitioner's authorization under supervision of the practitioner  
19 for the purpose of or as an incident to research, teaching or chemical analysis and not for sale.

20 (23) "Manufacturer" means a person engaged in the manufacture of drugs.

21 (24) "Nonprescription drug outlet" means shopkeepers and itinerant vendors registered under  
22 ORS 689.305.

23 (25) "Nonprescription drugs" means drugs which may be sold without a prescription and which  
24 are prepackaged for use by the consumer and labeled in accordance with the requirements of the  
25 statutes and regulations of this state and the federal government.

26 (26) "Person" means an individual, corporation, partnership, association or other legal entity.

27 (27) "Pharmacist" means an individual licensed by this state to engage in the practice of phar-  
28 macy or to engage in the practice of clinical pharmacy.

29 (28) "Pharmacy" means a place that meets the requirements of rules of the board, is licensed  
30 and approved by the board where the practice of pharmacy may lawfully occur and includes  
31 apothecaries, drug stores, dispensaries, hospital outpatient pharmacies, pharmacy departments and  
32 prescription laboratories but does not include a place used by a manufacturer or wholesaler.

33 (29) "Pharmacy technician" means a person licensed by the State Board of Pharmacy who assists  
34 [*the pharmacist*] in the practice of pharmacy pursuant to rules of the board.

35 (30) "Practice of clinical pharmacy" means:

36 (a) The health science discipline in which, in conjunction with the patient's other practitioners,  
37 a pharmacist provides patient care to optimize medication therapy and to promote disease pre-  
38 vention and the patient's health and wellness;

39 (b) The provision of patient care services, including but not limited to post-diagnostic disease  
40 state management services; and

41 (c) The practice of pharmacy by a pharmacist pursuant to a clinical pharmacy agreement.

42 (31) "Practice of pharmacy" means:

43 (a) The interpretation and evaluation of prescription orders;

44 (b) The compounding, dispensing and labeling of drugs and devices, except labeling by a man-  
45 ufacturer, packer or distributor of nonprescription drugs and commercially packaged legend drugs

1 and devices;

2 (c) The prescribing and administering of vaccines and immunizations and the providing of pa-  
3 tient care services pursuant to ORS 689.645;

4 (d) The administering of drugs and devices to the extent permitted under ORS 689.655;

5 (e) The participation in drug selection and drug utilization reviews;

6 (f) The proper and safe storage of drugs and devices and the maintenance of proper records re-  
7 garding the safe storage of drugs and devices;

8 (g) The responsibility for advising, where necessary or where regulated, of therapeutic values,  
9 content, hazards and use of drugs and devices;

10 (h) The monitoring of therapeutic response or adverse effect to drug therapy;

11 (i) The optimizing of drug therapy through the practice of clinical pharmacy;

12 (j) Patient care services, including medication therapy management and comprehensive  
13 medication review;

14 (k) The offering or performing of those acts, services, operations or transactions necessary in  
15 the conduct, operation, management and control of pharmacy;

16 (L) The prescribing and administering of injectable hormonal contraceptives and the prescribing  
17 and dispensing of self-administered hormonal contraceptives pursuant to ORS 689.689;

18 (m) The prescribing and dispensing of emergency refills of insulin and associated insulin-related  
19 devices and supplies pursuant to ORS 689.696; [and]

20 (n) The prescribing, dispensing and administering of preexposure prophylactic antiretroviral  
21 therapies and post-exposure prophylactic antiretroviral therapies, pursuant to ORS 689.704 and rules  
22 adopted by the board under ORS 689.645 and 689.704[.]; **and**

23 **(o) The delegation of tasks to other health care providers who are appropriately trained**  
24 **and authorized to perform the delegated tasks.**

25 (32) "Practitioner" means a person licensed and operating within the scope of such license to  
26 prescribe, dispense, conduct research with respect to or administer drugs in the course of profes-  
27 sional practice or research:

28 (a) In this state; or

29 (b) In another state or territory of the United States if the person does not reside in Oregon and  
30 is registered under the federal Controlled Substances Act.

31 (33) "Preceptor" means a pharmacist or a person licensed by the board to supervise the  
32 internship training of a licensed intern.

33 (34) "Prescription drug" or "legend drug" means a drug which is:

34 (a) Required by federal law, prior to being dispensed or delivered, to be labeled with either of  
35 the following statements:

36 (A) "Caution: Federal law prohibits dispensing without prescription"; or

37 (B) "Caution: Federal law restricts this drug to use by or on the order of a licensed  
38 veterinarian"; or

39 (b) Required by any applicable federal or state law or regulation to be dispensed on prescription  
40 only or is restricted to use by practitioners only.

41 (35) "Prescription" or "prescription drug order" means a written, oral or electronically trans-  
42 mitted direction, given by a practitioner authorized to prescribe drugs, for the preparation and use  
43 of a drug. When the context requires, "prescription" also means the drug prepared under such  
44 written, oral or electronically transmitted direction.

45 (36) "Retail drug outlet" means a place used for the conduct of the retail sale, administering or

1 dispensing or compounding of drugs or chemicals or for the administering or dispensing of pre-  
2 scriptions and licensed by the board as a place where the practice of pharmacy may lawfully occur.

3 (37) "Self-administered hormonal contraceptive" means a drug composed of a hormone or a  
4 combination of hormones that is approved by the United States Food and Drug Administration to  
5 prevent pregnancy and that the patient to whom the drug is prescribed may administer to oneself.  
6 "Self-administered hormonal contraceptive" includes, but is not limited to, hormonal contraceptive  
7 patches and hormonal contraceptive pills.

8 (38) "Shopkeeper" means a business or other establishment, open to the general public, for the  
9 sale or nonprofit distribution of drugs.

10 (39) "Unit dose" means a sealed single-unit container so designed that the contents are admin-  
11 istered to the patient as a single dose, direct from the container. Each unit dose container must bear  
12 a separate label, be labeled with the name and strength of the medication, the name of the man-  
13 ufacturer or distributor, an identifying lot number and, if applicable, the expiration date of the  
14 medication.

15 (40) "Wholesale drug outlet" means a person who imports, stores, distributes or sells for resale  
16 drugs, including legend drugs and nonprescription drugs.

17 **SECTION 26.** ORS 689.225 is amended to read:

18 689.225. (1) A person may not engage in the practice of pharmacy unless the person is licensed  
19 under this chapter. Nothing in this section prevents physicians, dentists, veterinarians or other  
20 practitioners of the healing arts who are licensed under the laws of this state from dispensing and  
21 administering prescription drugs to their patients in the practice of their respective professions  
22 where specifically authorized to do so by law of this state.

23 (2) A person may not take, use or exhibit the title of pharmacist or the title of druggist or  
24 apothecary, or any other title or description of like import unless the person is licensed to practice  
25 pharmacy under this chapter.

26 (3) A pharmacist may not possess personally or store drugs other than in a licensed pharmacy  
27 except for those drugs legally prescribed for the personal use of the pharmacist or when the  
28 pharmacist possesses or stores the drugs in the usual course of business and within the pharmacist's  
29 scope of practice. An employee, agent or owner of any registered manufacturer, wholesaler or  
30 pharmacy may lawfully possess legend drugs if the person is acting in the usual course of the busi-  
31 ness or employment of the person.

32 (4) The State Board of Pharmacy shall adopt rules relating to the use of pharmacy technicians  
33 [*working under the supervision, direction and control of a pharmacist*]. For retail and institutional  
34 drug outlets, the board shall adopt rules [*which*] **that** include requirements for training, including  
35 provisions for appropriate on-the-job training, guidelines for adequate supervision, standards and  
36 appropriate ratios for the use of pharmacy technicians. Improper use of pharmacy technicians is  
37 subject to the reporting requirements of ORS 689.455.

38 (5) The mixing of intravenous admixtures by pharmacy technicians working under the super-  
39 vision, direction and control of a pharmacist is authorized and does not constitute the practice of  
40 pharmacy by the pharmacy technicians.

41 (6) Any person who is found to have unlawfully engaged in the practice of pharmacy is guilty  
42 of a Class A misdemeanor.

43  
44 **CAPTIONS**

1        SECTION 27. The unit captions used in this 2022 Act are provided only for the conven-  
2 ience of the reader and do not become part of the statutory law of this state or express any  
3 legislative intent in the enactment of this 2022 Act.

4  
5    **EFFECTIVE DATE**  
6

7        SECTION 28. This 2022 Act being necessary for the immediate preservation of the public  
8 peace, health and safety, an emergency is declared to exist, and this 2022 Act takes effect  
9 on its passage.

10    \_\_\_\_\_