

# Senate Bill 1085

Sponsored by Senator CAMPOS

## 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**.

Allows pharmacist to test and provide treatment for certain health conditions. Requires pharmacist to use specified screening or test. Requires insurer to provide payment or reimbursement for test and treatment and for services provided by pharmacist.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to pharmacists; creating new provisions; amending ORS 689.005 and 743A.051; and pre-  
3 scribing an effective date.

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

5 **SECTION 1. Section 2 of this 2023 Act is added to and made a part of ORS chapter 689.**

6 **SECTION 2. (1) Subject to subsection (2) of this section, a pharmacist may test and**  
7 **provide treatment, including drug therapy, for a short-term health condition generally man-**  
8 **aged with minimal treatment, self-care or drugs that are not controlled substances. A**  
9 **health condition described in this subsection includes, but is not limited to:**

10 (a) **Influenza;**

11 (b) **Lice;**

12 (c) **Severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) or other respiratory**  
13 **conditions, diseases or illnesses;**

14 (d) **Skin conditions such as athlete's foot or ringworm;**

15 (e) **Streptococcus;**

16 (f) **Urinary tract infection;**

17 (g) **Other health conditions identified by the Oregon Health Authority as a public health**  
18 **emergency under ORS 433.441; or**

19 (h) **Other health conditions identified by the State Board of Pharmacy by rule for which**  
20 **a patient may be tested using a test described in subsection (2) of this section.**

21 (2) **When testing for a health condition described in subsection (1) of this section, a**  
22 **pharmacist may use:**

23 (a) **A screening procedure that can be safely performed by a pharmacist; or**

24 (b) **A test that:**

25 (A) **Guides the pharmacist's clinical decision-making;**

26 (B) **Is determined by the Centers for Medicare and Medicaid Services to qualify as a**  
27 **waived test under the Clinical Laboratory Improvement Amendments of 1988 (P.L. 100-578,**  
28 **42 U.S.C. 201 and 263a) or federal regulations adopted pursuant to the Clinical Laboratory**  
29 **Improvement Amendments of 1988; and**

30 (C) **Is approved by the board by rule for use under this section.**

**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       **(3) A pharmacist may delegate to a pharmacy technician or an intern under the**  
 2 **pharmacist’s supervision the administrative and technical tasks of performing a test de-**  
 3 **scribed in subsection (2) of this section.**

4       **(4) The board may adopt rules as necessary to carry out this section.**

5       **SECTION 3.** ORS 689.005, as amended by section 25, chapter 45, Oregon Laws 2022, is amended  
 6 to read:

7       689.005. As used in this chapter:

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

10       (a) A practitioner or the practitioner’s authorized agent; or

11       (b) The patient or research subject at the direction of the practitioner.

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

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

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

20       (5) “Continuing pharmacy education” means:

21       (a) Professional, pharmaceutical post-graduate education in the general areas of socio-economic  
 22 and legal aspects of health care;

23       (b) The properties and actions of drugs and dosage forms; and

24       (c) The etiology, characteristics and therapeutics of the disease state.

25       (6) “Continuing pharmacy education unit” means the unit of measurement of credits for ap-  
 26 proved continuing education courses and programs.

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

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

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

35       (10) “Distribute” means the delivery of a drug other than by administering or dispensing.

36       (11) “Drug” means:

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

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

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

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

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

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

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

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

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

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

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

24 (19) "Internship" means a professional experiential program approved by the board under the  
25 supervision of a licensed pharmacist registered with the board as a preceptor.

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

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

33 (22) "Manufacture" means the production, preparation, propagation, compounding, conversion  
34 or processing of a device or a drug, either directly or indirectly by extraction from substances of  
35 natural origin or independently by means of chemical synthesis or by a combination of extraction  
36 and chemical synthesis and includes any packaging or repackaging of the substances or labeling or  
37 relabeling of its container, except that this term does not include the preparation or compounding  
38 of a drug by an individual for their own use or the preparation, compounding, packaging or labeling  
39 of a drug:

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

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

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

45 (24) "Nonprescription drug outlet" means shopkeepers and itinerant vendors registered under

1 ORS 689.305.

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

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

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

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

12 (29) "Pharmacy technician" means a person licensed by the State Board of Pharmacy who assists  
13 in the practice of pharmacy pursuant to rules of the board.

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

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

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

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

21 (31) "Practice of pharmacy" means:

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

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

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

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

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

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

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

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

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

36 (j) Patient care services, including medication therapy management and comprehensive  
37 medication review;

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

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

42 (m) The prescribing and dispensing of emergency refills of insulin and associated insulin-related  
43 devices and supplies pursuant to ORS 689.696;

44 (n) The prescribing, dispensing and administering of preexposure prophylactic antiretroviral  
45 therapies and post-exposure prophylactic antiretroviral therapies, pursuant to ORS 689.704 and rules

1 adopted by the board under ORS 689.645 and 689.704; [and]

2 (o) The delegation of tasks to other health care providers who are appropriately trained and  
3 authorized to perform the delegated tasks[.]; and

4 **(p) The testing and treatment of health conditions pursuant to section 2 of this 2023 Act**  
5 **and rules adopted by the board under section 2 of this 2023 Act.**

6 (32) “Practitioner” means a person licensed and operating within the scope of such license to  
7 prescribe, dispense, conduct research with respect to or administer drugs in the course of profes-  
8 sional practice or research:

9 (a) In this state; or

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

12 (33) “Preceptor” means a pharmacist or a person licensed by the board to supervise the  
13 internship training of a licensed intern.

14 (34) “Prescription drug” or “legend drug” means a drug which is:

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

17 (A) “Caution: Federal law prohibits dispensing without prescription”; or

18 (B) “Caution: Federal law restricts this drug to use by or on the order of a licensed  
19 veterinarian”; or

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

22 (35) “Prescription” or “prescription drug order” means a written, oral or electronically trans-  
23 mitted direction, given by a practitioner authorized to prescribe drugs, for the preparation and use  
24 of a drug. When the context requires, “prescription” also means the drug prepared under such  
25 written, oral or electronically transmitted direction.

26 (36) “Retail drug outlet” means a place used for the conduct of the retail sale, administering or  
27 dispensing or compounding of drugs or chemicals or for the administering or dispensing of pre-  
28 scriptions and licensed by the board as a place where the practice of pharmacy may lawfully occur.

29 (37) “Self-administered hormonal contraceptive” means a drug composed of a hormone or a  
30 combination of hormones that is approved by the United States Food and Drug Administration to  
31 prevent pregnancy and that the patient to whom the drug is prescribed may administer to oneself.  
32 “Self-administered hormonal contraceptive” includes, but is not limited to, hormonal contraceptive  
33 patches and hormonal contraceptive pills.

34 (38) “Shopkeeper” means a business or other establishment, open to the general public, for the  
35 sale or nonprofit distribution of drugs.

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

41 (40) “Wholesale drug outlet” means a person who imports, stores, distributes or sells for resale  
42 drugs, including legend drugs and nonprescription drugs.

43 **SECTION 4.** ORS 743A.051 is amended to read:

44 743A.051. (1) Notwithstanding any provisions of a health benefit plan as defined in ORS  
45 743B.005, whenever the plan provides for payment or reimbursement for a service that is within the

1 lawful scope of practice of a pharmacist, the insurer:

2 [(1)] (a) May provide payment or reimbursement for the service when the service is provided  
3 by a pharmacist; and

4 [(2)] (b) Shall provide, in the same manner as would be provided for any other health care pro-  
5 vider, payment or reimbursement for:

6 [(a)(A)] (A)(i) The prescription of emergency refills of insulin and associated insulin-related de-  
7 vices and supplies as described in ORS 689.696; and

8 [(B)] (ii) The service provided by the pharmacist;

9 [(b)(A)] (B)(i) The prescription, dispensation and administration of preexposure and post-  
10 exposure prophylactic antiretroviral therapies pursuant to ORS 689.704 and any rules adopted by the  
11 State Board of Pharmacy under ORS 689.645 and 689.704; and

12 [(B)] (ii) The service provided by the pharmacist; [and]

13 [(c)(A)] (C)(i) The prescription and dispensation of other prescription drugs by a licensed  
14 pharmacist if the [State Board of Pharmacy] board or any state law authorizes the drug to be pre-  
15 scribed and dispensed by pharmacists licensed under ORS chapter 689; and

16 [(B)] (ii) The service provided by the pharmacist[.]; and

17 (D)(i) **The testing and treatment of health conditions pursuant to section 2 of this 2023  
18 Act and rules adopted by the board under section 2 of this 2023 Act; and**

19 (ii) **The service provided by the pharmacist.**

20 [(3)] (2) This section is exempt from ORS 743A.001.

21 **SECTION 5. The amendments to ORS 743A.051 by section 4 of this 2023 Act apply to  
22 health benefit plans issued, renewed or extended on or after the effective date of this 2023  
23 Act.**

24 **SECTION 6. (1) Section 2 of this 2023 Act and the amendments to ORS 689.005 and  
25 743A.051 by sections 3 and 4 of this 2023 Act become operative on January 1, 2024.**

26 **(2) The State Board of Pharmacy may take any action before the operative date specified  
27 in subsection (1) of this section that is necessary to enable the board to exercise, on and  
28 after the operative date specified in subsection (1) of this section, all of the duties, functions  
29 and powers conferred on the board by section 2 of this 2023 Act and the amendments to ORS  
30 689.005 and 743A.051 by sections 3 and 4 of this 2023 Act.**

31 **SECTION 7. This 2023 Act takes effect on the 91st day after the date on which the 2023  
32 regular session of the Eighty-second Legislative Assembly adjourns sine die.**

33