

Requested by Representative DIEHL

**PROPOSED AMENDMENTS TO
HOUSE BILL 2395**

1 In line 2 of the printed bill, after “substance use” insert “; creating new
2 provisions; amending ORS 109.675, 109.680, 109.685, 146.100, 339.867, 339.869,
3 339.870, 339.871, 414.320, 430.389, 431A.855, 431A.865, 475.525, 689.681, 689.682,
4 689.684 and 689.686; and declaring an emergency”.

5 Delete lines 4 through 8 and insert:
6

7 **SHORT-ACTING OPIOID ANTAGONISTS**
8

9 **“SECTION 1.** ORS 689.681 is amended to read:

10 “689.681. (1) As used in this section:

11 “(a) ‘Kit’ means a [*dose of naloxone*] **package of one or more doses of**
12 **a short-acting opioid antagonist** and the necessary medical supplies to
13 administer the [*naloxone*] **short-acting opioid antagonist.**

14 “[*(b) ‘Opiate’ means a narcotic drug that contains:*]

15 “[*(A) Opium;*]

16 “[*(B) Any chemical derivative of opium; or*]

17 “[*(C) Any synthetic or semisynthetic drug with opium-like effects.*]

18 “[*(c) ‘Opiate overdose’ means a medical condition that causes depressed*
19 *consciousness and mental functioning, decreased movement, depressed respir-*
20 *atory function and the impairment of the vital functions as a result of*
21 *ingesting opiates in an amount larger than can be physically tolerated.*]

1 **“(b) ‘Opioid’ means a natural, synthetic or semisynthetic chemical**
2 **that interacts with opioid receptors on nerve cells in the body and**
3 **brain to reduce the intensity of pain signals and feelings of pain.**

4 **“(c) ‘Opioid overdose’ means a medical condition that causes de-**
5 **pressed consciousness, depressed respiratory function or the impair-**
6 **ment of vital bodily functions as a result of ingesting opioids.**

7 **“(d) ‘Short-acting opioid antagonist’ means any short-acting drug**
8 **approved by the United States Food and Drug Administration for the**
9 **complete or partial reversal of an opioid overdose.**

10 “(2) Notwithstanding any other provision of law, a pharmacy, a health
11 care professional [*or*], a pharmacist with prescription and dispensing privi-
12 leges, **a law enforcement officer, a firefighter, an emergency medical**
13 **services provider** or any other person designated by the State Board of
14 Pharmacy by rule may:

15 **“(a) Distribute and administer [*naloxone*] a short-acting opioid antag-**
16 **onist** and distribute the necessary medical supplies to administer the
17 [*naloxone*] **short-acting opioid antagonist[.];**

18 **“(b) Distribute multiple kits to:**

19 **“(A) An individual who has experienced an opioid overdose or is**
20 **likely to experience an opioid overdose;**

21 **“(B) Family members of an individual described in subparagraph**
22 **(A) of this paragraph; and**

23 **“(C) Any other individual who requests one or more kits; and**

24 **“(c) [*The pharmacy, health care professional or pharmacist may also*] Dis-**
25 **tribute multiple kits to social service agencies under ORS 689.684 or to other**
26 **persons who work with individuals who have experienced an [*opiate***
27 ***overdose*] opioid overdose.** The social services agencies or other persons may
28 redistribute the kits to individuals likely to experience an [*opiate overdose*]
29 **opioid overdose** or to family members of the individuals.

30 “(3)(a) A person acting in good faith, if the act does not constitute

1 wanton misconduct, is immune from **criminal and** civil liability for any act
2 or omission of an act committed during the course of distributing and ad-
3 ministering [*naloxone*] **a short-acting opioid antagonist** and distributing
4 the necessary medical supplies to administer the [*naloxone*] **short-acting**
5 **opioid antagonist** under this section.

6 “(b) A person is immune from criminal and civil liability for the
7 person’s failure or refusal to distribute or administer a short-acting
8 opioid antagonist or distribute the necessary medical supplies to ad-
9 minister a short-acting opioid antagonist under this section.

10 “**SECTION 2.** ORS 689.682 is amended to read:

11 “689.682. (1) **As used in this section:**

12 “(a) ‘**Opioid**’ means a natural, synthetic or semisynthetic chemical
13 that interacts with opioid receptors on nerve cells in the body and
14 brain to reduce the intensity of pain signals and feelings of pain.

15 “(b) ‘**Opioid overdose**’ means a medical condition that causes de-
16 pressed consciousness, depressed respiratory function or the impair-
17 ment of vital bodily functions as a result of ingesting opioids.

18 “(c) ‘**Short-acting opioid antagonist**’ means any short-acting drug
19 approved by the United States Food and Drug Administration for the
20 complete or partial reversal of an opioid overdose.

21 “[1] (2) In accordance with rules adopted by the State Board of Phar-
22 macy under ORS 689.205, a pharmacist may prescribe [*naloxone*] **a short-**
23 **acting opioid antagonist** and the necessary medical supplies to administer
24 the [*naloxone*] **short-acting opioid antagonist**.

25 “[2] (3) If a prescription is presented to a pharmacist for dispensing an
26 opiate or opioid in excess of a morphine equivalent dose established by rule
27 by the board, the pharmacist may offer to prescribe and provide, in addition
28 to the prescribed opiate or opioid, a [*naloxone kit consisting of a dose of*
29 *naloxone*] **short-acting opioid antagonist** and the necessary medical sup-
30 plies to administer the [*naloxone*] **short-acting opioid antagonist**.

1 **“SECTION 3.** ORS 689.684 is amended to read:

2 “689.684. (1) For purposes of this section, ‘social services agency’ includes,
3 but is not limited to, homeless shelters and crisis centers.

4 “(2) A person may administer to an individual [*naloxone*] **a short-acting**
5 **opioid antagonist, as defined in ORS 689.681,** that was not distributed to
6 the person if:

7 “(a) The individual to whom the [*naloxone*] **short-acting opioid antag-**
8 **onist** is being administered appears to be experiencing an [*opiate overdose*]
9 **opioid overdose** as defined in ORS 689.681; and

10 “(b) The person who administers the [*naloxone*] **short-acting opioid an-**
11 **tagonist** is an employee of a social services agency or is trained under rules
12 adopted by the State Board of Education pursuant to ORS 339.869.

13 “(3) For the purposes of protecting public health and safety, the Oregon
14 Health Authority may adopt rules for the administration of [*naloxone*]
15 **short-acting opioid antagonists** by employees of a social services agency
16 under this section.

17 **“SECTION 4.** ORS 689.686 is amended to read:

18 “689.686. (1) A retail or hospital outpatient pharmacy shall provide writ-
19 ten notice in a conspicuous manner that [*naloxone*] **a short-acting opioid**
20 **antagonist, as defined in ORS 689.681,** and the necessary medical supplies
21 to administer [*naloxone*] **the short-acting opioid antagonist** are available
22 at the pharmacy.

23 “(2) The State Board of Pharmacy may adopt rules to carry out this sec-
24 tion.

25 **“SECTION 5. (1) The amendments to ORS 689.681, 689.682, 689.684**
26 **and 689.686 by sections 1 to 4 of this 2023 Act become operative on**
27 **January 1, 2024.**

28 **“(2) The State Board of Pharmacy may take any action before the**
29 **operative date specified in subsection (1) of this section that is neces-**
30 **sary to enable the board to exercise, on and after the operative date**

1 specified in subsection (1) of this section, all of the duties, functions
2 and powers conferred on the board by the amendments to ORS 689.681,
3 689.682, 689.684 and 689.686 by sections 1 to 4 of this 2023 Act.

4
5 **“STANDING ORDERS**

6
7 **“SECTION 6. Sections 7 and 8 of this 2023 Act are added to and**
8 **made a part of ORS chapter 689.**

9 **“SECTION 7. (1) As used in this section, ‘opioid,’ ‘opioid overdose’**
10 **and ‘short-acting opioid antagonist’ have the meanings given those**
11 **terms in ORS 689.681.**

12 **“(2)(a) The Public Health Officer appointed under ORS 431.045, or a**
13 **physician licensed under ORS chapter 677 who is employed by the**
14 **Oregon Health Authority, may issue a standing order to prescribe a**
15 **short-acting opioid antagonist, and the necessary medical supplies to**
16 **administer the short-acting opioid antagonist, to:**

17 **“(A) An individual who is at risk of experiencing an opioid overdose;**

18 **“(B) An individual who or entity that may encounter an individual**
19 **who is likely to experience an opioid overdose; and**

20 **“(C) The owner of a building or facility described in section 8 of this**
21 **2023 Act.**

22 **“(b) The Public Health Officer or physician may issue a standing**
23 **order within certain geographic areas of the state or statewide, and**
24 **may withdraw a standing order at any time.**

25 **“(3)(a) Upon the request of an individual or entity, a pharmacist**
26 **shall dispense a short-acting opioid antagonist and the necessary**
27 **medical supplies to administer the short-acting opioid antagonist pur-**
28 **suant to a standing order issued under subsection (2) of this section.**

29 **“(b) A pharmacist who dispenses a short-acting opioid antagonist**
30 **and the necessary medical supplies to administer the short-acting**

1 opioid antagonist shall provide to the individual or entity written in-
2 structions on the appropriate response to an opioid overdose, including
3 conspicuous instructions to seek immediate medical attention.

4 “(4) An individual or an entity may possess, store, deliver or dis-
5 tribute a short-acting opioid antagonist and the necessary medical
6 supplies to administer the short-acting opioid antagonist, and may
7 administer a short-acting opioid antagonist, pursuant to a standing
8 order issued under subsection (2) of this section.

9 “(5)(a) An individual acting in good faith, if the act does not con-
10 stitute wanton misconduct, is immune from criminal and civil liability
11 for any act or omission of an act committed during the course of
12 possessing, storing, delivering or distributing a short-acting opioid
13 antagonist and the necessary medical supplies to administer the
14 short-acting opioid antagonist and during the course of administering
15 a short-acting opioid antagonist.

16 “(b) An individual is immune from criminal and civil liability for
17 the individual’s failure or refusal to possess, store, deliver or distribute
18 a short-acting opioid antagonist and the necessary medical supplies to
19 administer the short-acting opioid antagonist, or failure or refusal to
20 administer a short-acting opioid antagonist.

21 “(6) The State Board of Pharmacy and the authority, in consulta-
22 tion with one another, may adopt rules to carry out this section.

23 **“SECTION 8. (1) As used in this section, ‘kit,’ ‘opioid,’ ‘opioid**
24 **overdose’ and ‘short-acting opioid antagonist’ have the meanings given**
25 **those terms in ORS 689.681.**

26 “(2) The owner of any building or facility to which the public has
27 legal access may have in the building or facility one or more kits
28 stored in a location in the building or facility easily accessible by
29 members of the public if the kit or kits are obtained pursuant to a
30 standing order issued under section 7 of this 2023 Act.

1 **“(3)(a) A member of the public may administer the short-acting**
2 **opioid antagonist contained in a kit described in subsection (2) of this**
3 **section to an individual experiencing, or who appears to be experienc-**
4 **ing, an opioid overdose. The member of the public acting in good faith,**
5 **if the act does not constitute wanton misconduct, is immune from**
6 **criminal and civil liability for:**

7 **“(A) Any act or omission of an act committed during the course**
8 **of administering the short-acting opioid antagonist under this section;**
9 **and**

10 **“(B) Not administering the short-acting opioid antagonist.**

11 **“(b) The owner and any staff members of a building or facility de-**
12 **scribed in subsection (2) of this section in which a kit, obtained pur-**
13 **suant to a standing order issued under section 7 of this 2023 Act, is**
14 **located, are immune from criminal and civil liability for any act or**
15 **omission of an act committed during the course of the administration**
16 **of, or for the failure or refusal to administer, the short-acting opioid**
17 **antagonist contained in the kit located in the building or facility.**

18 **“(4) The Oregon Health Authority shall publish, on a website oper-**
19 **ated by or on behalf of the authority, a list of the types of buildings**
20 **and facilities, and the locations of buildings and facilities, described**
21 **in subsection (2) of this section, for which the authority prioritizes the**
22 **provision of kits.**

23 **“(5) The authority may adopt rules to carry out this section. In**
24 **adopting rules under this subsection, the authority shall consult with**
25 **the State Board of Pharmacy.**

26 **“SECTION 9. (1) Sections 7 and 8 of this 2023 Act become operative**
27 **on January 1, 2024.**

28 **“(2) The Oregon Health Authority and State Board of Pharmacy**
29 **may take any action before the operative date specified in subsection**
30 **(1) of this section that is necessary to enable the authority and the**

1 board to exercise, on and after the operative date specified in sub-
2 section (1) of this section, all of the duties, functions and powers
3 conferred on the authority and the board by sections 7 and 8 of this
4 2023 Act.

5
6 “SCHOOLS

7
8 “**SECTION 10.** ORS 339.867 is amended to read:

9 “339.867. As used in ORS 339.869 and 339.870:

10 “(1) ‘Medication’ means:

11 “(a) Medication that is not injected;

12 “(b) Premeasured doses of epinephrine that are injected;

13 “(c) Medication that is available for treating adrenal insufficiency; and

14 “(d) [*Naloxone or any similar medication that is in any form available for*
15 *safe administration and that is designed to rapidly reverse an overdose of an*
16 *opioid drug*] **A short-acting opioid antagonist, as defined in ORS**
17 **689.681.**

18 “(2) ‘Medication’ does not include nonprescription sunscreen.

19 “**SECTION 11.** ORS 339.869 is amended to read:

20 “339.869. (1) The State Board of Education, in consultation with the
21 Oregon Health Authority, the Oregon State Board of Nursing and the State
22 Board of Pharmacy, shall adopt:

23 “(a) Rules for the administration of prescription and nonprescription
24 medication to students by trained school personnel and for student self-
25 medication. The rules shall include age appropriate guidelines and training
26 requirements for school personnel.

27 “(b) Rules for the administration of premeasured doses of epinephrine by
28 school personnel trained as provided by ORS 433.815 to any student or other
29 individual on school premises who the personnel believe in good faith is ex-
30 perienceing a severe allergic reaction, regardless of whether the student or

1 individual has a prescription for epinephrine.

2 “(c)(A) Rules for the administration of medication that treats adrenal in-
3 sufficiency by school personnel trained as provided by ORS 433.815 to any
4 student on school premises whose parent or guardian has provided for the
5 personnel the medication as described in ORS 433.825 (3) and who the per-
6 sonnel believe in good faith is experiencing an adrenal crisis, as defined in
7 ORS 433.800.

8 “(B) Rules adopted under this paragraph must:

9 “(i) Include guidelines on the designation and training of school personnel
10 who will be responsible for administering medication; and

11 “(ii) Specify that a school district is only required to train school per-
12 sonnel when the school district has been notified by a parent or guardian
13 that a student enrolled in a school of the school district has been diagnosed
14 with adrenal insufficiency.

15 “(d) Guidelines for the management of students with life-threatening food
16 allergies and adrenal insufficiency, which must include:

17 “(A) Standards for the education and training of school personnel to
18 manage students with life-threatening allergies or adrenal insufficiency.

19 “(B) Procedures for responding to life-threatening allergic reactions or
20 an adrenal crisis, as defined in ORS 433.800.

21 “(C) A process for the development of individualized health care and
22 allergy or adrenal insufficiency plans for every student with a known life-
23 threatening allergy or adrenal insufficiency.

24 “(D) Protocols for preventing exposures to allergens.

25 “(e) Rules for the administration of [*naloxone or any similar medication*
26 *that is in any form available for safe administration and that is designed to*
27 *rapidly reverse an overdose of an opioid drug*] **a short-acting opioid an-**
28 **tagonist** by trained school personnel to any student or other individual on
29 school premises who the personnel believe in good faith is experiencing an
30 **opioid** overdose [*of an opioid drug*], **as defined in ORS 689.681.**

1 “(2)(a) School district boards shall adopt policies and procedures that
2 provide for:

3 “(A) The administration of prescription and nonprescription medication
4 to students by trained school personnel, including the administration of
5 medications that treat adrenal insufficiency;

6 “(B) Student self-medication; and

7 “(C) The administration of premeasured doses of epinephrine to students
8 and other individuals.

9 “(b) Policies and procedures adopted under paragraph (a) of this sub-
10 section shall be consistent with the rules adopted by the State Board of Ed-
11 ucation under subsection (1) of this section. A school district board shall not
12 require school personnel who have not received appropriate training to ad-
13 minister medication.

14 “(3)(a) School district boards may adopt policies and procedures that
15 provide for the administration of [*naloxone or any similar medication that is*
16 *in any form available for safe administration and that is designed to rapidly*
17 *reverse an overdose of an opioid drug*] **a short-acting opioid antagonist.**

18 “(b) Policies and procedures adopted under paragraph (a) of this sub-
19 section shall be consistent with the rules adopted by the State Board of Ed-
20 ucation under subsection (1) of this section.

21 **“SECTION 12.** ORS 339.870 is amended to read:

22 “339.870. [(1)] **(1)(a)** A school administrator, teacher or other school em-
23 ployee designated by the school administrator is not liable in a criminal
24 action or for civil damages as a result of the administration of
25 nonprescription medication, if the school administrator, teacher or other
26 school employee in good faith administers nonprescription medication to a
27 [*pupil*] **student** pursuant to written permission and instructions of the
28 [*pupil’s*] **student’s** parents or guardian.

29 **“(b) A school administrator, teacher or other school employee des-**
30 **ignated by the school administrator, may administer a short-acting**

1 **opioid antagonist, as defined in ORS 689.681, to a student who experi-**
2 **enced or is experiencing an opioid overdose, as defined in ORS 689.681,**
3 **without written permission and instructions of the student’s parents**
4 **or guardian.**

5 “[2] **(2)(a)** A school administrator, teacher or other school employee
6 designated by the school administrator is not liable in a criminal action or
7 for civil damages as a result of the administration of prescription medication,
8 if the school administrator, teacher or other school employee in compliance
9 with the instructions of a physician, physician assistant, nurse practitioner,
10 naturopathic physician or clinical nurse specialist, in good faith administers
11 prescription medication to a [*pupil*] **student** pursuant to written permission
12 and instructions of the [*pupil’s*] **student’s** parents or guardian.

13 **“(b)(A) A school administrator, teacher or other school employee**
14 **designated by the school administrator who acts in good faith in ad-**
15 **ministering a short-acting opioid antagonist as described in subsection**
16 **(1)(b) of this section is not liable in a criminal action or for civil**
17 **damages for any act or omission of an act committed during the**
18 **course of administering the short-acting opioid antagonist.**

19 **“(B) A school administrator, teacher or other school employee des-**
20 **ignated by the school administrator is not liable in a criminal action**
21 **or for civil damages for the failure or refusal to administer a short-**
22 **acting opioid antagonist as described in subsection (1)(b) of this sec-**
23 **tion.**

24 **“(c) A school district and the members of a school district board**
25 **are not liable in a criminal action or for civil damages as a result of**
26 **the administration of, or failure or refusal to administer, a short-**
27 **acting opioid antagonist:**

28 **“(A) As described in paragraph (b) of this subsection; or**

29 **“(B) By any person acting in good faith who administers, or fails**
30 **or refuses to administer, the short-acting opioid antagonist to a stu-**

1 **dent or other individual who the person believes is experiencing an**
2 **opioid overdose and the administration, or failure or refusal to ad-**
3 **minister, occurs on school premises, including at a school, on school**
4 **property under the jurisdiction of the school district or at any activity**
5 **under the jurisdiction of the school district.**

6 “(3) The civil and criminal immunities imposed by subsections (1) and (2)
7 of this section do not apply to an act or omission amounting to gross
8 negligence or willful and wanton misconduct.

9 **“SECTION 13.** ORS 339.871 is amended to read:

10 “339.871. (1) A school administrator, school nurse, teacher or other school
11 employee designated by the school administrator is not liable in a criminal
12 action or for civil damages as a result of a student’s self-administration of
13 medication, as described in ORS 339.866, if the school administrator, school
14 nurse, teacher or other school employee, in compliance with the instructions
15 of the student’s Oregon licensed health care professional, in good faith as-
16 sists the student’s self-administration of the medication, if the medication is
17 available to the student pursuant to written permission and instructions of
18 the student’s parent, guardian or Oregon licensed health care professional.

19 “(2) A school administrator, school nurse, teacher or other school em-
20 ployee designated by the school administrator is not liable in a criminal
21 action or for civil damages as a result of the use of medication if the school
22 administrator, school nurse, teacher or other school employee in good faith
23 administers:

24 “(a) Autoinjectable epinephrine to a student or other individual with a
25 severe allergy who is unable to self-administer the medication, regardless of
26 whether the student or individual has a prescription for epinephrine; or

27 “(b) [*Naloxone or any similar medication that is in any form available for*
28 *safe administration and that is designed to rapidly reverse an overdose of an*
29 *opioid drug*] **A short-acting opioid antagonist, as defined in ORS 689.681,**
30 to a student or other individual who the school administrator, school nurse,

1 teacher or other school employee believes in good faith is experiencing an
2 **opioid** overdose [*of an opioid drug*], **as defined in ORS 689.681.**

3 “(3) A school district and the members of a school district board are not
4 liable in a criminal action or for civil damages as a result of the use of
5 medication if:

6 “(a) Any person in good faith administers autoinjectable epinephrine to
7 a student or other individual with a severe allergy who is unable to self-
8 administer the medication, regardless of whether the student or individual
9 has a prescription for epinephrine; and

10 “(b) The person administered the autoinjectable epinephrine on school
11 premises, including at a school, on school property under the jurisdiction of
12 the district or at an activity under the jurisdiction of the school district.

13 “(4) A school district and the members of a school district board are not
14 liable in a criminal action or for civil damages as a result of the [*use of*
15 *medication*] **administration of, or failure or refusal to administer, a**
16 **short-acting opioid antagonist** if:

17 “(a)(A) Any person in good faith administers [*naloxone or any similar*
18 *medication that is in any form available for safe administration and that is*
19 *designed to rapidly reverse an overdose of an opioid drug*] **the short-acting**
20 **opioid antagonist** to a student or other individual who the person believes
21 in good faith is experiencing an **opioid** overdose [*of an opioid drug*]; **or**

22 “(B) **Any person fails or refuses to administer the short-acting**
23 **opioid antagonist to a student or other individual who the person be-**
24 **lieves is experiencing an opioid overdose;** and

25 “(b) The person administered, **or failed or refused to administer,** the
26 [*naloxone or similar medication*] **short-acting opioid antagonist** on school
27 premises, including at a school, on school property under the jurisdiction of
28 the district or at an activity under the jurisdiction of the school district.

29 “(5) The civil and criminal immunities imposed by this section do not
30 apply to an act or omission amounting to gross negligence or willful and

1 wanton misconduct.

2 **“SECTION 14. (1) The amendments to ORS 339.867, 339.869, 339.870**
3 **and 339.871 by sections 10 to 13 of this 2023 Act become operative on**
4 **January 1, 2024.**

5 **“(2) The State Board of Education may take any action before the**
6 **operative date specified in subsection (1) of this section that is neces-**
7 **sary to enable the board to exercise, on and after the operative date**
8 **specified in subsection (1) of this section, all of the duties, functions**
9 **and powers conferred on the board by the amendments to ORS 339.867,**
10 **339.869, 339.870 and 339.871 by sections 10 to 13 of this 2023 Act.**

11

12 **“SERVICES PROVIDED TO MINORS**

13

14 **“SECTION 15. Section 16 of this 2023 Act is added to and made a**
15 **part of ORS 109.675 to 109.695.**

16 **“SECTION 16. As used in ORS 109.675 to 109.695:**

17 **“(1) ‘Mental health care provider’ means a:**

18 **“(a) Physician licensed under ORS chapter 677;**

19 **“(b) Physician assistant licensed under ORS 677.505 to 677.525;**

20 **“(c) Psychologist licensed under ORS 675.010 to 675.150;**

21 **“(d) Nurse practitioner licensed under ORS 678.375 to 678.390;**

22 **“(e) Clinical social worker licensed under ORS 675.530;**

23 **“(f) Licensed professional counselor licensed under ORS 675.715;**

24 **“(g) Licensed marriage and family therapist licensed under ORS**
25 **675.715;**

26 **“(h) Naturopathic physician licensed under ORS chapter 685; or**

27 **“(i) Community mental health program established and operated**
28 **pursuant to ORS 430.620 when approved to do so by the Oregon Health**
29 **Authority pursuant to rule.**

30 **“(2) ‘Minor’ means a person who has not arrived at the age of ma-**

1 **jority, as described in ORS 109.510.**

2 **“SECTION 17.** ORS 109.675 is amended to read:

3 **“109.675. (1)(a) A minor may obtain, without parental knowledge or**
4 **consent, outpatient diagnosis or treatment of a substance use disorder,**
5 **excluding methadone treatment, by a mental health care provider.**

6 **“(b) A minor 14 years of age or older may obtain, without parental**
7 **knowledge or consent, outpatient diagnosis or treatment of a mental or**
8 **emotional disorder** [*or a chemical dependency, excluding methadone mainte-*
9 *nance,*] **by a mental health care provider.** [*physician or physician assistant*
10 *licensed by the Oregon Medical Board, a psychologist licensed by the Oregon*
11 *Board of Psychology, a nurse practitioner registered by the Oregon State*
12 *Board of Nursing, a clinical social worker licensed by the State Board of Li-*
13 *icensed Social Workers, a professional counselor or marriage and family ther-*
14 *apist licensed by the Oregon Board of Licensed Professional Counselors and*
15 *Therapists, a naturopathic physician licensed by the Oregon Board of*
16 *Naturopathic Medicine or a community mental health program established and*
17 *operated pursuant to ORS 430.620 when approved to do so by the Oregon*
18 *Health Authority pursuant to rule.*]

19 **“(2) [However,] The person providing treatment under this section shall**
20 **have the parents of the minor involved before the end of treatment unless**
21 **the parents refuse or unless there are clear clinical indications to the con-**
22 **trary, which shall be documented in the treatment record. The provisions of**
23 **this subsection do not apply to:**

24 **“(a) A minor who has been sexually abused by a parent; or**

25 **“(b) An emancipated minor, whether emancipated under the provisions of**
26 **ORS 109.510 and 109.520 or 419B.550 to 419B.558 or, for the purpose of this**
27 **section only, emancipated by virtue of having lived apart from the parents**
28 **or legal guardian while being self-sustaining for a period of 90 days prior to**
29 **obtaining treatment as provided by this section.**

30 **“SECTION 18.** ORS 109.680 is amended to read:

1 “109.680. [(1) As used in this section, ‘mental health care provider’ means
2 a physician or physician assistant licensed by the Oregon Medical Board,
3 psychologist licensed by the Oregon Board of Psychology, nurse practitioner
4 registered by the Oregon State Board of Nursing, clinical social worker li-
5 censed under ORS 675.530, professional counselor or marriage and family
6 therapist licensed by the Oregon Board of Licensed Professional Counselors
7 and Therapists, naturopathic physician licensed under ORS chapter 685 or
8 community mental health program established and operated pursuant to ORS
9 430.620 when approved to do so by the Oregon Health Authority pursuant to
10 rule.]

11 “[(2)(a)] **(1)(a)** A mental health care provider that is providing services
12 to a minor pursuant to ORS 109.675 may disclose relevant health information
13 about the minor without the minor’s consent as provided in ORS 109.675 (2)
14 and this subsection.

15 “(b) If the minor’s condition has deteriorated or the risk of a suicide at-
16 tempt has become such that inpatient treatment is necessary, or if the
17 minor’s condition requires detoxification in a residential or acute care fa-
18 cility, the minor’s mental health care provider may disclose the relevant in-
19 formation regarding the minor’s diagnosis and treatment to the minor’s
20 parent or legal guardian to the extent the mental health care provider de-
21 termines the disclosure is clinically appropriate and will serve the best in-
22 terests of the minor’s treatment.

23 “(c) If the mental health care provider assesses the minor to be at serious
24 and imminent risk of a suicide attempt but inpatient treatment is not nec-
25 essary or practicable:

26 “(A) The mental health care provider shall disclose relevant information
27 about the minor to and engage in safety planning with the minor’s parent,
28 legal guardian or other individuals the provider reasonably believes may be
29 able to prevent or lessen the minor’s risk of a suicide attempt.

30 “(B) The mental health care professional may disclose relevant informa-

1 tion regarding the minor’s treatment and diagnosis that the mental health
2 care professional determines is necessary to further the minor’s treatment
3 to those organizations, including appropriate schools and social service en-
4 tities, that the mental health care provider reasonably believes will provide
5 treatment support to the minor to the extent the mental health care provider
6 determines necessary.

7 “(d) Except as provided in ORS 109.675 (2) and paragraphs (a) and (b) of
8 this subsection, if a mental health care provider has provided the minor with
9 the opportunity to object to the disclosure and the minor has not expressed
10 an objection, the mental health care provider may disclose information re-
11 lated to the minor’s treatment and diagnosis to individuals, including the
12 minor’s parent or legal guardian, and organizations when the information
13 directly relates to the individual’s or organization’s involvement in the
14 minor’s treatment.

15 “[3] **(2)** Notwithstanding **ORS 109.675 (2) or** subsection [(2)(c)(A)]
16 **(1)(c)(A)** of this section, a mental health care provider is not required to
17 disclose the minor’s treatment and diagnosis information to an individual if
18 the mental health care provider:

19 “(a) Reasonably believes the individual has abused or neglected the minor
20 or subjected the minor to domestic violence or may abuse or neglect the
21 minor or subject the minor to domestic violence;

22 “(b) Reasonably believes disclosure of the minor’s information to the in-
23 dividual could endanger the minor; or

24 “(c) Determines that it is not in the minor’s best interest to disclose the
25 information to the individual.

26 “[4] **(3)** Nothing in this section is intended to limit a mental health care
27 provider’s authority to disclose information related to the minor with the
28 minor’s consent.

29 “[5] **(4)** If a mental health care provider discloses a minor’s information
30 as provided in subsection (1) [or (2)] of this section in good faith, the mental

1 health care provider is immune from civil liability for making the disclosure
2 without the consent of the minor.

3 **“SECTION 19.** ORS 109.685 is amended to read:

4 “109.685. A [*physician, physician assistant, psychologist, nurse practitioner,*
5 *clinical social worker licensed under ORS 675.530, professional counselor or*
6 *marriage and family therapist licensed by the Oregon Board of Licensed Pro-*
7 *fessional Counselors and Therapists, naturopathic physician licensed under*
8 *ORS chapter 685 or community mental health program described in ORS*
9 *109.675]* **mental health care provider** who in good faith provides diagnosis
10 or treatment to a minor as authorized by ORS 109.675 [*shall not be*] **is not**
11 subject to any civil liability for providing such diagnosis or treatment with-
12 out consent of the parent or legal guardian of the minor.

13 **“SECTION 20. Section 16 of this 2023 Act and the amendments to**
14 **ORS 109.675, 109.680 and 109.685 by sections 17 to 19 of this 2023 Act**
15 **apply to services provided to minors on or after the effective date of**
16 **this 2023 Act.**

17

18 **“DRUG PARAPHERNALIA**

19

20 **“SECTION 21.** ORS 475.525 is amended to read:

21 “475.525. (1) It is unlawful for any person to sell or deliver, possess with
22 intent to sell or deliver or manufacture with intent to sell or deliver drug
23 paraphernalia, knowing that it will be used to unlawfully plant, propagate,
24 cultivate, grow, harvest, manufacture, compound, convert, produce, process,
25 prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest,
26 inhale or otherwise introduce into the human body a controlled substance
27 as defined by ORS 475.005.

28 “(2) For the purposes of this section, ‘drug paraphernalia’ means all
29 equipment, products and materials of any kind that are marketed for use or
30 designed for use in planting, propagating, cultivating, growing, harvesting,

1 manufacturing, compounding, converting, producing, processing, preparing,
2 testing, analyzing, packaging, repackaging, storing, containing, concealing,
3 injecting, ingesting, inhaling or otherwise introducing into the human body
4 a controlled substance in violation of ORS 475.752 to 475.980. Drug par-
5 aphernalia includes, but is not limited to:

6 “(a) Kits marketed for use or designed for use in unlawfully planting,
7 propagating, cultivating, growing or harvesting of any species of plant that
8 is a controlled substance or from which a controlled substance can be de-
9 rived;

10 “(b) Kits marketed for use or designed for use in manufacturing, com-
11 pounding, converting, producing, processing or preparing controlled sub-
12 stances;

13 “(c) Isomerization devices marketed for use or designed for use in in-
14 creasing the potency of any species of plant that is a controlled substance;

15 “(d) Testing equipment marketed for use or designed for use in identifying
16 or in analyzing the strength, effectiveness or purity of controlled substances;

17 “(e) Scales and balances marketed for use or designed for use in weighing
18 or measuring controlled substances;

19 “(f) Diluents and adulterants, such as quinine hydrochloride, mannitol,
20 mannite, dextrose and lactose, marketed for use or designed for use in cut-
21 ting controlled substances;

22 “(g) Lighting equipment specifically designed for growing controlled sub-
23 stances;

24 “(h) Containers and other objects marketed for use or designed for use in
25 storing or concealing controlled substances; and

26 “(i) Objects marketed for use or designed specifically for use in ingesting,
27 inhaling or otherwise introducing a controlled substance into the human
28 body, such as:

29 “[A] *Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or*
30 *without screens;*]

1 “[(B) *Water pipes*;]
2 “[(C) *Carburetion tubes and devices*;]
3 “[(D)] (A) Smoking and carburetion masks;
4 “[(E)] (B) Roach clips, meaning objects used to hold burning material that
5 has become too small or too short to be held in the hand; **or**
6 “[(F)] (C) Miniature cocaine spoons and cocaine vials[;].
7 “[(G) *Chamber pipes*;]
8 “[(H) *Carburetor pipes*;]
9 “[(I) *Electric pipes*;]
10 “[(J) *Air-driven pipes*;]
11 “[(K) *Chillums*;]
12 “[(L) *Bongs*; and]
13 “[(M) *Ice pipes or chillers*.]

14 “(3) For purposes of this section, ‘drug paraphernalia’ does not include
15 hypodermic syringes or needles, **single-use drug test strips or any other**
16 **item designed to prevent or reduce the potential harm associated with**
17 **the use of controlled substances, including but not limited to items**
18 **that reduce the transmission of infectious disease or prevent injury,**
19 **infection or overdose.**

20 “(4) The provisions of ORS 475.525 to 475.565 do not apply to persons
21 registered under the provisions of ORS 475.125 or to persons specified as
22 exempt from registration under the provisions of that statute.

23 “(5)(a) The provisions of ORS 475.525 to 475.565 do not apply to a person
24 who sells or delivers marijuana paraphernalia as defined in ORS 475C.373 to
25 a person 21 years of age or older.

26 “(b) In determining whether an object is drug paraphernalia under this
27 section or marijuana paraphernalia under ORS 475C.373, a trier of fact shall
28 consider, in addition to any other relevant factor, the following:

29 “(A) Any oral or written instruction provided with the object related to
30 the object’s use;

1 “(B) Any descriptive material packaged with the object that explains or
2 depicts the object’s use;

3 “(C) Any national or local advertising related to the object’s use;

4 “(D) Any proffered expert testimony related to the object’s use;

5 “(E) The manner in which the object is displayed for sale, if applicable;
6 and

7 “(F) Any other proffered evidence substantiating the object’s intended use.

8 **“SECTION 22. The amendments to ORS 475.525 by section 21 of this**
9 **2023 Act apply to conduct occurring on or after the effective date of**
10 **this 2023 Act.**

11

12 **“OREGON HEALTH AUTHORITY BULK PURCHASES**

13

14 **“SECTION 23. (1) The administrator of the Oregon Prescription**
15 **Drug Program shall, using powers and duties prescribed in ORS**
16 **414.312, undertake bulk purchases of short-acting opioid antagonists,**
17 **as defined in ORS 689.681, for the purpose of expanding access to**
18 **short-acting opioid antagonists throughout this state by entities that**
19 **serve vulnerable populations, including but not limited to:**

20 **“(a) Hospitals and emergency departments;**

21 **“(b) First responders;**

22 **“(c) Law enforcement agencies;**

23 **“(d) Courts and other departments within the criminal justice sys-**
24 **tem;**

25 **“(e) Organizations that provide services to homeless individuals;**

26 **“(f) Veterans’ organizations;**

27 **“(g) Religious organizations;**

28 **“(h) Schools and universities;**

29 **“(i) Substance abuse treatment and recovery facilities, including**
30 **inpatient, outpatient, residential facilities and sobering centers;**

1 “(j) Public libraries; and

2 “(k) County public health or behavioral health agencies.

3 “(2) To make the bulk purchases of short-acting opioid antagonists
4 under this section, the administrator may use funds from the Short-
5 Acting Opioid Antagonist Bulk Purchasing Fund established in section
6 27 of this 2023 Act or from gifts, grants, bequests, endowments or do-
7 nations made for the purchase of short-acting opioid antagonists from
8 the Prescription Drug Purchasing Fund established in ORS 414.318.

9 “SECTION 24. (1) The Short-Acting Opioid Antagonist Bulk Pur-
10 chasing Fund is established in the State Treasury, separate and dis-
11 tinct from the General Fund. Interest earned by the Short-Acting
12 Opioid Antagonist Bulk Purchasing Fund shall be credited to the fund.

13 “(2) The Short-Acting Opioid Antagonist Bulk Purchasing Fund
14 consists of moneys received by the Oregon Health Authority from
15 opioid litigation settlements, grants from the Substance Abuse and
16 Mental Health Services Administration within the United States De-
17 partment of Health and Human Services for the purpose of addressing
18 the opioid overdose epidemic and appropriations from the Legislative
19 Assembly.

20 “(3) The moneys in the Short-Acting Opioid Antagonist Bulk Pur-
21 chasing Fund are continuously appropriated to the Oregon Health
22 Authority for the purpose of carrying out section 26 of this 2023 Act.

23 “SECTION 25. ORS 414.320 is amended to read:

24 “414.320. The Oregon Health Authority shall adopt rules to implement and
25 administer ORS 414.312 to 414.318 **and section 23 of this 2023 Act.** The rules
26 shall include but are not limited to establishing procedures for:

27 “(1) Issuing prescription drug identification cards to individuals and en-
28 tities that participate in the Oregon Prescription Drug Program; and

29 “(2) Enrolling pharmacies in the **Oregon Prescription Drug** Program.

30 “SECTION 26. (1) **Sections 23 and 24 of this 2023 Act and the**

1 amendments to ORS 414.320 by section 25 of this 2023 Act become op-
2 erative on January 1, 2024.

3 “(2) The Oregon Health Authority may take any action before the
4 operative date specified in subsection (1) of this section that is neces-
5 sary to enable the authority to exercise, on and after the operative
6 date specified in subsection (1) of this section, all of the duties, func-
7 tions and powers conferred on the authority by sections 23 and 24 of
8 this 2023 Act and the amendments to ORS 414.320 by section 25 of this
9 2023 Act.

10
11 **“OVERDOSE REPORTING**

12
13 **“SECTION 27. (1) As used in this section:**

14 **“(a) ‘Cause of death’ has the meaning given that term in ORS**
15 **146.003.**

16 **“(b) ‘Local mental health authority’ has the meaning given that**
17 **term in ORS 430.630.**

18 **“(c) ‘Manner of death’ has the meaning given that term in ORS**
19 **146.003.**

20 **“(d) ‘Opioid’ means a natural, synthetic or semisynthetic chemical**
21 **that interacts with opioid receptors on nerve cells in the body and**
22 **brain to reduce the intensity of pain signals and feelings of pain.**

23 **“(e) ‘Opioid overdose’ means a medical condition that causes de-**
24 **pressed consciousness, depressed respiratory function or the impair-**
25 **ment of vital bodily functions as a result of ingesting opioids.**

26 **“(f) ‘Third-party notification’ means notification from a source**
27 **other than a patient in a program administered by a local mental**
28 **health authority during the patient’s treatment.**

29 **“(g) ‘Urban Indian health program’ means an urban Indian health**
30 **program in this state that is operated by an urban Indian organization**

1 pursuant to 25 U.S.C. 1651 et seq.

2 “(2)(a) The Oregon Health Authority shall develop a plan for com-
3 munication among local mental health authorities to improve notifi-
4 cations and information sharing when an individual who is 24 years
5 of age or younger dies and the presumed manner of death is suspected
6 to be the result of an opioid overdose. The plan must address com-
7 munity opioid overdose response and efforts to address the potential
8 of future related deaths. The Oregon Health Authority shall collab-
9 orate with the following entities in developing and implementing the
10 plan:

11 “(A) Local mental health authorities;

12 “(B) Public school districts;

13 “(C) Public universities listed in ORS 352.002;

14 “(D) Private post-secondary institutions of education;

15 “(E) County juvenile departments;

16 “(F) Community-based substance use disorder treatment programs;

17 “(G) Urban Indian health programs;

18 “(H) The Oregon Youth Authority;

19 “(I) The Department of Human Services;

20 “(J) Community developmental disabilities programs; and

21 “(K) Any other organization identified by the Oregon Health Au-
22 thority or a local mental health authority as necessary to preserve the
23 public health.

24 “(b) The Oregon Health Authority shall develop a post-intervention
25 protocol to enable local mental health authorities to deploy uniform
26 and effective post-intervention efforts. In developing the protocol, the
27 authority may consult with the entities described in paragraph (a) of
28 this subsection.

29 “(3) No later than 72 hours after receiving a third-party notifica-
30 tion, including notice under ORS 146.100, of the death of an individual

1 described in subsection (2)(a) of this section, if the decedent was not
2 domiciled in the county where the death occurred, the local mental
3 health authority shall provide notice of the death to the local mental
4 health authority in the county where the decedent was domiciled.

5 “(4) The local mental health authority in the county where an in-
6 dividual described in subsection (2)(a) of this section was domiciled
7 may notify the local mental health authority in any other county in
8 which the decedent had significant contacts, as described by the
9 Oregon Health Authority by rule.

10 “(5) No later than seven days after receiving notice of the death of
11 an individual described in subsection (2)(a) of this section, each local
12 mental health authority in a county in which the decedent had sig-
13 nificant contacts shall inform the Oregon Health Authority, in a
14 manner and format determined by the authority, of activities imple-
15 mented to support individuals and any local entities affected by the
16 death and to prevent the risk of future related deaths. The Oregon
17 Health Authority shall serve as a resource to the local mental health
18 authorities as needed by the community.

19 “(6) In compliance with any state or federal laws regulating public
20 disclosure of such information, the notification described in sub-
21 sections (3) and (4) of this section must contain the following infor-
22 mation regarding the decedent to enable the local mental health
23 authorities described in subsections (3) and (4) of this section to deploy
24 effective post-intervention efforts:

25 “(a) The name of the decedent;

26 “(b) The dates of birth and death of the decedent;

27 “(c) The suspected manner of death;

28 “(d) The suspected cause of death; and

29 “(e) Any other information that the local mental health authority
30 determines necessary to preserve the public health.

1 **“SECTION 28.** ORS 146.100 is amended to read:

2 “146.100. (1) Death investigations shall be under the direction of the dis-
3 trict medical examiner and the district attorney for the county where the
4 death occurs.

5 “(2) For purposes of ORS 146.003 to 146.189, if the county where death
6 occurs is unknown, the death shall be deemed to have occurred in the county
7 where the body is found, except that if in an emergency the body is moved
8 by conveyance to another county and is dead on arrival, the death shall be
9 deemed to have occurred in the county from which the body was originally
10 removed.

11 “(3) The district medical examiner or an assistant district medical exam-
12 iner for the county where death occurs shall be immediately notified of:

13 “(a) All deaths requiring investigation; and

14 “(b) All deaths of persons admitted to a hospital or institution for less
15 than 24 hours, although the medical examiner need not investigate nor cer-
16 tify such deaths.

17 “(4) No person having knowledge of a death requiring investigation shall
18 intentionally or knowingly fail to make notification thereof as required by
19 subsection (3) of this section.

20 “(5) The district medical examiner or medical-legal death investigator
21 shall immediately notify the district attorney for the county where death
22 occurs of all deaths requiring investigation except for those specified by ORS
23 146.090 (1)(d) to (g).

24 “(6) All peace officers, health care providers as defined in ORS 192.556,
25 supervisors of penal institutions, supervisors of youth correction facilities,
26 juvenile community supervision officers as defined in ORS 420.905, and
27 supervisors of hospitals or institutions caring for the ill or helpless shall
28 cooperate with the medical examiner or medical-legal death investigator by
29 providing a decedent’s medical records and tissue samples and any other
30 material necessary to conduct the death investigation of the decedent and

1 shall make notification of deaths as required by subsection (3) of this section.

2 A person who cooperates with the medical examiner or medical-legal death
3 investigator in accordance with this subsection does not:

4 “(a) Waive any claim of privilege applicable to, or the confidentiality of,
5 the materials and records provided.

6 “(b) Waive any claim that the materials and records are subject to an
7 exemption from disclosure under ORS 192.311 to 192.478.

8 “(c) Violate the restrictions on disclosing or providing copies of reports
9 and other materials in ORS 419A.257.

10 “(7) Records or materials described in subsection (6) of this section may
11 be released by the medical examiner or medical-legal death investigator only
12 pursuant to a valid court order.

13 “(8)(a) If a death is suspected to be suicide and the decedent was 24 years
14 of age or younger, the district medical examiner or medical-legal death in-
15 vestigator shall notify the local mental health authority in the county where
16 the death occurred and, if the decedent was a member of a federally recog-
17 nized [*Oregon tribe*] **Indian tribe in Oregon**, shall also notify the tribe’s
18 mental health authority.

19 “(b) For the purposes of this subsection, the manner of death is suspected
20 to be suicide if the district medical examiner, the assistant district medical
21 examiner, a pathologist authorized under ORS 146.045 (2)(b) or a designee
22 of the district medical examiner, including a medical-legal death investigator,
23 confirms orally or in writing that the district medical examiner, assistant
24 district medical examiner, pathologist or designee of the district medical
25 examiner reasonably believes that the manner of death was suicide.

26 “(c) The notification under this subsection must include the decedent’s
27 name, date of birth, date of death, suspected manner of death and cause of
28 death.

29 “(d) The notification under this subsection may include any other infor-
30 mation that the district medical examiner or medical-legal death investigator

1 determines is necessary to preserve the public health and that is not other-
2 wise protected from public disclosure by state or federal law, including in-
3 formation regarding the decedent's school attended and extracurricular
4 activities.

5 “(e) The district medical examiner or medical-legal death investigator
6 must provide the notification under this subsection no later than:

7 “(A) 48 hours after receiving notification of the death if the county where
8 the death occurred has a population of 400,000 or more; or

9 “(B) 72 hours after receiving notification of the death if the county where
10 the death occurred has a population of fewer than 400,000.

11 **“(9)(a) If a death is suspected to be the result of an opioid overdose
12 and the decedent was 24 years of age or younger, the district medical
13 examiner or medical-legal death investigator shall notify the local
14 mental health authority in the county where the death occurred and,
15 if the decedent was a member of a federally recognized Indian tribe in
16 Oregon, shall also notify the tribe's mental health authority.**

17 **“(b) For purposes of this subsection, the manner of death is sus-
18 pected to be the result of an opioid overdose if the district medical
19 examiner, the assistant district medical examiner, a pathologist au-
20 thorized under ORS 146.045 (2)(b) or a designee of the district medical
21 examiner, including a medical-legal death investigator, confirms orally
22 or in writing that the district medical examiner, assistant district
23 medical examiner, pathologist or designee of the district medical ex-
24 aminer reasonably believes that the manner of death was the result
25 of an opioid overdose.**

26 **“(c) The notification under this subsection must include the
27 decedent's name, date of birth, date of death, suspected manner of
28 death and cause of death. The notification may include the informa-
29 tion described in subsection (8)(d) of this section and be provided as
30 required under subsection (8)(e) of this section.**

1 “~~[(f)]~~ (10) As used in this *[subsection,]* **section:**

2 “(a) ‘Local mental health authority’ has the meaning given that term in
3 ORS 430.630.

4 “(b) ‘Opioid’ means a natural, synthetic or semisynthetic chemical
5 that interacts with opioid receptors on nerve cells in the body and
6 brain to reduce the intensity of pain signals and feelings of pain.

7 “(c) ‘Opioid overdose’ means a medical condition that causes de-
8 pressed consciousness, depressed respiratory function or the impair-
9 ment of vital bodily functions as a result of ingesting opioids.

10 “**SECTION 29.** Section 27 of this 2023 Act and the amendments to
11 ORS 146.100 by section 28 of this 2023 Act apply to deaths occurring on
12 and after the operative date specified in section 30 of this 2023 Act.

13 “**SECTION 30.** (1) Section 27 of this 2023 Act and the amendments
14 to ORS 146.100 by section 28 of this 2023 Act become operative on
15 January 1, 2024.

16 “(2) The Oregon Health Authority may take any action before the
17 operative date specified in subsection (1) of this section that is neces-
18 sary to enable the authority to exercise, on and after the operative
19 date specified in subsection (1) of this section, all of the duties, func-
20 tions and powers conferred on the authority by section 27 of this 2023
21 Act and the amendments to ORS 146.100 by section 28 of this 2023 Act.

22 “**SECTION 31.** (1) As used in this section, ‘opioid’ and ‘opioid over-
23 dose’ have the meanings given those terms in ORS 689.681.

24 “(2) There is established, within the Oregon Health Authority, a
25 commission to study the state’s system for reporting opioid overdoses
26 in this state. The commission consists of seven members appointed by
27 the Governor, including but not limited to:

28 “(a) A representative of the Association of Oregon Counties;

29 “(b) A representative of the authority;

30 “(c) A representative of a community-based organization that pro-

1 **vides substance use addiction treatment services; and**

2 **“(d) An epidemiologist who has experience in statewide data col-**
3 **lection standardization.**

4 **“(3) The commission shall make recommendations to standardize**
5 **and improve the requirements across the state for reporting opioid**
6 **overdoses, streamline the collection of data through reporting and**
7 **optimize the use of data collected. In making recommendations, the**
8 **commission shall solicit and consider input from persons tasked with**
9 **reporting the information described in this subsection.**

10 **“(4) Not later than September 15 of each year, the commission shall**
11 **submit, in the manner provided in ORS 192.245, to an interim com-**
12 **mittee of the Legislative Assembly related to health care, a report on**
13 **the existing system for reporting opioid overdoses in this state and**
14 **include in the report the recommendations described in subsection (3)**
15 **of this section and the progress since the previous report on imple-**
16 **menting the recommendations.**

17 **“(5) The authority shall provide necessary staff support to the**
18 **commission.**

19 **“(6) The commission and the authority may adopt rules to carry out**
20 **this section.**

21 **“SECTION 32. Section 31 of this 2023 Act becomes operative on**
22 **January 1, 2024.**

23
24 **“CONFORMING AMENDMENTS**

25
26 **“SECTION 33. ORS 430.389 is amended to read:**

27 **“430.389. (1) The Oversight and Accountability Council shall oversee and**
28 **approve grants and funding to implement Behavioral Health Resource Net-**
29 **works and increase access to community care, as set forth below. A Behav-**
30 **ioral Health Resource Network is an entity or collection of entities that**

1 individually or jointly provide some or all of the services described in sub-
2 section (2)(d) of this section.

3 “(2)(a) The Oversight and Accountability Council, in consultation with
4 the Oregon Health Authority, shall provide grants and funding to agencies
5 or organizations, whether government or community based, to establish Be-
6 havioral Health Resource Networks for the purposes of immediately screen-
7 ing the acute needs of people who use drugs and assessing and addressing
8 any ongoing needs through ongoing case management, harm reduction,
9 treatment, housing and linkage to other care and services. Recipients of
10 grants or funding to provide substance use disorder treatment or services
11 must be licensed, certified or credentialed by the state, including certifica-
12 tion under ORS 743A.168 (8), or meet criteria prescribed by rule by the
13 Oversight and Accountability Council under ORS 430.390. A recipient of a
14 grant or funding under this subsection may not use the grant or funding to
15 supplant the recipient’s existing funding.

16 “(b) The council and the authority shall ensure that residents of each
17 county have access to all of the services described in paragraph (d) of this
18 subsection.

19 “(c) Applicants for grants and funding may apply individually or jointly
20 with other network participants to provide services in one or more counties.

21 “(d) A network must have the capacity to provide the following services
22 and any other services specified by the council by rule:

23 “(A) Screening by certified addiction peer support or wellness specialists
24 or other qualified persons designated by the council to determine a client’s
25 need for immediate medical or other treatment to determine what acute care
26 is needed and where it can be best provided, identify other needs and link
27 the client to other appropriate local or statewide services, including treat-
28 ment for substance abuse and coexisting health problems, housing, employ-
29 ment, training and child care. Networks shall provide this service 24 hours
30 a day, seven days a week, every calendar day of the year. Notwithstanding

1 paragraph (b) of this subsection, only one grantee in each network within
2 each county is required to provide the screenings described in this subpara-
3 graph.

4 “(B) Comprehensive behavioral health needs assessment, including a sub-
5 stance use disorder screening by a certified alcohol and drug counselor or
6 other credentialed addiction treatment professional. The assessment shall
7 prioritize the self-identified needs of a client.

8 “(C) Individual intervention planning, case management and connection
9 to services. If, after the completion of a screening, a client indicates a desire
10 to address some or all of the identified needs, a case manager shall work
11 with the client to design an individual intervention plan. The plan must ad-
12 dress the client’s need for substance use disorder treatment, coexisting
13 health problems, housing, employment and training, child care and other
14 services.

15 “(D) Ongoing peer counseling and support from screening and assessment
16 through implementation of individual intervention plans as well as peer
17 outreach workers to engage directly with marginalized community members
18 who could potentially benefit from the network’s services.

19 “(E) Assessment of the need for, and provision of, mobile or virtual out-
20 reach services to:

21 “(i) Reach clients who are unable to access the network; and

22 “(ii) Increase public awareness of network services.

23 “(F) Harm reduction services and information and education about harm
24 reduction services.

25 “(G) Low-barrier substance use disorder treatment.

26 “(H) Transitional and supportive housing for individuals with substance
27 use disorders.

28 “(e) If an applicant for a grant or funding under this subsection is unable
29 to provide all of the services described in paragraph (d) of this subsection,
30 the applicant may identify how the applicant intends to partner with other

1 entities to provide the services, and the Oregon Health Authority and the
2 council may facilitate collaboration among applicants.

3 “(f) All services provided through the networks must be evidence-
4 informed, trauma-informed, culturally specific, linguistically responsive,
5 person-centered and nonjudgmental. The goal shall be to address effectively
6 the client’s substance use and any other social determinants of health.

7 “(g) The networks must be adequately staffed to address the needs of
8 people with substance use disorders within their regions as prescribed by the
9 council by rule, including, at a minimum, at least one person qualified by the
10 Oregon Health Authority in each of the following categories:

11 “(A) Certified alcohol and drug counselor or other credentialed addiction
12 treatment professional;

13 “(B) Case manager; and

14 “(C) Certified addiction peer support or wellness specialist.

15 “(h) Verification of a screening by a certified addiction peer support spe-
16 cialist, wellness specialist or other person in accordance with subsection
17 (2)(d)(A) of this section shall promptly be provided to the client by the entity
18 conducting the screening. If the client executes a valid release of informa-
19 tion, the entity shall provide verification of the screening to the Oregon
20 Health Authority or a contractor of the authority and the authority or the
21 authority’s contractor shall forward the verification to the court, in the
22 manner prescribed by the Chief Justice of the Supreme Court, to satisfy the
23 conditions for dismissal under ORS 153.062 or 475.237.

24 “(3)(a) If moneys remain in the Drug Treatment and Recovery Services
25 Fund after the council has committed grants and funding to establish be-
26 havioral health resource networks serving every county in this state, the
27 council shall provide grants and funding to other agencies or organizations,
28 whether government or community based, and to the nine federally recog-
29 nized tribes in this state and service providers that are affiliated with the
30 nine federally recognized tribes in this state to increase access to one or

1 more of the following:

2 “(A) Low-barrier substance use disorder treatment that is evidence-
3 informed, trauma-informed, culturally specific, linguistically responsive,
4 person-centered and nonjudgmental;

5 “(B) Peer support and recovery services;

6 “(C) Transitional, supportive and permanent housing for persons with
7 substance use disorder;

8 “(D) Harm reduction interventions including, but not limited to, overdose
9 prevention education, access to [*naloxone hydrochloride*] **short-acting opioid**
10 **antagonists, as defined in ORS 689.681,** and sterile syringes and
11 stimulant-specific drug education and outreach; or

12 “(E) Incentives and supports to expand the behavioral health workforce
13 to support the services delivered by behavioral health resource networks and
14 entities receiving grants or funding under this subsection.

15 “(b) A recipient of a grant or funding under this subsection may not use
16 the grant or funding to supplant the recipient’s existing funding.

17 “(4) In awarding grants and funding under subsections (2) and (3) of this
18 section, the council shall:

19 “(a) Distribute grants and funding to ensure access to:

20 “(A) Historically underserved populations; and

21 “(B) Culturally specific and linguistically responsive services.

22 “(b) Consider any inventories or surveys of currently available behavioral
23 health services.

24 “(c) Consider available regional data related to the substance use disorder
25 treatment needs and the access to culturally specific and linguistically re-
26 sponsive services in communities in this state.

27 “(d) Consider the needs of residents of this state for services, supports and
28 treatment at all ages.

29 “(5) The council shall require any government entity that applies for a
30 grant to specify in the application details regarding subgrantees and how the

1 government entity will fund culturally specific organizations and culturally
2 specific services. A government entity receiving a grant must make an ex-
3 plicit commitment not to supplant or decrease any existing funding used to
4 provide services funded by the grant.

5 “(6) In determining grants and funding to be awarded, the council may
6 consult the comprehensive addiction, prevention, treatment and recovery
7 plan established by the Alcohol and Drug Policy Commission under ORS
8 430.223 and the advice of any other group, agency, organization or individual
9 that desires to provide advice to the council that is consistent with the terms
10 of this section.

11 “(7) Services provided by grantees, including services provided by a Be-
12 havioral Health Resource Network, shall be free of charge to the clients re-
13 ceiving the services. Grantees in each network shall seek reimbursement
14 from insurance issuers, the medical assistance program or any other third
15 party responsible for the cost of services provided to a client and grants and
16 funding provided by the council or the authority under subsection (2) of this
17 section may be used for copayments, deductibles or other out-of-pocket costs
18 incurred by the client for the services.

19 “(8) Subsection (7) of this section does not require the medical assistance
20 program to reimburse the cost of services for which another third party is
21 responsible in violation of 42 U.S.C. 1396a(25).

22 “**SECTION 34.** ORS 431A.855 is amended to read:

23 “431A.855. (1)(a) The Oregon Health Authority, in consultation with the
24 Prescription Monitoring Program Advisory Commission, shall establish and
25 maintain a prescription monitoring program for monitoring and reporting:

26 “(A) Prescription drugs dispensed by pharmacies licensed by the State
27 Board of Pharmacy that are classified in schedules II through IV under the
28 federal Controlled Substances Act, 21 U.S.C. 811 and 812, as modified by the
29 board by rule under ORS 475.035;

30 “(B) Prescribed gabapentin and [*naloxone*] **short-acting opioid antag-**

1 **onists, as defined in ORS 689.681**, dispensed by pharmacies; and

2 “(C) Other drugs identified by rules adopted by the authority.

3 “(b)(A) To fulfill the requirements of this subsection, the authority shall
4 establish, maintain and operate an electronic system to monitor and report
5 drugs described in paragraph (a) of this subsection that are dispensed by
6 prescription.

7 “(B) The electronic system must:

8 “(i) Operate and be accessible by practitioners and pharmacies 24 hours
9 a day, seven days a week; and

10 “(ii) Allow practitioners to register as required under ORS 431A.877 and
11 to apply for access to the electronic system in accordance with rules adopted
12 by the authority under subsection (2) of this section.

13 “(C) The authority may contract with a state agency or private entity to
14 ensure the effective operation of the electronic system.

15 “(2) In consultation with the commission, the authority shall adopt rules
16 for the operation of the electronic prescription monitoring program estab-
17 lished under subsection (1) of this section, including standards for:

18 “(a) Reporting data;

19 “(b) Providing maintenance, security and disclosure of data;

20 “(c) Ensuring accuracy and completeness of data;

21 “(d) Complying with the federal Health Insurance Portability and Ac-
22 countability Act of 1996 (P.L. 104-191) and regulations adopted under that
23 law, including 45 C.F.R. parts 160 and 164, federal alcohol and drug treat-
24 ment confidentiality laws and regulations adopted under those laws, includ-
25 ing 42 C.F.R. part 2, and state health and mental health confidentiality laws,
26 including ORS 179.505, 192.517 and 192.553 to 192.581;

27 “(e) Ensuring accurate identification of persons or entities requesting in-
28 formation from the database;

29 “(f) Accepting printed or nonelectronic reports from pharmacies that do
30 not have the capability to provide electronic reports;

1 “(g) Notifying a patient, before or when a drug classified in schedules II
2 through IV is dispensed to the patient, about the prescription monitoring
3 program and the entry of the prescription in the electronic system; and

4 “(h) Registering practitioners with the electronic system.

5 “(3) The authority shall submit an annual report to the commission re-
6 garding the prescription monitoring program established under this section.

7 **“SECTION 35.** ORS 431A.865 is amended to read:

8 “431A.865. (1)(a) Except as provided under subsections (2) and (3) of this
9 section, prescription monitoring information submitted under ORS 431A.860
10 to the prescription monitoring program established in ORS 431A.855:

11 “(A) Is protected health information under ORS 192.553 to 192.581.

12 “(B) Is confidential and not subject to disclosure under ORS 192.311 to
13 192.478.

14 “(b) Except as provided under subsection (3)(a)(H) of this section, pre-
15 scription monitoring information submitted under ORS 431A.860 to the pre-
16 scription monitoring program may not be used to evaluate a practitioner’s
17 professional practice.

18 “(2) The Oregon Health Authority may review the prescription monitoring
19 information of an individual who dies from a drug overdose.

20 “(3)(a) Except as provided in paragraph (c) of this subsection, the Oregon
21 Health Authority shall disclose prescription monitoring information reported
22 to the authority under ORS 431A.860:

23 “(A) To a practitioner or pharmacist, or, if a practitioner or pharmacist
24 authorizes the authority to disclose the information to a member of the
25 practitioner’s or pharmacist’s staff, to a member of the practitioner’s or
26 pharmacist’s staff. If a practitioner or pharmacist authorizes disclosing the
27 information to a member of the practitioner’s or pharmacist’s staff under this
28 subparagraph, the practitioner or pharmacist remains responsible for the use
29 or misuse of the information by the staff member. To receive information
30 under this subparagraph, or to authorize the receipt of information by a staff

1 member under this subparagraph, a practitioner or pharmacist must certify
2 that the requested information is for the purpose of evaluating the need for
3 or providing medical or pharmaceutical treatment for a patient to whom the
4 practitioner or pharmacist anticipates providing, is providing or has provided
5 care.

6 “(B) To a dental director, medical director or pharmacy director, or, if a
7 dental director, medical director or pharmacy director authorizes the au-
8 thority to disclose the information to a member of the dental director’s,
9 medical director’s or pharmacy director’s staff, to a member of the dental
10 director’s, medical director’s or pharmacy director’s staff. If a dental direc-
11 tor, medical director or pharmacy director authorizes disclosing the infor-
12 mation to a member of the dental director’s, medical director’s or pharmacy
13 director’s staff under this subparagraph, the dental director, medical director
14 or pharmacy director remains responsible for the use or misuse of the infor-
15 mation by the staff member. To receive information under this subparagraph,
16 or to authorize the receipt of information by a staff member under this sub-
17 paragraph:

18 “(i) A dental director must certify that the requested information is for
19 the purposes of overseeing the operations of a coordinated care organization,
20 dental clinic or office, or a system of dental clinics or offices, and ensuring
21 the delivery of quality dental care within the coordinated care organization,
22 clinic, office or system.

23 “(ii) A medical director must certify that the requested information is for
24 the purposes of overseeing the operations of a coordinated care organization,
25 hospital, health care clinic or system of hospitals or health care clinics and
26 ensuring the delivery of quality health care within the coordinated care or-
27 ganization, hospital, clinic or system.

28 “(iii) A pharmacy director must certify that the requested information is
29 for the purposes of overseeing the operations of a coordinated care organ-
30 ization, pharmacy or system of pharmacies and ensuring the delivery of

1 quality pharmaceutical care within the coordinated care organization, phar-
2 macy or system.

3 “(C) In accordance with subparagraphs (A) and (B) of this paragraph, to
4 an individual described in subparagraphs (A) and (B) of this paragraph
5 through a health information technology system that is used by the individ-
6 ual to access information about patients if:

7 “(i) The individual is authorized to access the information in the health
8 information technology system;

9 “(ii) The information is not permanently retained in the health informa-
10 tion technology system, except for purposes of conducting audits and main-
11 taining patient records; and

12 “(iii) The health information technology system meets any privacy and
13 security requirements and other criteria, including criteria required by the
14 federal Health Insurance Portability and Accountability Act, established by
15 the authority by rule.

16 “(D) To a practitioner in a form that catalogs all prescription drugs pre-
17 scribed by the practitioner according to the number assigned to the practi-
18 tioner by the Drug Enforcement Administration of the United States
19 Department of Justice.

20 “(E) To the Chief Medical Examiner or designee of the Chief Medical
21 Examiner, for the purpose of conducting a medicolegal investigation or
22 autopsy.

23 “(F) To designated representatives of the authority or any vendor or
24 contractor with whom the authority has contracted to establish or maintain
25 the electronic system established under ORS 431A.855.

26 “(G) Pursuant to a valid court order based on probable cause and issued
27 at the request of a federal, state or local law enforcement agency engaged
28 in an authorized drug-related investigation involving a person to whom the
29 requested information pertains.

30 “(H) To a health professional regulatory board that certifies in writing

1 that the requested information is necessary for an investigation related to
2 licensure, license renewal or disciplinary action involving the applicant,
3 licensee or registrant to whom the requested information pertains.

4 “(I) Pursuant to an agreement entered into under ORS 431A.869.

5 “(b) The authority may disclose information from the prescription moni-
6 toring program that does not identify a patient, practitioner or drug outlet:

7 “(A) For educational, research or public health purposes;

8 “(B) For the purpose of educating practitioners about the prescribing of
9 opioids and other controlled substances;

10 “(C) To a health professional regulatory board;

11 “(D) To a local public health authority, as defined in ORS 431.003; or

12 “(E) To officials of the authority who are conducting special
13 epidemiologic morbidity and mortality studies in accordance with ORS
14 413.196 and rules adopted under ORS 431.001 to 431.550 and 431.990.

15 “(c) The authority may not disclose, except as provided in paragraph (b)
16 of this subsection:

17 “(A) Prescription drug monitoring information to the extent that the dis-
18 closure fails to comply with applicable provisions of the federal Health In-
19 surance Portability and Accountability Act of 1996 (P.L. 104-191) and
20 regulations adopted under that law, including 45 C.F.R. parts 160 and 164,
21 federal alcohol and drug treatment confidentiality laws and regulations, in-
22 cluding 42 C.F.R. part 2, and state health and mental health confidentiality
23 laws, including ORS 179.505, 192.517 and 192.553 to 192.581.

24 “(B) The sex of a patient for whom a drug was prescribed.

25 “(C) The identity of a patient for whom [*naloxone*] **a short-acting opioid**
26 **antagonist, as defined in ORS 689.681**, was prescribed.

27 “(d) The authority shall disclose information relating to a patient main-
28 tained in the electronic system established under ORS 431A.855 to that pa-
29 tient at no cost to the patient within 10 business days after the authority
30 receives a request from the patient for the information.

1 “(e)(A) A patient may request the authority to correct any information
2 related to the patient that is maintained in the electronic system established
3 under ORS 431A.855 that is erroneous. The authority shall grant or deny a
4 request to correct information within 10 business days after the authority
5 receives the request. If a request to correct information cannot be granted
6 because the error occurred at the pharmacy where the information was
7 inputted, the authority shall inform the patient that the information cannot
8 be corrected because the error occurred at the pharmacy.

9 “(B) If the authority denies a patient’s request to correct information
10 under this paragraph, or fails to grant a patient’s request to correct infor-
11 mation under this paragraph within 10 business days after the authority re-
12 ceives the request, the patient may appeal the denial or failure to grant the
13 request. Upon receiving notice of an appeal under this subparagraph, the
14 authority shall conduct a contested case hearing as provided in ORS chapter
15 183. Notwithstanding ORS 183.450, the authority has the burden in the con-
16 tested case hearing of establishing that the information is correct.

17 “(f) The information in the prescription monitoring program may not be
18 used for any commercial purpose.

19 “(g) In accordance with ORS 192.553 to 192.581 and federal laws and reg-
20 ulations related to privacy, any person authorized to prescribe or dispense
21 a prescription drug who is entitled to access a patient’s prescription moni-
22 toring information may discuss the information with or release the informa-
23 tion to other health care providers involved with the patient’s care for the
24 purpose of providing safe and appropriate care coordination.

25 “(4)(a) The authority shall maintain records of the information disclosed
26 through the prescription monitoring program including:

27 “(A) The identity of each person who requests or receives information
28 from the program and any organization the person represents;

29 “(B) The information released to each person or organization; and

30 “(C) The date and time the information was requested and the date and

1 time the information was provided.

2 “(b) Records maintained as required by this subsection may be reviewed
3 by the Prescription Monitoring Program Advisory Commission.

4 “(5) Information in the prescription monitoring program that identifies
5 an individual patient must be removed no later than three years from the
6 date the information is entered into the program.

7 “(6) The authority shall notify the Attorney General and each individual
8 affected by an improper disclosure of information from the prescription
9 monitoring program of the disclosure.

10 “(7)(a) If the authority or a person or entity required to report or au-
11 thorized to receive or release prescription information under this section vi-
12 olates this section or ORS 431A.860 or 431A.870, a person injured by the
13 violation may bring a civil action against the authority, person or entity and
14 may recover damages in the amount of \$1,000 or actual damages, whichever
15 is greater.

16 “(b) Notwithstanding paragraph (a) of this subsection, the authority and
17 a person or entity required to report or authorized to receive or release
18 prescription information under this section are immune from civil liability
19 for violations of this section or ORS 431A.860 or 431A.870 unless the au-
20 thority, person or entity acts with malice, criminal intent, gross negligence,
21 recklessness or willful intent.

22 “(8) Nothing in ORS 431A.855 to 431A.900 requires a practitioner or
23 pharmacist who prescribes or dispenses a prescription drug to obtain infor-
24 mation about a patient from the prescription monitoring program. A practi-
25 tioner or pharmacist who prescribes or dispenses a prescription drug may
26 not be held liable for damages in any civil action on the basis that the
27 practitioner or pharmacist did or did not request or obtain information from
28 the prescription monitoring program.

29 “(9) The authority shall, at regular intervals, ensure compliance of a
30 health information technology system described in subsection (3) of this

1 section with the privacy and security requirements and other criteria estab-
2 lished by the authority under subsection (3) of this section.

3

4

“CAPTIONS

5

6 **“SECTION 36. The unit captions used in this 2023 Act are provided**
7 **only for the convenience of the reader and do not become part of the**
8 **statutory law of this state or express any legislative intent in the**
9 **enactment of this 2023 Act.**

10

11

“EFFECTIVE DATE

12

13 **“SECTION 37. This 2023 Act being necessary for the immediate**
14 **preservation of the public peace, health and safety, an emergency is**
15 **declared to exist, and this 2023 Act takes effect on its passage.”.**

16
