

# Senate Bill 236

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Joint Interim Committee on Addiction and Community Safety Response)

## 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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act makes separate statutes for fentanyl crimes. The Act also changes parts of House Bill 4002 from last session. (Flesch Readability Score: 65.5).

Separates the possession, delivery and manufacture of fentanyl from general controlled substance offense statutes into separate statutes. Adds fentanyl to certain statutes creating mandatory sentences for manufacture and delivery crimes.

Expands the definition of "local correctional facility" for the Oregon Jail-Based Medications for Opioid Use Disorder Grant Program to allow people at other types of county facilities to receive opioid use disorder treatment and transition planning services.

Provides that a pharmacist may prescribe, dispense and administer medications for treatment of opioid use disorder under specified circumstances. Modifies prescription drug locker provisions.

Modifies conditional discharge procedural provisions and when a deflection program coordinator provides notice of completion of the program to the court.

## A BILL FOR AN ACT

Relating to controlled substances; creating new provisions; and amending ORS 414.766, 423.478, 475.245, 475.752, 475.898, 475.900, 475.907, 475.924, 475.934 and 689.005 and sections 2, 7, 8, 35, 36, 52 and 81, chapter 70, Oregon Laws 2024.

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

## SEPARATE STATUTES FOR FENTANYL OFFENSES

**SECTION 1.** Sections 2, 3, 4, 5 and 6 of this 2025 Act are added to and made a part of ORS 475.806 to 475.894.

**SECTION 2.** (1) It is unlawful for any person knowingly or intentionally to possess fentanyl, or any substituted derivative of fentanyl as defined by the rules of the State Board of Pharmacy, unless the fentanyl or derivative was obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of professional practice, or except as otherwise authorized by ORS 475.005 to 475.285 and 475.752 to 475.980.

(2)(a) Unlawful possession of fentanyl is a drug enforcement misdemeanor punishable as described in section 35, chapter 70, Oregon Laws 2024.

(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of fentanyl is a Class A misdemeanor if the person possesses one gram or more or five or more user units of a mixture or substance containing a detectable amount of fentanyl, or any substituted derivative of fentanyl as defined by the rules of the State Board of Pharmacy.

(c) Notwithstanding paragraphs (a) and (b) of this subsection, unlawful possession of fentanyl is a Class C felony if:

(A) The possession is a commercial drug offense under ORS 475.900 (1)(b); or

**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 (B) The person possesses a substantial quantity under ORS 475.900 (3)(b).

2 **SECTION 3.** (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it  
3 is unlawful for any person to deliver fentanyl, or any substituted derivative of fentanyl as  
4 defined by the rules of the State Board of Pharmacy.

5 (2) Unlawful delivery of fentanyl is a Class B felony.

6 (3) Notwithstanding subsection (2) of this section, unlawful delivery of fentanyl is a Class  
7 A felony if the delivery is to a person under 18 years of age.

8 **SECTION 4.** (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it  
9 is unlawful for any person to deliver fentanyl, or any substituted derivative of fentanyl as  
10 defined by the rules of the State Board of Pharmacy, within 1,000 feet of the real property  
11 comprising a public or private elementary, secondary or career school attended primarily by  
12 minors.

13 (2) Unlawful delivery of fentanyl within 1,000 feet of a school is a Class A felony.

14 **SECTION 5.** (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it  
15 is unlawful for any person to manufacture fentanyl, or any substituted derivative of fentanyl  
16 as defined by the rules of the State Board of Pharmacy.

17 (2) Unlawful manufacture of fentanyl is a Class B felony.

18 **SECTION 6.** (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it  
19 is unlawful for any person to manufacture fentanyl, or any substituted derivative of fentanyl  
20 as defined by the rules of the State Board of Pharmacy, within 1,000 feet of the real property  
21 comprising a public or private elementary, secondary or career school attended primarily by  
22 minors.

23 (2) Unlawful manufacture of fentanyl within 1,000 feet of a school is a Class A felony.

24 **SECTION 7.** ORS 475.752, as amended by sections 28 and 39, chapter 70, Oregon Laws 2024, is  
25 amended to read:

26 475.752. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful  
27 for any person to manufacture or deliver a controlled substance. Any person who violates this sub-  
28 section with respect to:

29 (a) A controlled substance in Schedule I, is guilty of a Class A felony, except as otherwise pro-  
30 vided in ORS 475.886 and 475.890.

31 (b) A controlled substance in Schedule II, is guilty of a Class B felony, except as otherwise  
32 provided in ORS 475.878, 475.880, 475.882, 475.904 and 475.906 **and sections 3, 4 and 6 of this 2025**  
33 **Act.**

34 (c) A controlled substance in Schedule III, is guilty of a Class C felony, except as otherwise  
35 provided in ORS 475.904 and 475.906.

36 (d) A controlled substance in Schedule IV, is guilty of a Class B misdemeanor.

37 (e) A controlled substance in Schedule V, is guilty of a Class C misdemeanor.

38 (2) Except as authorized in ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any  
39 person to create or deliver a counterfeit substance. Any person who violates this subsection with  
40 respect to:

41 (a) A counterfeit substance in Schedule I, is guilty of a Class A felony.

42 (b) A counterfeit substance in Schedule II, is guilty of a Class B felony.

43 (c) A counterfeit substance in Schedule III, is guilty of a Class C felony.

44 (d) A counterfeit substance in Schedule IV, is guilty of a Class B misdemeanor.

45 (e) A counterfeit substance in Schedule V, is guilty of a Class C misdemeanor.

1 (3) It is unlawful for any person knowingly or intentionally to possess a controlled substance  
 2 unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a  
 3 practitioner while acting in the course of professional practice, or except as otherwise authorized  
 4 by ORS 475.005 to 475.285 and 475.752 to 475.980. Any person who violates this subsection with re-  
 5 spect to:

6 (a) A controlled substance in Schedule I, is guilty of a drug enforcement misdemeanor  
 7 punishable as described in section 35, chapter 70, Oregon Laws 2024, except as otherwise provided  
 8 in ORS 475.854, 475.874 and 475.894 and subsection (7) of this section.

9 (b) A controlled substance in Schedule II, is guilty of a drug enforcement misdemeanor  
 10 punishable as described in section 35, chapter 70, Oregon Laws 2024, except as otherwise provided  
 11 in ORS 475.814, 475.824, 475.834 or 475.884 **or section 2 of this 2025 Act** or subsection (8) of this  
 12 section.

13 (c) A controlled substance in Schedule III, is guilty of a drug enforcement misdemeanor  
 14 punishable as described in section 35, chapter 70, Oregon Laws 2024.

15 (d) A controlled substance in Schedule IV, is guilty of a drug enforcement misdemeanor  
 16 punishable as described in section 35, chapter 70, Oregon Laws 2024.

17 (e) A controlled substance in Schedule V, is guilty of a violation.

18 (4) It is an affirmative defense in any prosecution under this section for manufacture, possession  
 19 or delivery of the plant of the genus *Lophophora* commonly known as peyote that the peyote is being  
 20 used or is intended for use:

21 (a) In connection with the good faith practice of a religious belief;

22 (b) As directly associated with a religious practice; and

23 (c) In a manner that is not dangerous to the health of the user or others who are in the prox-  
 24 imity of the user.

25 (5) The affirmative defense created in subsection (4) of this section is not available to any person  
 26 who has possessed or delivered the peyote while incarcerated in a correctional facility in this state.

27 (6)(a) Notwithstanding subsection (1) of this section, a person who unlawfully manufactures or  
 28 delivers a controlled substance in Schedule IV and who thereby causes death to another person is  
 29 guilty of a Class C felony.

30 (b) For purposes of this subsection, causation is established when the controlled substance plays  
 31 a substantial role in the death of the other person.

32 (7) Notwithstanding subsection (3)(a) of this section:

33 (a) Unlawful possession of a controlled substance in Schedule I is a Class A misdemeanor if the  
 34 person possesses:

35 (A) Forty or more user units of a mixture or substance containing a detectable amount of  
 36 lysergic acid diethylamide; or

37 (B) Twelve grams or more of a mixture or substance containing a detectable amount of  
 38 psilocybin or psilocin.

39 (b) Unlawful possession of a controlled substance in Schedule I is a Class B felony if:

40 (A) The possession is a commercial drug offense under ORS 475.900 (1)(b); or

41 (B) The person possesses a substantial quantity under ORS 475.900 (3)(b).

42 (8) Notwithstanding subsection (3)(b) of this section,[:]

43 *[(a) Unlawful possession of a controlled substance in Schedule II is a Class A misdemeanor if the*  
 44 *person possesses one gram or more or five or more user units of a mixture or substance containing a*  
 45 *detectable amount of fentanyl, or any substituted derivative of fentanyl as defined by the rules of the*

1 *State Board of Pharmacy.]*

2 [(b)] unlawful possession of a controlled substance in Schedule II is a Class C felony if:

3 [(A)] (a) The possession is a commercial drug offense under ORS 475.900 (1)(b); or

4 [(B)] (b) The person possesses a substantial quantity under ORS 475.900 (3)(b).

5 **SECTION 8.** ORS 475.900, as amended by section 25, chapter 70, Oregon Laws 2024, is amended  
6 to read:

7 475.900. (1) A violation of ORS 475.752, 475.806 to 475.894, 475.904 or 475.906 shall be classified  
8 as crime category 8 of the sentencing guidelines grid of the Oregon Criminal Justice Commission if:

9 (a) The violation constitutes delivery or manufacture of a controlled substance and involves  
10 substantial quantities of a controlled substance. For purposes of this paragraph, the following  
11 amounts constitute substantial quantities of the following controlled substances:

12 (A) Five grams or more of a mixture or substance containing a detectable amount of heroin;

13 (B) Five grams or more or 25 or more user units of a mixture or substance containing a de-  
14 tectable amount of fentanyl, or any substituted derivative of fentanyl as defined by the rules of the  
15 State Board of Pharmacy;

16 (C) Ten grams or more of a mixture or substance containing a detectable amount of cocaine;

17 (D) Ten grams or more of a mixture or substance containing a detectable amount of metham-  
18 phetamine, its salts, isomers or salts of its isomers;

19 (E) Two hundred or more user units of a mixture or substance containing a detectable amount  
20 of lysergic acid diethylamide;

21 (F) Sixty grams or more of a mixture or substance containing a detectable amount of psilocybin  
22 or psilocin; or

23 (G) Five grams or more or 25 or more pills, tablets or capsules of a mixture or substance con-  
24 taining a detectable amount of:

25 (i) 3,4-methylenedioxyamphetamine;

26 (ii) 3,4-methylenedioxymethamphetamine; or

27 (iii) 3,4-methylenedioxy-N-ethylamphetamine.

28 (b) The violation constitutes possession, delivery or manufacture of a controlled substance and  
29 the possession, delivery or manufacture is a commercial drug offense. A possession, delivery or  
30 manufacture is a commercial drug offense for purposes of this subsection if it is accompanied by at  
31 least three of the following factors:

32 (A) The delivery was of heroin, fentanyl, cocaine, methamphetamine, lysergic acid diethylamide,  
33 psilocybin or psilocin and was for consideration;

34 (B) The offender was in possession of \$300 or more in cash;

35 (C) The offender was unlawfully in possession of a firearm or other weapon as described in ORS  
36 166.270 (2), or the offender used, attempted to use or threatened to use a deadly or dangerous  
37 weapon as defined in ORS 161.015, or the offender was in possession of a firearm or other deadly  
38 or dangerous weapon as defined in ORS 161.015 for the purpose of using it in connection with a  
39 controlled substance offense;

40 (D) The offender was in possession of materials being used for the packaging of controlled sub-  
41 stances such as scales, wrapping or foil, other than the material being used to contain the substance  
42 that is the subject of the offense;

43 (E) The offender was in possession of drug transaction records or customer lists;

44 (F) The offender was in possession of stolen property;

45 (G) Modification of structures by painting, wiring, plumbing or lighting to facilitate a controlled

- 1 substance offense;
- 2 (H) The offender was in possession of manufacturing paraphernalia, including recipes, precursor  
3 chemicals, laboratory equipment, lighting, ventilating or power generating equipment;
- 4 (I) The offender was using public lands for the manufacture of controlled substances;
- 5 (J) The offender had constructed fortifications or had taken security measures with the potential  
6 of injuring persons; or
- 7 (K) The offender was in possession of controlled substances in an amount greater than:
- 8 (i) Three grams or more of a mixture or substance containing a detectable amount of heroin;
- 9 (ii) Three grams or more or 15 or more user units of a mixture or substance containing a de-  
10 tectable amount of fentanyl, or any substituted derivative of fentanyl as defined by the rules of the  
11 State Board of Pharmacy;
- 12 (iii) Eight grams or more of a mixture or substance containing a detectable amount of cocaine;
- 13 (iv) Eight grams or more of a mixture or substance containing a detectable amount of metham-  
14 phetamine;
- 15 (v) Twenty or more user units of a mixture or substance containing a detectable amount of  
16 lysergic acid diethylamide;
- 17 (vi) Ten grams or more of a mixture or substance containing a detectable amount of psilocybin  
18 or psilocin; or
- 19 (vii) Four grams or more or 20 or more pills, tablets or capsules of a mixture or substance  
20 containing a detectable amount of:
- 21 (I) 3,4-methylenedioxyamphetamine;
- 22 (II) 3,4-methylenedioxymethamphetamine; or
- 23 (III) 3,4-methylenedioxy-N-ethylamphetamine.
- 24 (c) The violation constitutes a violation of ORS 475.848, 475.852, 475.868, 475.872, 475.878,  
25 475.882, 475.888, 475.892 or 475.904 **or section 4 or 6 of this 2025 Act.**
- 26 (d) The violation constitutes manufacturing methamphetamine and the manufacturing consists  
27 of:
- 28 (A) A chemical reaction involving one or more precursor substances for the purpose of manu-  
29 facturing methamphetamine; or
- 30 (B) Grinding, soaking or otherwise breaking down a precursor substance for the purpose of  
31 manufacturing methamphetamine.
- 32 (e) The violation constitutes a violation of ORS 475.906 (1) or (2) that is not described in ORS  
33 475.907.
- 34 (2) A violation of ORS 475.752 or 475.806 to 475.894 shall be classified as crime category 7 of  
35 the sentencing guidelines grid of the Oregon Criminal Justice Commission if the violation consti-  
36 tutes delivery for consideration of heroin, cocaine, fentanyl, methamphetamine or  
37 3,4-methylenedioxyamphetamine, 3,4-methylenedioxymethamphetamine or  
38 3,4-methylenedioxy-N-ethylamphetamine and:
- 39 (a) The person knows, or reasonably should have known, that the delivery is occurring within  
40 500 feet of the real property comprising a treatment facility;
- 41 (b) The person knows, or reasonably should have known, that the delivery is occurring within  
42 500 feet of the real property comprising a temporary residence shelter; or
- 43 (c) The delivery occurs within 30 feet of the real property comprising a public park.
- 44 (3) A violation of ORS 475.752 or 475.806 to 475.894 shall be classified as crime category 6 of  
45 the sentencing guidelines grid of the Oregon Criminal Justice Commission if:

1 (a) The violation constitutes delivery of heroin, cocaine, fentanyl, methamphetamine or  
2 3,4-methylenedioxyamphetamine, 3,4-methylenedioxymethamphetamine or  
3 3,4-methylenedioxy-N-ethylamphetamine and is for consideration.

4 (b) The violation constitutes possession of substantial quantities of a controlled substance. For  
5 purposes of this paragraph, the following amounts constitute substantial quantities of the following  
6 controlled substances:

7 (A) Five grams or more of a mixture or substance containing a detectable amount of heroin;

8 (B) Five grams or more or 25 or more user units of a mixture or substance containing a de-  
9 tectable amount of fentanyl, or any substituted derivative of fentanyl as defined by the rules of the  
10 State Board of Pharmacy;

11 (C) Ten grams or more of a mixture or substance containing a detectable amount of cocaine;

12 (D) Ten grams or more of a mixture or substance containing a detectable amount of metham-  
13 phetamine;

14 (E) Two hundred or more user units of a mixture or substance containing a detectable amount  
15 of lysergic acid diethylamide;

16 (F) Sixty grams or more of a mixture or substance containing a detectable amount of psilocybin  
17 or psilocin; or

18 (G) Five grams or more or 25 or more pills, tablets or capsules of a mixture or substance con-  
19 taining a detectable amount of:

20 (i) 3,4-methylenedioxyamphetamine;

21 (ii) 3,4-methylenedioxymethamphetamine; or

22 (iii) 3,4-methylenedioxy-N-ethylamphetamine.

23 (4) A violation of ORS 475.752 or 475.806 to 475.894 shall be classified as crime category 5 of  
24 the sentencing guidelines grid of the Oregon Criminal Justice Commission if the violation consti-  
25 tutes delivery of heroin, cocaine, fentanyl, methamphetamine or 3,4-methylenedioxyamphetamine,  
26 3,4-methylenedioxymethamphetamine or 3,4-methylenedioxy-N-ethylamphetamine and:

27 (a) The person knows, or reasonably should have known, that the delivery is occurring within  
28 500 feet of the real property comprising a treatment facility;

29 (b) The person knows, or reasonably should have known, that the delivery is occurring within  
30 500 feet of the real property comprising a temporary residence shelter; or

31 (c) The delivery occurs within 30 feet of the real property comprising a public park.

32 (5) Any felony violation of ORS 475.752 or 475.806 to 475.894 not contained in subsections (1) to  
33 (4) of this section shall be classified as crime category 4 of the sentencing guidelines grid of the  
34 Oregon Criminal Justice Commission if the violation involves delivery or manufacture of a con-  
35 trolled substance.

36 (6) In order to prove a commercial drug offense, the state shall plead in the accusatory instru-  
37 ment sufficient factors of a commercial drug offense under subsection (1) of this section. The state  
38 has the burden of proving each factor beyond a reasonable doubt.

39 (7) As used in this section:

40 (a) "Mixture or substance" means any mixture or substance, whether or not the mixture or  
41 substance is in an ingestible or marketable form at the time of the offense.

42 (b) "Public park" means a park operated by the state, a county, a city or a park and recreation  
43 district.

44 (c) "Temporary residence shelter" means a building that provides shelter on a temporary basis  
45 for individuals and families who lack permanent housing.

(d) "Treatment facility" has the meaning given that term in ORS 430.306.

**SECTION 9.** ORS 475.907 is amended to read:

475.907. (1) When a person is convicted of the unlawful delivery of cocaine, methamphetamine, heroin, **fantanyl** or ecstasy to a person under 18 years of age, the court shall sentence the person to a term of incarceration ranging from 34 months to 72 months, depending on the person's criminal history.

(2) The sentence described in subsection (1) of this section does not apply to a person who is less than three years older than the person under 18 years of age to whom the controlled substance was delivered, unless the person has a previous conviction for delivery of cocaine, methamphetamine, heroin, **fantanyl** or ecstasy to a person under 18 years of age.

**SECTION 10.** ORS 475.924 is amended to read:

475.924. As used in ORS [164.061,] 475.907, 475.924 and 475.925:

(1) "Controlled substance" means:

- (a) Cocaine;
- (b) Methamphetamine;
- (c) Heroin; [or]

**(d) Fantanyl; or**

[(d)] **(e) Ecstasy.**

(2) "Ecstasy" means:

- (a) 3,4-methylenedioxyamphetamine;
- (b) 3,4-methylenedioxyamphetamine; or
- (c) 3,4-methylenedioxy-N-ethylampheta-

mine.

(3) "Mixture or substance" means any mixture or substance, whether or not the mixture or substance is in an ingestible or marketable form at the time of the offense.

**SECTION 11.** ORS 475.934 is amended to read:

475.934. (1) When a court sentences a person convicted of a crime listed in subsection (2) of this section, the court may not impose a sentence of optional probation or grant a downward dispositional departure or a downward durational departure under the rules of the Oregon Criminal Justice Commission if the person has a previous conviction for any of the crimes listed in subsection (2) of this section.

(2) The crimes to which subsection (1) of this section applies are:

- (a) Manufacture or delivery of a controlled substance under ORS 475.752 (1);
- (b) Creation or delivery of a counterfeit substance under ORS 475.752 (2);
- (c) Manufacture or delivery of heroin under ORS 475.846, 475.848, 475.850 or 475.852;
- (d) Manufacture or delivery of fentanyl under section 3, 4, 5 or 6 of this 2025 Act;**
- [(d)] **(e) Manufacture or delivery of 3,4-methylenedioxyamphetamine under ORS 475.866, 475.868, 475.870 or 475.872;**
- [(e)] **(f) Manufacture or delivery of cocaine under ORS 475.876, 475.878, 475.880 or 475.882;**
- [(f)] **(g) Manufacture or delivery of methamphetamine under ORS 475.886, 475.888, 475.890 or 475.892;**
- [(g)] **(h) Manufacture or delivery of a controlled substance within 1,000 feet of a school under ORS 475.904;**
- [(h)] **(i) Delivery of a controlled substance to a person under 18 years of age under ORS 475.906;**

and

1        [(i)] (j) Possession of a precursor substance with intent to manufacture a controlled substance  
2 under ORS 475.967.

3        (3)(a) For a crime committed on or after November 1, 1989, a conviction is considered to have  
4 occurred upon the pronouncement in open court of sentence. However, when sentences are imposed  
5 for two or more convictions arising out of the same conduct or criminal episode, none of the con-  
6 victions is considered to have occurred prior to any of the other convictions arising out of the same  
7 conduct or criminal episode.

8        (b) For a crime committed prior to November 1, 1989, a conviction is considered to have oc-  
9 curred upon the pronouncement in open court of a sentence or upon the pronouncement in open  
10 court of the suspended imposition of a sentence.

11        (4) For purposes of this section, previous convictions must be proven pursuant to ORS 137.079.

12        (5) As used in this section, “previous conviction” includes convictions entered in any other state  
13 or federal court for comparable offenses.

14        **SECTION 12.** ORS 475.898 is amended to read:

15        475.898. (1) A person who contacts emergency medical services or a law enforcement agency to  
16 obtain medical assistance for another person who needs medical assistance due to a drug-related  
17 overdose is immune from arrest, [or] prosecution **or the imposition of a civil penalty** for an offense  
18 listed in subsection (3) of this section if the evidence of the offense was obtained because the person  
19 contacted emergency medical services or a law enforcement agency.

20        (2) A person who is in need of medical assistance due to a drug-related overdose is immune from  
21 arrest, [or] prosecution **or the imposition of a civil penalty** for an offense listed in subsection (3)  
22 of this section if the evidence of the offense was obtained because any person contacted emergency  
23 medical services or a law enforcement agency to obtain medical assistance for the person.

24        (3) The immunity conferred under subsections (1) and (2) of this section applies to arrest, [and]  
25 prosecution **and the imposition of a civil penalty** for:

26        (a) Frequenting a place where controlled substances are used as described in ORS 167.222;

27        (b) Possession of a controlled substance as described in ORS 475.752;

28        (c) Unlawful possession of hydrocodone as described in ORS 475.814;

29        (d) Unlawful possession of methadone as described in ORS 475.824;

30        (e) Unlawful possession of oxycodone as described in ORS 475.834;

31        (f) Unlawful possession of heroin as described in ORS 475.854;

32        **(g) Unlawful possession of fentanyl as described in section 2 of this 2025 Act;**

33        [(g)] (h) Unlawful possession of 3,4-methylenedioxyamphetamine as described in ORS  
34 475.874;

35        [(h)] (i) Unlawful possession of cocaine as described in ORS 475.884;

36        [(i)] (j) Unlawful possession of methamphetamine as described in ORS 475.894;

37        [(j)] (k) Unlawfully possessing a prescription drug as described in ORS 689.527 (6); and

38        [(k)] (L) Unlawful possession of drug paraphernalia with intent to sell or deliver as described  
39 in ORS 475.525.

40        (4)(a) A person may not be arrested for violating, or found to be in violation of, the conditions  
41 of the person’s pretrial release, probation, post-prison supervision or parole if the violation involves:

42        (A) The possession or use of a controlled substance or frequenting a place where controlled  
43 substances are used; and

44        (B) The evidence of the violation was obtained because the person contacted emergency medical  
45 services or a law enforcement agency to obtain medical assistance for another person who needed



1 medical assistance due to a drug-related overdose.

2 (b) A person may not be arrested for violating, or found to be in violation of, the conditions of  
3 the person's pretrial release, probation, post-prison supervision or parole if the violation involves:

4 (A) The possession or use of a controlled substance or frequenting a place where controlled  
5 substances are used; and

6 (B) The evidence of the violation was obtained because the person was in need of medical as-  
7 sistance due to a drug-related overdose and any person contacted emergency medical services or a  
8 law enforcement agency to obtain medical assistance for the person.

9 (5)(a) A person may not be arrested on an outstanding warrant for any of the offenses listed in  
10 subsection (3) of this section, or on an outstanding warrant for a violation, other than commission  
11 of a new crime, of the conditions of the person's probation, post-prison supervision or parole for  
12 conduct that would constitute an offense listed in subsection (3) of this section, if the location of the  
13 person was obtained because the person contacted emergency medical services or a law enforcement  
14 agency to obtain medical assistance for another person who needed medical assistance due to a  
15 drug-related overdose.

16 (b) A person may not be arrested on an outstanding warrant for any of the offenses listed in  
17 subsection (3) of this section, or on an outstanding warrant for a violation, other than commission  
18 of a new crime, of the conditions of the person's probation, post-prison supervision or parole for  
19 conduct that would constitute an offense listed in subsection (3) of this section, if the location of the  
20 person was obtained because the person was in need of medical assistance due to a drug-related  
21 overdose and any person contacted emergency medical services or a law enforcement agency to  
22 obtain medical assistance for the person.

23 (c) This subsection does not apply to outstanding federal warrants or outstanding warrants is-  
24 sued from other states.

25 (6) The immunity from arrest and prosecution described in this section is not grounds for the  
26 suppression of evidence relating to a criminal offense other than the offenses listed in subsection (3)  
27 of this section.

28 (7) As used in this section:

29 (a) "Controlled substance" has the meaning given that term in ORS 475.005.

30 (b) "Drug-related overdose" means an acute condition, including mania, hysteria, extreme phys-  
31 ical illness, coma or death, resulting from the consumption or use of a controlled substance, or an-  
32 other substance with which a controlled substance was combined, that a person would reasonably  
33 believe to be a condition that requires medical attention.

34 **SECTION 13.** ORS 475.245, as amended by section 53, chapter 70, Oregon Laws 2024, is  
35 amended to read:

36 475.245. (1)(a) Whenever a person is charged with an offense listed in subsection (5) of this sec-  
37 tion, the court, with the consent of the district attorney and the person, may defer further pro-  
38 ceedings and place the person on probation. The terms of the probation shall be defined by a  
39 probation agreement.

40 (b) A probation agreement carries the understanding that if the defendant fulfills the terms of  
41 the agreement, the criminal charges filed against the defendant will be dismissed with prejudice.

42 (c) The agreement must contain a waiver of the following rights of the defendant with respect  
43 to each criminal charge:

44 (A) The right to a speedy trial and trial by jury;

45 (B) The right to present evidence on the defendant's behalf;

1 (C) The right to confront and cross-examine witnesses against the defendant;

2 (D) The right to contest evidence presented against the defendant, including the right to object  
3 to hearsay evidence; and

4 (E) The right to appeal from a judgment of conviction resulting from an adjudication of guilt  
5 entered under subsection (2) of this section, unless the appeal is based on an allegation that the  
6 sentence exceeds the maximum allowed by law or constitutes cruel and unusual punishment.

7 (d) The agreement must include a requirement that the defendant pay any restitution owed to  
8 the victim as determined by the court, and any fees for court-appointed counsel ordered by the court  
9 under ORS 135.050.

10 (e) The agreement may not contain a requirement that the defendant enter a plea of guilty or  
11 no contest on any charge in the accusatory instrument.

12 (f) Entering into a probation agreement does not constitute an admission of guilt and is not  
13 sufficient to warrant a finding or adjudication of guilt by a court.

14 (g) Police reports or other documents associated with the criminal charges in a court file other  
15 than the probation agreement may not be admitted into evidence, and do not establish a factual  
16 basis for finding the defendant guilty, unless the court resumes criminal proceedings [*and enters an*  
17 *adjudication of guilt*] under subsection (2) of this section.

18 (2) Upon violation of a term or condition of the probation agreement, the court may:

19 (a) **If the court finds that the defendant has fulfilled the terms and conditions of the**  
20 **probation agreement, discharge the person and dismiss the proceedings as described in sub-**  
21 **section (3) of this section;**

22 (b) Impose sanctions of up to a total of 30 days of imprisonment[,]; or

23 (c) Resume the criminal proceedings and may find the defendant guilty of the offenses in the  
24 accusatory instrument in accordance with the waiver of rights in the probation agreement. The  
25 defendant may not contest the sufficiency of the evidence establishing the defendant's guilt of the  
26 offenses in the accusatory instrument.

27 (3) Upon fulfillment of the terms and conditions of the probation agreement, the court shall  
28 discharge the person and dismiss the proceedings against the person. Discharge and dismissal under  
29 this section shall be without adjudication of guilt and is not a conviction for purposes of this section  
30 or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. There  
31 may be only one discharge and dismissal under this section with respect to any person.

32 (4) In the event that the period of probation under this section expires, but the terms and con-  
33 ditions of the probation agreement have not been fulfilled and no probation violation proceeding was  
34 initiated prior to the expiration of the period of probation, the court may not discharge the person  
35 and dismiss the proceedings against the person. The court shall instead issue an order requiring the  
36 person to appear and to show cause why the court should not enter an adjudication of guilt as de-  
37 scribed in subsection (2) of this section due to the failure of the person to fulfill the terms and  
38 conditions of the probation agreement prior to expiration of the period of probation. At the hearing  
39 on the order to show cause, after considering any evidence or argument from the district attorney  
40 and the person, the court may:

41 (a) Order a new period of probation to allow the person to fulfill the terms and conditions of the  
42 probation agreement; or

43 (b) Enter an adjudication of guilt as described in subsection (2) of this section.

44 (5) This section applies to the following offenses:

45 (a) Possession of a controlled substance under ORS 475.752 (3), 475.814, 475.824, 475.834, 475.854,

1 475.874, 475.884 or 475.894 **or section 2 of this 2025 Act;**

2 (b) Unlawfully possessing a prescription drug under ORS 689.527 (6);

3 (c) Unlawfully possessing marijuana plants, usable marijuana, cannabinoid products, cannabinoid  
4 concentrates or cannabinoid extracts as described in ORS 475C.337 or 475C.341, if the offense is a  
5 misdemeanor or felony;

6 (d) Endangering the welfare of a minor under ORS 163.575 (1)(b);

7 (e) Frequenting a place where controlled substances are used under ORS 167.222; and

8 (f) A property offense that is motivated by a dependence on a controlled substance or a  
9 marijuana item as defined in ORS 475C.009.

10 **SECTION 14.** ORS 423.478, as amended by section 2, chapter 58, Oregon Laws 2024, and section  
11 47, chapter 70, Oregon Laws 2024, is amended to read:

12 423.478. (1) The Department of Corrections shall:

13 (a) Operate prisons for offenders sentenced to terms of incarceration for more than 12 months;

14 (b) Provide central information and data services sufficient to:

15 (A) Allow tracking of offenders; and

16 (B) Permit analysis of correlations between sanctions, supervision, services and programs, and  
17 future criminal conduct; and

18 (c) Provide interstate compact administration and jail inspections.

19 (2) Subject to ORS 423.483, each county, in partnership with the department, shall assume re-  
20 sponsibility for community-based supervision, sanctions and services for offenders convicted of felo-  
21 nies, designated drug-related misdemeanors or designated person misdemeanors, or persons who have  
22 entered into a probation agreement on a drug enforcement misdemeanor pursuant to section 52,  
23 chapter 70, Oregon Laws 2024, who are:

24 (a) On parole;

25 (b) On probation;

26 (c) On post-prison supervision;

27 (d) Sentenced, on or after January 1, 1997, to 12 months or less incarceration;

28 (e) Sanctioned, on or after January 1, 1997, by a court or the State Board of Parole and Post-  
29 Prison Supervision to 12 months or less incarceration for violation of a condition of parole, pro-  
30 bation or post-prison supervision; or

31 (f) On conditional release under ORS 420A.206.

32 (3) Notwithstanding the fact that the court has sentenced a person to a term of incarceration,  
33 when an offender is committed to the custody of the supervisory authority of a county under ORS  
34 137.124 (2) or (4), the supervisory authority may execute the sentence by imposing sanctions other  
35 than incarceration if deemed appropriate by the supervisory authority. If the supervisory authority  
36 releases a person from custody under this subsection and the person is required to report as a sex  
37 offender under ORS 163A.010, the supervisory authority, as a condition of release, shall order the  
38 person to report to the Department of State Police, a city police department or a county sheriff's  
39 office or to the supervising agency, if any:

40 (a) When the person is released;

41 (b) Within 10 days of a change of residence;

42 (c) Once each year within 10 days of the person's birth date;

43 (d) Within 10 days of the first day the person works at, carries on a vocation at or attends an  
44 institution of higher education; and

45 (e) Within 10 days of a change in work, vocation or attendance status at an institution of higher

1 education.

2 (4) As used in this section:

3 (a) “Attends,” “institution of higher education,” “works” and “carries on a vocation” have the  
4 meanings given those terms in ORS 163A.005.

5 (b) “Designated drug-related misdemeanor” means:

6 (A) Unlawful possession of a Schedule I controlled substance under ORS 475.752 (3)(a);

7 (B) Unlawful possession of a Schedule II controlled substance under ORS 475.752 (3)(b);

8 (C) Unlawful possession of a Schedule III controlled substance under ORS 475.752 (3)(c);

9 (D) Unlawful possession of a Schedule IV controlled substance under ORS 475.752 (3)(d);

10 (E) Unlawful possession of a Schedule I controlled substance under ORS 475.752 (7)(a);

11 (F) Unlawful possession of fentanyl under [*ORS 475.752 (8)(a)*] **section 2 (2)(a) of this 2025**

12 **Act;**

13 **(G) Unlawful possession of fentanyl under section 2 (2)(b) of this 2025 Act;**

14 [*(G)*] **(H)** Unlawful possession of hydrocodone under ORS 475.814 (2)(a);

15 [*(H)*] **(I)** Unlawful possession of hydrocodone under ORS 475.814 (2)(b);

16 [*(I)*] **(J)** Unlawful possession of methadone under ORS 475.824 (2)(a);

17 [*(J)*] **(K)** Unlawful possession of methadone under ORS 475.824 (2)(b);

18 [*(K)*] **(L)** Unlawful possession of oxycodone under ORS 475.834 (2)(a);

19 [*(L)*] **(M)** Unlawful possession of oxycodone under ORS 475.834 (2)(b);

20 [*(M)*] **(N)** Unlawful possession of heroin under ORS 475.854 (2)(a);

21 [*(N)*] **(O)** Unlawful possession of heroin under ORS 475.854 (2)(b);

22 [*(O)*] **(P)** Unlawful possession of 3,4-methylenedioxymethamphetamine under ORS 475.874 (2)(a);

23 [*(P)*] **(Q)** Unlawful possession of 3,4-methylenedioxymethamphetamine under ORS 475.874 (2)(b);

24 [*(Q)*] **(R)** Unlawful possession of cocaine under ORS 475.884 (2)(a);

25 [*(R)*] **(S)** Unlawful possession of cocaine under ORS 475.884 (2)(b);

26 [*(S)*] **(T)** Unlawful possession of methamphetamine under ORS 475.894 (2)(a);

27 [*(T)*] **(U)** Unlawful possession of methamphetamine under ORS 475.894 (2)(b); or

28 [*(U)*] **(V)** Interfering with public transportation under ORS 166.116 (1)(e).

29 (c) “Designated person misdemeanor” means:

30 (A) Assault in the fourth degree constituting domestic violence if the judgment document is as  
31 described in ORS 163.160 (4);

32 (B) Menacing constituting domestic violence if the judgment document is as described in ORS  
33 163.190 (3); or

34 (C) Sexual abuse in the third degree under ORS 163.415.

35 **SECTION 15.** Section 35, chapter 70, Oregon Laws 2024, is amended to read:

36 **Sec. 35.** (1) Unlawful possession of a controlled substance constituting a drug enforcement  
37 misdemeanor under ORS 475.752 (3)(a), (b), (c) or (d), 475.814 (2)(a), 475.824 (2)(a), 475.834 (2)(a),  
38 475.854 (2)(a), 475.874 (2)(a), 475.884 (2)(a) or 475.894 (2)(a) **or section 2 (2)(a) of this 2025 Act** is  
39 punishable as described in this section.

40 (2)(a) When imposing a sentence for the crime described in this section:

41 (A) The court may decide to not suspend the imposition or execution of any part of the sentence,  
42 and impose a term of incarceration in accordance with ORS 137.010 (7) of up to 180 days, only upon  
43 the request of the defendant.

44 (B) If the defendant has not requested to be sentenced under subparagraph (A) of this paragraph,  
45 or if the court has decided not to sentence the defendant under subparagraph (A) of this paragraph,

1 the court shall suspend the imposition of any sentence of incarceration and, notwithstanding ORS  
2 137.010 (4), impose a sentence of supervised probation of a definite period of up to 18 months.

3 (b) When imposing a sentence of probation under this section, the court may not order as a  
4 condition of probation that the defendant serve a sentence of incarceration or confinement in the  
5 county jail.

6 (c) Notwithstanding ORS 135.050, 137.010 (7), 161.635 and 161.665, the court may not include in  
7 the judgment of conviction for the crime described in this section a requirement that the defendant  
8 pay a fine, cost, assessment or attorney fee.

9 (d) ORS 137.540 (2)(a) does not apply to sentences imposed under this section.

10 (3)(a) Structured, intermediate sanctions as described in ORS 137.593 may be imposed in ac-  
11 cordance with rules adopted under ORS 137.595 when a condition of a term of probation imposed  
12 under this section has been violated.

13 (b) Upon a finding that the person on probation has violated a condition of probation imposed  
14 under this section, the court may impose a sanction, which may include days in jail.

15 (c) The total amount of jail that a person may receive pursuant to structured, intermediate  
16 sanctions, or a court-imposed sanctions, on a probation imposed under this section is 30 days. Any  
17 term of incarceration imposed as a sanction must allow for early release to a treatment facility.

18 (d) The court may extend the length of a probation sentence imposed under this section if the  
19 person on probation consents to the extension. The total term of probation may not exceed five  
20 years.

21 (4)(a) Notwithstanding ORS 137.545 (5)(a)(B) and 137.593, upon the court's revocation of a sen-  
22 tence of probation imposed under this section, the court may impose as a revocation sentence up to  
23 180 days' incarceration. For any sentence of incarceration imposed under this paragraph, the court  
24 shall authorize early release to an inpatient or outpatient drug and alcohol treatment program as  
25 described in paragraph (b) of this subsection.

26 (b) Upon imposing a revocation sentence of incarceration under this subsection, the court shall  
27 commit the person to the custody of the supervisory authority under ORS 137.124. The county  
28 community corrections agency shall monitor when an inpatient or outpatient drug and alcohol  
29 treatment program becomes available for the person and shall notify the person when a program is  
30 available. In order to be released early to the program, the person must enter into a revocation  
31 release agreement subject to such conditions as determined by the county community corrections  
32 agency. If the person violates the terms of the revocation release agreement, the county community  
33 corrections agency may cause the person to return to jail to serve the remainder of the  
34 incarceration sentence originally imposed.

35 (c) When a person has been released to an inpatient or outpatient drug and alcohol treatment  
36 program under paragraph (b) of this subsection, each day that the person is in the community and  
37 subject to the revocation release agreement shall count toward the total term of incarceration im-  
38 posed as a revocation sentence.

39 (d) When imposing a revocation sentence of incarceration under this section, the court shall  
40 order, and may not deny, that the person receive credit for time served for any day that the person  
41 was previously incarcerated on the charge.

42 **SECTION 16. The amendments to ORS 475.907 and 475.924 by sections 9 and 10 of this 2025**  
43 **Act apply to conduct occurring on or after the effective date of this 2025 Act.**

44  
45 **OPIOID USE DISORDER MEDICATIONS GRANT PROGRAM CHANGES**

**SECTION 17.** Section 81, chapter 70, Oregon Laws 2024, is amended to read:

**Sec. 81.** As used in sections 81 to 86 [of this 2024 Act], **chapter 70, Oregon Laws 2024:**

(1) “Commission” means the Oregon Criminal Justice Commission.

(2) “Local correctional facility” has the meaning given that term in ORS 169.005 **and also means any facility operated by a county supervisory authority, as defined in ORS 144.087, including facilities for providing corrections supervision services or custodial services.**

(3) “Tribal correctional facility” means a jail or prison in Oregon that is operated by a federally recognized tribe and confines persons for more than 36 hours.

**OPIOID USE DISORDER MEDICATION PRESCRIPTION CHANGES**

**SECTION 18.** Section 7, chapter 70, Oregon Laws 2024, is amended to read:

**Sec. 7.** [(1) As used in this section:]

[(a) “Early refill” means:]

[(A) Up to three refills of a current prescription for a medication that a patient has lost or that has been stolen or destroyed; or]

[(B) One refill in a 12-month period of a medication for which the previous prescription expired in the prior 12-month period.]

[(b) “Refill” means a supply of a medication consistent with the amount specified in the most recent prescription for the medication.]

[(2)] (1) A pharmacist may prescribe, [and] dispense **and administer** to a patient[, to the extent permitted by federal law, an early refill of a] medication for the treatment of opioid use disorder in accordance with [subsection (3) of this section.]:

**(a) A statewide drug therapy management protocol developed by the Public Health and Pharmacy Formulary Advisory Committee convened under ORS 689.649 and adopted by State Board of Pharmacy rule pursuant to ORS 689.645; or**

**(b) A collaborative drug therapy management agreement.**

[(3) A pharmacist who prescribes and dispenses early refills under this section shall:]

[(a) Complete a patient assessment to determine whether the prescription is appropriate;]

[(b) Document the patient visit and include notations regarding evidence of the patient’s previous prescription from the patient’s licensed health care provider, information relating to the patient’s treatment and other relevant information; and]

[(c) Notify the patient’s primary care provider, and the licensed health care provider who made the previous prescription, of the pharmacist’s dispensing of early refills, to the extent permitted by state and federal law.]

[(4) Notations in a record documenting evidence of a patient’s previous prescription under subsection (3)(b) of this section constitute verification of a valid prescription.]

**(2) For the purpose of the prescription, administration and dispensation by a pharmacist of a controlled substance in Schedule II, III, IV or V that is a medication for the treatment of opioid use disorder, pursuant to the provisions of this section, ORS 475.185 and any other relevant provision in ORS 475.005 to 475.285, and notwithstanding ORS 475.005, “practitioner” means physician, dentist, veterinarian, scientific investigator, licensed nurse practitioner, pharmacist, pharmacy, physician associate or other person licensed, registered or otherwise permitted by law to dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state.**

1        [(5)] (3) The State Board of Pharmacy shall adopt rules to carry out this section, including but  
 2 not limited to rules to allow a[:]

3        [(a)] pharmacist to [*apply for and obtain a registration number from*] **be recognized by the Drug**  
 4 **Enforcement Administration of the United States Department of Justice as a mid-level**  
 5 **practitioner[;] and to obtain a registration number as a mid-level practitioner.**

6        [(b)] *Pharmacy to store on the premises medications for the treatment of opioid use disorder.*]

7        [(6)] (4) In adopting rules to carry out this section, the board shall consult with the Public  
 8 Health and Pharmacy Formulary Advisory Committee described in ORS 689.649.

9        **SECTION 19.** Section 8, chapter 70, Oregon Laws 2024, is amended to read:

10        **Sec. 8.** (1) As used in this section, “prescription drug locker” means a mechanical device that  
 11 serves as an extension of a retail drug outlet’s will call or point of sale area in which completed  
 12 patient-specific prescription drugs, devices and related supplies and nonprescription drugs, devices  
 13 and related supplies are stored for pickup.

14        [(2)] *A prescription drug locker located within this state and at the same physical address as the*  
 15 *retail drug outlet with which the prescription drug locker is associated:]*

16        [(a)] *Is considered part of the retail drug outlet and is not required to obtain a license or registra-*  
 17 *tion from the State Board of Pharmacy; and]*

18        [(b)] *Is not required to obtain a registration from the Drug Enforcement Administration of the*  
 19 *United States Department of Justice.]*

20        [(3)] *A prescription drug locker located within this state but at a physical address other than the*  
 21 *physical address of the retail drug outlet with which the prescription drug locker is associated is con-*  
 22 *sidered a remote dispensing site pharmacy and must obtain a registration from the Drug Enforcement*  
 23 *Administration in order to dispense controlled substances.]*

24        **(2) A retail drug outlet may operate one or more prescription drug lockers located within**  
 25 **this state that need not be at the same physical address as the retail drug outlet. A pre-**  
 26 **scription drug locker operated pursuant to this section is considered part of the retail drug**  
 27 **outlet, and a separate license or registration from the State Board of Pharmacy is not re-**  
 28 **quired.**

29        **(3) A retail drug outlet may store controlled substances for pickup in a prescription drug**  
 30 **locker if the retail drug outlet has a valid controlled substance registration required under**  
 31 **ORS 475.125 in the name of and at the principal place of business of the retail drug outlet.**

32        (4) The board may adopt rules to carry out this section.

33        **SECTION 20.** Section 2, chapter 70, Oregon Laws 2024, is amended to read:

34        **Sec. 2.** (1) As used in this section:

35        (a) “Group health insurance” has the meaning given that term in ORS 731.098.

36        (b) “Health benefit plan” has the meaning given that term in ORS 743B.005.

37        (c) “Substance use disorder” has the meaning given that term in the fifth edition of the Diag-  
 38 nostic and Statistical Manual of Mental Disorders published by the American Psychiatric Associ-  
 39 ation.

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

41        (2) Notwithstanding any provision of ORS 743A.168, an issuer of group health insurance or an  
 42 individual health benefit plan, other than a health plan that is subject to 42 U.S.C. 18011:

43        (a) May not impose a requirement for prior authorization or any other form of utilization review  
 44 for the reimbursement of a covered medication approved by the United States Food and Drug Ad-  
 45 ministration that is prescribed for the purpose of treating a substance use disorder, including but

1 not limited to opioid addiction and opioid withdrawal.

2 (b) Shall reimburse the cost of refills of medications described in paragraph (a) of this subsection  
3 if dispensed by a licensed health care professional who is legally authorized to dispense such  
4 medications, including [early] refills [described in section 7 of this 2024 Act] **dispensed pursuant to**  
5 **section 7, chapter 70, Oregon Laws 2024.**

6 (3) Subsection (2) of this section applies to any form of buprenorphine, including but not limited  
7 to sublingual, tablet or injectable forms.

8 (4) This section does not prohibit prior authorization or other utilization review for opioids or  
9 opiates prescribed for a purpose other than medication-assisted treatment or the treatment of opiate  
10 abuse or addiction.

11 (5) This section does not prohibit utilization review for the purpose of:

12 (a) Auditing claims for improper payments, fraud or abuse; or

13 (b) Reasonable periodic redeterminations about the need for continuing care.

14 (6) Coverage under this section may be subject to the same terms and conditions that apply to  
15 other benefits under the plan except for utilization review as provided in subsection (2) of this sec-  
16 tion.

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

18 **SECTION 21.** ORS 414.766, as amended by section 4, chapter 70, Oregon Laws 2024, is amended  
19 to read:

20 414.766. (1) Notwithstanding ORS 414.065 and 414.690, a coordinated care organization must  
21 provide behavioral health services to its members that include but are not limited to all of the fol-  
22 lowing:

23 (a) For a member who is experiencing a behavioral health crisis:

24 (A) A behavioral health assessment; and

25 (B) Services that are medically necessary to transition the member to a lower level of care;

26 (b) At least the minimum level of services that are medically necessary to treat a member's  
27 underlying behavioral health condition rather than a mere amelioration of current symptoms, such  
28 as suicidal ideation or psychosis, as determined in a behavioral health assessment of the member  
29 or specified in the member's care plan;

30 (c) Treatment of co-occurring behavioral health disorders or medical conditions in a coordinated  
31 manner;

32 (d) Treatment at the least intensive and least restrictive level of care that is safe and effective  
33 and meets the needs of the individual's condition;

34 (e) For all level of care placement decisions, placement at the level of care consistent with a  
35 member's score or assessment using the relevant level of care placement criteria and guidelines;

36 (f) If the level of placement described in paragraph (e) of this subsection is not available,  
37 placement at the next higher level of care;

38 (g) Treatment to maintain functioning or prevent deterioration;

39 (h) Treatment for an appropriate duration based on the individual's particular needs;

40 (i) Treatment appropriate to the unique needs of children and adolescents;

41 (j) Treatment appropriate to the unique needs of older adults;

42 (k) Treatment that is culturally and linguistically appropriate;

43 (L) Treatment that is appropriate to the unique needs of gay, lesbian, bisexual and transgender  
44 individuals and individuals of any other minority gender identity or sexual orientation;

45 (m) Coordinated care and case management as defined by the Department of Consumer and



1 Business Services by rule;

2 (n) Mental health wellness appointments as prescribed by the Oregon Health Authority by rule;  
3 and

4 (o) Medications and refills of medications prescribed for the treatment of opioid use disorder and  
5 any co-occurring substance use disorder or mental health condition, including [*early refills as de-*  
6 *scribed in*] **medications and refills of medications prescribed pursuant to** section 7, chapter 70,  
7 Oregon Laws 2024.

8 (2) If there is a disagreement about the level of care required by subsection (1)(e) or (f) of this  
9 section, a coordinated care organization shall provide to the behavioral health treatment provider  
10 full details of the coordinated care organization's scoring or assessment, to the extent permitted by  
11 the federal Health Insurance Portability and Accountability Act privacy regulations, 45 C.F.R. parts  
12 160 and 164, ORS 192.553 to 192.581 or other state or federal laws limiting the disclosure of health  
13 information.

14 (3) The Oregon Health Authority shall adopt by rule a list of behavioral health services that  
15 may not be subject to prior authorization.

16 **SECTION 22.** ORS 689.005, as amended by section 5, chapter 17, Oregon Laws 2024, and section  
17 9, chapter 70, Oregon Laws 2024, is amended to read:

18 689.005. As used in this chapter:

19 (1) "Administer" means the direct application of a drug or device whether by injection,  
20 inhalation, ingestion, or any other means, to the body of a patient or research subject by:

21 (a) A practitioner or the practitioner's authorized agent; or

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

23 (2) "Approved continuing pharmacy education program" means those seminars, classes,  
24 meetings, workshops and other educational programs on the subject of pharmacy approved by the  
25 State Board of Pharmacy.

26 (3) "Clinical pharmacy agreement" means an agreement between a pharmacist or pharmacy and  
27 a health care organization or a physician as defined in ORS 677.010 or a naturopathic physician as  
28 defined in ORS 685.010 that permits the pharmacist to engage in the practice of clinical pharmacy  
29 for the benefit of the patients of the health care organization, physician or naturopathic physician.

30 (4) "Continuing pharmacy education" means:

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

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

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

35 (5) "Continuing pharmacy education unit" means the unit of measurement of credits for ap-  
36 proved continuing education courses and programs.

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

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

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

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

- 1 (10) “Drug” means:
- 2 (a) Articles recognized as drugs in the official United States Pharmacopoeia, official National  
3 Formulary, official Homeopathic Pharmacopoeia, other drug compendium or any supplement to any  
4 of them;
- 5 (b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of dis-  
6 ease in a human or other animal;
- 7 (c) Articles, other than food, intended to affect the structure or any function of the body of hu-  
8 mans or other animals; and
- 9 (d) Articles intended for use as a component of any articles specified in paragraph (a), (b) or (c)  
10 of this subsection.
- 11 (11) “Drug order” means a written order, in a hospital or other inpatient care facility, for an  
12 ultimate user of any drug or device issued and signed by a practitioner, or an order transmitted by  
13 other means of communication from a practitioner, that is immediately reduced to writing by a  
14 pharmacist, licensed nurse or other practitioner.
- 15 (12) “Drug outlet” means a pharmacy, nursing home, shelter home, convalescent home, extended  
16 care facility, drug abuse treatment center, penal institution, hospital, family planning clinic, student  
17 health center, retail store, wholesaler, manufacturer, mail-order vendor or other establishment with  
18 facilities located within or out of this state that is engaged in dispensing, delivery or distribution  
19 of drugs within this state.
- 20 (13) “Drug room” means a secure and lockable location within an inpatient care facility that  
21 does not have a licensed pharmacy.
- 22 (14) “Electronically transmitted” or “electronic transmission” means a communication sent or  
23 received through technological apparatuses, including computer terminals or other equipment or  
24 mechanisms linked by telephone or microwave relays, or similar apparatus having electrical, digital,  
25 magnetic, wireless, optical, electromagnetic or similar capabilities.
- 26 (15) “Injectable hormonal contraceptive” means a drug composed of a hormone or a combination  
27 of hormones that is approved by the United States Food and Drug Administration to prevent preg-  
28 nancy and that a health care practitioner administers to the patient by injection.
- 29 (16) “Institutional drug outlet” means hospitals and inpatient care facilities where medications  
30 are dispensed to another health care professional for administration to patients served by the hos-  
31 pitals or facilities.
- 32 (17) “Intern” means a person who is enrolled in or has completed a course of study at a school  
33 or college of pharmacy approved by the board and who is licensed with the board as an intern.
- 34 (18) “Internship” means a professional experiential program approved by the board under the  
35 supervision of a licensed pharmacist registered with the board as a preceptor.
- 36 (19) “Labeling” means the process of preparing and affixing of a label to any drug container  
37 exclusive, however, of the labeling by a manufacturer, packer or distributor of a nonprescription  
38 drug or commercially packaged legend drug or device.
- 39 (20) “Manufacture” means the production, preparation, propagation, compounding, conversion  
40 or processing of a device or a drug, either directly or indirectly by extraction from substances of  
41 natural origin or independently by means of chemical synthesis or by a combination of extraction  
42 and chemical synthesis and includes any packaging or repackaging of the substances or labeling or  
43 relabeling of its container, except that this term does not include the preparation or compounding  
44 of a drug by an individual for their own use or the preparation, compounding, packaging or labeling  
45 of a drug:

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

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

5 (21) "Manufacturer" means a person engaged in the manufacture of drugs.

6 (22) "Nonprescription drug outlet" means a business or other establishment that is open to the  
7 general public for the sale or nonprofit distribution of nonprescription drugs and is registered under  
8 ORS 689.305.

9 (23) "Nonprescription drugs" means drugs that may be sold without a prescription and that are  
10 prepackaged for use by the consumer and labeled in accordance with the requirements of the stat-  
11 utes and regulations of this state and the federal government.

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

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

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

19 (27) "Pharmacy technician" means a person licensed by the board who assists in the practice  
20 of pharmacy pursuant to rules of the board.

21 (28) "Practice of clinical pharmacy" means:

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

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

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

28 (29) "Practice of pharmacy" means:

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

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

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

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

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

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

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

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

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

43 (j) Patient care services, including medication therapy management and comprehensive  
44 medication review;

45 (k) The offering or performing of those acts, services, operations or transactions necessary in

1 the conduct, operation, management and control of pharmacy;

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

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

6 (n) The prescribing, dispensing and administering of preexposure prophylactic antiretroviral  
7 therapies and post-exposure prophylactic antiretroviral therapies, pursuant to ORS 689.704 and rules  
8 adopted by the board under ORS 689.645 and 689.704;

9 (o) The delegation of tasks to other health care providers who are appropriately trained and  
10 authorized to perform the delegated tasks;

11 (p) The prescribing, [and] dispensing **and administering** of [early refills of] medication for the  
12 treatment of opioid use disorder pursuant to section 7, chapter 70, Oregon Laws 2024; and

13 (q) The testing for severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) and the pre-  
14 scribing, dispensing and administering of treatment for SARS-CoV-2 pursuant to section 4, chapter  
15 17, Oregon Laws 2024, and rules adopted by the board pursuant to section 4, chapter 17, Oregon  
16 Laws 2024.

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

20 (a) In this state; or

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

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

25 (32) "Prescription drug" or "legend drug" means a drug that is:

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

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

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

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

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

37 (34) "Retail drug outlet" means a place used for the conduct of the retail sale, administering or  
38 dispensing or compounding of drugs or chemicals or for the administering or dispensing of pre-  
39 scriptions and licensed by the board as a place where the practice of pharmacy may lawfully occur.

40 (35) "Self-administered hormonal contraceptive" means a drug composed of a hormone or a  
41 combination of hormones that is approved by the United States Food and Drug Administration to  
42 prevent pregnancy and that the patient to whom the drug is prescribed may administer to oneself.  
43 "Self-administered hormonal contraceptive" includes, but is not limited to, hormonal contraceptive  
44 patches and hormonal contraceptive pills.

45 (36) "Third-party logistics provider" means an entity that:

1 (a) Provides or coordinates warehousing of, or other logistics services for, a product in inter-  
2 state commerce on behalf of a manufacturer, wholesale distributor or dispenser of the product; and

3 (b) Does not take ownership of, or have responsibility to direct the sale or disposition of, the  
4 product.

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

10 (38) “Wholesale distributor drug outlet” means a person, other than a manufacturer,  
11 manufacturer’s colicensed partner, third-party logistics provider or repackager, as defined in 21  
12 U.S.C. 360eee(16), that is engaged in wholesale distribution, as defined in 21 U.S.C. 353(e)(4).

13 **SECTION 23.** ORS 689.005, as amended by sections 5 and 6, chapter 17, Oregon Laws 2024, and  
14 section 9, chapter 70, Oregon Laws 2024, is amended to read:

15 689.005. As used in this chapter:

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

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

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

20 (2) “Approved continuing pharmacy education program” means those seminars, classes,  
21 meetings, workshops and other educational programs on the subject of pharmacy approved by the  
22 State Board of Pharmacy.

23 (3) “Clinical pharmacy agreement” means an agreement between a pharmacist or pharmacy and  
24 a health care organization or a physician as defined in ORS 677.010 or a naturopathic physician as  
25 defined in ORS 685.010 that permits the pharmacist to engage in the practice of clinical pharmacy  
26 for the benefit of the patients of the health care organization, physician or naturopathic physician.

27 (4) “Continuing pharmacy education” means:

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

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

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

32 (5) “Continuing pharmacy education unit” means the unit of measurement of credits for ap-  
33 proved continuing education courses and programs.

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

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

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

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

43 (10) “Drug” means:

44 (a) Articles recognized as drugs in the official United States Pharmacopoeia, official National  
45 Formulary, official Homeopathic Pharmacopoeia, other drug compendium or any supplement to any

1 of them;

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

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

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

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

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

17 (13) "Drug room" means a secure and lockable location within an inpatient care facility that  
18 does not have a licensed pharmacy.

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

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

26 (16) "Institutional drug outlet" means hospitals and inpatient care facilities where medications  
27 are dispensed to another health care professional for administration to patients served by the hos-  
28 pitals or facilities.

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

31 (18) "Internship" means a professional experiential program approved by the board under the  
32 supervision of a licensed pharmacist registered with the board as a preceptor.

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

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

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

45 (b) By a practitioner or by the practitioner's authorization under supervision of the practitioner

1 for the purpose of or as an incident to research, teaching or chemical analysis and not for sale.

2 (21) "Manufacturer" means a person engaged in the manufacture of drugs.

3 (22) "Nonprescription drug outlet" means a business or other establishment that is open to the  
4 general public for the sale or nonprofit distribution of nonprescription drugs and is registered under  
5 ORS 689.305.

6 (23) "Nonprescription drugs" means drugs that may be sold without a prescription and that are  
7 prepackaged for use by the consumer and labeled in accordance with the requirements of the stat-  
8 utes and regulations of this state and the federal government.

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

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

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

16 (27) "Pharmacy technician" means a person licensed by the board who assists in the practice  
17 of pharmacy pursuant to rules of the board.

18 (28) "Practice of clinical pharmacy" means:

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

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

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

25 (29) "Practice of pharmacy" means:

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

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

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

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

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

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

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

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

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

40 (j) Patient care services, including medication therapy management and comprehensive  
41 medication review;

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

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

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

3 (n) The prescribing, dispensing and administering of preexposure prophylactic antiretroviral  
4 therapies and post-exposure prophylactic antiretroviral therapies, pursuant to ORS 689.704 and rules  
5 adopted by the board under ORS 689.645 and 689.704;

6 (o) The delegation of tasks to other health care providers who are appropriately trained and  
7 authorized to perform the delegated tasks; and

8 (p) The prescribing, [and] dispensing **and administering** of [*early refills of*] medication for the  
9 treatment of opioid use disorder pursuant to section 7, chapter 70, Oregon Laws 2024.

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

13 (a) In this state; or

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

16 (31) “Preceptor” means a pharmacist or a person licensed by the board to supervise the  
17 internship training of a licensed intern.

18 (32) “Prescription drug” or “legend drug” means a drug that is:

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

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

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

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

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

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

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

38 (36) “Third-party logistics provider” means an entity that:

39 (a) Provides or coordinates warehousing of, or other logistics services for, a product in inter-  
40 state commerce on behalf of a manufacturer, wholesale distributor or dispenser of the product; and

41 (b) Does not take ownership of, or have responsibility to direct the sale or disposition of, the  
42 product.

43 (37) “Unit dose” means a sealed single-unit container so designed that the contents are admin-  
44 istered to the patient as a single dose, direct from the container. Each unit dose container must bear  
45 a separate label, be labeled with the name and strength of the medication, the name of the man-



1 manufacturer or distributor, an identifying lot number and, if applicable, the expiration date of the  
2 medication.

3 (38) “Wholesale distributor drug outlet” means a person, other than a manufacturer,  
4 manufacturer’s colicensed partner, third-party logistics provider or repackager, as defined in 21  
5 U.S.C. 360eee(16), that is engaged in wholesale distribution, as defined in 21 U.S.C. 353(e)(4).

6  
7 **OTHER HOUSE BILL 4002 (2024) MODIFICATIONS**

8  
9 **SECTION 24.** Section 36, chapter 70, Oregon Laws 2024, is amended to read:

10 **Sec. 36.** (1) Law enforcement agencies in this state are encouraged to, in lieu of citation or  
11 arrest, or after citation or arrest but before referral to the district attorney, refer a person to a  
12 deflection program when the person is suspected of committing, or has been cited or arrested for,  
13 unlawful possession of a controlled substance constituting a drug enforcement misdemeanor under  
14 section 35, [of this 2024 Act] **chapter 70, Oregon Laws 2024.**

15 (2) District attorneys in this state are encouraged to divert for assessment, treatment and other  
16 services, in lieu of conviction, cases involving unlawful possession of a controlled substance consti-  
17 tuting a drug enforcement misdemeanor under section 35, [of this 2024 Act] **chapter 70, Oregon**  
18 **Laws 2024.**

19 (3) If a deflection program is established, the program coordinator shall be responsible for pro-  
20 viding notification that a person has completed the program to those entities responsible for sealing  
21 records under section 54, [of this 2024 Act] **chapter 70, Oregon Laws 2024**, including but not limited  
22 to [law enforcement agencies, district attorneys and courts] **a law enforcement agency, the district**  
23 **attorney and, if requested by the court, the circuit court.**

24 (4) As used in this section, “deflection program” has the meaning given that term in section  
25 37, [of this 2024 Act] **chapter 70, Oregon Laws 2024.**

26 **SECTION 25.** Section 52, chapter 70, Oregon Laws 2024, is amended to read:

27 **Sec. 52.** (1)(a) When a person is charged with unlawful possession of a controlled substance  
28 under ORS 475.752 (3)(a), (b), (c) or (d), 475.814 (2)(a), 475.824 (2)(a), 475.834 (2)(a), 475.854 (2)(a),  
29 475.874 (2)(a), 475.884 (2)(a) or 475.894 (2)(a) **or section 2 (2)(a) of this 2025 Act** constituting a drug  
30 enforcement misdemeanor as described in section 35 [of this 2024 Act], **chapter 70, Oregon Laws**  
31 **2024**, the person is eligible to enter, and subject to paragraphs (b) and (c) of this subsection may  
32 request to enter, into a probation agreement as described in this section.

33 (b) The district attorney may object to the defendant’s entry into a probation agreement under  
34 this section. After hearing the reasons for the objection, the court may deny the person’s entry if  
35 the probation agreement would not serve the needs of the person or the protection and welfare of  
36 the community.

37 (c) A person may request to enter into a probation agreement under this section no later than  
38 30 days after the person’s first appearance, unless the court authorizes a later date for good cause  
39 shown. For purposes of this paragraph, the filing of a demurrer, a motion to suppress or a motion  
40 for an omnibus hearing does not constitute good cause.

41 (d) When a person enters into a probation agreement under this section, the court shall defer  
42 further proceedings on the charge described in paragraph (a) of this subsection and place the person  
43 on probation. The terms of the probation shall be defined by a probation agreement.

44 (e) A person may enter into a probation agreement under this section on the charge described  
45 in paragraph (a) of this subsection regardless of whether the person is charged with other offenses

1 within the same charging instrument or as part of a separate charging instrument, but the pro-  
 2 ceedings on the other offenses continue in the normal course and are not deferred.

3 (2)(a) A probation agreement described in this section carries the understanding that if the de-  
 4 fendant fulfills the terms of the agreement, the charge described in subsection (1)(a) of this section  
 5 that is the subject of the agreement will be dismissed with prejudice.

6 (b) The initial term of probation shall be 12 months, subject to early termination by the court.  
 7 The terms of the probation shall include the general conditions of probation described in ORS  
 8 137.540 (1) and a requirement that the defendant complete a substance abuse evaluation and any  
 9 treatment recommended by the evaluator. The court may impose sanctions of up to a total of 30 days  
 10 of imprisonment upon finding that the person has violated the conditions of probation. Structured,  
 11 intermediate sanctions as described in ORS 137.593 may be imposed in accordance with rules  
 12 adopted under ORS 137.595 when the conditions of a term of probation described in this section have  
 13 been violated.

14 (c) The agreement must contain a waiver of the following rights of the defendant with respect  
 15 to each criminal charge:

16 (A) The right to a speedy trial and trial by jury;

17 (B) The right to present evidence on the defendant's behalf;

18 (C) The right to confront and cross-examine witnesses against the defendant;

19 (D) The right to contest evidence presented against the defendant, including the right to object  
 20 to hearsay evidence; and

21 (E) The right to appeal from a judgment of conviction resulting from an adjudication of guilt  
 22 entered under subsection (3) of this section, unless the appeal is based on an allegation that the  
 23 sentence exceeds the maximum allowed by law or constitutes cruel and unusual punishment.

24 (d) The agreement may not contain a requirement that the defendant enter a plea of guilty or  
 25 no contest on any charge in the accusatory instrument.

26 (e) The fact that a person has entered into a probation agreement under this section does not  
 27 constitute an admission of guilt and is not sufficient to warrant a finding or adjudication of guilt  
 28 by a court.

29 (f) Police reports or other documents associated with the criminal charges in a court file other  
 30 than the probation agreement may not be admitted into evidence, and do not establish a factual  
 31 basis for finding the defendant guilty, unless the court resumes criminal proceedings [*and enters an*  
 32 *adjudication of guilt*] under subsection (3) of this section.

33 (3) Upon violation of a term or condition of the probation agreement, the court may:

34 (a) **If the court finds that the defendant has fulfilled the terms and conditions of the**  
 35 **probation agreement, discharge the person and dismiss the charge that is the subject of the**  
 36 **agreement as described in subsection (4) of this section;**

37 (b) Impose a sanction; or [*may*]

38 (c) Resume the criminal proceedings and may find the defendant guilty of the charge that is the  
 39 subject of the agreement in accordance with the waiver of rights in the agreement. The defendant  
 40 may not contest the sufficiency of the evidence establishing the defendant's guilt of the offenses in  
 41 the accusatory instrument.

42 (4) Upon the conclusion or early termination of the probation period, if the court has received  
 43 notice from the district attorney or a supervising officer that the person has fulfilled the terms and  
 44 conditions of the probation agreement, the court shall discharge the person and dismiss the charge  
 45 that is the subject of the agreement. Discharge and dismissal under this section shall be without

1 adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqual-  
 2 ifications or disabilities imposed by law upon conviction of a crime.

3 (5) In the event that the period of probation under this section expires, but the court has not  
 4 received notice that the terms and conditions of the probation agreement have been fulfilled and no  
 5 probation violation proceeding was initiated prior to the expiration of the period of probation, the  
 6 court may not discharge the person and dismiss the proceedings against the person. The court shall  
 7 instead issue an order requiring the person to appear and to show cause why the court should not  
 8 enter an adjudication of guilt as described in subsection (3) of this section due to the failure of the  
 9 person to fulfill the terms and conditions of the probation agreement prior to expiration of the pe-  
 10 riod of probation. At the hearing on the order to show cause, after considering any evidence or ar-  
 11 gument from the district attorney and the person, the court may:

12 (a) Order a new period of probation to allow the person to fulfill the terms and conditions of the  
 13 probation agreement; or

14 (b) Enter an adjudication of guilt as described in subsection (3) of this section.

15  
 16 **CAPTIONS**

17  
 18 **SECTION 26. The unit captions used in this 2025 Act are provided only for the conven-**  
 19 **ience of the reader and do not become part of the statutory law of this state or express any**  
 20 **legislative intent in the enactment of this 2025 Act.**

21 \_\_\_\_\_