



## HB 4002 & HB 5204, Relating to Opioid Addiction in Oregon

Prior to the 2024 session, the state legislature created the [Joint Committee on Addiction and Community Safety Response](#) specifically to consider bills relating to the increase in opioid addiction and overdoses in Oregon, especially relating to fentanyl. Over 2,000 members of the public shared their thoughts with the committee either in writing or at one of two public hearings. Ultimately, the committee proposed and legislators passed [HB 4002](#), which includes provisions relating to misdemeanors, drug treatment programs, prescriptions, behavioral health workers, and much more. Legislators also passed [HB 5204](#), which appropriates over \$200 million to fund various parts of HB 4002, plus several other bills related to opioids or addiction.

This fact sheet outlines the:

- Community safety provisions in HB 4002
- Addiction and behavioral health provisions in HB 4002
- Funding related to HB 4002
- Other legislation related to opioids or addiction
- Relationship of HB 4002 to Measure 110
- Role of the Oregon Health Authority (OHA) in implementing HB 4002, including ways to implement the bill that advance health equity

### Community Safety Provisions

HB 4002 repeals the Class E violation that previously applied to possession of small amounts of a controlled substance, and replaces it with a new misdemeanor crime of unlawful possession of a controlled substance. The new misdemeanor goes into effect September 1, 2024.

- This new misdemeanor is unique within the criminal justice system for three provisions:
  - The possibility of a pre-booking deflection program, which if completed leads to no criminal charges being filed.
  - A default to probation with mandatory addiction treatment, with no jail time nor fines. If probation is violated or waived, it could lead to up to 180 days of jail time.
  - After any probation or jail time ends, criminal records are automatically expunged, either within 90 days or three years, depending on the sanctions.
- Deflection programs are operated by counties and federally recognized Tribal governments.
  - Counties and Tribal governments are encouraged, but not required, to create deflection programs.
  - As of passage of the bill, 23 counties covering 85% of the state's population had publicly opted to create deflection programs. Counties that had not yet publicly opted in were Coos, Douglas, Jefferson, Lake, Lincoln, Linn, Polk, Sherman, Tillamook, Union, Wallowa, Wheeler, and Yamhill.

- State oversight of, and development of best practices for, local deflection programs is provided by the IMPACTS Grant Review Committee within the Oregon Criminal Justice Commission (CJC).
- Law enforcement officers are encouraged, but not required, to refer a person to a deflection program in lieu of arrest for the new misdemeanor.
- After arrest, district attorneys are required to offer a person a conditional discharge that includes probation and treatment, in lieu of a trial or plea agreement, unless the district attorney convinces a court that a conditional discharge is not in the public interest.
- Criminal charges for delivery (as opposed to possession) of a controlled substance are heightened if the delivery occurs near an addiction treatment facility, temporary shelter, or public park. These charges now carry a maximum sentence of up to eighteen months incarceration.

## Addiction and Behavioral Health Provisions

HB 4002 addresses the addiction crisis from a health perspective in numerous ways.

- Prohibits health insurers and Coordinated Care Organizations (CCOs) from imposing prior authorization or other utilization review for reimbursement of medications for substance use disorder treatment.
  - This is designed primarily to prevent prior authorization from causing delay in starting medication-assisted treatment (MAT).
  - Utilization review is allowed in cases of potential fraud or for periodic re-authorization of treatment.
- Authorizes pharmacists to dispense early refills of medications for substance use treatment, and to install drug lockers. Both provisions are designed to facilitate prompt access to medications for MAT.
- Creates a certified community behavioral health clinic (CCBHC) program, to expand CCHBCs to all areas of the state.
  - CCBHCs are designed to ensure access to coordinated comprehensive behavioral health care. They serve anyone who requests care for mental health or substance use, regardless of their ability to pay, place of residence, or age.
  - OHA is also directed to apply for a Medicaid State Plan Amendment for the CCBHC program, to receive federal matching funds for the services CCBHCs provide for Medicaid-eligible people, which would replace the existing, more limited CCBHC demonstration project.
- The new United We Heal Medicaid Payment Program provides supplemental payments to behavioral health providers for enhanced apprenticeship and training programs for their behavioral health workers.
- The new Opioid Use Disorder Medication Grant Program provides grants for opioid use disorder treatment and transition planning services in local and Tribal correctional facilities.
- The Alcohol and Drug Policy Commission is directed to study barriers and best practices for youth substance use disorder (SUD) treatment, increasing MAT, and increasing SUD providers in the state.
- The new Joint Task Force on Regional Behavioral Health Accountability is established to make recommendations on improving governance of behavioral health systems and strengthening evidence-based funding decisions.

- The new Task Force on Improving the Safety of Behavioral Health Workers is established to make recommendations on safety concerns for workers.
- Members of a mobile crisis intervention team are authorized to take persons who are intoxicated or under the influence of controlled substances to a sobering center or other appropriate facility, just as police officers already can.

## Funding

HB 5204 appropriates \$221.2 million for various elements of HB 4002 and several related efforts.

- Three grant programs receive funding via CJC:
  - \$20.7 million is available to counties and federally recognized Tribal governments to fund deflection programs.
  - \$6.9 million is available to counties for specialty courts.
  - \$4 million is available for restorative justice grants.
- \$19.1 million (in addition to the \$6.9 million above) is allocated for specialty courts, via the Oregon Judicial Department (OJD).
- \$9.8 million is allocated to Community Mental Health Programs (CMHPs) to expand jail diversion and deflection programs, via OHA.
- CJC receives \$3 million for administrative duties and public outreach relating to its new responsibilities under HB 4002.
- OHA receives \$3.2 million (\$2.1 million General Fund) to implement the CCBHC program.
- OJD receives \$3 million for administrative duties related to conditional discharges and expungements.
- The Public Defense Commission receives \$12.2 million to provide legal representation for financially eligible persons.
- \$85.4 million is allocated to specific behavioral health residential beds, crisis stabilization centers, sobering centers, and overall substance use disorder treatment capacity investments statewide, via the Department of Administrative Services.
- The new United We Heal Medicaid Payment Program receives \$4.7 million, via OHA.
- The new Opioid Use Disorder Medication Grant Program receives \$10 million, via CJC.
- The System of Care Advisory Council receives \$750,000 for education and training regarding drug endangered children.
- \$7.5 million is appropriated to OHA for non-Medicaid costs for “aid and assist” services.
- \$4.7 million is appropriated for youth outreach and prevention programs.
- \$3.2 million subsidizes the non-federally supported portion of costs for services provided under the Nurse Family Partnership Program.
- \$4 million is appropriated for behavioral health workforce education and training, via community colleges.
- Separate from HB 5204, [SB 1530](#) appropriates \$18 million to twelve specific organizations to provide substance use recovery housing, via OHA.

## Other Legislation Related to Opioids and Addiction

The legislature also passed other bills that directly relate to the addiction crisis.

- [SB 1553](#) heightens criminal charges for possession of a controlled substance on public transit. These charges are not connected to the deflection programs or other community safety provisions of HB 4002.
- [HB 4023](#) requires local governments to allow residential treatment facilities in certain areas without a zoning change or conditional use permit.
- [HB 4120](#), creating grants for opioid treatment in correctional facilities, and the portion of [SB 1594](#) relating to United We Heal grants did not pass as individual bills, but both were incorporated into HB 4002.

## Relationship of HB 4002 to Measure 110

HB 4002 keeps intact the Behavioral Health Resource Networks (BHRNs), the cannabis tax revenue that funds Measure 110 (M110) grantees, and OHA's relationship with Oversight and Accountability Committee. It does not repeal or otherwise amend the M110 hotline, nor the operations of the BHRNS that receive funding through M110, except as they directly relate to Class E violations. OHA will continue to coordinate this work, work closely with grantees to improve services throughout Oregon, and help link with counties and others for better coordination.

- The bill did not change the operations of BHRNs or the M110 hotline, except as they relate directly to Class E violations (see below). The hotline will continue to refer callers to BHRN partners, and BHRN partners will continue to serve people in their community, whether they contact the BHRNs via the hotline or otherwise.
- The BHRNs and M110 hotline will continue to be funded through a portion of cannabis taxes.
  - This source amounted to about \$150M for BHRNs in the 2023-2025 biennium. Cannabis tax receipts are projected to decline in future biennia, so future amounts for BHRNs will likely be slightly below this level.
  - These funds will continue to be awarded to BHRNs via the Oversight and Accountability Council, with staff support from OHA.

In its community safety provisions, HB 4002 repeals and replaces the Class E violation system created by M110, including the mechanism to waive violations via the M110 hotline.

- It also removes the funding associated with those violations.
  - This includes the direct fees collected from the citations and, much more significantly, savings from reduced expenditure in the criminal justice system associated with these violations.
  - This source amounted to about \$40M for BHRNS in the 2023-2025 biennium, and will be zero going forward.
- A minority of calls to the hotline, and a small minority of people served by the BHRNs, contacted the hotline or the BHRNs as a direct consequence of a Class E violation.

## OHA's Role in Implementation, Including Health Equity

While implementing its portions of HB 4002 and HB 5204, OHA will – as always – seek to advance the goal of eliminating health inequities in Oregon by 2030. This effort will be informed by, among other things, the [Racial and Ethnic Impact Statement](#) on HB 4002 prepared by the CJC at the request of legislators. Details of health equity measures will depend on further analysis and planning of the implementation work, yet several opportunities are immediately apparent.

- Maintain a strong focus on health equity in the work of BHRNs and facilitate collaboration between the work of BHRN grantees and of counties, Tribal governments, and other partners in deflection programs.
- Raise health equity considerations as a member of the IMPACTS Grant Review Committee, the new Joint Task Force on Regional Behavioral Health Accountability, and the new Task Force on Improving the Safety of Behavioral Health Workers.
- Offer health equity data to inform the IMPACTS Grant Review Committee's oversight of deflection programs and the Alcohol and Drug Policy Commission's study.
- Offer guidance and technical assistance on health equity considerations to CMHPs as they develop deflection programs.
- Incorporate health equity considerations into rules for the expanded CCBHC program and the United We Heal Medicaid Payment Program.

OHA does not have a direct role in implementing the community safety provisions of HB 4002, as these are led by counties and Tribal governments, with support from the Oregon Criminal Justice Commission (CJC). OHA is involved indirectly in several ways.

- Continue to have one representative on the IMPACTS Grant Review Committee, which is now charged with issuing the grants for deflection programs (in addition to issuing IMPACTS grants). The committee receives staff support from CJC, not OHA.
- Cooperate with the CJC to support the IMPACTS committee in its work to monitor the progress of and evaluate program outcomes for applicants that receive grants for deflection programs. The details of this cooperation will depend on future decisions by the committee.
- Distribute funds to CMHPs to support jail diversion and the creation of deflection programs. OHA may also provide guidance or technical assistance, but the CMHPs determine whether and how to conduct deflection programs.

OHA will directly implement some health elements of HB 4002.

- Create the statewide CCBHC program, which will include:
  - Adopting administrative rules for the program, and appointing an advisory committee to advise on those rules. At least 5 of the 15 members of the advisory committee are required to be consumers of behavioral health services or their family, representatives, or advocates.
  - Adopting guidance to CCBHCs on fixed rates and billing.
  - Developing plans to ensure coordination of services between CCBHCs and CMHPs in the same county.
  - Submitting and seeking federal approval for a state plan amendment to replace the existing limited CCBHC demonstration project.
- Incorporate the prohibition on prior authorization for MAT and the requirement to pay for substance use medications and refills into existing oversight of CCOs.
- Oversee and make payments for the United We Heal Medicaid Payment Program.

- Distribute funds allocated for the System of Care Advisory Council and for the specific organizations creating recovery housing (listed in SB 1530).
- Support the Alcohol and Drug Policy Commission in its study of barriers and best practices for youth SUD treatment, increasing MAT, and increasing SUD providers in the state. The details of this support will depend on the needs of the commission.
- Serve as a member of both the new Joint Task Force on Regional Behavioral Health Accountability and the new Task Force on Improving the Safety of Behavioral Health Workers. Staff support for these task forces is provided by the Legislative Policy and Research Office.
- Continue to staff and support the BHRNs, Measure 110 hotline, and the Oversight and Accountability Council in largely the same manner. The sole change is adjusting for the removal of Class E violations, which will reduce funding for BHRNs and somewhat reduce callers to the hotline.

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