***REVISED MEETING AGENDA**	**Public Health and Pharmacy Formulary Advisory Committee Meeting** **May 8, 2024 9:00AM** The committee will meet virtually. **Public Attendance by Phone: (503) 446-4951 Phone Conference ID: 638 260 527 #** To sign up to provide public comment, email your request to pharmacy.formulary@bop.oregon.gov by 12:00PM on ***5/7/2024*** *If you need accommodations under the Americans with Disabilities Act (ADA), complete and submit the online OBOP Request for ADA Accommodations for Public Meetings form located on our website.*

Committee Members

- Lorinda Anderson, RPH
- Katherine Hammond, APRN
- Sarah Wickenhagen, APRN
- Andrew Gibler, RPH
- Sean Jones, MD
- Mark Meyers, MD

OBOP Agency Staff to Committee

- Jennifer Davis, Pharm.D., MS, BCACP, R.Ph., Pharmacy Consultant
- Jamal T. Fox, MPA, Executive Director
- Rachel Melvin, Operations Manager
- Brianne Efremoff, Pharm.D., R.Ph., Compliance Director
- Angela Hunt, Board Legal Counsel

Subject Matter Experts

- Crystal Sharp, RPH Pharmacy Manager, Fred Meyer

	Agenda Items
Welcome	❖ **OPEN SESSION – PUBLIC MAY ATTEND** ➢ Roll call ➢ Public Comment Information ➢ Housekeeping & Meeting Etiquette ➢ Agenda Review and Approval *Action Necessary* • 10/10/2023 PHPFAC Meeting Summary review & approval *Action Necessary* • 2/21/2024 PHPFAC Meeting Summary review & approval *Action Necessary* • 3/4/2024 Special PHPFAC Meeting Summary review and approval *Action Necessary* ***Please note that the Committee will meet in Executive Session and anticipates resuming Open Session at 10:45AM.**
Executive Session	❖ **EXECUTIVE SESSION - NOT OPEN TO THE PUBLIC, pursuant to ORS 192.660(2)(f)** • All OBOP meetings except Executive or Closed Sessions are open to the public. Pursuant to ORS 192.660, Executive Sessions are closed, with the exception of news media and public officials • No final actions will be taken in Executive Session • When action is necessary, the Committee will return to Open Session ❖ Legal Advice pursuant to ORS 192.660(2)(f)
Committee Business	❖ **OPEN SESSION – PUBLIC MAY ATTEND** – At the conclusion of Executive Session, the Committee will convene to review scheduled agenda items. ❖ **BREAK**

	➢ Reappointment Update ➢ Rules Update
	➢ Protocol Review • Coronavirus 2019 **#A** • Continuation of Therapy – 2024 HB 4002 **#A1** • Vulvovaginal candidiasis (VVC) **#A2** ➢ Protocol Development ▪ Concept #1: SARS-CoV2 Antiviral – 2024 SB 1506 **#B** ➢ Formulary Discussion ❖ Public Comment ❖ Adjourn *Action Necessary*
Upcoming Meeting Schedule (*subject to change)*	❖ 2024 Virtual Meetings: ➢ 8/21/2024, 11/20/2024

NOTE: The committee may rearrange its agenda to accommodate the committee or subject matter experts.

Mission
The Oregon Board of Pharmacy serves to promote and protect public health, safety, and welfare by ensuring high standards in the practice of pharmacy and through effective regulation of the manufacture and distribution of drugs.

Vision
All Oregonians have equitable access to medication and pharmacy services, provided safely and conveniently, through a network of highly skilled and dedicated Pharmacists, Interns and Pharmacy Technicians along with a well-regulated manufacturing and distribution network.

Equity Statement
The Oregon Board of Pharmacy is committed to Diversity, Equity, Inclusion, and Belonging (DEIB) within its organization and for the public it serves. This commitment is reflected in board membership, agency staffing, the services provided, and its efforts to promote patient safety and ensure access to quality pharmacy care. Our actions, outlined in our DEIB and Affirmative Action Plans, demonstrate this commitment.

The following principles guide our approach:

- *Promote a welcoming, safe, and inclusive culture for people of all backgrounds*
- *Foster an inclusive environment where all current and prospective licensees and registrants receive fair and unbiased service from the agency staff and board*
- *Advance Diversity and Equity in access through culturally responsive service delivery that addresses the changing climate within the pharmacy profession*
- *Ensure all patients needing pharmacy services are able to receive safe and timely access to medications, regardless of place of residence, economic or social status, physical ability, ethnicity, or gender identity*

Values
These values reflect both how our Board and staff strive to conduct ourselves, and the behaviors we seek to instill across the practice of pharmacy in Oregon.

Equity - *Each individual and group are valued, respected, and treated fairly ensuring equal access to medications and support for their unique and diverse requirements.*

Service - *We deliver a consistent standard of excellence in all work and respond promptly to the needs of patients, Licensees, Registrants, providers and partners.*

Safety - *We are committed to protecting the health, safety and welfare of the public. Safety is the foundation of the board's Mission.*

Adaptability - *We are open to new ideas and to responding to the changing needs and challenges in the field of healthcare and pharmacy.*

Integrity & Accountability - *Transparency and honesty govern the board's work. We accept responsibility for our actions, products, decisions, and policies.*

Professionalism - *We are committed to promoting excellence in pharmacy practice through expertise, commitment, and competence.*

Protocol for Coronavirus 19 Vaccines (Moderna, Novavax, Pfizer-BioNTech)

1. What's New

A. Individuals ≥ 65 years and older should receive an additional dose of the 2023-2024 COVID-19 vaccine (Moderna, Novavax, or Pfizer-BioNTech) at least four months after the receipt of a previous 2023-2024 COVID-19 dose.

B. There is a new formulation of COVID-19 Vaccine (Comirnaty by Pfizer-BioNTech) that is supplied in a pre-filled single dose glass syringe. The glass syringe is stored in the refrigerator and cannot be frozen.

C. ACIP no longer categorizes Pfizer and Moderna as preferred Coronavirus 19 (COVID-19) vaccines for the 2023-2024 season. Individuals ages 12 years and older may receive either the 2023-2024 mRNA (Moderna or Pfizer-BioNTech) or the 2023-2024 adjuvanted (Novavax) vaccine, as appropriate.

2. Immunization Protocol

A. Administer one or more doses of the updated 2023–2024 Moderna, Novavax, or Pfizer-BioNTech COVID-19 vaccine based on age, previous vaccination status, and level of immunocompetency. See Section 3 for vaccine volume and dosing schedule based on age and vaccine formulation.[1-6]

B. COVID-19 vaccine may be administered concomitantly with other vaccines. There is no need to separate COVID-19 vaccine from other vaccinations by 2 weeks.

3. Vaccine Schedule[1-6]

A. Vaccine Schedule for Immunocompetent Individuals

Table 1A: Immunocompetent Individuals Ages 6 Months through 4 Years*

Note - The PREP Act, 11th Amendment allows pharmacists to administer COVID-19 vaccines to persons aged 3 through 18 years old through 12/31/2024. Otherwise, pharmacists are only permitted to vaccinate persons ≥ 7 years per ORS 689.645.

COVID-19 Vaccination History Prior to Updated (2023-2024 Formula) Vaccine†	Updated (2023-2024 Formula) Vaccine	Number of Updated (2023-2024 Formula) Vaccine Doses Indicated	Dosage (mL/mcg)	Vaccine Vial Cap and Label Colors	Interval Between Doses
Unvaccinated	Moderna	2	0.25 mL/ 25 mcg	Dark blue cap; Green label	Dose 1 and Dose 2: 4-8 weeks‡
	OR				
	Pfizer-BioNTech	3	0.3 mL/ 3 mcg	Yellow cap; Yellow label	Dose 1 and Dose 2: 3-8 weeks‡ Dose 2 and Dose 3: At least 8 weeks
1 dose any Moderna	Moderna	1	0.25 mL/ 25 mcg	Dark blue cap; Green label	4-8 weeks after last dose‡

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2 or more doses any Moderna	Moderna	1	0.25 mL/ 25 mcg	Dark blue cap; Green label	At least 8 weeks after last dose
1 dose any Pfizer-BioNTech	Pfizer-BioNTech	2	0.3 mL/ 3 mcg	Yellow cap; Yellow label	Dose 1: 3-8 weeks after last dose‡ Dose 1 and Dose 2: At least 8 weeks
2 doses any Pfizer-BioNTech	Pfizer-BioNTech	1	0.3 mL/ 3 mcg	Yellow cap; Yellow label	At least 8 weeks after last dose
3 or more doses any Pfizer-BioNTech	Pfizer-BioNTech	1	0.3 mL/ 3 mcg	Yellow cap; Yellow label	At least 8 weeks after last dose

†COVID-19 vaccination history refers to previous receipt of doses of Original monovalent mRNA or bivalent mRNA vaccine or a combination of the two.

*Per FDA authorization, all COVID-19 vaccine doses in this age group should be homologous. In the following circumstances, an age-appropriate COVID-19 vaccine from a different manufacturer may be administered:

- Same vaccine not available at the vaccination site at the time of the clinic visit
- Previous dose unknown
- Person would otherwise not receive a recommended vaccine dose
- Person starts but unable to complete a vaccination series with the same COVID-19 vaccine due to a contraindication

Table 1B: Immunocompetent Individuals Ages 5 through 11 years§

Note - The PREP Act, 11th Amendment allows pharmacists to administer COVID-19 vaccines to persons aged 3 through 18 years old through 12/31/2024. Otherwise, pharmacists are only permitted to vaccinate persons ≥ 7 years per ORS 689.645.

COVID-19 Vaccination History Prior to Updated (2023-2024 Formula) Vaccine†	Updated (2023-2024 Formula) Vaccine	Number of Updated (2023-2024 Formula) Vaccine Doses Indicated	Dosage (mL/mcg)	Vaccine Vial Cap and Label Colors	Interval Between Doses
Unvaccinated	Moderna	1	0.25 mL/ 25 mcg	Dark blue cap; Green label	-
	OR				
	Pfizer-BioNTech	1	0.3 mL/ 10 mcg	Blue cap; Blue label	-
1 or more doses any mRNA	Moderna	1	0.25 mL/ 25 mcg	Dark blue cap; Green label	At least 8 weeks after last dose
	OR				
	Pfizer-BioNTech	1	0.3 mL/ 10 mcg	Blue cap; Blue label	At least 8 weeks after last dose

†COVID-19 vaccination history refers to previous receipt of doses of Original monovalent mRNA or bivalent mRNA vaccine or a combination of the two.

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§ For children who transition from age 4 years to age 5 years during the initial vaccination series:

- **Moderna series:** Children are recommended to complete the 2-dose series with the updated 2023–2024 Formula Moderna COVID-19 Vaccine, 0.25 mL/25 ug (dark blue cap; green label), as per the FDA EUA; there is no dosage change.
- **Pfizer-BioNTech series:** Children who received 1 or 2 doses of Pfizer-BioNTech vaccine for ages 6 months–4 years, 0.3 mL/3 ug (yellow cap; yellow label) are recommended to receive 1 dose of the updated 2023-–2024 Formula Pfizer-BioNTech COVID-19 Vaccine, 0.3 mL/10 ug (blue cap; blue label) on or after turning age 5 years. If the 10 ug dose is the second dose, administer 3–8 weeks after the first dose; if it is the third dose, administer at least 8 weeks after the second dose. Alternatively, these children may complete the 3-dose series with the updated 2023–2024 Formula Pfizer-BioNTech COVID-19 Vaccine for ages 6 months–4 years, 0.3 mL/3 ug (yellow cap; yellow label), as per the FDA EUA.

Table 1C: Immunocompetent Individuals Ages 12 years and older

COVID-19 Vaccination History Prior to Updated (2023-2024 Formula) Vaccine†	Updated (2023-2024 Formula) Vaccine	Number of Updated (2023-2024 Formula) Vaccine Doses Indicated	Dosage (mL/mcg)	Vaccine Vial Cap and Label Colors¶	Interval Between Doses
Unvaccinated	Moderna	1	0.5 mL/ 50 mcg	Dark blue cap; Blue label	-
	OR				
	Novavax	2	0.5 mL/ 5 mcg rS protein and 50 mcg Matrix-M adjuvant	Blue cap; Blue label	Dose 1 and Dose 2: 3-8 weeks‡
	OR				
	Pfizer-BioNTech	1	0.3 mL/ 30 mcg	Gray cap; gray label	-
1 or more doses any mRNA; 1 or more doses Novavax or Janssen, including in combination with any Original monovalent or bivalent COVID-19 vaccine doses	Moderna	1	0.50 mL/ 50 mcg	Dark blue cap; Blue label	At least 8 weeks after last dose
	OR				
	Novavax	1	0.5 mL/ 5 mcg rS protein and 50 mcg Matrix-M adjuvant	Blue cap; Blue label	At least 8 weeks after last dose
	OR				
	Pfizer-BioNTech	1	0.3 mL/ 30 mcg	Gray cap; Gray label	At least 8 weeks after last dose
People ages 65 years and older should receive 1 additional dose of any updated (2023-2024 Formula) COVID-19 vaccine (i.e., Moderna, Novavax, Pfizer-BioNTech) at least 4 months following the last recommended dose of updated 2023-2024 COVID-19 vaccine. For initial vaccination with updated 2023-2024 Formula Novavax COVID-19 vaccine, the 2-dose series should be completed before administration of the additional dose. If Moderna is used, administer 0.5 mL/50 mcg; if Novavax is used, administer 0.5 mL/5 mcg rS protein and 50 mcg Matrix-M adjuvant; if Pfizer-BioNTech is used, administer 0.3 mL/30 mcg.					

†COVID-19 vaccination history refers to previous receipt of doses of Original monovalent mRNA or bivalent mRNA vaccine or a combination of the two; for people ages 12 years and older, Original monovalent Novavax COVID-19 Vaccine doses.

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alone or in combination with any mRNA vaccine doses; and for people ages 18 years and older, Janssen COVID-19 Vaccine doses, alone or in combination with any mRNA or Original monovalent Novavax vaccine doses.

‡ An 8-week interval between the first and second COVID-19 vaccine (Moderna, Novavax, and Pfizer-BioNTech) doses might be optimal for some people as it might reduce the small risk of myocarditis and pericarditis associated with these vaccines.

¶The updated 2023-2024 formula Moderna and Pfizer-BioNTech COVID-19 vaccines are also available in a prefilled, single-dose syringe for individuals 12 years and older.

B. Vaccine Schedule for Individuals with Moderate to Severely Immunocompromising Conditions

Table 2A: Age 6 months – 4 years with Moderate to Severely Immunocompromising Conditions*

Note - The PREP Act, 11th Amendment allows pharmacists to administer COVID-19 vaccines to persons aged 3 through 18 years old through 12/31/2024. Otherwise, pharmacists are only permitted to vaccinate persons ≥ 7 years per ORS 689.645.

COVID-19 Vaccination History Prior to Updated (2023-2024 Formula) Vaccine†	Updated (2023-2024 Formula) Vaccine	Number of Updated (2023-2024 Formula) Vaccine Doses Indicated¥	Dosage (mL/mcg)	Vaccine Vial Cap and Label Colors	Interval Between Doses
Unvaccinated	Moderna	3	0.25 mL/ 25 mcg	Dark blue cap; Green label	Dose 1 and Dose 2: 4 weeks Dose 2 and Dose 3: At least 4 weeks
	OR				
	Pfizer-BioNTech	3	0.3 mL/ 3 mcg	Yellow cap; Yellow label	Dose 1 and Dose 2: 3 weeks Dose 2 and Dose 3: At least 8 weeks
1 dose any Moderna	Moderna	2	0.25 mL/ 25 mcg	Dark blue cap; Green label	Dose 1: 4 weeks after last dose Dose 1 and Dose 2: At least 4 weeks
2 doses any Moderna	Moderna	1	0.25 mL/ 25 mcg	Dark blue cap; Green label	At least 4 weeks after last dose
3 or more doses any Moderna	Moderna	1	0.25 mL/ 25 mcg	Dark blue cap; Green label	At least 8 weeks after last dose
1 dose any Pfizer-BioNTech	Pfizer-BioNTech	2	0.3 mL/ 3 mcg	Yellow cap; Yellow label	Dose 1: 3 weeks after last dose

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					Dose 1 and Dose 2: At least 8 weeks
2 doses any Pfizer-BioNTech	Pfizer-BioNTech	1	0.3 mL/ 3 mcg	Yellow cap; Yellow label	At least 8 weeks after last dose
3 or more doses any Pfizer BioNTech	Pfizer-BioNTech	1	0.3 mL/ 3 mcg	Yellow cap; Yellow label	At least 8 weeks after last dose

†COVID-19 vaccination history refers to previous receipt of doses of Original monovalent mRNA or bivalent mRNA vaccine or a combination of the two.

¥Children ages 6 months–4 years who are moderately or severely immunocompromised may receive 1 additional dose of a homologous updated 2023–2024 Formula mRNA vaccine at least 2 months after the last updated 2023–2024 mRNA vaccine dose. Further additional homologous updated 2023–2024 mRNA dose(s) may be administered by a pharmacist with a prescription issued by a healthcare provider. Any further additional doses should be administered at least 2 months after the last updated 2023–2024 mRNA vaccine dose. For Moderna, administer 0.25 mL/25 ug (dark blue cap; green label); for Pfizer-BioNTech, administer 0.3 mL/3 ug (yellow cap; yellow label).

* For children who transition from age 4 years to age 5 years during the initial vaccination series:

- **Moderna series:** Children are recommended to receive an updated 2023—2024 Moderna COVID-19 Vaccine, 0.25 mL/25 ug (dark blue cap; green label) for all doses.
- **Pfizer-BioNTech series:** Children are recommended to receive an updated 2023—2024 Pfizer-BioNTech COVID-19 Vaccine, 0.3 mL/10 ug (blue cap; blue label) for all doses received on or after turning age 5 years. Alternatively, they may complete the 3-dose series with updated 2023–2024 Pfizer-BioNTech COVID-19 Vaccine for ages 6 months–4 years, 0.3 mL/3 ug (yellow cap; yellow label).

Table 2B: Ages 5-11 years with Moderate to Severely Immunocompromising Conditions *

Note - The PREP Act, 11th Amendment allows pharmacists to administer COVID-19 vaccines to persons aged 3 through 18 years old through 12/31/2024. Otherwise, pharmacists are only permitted to vaccinate persons ≥ 7 years per ORS 689.645.

COVID-19 Vaccination History Prior to Updated (2023-2024 Formula) Vaccine†	Updated (2023-2024 Formula) Vaccine	Number of Updated (2023-2024 Formula) Vaccine Doses Indicated±	Dosage (mL/mcg)	Vaccine Vial Cap and Label Colors	Interval Between Doses
Unvaccinated	Moderna	3	0.25 mL/ 25mcg	Dark blue cap; Green label	Dose 1 and Dose 2: 4 weeks Dose 2 and Dose 3: At least 4 weeks
	OR				
	Pfizer-BioNTech	3	0.3 mL/ 10 mcg	Blue cap; Blue label	Dose 1 and Dose 2: 3 weeks Dose 2 and Dose 3: At least 4 weeks

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1 dose any Moderna	Moderna	2	0.25 mL/ 25 mcg	Dark blue cap; Green label	Dose 1: 4 weeks after last dose Dose 1 and Dose 2: At least 4 weeks
2 doses any Moderna	Moderna	1	0.25 mL/ 25 mcg	Dark blue cap; Green label	At least 4 weeks after last dose
1 dose any Pfizer-BioNTech	Pfizer-BioNTech	2	0.3 mL/ 10 mcg	Blue cap; Blue label	Dose 1: 3 weeks after last dose Dose 1 and Dose 2: At least 4 weeks
2 doses any Pfizer-BioNTech	Pfizer-BioNTech	1	0.3 mL/ 10 mcg	Blue cap; Blue label	At least 4 weeks after last dose
3 or more doses any mRNA vaccine	Moderna	1	0.25 mL/ 25 mcg	Dark blue cap; Green label	At least 8 weeks after last dose
	OR				
	Pfizer-BioNTech	1	0.3 mL/ 10 mcg	Blue cap; Blue label	At least 8 weeks after last dose

†COVID-19 vaccination history refers to previous receipt of doses of Original monovalent mRNA or bivalent mRNA vaccine or a combination of the two.

±Children ages 5–11 years who are moderately or severely immunocompromised may receive 1 additional dose of updated 2023–2024 Moderna COVID-19 Vaccine, 0.25mL/25 ug (dark blue cap; green label) or updated 2023–2024 Pfizer-BioNTech COVID-19 Vaccine, 0.3 mL/10 ug (blue cap; blue label) at least 2 months after the last updated 2023–2024 mRNA vaccine dose indicated in Table 2B. Further additional dose(s) may be administered by a pharmacist with a prescription issued by a healthcare provider. Any further additional doses should be administered at least 2 months after the last updated (2023–2024 Formula) mRNA vaccine dose.

* For children who transition from age 4 years to age 5 years during the initial vaccination series:

- **Moderna series:** Children are recommended to receive an updated 2023-–2024 Moderna COVID-19 Vaccine, 0.25 mL/25 ug (dark blue cap; green label) for all doses.
- **Pfizer-BioNTech series:** Children are recommended to receive an updated 2023-–2024 Pfizer-BioNTech COVID-19 Vaccine, 0.3 mL/10 ug (blue cap; blue label) for all doses received on or after turning age 5 years. Alternatively, they may complete the 3-dose series with updated 2023–2024 Pfizer-BioNTech COVID-19 Vaccine for ages 6 months–4 years, 0.3 mL/3 ug (yellow cap; yellow label).

Table 2C: Ages 12 years and older with Moderate to Severely Immunocompromising Conditions *

COVID-19 Vaccination History Prior to Updated	Updated (2023-2024 Formula) Vaccine	Number of Updated (2023-2024 Formula)	Dosage (mL/mcg)	Vaccine Vial Cap and Label Colors¶	Interval Between Doses

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Protocol for Coronavirus 19 Vaccines
(Moderna, Novavax, Pfizer-BioNTech)

(2023-2024 Formula) Vaccine†		Vaccine Doses Indicated‡§			
Unvaccinated	Moderna	3	0.5 mL/ 50 mcg	Dark blue cap; Blue label	Dose 1 and Dose 2: 4 weeks Dose 2 and Dose 3: At least 4 weeks
	OR				
	Novavax	2	0.5 mL/ 5 mcg rS protein and 50 mcg Matrix-M adjuvant	Blue cap; Blue label	Dose 1 and Dose 2: 3 weeks
	OR				
	Pfizer-BioNTech	3	0.3 mL/ 30 mcg	Gray cap; Gray label	Dose 1 and Dose 2: 3 weeks Dose 2 and Dose 3: At least 4 weeks
1 dose any Moderna	Moderna	2	0.5 mL/ 50 mcg	Dark blue cap; Blue label	Dose 1: 4 weeks after last dose Dose 1 and Dose 2: At least 4 weeks
2 doses any Moderna	Moderna	1	0.5 mL/ 50 mcg	Dark blue cap; Blue label	At least 4 weeks after last dose
1 dose any Pfizer-BioNTech	Pfizer-BioNTech	2	0.3 mL/ 30 mcg	Gray cap; Gray label	Dose 1: 3 weeks after last dose Dose 1 and Dose 2: At least 4 weeks
2 doses any Pfizer-BioNTech	Pfizer-BioNTech	1	0.3 mL/ 30 mcg	Gray cap; Gray label	At least 4 weeks after last dose
3 or more doses any mRNA vaccine	Moderna	1	0.5 mL/ 50 mcg	Dark blue cap; Blue label	At least 8 weeks after last dose
	OR				

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	Novavax	1	0.5 mL/ 5 mcg rS protein and 50 mcg Matrix-M adjuvant	Blue cap; Blue label	At least 8 weeks after last dose
	OR				
	Pfizer-BioNTech	1	0.3 mL/ 30 mcg	Gray cap; Gray label	At least 8 weeks after last dose
1 or more doses Novavax or Janssen, including in combination with any Original monovalent or bivalent COVID-19 vaccine doses	Moderna	1	0.5 mL/ 50 mcg	Dark blue cap; Blue label	At least 8 weeks after last dose
	OR				
	Novavax	1	0.5 mL/ 5 mcg rS protein and 50 mcg Matrix-M adjuvant	Blue cap; Blue label	At least 8 weeks after last dose
	OR				
	Pfizer-BioNTech	1	0.3 mL/ 30 mcg	Gray cap; Gray label	At least 8 weeks after last dose

†COVID-19 vaccination history refers to previous receipt of doses of Original monovalent mRNA or bivalent mRNA vaccine or a combination of the two; for people ages 12 years and older, Original monovalent Novavax COVID-19 Vaccine doses, alone or in combination with any mRNA vaccine doses; and for people ages 18 years and older, Janssen COVID-19 Vaccine doses, alone or in combination with any mRNA or Original monovalent Novavax vaccine doses.

‡Apart from the administration of additional doses, the FDA EUA for the updated 2023–2024 Novavax COVID-19 vaccine does not provide for a specific vaccination schedule for people who are moderately or severely immunocompromised. People ages 12 years and older who are moderately or severely immunocompromised have the option to receive 1 additional dose of an updated 2023–2024 Moderna COVID-19 Vaccine, 0.5 mL/50 ug (dark blue cap; blue label), an updated 2023–2024 Novavax COVID-19 Vaccine; or an updated 2023-–2024 Pfizer-BioNTech COVID-19 Vaccine, 0.3 mL/30 ug (gray cap; gray label) at least 2 months following the last recommended updated 2023-–2024 vaccine dose Further additional dose(s) may be administered by a pharmacist with a prescription issued by a healthcare provider. Any further additional doses should be administered at least 2 months after the last updated 2023-–2024 COVID-19 vaccine dose.

§Administration of additional doses is as follows:

- **People ages 12–64 years who are moderately or severely immunocompromised may** receive 1 additional dose of any updated 2023–2024 COVID-19 vaccine (i.e., Moderna, Novavax, Pfizer-BioNTech) at least 2 months after the last dose of an updated 2023–2024 COVID-19 vaccine as indicated in Table 2C Pharmacist may administer further additional dose(s) with a prescription issued by a healthcare provider. Any further additional doses should be administered at least 2 months after the last updated 2023–2024 COVID-19 vaccine dose.

- **People ages 65 years and older who are moderately or severely immunocompromised should** receive 1 additional dose of any updated 2023–2024 COVID-19 vaccine (i.e., Moderna, Novavax, Pfizer-BioNTech) at least 2 months after the last dose of an updated 2023–2024 vaccine as indicated in Table 2C. Pharmacist may administer further additional dose(s) with a prescription issued by a healthcare provider. Any further additional doses should be administered at least 2 months after the last updated 2023–2024 COVID-19 vaccine dose.

- For all age groups, the dosage for the additional doses is as follows: Moderna, 0.5 mL/50 ug; Novavax, 0.5 mL/5 ug rS protein and 50 ug Matrix-M adjuvant; Pfizer-BioNTech, 0.3 mL/30 ug.

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Protocol for Coronavirus 19 Vaccines
(Moderna, Novavax, Pfizer-BioNTech)

¶ The updated 2023–-2024 Moderna and Pfizer-BioNTech COVID-19 vaccines are also available in a prefilled, single-dose syringe for people ages 12 years and older.

*For children who transition from age 11 years to age 12 years during the initial vaccination series:

- **Moderna series:** Children are recommended to receive an updated 2023–2024 Moderna COVID-19 Vaccine, 0.5 mL/50ug (dark blue cap; blue label) for all doses received on or after turning age 12 years. Alternatively, they may complete the 3-dose series with an updated 2023–2024 Moderna COVID-19 Vaccine for children ages 5–11 years, 0.25 mL/25ug (dark blue cap; green label).
- **Pfizer-BioNTech series:** Children are recommended to receive an updated 2023-–2024 Formula Pfizer-BioNTech COVID-19 Vaccine, 0.3 mL/30 ug (gray cap; gray label) for all doses received on or after turning age 12 years. Alternatively, they may complete the 3-dose series with an updated 2023–2024 Pfizer-BioNTech COVID-19 Vaccine for children ages 5–11 years, 0.3 mL/10 ug (blue cap; blue label).

4. Licensed Vaccines

Product Name	Vaccine Components	Presentation	FDA Approved Age Range	Cap/Label Color
Pfizer-BioNTech 2023-2024 formulation[1]	mRNA	0.9 mL, 3 dose vial 0.3 mL, single dose vial	3-4 years 5-11 years	Yellow Cap Blue Cap
Pfizer-BioNTech COMIRNATY®[3] 2023-2024 formulation	mRNA	0.3 mL, single dose vial 0.3 mL, prefilled syringe	≥ 12 years	Gray Cap
Moderna 2023-2024 formulation[2]	mRNA	0.25 mL, single dose vial	3-11 years	Blue Cap/Green Label
Moderna SPIKEVAX® 2023-2024 formulation[4]	mRNA	2.5 mL, 5 dose vial 0.5 mL, single dose vial 0.5 mL, prefilled syringe	≥ 12 years	Blue Cap/Blue Label
NVX-CoV2373[3] (NOVAVAX® 2023-2024 formulation)[5]	Protein subunit	2.5 mL, 5-dose vial	≥ 12 years	Royal Blue Cap

5. Recommendations for Use[1-8]

A. Vaccine Schedule for Immunocompetent Individuals

Ages 6 months–4 years

1. Unvaccinated: 2 or 3 homologous (i.e., from the same manufacturer) updated 2023–2024 mRNA vaccine doses, depending on vaccine manufacturer (i.e., Moderna, Pfizer-BioNTech).
2. Previously received an incomplete series of Original monovalent or bivalent mRNA vaccine doses: Complete the vaccination series with 1 or 2 homologous updated 2023–2024 mRNA vaccine doses, depending on vaccine manufacturer and the number of previous vaccine doses.
3. Previously received all doses in the initial vaccination series with Original monovalent or bivalent mRNA vaccine: 1 homologous updated 2023–2024 mRNA vaccine dose.

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Protocol for Coronavirus 19 Vaccines
(Moderna, Novavax, Pfizer-BioNTech)

4. Special situations for children ages 6 months–4 years: COVID-19 vaccine doses from the same manufacturer should be administered whenever recommended. In the following circumstances, an age-appropriate COVID-19 vaccine from a different manufacturer may be administered:
   - Same vaccine not available at the vaccination site at the time of the clinic visit
   - Previous dose unknown
   - Person would otherwise not receive a recommended vaccine dose
   - Person starts but unable to complete a vaccination series with the same COVID-19 vaccine due to a contraindication.
5. The **extended interval** consideration applies only to the following people who are not moderately or severely immunocompromised:
   - Ages 6 months–4 years, depending on their vaccination history
   - Ages 12 years–64 years and receiving a 2-dose Novavax series

   The **minimum interval** between the first and second doses continues to be recommended for:
   - People who are moderately or severely immunocompromised
   - People ages 65 years and older receiving Novavax vaccine
   - Situations when the fullest possible protection needs to be achieved sooner (e.g., increased concern about an individual's higher risk for severe disease)

Ages 5–11 years

1. Unvaccinated or previously received any number of Original monovalent or bivalent mRNA vaccine doses: 1 dose of an updated 2023–2024 mRNA vaccine from either manufacturer (i.e., Moderna or Pfizer-BioNTech).

Ages 12 years and older

1. Unvaccinated: 1 dose of an updated 2023–2024 mRNA COVID-19 vaccine (i.e., Moderna, Pfizer-BioNTech) OR 2 doses of the updated 2023–2024 Novavax vaccine.
2. Previously received 1 or more Original monovalent or bivalent mRNA vaccine doses: 1 dose of any updated 2023–2024 COVID-19 vaccine (i.e., Moderna, Novavax, Pfizer-BioNTech).
3. Previously received 1 or more doses of Original monovalent Novavax vaccine, alone or in combination with any Original monovalent or bivalent mRNA vaccine doses: 1 dose of any updated 2023–2024 Formula COVID-19 vaccine (i.e., Moderna, Novavax, Pfizer-BioNTech).
4. Previously received 1 or more doses of Janssen vaccine, alone or in combination with any Original monovalent or bivalent mRNA vaccine or Original monovalent Novavax doses: 1 dose of any updated 2023–2024 COVID-19 vaccine (i.e., Moderna, Novavax, Pfizer-BioNTech).
5. Special situation for people ages 65 years and older: People ages 65 years and older should receive 1 additional dose of any updated 2023–2024 COVID-19 vaccine (i.e., Moderna, Novavax, Pfizer-BioNTech) at least 4 months following the previous dose of an updated 2023–2024 COVID-19 vaccine. For initial vaccination with the updated 2023–2024 Novavax COVID-19 Vaccine, the 2-dose series should be completed before administration of the additional dose.
6. The **extended interval** consideration applies only to the following people who are not moderately or severely immunocompromised:
   - Ages 6 months–4 years, depending on their vaccination history
   - Ages 12 years–64 years and receiving a 2-dose Novavax series

   The **minimum interval** between the first and second doses continues to be recommended for:
   - People who are moderately or severely immunocompromised

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- People ages 65 years and older receiving Novavax vaccine
- Situations when the fullest possible protection needs to be achieved sooner (e.g., increased concern about an individual's higher risk for severe disease)

a. Vaccine Schedule for Individuals with Moderate to Severely Immunocompromising Conditions

Conditions causing moderate to severe immunodeficiency include¥:

- Active treatment for solid tumor and hematologic malignancies
- Receipt of solid-organ transplant and taking immunosuppressive therapy
- Receipt of Chimeric antigen receptor (CAR)-T-cell or hematopoietic cell transplant (HCT) within 2 years of transplantation or taking immunosuppression therapy
- Moderate or severe primary immunodeficiency (e.g., DiGeorge, Wiskott-Aldrich syndromes)
- Advanced or untreated HIV infection (people with HIV and CD4 cell counts <200/mm3, history of an AIDS-defining illness without immune reconstitution, or clinical manifestations of symptomatic HIV)
- Active treatment with high-dose corticosteroids (i.e., ≥20 mg prednisone or equivalent per day)
- Alkylating agents, antimetabolites, transplant-related immunosuppressive drugs, cancer chemotherapeutic agents classified as severely immunosuppressive, TNF blockers, and other biologic agents that are immunosuppressive or immunomodulatory.

¥Individuals with immunocompromising conditions not listed above, may receive subsequent vaccination doses with a prescription from a healthcare provider.

Ages 6 months through 4 years

1. Unvaccinated: 3 homologous (i.e., from the same manufacturer) updated 2023–2024 mRNA vaccine doses (i.e., Moderna, Pfizer-BioNTech).
2. Previously received 1 or 2 Original monovalent or bivalent mRNA vaccine doses: Complete the 3-dose series with 2 or 1 homologous updated 2023–2024 mRNA vaccine doses, respectively.
3. Previously received a combined total of 3 or more Original monovalent or bivalent mRNA vaccine doses: 1 dose of a homologous updated 2023–2024 mRNA vaccine.
4. Special situations for children ages 6 months–4 years: COVID-19 vaccine doses from the same manufacturer should be administered whenever recommended. In the following circumstances, an age-appropriate COVID-19 vaccine from a different manufacturer may be administered:
   - Same vaccine not available at the vaccination site at the time of the clinic visit
   - Previous dose unknown
   - Person would otherwise not receive a recommended vaccine dose
   - Person starts but unable to complete a vaccination series with the same COVID-19 vaccine due to a contraindication.
5. Additional doses: May receive 1 or more additional homologous updated 2023–2024 mRNA vaccine doses with a prescription issued by a healthcare provider.

Ages 5 through 11 years

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1. Unvaccinated: 3 homologous (i.e., from the same manufacturer) updated 2023–2024 mRNA vaccine doses (i.e., Moderna, Pfizer-BioNTech).
2. Previously received 1 or 2 Original monovalent or bivalent mRNA vaccine doses: Complete the 3-dose series with 2 or 1 homologous updated 2023–2024 mRNA vaccine doses, respectively.
3. Previously received a combined total of 3 or more Original monovalent or bivalent mRNA vaccine doses: 1 dose of an updated 2023–2024 mRNA vaccine from either manufacturer.
4. Additional doses: May receive 1 or more additional updated 2023–2024 mRNA vaccine doses from either manufacturer with a prescription issued by a healthcare provider.

Ages 12 years and older

1. Unvaccinated: 3 homologous (i.e., from the same manufacturer) updated 2023–2024 mRNA vaccine doses (i.e., Moderna, Pfizer-BioNTech) OR 2 updated 2023–2024 Novavax vaccine doses.
2. Previously received 1 or 2 Original monovalent or bivalent mRNA vaccine doses: Complete the 3-dose series with 2 or 1 homologous updated 2023–2024 mRNA vaccine doses, respectively.
3. Previously received a combined total of 3 or more Original monovalent or bivalent mRNA vaccine doses: 1 dose of any updated 2023–2024 COVID-19 vaccine (i.e., Moderna, Novavax, Pfizer-BioNTech).
4. Previously received 1 or more Original monovalent Novavax vaccine doses, alone or in combination with any Original monovalent or bivalent mRNA vaccine doses: 1 dose of any updated 2023–2024 COVID-19 vaccine (i.e., Moderna, Novavax, Pfizer-BioNTech).
5. Previously received 1 or more doses of Janssen vaccine, alone or in combination with any Original monovalent or bivalent mRNA vaccine or Original monovalent Novavax doses: 1 dose of any updated 2023–2024 COVID-19 vaccine (i.e., Moderna, Novavax, Pfizer-BioNTech).
6. Additional doses:
   - People ages 12–64 years may receive 1 or more additional doses of any updated 2023–2024 COVID-19 vaccine (i.e., Moderna, Novavax, Pfizer-BioNTech) with a prescription issued by a healthcare provider.
   - People ages 65 years and older should receive 1 additional dose of any updated 2023-2024 COVID-19 vaccine (i.e., Moderna, Novavax, Pfizer-BioNTech) at least 2 months after receipt of a previous updated 2023-2024 COVID-19 vaccine. Individuals 65 years and older may receive further additional doses of any updated 2023–2024 COVID-19 vaccine (i.e., Moderna, Novavax, Pfizer-BioNTech) with a prescription issued by a healthcare provider.

6. Contraindications

a. Severe allergic reaction (e.g., anaphylaxis) to a previous dose or to any vaccine component.[1-5]

Vaccine	Contains
Pfizer-BioNtech 2023-2024 formulation[1] (yellow cap and border)[1]	Lipids (0.04 mg ((4-hydroxybutyl)azanediyl)bis(hexane6,1-diyl)bis(2-hexyldecanoate), 0.005 mg 2[(polyethylene glycol)-2000]-N,N itetradecylacetamide, 0.01 mg 1,2-distearoyl-snglycero-3-phosphocholine, and 0.02 mg cholesterol), 9.4

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	mg sucrose, 0.02 mg tromethamine, and 0.12 mg tromethamine hydrochloride. The diluent (sterile 0.9% Sodium Chloride Injection, USP) contributes 1.88 mg sodium chloride per dose.
Pfizer-BioNtech 2023-2024 formulation[1] (blue cap and border)	Lipids (0.14 mg ((4- hydroxybutyl)azanediyl)bis(hexane6,1-diyl)bis(2-hexyldecanoate), 0.02 mg 2[(polyethylene glycol)-2000]-N,N-ditetradecylacetamide, 0.03 mg 1,2- distearoyl-sn-glycero-3-phosphocholine, and 0.06 mg cholesterol), 31 mg sucrose, 0.06 mg tromethamine, and 0.4 mg tromethamine hydrochloride.
Pfizer-BioNtech COMIRNATY® 2023-2024 formulation[3] (gray cap and border)	Lipids (0.43 mg ((4-hydroxybutyl)azanediyl)bis(hexane6,1-diyl)bis(2-hexyldecanoate),0.05 mg 2-(polyethylene glycol 2000)-N,N-ditetradecylacetamide, 0.09 mg 1,2-distearoyl-sn-glycero-3-phosphocholine, and 0.19 mg cholesterol), 0.06 mg tromethamine, 0.4 mg tromethamine hydrochloride, and 31 mg sucrose
Moderna 2023-2024 formulation[2] (dark blue cap and green border)	Total lipid content of 0.5 mg (SM-102, polyethylene glycol [PEG] 2000 dimyristoyl glycerol [DMG], cholesterol, and 1,2-distearoyl-sn-glycero-3- phosphocholine [DSPC]), 0.13 mg tromethamine, 0.62 mg tromethamine hydrochloride, 0.011 mg acetic acid, 0.049 mg sodium acetate trihydrate, and 21.8 mg sucrose.
Moderna SPIKEVAX® 2023-2024 formulation[4] (dark blue cap and border)	Total lipid content of 1.01 mg (SM-102, polyethylene glycol [PEG] 2000 dimyristoyl glycerol [DMG], cholesterol, and 1,2-distearoyl-sn-glycero-3- phosphocholine [DSPC]), 0.25 mg tromethamine, 1.2 mg tromethamine hydrochloride, 0.021 mg acetic acid, 0.10 mg sodium acetate trihydrate, and 43.5 mg sucrose.
NVA-CoV2373 (NOVAVAX® 2023-2024 formulation)[5]	Cholesterol, phosphatidylcholine, potassium dihydrogen phosphate (3.85 µg), potassium chloride (2.25 µg), disodium hydrogen phosphate dihydrate (14.7 µg), disodium hydrogen phosphate heptahydrate (2.465 mg), sodium dihydrogen phosphate monohydrate (0.445 mg), sodium chloride (8.766 mg) and polysorbate 80 (0.050 mg). The vaccine contains a recombinant form of the SARS-CoV-2 spike protein produced from baculovirus infected Sf9 (fall armyworm) insect cells and Matrix-M™ adjuvant is composed of Fraction-A (42.5 µg) and Fraction-C (7.5 µg) of saponin extracts from the soapbark tree, Quillaja saponaria Molina. The pH is adjusted with sodium hydroxide or hydrochloric acid.

7. **Warnings and Precautions[8]**
    a. History of severe allergic reaction (e.g., anaphylaxis) to any other vaccine or injectable therapy (e.g., intravenous, intramuscular or subcutaneous).
    b. Persons who have a contraindication to additional doses of mRNA COVID-19 vaccines are considered to have a precaution to the Novavax vaccine. A single dose may be given in an appropriate setting under the supervision of a health care provider experienced in the management of severe allergic reactions. Consider referral to an allergist-immunologist. This

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additional dose could be considered after a minimum interval of 28 days after the mRNA COVID-19 vaccine dose. See Appendix A for additional information.

c. Moderate or severe acute illness.

d. Development of myocarditis or pericarditis within 3 weeks after a dose of any COVID-19 vaccine is a precaution to a subsequent dose of any COVID-19 vaccine, and subsequent doses should generally be avoided.

8. **Other Considerations**[8]

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a. Individuals with known COVID-19 infection should wait until their symptoms have resolved and criteria have been met to discontinue isolation. Persons who have a history of COVID-19 disease should be vaccinated if otherwise indicated. If desired, persons with acute COVID-19 may wait up to 90 days to receive vaccination, as reinfection within 90 days is uncommon. Viral testing to assess for acute SARS-CoV-2 infection or serologic testing to assess for prior infection solely for the purposes of vaccine decision-making is not recommended.

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b. Individuals who received monoclonal antibodies or convalescent plasma during COVID-19 treatment may be vaccinated as soon as their symptoms have resolved.

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c. Individuals with a known community or outpatient setting COVID-19 exposure should wait until the end of their quarantine period before seeking vaccination to avoid potentially exposing healthcare personnel.

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d. Individuals who have been exposed to COVID-19 living in congregate settings, including long-term care, homeless shelters, or correctional institutions, where exposure or transmission can occur repeatedly over a long period of time may be vaccinated without completing a quarantine period.

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e. Ask patient to remain seated in the clinic for 15 minutes after vaccination to decrease the risk of injury should they faint. Individuals with a history of severe allergic reactions should be asked to remain for 30 minutes.

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f. CDC recommends that vaccine for children aged 5–17 years of age with history of Multisystem Inflammatory Syndrome of Children (MIS-C) be delayed for 90 days after their diagnosis of MIS-C. Providers should inform individuals that the risk of reinfection, and therefore the potential benefit from vaccination, may increase with time following initial infection.

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g. COVID-19 vaccination is recommended for all people of childbearing age, including people who are pregnant, breastfeeding, trying to get pregnant now, or might become pregnant in the future.

h. Persons who are trying to become pregnant do not need to avoid pregnancy after receiving COVID-19 vaccine. There is no recommendation for routine pregnancy testing before receipt of a COVID-19 vaccine.

i. Persons with underlying medical conditions who have no contraindications may receive COVID-19 vaccine.

j. Children 3 years through 4 years of age should complete a multi-dose initial series (2 doses of Moderna vaccine or 3 doses of Pfizer-BioNtech vaccine) with at least one dose of the 2023–2024 COVID-19 mRNA vaccines. Doses for adults and immunocompromised persons ≥5 years of age may receive any age-appropriate authorized product.

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9. Side Effects and Adverse Reactions

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a. COVID-19 vaccines appear to be more reactogenic than most. Inform patient that symptoms of immune system activation are normal (see Table) and should improve without intervention in 12-24 hours.

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Pfizer-BioNtech [1,3] and Moderna[2,4] Adverse Events	Frequency
Injection site events (pain at the injection site, redness, swelling)	Very common, up to 93%
Systemic events (fatigue, headache, muscle ache, joint pain)	Very common, up to 77%
Fever	Up to 16%
Lymphadenopathy*	Up to 20%
Serious adverse events	Uncommon, up to 1% (similar to placebo group)

*Lymph node swelling in the underarm is more common after the booster dose than after the initial series.

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Novavax[5] Adverse Events	Frequency
Injection site events (pain at the injection site, redness, swelling)	Very common, up to 82%
Systemic events (fatigue, muscle pain, headache, nausea)	Very common, up to 62%
Fever	Uncommon, up to 6%

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10. **Storage and Handling**
    a. Store medications according to OAR 855-041-1036.
    b. For Pfizer-BioNtech vaccine only: thaw, if needed. The single dose pre-filled glass syringe (COMIRNATY) CANNOT be frozen and stored in the refrigerator. The yellow cap formulation requires reconstitution; the blue and gray cap formulations are ready to administer.[1,3]
    c. For Moderna vaccine only: thaw vaccine prior to administration.[2,4]

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Vaccine	Temp	Storage Issues	Notes
Pfizer-BioNtech [1,3]	-90° to -60° C (-130° to -76° F)	Vaccine may be stored until the expiration date.	Do not freeze the single dose pre-filled glass syringe (discard if frozen)
	2° to 8° C (36° to 46° F)	**Adolescent/adult 2023-2024 formulation (blue or gray cap vial OR single dose pre-filled plastic pre-filled syringe):** store in the refrigerator for up to 10 weeks	
		Pediatric 2023-2024 formulation (yellow cap): before mixing, the vaccine may be stored in the refrigerator for up to 10 weeks.	

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		Adolescent/adult 2023-2024 formulation (single dose pre-filled glass syringe): Store in the refrigerator until printed expiration date on carton	
	Ambient temperatures	**Adolescent/adult 2023-2024 formulation (blue or gray cap vial OR single dose pre-filled glass syringe OR single dose pre-filled plastic syringe):** vaccine may be held at room temperature for up to 12 hours	
		Pediatric 2023-2024 formulation (yellow cap): once mixed, vaccine may be held at room temperature for up to 12 hours	
Moderna[2,4]	-50° to -15° C (-58° to 5° F)	Vaccine is viable until the expiration date.	For multi-dose vials, once stopper has been punctured, all doses must be used within 12 hours. Do not refreeze once thawed. Protect vaccine from light.
	2° to 8° C (36° to 46° F)	Vaccine is viable under refrigeration for up to 30 days.	
	Ambient temperatures	Unpunctured vials of vaccine is viable for up to 24 hours at room temperature	
Novavax[5]	2°– 8°C (36° to 46° F)	No expiration date is printed on vial or carton. Lookup the expiration date of the batch/Lot number at www.novavaxcovidvaccine.com enter "United States" as the "country/region."	Once vial stopper has been punctured, store vial at 2° to 25° C (36° to 77° F) for use within 12 hours. Discard the vial 12 hours after first puncture. Do not freeze. Protect vaccine from light.

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11. References

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12. **Appendix**
    a. COVID-19 vaccination schedule for people who are not moderately or severely immunocompromised by COVID-19 vaccination history, April 2024: https://www.cdc.gov/vaccines/covid-19/downloads/covid-19-immunization-schedule-ages-6months-older.pdf

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CONTINUATION OF THERAPY

Including Emergency Refills of Insulin and Early Refills of Opioid Use Disorder Medications

STATEWIDE DRUG THERAPY MANAGEMENT PROTOCOL for the OREGON PHARMACIST

AUTHORITY and PURPOSE:

- Per ORS 689.645, a pharmacist may provide patient care services pursuant to a statewide drug therapy management protocol.
- Per ORS 689.696, a pharmacist may prescribe and dispense emergency refills of insulin and associated insulin-related devices and supplies to a person who has evidence of a previous prescription from a licensed health care provider.
- Per 2024 HB 4002, a pharmacist with a may prescribe and dispense early refills of medication for the treatment of opioid use disorder.

- Following all elements outlined in OAR 855-115-0330 and OAR 855-115-0335, a pharmacist licensed and located in Oregon may prescribe:
- Any non-controlled drug or device to a person who has evidence of a previous prescription drug or device from a licensed health care provider in order to:
  - Replace a damaged* prescription drug or device within the original duration of therapy; or
    - Extend a patient's current prescription drug or device (same drug/device, dose and directions) to avoid interruption of treatment.
  - An early refill of a non-controlled drug or device to a person who has evidence of a previous prescription for Opioid Use Disorder from a licensed health care provider in order to:
    - Replace a medication that has been lost, stolen or destroyed within a 12 month period.
    - Refill a medication for which the previous prescription expired in the prior 12 month period.

*The Pharmacist must use their reasonable professional judgment as defined by OAR 855-006-0005 to determine if the drug or device is damaged. This includes physical damage like broken containers or spills, chemical changes like discoloration or unusual odors, and damage from exposure to heat or moisture, which can affect the drug or device's effectiveness and safety.

STANDARDIZED PATIENT ASSESSMENT PROCESS ELEMENTS:

- Utilize the standardized Continuation of Therapy Patient Intake Form (pg. 2)
- Utilize the standardized Continuation of Therapy Assessment and Treatment Care Pathway (pg. 3)
- Utilize the standardized Continuation of Therapy Prescription Template *optional* (pg. 4)
- Utilize the standardized Patient Informational Handout *optional* (pg. 5)
- Utilize the standardized Continuation of Therapy Provider Fax *optional for insulin/non-insulin and non-opioid use disorder medications, required for opioid use disorder medications* (pg. 6)

PRESCRIBING PARAMETERS

- **For Non-Insulin and Non-Opioid Use Disorder Medication, Medication Related Devices and Supplies:**
  - Quantity sufficient for the circumstances
  - Maximum quantity:
    - Damaged: May not exceed original duration of therapy

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(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.

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(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.

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        - Extend: May not exceed a 60-day supply
    - Maximum frequency:
        - Damaged: No more than one replacement in a rolling 12-month period per medication
        - Extend: No more than two extensions in a rolling 12-month period per medication

- **For Insulin, Insulin Related Devices and Supplies (excluding pump devices):**
    - Quantity sufficient for the circumstances
    - Maximum quantity: Lesser of a 30-day supply or the smallest available package size
    - Maximum frequency: No more than three extensions in a calendar year (Jan 1- Dec 31)

- **For Opioid Use Disorder Medication (excluding controlled substances):**
    - Quantity consistent with the amount specified in the most recent prescription for the medication
    - Maximum quantity: The amount specified in the most recent prescription for the medication.
    - Maximum frequency:
        - Lost/Stolen/Destroyed: No more than 3 refills in a 12-month period per medication*
        - Prescription expired in prior 12 month period: No more than 1 refill in a 12-month period per medication*

    *In accordance with federal law.

PHARMACIST TRAINING/EDUCATION: None required.

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(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.

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Commented [JD5]: Should there be a time period qualifier? A non-controlled Rx is only valid for one year per OAR 855-041-1125

Commented [JD6R5]: Should there be a time period between refills? Every day for 3 days in a row?

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Enrolled
House Bill 4002

Introduced and printed pursuant to House Rule 12.00. Presession filed (at the request of Joint Interim Committee on Addiction and Community Safety Response for Representative Jason Kropf, Senator Kate Lieber)

CHAPTER .....

AN ACT

Relating to the addiction crisis in this state; creating new provisions; amending ORS 51.050, 133.060, 135.050, 135.753, 137.225, 137.300, 153.012, 153.018, 153.019, 153.021, 153.064, 153.992, 221.339, 316.502, 414.609, 414.766, 419C.370, 423.478, 423.483, 423.525, 430.234, 430.384, 430.389, 430.392, 430.399, 430.401, 431A.463, 475.005, 475.235, 475.245, 475.752, 475.814, 475.824, 475.834, 475.854, 475.874, 475.884, 475.894, 475.900, 670.280, 689.005, 743A.168, 750.055 and 750.333; repealing ORS 153.043, 153.062, 293.665, 305.231, 419C.460 and 475.237; and declaring an emergency.

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

BEHAVIORAL HEALTH
(Payment for Substance Use Disorder Treatment)

SECTION 1. Section 2 of this 2024 Act is added to and made a part of ORS chapter 743A.

SECTION 2. (1) As used in this section:

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

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

(c) "Substance use disorder" has the meaning given that term in the fifth edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

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

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

(a) May not impose a requirement for prior authorization or any other form of utilization review for the reimbursement of a covered medication approved by the United States Food and Drug Administration that is prescribed for the purpose of treating a substance use disorder, including but not limited to opioid addiction and opioid withdrawal.

(b) Shall reimburse the cost of refills of medications described in paragraph (a) of this subsection if dispensed by a licensed health care professional who is legally authorized to dispense such medications, including early refills described in section 7 of this section.

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

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

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

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

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

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

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

SECTION 3. ORS 743A.168 is amended to read:

743A.168. (1) As used in this section:

(a) "Behavioral health assessment" means an evaluation by a provider, in person or using telemedicine, to determine a patient's need for behavioral health treatment.

(b) "Behavioral health condition" has the meaning prescribed by rule by the Department of Consumer and Business Services.

(c) "Behavioral health crisis" means a disruption in an insured's mental or emotional stability or functioning resulting in an urgent need for immediate outpatient treatment in an emergency department or admission to a hospital to prevent a serious deterioration in the insured's mental or physical health.

(d) "Facility" means a corporate or governmental entity or other provider of services for the treatment of behavioral health conditions.

(e) "Generally accepted standards of care" means:

(A) Standards of care and clinical practice guidelines that:

(i) Are generally recognized by health care providers practicing in relevant clinical specialties; and

(ii) Are based on valid, evidence-based sources; and

(B) Products and services that:

(i) Address the specific needs of a patient for the purpose of screening for, preventing, diagnosing, managing or treating an illness, injury or condition or symptoms of an illness, injury or condition;

(ii) Are clinically appropriate in terms of type, frequency, extent, site and duration; and

(iii) Are not primarily for the economic benefit of an insurer or payer or for the convenience of a patient, treating physician or other health care provider.

(f) "Group health insurer" means an insurer, a health maintenance organization or a health care service contractor.

(g) "Median maximum allowable reimbursement rate" means the median of all maximum allowable reimbursement rates, minus incentive payments, paid for each billing code for each provider type during a calendar year.

(h) "Prior authorization" has the meaning given that term in ORS 743B.001.

(i) "Program" means a particular type or level of service that is organizationally distinct within a facility.

(j) "Provider" means:

(A) A behavioral health professional or medical professional licensed or certified in this state who has met the credentialing requirement of a group health insurer or an issuer of an individual health benefit plan that is not a grandfathered health plan as defined in ORS 743B.005 and is otherwise eligible to receive reimbursement for coverage under the policy;

(B) A health care facility as defined in ORS 433.060;

(C) A residential facility as defined in ORS 430.010;

(D) A day or partial hospitalization program;

(E) An outpatient service as defined in ORS 430.010; or

(F) A provider organization certified by the Oregon Health Authority under subsection (9) of this section.

(k) "Relevant clinical specialties" includes but is not limited to:

(A) Psychiatry;

(B) Psychology;

(C) Clinical sociology;

(D) Addiction medicine and counseling; and

(E) Behavioral health treatment.

(L) "Standards of care and clinical practice guidelines" includes but is not limited to:

(A) Patient placement criteria;

(B) Recommendations of agencies of the federal government; and

(C) Drug labeling approved by the United States Food and Drug Administration.

(m) "Utilization review" has the meaning given that term in ORS 743B.001.

(n) "Valid, evidence-based sources" includes but is not limited to:

(A) Peer-reviewed scientific studies and medical literature;

(B) Recommendations of nonprofit health care provider professional associations; and

(C) Specialty societies.

(2) A group health insurance policy or an individual health benefit plan that is not a grandfathered health plan providing coverage for hospital or medical expenses, other than limited benefit coverage, shall provide coverage for expenses arising from the diagnosis of behavioral health conditions and medically necessary behavioral health treatment at the same level as, and subject to limitations no more restrictive than, those imposed on coverage or reimbursement of expenses arising from treatment for other medical conditions. The following apply to coverage for behavioral health treatment:

(a) The coverage may be made subject to provisions of the policy that apply to other benefits under the policy, including but not limited to provisions relating to copayments, deductibles and coinsurance. Copayments, deductibles and coinsurance for treatment in health care facilities or residential facilities may not be greater than those under the policy for expenses of hospitalization in the treatment of other medical conditions. Copayments, deductibles and coinsurance for outpatient treatment may not be greater than those under the policy for expenses of outpatient treatment of other medical conditions.

(b) The coverage of behavioral health treatment may not be made subject to treatment limitations, limits on total payments for treatment, limits on duration of treatment or financial requirements unless similar limitations or requirements are imposed on coverage of other medical conditions. The coverage of eligible expenses of behavioral health treatment may be limited to treatment that is medically necessary as determined in accordance with this section and no more stringently under the policy than for other medical conditions.

(c) The coverage of behavioral health treatment must include:

(A) A behavioral health assessment;

(B) No less than the level of services determined to be medically necessary in a behavioral health assessment of the specific needs of a patient or in a patient's care plan:

(i) To effectively treat the patient's underlying behavioral health condition rather than the mere amelioration of current symptoms such as suicidal ideation or psychosis; and

(ii) For care following a behavioral health crisis, to transition the patient to a lower level of care;

(C) Treatment of co-occurring behavioral health conditions or medical conditions in a coordinated manner;

(D) Treatment at the least intensive and least restrictive level of care that is safe and most effective and meets the needs of the insured's condition;

(E) A lower level or less intensive care only if it is comparably as safe and effective as treatment at a higher level of service or intensity;

(F) Treatment to maintain functioning or prevent deterioration;

(G) Treatment for an appropriate duration based on the insured's particular needs;

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

(I) Treatment appropriate to the unique needs of older adults; and

(J) Coordinated care and case management as defined by the Department of Consumer and Business Services by rule.

(d) The coverage of behavioral health treatment may not limit coverage for treatment of pervasive or chronic behavioral health conditions to short-term or acute behavioral health treatment at any level of care or placement.

(e) A group health insurer or an issuer of an individual health benefit plan other than a grandfathered health plan shall have a network of providers of behavioral health treatment sufficient to meet the standards described in ORS 743B.505. If there is no in-network provider qualified to timely deliver, as defined by rule, medically necessary behavioral treatment to an insured in a geographic area, the group health insurer or issuer of an individual health benefit plan shall provide coverage of out-of-network medically necessary behavioral health treatment without any additional out-of-pocket costs if provided by an available out-of-network provider that enters into an agreement with the insurer to be reimbursed at in-network rates.

(f) A provider is eligible for reimbursement under this section if:

(A) The provider is approved or certified by the Oregon Health Authority;

(B) The provider is accredited for the particular level of care for which reimbursement is being requested by the Joint Commission or the Commission on Accreditation of Rehabilitation Facilities;

(C) The patient is staying overnight at the facility and is involved in a structured program at least eight hours per day, five days per week; or

(D) The provider is providing a covered benefit under the policy.

(g) A group health insurer or an issuer of an individual health benefit plan other than a grandfathered health plan must use the same methodology to set reimbursement rates paid to behavioral health treatment providers that the group health insurer or issuer of an individual health benefit plan uses to set reimbursement rates for medical and surgical treatment providers.

(h) A group health insurer or an issuer of an individual health benefit plan other than a grandfathered health plan must update the methodology and rates for reimbursing behavioral health treatment providers in a manner equivalent to the manner in which the group health insurer or issuer of an individual health benefit plan updates the methodology and rates for reimbursing medical and surgical treatment providers, unless otherwise required by federal law.

(i) A group health insurer or an issuer of an individual health benefit plan other than a grandfathered health plan that reimburses out-of-network providers for medical or surgical services must reimburse out-of-network behavioral health treatment providers on the same terms and at a rate that is in parity with the rate paid to medical or surgical treatment providers.

(j) Outpatient coverage of behavioral health treatment shall include follow-up in-home service or outpatient services if clinically indicated under criteria and guidelines described in subsection (5) of this section. The policy may limit coverage for in-home service to persons who are homebound under the care of a physician only if clinically indicated under criteria and guidelines described in subsection (5) of this section.

(k)(A) Subject to **section 2 of this 2024 Act and to** the patient or client confidentiality provisions of ORS 40.235 relating to physicians, ORS 40.240 relating to nurse practitioners, ORS 40.230 relating to psychologists, ORS 40.250 and 675.580 relating to licensed clinical social workers and ORS 40.262 relating to licensed professional counselors and licensed marriage and family therapists, a group health insurer or issuer of an individual health benefit plan may provide for review for level of treatment of admissions and continued stays for treatment in health facilities, residential facilities, day or partial hospitalization programs and outpatient services by either staff of a group health insurer or issuer of an individual health benefit plan or personnel under contract to the group health insurer or issuer of an individual health benefit plan that is not a grandfathered health plan, or by a utilization review contractor, who shall have the authority to certify for or deny level of payment.

(B) Review shall be made according to criteria made available to providers in advance upon request.

(C) Review shall be performed by or under the direction of a physician licensed under ORS 677.100 to 677.228, a psychologist licensed by the Oregon Board of Psychology, a clinical social worker licensed by the State Board of Licensed Social Workers or a professional counselor or marriage and family therapist licensed by the Oregon Board of Licensed Professional Counselors and Therapists, in accordance with standards of the National Committee for Quality Assurance or Medicare review standards of the Centers for Medicare and Medicaid Services.

(D) Review may involve prior [*approval*] **authorization**, concurrent review of the continuation of treatment, post-treatment review or any combination of these. However, if prior [*approval*] **authorization** is required, provision shall be made to allow for payment of urgent or emergency admissions, subject to subsequent review. If prior [*approval*] **authorization** is not required, group health insurers and issuers of individual health benefit plans that are not grandfathered health plans shall permit providers, policyholders or persons acting on their behalf to make advance inquiries regarding the appropriateness of a particular admission to a treatment program. Group health insurers and issuers of individual health benefit plans that are not grandfathered health plans shall provide a timely response to such inquiries. Noncontracting providers must cooperate with these procedures to the same extent as contracting providers to be eligible for reimbursement.

(L) Health maintenance organizations may limit the receipt of covered services by enrollees to services provided by or upon referral by providers contracting with the health maintenance organization. Health maintenance organizations and health care service contractors may create substantive plan benefit and reimbursement differentials at the same level as, and subject to limitations no more restrictive than, those imposed on coverage or reimbursement of expenses arising out of other medical conditions and apply them to contracting and noncontracting providers.

(3) **Except as provided in section 2 of this 2024 Act,** this section does not prohibit a group health insurer or issuer of an individual health benefit plan that is not a grandfathered health plan from managing the provision of benefits through common methods, including but not limited to selectively contracted panels, health plan benefit differential designs, preadmission screening, prior authorization of services, utilization review or other mechanisms designed to limit eligible expenses to those described in subsection (2)(b) of this section provided such methods comply with the requirements of this section.

(4) The Legislative Assembly finds that health care cost containment is necessary and intends to encourage health insurance plans designed to achieve cost containment by ensuring that reimbursement is limited to appropriate utilization under criteria incorporated into the insurance, either directly or by reference, in accordance with this section.

(5)(a) Any medical necessity, utilization or other clinical review conducted for the diagnosis, prevention or treatment of behavioral health conditions or relating to service intensity, level of care placement, continued stay or discharge must be based solely on the following:

(A) The current generally accepted standards of care.

(B) For level of care placement decisions, the most recent version of the levels of care placement criteria developed by the nonprofit professional association for the relevant clinical specialty.

(C) For medical necessity, utilization or other clinical review conducted for the diagnosis, prevention or treatment of behavioral health conditions that does not involve level of care placement decisions, other criteria and guidelines may be utilized if such criteria and guidelines are based on the current generally accepted standards of care including valid, evidence-based sources and current treatment criteria or practice guidelines developed by the nonprofit professional association for the relevant clinical specialty. Such other criteria and guidelines must be made publicly available and made available to insureds upon request to the extent permitted by copyright laws.

(b) This subsection does not prevent a group health insurer or an issuer of an individual health benefit plan other than a grandfathered health plan from using criteria that:

(A) Are outside the scope of criteria and guidelines described in paragraph (a)(B) of this subsection, if the guidelines were developed in accordance with the current generally accepted standards of care; or

(B) Are based on advancements in technology of types of care that are not addressed in the most recent versions of sources specified in paragraph (a)(B) of this subsection, if the guidelines were developed in accordance with current generally accepted standards of care.

(c) For all level of care placement decisions, an insurer shall authorize placement at the level of care consistent with the insured's score or assessment using the relevant level of care placement criteria and guidelines as specified in paragraph (a)(B) of this subsection. If the level of care indicated by the criteria and guidelines is not available, the insurer shall authorize the next higher level of care. If there is disagreement about the appropriate level of care, the insurer shall provide to the provider of the service the full details of the insurer's scoring or assessment using the relevant level of care placement criteria and guidelines specified in paragraph (a)(B) of this subsection.

(6) To ensure the proper use of any criteria and guidelines described in subsection (5) of this section, a group health insurer or an issuer of an individual health benefit plan shall provide, at no cost:

(a) A formal education program, presented by nonprofit clinical specialty associations or other entities authorized by the department, to educate the insurer's or the issuer's staff and any individuals described in subsection (2)(k) of this section who conduct reviews.

(b) To stakeholders, including participating providers and insureds, the criteria and guidelines described in subsection (5) of this section and any education or training materials or resources regarding the criteria and guidelines.

(7) This section does not prevent a group health insurer or issuer of an individual health benefit plan that is not a grandfathered health plan from contracting with providers of health care services to furnish services to policyholders or certificate holders according to ORS 743B.460 or 750.005, subject to the following conditions:

(a) A group health insurer or issuer of an individual health benefit plan that is not a grandfathered health plan is not required to contract with all providers that are eligible for reimbursement under this section.

(b) An insurer or health care service contractor shall, subject to subsection (2) of this section, pay benefits toward the covered charges of noncontracting providers of services for behavioral health treatment. The insured shall, subject to subsection (2) of this section, have the right to use the services of a noncontracting provider of behavioral health treatment, whether or not the behavioral health treatment is provided by contracting or noncontracting providers.

(8)(a) This section does not require coverage for:

(A) Educational or correctional services or sheltered living provided by a school or halfway house;

(B) A long-term residential mental health program that lasts longer than 45 days unless clinically indicated under criteria and guidelines described in subsection (5) of this section;

(C) Psychoanalysis or psychotherapy received as part of an educational or training program, regardless of diagnosis or symptoms that may be present;

(D) A court-ordered sex offender treatment program; or

(E) Support groups.

(b) Notwithstanding paragraph (a)(A) of this subsection, an insured may receive covered outpatient services under the terms of the insured's policy while the insured is living temporarily in a sheltered living situation.

(9) The Oregon Health Authority shall establish a process for the certification of an organization described in subsection (1)(j)(F) of this section that:

(a) Is not otherwise subject to licensing or certification by the authority; and

(b) Does not contract with the authority, a subcontractor of the authority or a community mental health program.

(10) The Oregon Health Authority shall adopt by rule standards for the certification provided under subsection (9) of this section to ensure that a certified provider organization offers a distinct and specialized program for the treatment of mental or nervous conditions.

(11) The Oregon Health Authority may adopt by rule an application fee or a certification fee, or both, to be imposed on any provider organization that applies for certification under subsection (9) of this section. Any fees collected shall be paid into the Oregon Health Authority Fund established in ORS 413.101 and shall be used only for carrying out the provisions of subsection (9) of this section.

(12) The intent of the Legislative Assembly in adopting this section is to reserve benefits for different types of care to encourage cost effective care and to ensure continuing access to levels of care most appropriate for the insured's condition and progress in accordance with this section. This section does not prohibit an insurer from requiring a provider organization certified by the Oregon Health Authority under subsection (9) of this section to meet the insurer's credentialing requirements as a condition of entering into a contract.

(13) The Director of the Department of Consumer and Business Services and the Oregon Health Authority, after notice and hearing, may adopt reasonable rules not inconsistent with this section that are considered necessary for the proper administration of this section. The director shall adopt rules making it a violation of this section for a group health insurer or issuer of an individual health benefit plan other than a grandfathered health plan to require providers to bill using a specific billing code or to restrict the reimbursement paid for particular billing codes other than on the basis of medical necessity.

(14) This section does not:

(a) Prohibit an insured from receiving behavioral health treatment from an out-of-network provider or prevent an out-of-network behavioral health provider from billing the insured for any unreimbursed cost of treatment.

(b) Prohibit the use of value-based payment methods, including global budgets or capitated, bundled, risk-based or other value-based payment methods.

(c) Require that any value-based payment method reimburse behavioral health services based on an equivalent fee-for-service rate.

SECTION 4. ORS 414.766 is amended to read:

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

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

(A) A behavioral health assessment; and

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

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

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

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

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

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

(g) Treatment to maintain functioning or prevent deterioration;

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

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

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

(k) Treatment that is culturally and linguistically appropriate;

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

(m) Coordinated care and case management as defined by the Department of Consumer and Business Services by rule; [*and*]

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

(o) Medications and refills of medications prescribed for the treatment of opioid use disorder and any co-occurring substance use disorder or mental health condition, including early refills as described in section 7 of this 2024 Act.

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

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

SECTION 5. ORS 431A.463 is amended to read:

431A.463. **(1) As used in this section, "medication-assisted treatment" means any medication, and the dispensing or administering of the medication, that is approved by the United States Food and Drug Administration on or before January 1, 2024, for the treatment of substance use disorders, and that is used for that purpose, including opioid and opiate addiction.**

[*(1)*] **(2)** The Oregon Health Authority shall prohibit coordinated care organizations and public payers of health insurance[*, when reimbursing the cost of medication-assisted treatment for treating substance use disorders, including opioid and opiate addiction,*] from requiring prior authorization [*of payment during the first 30 days of medication-assisted treatment*] **for the reimbursement of the costs of medication-assisted treatment**.

(3) Notwithstanding subsection (2) of this section, a coordinated care organization may require prior authorization of a brand name drug for medication-assisted treatment if a generic equivalent is available to substitute for a prescribed brand name drug. As used in this subsection, a different formulation of the medication is not a generic equivalent.

[*(2)*] **(4)** The authority may adopt rules to carry out this section.

(Pharmacist Prescribing and Dispensing of Opioid Use Disorder Medication Refills)

SECTION 6. Sections 7 and 8 of this 2024 Act are added to and made a part of ORS chapter 689.

SECTION 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) A pharmacist may prescribe and dispense 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 the section.

(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.

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

(a) Pharmacist to apply for and obtain a registration number from the Drug Enforcement Administration of the United States Department of Justice as a mid-level practitioner; and

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

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

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

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

(a) Is considered part of the retail drug outlet and is not required to obtain a license or registration from the State Board of Pharmacy; and

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

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

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

SECTION 9. ORS 689.005 is amended to read:

689.005. As used in this chapter:

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

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

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

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

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

(4) "Continuing pharmacy education" means:

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

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

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

(5) "Continuing pharmacy education unit" means the unit of measurement of credits for approved continuing education courses and programs.

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

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

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

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

(10) “Drug” means:

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

(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in a human or other animal;

(c) Articles, other than food, intended to affect the structure or any function of the body of humans or other animals; and

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

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

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

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

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

(15) “Injectable hormonal contraceptive” means a drug composed of a hormone or a combination of hormones that is approved by the United States Food and Drug Administration to prevent pregnancy and that a health care practitioner administers to the patient by injection.

(16) “Institutional drug outlet” means hospitals and inpatient care facilities where medications are dispensed to another health care professional for administration to patients served by the hospitals or facilities.

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

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

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

(20) “Manufacture” means the production, preparation, propagation, compounding, conversion or processing of a device or a drug, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substances or labeling or relabeling of its container, except that this term does not include the preparation or compounding

of a drug by an individual for their own use or the preparation, compounding, packaging or labeling of a drug:

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

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

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

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

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

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

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

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

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

(28) "Practice of clinical pharmacy" means:

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

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

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

(29) "Practice of pharmacy" means:

(a) The interpretation and evaluation of prescription orders;

(b) The compounding, dispensing and labeling of drugs and devices, except labeling by a manufacturer, packer or distributor of nonprescription drugs and commercially packaged legend drugs and devices;

(c) The prescribing and administering of vaccines and immunizations and the providing of patient care services pursuant to ORS 689.645;

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

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

(f) The proper and safe storage of drugs and devices and the maintenance of proper records regarding the safe storage of drugs and devices;

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

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

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

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

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

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

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

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

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

(p) The prescribing and dispensing of early refills of medication for the treatment of opioid use disorder pursuant to section 7 of this 2024 Act.

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

(a) In this state; or

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

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

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

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

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

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

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

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

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

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

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

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

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

(37) "Unit dose" means a sealed single-unit container so designed that the contents are administered to the patient as a single dose, direct from the container. Each unit dose container must bear a separate label, be labeled with the name and strength of the medication, the name of the manufacturer or distributor, an identifying lot number and, if applicable, the expiration date of the medication.

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

(Access to Addiction Treatment
by Members of Coordinated Care Organizations)

SECTION 10. ORS 414.609 is amended to read:

414.609. (1) A coordinated care organization that contracts with the Oregon Health Authority must maintain a network of providers**, including but not limited to addiction treatment providers,** sufficient in numbers and areas of practice and geographically distributed in a manner to ensure that the health services provided under the contract are reasonably accessible to members.

(2) A member may transfer from one organization to another organization no more than once during each enrollment period.

(Alcohol and Drug Policy Commission Study)

SECTION 11. (1) The Alcohol and Drug Policy Commission created under ORS 430.221 shall conduct a study of barriers to and best practices for:

(a) Youth accessing opioid use disorder treatment; and

(b) Increasing access to opioid use disorder medications, including:

(A) Opioid use disorder medication treatment interventions and the prescribing of opioid use disorder medication in emergency departments; and

(B) Increasing the number of providers of opioid use disorder treatment statewide.

(2) In studying the barriers to and best practices for youth accessing opioid use disorder treatment under subsection (1)(a) of this section, the commission shall collaborate with participating state agencies, as defined in ORS 430.221, and the System of Care Advisory Council established in ORS 418.978.

(3) No later than September 30, 2024, the commission shall provide to the interim committees of the Legislative Assembly related to health a report on the status of the study and any preliminary recommendations that the commission has developed.

(4) No later than September 15, 2025, the commission shall report to the interim committees of the Legislative Assembly related to behavioral health, in the manner provided in ORS 192.245:

(a) A strategic plan to improve the access of youth to opioid use disorder treatment;

(b) A strategic plan that includes evidence-based and evidence-informed strategies for increasing the number of opioid use disorder treatment providers statewide and expanding the capacity of the opioid use disorder treatment system in this state;

(c) Recommendations for reducing the barriers to accessing opioid use disorder treatment, including barriers to the provision of opioid use disorder treatment interventions in emergency departments; and

(d) Needed changes to address obstacles encountered by behavioral health providers when seeking health insurance reimbursement for opioid use disorder medications, including but not limited to:

(A) Requiring providers to use specialty pharmacies instead of purchasing medications directly from vendors and billing the insurers;

(B) Limiting the coverage of opioid use disorder treatment to specific forms of medications, such as sublingual or injectable forms;

(C) Imposing limits on the amount of an opioid use disorder medication that may be dispensed during a single visit; and

(D) Obstacles identified from data regarding insurance claim denials, including retroactive denials, of reimbursement for opioid use disorder medications.

SECTION 12. Section 11 of this 2024 Act is repealed on January 2, 2026.

(Certified Community Behavioral Health Clinic Program)

SECTION 13. Section 14 of this 2024 Act is added to and made a part of ORS chapter 413.

SECTION 14. (1) The certified community behavioral health clinic program is established in the Oregon Health Authority for the purpose of certifying community behavioral health

clinics that meet criteria adopted by the authority by rule to receive prospective fixed cost-based rates, as provided in subsection (4) of this section, for services provided to medical assistance enrollees.

(2) The authority shall appoint an advisory committee, as described in ORS 183.333, to advise the authority in the adoption of rules to carry out this section. The Director of the Oregon Health Authority shall appoint to the advisory committee 15 individuals who represent a diverse constituency and are knowledgeable about certified community behavioral health clinic delivery systems, patient-centered primary care home delivery systems, integrated health care or health care quality. At least five members of the advisory committee must be current or former consumers of the type of behavioral health services that are typically provided by certified community behavioral health clinics or family members, representatives or advocates for such consumers. Rules adopted by the authority:

(a) Must be consistent with the criteria adopted by the United States Department of Health and Human Services for certified community behavioral health clinics; and

(b) Shall ensure that certified community behavioral health clinics provide, either directly or by referral through formal relationships with other providers, all of the services required by the criteria adopted by the United States Department of Health and Human Services for certified community behavioral health clinics.

(3) If the authority adopts requirements for certified community behavioral health clinics that are in addition to the criteria described in subsection (2)(a) of this section, the authority shall:

(a) Provide funding to the clinics sufficient to reimburse the costs of the additional requirements; or

(b) Have a process for granting allowable variances to one or more of the requirements.

(4)(a) A certified community behavioral health clinic shall complete the federally required cost report for the authority to review and approve the clinic's prospective fixed cost-based rate for a patient encounter.

(b) The authority shall regularly adjust the prospective fixed cost-based rate at intervals consistent with federal guidance. A certified community behavioral health clinic may request a rate adjustment if a clinic changes the clinic's scope of services.

(c) The authority shall adopt and provide to certified community behavioral health clinics guidance on the development of fixed rates and billing. The fixed rate must include but is not limited to:

(A) An estimate of the projected cost of anticipated expansions of the certified community behavioral health clinic program or the populations served by the program; and

(B) The cost of the technology and data systems needed by each clinic to track and measure outcomes and other data that the authority requires to be tracked or measured.

(d) The authority shall review federal guidance on rate setting for clinics that are dually certified as federally qualified health centers, as defined in 42 U.S.C. 1396d(l)(2), and as certified community behavioral health clinics and provide recommendations to such dually certified clinics about how the clinics can best bill for services.

(5) In any geographic region of this state that is served by both a certified community behavioral health clinic and a community mental health program:

(a) Before the authority may approve the certification of a certified community behavioral health clinic, the certified community behavioral health clinic and the community mental health program shall enter into a written agreement concerning collaboration between the clinic and the program in the coordination of services that are provided by both the clinic and the program.

(b) The authority shall develop a plan to ensure:

(A) Coordination of services between the clinic and the program to minimize service redundancies; and

(B) Financial efficiencies to maximize financial benefits.

(6) This section does not require a clinic that is eligible for certification under this section to apply for certification. Participation in the certified community behavioral health clinic program is voluntary.

SECTION 15. (1) Prior to January 15, 2025, the Oregon Health Authority shall begin preparing a draft state plan amendment to submit to the Centers for Medicare and Medicaid Services to implement the certified community behavioral health clinic program established in section 14 of this 2024 Act.

(2) Prior to the expiration of the community behavioral health clinic demonstration program described in section 223 of the Protecting Access to Medicare Act of 2014 (P.L. 113-93), as amended, the authority shall seek federal approval for an amendment to the Medicaid state plan to allow the state to receive federal financial participation in the costs of the certified community behavioral health clinic program established in section 14 of this 2024 Act.

(3) The authority shall explore all prospective rate methodologies allowed for the certified community behavioral health clinic model by the Centers for Medicare and Medicaid Services.

(Joint Task Force on Regional Behavioral Health Accountability)

SECTION 16. (1) The Joint Task Force on Regional Behavioral Health Accountability is established to make recommendations to the Legislative Assembly to improve the governance of behavioral health systems and strengthen evidence-based and equitable funding decisions and accountability of behavioral health systems.

(2) The task force consists of 26 members appointed as follows:

(a) The President of the Senate shall appoint two members from among members of the Senate, one from the majority party and one from the minority party.

(b) The Speaker of the House of Representatives shall appoint two members from among members of the House of Representatives, one from the majority party and one from the minority party.

(c) The Chief Justice of the Supreme Court shall appoint one member from the Judicial Department.

(d) The Governor shall appoint 21 members as follows:

(A) One member representing the Oregon Health Authority;

(B) One member representing the Alcohol and Drug Policy Commission;

(C) One member representing the Department of Human Services;

(D) One member representing coordinated care organizations;

(E) One member representing providers of psychiatric care in clinical settings;

(F) One member representing Oregon counties;

(G) One member representing Oregon cities;

(H) One member who provides county mental health services or who represents county mental health providers;

(I) One member from a large labor organization representing behavioral health workers;

(J) One member who is a behavioral health provider or who represents private and nonprofit behavioral health providers;

(K) One member who provides nonprofit substance use disorder treatment or who represents nonprofit substance use disorder treatment providers;

(L) One member from a large labor organization representing nurses;

(M) One member who is a licensed doctor or who represents licensed doctors with experience in behavioral health or substance use disorder treatment programs, care delivery or funding;

(N) One member from a business coalition representing the hospital industry;

(O) One member from a business coalition representing the insurance industry;

(P) One member from a business coalition representing pharmacists;

(Q) One member representing a consumer of behavioral health services;

(R) One member with extensive experience in Oregon Indian tribes and a deep understanding of Oregon's rural and urban tribal populations, appointed after consultation with the Commission on Indian Services;

(S) One member who is an emergency response transportation provider;

(T) One member representing long term care facilities; and

(U) One member with experience in regional behavioral health system governance.

(3) The task force, in collaboration with any other task forces that are charged with scopes of work that overlap or intersect with the charges of the Joint Task Force on Regional Behavioral Health Accountability, shall develop recommendations to:

(a) Improve collaboration and accountability across federal, state and local behavioral health and substance use disorder treatment programs and funding;

(b) Ensure equitable outcomes in publicly supported treatment settings across Oregon communities;

(c) Provide greater cost efficiencies in the continuum of care of Oregon's behavioral health system; and

(d) Establish broad access to methadone and other opioid use disorder medications through mobile devices, telehealth and pharmacy-based services to measurably increase the engagement statewide of individuals with opioid use disorder in opioid use disorder treatment.

(4) Recommendations developed under subsection (3) of this section should include:

(a) Any statutory changes needed to ensure that federal, state and local funds are being spent to maximize outcomes and resource efficiency;

(b) Policy changes recommended based on a comparative analysis of policies in other states that spend less on treatment but demonstrate better behavioral health and substance use disorder treatment outcomes, including better outcomes for groups that are disproportionately impacted by health inequities; and

(c) Any governance changes that would facilitate greater alignment of spending decisions between federal, state and local behavioral health and substance use disorder treatment programs.

(5) A majority of the voting members of the task force constitutes a quorum for the transaction of business.

(6) Official action by the task force requires the approval of a majority of the voting members of the task force.

(7) The task force shall elect one of its members to serve as chairperson.

(8) If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective.

(9) The task force shall meet at times and places specified by the call of the chairperson or of a majority of the voting members of the task force.

(10) The task force may adopt rules necessary for the operation of the task force.

(11)(a) The task force shall provide draft recommendations developed under subsections (3) and (4) of this section to the interim committees of the Legislative Assembly related to health no later than September 15, 2025.

(b) The task force shall submit a final report of the task force's recommendations, in the manner provided by ORS 192.245, to the interim committees of the Legislative Assembly related to health no later than December 15, 2025.

(12) The Legislative Policy and Research Director shall provide staff support to the task force, including by:

(a) Researching and providing analysis on current behavioral health funding streams that support the continuum of care across Oregon communities;

(b) Reviewing strategies that have been successful in other states, including through the use of federal Medicaid waivers or Medicaid demonstration projects;

(c) Reviewing data related to the challenges faced by individuals receiving substance use disorder treatment in publicly supported treatment settings; and

(d) Reviewing the responsibilities of county and state agencies and the accountability of county and state agencies for providing behavioral health and substance use disorder treatment.

(13) Members of the Legislative Assembly appointed to the task force are nonvoting members of the task force and may act in an advisory capacity only.

(14) Members of the task force who are not members of the Legislative Assembly are not entitled to compensation or reimbursement for expenses and serve as volunteers on the task force.

(15) All agencies of state government, as defined in ORS 174.111, are directed to assist the task force in the performance of the duties of the task force and, to the extent permitted by laws relating to confidentiality, to furnish information and advice the members of the task force consider necessary to perform their duties.

SECTION 17. Section 16 of this 2024 Act is repealed on January 2, 2026.

(Task Force on Improving the Safety of Behavioral Health Workers)

SECTION 18. (1) The Task Force on Improving the Safety of Behavioral Health Workers is established.

(2) The task force consists of 17 members appointed as follows:

(a) The President of the Senate shall appoint two members from among members of the Senate.

(b) The Speaker of the House of Representatives shall appoint two members from among members of the House of Representatives.

(c) The President and the Speaker shall jointly appoint:

(A) Four employers of behavioral health workers including one from county government;

(B) Two behavioral health workers;

(C) Two representatives of organized labor representing behavioral health workers;

(D) One consumer of behavioral health services;

(E) One representative of the state protection and advocacy system described in ORS 192.517 (1); and

(F) One representative of the Oregon State Hospital or the Oregon Health Authority on behalf of the hospital.

(d) The Governor shall appoint two members from the Occupational Safety and Health Division of the Department of Consumer and Business Services.

(3) The task force shall produce a set of recommendations for improving the safety of behavioral health workers.

(4) A majority of the voting members of the task force constitutes a quorum for the transaction of business.

(5) Official action by the task force requires the approval of a majority of the voting members of the task force.

(6) The task force shall elect one of its members to serve as chairperson.

(7) If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective.

(8) The task force shall meet at times and places specified by the call of the chairperson or of a majority of the voting members of the task force.

(9) The task force may adopt rules necessary for the operation of the task force.

(10) No later than September 1, 2024, the task force shall submit to the interim committees of the Legislative Assembly related to health a preliminary report containing draft policy recommendations to address the safety concerns that are prevalent in the behavioral health industry including recommendations, by type of behavioral health facility or workplace setting, for:

(a) Physical and structural security requirements;

(b) Safe staffing levels;

(c) Standards and procedures for reporting assaults;

(d) Best practices for worker safety training including minimum requirements for training on workplace safety protocols;

(e) Minimum standards for safety protocols and procedures;

(f) Strategies to ensure compliance with all worker safety and training requirements; and

(g) Potential sources of funding to mitigate the costs incurred by implementing any of the recommendations.

(11) No later than December 1, 2024, the task force shall report the task force's final recommendations, in the manner provided by ORS 192.245, to the interim committees of the Legislative Assembly related to health.

(12) The Legislative Policy and Research Director shall provide staff support to the task force and the Legislative Counsel shall provide legal support for the task force recommendations including but not limited to drafting proposed legislative changes.

(13) Members of the Legislative Assembly appointed to the task force are nonvoting members of the task force and may act in an advisory capacity only.

(14) Members of the task force who are not members of the Legislative Assembly or appointed by the Governor shall be paid compensation and reimbursed for actual and necessary travel and other expenses incurred by them in the performance of their official duties on the task force in the manner and amounts provided for in ORS 292.495.

(15) All agencies of state government, as defined in ORS 174.111, are directed to assist the task force in the performance of the duties of the task force and, to the extent permitted by laws relating to confidentiality, to furnish information and advice the members of the task force consider necessary to perform their duties.

SECTION 19. Section 18 of this 2024 Act is repealed on January 2, 2026.

(United We Heal Medicaid Payment Program)

SECTION 20. (1) The United We Heal Medicaid Payment Program is established in the Oregon Health Authority. The goal of the program is to increase the available behavioral health care workforce in this state. The authority shall provide supplemental medical assistance payments to eligible behavioral health care providers to enable the providers to access enhanced apprenticeship and training programs and opportunities by participating in a labor-management training trust.

(2) The authority shall prescribe by rule eligibility criteria for receiving the payments consistent with the goal of the program expressed in subsection (1) of this section.

(3) To participate in the program, a behavioral health provider must enter into a memorandum of understanding with the authority specifying how the payments will be used. The authority shall terminate payments if the provider fails to abide by or violates the terms of the memorandum of understanding. A provider may request a contested case proceeding to challenge a termination.

(Conforming Amendments)

SECTION 21. ORS 750.055 is amended to read:

750.055. (1) The following provisions apply to health care service contractors to the extent not inconsistent with the express provisions of ORS 750.005 to 750.095:

(a) ORS 705.137, 705.138 and 705.139.

(b) ORS 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385, 731.386, 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454, 731.485, as provided in subsection (2) of this section, ORS 731.488, 731.504, 731.508, 731.509, 731.510, 731.511, 731.512, 731.574 to 731.620, 731.640 to 731.652, 731.730, 731.731, 731.735, 731.737, 731.750, 731.752, 731.804, 731.808 and 731.844 to 731.992.

(c) ORS 732.215, 732.220, 732.230, 732.245, 732.250, 732.320, 732.325 and 732.517 to 732.596, not including ORS 732.582, and ORS 732.650 to 732.689.

(d) ORS 733.010 to 733.050, 733.080, 733.140 to 733.170, 733.210, 733.510 to 733.680 and 733.695 to 733.780.

(e) ORS 734.014 to 734.440.

(f) ORS 742.001 to 742.009, 742.013, 742.016, 742.061, 742.065, 742.150 to 742.162 and 742.518 to 742.542.

(g) ORS 743.004, 743.005, 743.007, 743.008, 743.010, 743.018, 743.020, 743.022, 743.023, 743.025, 743.028, 743.029, 743.038, 743.040, 743.044, 743.050, 743.100 to 743.109, 743.402, 743.405, 743.406, 743.417, 743.472, 743.492, 743.495, 743.498, 743.522, 743.523, 743.524, 743.526, 743.535, 743.550, 743.650 to 743.656, 743.680 to 743.689, 743.788, 743.790 and 743B.221.

(h) ORS 743A.010, 743A.012, 743A.014, 743A.020, 743A.034, 743A.036, 743A.040, 743A.044, 743A.048, 743A.051, 743A.052, 743A.058, 743A.060, 743A.062, 743A.063, 743A.064, 743A.065, 743A.066, 743A.068, 743A.070, 743A.080, 743A.082, 743A.084, 743A.088, 743A.090, 743A.100, 743A.104, 743A.105, 743A.108, 743A.110, 743A.124, 743A.140, 743A.141, 743A.148, 743A.150, 743A.160, 743A.168, 743A.169, 743A.170, 743A.175, 743A.185, 743A.188, 743A.190, 743A.192, 743A.250, 743A.252, 743A.260, 743A.310 and 743A.315 and section 2, chapter 771, Oregon Laws 2013**, and section 2 of this 2024 Act**.

(i) ORS 743B.001, 743B.003 to 743B.127, 743B.128, 743B.130, 743B.195, 743B.197, 743B.200, 743B.202, 743B.204, 743B.220, 743B.222, 743B.225, 743B.227, 743B.250, 743B.252, 743B.253, 743B.254, 743B.255, 743B.256, 743B.257, 743B.258, 743B.280 to 743B.285, 743B.287, 743B.300, 743B.310, 743B.320, 743B.323, 743B.330, 743B.340, 743B.341, 743B.342, 743B.343 to 743B.347, 743B.400, 743B.403, 743B.407, 743B.420, 743B.423, 743B.450, 743B.451, 743B.452, 743B.453, 743B.470, 743B.475, 743B.505, 743B.550, 743B.555, 743B.601, 743B.602 and 743B.800.

(j) The following provisions of ORS chapter 744:

(A) ORS 744.052 to 744.089, 744.091 and 744.093, relating to the regulation of insurance producers;

(B) ORS 744.602 to 744.665, relating to the regulation of insurance consultants; and

(C) ORS 744.700 to 744.740, relating to the regulation of third party administrators.

(k) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605, 746.607, 746.608, 746.610, 746.615, 746.625, 746.635, 746.650, 746.655, 746.660, 746.668, 746.670, 746.675, 746.680 and 746.690.

(2) The following provisions of the Insurance Code apply to health care service contractors except in the case of group practice health maintenance organizations that are federally qualified pursuant to Title XIII of the Public Health Service Act:

(a) ORS 731.485, if the group practice health maintenance organization wholly owns and operates an in-house drug outlet.

(b) ORS 743A.024, unless the patient is referred by a physician, physician assistant or nurse practitioner associated with a group practice health maintenance organization.

(3) For the purposes of this section, health care service contractors are insurers.

(4) Any for-profit health care service contractor organized under the laws of any other state that is not governed by the insurance laws of the other state is subject to all requirements of ORS chapter 732.

(5)(a) A health care service contractor is a domestic insurance company for the purpose of determining whether the health care service contractor is a debtor, as defined in 11 U.S.C. 109.

(b) A health care service contractor's classification as a domestic insurance company under paragraph (a) of this subsection does not subject the health care service contractor to ORS 734.510 to 734.710.

(6) The Director of the Department of Consumer and Business Services may, after notice and hearing, adopt reasonable rules not inconsistent with this section and ORS 750.003, 750.005, 750.025 and 750.045 that are necessary for the proper administration of these provisions.

SECTION 22. ORS 750.055, as amended by section 21, chapter 771, Oregon Laws 2013, section 7, chapter 25, Oregon Laws 2014, section 82, chapter 45, Oregon Laws 2014, section 9, chapter 59, Oregon Laws 2015, section 7, chapter 100, Oregon Laws 2015, section 7, chapter 224, Oregon Laws 2015, section 11, chapter 362, Oregon Laws 2015, section 10, chapter 470, Oregon Laws 2015, section 30, chapter 515, Oregon Laws 2015, section 10, chapter 206, Oregon Laws 2017, section 6, chapter 417, Oregon Laws 2017, section 22, chapter 479, Oregon Laws 2017, section 10, chapter 7, Oregon Laws 2018, section 69, chapter 13, Oregon Laws 2019, section 38, chapter 151, Oregon Laws 2019, section 5, chapter 441, Oregon Laws 2019, section 85, chapter 97, Oregon Laws 2021, section 12, chapter 37, Oregon Laws 2022, section 5, chapter 111, Oregon Laws 2023, and section 2, chapter 152, Oregon Laws 2023, is amended to read:

750.055. (1) The following provisions apply to health care service contractors to the extent not inconsistent with the express provisions of ORS 750.005 to 750.095:

(a) ORS 705.137, 705.138 and 705.139.

(b) ORS 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385, 731.386, 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454, 731.485, as provided in subsection (2) of this section, ORS 731.488, 731.504, 731.508, 731.509, 731.510, 731.511, 731.512, 731.574 to 731.620, 731.640 to 731.652, 731.730, 731.731, 731.735, 731.737, 731.750, 731.752, 731.804, 731.808 and 731.844 to 731.992.

(c) ORS 732.215, 732.220, 732.230, 732.245, 732.250, 732.320, 732.325 and 732.517 to 732.596, not including ORS 732.582, and ORS 732.650 to 732.689.

(d) ORS 733.010 to 733.050, 733.080, 733.140 to 733.170, 733.210, 733.510 to 733.680 and 733.695 to 733.780.

(e) ORS 734.014 to 734.440.

(f) ORS 742.001 to 742.009, 742.013, 742.016, 742.061, 742.065, 742.150 to 742.162 and 742.518 to 742.542.

(g) ORS 743.004, 743.005, 743.007, 743.008, 743.010, 743.018, 743.020, 743.022, 743.023, 743.025, 743.028, 743.029, 743.038, 743.040, 743.044, 743.050, 743.100 to 743.109, 743.402, 743.405, 743.406, 743.417, 743.472, 743.492, 743.495, 743.498, 743.522, 743.523, 743.524, 743.526, 743.535, 743.550, 743.650 to 743.656, 743.680 to 743.689, 743.788, 743.790 and 743B.221.

(h) ORS 743A.010, 743A.012, 743A.014, 743A.020, 743A.034, 743A.036, 743A.040, 743A.044, 743A.048, 743A.051, 743A.052, 743A.058, 743A.060, 743A.062, 743A.063, 743A.064, 743A.065, 743A.066, 743A.068, 743A.070, 743A.080, 743A.082, 743A.084, 743A.088, 743A.090, 743A.100, 743A.104, 743A.105, 743A.108, 743A.110, 743A.124, 743A.140, 743A.141, 743A.148, 743A.150, 743A.160, 743A.168, 743A.169, 743A.170, 743A.175, 743A.185, 743A.188, 743A.190, 743A.192, 743A.250, 743A.252, 743A.260, 743A.310 and 743A.315 **and section 2 of this 2024 Act**.

(i) ORS 743B.001, 743B.003 to 743B.127, 743B.128, 743B.130, 743B.195, 743B.197, 743B.200, 743B.202, 743B.204, 743B.220, 743B.222, 743B.225, 743B.227, 743B.250, 743B.252, 743B.253, 743B.254, 743B.255, 743B.256, 743B.257, 743B.258, 743B.280 to 743B.285, 743B.287, 743B.300, 743B.310, 743B.320, 743B.323, 743B.330, 743B.340, 743B.341, 743B.342, 743B.343 to 743B.347, 743B.400, 743B.403, 743B.407, 743B.420, 743B.423, 743B.450, 743B.451, 743B.452, 743B.453, 743B.470, 743B.475, 743B.505, 743B.550, 743B.555, 743B.601, 743B.602 and 743B.800.

(j) The following provisions of ORS chapter 744:

(A) ORS 744.052 to 744.089, 744.091 and 744.093, relating to the regulation of insurance producers;

(B) ORS 744.602 to 744.665, relating to the regulation of insurance consultants; and

(C) ORS 744.700 to 744.740, relating to the regulation of third party administrators.

(k) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605, 746.607, 746.608, 746.610, 746.615, 746.625, 746.635, 746.650, 746.655, 746.660, 746.668, 746.670, 746.675, 746.680 and 746.690.

(2) The following provisions of the Insurance Code apply to health care service contractors except in the case of group practice health maintenance organizations that are federally qualified pursuant to Title XIII of the Public Health Service Act:

(a) ORS 731.485, if the group practice health maintenance organization wholly owns and operates an in-house drug outlet.

(b) ORS 743A.024, unless the patient is referred by a physician, physician assistant or nurse practitioner associated with a group practice health maintenance organization.

(3) For the purposes of this section, health care service contractors are insurers.

(4) Any for-profit health care service contractor organized under the laws of any other state that is not governed by the insurance laws of the other state is subject to all requirements of ORS chapter 732.

(5)(a) A health care service contractor is a domestic insurance company for the purpose of determining whether the health care service contractor is a debtor, as defined in 11 U.S.C. 109.

(b) A health care service contractor's classification as a domestic insurance company under paragraph (a) of this subsection does not subject the health care service contractor to ORS 734.510 to 734.710.

(6) The Director of the Department of Consumer and Business Services may, after notice and hearing, adopt reasonable rules not inconsistent with this section and ORS 750.003, 750.005, 750.025 and 750.045 that are necessary for the proper administration of these provisions.

SECTION 23. ORS 750.333 is amended to read:

750.333. (1) The following provisions apply to trusts carrying out a multiple employer welfare arrangement:

(a) ORS 705.137, 705.138 and 705.139.

(b) ORS 731.004 to 731.150, 731.162, 731.216 to 731.268, 731.296 to 731.316, 731.324, 731.328, 731.378, 731.386, 731.390, 731.398, 731.406, 731.410, 731.414, 731.418 to 731.434, 731.454, 731.484, 731.486, 731.488, 731.512, 731.574 to 731.620, 731.640 to 731.652, 731.804, 731.808 and 731.844 to 731.992.

(c) ORS 733.010 to 733.050, 733.140 to 733.170, 733.210, 733.510 to 733.680 and 733.695 to 733.780.

(d) ORS 734.014 to 734.440.

(e) ORS 742.001 to 742.009, 742.013, 742.016, 742.061 and 742.065.

(f) ORS 743.004, 743.005, 743.007, 743.008, 743.010, 743.018, 743.020, 743.023, 743.028, 743.029, 743.053, 743.405, 743.406, 743.524, 743.526, 743.535 and 743B.221.

(g) ORS 743A.010, 743A.012, 743A.014, 743A.020, 743A.024, 743A.034, 743A.036, 743A.040, 743A.048, 743A.051, 743A.052, 743A.058, 743A.060, 743A.062, 743A.063, 743A.064, 743A.065, 743A.066, 743A.068, 743A.070, 743A.080, 743A.082, 743A.084, 743A.088, 743A.090, 743A.100, 743A.104, 743A.105, 743A.108, 743A.110, 743A.124, 743A.140, 743A.141, 743A.148, 743A.150, 743A.160, 743A.168, 743A.169, 743A.170, 743A.175, 743A.180, 743A.185, 743A.188, 743A.190, 743A.192, 743A.250, 743A.252, 743A.260 and 743A.310 **and section 2 of this 2024 Act**.

(h) ORS 743B.001, 743B.003 to 743B.127 (except 743B.125 to 743B.127), 743B.195, 743B.197, 743B.200, 743B.202, 743B.204, 743B.220, 743B.222, 743B.225, 743B.227, 743B.250, 743B.252, 743B.253, 743B.254, 743B.255, 743B.256, 743B.257, 743B.258, 743B.310, 743B.320, 743B.321, 743B.330, 743B.340, 743B.341, 743B.342, 743B.343, 743B.344, 743B.345, 743B.347, 743B.400, 743B.403, 743B.407, 743B.420, 743B.423, 743B.451, 743B.453, 743B.470, 743B.505, 743B.550, 743B.555 and 743B.601.

(i) The following provisions of ORS chapter 744:

(A) ORS 744.052 to 744.089, 744.091 and 744.093, relating to the regulation of insurance producers;

(B) ORS 744.602 to 744.665, relating to the regulation of insurance consultants; and

(C) ORS 744.700 to 744.740, relating to the regulation of third party administrators.

(j) ORS 746.005 to 746.140, 746.160 and 746.220 to 746.370.

(2) For the purposes of this section:

(a) A trust carrying out a multiple employer welfare arrangement is an insurer.

(b) References to certificates of authority are references to certificates of multiple employer welfare arrangement.

(c) Contributions are premiums.

(3) The provision of health benefits under ORS 750.301 to 750.341 is the transaction of health insurance.

(4) The Department of Consumer and Business Services may adopt rules that are necessary to implement the provisions of ORS 750.301 to 750.341.

DELIVERY OF CONTROLLED SUBSTANCES
(Delivery Definition Based on State v. Boyd)

SECTION 24. ORS 475.005 is amended to read:

475.005. As used in ORS 475.005 to 475.285 and 475.752 to 475.980, unless the context requires otherwise:

(1) "Abuse" means the repetitive excessive use of a drug short of dependence, without legal or medical supervision, which may have a detrimental effect on the individual or society.

(2) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by:

(a) A practitioner or an authorized agent thereof; or

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

(3) "Administration" means the Drug Enforcement Administration of the United States Department of Justice, or its successor agency.

(4) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor or dispenser. It does not include a common or contract carrier, public warehouseman or employee of the carrier or warehouseman.

(5) "Board" means the State Board of Pharmacy.

(6) "Controlled substance":

(a) Means a drug or its immediate precursor classified in Schedules I through V under the federal Controlled Substances Act, 21 U.S.C. 811 to 812, as modified under ORS 475.035. The use of the term "precursor" in this paragraph does not control and is not controlled by the use of the term "precursor" in ORS 475.752 to 475.980.

(b) Does not include:

(A) The plant Cannabis family Cannabaceae;

(B) Any part of the plant Cannabis family Cannabaceae, whether growing or not;

(C) Resin extracted from any part of the plant Cannabis family Cannabaceae;

(D) The seeds of the plant Cannabis family Cannabaceae;

(E) Any compound, manufacture, salt, derivative, mixture or preparation of a plant, part of a plant, resin or seed described in this paragraph; or

(F) Psilocybin or psilocin, but only if and to the extent that a person manufactures, delivers, or possesses psilocybin, psilocin, or psilocybin products in accordance with the provisions of ORS 475A.210 to 475A.722 and rules adopted under ORS 475A.210 to 475A.722.

(7) "Counterfeit substance" means a controlled substance or its container or labeling, which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor or dispenser other than the person who in fact manufactured, delivered or dispensed the substance.

(8) "Deliver" or "delivery" means the actual, constructive or attempted transfer **of, or possession with the intent to transfer**, other than by administering or dispensing, from one person to another**,** [*of*] a controlled substance, whether or not there is an agency relationship.

(9) "Device" means instruments, apparatus or contrivances, including their components, parts or accessories, intended:

(a) For use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or animals; or

(b) To affect the structure of any function of the body of humans or animals.

(10) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, and includes the prescribing, administering, packaging, labeling or compounding necessary to prepare the substance for that delivery.

(11) "Dispenser" means a practitioner who dispenses.

(12) "Distributor" means a person who delivers.

(13) "Drug" means:

(a) Substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States or official National Formulary, or any supplement to any of them;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or animals;

(c) Substances (other than food) intended to affect the structure or any function of the body of humans or animals; and

(d) Substances intended for use as a component of any article specified in paragraph (a), (b) or (c) of this subsection; however, the term does not include devices or their components, parts or accessories.

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

(15) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance:

(a) By a practitioner as an incident to administering or dispensing of a controlled substance in the course of professional practice; or

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

(16) "Person" includes a government subdivision or agency, business trust, estate, trust or any other legal entity.

(17) "Practitioner" means physician, dentist, veterinarian, scientific investigator, licensed nurse practitioner, physician assistant 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 but does not include a pharmacist or a pharmacy.

(18) "Prescription" means a written, oral or electronically transmitted direction, given by a practitioner for the preparation and use of a drug. When the context requires, "prescription" also means the drug prepared under such written, oral or electronically transmitted direction. Any label affixed to a drug prepared under written, oral or electronically transmitted direction shall prominently display a warning that the removal thereof is prohibited by law.

(19) "Production" includes the manufacture, planting, cultivation, growing or harvesting of a controlled substance.

(20) "Research" means an activity conducted by the person registered with the federal Drug Enforcement Administration pursuant to a protocol approved by the United States Food and Drug Administration.

(21) "Ultimate user" means a person who lawfully possesses a controlled substance for the use of the person or for the use of a member of the household of the person or for administering to an animal owned by the person or by a member of the household of the person.

(22) "Usable quantity" means:

(a) An amount of a controlled substance that is sufficient to physically weigh independent of its packaging and that does not fall below the uncertainty of the measuring scale; or

(b) An amount of a controlled substance that has not been deemed unweighable, as determined by a Department of State Police forensic laboratory, due to the circumstances of the controlled substance.

(23) **"Within 30 feet," "within 500 feet" and** "within 1,000 feet" [*means*] **mean** a straight line measurement in a radius extending for [*1,000*] **the specified number of** feet or less in every direction from a specified location or from any point on the boundary line of a specified unit of property.

(Delivery in Certain Locations)

SECTION 25. ORS 475.900 is amended to read:

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

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

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

(B) Five grams or more or 25 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) Ten grams or more of a mixture or substance containing a detectable amount of cocaine;

(D) Ten grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers or salts of its isomers;

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

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

(G) Five grams or more or 25 or more pills, tablets or capsules of a mixture or substance containing a detectable amount of:

(i) 3,4-methylenedioxyamphetamine;

(ii) 3,4-methylenedioxymethamphetamine; or

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

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

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

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

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

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

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

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

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

(H) The offender was in possession of manufacturing paraphernalia, including recipes, precursor chemicals, laboratory equipment, lighting, ventilating or power generating equipment;

(I) The offender was using public lands for the manufacture of controlled substances;

(J) The offender had constructed fortifications or had taken security measures with the potential of injuring persons; or

(K) The offender was in possession of controlled substances in an amount greater than:

(i) Three grams or more of a mixture or substance containing a detectable amount of heroin;

(ii) Three grams or more or 15 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;

(iii) Eight grams or more of a mixture or substance containing a detectable amount of cocaine;

(iv) Eight grams or more of a mixture or substance containing a detectable amount of methamphetamine;

(v) Twenty or more user units of a mixture or substance containing a detectable amount of lysergic acid diethylamide;

(vi) Ten grams or more of a mixture or substance containing a detectable amount of psilocybin or psilocin; or

(vii) Four grams or more or 20 or more pills, tablets or capsules of a mixture or substance containing a detectable amount of:

(I) 3,4-methylenedioxyamphetamine;

(II) 3,4-methylenedioxymethamphetamine; or

(III) 3,4-methylenedioxy-N-ethylamphetamine.

(c) The violation constitutes a violation of ORS 475.848, 475.852, 475.868, 475.872, 475.878, 475.882, 475.888, 475.892 or 475.904.

(d) The violation constitutes manufacturing methamphetamine and the manufacturing consists of:

(A) A chemical reaction involving one or more precursor substances for the purpose of manufacturing methamphetamine; or

(B) Grinding, soaking or otherwise breaking down a precursor substance for the purpose of manufacturing methamphetamine.

(e) The violation constitutes a violation of ORS 475.906 (1) or (2) that is not described in ORS 475.907.

(2) A violation of ORS 475.752 or 475.806 to 475.894 shall be classified as crime category 7 of the sentencing guidelines grid of the Oregon Criminal Justice Commission if the violation constitutes delivery for consideration of heroin, cocaine, fentanyl, methamphetamine or 3,4-methylenedioxyamphetamine, 3,4-methylenedioxymethamphetamine or 3,4-methylenedioxy-N-ethylamphetamine and:

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

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

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

[*(2)*] **(3)** A violation of ORS 475.752 or 475.806 to 475.894 shall be classified as crime category 6 of the sentencing guidelines grid of the Oregon Criminal Justice Commission if:

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

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

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

(B) Five grams or more or 25 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) Ten grams or more of a mixture or substance containing a detectable amount of cocaine;

(D) Ten grams or more of a mixture or substance containing a detectable amount of methamphetamine;

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

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

(G) Five grams or more or 25 or more pills, tablets or capsules of a mixture or substance containing a detectable amount of:

(i) 3,4-methylenedioxyamphetamine;

(ii) 3,4-methylenedioxymethamphetamine; or

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

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

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

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

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

[*(3)*] **(5)** Any felony violation of ORS 475.752 or 475.806 to 475.894 not contained in [*subsection (1) or (2)*] **subsections (1) to (4)** of this section shall be classified as crime category 4 of the sentencing guidelines grid of the Oregon Criminal Justice Commission if the violation involves delivery or manufacture of a controlled substance.

[*(4)*] **(6)** In order to prove a commercial drug offense, the state shall plead in the accusatory instrument sufficient factors of a commercial drug offense under [*subsections (1) and (2)*] **subsection (1)** of this section. The state has the burden of proving each factor beyond a reasonable doubt.

[*(5)*] **(7)** As used in this section[*,*]**:**

(a) "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.

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

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

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

(Reevaluation of Release Guidelines)

SECTION 26. No later than June 1, 2024, the Chief Justice of the Supreme Court, with input from a criminal justice advisory committee appointed by the Chief Justice, shall reevaluate and update the release guidelines for the pretrial release orders established under ORS 135.233 for persons arrested for or charged with delivery or manufacture of a controlled substance.

SECTION 27. Section 26 of this 2024 Act is repealed on January 2, 2025.

(Conforming Amendments)

SECTION 28. ORS 475.752 is amended to read:

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

(a) A controlled substance in Schedule I, is guilty of a Class A felony, except as otherwise provided in ORS 475.886 and 475.890.

(b) A controlled substance in Schedule II, is guilty of a Class B felony, except as otherwise provided in ORS 475.878, 475.880, 475.882, 475.904 and 475.906.

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

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

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

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

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

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

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

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

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

(3) It is unlawful for any person knowingly or intentionally to possess a controlled substance unless the substance 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. Any person who violates this subsection with respect to:

(a) A controlled substance in Schedule I, is guilty of a Class E violation, except as otherwise provided in ORS 475.854, 475.874 and 475.894 and subsection (7) of this section.

(b) A controlled substance in Schedule II, is guilty of a Class E violation, except as otherwise provided in ORS 475.814, 475.824, 475.834 or 475.884 or subsection (8) of this section.

(c) A controlled substance in Schedule III, is guilty of a Class E violation.

(d) A controlled substance in Schedule IV, is guilty of a Class E violation.

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

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

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

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

(c) In a manner that is not dangerous to the health of the user or others who are in the proximity of the user.

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

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

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

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

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

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

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

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

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

(B) The person possesses a substantial quantity under ORS 475.900 [*(2)(b)*] **(3)(b)**.

(8) Notwithstanding subsection (3)(b) of this section:

(a) Unlawful possession of a controlled substance in Schedule II 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.

(b) Unlawful possession of a controlled substance in Schedule II is a Class C felony if:

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

(B) The person possesses a substantial quantity under ORS 475.900 [*(2)(b)*] **(3)(b)**.

SECTION 29. ORS 475.854 is amended to read:

475.854. (1) It is unlawful for any person knowingly or intentionally to possess heroin.

(2)(a) Unlawful possession of heroin is a Class E violation.

(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of heroin is a Class A misdemeanor if the person possesses one gram or more of a mixture or substance containing a detectable amount of heroin.

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

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

(B) The person possesses a substantial quantity under ORS 475.900 [*(2)(b)*] **(3)(b)**.

SECTION 30. ORS 475.874 is amended to read:

475.874. (1) It is unlawful for any person knowingly or intentionally to possess 3,4-methylenedioxymethamphetamine.

(2)(a) Unlawful possession of 3,4-methylenedioxymethamphetamine is a Class E violation.

(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of 3,4-methylenedioxymethamphetamine is a Class A misdemeanor if the person possesses one gram or more or five or more pills, tablets or capsules of a mixture or substance containing a detectable amount of:

(A) 3,4-methylenedioxyamphetamine;

(B) 3,4-methylenedioxymethamphetamine; or

(C) 3,4-methylenedioxy-N-ethylamphetamine.

(c) Notwithstanding paragraphs (a) and (b) of this subsection, unlawful possession of 3,4-methylenedioxymethamphetamine is a Class B felony if:

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

(B) The person possesses a substantial quantity under ORS 475.900 [*(2)(b)*] **(3)(b)**.

SECTION 31. ORS 475.884 is amended to read:

475.884. (1) It is unlawful for any person knowingly or intentionally to possess cocaine unless the substance 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 cocaine is a Class E violation.

(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of cocaine is a Class A misdemeanor if the person possesses two grams or more of a mixture or substance containing a detectable amount of cocaine.

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

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

(B) The person possesses a substantial quantity under ORS 475.900 [*(2)(b)*] **(3)(b)**.

SECTION 32. ORS 475.894 is amended to read:

475.894. (1) It is unlawful for any person knowingly or intentionally to possess methamphetamine unless the substance 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 methamphetamine is a Class E violation.

(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of methamphetamine is a Class A misdemeanor if the person possesses two grams or more of a mixture or substance containing a detectable amount of methamphetamine.

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

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

(B) The person possesses a substantial quantity under ORS 475.900 [*(2)(b)*] **(3)(b)**.

(Applicability)

SECTION 33. The amendments to ORS 475.005, 475.752, 475.854, 475.874, 475.884, 475.894 and 475.900 by sections 24, 25 and 28 to 32 of this 2024 Act apply to conduct occurring on or after the effective date of this 2024 Act.

POSSESSION OF CONTROLLED SUBSTANCES
(Drug Enforcement Misdemeanor Provisions)

SECTION 34. Section 35 of this 2024 Act is added to and made a part of ORS 475.752 to 475.980.

SECTION 35. (1) Unlawful possession of a controlled substance constituting a drug enforcement misdemeanor 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), 475.874 (2)(a), 475.884 (2)(a) or 475.894 (2)(a) is punishable as described in this section.

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

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

(B) If the defendant has not requested to be sentenced under subparagraph (A) of this paragraph, or if the court has decided not to sentence the defendant under subparagraph (A) of this paragraph, the court shall suspend the imposition of any sentence of incarceration and, notwithstanding ORS 137.010 (4), impose a sentence of supervised probation of a definite period of up to 18 months.

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

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

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

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

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

(c) The total amount of jail that a person may receive pursuant to structured, intermediate sanctions, or a court-imposed sanctions, on a probation imposed under this section is

30 days. Any term of incarceration imposed as a sanction must allow for early release to a treatment facility.

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

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

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

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

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

(Deflection Programs)

SECTION 36. (1) Law enforcement agencies in this state are encouraged to, in lieu of citation or arrest, or after citation or arrest but before referral to the district attorney, refer a person to a deflection program when the person is suspected of committing, or has been cited or arrested for, unlawful possession of a controlled substance constituting a drug enforcement misdemeanor under section 35 of this 2024 Act.

(2) District attorneys in this state are encouraged to divert for assessment, treatment and other services, in lieu of conviction, cases involving unlawful possession of a controlled substance constituting a drug enforcement misdemeanor under section 35 of this 2024 Act.

(3) If a deflection program is established, the program coordinator shall be responsible for providing notification that a person has completed the program to those entities responsible for sealing records under section 54 of this 2024 Act, including but not limited to law enforcement agencies, district attorneys and courts.

(4) As used in this section, "deflection program" has the meaning given that term in section 37 of this 2024 Act.

SECTION 37. (1) The Oregon Criminal Justice Commission shall establish a statewide system for tracking simple, clear and meaningful data concerning deflection program outcomes, including connections to social services and criminal justice system avoidance, and other data deemed relevant that is timely and easily accessed to inform best practices and improve outcomes for individual program participants.

(2)(a) No later than 12 months after the effective date of this 2024 Act, the commission shall conduct a study to determine best practices for deflection programs and make recommendations for funding of the Oregon Behavioral Health Deflection Program described in

section 76 of this 2024 Act. In making the recommendations described in this paragraph, the commission shall consider the best available information and projections regarding deflection programs in this state.

(b) No later than 18 months after the effective date of this 2024 Act, the commission shall develop standards and best practices for deflection programs in this state based on information received from the programs and pursuant to sections 76 and 77 of this 2024 Act.

(3) The commission shall maintain a list of deflection programs operating within this state, and shall make the list publicly available on the website of the commission.

(4) As used in this section, "deflection program" means a collaborative program between law enforcement agencies and behavioral health entities that assists individuals who may have substance use disorder, another behavioral health disorder or co-occurring disorders, to create community-based pathways to treatment, recovery support services, housing, case management or other services.

SECTION 38. ORS 133.060 is amended to read:

133.060. (1) **Except as provided in subsections (3) and (4) of this section,** a person who has been served with a criminal citation shall appear before a magistrate of the county in which the person was cited at the time, date and court specified in the citation, which shall not be later than 30 days after the date the citation was issued.

(2) If the cited person fails to appear at the time, date and court specified in the criminal citation, and a complaint or information is filed, the magistrate shall issue a warrant of arrest, upon application for its issuance, upon the person's failure to appear.

(3)(a) Notwithstanding subsection (1) of this section, during a period of statewide emergency, the date specified in a criminal citation on which a person served with the citation shall appear may be more than 30 days after the date the citation was issued.

(b) During a period of statewide emergency, the presiding judge of a circuit court may, upon the motion of a party or the court's own motion, and upon a finding of good cause, postpone the date of appearance described in paragraph (a) of this subsection for all proceedings within the jurisdiction of the court.

(c) The presiding judge may delegate the authority described in paragraph (b) of this subsection to another judge of the court.

(d) Nothing in this subsection affects the rights of a defendant under the Oregon and United States Constitutions.

(e) As used in this subsection, "period of statewide emergency" means the period of time during which any declaration of a state of emergency under ORS 401.165, public health emergency under ORS 433.441 or catastrophic disaster under Article X-A, section 1, of the Oregon Constitution, issued by the Governor, and any extension of the declaration, is in effect, and continuing for 60 days after the declaration and any extension is no longer in effect.

(4) Notwithstanding subsection (1) of this section, the date specified in a criminal citation on which a person served with the citation shall appear may be more than 30 days after the date the citation was issued for purposes of allowing the person to participate in a deflection program as defined in section 37 of this 2024 Act.

(Drug Enforcement Misdemeanor Conforming Amendments)

SECTION 39. ORS 475.752, as amended by section 28 of this 2024 Act, is amended to read:

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

(a) A controlled substance in Schedule I, is guilty of a Class A felony, except as otherwise provided in ORS 475.886 and 475.890.

(b) A controlled substance in Schedule II, is guilty of a Class B felony, except as otherwise provided in ORS 475.878, 475.880, 475.882, 475.904 and 475.906.

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

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

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

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

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

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

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

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

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

(3) It is unlawful for any person knowingly or intentionally to possess a controlled substance unless the substance 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. Any person who violates this subsection with respect to:

(a) A controlled substance in Schedule I, is guilty of a [*Class E violation*] **drug enforcement misdemeanor punishable as described in section 35 of this 2024 Act**, except as otherwise provided in ORS 475.854, 475.874 and 475.894 and subsection (7) of this section.

(b) A controlled substance in Schedule II, is guilty of a [*Class E violation*] **drug enforcement misdemeanor punishable as described in section 35 of this 2024 Act**, except as otherwise provided in ORS 475.814, 475.824, 475.834 or 475.884 or subsection (8) of this section.

(c) A controlled substance in Schedule III, is guilty of a [*Class E violation*] **drug enforcement misdemeanor punishable as described in section 35 of this 2024 Act**.

(d) A controlled substance in Schedule IV, is guilty of a [*Class E violation*] **drug enforcement misdemeanor punishable as described in section 35 of this 2024 Act**.

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

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

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

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

(c) In a manner that is not dangerous to the health of the user or others who are in the proximity of the user.

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

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

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

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

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

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

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

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

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

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

(8) Notwithstanding subsection (3)(b) of this section:

(a) Unlawful possession of a controlled substance in Schedule II 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.

(b) Unlawful possession of a controlled substance in Schedule II is a Class C felony if:

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

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

SECTION 40. ORS 475.814 is amended to read:

475.814. (1) It is unlawful for any person knowingly or intentionally to possess hydrocodone unless the hydrocodone 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 hydrocodone is a [*Class E violation*] **drug enforcement misdemeanor punishable as described in section 35 of this 2024 Act**.

(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of hydrocodone is a Class A misdemeanor if:

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

(B) The person possesses 40 or more pills, tablets, capsules or user units of a mixture or substance containing a detectable amount of hydrocodone.

SECTION 41. ORS 475.824 is amended to read:

475.824. (1) It is unlawful for any person knowingly or intentionally to possess methadone unless the methadone 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 methadone is a [*Class E violation*] **drug enforcement misdemeanor punishable as described in section 35 of this 2024 Act**.

(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of methadone is a Class A misdemeanor if the person possesses 40 or more user units of a mixture or substance containing a detectable amount of methadone.

(c) Notwithstanding paragraphs (a) and (b) of this subsection, unlawful possession of methadone is a Class C felony if the possession is a commercial drug offense under ORS 475.900 (1)(b).

SECTION 42. ORS 475.834 is amended to read:

475.834. (1) It is unlawful for any person knowingly or intentionally to possess oxycodone unless the oxycodone 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 oxycodone is a [*Class E violation*] **drug enforcement misdemeanor punishable as described in section 35 of this 2024 Act**.

(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of oxycodone is a Class A misdemeanor if the person possesses 40 or more pills, tablets, capsules or user units of a mixture or substance containing a detectable amount of oxycodone.

(c) Notwithstanding paragraphs (a) and (b) of this subsection, unlawful possession of oxycodone is a Class C felony if the possession is a commercial drug offense under ORS 475.900 (1)(b).

SECTION 43. ORS 475.854, as amended by section 29 of this 2024 Act, is amended to read:

475.854. (1) It is unlawful for any person knowingly or intentionally to possess heroin.

(2)(a) Unlawful possession of heroin is a [*Class E violation*] **drug enforcement misdemeanor punishable as described in section 35 of this 2024 Act**.

(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of heroin is a Class A misdemeanor if the person possesses one gram or more of a mixture or substance containing a detectable amount of heroin.

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

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

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

SECTION 44. ORS 475.874, as amended by section 30 of this 2024 Act, is amended to read:

475.874. (1) It is unlawful for any person knowingly or intentionally to possess 3,4-methylenedioxymethamphetamine.

(2)(a) Unlawful possession of 3,4-methylenedioxymethamphetamine is a [*Class E violation*] **drug enforcement misdemeanor punishable as described in section 35 of this 2024 Act**.

(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of 3,4-methylenedioxymethamphetamine is a Class A misdemeanor if the person possesses one gram or more or five or more pills, tablets or capsules of a mixture or substance containing a detectable amount of:

(A) 3,4-methylenedioxyamphetamine;

(B) 3,4-methylenedioxymethamphetamine; or

(C) 3,4-methylenedioxy-N-ethylamphetamine.

(c) Notwithstanding paragraphs (a) and (b) of this subsection, unlawful possession of 3,4-methylenedioxymethamphetamine is a Class B felony if:

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

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

SECTION 45. ORS 475.884, as amended by section 31 of this 2024 Act, is amended to read:

475.884. (1) It is unlawful for any person knowingly or intentionally to possess cocaine unless the substance 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 cocaine is a [*Class E violation*] **drug enforcement misdemeanor punishable as described in section 35 of this 2024 Act**.

(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of cocaine is a Class A misdemeanor if the person possesses two grams or more of a mixture or substance containing a detectable amount of cocaine.

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

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

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

SECTION 46. ORS 475.894, as amended by section 32 of this 2024 Act, is amended to read:

475.894. (1) It is unlawful for any person knowingly or intentionally to possess methamphetamine unless the substance 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 methamphetamine is a [*Class E violation*] **drug enforcement misdemeanor punishable as described in section 35 of this 2024 Act**.

(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of methamphetamine is a Class A misdemeanor if the person possesses two grams or more of a mixture or substance containing a detectable amount of methamphetamine.

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

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

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

SECTION 46a. ORS 135.753 is amended to read:

135.753. (1) If the court directs the charge or action to be dismissed, the defendant, if in custody, shall be discharged. If the defendant has been released, the release agreement is exonerated and security deposited shall be refunded to the defendant.

(2) An order for the dismissal of a charge or action, as provided in ORS 135.703 to 135.709 and 135.745 to 135.757, is a bar to another prosecution for the same crime if the crime is a Class B or C misdemeanor; but it is not a bar if the crime charged is a Class A misdemeanor**, a misdemeanor described in section 35 of this 2024 Act** or a felony.

(3) If any charge or action is dismissed for the purpose of consolidation with one or more other charges or actions, then any such dismissal shall not be a bar to another prosecution for the same offense.

(Supervision Duty and Funding)

SECTION 47. ORS 423.478 is amended to read:

423.478. (1) The Department of Corrections shall:

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

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

(A) Allow tracking of offenders; and

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

(c) Provide interstate compact administration and jail inspections.

(2) Subject to ORS 423.483, each county, in partnership with the department, shall assume responsibility for community-based supervision, sanctions and services for offenders convicted of felonies, designated drug-related misdemeanors or designated person misdemeanors**, or persons who have entered into a probation agreement on a drug enforcement misdemeanor pursuant to section 52 of this 2024 Act,** who are:

(a) On parole;

(b) On probation;

(c) On post-prison supervision;

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

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

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

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

(a) When the person is released;

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

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

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

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

(4) As used in this section:

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

(b) "Designated drug-related misdemeanor" means:

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

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

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

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

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

[*(A)*] **(F)** Unlawful possession of fentanyl under ORS 475.752 (8)(a);

(G) Unlawful possession of hydrocodone under ORS 475.814 (2)(a);

(H) Unlawful possession of hydrocodone under ORS 475.814 (2)(b);

(I) Unlawful possession of methadone under ORS 475.824 (2)(a);

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

(K) Unlawful possession of oxycodone under ORS 475.834 (2)(a);

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

(M) Unlawful possession of heroin under ORS 475.854 (2)(a);

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

(O) Unlawful possession of 3,4-methylenedioxymethamphetamine under ORS 475.874 (2)(a);

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

(Q) Unlawful possession of cocaine under ORS 475.884 (2)(a);

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

(S) Unlawful possession of methamphetamine under ORS 475.894 (2)(a); or

[*(G)*] **(T)** Unlawful possession of methamphetamine under ORS 475.894 (2)(b).

(c) "Designated person misdemeanor" means:

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

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

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

SECTION 48. ORS 423.483 is amended to read:

423.483. (1)(a) The baseline funding for biennia beginning after June 30, 1999, is the current service level for the expenses of providing management, support services, supervision and sanctions for offenders described in ORS 423.478 (2). At a minimum, each biennium's appropriation must be established at this baseline.

(b) The baseline funding described in paragraph (a) of this subsection:

(A) May not be decreased as a result of a reduction under ORS 137.633.

(B) May not be increased as a result of community-based sanctions, services and programs that are funded under section 53, chapter 649, Oregon Laws 2013.

(2) If the total state community corrections appropriation is less than the baseline calculated under subsection (1) of this section, a county may discontinue participation by written notification to the director 180 days prior to implementation of the change. If a county discontinues participation, the responsibility for correctional services transferred to the county and the portion of funding made available to the county under ORS 423.530 revert to the Department of Corrections. Responsibility for supervision of and provision of correctional services to misdemeanor offenders does not revert to the department under any circumstances except those of offenders convicted of designated drug-related misdemeanors or designated person misdemeanors**, or of persons who have entered into a probation agreement on a drug enforcement misdemeanor pursuant to section 52 of this 2024 Act**.

(3) As used in this section:

(a) "Current service level" means the calculated cost of continuing current legislatively funded programs, phased in programs and increased caseloads minus one-time costs, decreased caseloads, phased out programs and pilot programs with the remainder adjusted for inflation as determined by the Legislative Assembly in its biennial appropriation to the Department of Corrections.

(b) "Designated drug-related misdemeanor" has the meaning given that term in ORS 423.478.

(c) "Designated person misdemeanor" has the meaning given that term in ORS 423.478.

SECTION 49. ORS 423.483, as amended by section 22, chapter 649, Oregon Laws 2013, section 3, chapter 140, Oregon Laws 2015, and section 2, chapter 341, Oregon Laws 2023, is amended to read:

423.483. (1)(a) The baseline funding for biennia beginning after June 30, 1999, is the current service level for the expenses of providing management, support services, supervision and sanctions for offenders described in ORS 423.478 (2). At a minimum, each biennium's appropriation must be established at this baseline.

(b) The baseline funding described in paragraph (a) of this subsection may not be decreased as a result of a reduction under ORS 137.633.

(2) If the total state community corrections appropriation is less than the baseline calculated under subsection (1) of this section, a county may discontinue participation by written notification to the director 180 days prior to implementation of the change. If a county discontinues participation, the responsibility for correctional services transferred to the county and the portion of funding made available to the county under ORS 423.530 revert to the Department of Corrections. Responsibility for supervision of and provision of correctional services to misdemeanor offenders does not revert to the department under any circumstances except those of offenders convicted of designated drug-related misdemeanors or designated person misdemeanors**, or of persons who have entered into a probation agreement on a drug enforcement misdemeanor pursuant to section 52 of this 2024 Act**.

(3) As used in this section:

(a) "Current service level" means the calculated cost of continuing current legislatively funded programs, phased in programs and increased caseloads minus one-time costs, decreased caseloads, phased out programs and pilot programs with the remainder adjusted for inflation as determined by the Legislative Assembly in its biennial appropriation to the Department of Corrections.

(b) "Designated drug-related misdemeanor" has the meaning given that term in ORS 423.478.

(c) "Designated person misdemeanor" has the meaning given that term in ORS 423.478.

SECTION 50. ORS 423.525 is amended to read:

423.525. (1) A county, group of counties or intergovernmental corrections entity shall apply to the Director of the Department of Corrections in a manner and form prescribed by the director for funding made available under ORS 423.500 to 423.560. The application shall include a community corrections plan. The Department of Corrections shall provide consultation and technical assistance to counties to aid in the development and implementation of community corrections plans.

(2)(a) From July 1, 1995, until June 30, 1999, a county, group of counties or intergovernmental corrections entity may make application requesting funding for the construction, acquisition, expansion or remodeling of correctional facilities to serve the county, group of counties or intergovernmental corrections entity. The department shall review the application for funding of correctional facilities in accordance with criteria that consider design, cost, capacity, need, operating efficiency and viability based on the county's, group of counties' or intergovernmental corrections entity's ability to provide for ongoing operations.

(b)(A) If the application is approved, the department shall present the application with a request to finance the facility with financing agreements to the State Treasurer and the Director of the Oregon Department of Administrative Services. Except as otherwise provided in subparagraph (B) of this paragraph, upon approval of the request by the State Treasurer and the Director of the Oregon Department of Administrative Services, the facility may be financed with financing agreements, and certificates of participation issued pursuant thereto, as provided in ORS 283.085 to 283.092. All decisions approving or denying applications and requests for financing under this section are final. No such decision is subject to judicial review of any kind.

(B) If requests to finance county correctional facility projects are submitted after February 22, 1996, and the requests have not been approved by the department on the date a session of the Legislative Assembly convenes, the requests are also subject to the approval of the Legislative Assembly.

(c) After approval but prior to the solicitation of bids or proposals for the construction of a project, the county, group of counties or intergovernmental corrections entity and the department shall enter into a written agreement that determines the procedures, and the parties responsible, for the awarding of contracts and the administration of the construction project for the approved correctional facility. If the parties are unable to agree on the terms of the written agreement, the Governor shall decide the terms of the agreement. The Governor's decision is final.

(d) After approval of a construction project, the administration of the project shall be conducted as provided in the agreement required by paragraph (c) of this subsection. The agreement must require at a minimum that the county, group of counties or intergovernmental corrections entity shall submit to the department any change order or alteration of the design of the project that, singly or in the aggregate, reduces the capacity of the correctional facility or materially changes the services or functions of the project. The change order or alteration is not effective until approved by the department. In reviewing the change order or alteration, the department shall consider whether the implementation of the change order or alteration will have any material adverse impact on the parties to any financing agreements or the holders of any certificates of participation issued to fund county correctional facilities under this section. In making its decision, the department may rely on the opinions of the Department of Justice, bond counsel or professional financial advisers.

(3) Notwithstanding ORS 283.085, for purposes of this section, "financing agreement" means a lease purchase agreement, an installment sale agreement, a loan agreement or any other agreement to finance a correctional facility described in this section, or to refinance a previously executed financing agreement for the financing of a correctional facility. The state is not required to own or operate a correctional facility in order to finance it under ORS 283.085 to 283.092 and this section. The state, an intergovernmental corrections entity, county or group of counties may enter into any agreements, including, but not limited to, leases and subleases, that are reasonably necessary or generally accepted by the financial community for purposes of acquiring or securing financing as authorized by this section. In financing county correctional facilities under this section, "property rights" as used in ORS 283.085 includes leasehold mortgages of the state's rights under leases of correctional facilities from counties.

(4) Notwithstanding any other provision of state law, county charter or ordinance, a county may convey or lease to the State of Oregon, acting by and through the Department of Corrections, title to interests in, or a lease of, any real property, facilities or personal property owned by the county for the purpose of financing the construction, acquisition, expansion or remodeling of a correctional facility. Upon the payment of all principal and interest on, or upon any other satisfaction of, the financing agreement used to finance the construction, acquisition, expansion or remodeling of a correctional facility, the state shall reconvey its interest in, or terminate and surrender its leasehold of, the property or facilities, including the financed construction, acquisition, expansion or remodeling, to the county. In addition to any authority granted by ORS 283.089, for the purposes of obtaining financing, the state may enter into agreements under which the state may grant to trustees or lenders leases, subleases and other security interests in county property conveyed or leased to the state under this subsection and in the property or facilities financed by financing agreements.

(5) In connection with the financing of correctional facilities, the Director of the Oregon Department of Administrative Services may bill the Department of Corrections, and the Department of Corrections shall pay the amounts billed, in the same manner as provided in ORS 283.089. As required by ORS 283.091, the Department of Corrections and the Oregon Department of Administrative Services shall include in the Governor's budget all amounts that will be due in each fiscal period under financing agreements for correctional facilities. Amounts payable by the state under a financing agreement for the construction, acquisition, expansion or remodeling of a correctional facility are limited to available funds as defined in ORS 283.085, and no lender, trustee, certificate holder or county has any claim or recourse against any funds of the state other than available funds.

(6) The director shall adopt rules that may be necessary for the administration, evaluation and implementation of ORS 423.500 to 423.560. The standards shall be sufficiently flexible to foster the development of new and improved supervision or rehabilitative practices and maximize local control.

(7) When a county assumes responsibility under ORS 423.500 to 423.560 for correctional services previously provided by the department, the county and the department shall enter into an intergovernmental agreement that includes a local community corrections plan consisting of program descriptions, budget allocation, performance objectives and methods of evaluating each correctional service to be provided by the county. The performance objectives must include in dominant part reducing future criminal conduct. The methods of evaluating services must include, to the extent of available information systems resources, the collection and analysis of data sufficient to determine the apparent effect of the services on future criminal conduct.

(8) All community corrections plans shall comply with rules adopted pursuant to ORS 423.500 to 423.560, and shall include but need not be limited to an outline of the basic structure and the supervision, services and local sanctions to be applied to offenders convicted of felonies, designated drug-related misdemeanors and designated person misdemeanors**, or persons who have entered into a probation agreement on a drug enforcement misdemeanor pursuant to section 52 of this 2024 Act,** who are:

(a) On parole;

(b) On probation;

(c) On post-prison supervision;

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

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

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

(9) All community corrections plans shall designate a community corrections manager of the county or counties and shall provide that the administration of community corrections under ORS 423.500 to 423.560 shall be under such manager.

(10) No amendment to or modification of a county-approved community corrections plan shall be placed in effect without prior notice to the director for purposes of statewide data collection and reporting.

(11) The obligation of the state to provide funding and the scheduling for providing funding of a project approved under this section is dependent upon the ability of the state to access public security markets to sell financing agreements.

(12) No later than January 1 of each odd-numbered year, the Department of Corrections shall:

(a) Evaluate the community corrections policy established in ORS 423.475, 423.478, 423.483 and 423.500 to 423.560; and

(b) Assess the effectiveness of local revocation options.

(13) As used in this section, "designated drug-related misdemeanor" and "designated person misdemeanor" have the meanings given those terms in ORS 423.478.

(Conditional Discharge)

SECTION 51. Section 52 of this 2024 Act is added to and made a part of ORS 475.752 to 475.980.

SECTION 52. (1)(a) When a person is charged with unlawful possession of a controlled substance 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), 475.874 (2)(a), 475.884 (2)(a) or 475.894 (2)(a) constituting a drug enforcement misdemeanor as described in section 35 of this 2024 Act, the person is eligible to enter, and subject to paragraphs (b) and (c) of this subsection may request to enter, into a probation agreement as described in this section.

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

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

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

(e) A person may enter into a probation agreement under this section on the charge described in paragraph (a) of this subsection regardless of whether the person is charged with other offenses within the same charging instrument or as part of a separate charging instrument, but the proceedings on the other offenses continue in the normal course and are not deferred.

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

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

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

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

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

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

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

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

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

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

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

(3) Upon violation of a term or condition of the probation agreement, the court may impose a sanction or may resume the criminal proceedings and may find the defendant guilty of the charge that is the subject of the agreement in accordance with the waiver of rights in the agreement. The defendant may not contest the sufficiency of the evidence establishing the defendant's guilt of the offenses in the accusatory instrument.

(4) Upon the conclusion or early termination of the probation period, if the court has received notice from the district attorney or a supervising officer that the person has fulfilled the terms and conditions of the probation agreement, the court shall discharge the

person and dismiss the charge that is the subject of the agreement. Discharge and dismissal under this section shall be without adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

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

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

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

SECTION 53. ORS 475.245 is amended to read:

475.245. (1)(a) Whenever a person is charged with an offense listed in subsection (5) of this section, the court, with the consent of the district attorney and the person, may defer further proceedings and place the person on probation. The terms of the probation shall be defined by a probation agreement.

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

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

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

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

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

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

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

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

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

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

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

(2) Upon violation of a term or condition of the probation agreement, the court may **impose sanctions of up to a total of 30 days of imprisonment, or** resume the criminal proceedings and may find the defendant guilty of the offenses in the accusatory instrument in accordance with the waiver of rights in the probation agreement. The defendant may not contest the sufficiency of the evidence establishing the defendant's guilt of the offenses in the accusatory instrument.

(3) Upon fulfillment of the terms and conditions of the probation agreement, the court shall discharge the person and dismiss the proceedings against the person. Discharge and dismissal under

this section shall be without adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. There may be only one discharge and dismissal under this section with respect to any person.

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

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

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

(5) This section applies to the following offenses:

(a) Possession of a controlled substance under ORS 475.752 (3), 475.814, 475.824, 475.834, 475.854, 475.874, 475.884 or 475.894;

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

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

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

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

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

(Expungement)

SECTION 54. (1) Within 60 days of receiving verification from a deflection program coordinator that a person has completed a deflection program, after being referred to the program due to the alleged commission of unlawful possession of a controlled substance constituting a drug enforcement misdemeanor as described in section 35 of this 2024 Act, a law enforcement agency or district attorney shall seal all records related to the person's participation in the program, the alleged conduct that resulted in the referral to the program and, if applicable, the citation for the offense, and a court shall seal all electronic records that may have been created concerning the offense. Records sealed under this subsection are not subject to disclosure under ORS 192.311 to 192.478 or any other law.

(2) After two years have elapsed from the date that a person is cited for unlawful possession of a controlled substance constituting a drug enforcement misdemeanor as described in section 35 of this 2024 Act, and if no further prosecutorial action on the citation has occurred, within 60 days after the conclusion of the two year time period, any law enforcement agency or district attorney that possesses records related to the citation, and any court that possesses electronic records related to the citation, shall seal the records. Records sealed under this subsection are not subject to disclosure under ORS 192.311 to 192.478 or any other law.

(3)(a) Notwithstanding ORS 137.225, when a person successfully completes a probation agreement and the court discharges the person and dismisses the proceedings against the person under section 52 (4) of this 2024 Act, the court shall, within 90 days after the dismissal, enter an order sealing all records related to the arrest or citation and the criminal proceedings. The clerk of the court shall forward a copy of the order, or a certified copy if requested, to such agencies as directed by the court.

(b) Notwithstanding ORS 137.225, when the court receives notice that a defendant has successfully completed a term of probation for unlawful possession of a controlled substance constituting a drug enforcement misdemeanor as described in section 35 of this 2024 Act, the court shall, within 90 days after the notification, enter an order sealing all records related to the arrest or citation and the criminal proceedings. The clerk of the court shall forward a copy of the order, or a certified copy if requested, to such agencies as directed by the court.

(4)(a) Notwithstanding ORS 137.225, after three years have passed from the date of entry of judgment of conviction for unlawful possession of a controlled substance constituting a drug enforcement misdemeanor as described in section 35 of this 2024 Act, the court shall, within 60 days after the three year period has concluded, enter an order sealing all records related to the arrest or citation, charges and conviction. The clerk of the court shall forward a copy of the order, or a certified copy if requested, to such agencies as directed by the court.

(b) Notwithstanding ORS 137.225, after three years have passed since the dismissal of a unlawful possession of a controlled substance constituting a drug enforcement misdemeanor as described in section 35 of this 2024 Act, if the court has not sealed records of the offense under subsection (2) or (3) of this section, the court shall, within 60 days after the three year period has concluded, enter an order sealing all records related to the arrest or citation and any criminal proceedings. The clerk of the court shall forward a copy of the order, or a certified copy if requested, to such agencies as directed by the court.

(5)(a) The State Court Administrator shall develop a standardized form for obtaining the information necessary for all entities to seal records as required by subsections (3) and (4) of this section.

(b) When a person enters into a probation agreement under section 52 of this 2024 Act, or is convicted of unlawful possession of a controlled substance constituting a drug enforcement misdemeanor as described in section 35 of this 2024 Act, the district attorney and the defense attorney shall ensure that a copy of the form described in paragraph (a) of this subsection is completed and submitted to the court.

SECTION 55. ORS 137.225 is amended to read:

137.225. (1)(a) At any time after the person becomes eligible as described in paragraph (b) of this subsection, any person convicted of an offense who has fully complied with and performed the sentence of the court for the offense, and whose conviction is described in subsection (5) of this section, by motion may apply to the court where the conviction was entered for entry of an order setting aside the conviction. A person who is still under supervision as part of the sentence for the offense that is the subject of the motion has not fully complied with or performed the sentence of the court.

(b) A person is eligible to file a motion under paragraph (a) of this subsection:

(A) For a Class B felony, seven years from the date of conviction or the release of the person from imprisonment for the conviction sought to be set aside, whichever is later.

(B) For a Class C felony, five years from the date of conviction or the release of the person from imprisonment for the conviction sought to be set aside, whichever is later.

(C) For a Class A misdemeanor, three years from the date of conviction or the release of the person from imprisonment for the conviction sought to be set aside, whichever is later.

(D) For a Class B or Class C misdemeanor, a violation or the finding of a person in contempt of court, one year from the date of conviction or finding or the release of the person from imprisonment for the conviction or finding sought to be set aside, whichever is later.

(c) If no accusatory instrument is filed, at any time after 60 days from the date the prosecuting attorney indicates that the state has elected not to proceed with a prosecution or contempt proceeding, an arrested, cited or charged person may apply to the court in the county in which the person was arrested, cited or charged, for entry of an order setting aside the record of the arrest, citation or charge.

(d) At any time after an acquittal or a dismissal other than a dismissal described in paragraph (c) of this subsection, an arrested, cited or charged person may apply to the court in the county in which the person was arrested, cited or charged, for entry of an order setting aside the record of the arrest, citation or charge.

(e) Notwithstanding paragraph (b) of this subsection, a person whose sentence of probation was revoked may not apply to the court for entry of an order setting aside the conviction for which the person was sentenced to probation for a period of three years from the date of revocation or until the person becomes eligible as described in paragraph (b) of this subsection, whichever occurs later.

(f) A person filing a motion under this section is not required to pay the filing fee established under ORS 21.135.

(2)(a) A copy of the motion shall be served upon the office of the prosecuting attorney who prosecuted the offense, or who had authority to prosecute the charge if there was no accusatory instrument filed. The prosecuting attorney may object to a motion filed under subsection (1)(a) of this section and shall notify the court and the person of the objection within 120 days of the date the motion was filed with the court.

(b) When a prosecuting attorney is served with a copy of a motion to set aside a conviction under subsection (1)(a) of this section, the prosecuting attorney shall provide a copy of the motion and notice of the hearing date to the victim, if any, of the offense by mailing a copy of the motion and notice to the victim's last-known address.

(c) When a person makes a motion under this section, the person shall forward to the Department of State Police a full set of the person's fingerprints on a fingerprint card or in any other manner specified by the department.

(d) When a person makes a motion under subsection (1)(a) of this section, the person must pay a fee to the Department of State Police for the purpose of the department performing a criminal record check. The department shall establish a fee in an amount not to exceed the actual cost of performing the criminal record check. If the department is required to perform only one criminal record check for the person, the department may only charge one fee, regardless of the number of counties in which the person is filing a motion to set aside a conviction, arrest, charge or citation under this section. The department shall provide a copy of the results of the criminal record check to the prosecuting attorney.

(e) The prosecuting attorney may not charge the person a fee for performing the requirements described in this section.

(3)(a) If an objection is received to a motion filed under subsection (1)(a) of this section, the court shall hold a hearing, and may require the filing of such affidavits and may require the taking of such proofs as the court deems proper. The court shall allow the victim to make a statement at the hearing. If the person is otherwise eligible for relief under this section, the court shall grant the motion and enter an order as described in paragraph (b) of this subsection unless the court makes written findings, by clear and convincing evidence, that the circumstances and behavior of the person, from the date of the conviction the person is seeking to set aside to the date of the hearing on the motion, do not warrant granting the motion due to the circumstances and behavior creating a risk to public safety. When determining whether the person's circumstances and behavior create a risk to public safety, the court may only consider criminal behavior, or violations of regulatory law or administrative rule enforced by civil penalty or other administrative sanction that relate to the character of the conviction sought to be set aside. The court may not consider nonpunitive civil liability, monetary obligations and motor vehicle violations. Upon granting the motion, the court shall enter an appropriate order containing the original arrest or citation charge, the conviction charge, if different from the original, the date of charge, the submitting agency and the disposition of the charge. Upon the entry of the order, the person for purposes of the law shall be deemed not to have been previously convicted, and the court shall issue an order sealing the record of conviction and other official records in the case, including the records of arrest, citation or charge.

(b) The court shall grant a motion filed under subsection (1)(c) or (d) of this section, or under subsection (1)(a) of this section if no objection to the motion is received, and shall enter an appro-

priate order containing the original arrest or citation charge, the conviction charge, if applicable and different from the original, the date of charge, the submitting agency and the disposition of the charge. Upon the entry of the order, the person for purposes of the law shall be deemed not to have been previously convicted, arrested, cited or charged, and the court shall issue an order sealing all official records in the case, including the records of arrest, citation or charge, whether or not the arrest, citation or charge resulted in a further criminal proceeding.

(4) The clerk of the court shall forward a certified copy of the order to such agencies as directed by the court. A certified copy must be sent to the Department of Corrections when the order concerns a conviction. Upon entry of the order, the conviction, arrest, citation, charge or other proceeding shall be deemed not to have occurred, and the person may answer accordingly any questions relating to its occurrence.

(5) The provisions of subsection (1)(a) of this section apply to a conviction for:

(a) A Class B felony, except for a violation of ORS 166.429 or any crime classified as a person felony as defined in the rules of the Oregon Criminal Justice Commission.

(b) Any misdemeanor, Class C felony or felony punishable as a misdemeanor pursuant to ORS 161.705.

(c) An offense constituting a violation under state law or local ordinance.

(d) An offense committed before January 1, 1972, that, if committed after that date, would qualify for an order under this section.

(e) The finding of a person in contempt of court.

(6) Notwithstanding subsection (5) of this section, the provisions of subsection (1)(a) of this section do not apply to a conviction for:

(a) Criminal mistreatment in the second degree under ORS 163.200 if the victim at the time of the crime was 65 years of age or older.

(b) Criminal mistreatment in the first degree under ORS 163.205 if the victim at the time of the crime was 65 years of age or older, or when the offense constitutes child abuse as defined in ORS 419B.005.

(c) Endangering the welfare of a minor under ORS 163.575 (1)(a), when the offense constitutes child abuse as defined in ORS 419B.005.

(d) Criminally negligent homicide under ORS 163.145, when that offense was punishable as a Class C felony.

(e) Assault in the third degree under ORS 163.165 (1)(h).

(f) Any sex crime, unless:

(A) The sex crime is listed in ORS 163A.140 (1)(a) and:

(i) The person has been relieved of the obligation to report as a sex offender pursuant to a court order entered under ORS 163A.145 or 163A.150; and

(ii) The person has not been convicted of, found guilty except for insanity of or found to be within the jurisdiction of the juvenile court based on a crime for which the court is prohibited from setting aside the conviction under this section; or

(B) The sex crime constitutes a Class C felony and:

(i) The person was under 16 years of age at the time of the offense;

(ii) The person is:

(I) Less than two years and 180 days older than the victim; or

(II) At least two years and 180 days older, but less than three years and 180 days older, than the victim and the court finds that setting aside the conviction is in the interests of justice and of benefit to the person and the community;

(iii) The victim's lack of consent was due solely to incapacity to consent by reason of being less than a specified age;

(iv) The victim was at least 12 years of age at the time of the offense;

(v) The person has not been convicted of, found guilty except for insanity of or found to be within the jurisdiction of the juvenile court based on a crime for which the court is prohibited from setting aside the conviction under this section; and

(vi) Each conviction or finding described in this subparagraph involved the same victim.

(7) Notwithstanding subsection (5) of this section, the provisions of subsection (1) of this section do not apply to:

(a) A conviction for a state or municipal traffic offense.

(b) A person convicted, within the following applicable time period immediately preceding the filing of the motion pursuant to subsection (1) of this section, of any other offense, excluding motor vehicle violations **and unlawful possession of a controlled substance constituting a drug enforcement misdemeanor as described in section 35 of this 2024 Act**, whether or not the other conviction is for conduct associated with the same criminal episode that caused the arrest, citation, charge or conviction that is sought to be set aside:

(A) For a motion concerning a Class B felony, seven years.

(B) For a motion concerning a Class C felony, five years.

(C) For a motion concerning a Class A misdemeanor, three years.

(D) For a motion concerning a Class B or Class C misdemeanor a violation or a finding of contempt of court, one year.

(c) A single violation, other than a motor vehicle violation, within the time period specified in paragraph (b) of this subsection is not a conviction under this subsection. Notwithstanding subsection (1) of this section, a conviction that has been set aside under this section shall be considered for the purpose of determining whether paragraph (b) of this subsection is applicable.

(d) A person who at the time the motion authorized by subsection (1) of this section is pending before the court is under charge of commission of any crime.

(8) The provisions of subsection (1)(c) or (d) of this section do not apply to an arrest or citation for driving while under the influence of intoxicants if the charge is dismissed as a result of the person's successful completion of a diversion agreement described in ORS 813.200.

(9) The provisions of subsection (1) of this section apply to convictions, arrests, citations and charges that occurred before, as well as those that occurred after, September 9, 1971. There is no time limit for making an application.

(10) For purposes of any civil action in which truth is an element of a claim for relief or affirmative defense, the provisions of subsection (3) of this section providing that the conviction, arrest, citation, charge or other proceeding be deemed not to have occurred do not apply and a party may apply to the court for an order requiring disclosure of the official records in the case as may be necessary in the interest of justice.

(11)(a) Upon motion of any prosecutor or defendant in a case involving records sealed under this section, supported by affidavit showing good cause, the court with jurisdiction may order the reopening and disclosure of any records sealed under this section for the limited purpose of assisting the investigation of the movant. However, such an order has no other effect on the orders setting aside the conviction or the arrest, citation or charge record.

(b) Notwithstanding paragraph (a) of this subsection, when an arrest, citation or charge described in subsection (1)(c) of this section is set aside, a prosecuting attorney may, for the purpose of initiating a criminal proceeding within the statute of limitations, unseal the records sealed under this section by notifying the court with jurisdiction over the charge, record of arrest or citation. The prosecuting attorney shall notify the person who is the subject of the records of the unsealing under this paragraph by sending written notification to the person's last known address.

(12) The State Court Administrator shall create forms to be used throughout the state for motions and proposed orders described in this section.

(13) As used in this section:

(a) "Affidavit" includes a declaration under penalty of perjury.

(b) "Sex crime" has the meaning given that term in ORS 163A.005.

(Other Amendments Related to Expungement)

SECTION 56. ORS 135.050 is amended to read:

135.050. (1) Suitable counsel for a defendant shall be appointed by a municipal, county or justice court if:

(a) The defendant is before a court on a matter described in subsection (5) of this section;

(b) The defendant requests aid of counsel;

(c) The defendant provides to the court a written and verified financial statement; and

(d) It appears to the court that the defendant is financially unable to retain adequate representation without substantial hardship in providing basic economic necessities to the defendant or the defendant's dependent family.

(2) Suitable counsel for a defendant shall be appointed by a circuit court if:

(a) The defendant is before the court on a matter described in subsection (5) of this section;

(b) The defendant requests aid of counsel;

(c) The defendant provides to the court a written and verified financial statement; and

(d)(A) The defendant is determined to be financially eligible under ORS 151.485 and the standards established by the Oregon Public Defense Commission under ORS 151.216; or

(B) The court finds, on the record, substantial and compelling reasons why the defendant is financially unable to retain adequate representation without substantial hardship in providing basic economic necessities to the defendant or the defendant's dependent family despite the fact that the defendant does not meet the financial eligibility standards established by the commission.

(3) Appointed counsel may not be denied to any defendant merely because the defendant's friends or relatives have resources adequate to retain counsel or because the defendant has deposited or is capable of depositing security for release. However, appointed counsel may be denied to a defendant if the defendant's spouse has adequate resources which the court determines should be made available to retain counsel.

(4) The defendant's financial statement under subsection (1) or (2) of this section shall include, but not be limited to:

(a) A list of bank accounts in the name of defendant or defendant's spouse, and the balance in each;

(b) A list of defendant's interests in real property and those of defendant's spouse;

(c) A list of automobiles and other personal property of significant value belonging to defendant or defendant's spouse;

(d) A list of debts in the name of defendant or defendant's spouse, and the total of each; and

(e) A record of earnings and other sources of income in the name of defendant or defendant's spouse, and the total of each.

(5) Counsel must be appointed for a defendant who meets the requirements of subsection (1) or (2) of this section and who is before a court on any of the following matters:

(a) Charged with a crime.

(b) For a hearing to determine whether an enhanced sentence should be imposed when such proceedings may result in the imposition of a felony sentence.

(c) For extradition proceedings under the provisions of the Uniform Criminal Extradition Act.

(d) For any proceeding concerning an order of probation, including but not limited to the revoking or amending thereof.

(6) Unless otherwise ordered by the court, the appointment of counsel under this section shall continue during all criminal proceedings resulting from the defendant's arrest through acquittal or the imposition of punishment. The court having jurisdiction of the case may not substitute one appointed counsel for another except pursuant to the policies, procedures, standards and guidelines of the Oregon Public Defense Commission under ORS 151.216.

(7) If, at any time after the appointment of counsel, the court having jurisdiction of the case finds that the defendant is financially able to obtain counsel, the court may terminate the appointment of counsel. If, at any time during criminal proceedings, the court having jurisdiction of the case finds that the defendant is financially unable to pay counsel whom the defendant has retained, the court may appoint counsel as provided in this section.

(8)**(a) Except as provided in paragraph (b) of this subsection,** the court may order the defendant in a circuit court to pay to the Public Defense Services Account established by ORS 151.225, through the clerk of the court, in full or in part the administrative costs of determining the eligibility of the defendant for appointed counsel and the costs of the legal and other services that are related to the provision of appointed counsel under ORS 151.487.

(b) A court may not enter an order described in paragraph (a) of this subsection when the defendant is charged only with unlawful possession of a controlled substance constituting a drug enforcement misdemeanor as described in section 35 of this 2024 Act.

(9) In addition to any criminal prosecution, a civil proceeding may be initiated by any public body which has expended moneys for the defendant's legal assistance within two years of judgment if the defendant was not qualified in accordance with subsection (1) or (2) of this section for legal assistance.

(10) The civil proceeding shall be subject to the exemptions from execution as provided for by law.

(11) As used in this section unless the context requires otherwise, "counsel" includes a legal advisor appointed under ORS 135.045.

(Repealing Class E Violation Provisions)

SECTION 57. ORS 51.050 is amended to read:

51.050. (1) Except as otherwise provided in this section, in addition to the criminal jurisdiction of justice courts already conferred upon and exercised by them, justice courts have jurisdiction of all offenses committed or triable in their respective counties. The jurisdiction conveyed by this section is concurrent with any jurisdiction that may be exercised by a circuit court or municipal court.

(2) In any justice court that has not become a court of record under ORS 51.025, a defendant charged with a misdemeanor shall be notified immediately after entering a plea of not guilty of the right of the defendant to have the matter transferred to the circuit court for the county where the justice court is located. The election shall be made within 10 days after the plea of not guilty is entered, and the justice shall immediately transfer the case to the appropriate court.

(3) A justice court does not have jurisdiction over the trial of any felony or a designated drug-related misdemeanor as defined in ORS 423.478. [*A justice court does not have jurisdiction over Class E violations.*] Except as provided in ORS 51.037, a justice court does not have jurisdiction over offenses created by the charter or ordinance of any city.

SECTION 58. ORS 137.300 is amended to read:

137.300. (1) The Criminal Fine Account is established in the General Fund. Except as otherwise provided by law, all amounts collected in state courts as monetary obligations in criminal actions shall be deposited by the courts in the account. All moneys in the account are continuously appropriated to the Department of Revenue to be distributed by the Department of Revenue as provided in this section. The Department of Revenue shall keep a record of moneys transferred into and out of the account.

(2) The Legislative Assembly shall first allocate moneys from the Criminal Fine Account for the following purposes, in the following order of priority:

(a) Allocations for public safety standards, training and facilities.

(b) Allocations for criminal injuries compensation and assistance to victims of crime and children reasonably suspected of being victims of crime.

(c) Allocations for the forensic services provided by the Oregon State Police, including, but not limited to, services of the Chief Medical Examiner.

(d) Allocations for the maintenance and operation of the Law Enforcement Data System.

(3) After making allocations under subsection (2) of this section, the Legislative Assembly shall allocate moneys from the Criminal Fine Account for the following purposes:

(a) Allocations to the Law Enforcement Medical Liability Account established under ORS 414.815.

(b) Allocations to the State Court Facilities and Security Account established under ORS 1.178.

(c) Allocations to the Department of Corrections for the purpose of planning, operating and maintaining county juvenile and adult corrections programs and facilities and drug and alcohol programs.

(d) Allocations to the Oregon Health Authority for the purpose of grants under ORS 430.345 for the establishment, operation and maintenance of alcohol and drug abuse prevention, early intervention and treatment services provided through a county.

(e) Allocations to the Oregon State Police for the purpose of the enforcement of the laws relating to driving under the influence of intoxicants.

(f) Allocations to the Arrest and Return Account established under ORS 133.865.

(g) Allocations to the Intoxicated Driver Program Fund established under ORS 813.270.

(h) Allocations to the State Court Technology Fund established under ORS 1.012.

[*(4) Notwithstanding subsections (2) and (3) of this section, the Legislative Assembly shall allocate all moneys deposited into the Criminal Fine Account as payment of fines on Class E violations to the Drug Treatment and Recovery Services Fund established under ORS 430.384.*]

[*(5)*] **(4)** It is the intent of the Legislative Assembly that allocations from the Criminal Fine Account under subsection (3) of this section be consistent with historical funding of the entities, programs and accounts listed in subsection (3) of this section from monetary obligations imposed in criminal proceedings. Amounts that are allocated under subsection (3)(c) of this section shall be distributed to counties based on the amounts that were transferred to counties by circuit courts during the 2009-2011 biennium under the provisions of ORS 137.308, as in effect January 1, 2011.

[*(6)*] **(5)** Moneys in the Criminal Fine Account may not be allocated for the payment of debt service obligations.

[*(7)*] **(6)** The Department of Revenue shall deposit in the General Fund all moneys remaining in the Criminal Fine Account after the distributions listed in subsections (2)[*,*] **and** (3) [*and (4)*] of this section have been made.

[*(8)*] **(7)** The Department of Revenue shall establish by rule a process for distributing moneys in the Criminal Fine Account. The department may not distribute more than one-eighth of the total biennial allocation to an entity during a calendar quarter.

SECTION 59. ORS 153.012 is amended to read:

153.012. Violations are classified for the purpose of sentencing into the following categories:

(1) Class A violations.

(2) Class B violations.

(3) Class C violations.

(4) Class D violations.

[*(5) Class E violations.*]

[*(6)*] **(5)** Unclassified violations as described in ORS 153.015.

[*(7)*] **(6)** Specific fine violations as described in ORS 153.015.

SECTION 60. ORS 153.018 is amended to read:

153.018. (1) The penalty for committing a violation is a fine. The law creating a violation may impose other penalties in addition to a fine but may not impose a term of imprisonment.

(2) Except as otherwise provided by law, the maximum fine for a violation committed by an individual is:

(a) $2,000 for a Class A violation.

(b) $1,000 for a Class B violation.

(c) $500 for a Class C violation.

(d) $250 for a Class D violation.

[*(e) $100 for a Class E violation.*]

[*(f)*] **(e)** $2,000 for a specific fine violation, or the maximum amount otherwise established by law for the specific fine violation.

(3) If a special corporate fine is specified in the law creating the violation, the sentence to pay a fine shall be governed by the law creating the violation. Except as otherwise provided by law, if a special corporate fine is not specified in the law creating the violation, the maximum fine for a violation committed by a corporation is:

(a) $4,000 for a Class A violation.

(b) $2,000 for a Class B violation.

(c) $1,000 for a Class C violation.

(d) $500 for a Class D violation.

SECTION 61. ORS 153.019 is amended to read:

153.019. (1) Except as provided in ORS 153.020, [*153.062 and 430.391,*] the presumptive fines for violations are:

(a) $440 for a Class A violation.

(b) $265 for a Class B violation.

(c) $165 for a Class C violation.

(d) $115 for a Class D violation.

[*(e) $100 for a Class E violation.*]

(2) The presumptive fine for a specific fine violation is:

(a) The amount specified by statute as the presumptive fine for the violation; or

(b) An amount equal to the greater of 20 percent of the maximum fine prescribed for the violation, or the minimum fine prescribed by statute for the violation.

(3) Any surcharge imposed under ORS 1.188 shall be added to and made a part of the presumptive fine.

SECTION 62. ORS 153.021 is amended to read:

153.021. (1) Unless a specific minimum fine is prescribed for a violation, and except as otherwise provided by law, the minimum fine a court shall impose for a violation that is subject to the presumptive fines established by ORS 153.019 (1) or 153.020 are as follows:

(a) $225 for a Class A violation.

(b) $135 for a Class B violation.

(c) $85 for a Class C violation.

(d) $65 for a Class D violation.

[*(e) $45 for a Class E violation.*]

(2) Notwithstanding subsection (1) of this section, a court may waive payment of the minimum fine described in this section, in whole or in part, if the court determines that requiring payment of the minimum fine would be inconsistent with justice in the case. In making its determination under this subsection, the court shall consider:

(a) The financial resources of the defendant and the burden that payment of the minimum fine would impose, with due regard to the other obligations of the defendant; and

(b) The extent to which that burden could be alleviated by allowing the defendant to pay the fine in installments or subject to other conditions set by the court.

(3) This section does not affect the manner in which a court imposes or reduces monetary obligations other than fines.

(4) The Department of Revenue or Secretary of State may audit any court to determine whether the court is complying with the requirements of this section. In addition, the Department of Revenue or Secretary of State may audit any court to determine whether the court is complying with the requirements of ORS 137.145 to 137.159 and 153.640 to 153.680. The Department of Revenue or Secretary of State may file an action under ORS 34.105 to 34.240 to enforce the requirements of this section and of ORS 137.145 to 137.159 and 153.640 to 153.680.

SECTION 63. ORS 153.064 is amended to read:

153.064. (1) Except as provided in subsection (2) of this section, a warrant for arrest may be issued against a person who fails to make a first appearance on a citation for a violation, or fails to appear at any other subsequent time set for trial or other appearance, only if the person is charged with failure to appear in a violation proceeding under ORS 153.992.

(2) If a person fails to make a first appearance on a citation for a violation [*other than a Class E violation*], or fails to appear at any other subsequent time set for trial or other appearance on a violation [*other than a Class E violation*], the court may issue an order that requires the defendant to appear and show cause why the defendant should not be held in contempt. The show cause order may be mailed to the defendant by certified mail, return receipt requested. If service cannot be accomplished by mail, the defendant must be personally served. If the defendant is served and fails to appear at the time specified in the show cause order, the court may issue an arrest warrant for the defendant for the purpose of bringing the defendant before the court.

SECTION 64. ORS 153.992 is amended to read:

153.992. (1) A person commits the offense of failure to appear in a violation proceeding if the person has been served with a citation issued under this chapter for a violation [*other than a Class E violation*] and the person knowingly fails to do any of the following:

(a) Make a first appearance in the manner required by ORS 153.061 within the time allowed.

(b) Make appearance at the time set for trial in the violation proceeding.

(c) Appear at any other time required by the court or by law.

(2) Failure to appear on a violation citation is a Class A misdemeanor.

SECTION 65. ORS 221.339 is amended to read:

221.339. (1) A municipal court has concurrent jurisdiction with circuit courts and justice courts over all violations committed or triable in the city where the court is located.

(2) Except as provided in subsections (3) and (4) of this section, municipal courts have concurrent jurisdiction with circuit courts and justice courts over misdemeanors committed or triable in the city. Municipal courts may exercise the jurisdiction conveyed by this section without a charter provision or ordinance authorizing that exercise.

(3) Municipal courts have no jurisdiction over felonies[,] **or** designated drug-related misdemeanors as defined in ORS 423.478 [*or Class E violations*].

(4) A city may limit the exercise of jurisdiction over misdemeanors by a municipal court under this section by the adoption of a charter provision or ordinance, except that municipal courts must retain concurrent jurisdiction with circuit courts over:

(a) Misdemeanors created by the city's own charter or by ordinances adopted by the city, as provided in ORS 3.132; and

(b) Traffic crimes as defined by ORS 801.545.

(5) Subject to the powers and duties of the Attorney General under ORS 180.060, the city attorney has authority to prosecute a violation of any offense created by statute that is subject to the jurisdiction of a municipal court, including any appeal, if the offense is committed or triable in the city. The prosecution shall be in the name of the state. The city attorney shall have all powers of a district attorney in prosecutions under this subsection.

SECTION 65a. ORS 316.502 is amended to read:

316.502. (1) The net revenue from the tax imposed by this chapter, after deducting refunds and amounts described in ORS 285B.630[,] **and** 285C.635 [*and 305.231*], shall be paid over to the State Treasurer and held in the General Fund as miscellaneous receipts available generally to meet any expense or obligation of the State of Oregon lawfully incurred.

(2) A working balance of unreceipted revenue from the tax imposed by this chapter may be retained for the payment of refunds, but such working balance shall not at the close of any fiscal year exceed the sum of $1 million.

(3) Moneys are continuously appropriated to the Department of Revenue to make:

(a) The refunds authorized under subsection (2) of this section; and

(b) The refund payments in excess of tax liability authorized under ORS 315.133, 315.174, 315.262, 315.264, 315.266, 315.273, 315.519 and 316.090 and section 3, chapter 589, Oregon Laws 2021.

SECTION 66. ORS 419C.370 is amended to read:

419C.370. (1) The juvenile court may enter an order directing that all cases involving:

(a) Violation of a law or ordinance relating to the use or operation of a motor vehicle, boating laws or game laws be waived to criminal or municipal court;

(b) An offense classified as a violation [*other than a Class E violation*] under the laws of this state or a political subdivision of this state be waived to municipal court if the municipal court has agreed to accept jurisdiction; and

(c) A misdemeanor that entails theft, destruction, tampering with or vandalism of property be waived to municipal court if the municipal court has agreed to accept jurisdiction.

(2) Cases waived under subsection (1) of this section are subject to the following:

(a) That the criminal or municipal court prior to hearing a case, other than a case involving a parking violation, in which the defendant is or appears to be under 18 years of age notify the juvenile court of that fact; and

(b) That the juvenile court may direct that any such case be waived to the juvenile court for further proceedings.

(3)(a) When a person who has been waived under subsection (1)(c) of this section is convicted of a property offense, the municipal court may impose any sanction authorized for the offense except for incarceration. The municipal court shall notify the juvenile court of the disposition of the case.

(b) When a person has been waived under subsection (1) of this section and fails to appear as summoned or is placed on probation and is alleged to have violated a condition of the probation, the juvenile court may recall the case to the juvenile court for further proceedings. When a person has been returned to juvenile court under this paragraph, the juvenile court may proceed as though the person had failed to appear as summoned to the juvenile court or had violated a juvenile court probation order under ORS 419C.446.

(4) Records of cases waived under subsection (1)(c) of this section are juvenile records for purposes of expunction under ORS 419A.260 to 419A.271.

SECTION 67. ORS 430.384 is amended to read:

430.384. (1) The Drug Treatment and Recovery Services Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Drug Treatment and Recovery Services Fund shall be credited to the fund.

(2) The Drug Treatment and Recovery Services Fund shall consist of:

[*(a) Moneys deposited into the fund pursuant to ORS 305.231;*]

[*(b)*] **(a)** Moneys appropriated or otherwise transferred to the fund by the Legislative Assembly;

[*(c)*] **(b)** Moneys allocated from the Oregon Marijuana Account, pursuant to ORS 475C.726 (3)(b); **and**

[*(d) Moneys allocated from the Criminal Fine Account pursuant to ORS 137.300 (4); and*]

[*(e)*] **(c)** All other moneys deposited into the fund from any source.

(3) Moneys in the fund shall be continuously appropriated to the Oregon Health Authority for the purposes set forth in ORS 430.389.

(4)(a) Pursuant to subsection [*(2)(b)*] **(2)(a)** of this section, the Legislative Assembly shall appropriate or transfer to the fund an amount sufficient to fully fund the grants program required by ORS 430.389.

(b) The total amount deposited and transferred into the fund shall not be less than $57 million for the first year ORS 430.383 to 430.390 and 430.394 are in effect.

(c) In each subsequent year, the minimum transfer amount set forth in paragraph (b) of this subsection shall be increased by not less than the sum of:

(A) $57 million multiplied by the percentage, if any, by which the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar year exceeds the monthly index for the fourth quarter of the calendar year 2020; and

(B) The annual increase, if any, in moneys distributed pursuant to ORS 475C.726 (3)(b).

SECTION 68. ORS 430.389 is amended to read:

430.389. (1) The Oversight and Accountability Council shall approve grants and funding provided by the Oregon Health Authority in accordance with this section to implement Behavioral Health Resource Networks and increase access to community care. A Behavioral Health Resource Network is an entity or collection of entities that individually or jointly provide some or all of the services described in subsection (2)(e) of this section.

(2)(a) The authority shall establish an equitable:

(A) Process for applying for grants and funding by agencies or organizations, whether government or community based, to establish Behavioral Health Resource Networks for the purposes of immediately screening the acute needs of individuals with substance use, including those who also have a mental illness, and assessing and addressing any ongoing needs through ongoing case management, harm reduction, treatment, housing and linkage to other care and services.

(B) Evaluation process to assess the effectiveness of Behavioral Health Resource Networks that receive grants or funding.

(b) Recipients of grants or funding must be licensed, certified or credentialed by the state, including certification under ORS 743A.168 (9), or meet criteria prescribed by rule by the authority under ORS 430.390. A recipient of a grant or funding under this subsection may not use the grant or funding to supplant the recipient's existing funding.

(c) The council and the authority shall ensure that residents of each county have access to all of the services described in paragraph (e) of this subsection.

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

(e) A network must have the capacity to provide the following services and any other services specified by the authority by rule but no individual participant in a network is required to provide all of the services:

(A) Screening by certified addiction peer support or wellness specialists or other qualified persons designated by the council to determine a client's need for immediate medical or other treatment to determine what acute care is needed and where it can be best provided, identify other needs and link the client to other appropriate local or statewide services, including treatment for substance use and coexisting health problems, housing, employment, training and child care. Networks shall provide this service 24 hours a day, seven days a week, every calendar day of the year through a telephone line or other means. Networks may rely on the statewide telephone hotline established by the authority under ORS 430.391 for telephone screenings during nonbusiness hours such as evenings, weekends and holidays. Notwithstanding paragraph (c) of this subsection, only one grantee in each network within each county is required to provide the screenings described in this subparagraph.

(B) Comprehensive behavioral health needs assessment, including a substance use screening by a certified alcohol and drug counselor or other credentialed addiction treatment professional. The assessment shall prioritize the self-identified needs of a client.

(C) Individual intervention planning, case management and connection to services. If, after the completion of a screening, a client indicates a desire to address some or all of the identified needs, a case manager shall work with the client to design an individual intervention plan. The plan must address the client's need for substance use treatment, coexisting health problems, housing, employment and training, child care and other services.

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

(E) Assessment of the need for, and provision of, mobile or virtual outreach services to:

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

(ii) Increase public awareness of network services.

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

(G) Low-barrier substance use treatment.

(H) Transitional and supportive housing for individuals with substance use.

(f) If an applicant for a grant or funding under this subsection is unable to provide all of the services described in paragraph (e) of this subsection, the applicant may identify how the applicant intends to partner with other entities to provide the services, and the authority and the council may facilitate collaboration among applicants.

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

(h) The networks must be adequately staffed to address the needs of people with substance use within their regions as prescribed by the authority by rule, including, at a minimum, at least one person in each of the following categories:

(A) Alcohol and drug counselor certified by the authority or other credentialed addiction treatment professional;

(B) Case manager;

(C) Addiction peer support specialist certified by the authority;

(D) Addiction peer wellness specialist certified by the authority;

(E) Recovery mentor, certified by the Mental Health and Addiction Certification Board of Oregon or its successor organization; and

(F) Youth support specialist certified by the authority.

(i) Verification of a screening by a certified addiction peer support specialist, wellness specialist or other person in accordance with paragraph (e)(A) of this subsection shall promptly be provided to the client by the entity conducting the screening. If the client executes a valid release of information, the entity shall provide verification of the screening to the authority or a contractor of the authority and the authority or the authority's contractor shall forward the verification to [*the court, in the manner prescribed by the Chief Justice of the Supreme Court, to satisfy the conditions for dismissal under ORS 153.062 or 475.237*] **any entity the client has authorized to receive the verification**.

(3)(a) If moneys remain in the Drug Treatment and Recovery Services Fund after the council has committed grants and funding to establish behavioral health resource networks serving every county in this state, the council shall authorize grants and funding to other agencies or organizations, whether government or community based, and to the nine federally recognized tribes in this state and service providers that are affiliated with the nine federally recognized tribes in this state to increase access to one or more of the following:

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

(B) Peer support and recovery services;

(C) Transitional, supportive and permanent housing for persons with substance use;

(D) Harm reduction interventions including, but not limited to, overdose prevention education, access to short-acting opioid antagonists, as defined in ORS 689.800, and sterile syringes and stimulant-specific drug education and outreach; or

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

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

(4) In awarding grants and funding under subsections (1) and (3) of this section, the council shall:

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

(A) Historically underserved populations; and

(B) Culturally specific and linguistically responsive services.

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

(c) Consider available regional data related to the substance use treatment needs and the access to culturally specific and linguistically responsive services in communities in this state.

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

(5) The council shall require any government entity that applies for a grant to specify in the application details regarding subgrantees and how the government entity will fund culturally specific organizations and culturally specific services. A government entity receiving a grant must

make an explicit commitment not to supplant or decrease any existing funding used to provide services funded by the grant.

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

(7) Services provided by grantees, including services provided by a Behavioral Health Resource Network, shall be free of charge to the clients receiving the services. Grantees in each network shall seek reimbursement from insurance issuers, the medical assistance program or any other third party responsible for the cost of services provided to a client and grants and funding provided by the council or the authority under this section may be used for copayments, deductibles or other out-of-pocket costs incurred by the client for the services.

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

SECTION 69. ORS 430.392 is amended to read:

430.392. (1) The Division of Audits of the office of the Secretary of State shall conduct performance audits and financial reviews as provided in this section, regarding the uses of the Drug Treatment and Recovery Services Fund and the effectiveness of the fund in achieving the purposes of the fund and the policy objectives of ORS 430.383. Recipients of grants or funds under ORS 430.389 shall keep accurate books, records and accounts that are subject to inspection and audit by the division.

(2) The division shall monitor and report on the progress in implementing any recommendations made in the audit or financial review. The division shall follow up on recommendations as part of recurring audit work or as an activity separate from other audit activity. When following up on recommendations, the division may request from the appropriate agency evidence of implementation.

(3) The audits set forth in this section shall be conducted pursuant to the provisions of ORS chapter 297, except to the extent any provision of ORS chapter 297 conflicts with any provision of ORS [*293.665 and 305.231 and*] 430.383 to 430.390 and 430.394, in which case the provisions of ORS [*293.665 and 305.231 and*] 430.383 to 430.390 and 430.394 shall control.

(4) No later than December 31, 2023, the division shall perform a:

(a) Real-time audit, as prescribed by the division, which shall include an assessment of the relationship between the Oversight and Accountability Council and the Oregon Health Authority, the relationship between the council and recipients of grants or funding and the structural integrity of ORS [*293.665 and 305.231 and*] 430.383 to 430.390 and 430.394, including but not limited to assessing:

(A) Whether the organizational structure of the council contains conflicts or problems.

(B) Whether the rules adopted by the council are clear and functioning properly.

(C) Whether the council has sufficient authority and independence to achieve the council's mission.

(D) Whether the authority is fulfilling the authority's duties under ORS 430.384, 430.387, 430.390 and 430.391.

(E) Whether there are conflicts of interest in the process of awarding grants or funding.

(F) Whether there are opportunities to expand collaboration between the council and state agencies.

(G) Whether barriers exist in data collection and evaluation mechanisms.

(H) Who is providing the data.

(I) Other areas identified by the division.

(b) Financial review, which shall include an assessment of the following:

(A) Whether grants and funding are going to organizations that are culturally responsive and linguistically specific, including an assessment of:

(i) The barriers that exist for grant and funding applicants who are Black, Indigenous or People of Color.

(ii) The applicants that were denied and why.

(iii) Whether grants and other funding are being disbursed based on the priorities specified in ORS 430.389.

(iv) For government entities receiving grants or funding under ORS 430.389, the government entities' subgrantees and whether the governmental entity supplanted or decreased any local funding dedicated to the same services after receiving grants or funds under ORS 430.389.

(v) What proportion of grants or funds received by grantees and others under ORS 430.389, was devoted to administrative costs.

(B) The organizations and agencies receiving grants or funding under ORS 430.389 and:

(i) Which of the organizations and agencies are Behavioral Health Resource Network entities.

(ii) The amount each organization and agency received.

(iii) The total number of organizations and agencies that applied for grants or funding.

(iv) The amount of moneys from the fund that were used to administer the programs selected by the council.

(v) The moneys that remained in the Drug Treatment and Recovery Services Fund after grants and funding were disbursed.

(5) No later than December 31, 2025, the division shall conduct a performance audit, which must include an assessment of the following:

(a) All relevant data regarding the implementation of ORS [*153.062 and*] 430.391, including demographic information on individuals who receive citations [*subject to ORS 153.062 and 430.391*] **for a drug enforcement misdemeanor described in section 35 of this 2024 Act** and whether the citations resulted in connecting the individuals with treatment.

(b) The functioning of:

(A) Law enforcement and the courts in relation to [*Class E violation citations*] **drug enforcement misdemeanors described in section 35 of this 2024 Act**;

(B) The telephone hotline operated by the authority;

(C) Entities providing verification of screenings under ORS 430.389; and

(D) The grants and funding systems between the council, the authority and recipients of grants or funding, including by gathering information about which entities are receiving grants or funding and what the grants or funding are used for, the process of applying for grants or funding and whether the process is conducive to obtaining qualified applicants for grants or funding who are from communities of color.

(c) Disparities shown by demographic data and whether the citation data reveals a disproportionate use of citations in communities most impacted by the war on drugs.

(d) Whether ORS [*153.062,*] 430.389 and 430.391 reduce the involvement in the criminal justice system of individuals with substance use.

(e) Training opportunities provided to law enforcement officials regarding services that are available and how to connect individuals to the services.

(f) The efficacy of issuing citations as a method of connecting individuals to services.

(g) The role of the implementation of ORS 430.383 to 430.390 and 430.394 in reducing overdose rates.

(h) Outcomes for individuals receiving treatment and other social services under ORS 430.389, including, but not limited to, the following:

(A) Whether access to care increased since December 3, 2020, and, if data is available, whether, since December 3, 2020:

(i) The number of drug and alcohol treatment service providers increased.

(ii) The number of culturally specific providers increased.

(iii) Access to harm reduction services has increased.

(iv) More individuals are accessing treatment than they were before December 3, 2020.

(v) Access to housing for individuals with substance use has increased.

(B) Data on Behavioral Health Resource Networks and recipients of grants and funding under ORS 430.389, including:

(i) The outcomes of each network or recipient, including but not limited to the number of clients with substance use receiving services from each network or recipient, the average duration of client participation and client outcomes.

(ii) The number of individuals seeking assistance from the network or recipients who are denied or not connected to substance use treatment and other services, and the reasons for the denials.

(iii) The average time it takes for clients to access services and fulfill their individual intervention plan and the reason for any delays, such as waiting lists at referred services.

(iv) Whether average times to access services to which clients are referred, such as housing or medically assisted treatment, have decreased over time since December 3, 2020.

(v) Demographic data on clients served by Behavioral Health Resource Networks, including self-reported demographic data on race, ethnicity, gender and age.

(i) Each recipient of a grant or funding.

(j) Other areas identified by the division for ascertaining best practices for overdose prevention.

(6) The division shall conduct periodic performance audits and financial reviews pursuant to the division's annual audit plan and taking into consideration the risks of the program.

SECTION 69a. ORS 430.392, as amended by section 11, chapter 248, Oregon Laws 2023, is amended to read:

430.392. (1) The Division of Audits of the office of the Secretary of State shall conduct performance audits and financial reviews as provided in this section, regarding the uses of the Drug Treatment and Recovery Services Fund and the effectiveness of the fund in achieving the purposes of the fund and the policy objectives of ORS 430.383. Recipients of grants or funds under ORS 430.389 shall keep accurate books, records and accounts that are subject to inspection and audit by the division.

(2) The division shall monitor and report on the progress in implementing any recommendations made in the audit or financial review. The division shall follow up on recommendations as part of recurring audit work or as an activity separate from other audit activity. When following up on recommendations, the division may request from the appropriate agency evidence of implementation.

(3) The audits set forth in this section shall be conducted pursuant to the provisions of ORS chapter 297, except to the extent any provision of ORS chapter 297 conflicts with any provision of ORS [*293.665 and 305.231 and*] 430.383 to 430.390 and 430.394, in which case the provisions of ORS [*293.665 and 305.231 and*] 430.383 to 430.390 and 430.394 shall control.

(4) The division shall conduct periodic performance audits and financial reviews pursuant to the division's annual audit plan and taking into consideration the risks of the program.

SECTION 70. ORS 475.235 is amended to read:

475.235. (1) It is not necessary for the state to negate any exemption or exception in ORS 475.005 to 475.285 and 475.752 to 475.980 in any complaint, information, indictment or other pleading or in any trial, hearing or other proceeding under ORS 475.005 to 475.285 and 475.752 to 475.980. The burden of proof of any exemption or exception is upon the person claiming it.

(2) In the absence of proof that a person is the duly authorized holder of an appropriate registration or order form issued under ORS 475.005 to 475.285 and 475.752 to 475.980, the person is presumed not to be the holder of the registration or form. The burden of proof is upon the person to rebut the presumption.

(3)(a) When a controlled substance is at issue in a criminal proceeding before a grand jury, at a preliminary hearing, in a proceeding on a district attorney's information[*, during a proceeding on a Class E violation*] or for purposes of an early disposition program, it is prima facie evidence of the identity of the controlled substance if:

(A) A sample of the controlled substance is tested using a presumptive test for controlled substances;

(B) The test is conducted by a law enforcement officer trained to use the test or by a forensic scientist; and

(C) The test is positive for the particular controlled substance.

(b) When the identity of a controlled substance is established using a presumptive test for purposes of a criminal proceeding before a grand jury, a preliminary hearing, a proceeding on a district attorney's information or an early disposition program, the defendant, upon notice to the district attorney, may request that the controlled substance be sent to a state police forensic laboratory for analysis. [*The defendant may not make a request under this paragraph concerning a controlled substance at issue in a proceeding on a Class E violation.*]

(4) Notwithstanding any other provision of law, in all prosecutions in which an analysis of a controlled substance or sample was conducted, a certified copy of the analytical report signed by the director of a state police forensic laboratory or the analyst or forensic scientist conducting the analysis shall be admitted as prima facie evidence of the results of the analytical findings unless the defendant has provided notice of an objection in accordance with subsection (5) of this section.

(5) If the defendant intends to object at trial to the admission of a certified copy of an analytical report as provided in subsection (4) of this section, not less than 15 days prior to trial the defendant shall file written notice of the objection with the court and serve a copy on the district attorney.

(6) As used in this section:

(a) "Analyst" means a person employed by the Department of State Police to conduct analysis in forensic laboratories established by the department under ORS 181A.150.

(b) "Presumptive test" includes, but is not limited to, chemical tests using Marquis reagent, Duquenois-Levine reagent, Scott reagent system or modified Chen's reagent.

SECTION 71. ORS 670.280 is amended to read:

670.280. (1) As used in this section:

(a) "License" includes a registration, certification or permit.

(b) "Licensee" includes a registrant or a holder of a certification or permit.

(2) Except as provided in ORS 342.143 (3) or 342.175 (3), a licensing board, commission or agency may not deny, suspend or revoke an occupational or professional license solely for the reason that the applicant or licensee has been convicted of a crime, but it may consider the relationship of the facts which support the conviction and all intervening circumstances to the specific occupational or professional standards in determining the fitness of the person to receive or hold the license. [*There is a rebuttable presumption as to each individual applicant or licensee that an existing or prior conviction for conduct that has been classified or reclassified as a Class E violation does not make an applicant for an occupational or professional license or a licensee with an occupational or professional license unfit to receive or hold the license.*]

(3) Except as provided in ORS 342.143 (3) and 342.175 (3), a licensing board, commission or agency may deny an occupational or professional license or impose discipline on a licensee based on conduct that is not undertaken directly in the course of the licensed activity, but that is substantially related to the fitness and ability of the applicant or licensee to engage in the activity for which the license is required. In determining whether the conduct is substantially related to the fitness and ability of the applicant or licensee to engage in the activity for which the license is required, the licensing board, commission or agency shall consider the relationship of the facts with respect to the conduct and all intervening circumstances to the specific occupational or professional standards. [*There is a rebuttable presumption as to each individual applicant or licensee that an existing or prior conviction for conduct that has been classified or reclassified as a Class E violation is not related to the fitness and ability of the applicant or licensee to engage in the activity for which the license is required.*]

SECTION 72. ORS 153.043, 153.062, 293.665, 305.231, 419C.460 and 475.237 are repealed.

(Operative Dates and Applicability)

SECTION 73. (1) Sections 34 to 37, 51, 52 and 54 this 2024 Act, the amendments to ORS 51.050, 133.060, 135.050, 135.753, 137.225, 137.300, 153.012, 153.018, 153.019, 153.021, 153.064, 153.992, 221.339, 316.502, 419C.370, 423.478, 423.483, 423.525, 430.384, 430.389, 430.392, 475.235, 475.752, 475.814, 475.824, 475.834, 475.854, 475.874, 475.884, 475.894 and 670.280 by sections 38 to

50 and 55 to 71 of this 2024 Act and the repeal of ORS 153.043, 153.062, 293.665, 305.231, 419C.460 and 475.237 by section 72 of this 2024 Act become operative on September 1, 2024.

(2) The Oregon Criminal Justice Commission, the Judicial Department, the Department of Corrections, law enforcement agencies and district attorneys may take any action before the operative date specified in subsection (1) of this section that is necessary for those entities to exercise, on and after the operative date specified in subsection (1) of this section, all of the powers, duties and functions imposed on the entities under sections 34 to 37, 51, 52 and 54 this 2024 Act, the amendments to ORS 51.050, 133.060, 135.050, 135.753, 137.225, 137.300, 153.012, 153.018, 153.019, 153.021, 153.064, 153.992, 221.339, 316.502, 419C.370, 423.478, 423.483, 423.525, 430.384, 430.389, 430.392, 475.235, 475.752, 475.814, 475.824, 475.834, 475.854, 475.874, 475.884, 475.894 and 670.280 by sections 38 to 50 and 55 to 71 of this 2024 Act and the repeal of ORS 153.043, 153.062, 293.665, 305.231, 419C.460 and 475.237 by section 72 of this 2024 Act.

SECTION 74. Sections 35, 52 and 54 this 2024 Act, the amendments to ORS 51.050, 135.050, 135.753, 137.300, 153.012, 153.018, 153.019, 153.021, 153.064, 153.992, 221.339, 316.502, 419C.370, 423.478, 423.483, 423.525, 430.384, 430.389, 430.392, 475.235, 475.752, 475.814, 475.824, 475.834, 475.854, 475.874, 475.884, 475.894 and 670.280 by sections 39 to 50 and 56 to 71 of this 2024 Act and the repeal of ORS 153.043, 153.062, 293.665, 305.231, 419C.460 and 475.237 by section 72 of this 2024 Act apply to conduct constituting an offense occurring, or alleged to have occurred, on or after September 1, 2024.

DATA TRACKING

SECTION 75. (1) For purposes of tracking racial or other demographic disparities in enforcement, the Oregon Criminal Justice Commission shall collect and analyze the following data concerning deflections, arrests, charges and convictions for unlawful possession of a controlled substance and delivery of a controlled substance offenses:

(a) The date and location of each deflection and arrest;

(b) The specific offense for which each person was arrested, charged or convicted; and

(c) Demographic data for each person deflected, arrested, charged or convicted.

(2) Beginning no later than August 31, 2025, and annually thereafter, the commission shall provide a report to the interim committees of the Legislative Assembly related to the judiciary, in the manner described in ORS 192.245, containing an analysis of the data described in this section.

(3) In carrying out the commission's duties under this section, the commission may use any information concerning deflections obtained as part of carrying out the duties of the commission under section 37 of this 2024 Act or as part of the grant program application, monitoring and evaluation process described in sections 76 and 77 of this 2024 Act.

(4) Data reported under this section shall be used only for statistical purposes and not for any other purpose. The data reports may not contain information that reveals the identity of any individual. Data collected by government agencies or held by the Oregon Criminal Justice Commission under this section that may reveal the identity of any individual is exempt from public disclosure in any manner.

(5) The Oregon Criminal Justice Commission may adopt rules to carry out the provisions of this section.

OREGON BEHAVIORAL HEALTH DEFLECTION PROGRAM

SECTION 76. (1) As used in this section, "deflection program" means a collaborative program between law enforcement agencies and behavioral health entities that assists individuals who may have substance use disorder, another behavioral health disorder or co-

occurring disorders, to create community-based pathways to treatment, recovery support services, housing, case management or other services.

(2) The Oregon Behavioral Health Deflection Program is established within the Improving People's Access to Community-based Treatment, Supports and Services Grant Review Committee established under ORS 430.234. The program consists of grants awarded by the committee to counties and federally recognized tribal governments to fund deflection programs.

(3)(a) The purpose of the program described in this section is to:

(A) Address the need for more deflection programs to assist individuals whose behavioral health conditions, including substance use disorder, lead to interactions with law enforcement, incarceration, conviction and other engagement with the criminal justice system.

(B) Track and report data concerning deflection program outcomes in order to determine the best practices for deflection programs within this state.

(b) ORS 430.230 to 430.236 do not apply to the program described in this section.

(4)(a) The committee shall develop a grant application process for awarding grants under this section.

(b) An application for a grant under this section may be submitted by a county or the designee of a county, or by a tribal government or designee of a tribal government. Only one application per county may be submitted, but the application may request funding multiple programs within a county.

(c) Prior to submitting an application for a grant under this section, the applicant shall coordinate with all partners of the development and administration of the proposed deflection program to ensure that the partners have the resources necessary to implement the deflection program. The partners shall include at least a district attorney, a law enforcement agency, a community mental health program established under ORS 430.620 and a provider from a Behavioral Health Resource Network established under ORS 430.389. Partners may also include a treatment provider, a local mental health authority, a tribal government, a peer support organization, a court or a local government body.

(d) An application for a grant under this section must contain:

(A) A description of the coordination with program partners required by paragraph (c) of this subsection that has occurred;

(B) A description of the individuals who would be eligible for the program and what qualifies as a successful outcome, formulated in cooperation with the program partners described in paragraph (c) of this subsection;

(C) A description of how the program for which the applicant is seeking funding is culturally and linguistically responsive, trauma-informed and evidence-based;

(D) A description of a plan to address language access barriers when communicating program referral options and program procedures to non-English speaking individuals; and

(E) A description of how the program coordinator will communicate with program partners concerning persons participating in the program and any other matter necessary for the administration of the program.

(5) To be eligible for funding under this section, a deflection program:

(a) Must be coordinated by or in consultation with a community mental health program, a local mental health authority or a federally recognized tribal government;

(b) Must have a coordinator with the following program coordinator duties:

(A) Convening deflection program partners as needed for the operation of the program;

(B) Managing grant program funds awarded under this section; and

(C) Tracking and reporting data required by the Oregon Criminal Justice Commission under section 37 of this 2024 Act;

(c) Must involve the partners described in subsection (4)(c) of this section; and

(d) May involve a partnership with one or more of the following entities:

(A) A first responder agency other than a law enforcement agency;

(B) A community provider;

(C) A treatment provider;

(D) A community-based organization;

(E) A case management provider;

(F) A recovery support services provider; or

(G) Any other individual or entity deemed necessary by the program coordinator to carry out the purposes of the deflection program, including individuals with lived experience with substance use disorder, a behavioral health disorder or co-occurring disorders.

(6) During a grant application period established by the committee, the maximum proportion of grant funds available to an applicant shall be determined as follows:

(a) The proportion of grant funds available to an applicant other than a tribal government shall be determined based on the county formula share employed by the Oversight and Accountability Council established under ORS 430.388, but an applicant may not receive less than $150,000.

(b) The committee shall determine the proportion of funds available to an applicant that is a federally recognized tribal government.

(7)(a) Grant funds awarded under this section may be used for:

(A) Deflection program expenses including but not limited to law enforcement employees, deputy district attorneys and behavioral health treatment workers, including peer navigators and mobile crisis and support services workers.

(B) Behavioral health workforce development.

(C) Capital construction of behavioral health treatment infrastructure.

(b) Notwithstanding paragraph (a) of this subsection, the committee may award planning grants for the development of deflection programs.

(c) The committee may allocate up to three percent of program funds to support grantee data collection and analysis or evaluation of outcome measures.

(8) The Oregon Criminal Justice Commission shall provide staff support to the grant program.

(9) The committee and the commission may adopt rules to carry out the provisions of this section.

SECTION 77. (1)(a) The Improving People's Access to Community-based Treatment, Supports and Services Grant Review Committee established under ORS 430.234, in cooperation with the Oregon Criminal Justice Commission and the Oregon Health Authority, shall monitor the progress of and evaluate program outcomes for applicants that receive grant funds as part of the Oregon Behavioral Health Deflection Program established under section 76 of this 2024 Act.

(b) The committee shall share with the commission any data described in paragraph (a) of this subsection that the commission requires to carry out the commission's duties under section 37 of this 2024 Act.

(2) Beginning no later than September 30, 2025, the committee shall annually report, in the manner described in ORS 192.245 and in conjunction with the report required under ORS 430.245 (3), the findings of the evaluation described in subsection (1) of this section to the relevant interim committees of the Legislative Assembly.

SECTION 78. The Oregon Behavioral Health Deflection Program Account is established in the State Treasury, separate and distinct from the General Fund. All moneys in the account are continuously appropriated to the Oregon Criminal Justice Commission for the purpose of carrying out the provisions of sections 76 and 77 of this 2024 Act.

SECTION 79. ORS 430.234 is amended to read:

430.234. (1) The Improving People's Access to Community-based Treatment, Supports and Services Grant Review Committee is established in the Oregon Criminal Justice Commission consisting of [*19*] **21** members as follows:

(a) The Director of the Oregon Health Authority, or the director's designee.

(b) The Director of the Department of Corrections, or the director's designee.

(c) The Chief Justice of the Supreme Court, or the Chief Justice's designee.

(d) The executive director of the Oregon Criminal Justice Commission or the director's designee.

(e) Two members of the Oregon Criminal Justice Commission, to be appointed by the chair of the commission.

[*(e)*] **(f)** The Director of the Housing and Community Services Department or the director's designee.

[*(f)*] **(g)** Nine members appointed by the Governor including:

(A) A district attorney.

(B) An attorney specializing in defense of individuals with mental health or substance use disorders.

(C) A chief of police.

(D) A county commissioner.

(E) A director of a hospital that provides acute mental health treatment.

(F) A representative of a community-based mental health treatment facility or a practitioner in a community-based mental health treatment facility.

(G) A representative of a community-based substance use disorder treatment facility or a practitioner in a community-based substance use disorder treatment facility.

(H) A sheriff.

(I) A representative of a federally recognized Indian tribe.

[*(g)*] **(h)** One nonvoting member appointed by the President of the Senate from among members of the Senate.

[*(h)*] **(i)** One nonvoting member appointed by the Speaker of the House of Representatives from among members of the House of Representatives.

[*(i)*] **(j)** Three members of the public that represent the age demographics of the target population.

(2) A majority of the voting members of the committee constitutes a quorum for the transaction of business.

(3) The directors of the Oregon Criminal Justice Commission and the Oregon Health Authority or their designees shall serve as cochairpersons.

(4) If there is a vacancy for any cause, the appointing authority shall make an appointment to become effective immediately.

(5) The committee shall meet at times and places specified by the call of the cochairpersons or a majority of the voting members of the committee.

(6) The Oregon Criminal Justice Commission shall provide staff support to the committee.

(7) Legislative members of the committee shall be entitled to payment of compensation and expenses under ORS 171.072, payable from funds appropriated to the Legislative Assembly.

(8) Members of the committee who are not members of the Legislative Assembly are not entitled to compensation but may be reimbursed for actual and necessary travel and other expenses incurred by the member in the performance of the member's official duties in the manner and amount provided in ORS 292.495.

(9) All agencies of state government, as defined in ORS 174.111, are directed to assist the committee in the performance of the duties of the committee and, to the extent permitted by laws relating to confidentiality, to furnish information and advice that the members of the committee consider necessary to perform their duties.

EXPANSION OF WELFARE HOLDS

SECTION 80. ORS 430.399 is amended to read:

430.399. (1) Any person who is intoxicated or under the influence of controlled substances in a public place may be sent home or taken to a sobering facility or to [*a treatment*] **an appropriate** facility by a police officer **or a member of a mobile crisis intervention team as defined in ORS 430.626**. If the person is incapacitated, the person shall be taken by the police officer **or team**

member to an appropriate [*treatment*] facility or sobering facility. If the health of the person appears to be in immediate danger, or the police officer **or team member** has reasonable cause to believe the person is dangerous to self or to any other person, the person shall be taken by the police officer **or team member** to an appropriate [*treatment*] facility or sobering facility. A person shall be deemed incapacitated when in the opinion of the police officer **or team member** the person is unable to make a rational decision as to acceptance of assistance.

(2) When a person is taken to [*a treatment*] **an appropriate** facility, the director of the [*treatment*] facility shall determine whether the person shall be admitted as a patient, referred to another [*treatment*] facility or a sobering facility or denied referral or admission. If the person is incapacitated or the health of the person appears to be in immediate danger, or if the director has reasonable cause to believe the person is dangerous to self or to any other person, the person must be admitted. The person shall be discharged within [*48*] **72** hours unless the person has applied for voluntary admission to the [*treatment*] facility.

(3) When a person is taken to a sobering facility, the staff of the sobering facility shall, consistent with the facility's comprehensive written policies and procedures, determine whether or not the person shall be admitted into the sobering facility. A person who is admitted shall be discharged from the sobering facility within 24 hours.

(4) In the absence of any appropriate [*treatment*] facility or sobering facility, or if a sobering facility determines that a person should not be admitted to the sobering facility, an intoxicated person or a person under the influence of controlled substances who would otherwise be taken by [*the*] **a** police officer to [*a treatment*] **an appropriate** facility or sobering facility may be taken to the city or county jail where the person may be held until no longer intoxicated, under the influence of controlled substances or incapacitated.

(5) An intoxicated person or person under the influence of controlled substances, when taken into custody by the police officer for a criminal offense, shall immediately be taken to the nearest appropriate [*treatment*] facility when the condition of the person requires emergency medical treatment.

(6) The records of a person at [*a treatment*] **an appropriate** facility or sobering facility may not, without the person's consent, be revealed to any person other than the director and staff of the [*treatment*] facility or sobering facility. A person's request that no disclosure be made of admission to a [*treatment*] facility or sobering facility shall be honored unless the person is incapacitated or disclosure of admission is required by ORS 430.397.

SECTION 80a. ORS 430.401 is amended to read:

430.401. [*(1)*] A police officer, **person acting under the authority of a mobile crisis intervention team as defined in ORS 430.626,** physician, naturopathic physician, physician assistant, nurse practitioner, judge, treatment facility, treatment facility staff member or sobering facility [*that is registered with the Oregon Health Authority under ORS 430.262 based on a written request for registration received by the authority before January 1, 2016*], or the staff of the sobering facility, may not be held criminally or civilly liable for actions pursuant to ORS 430.315, 430.335, 430.397 to 430.401 and 430.402 provided the actions are in good faith, on probable cause and without malice.

[*(2) A sobering facility registered with the authority under ORS 430.262 based on a written request for registration received by the authority on or after January 1, 2016, and the staff of the sobering facility, may not be held criminally or civilly liable for actions pursuant to ORS 430.315, 430.335, 430.397 to 430.401 and 430.402 provided the actions are in good faith, on probable cause and without gross negligence.*]

OPIOID USE DISORDER MEDICATION GRANT PROGRAM

SECTION 81. As used in sections 81 to 86 of this 2024 Act:

(1) "Commission" means the Oregon Criminal Justice Commission.

(2) "Local correctional facility" has the meaning given that term in ORS 169.005.

(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.

SECTION 82. (1) The Oregon Jail-Based Medications for Opioid Use Disorder Grant Program is established in the Oregon Criminal Justice Commission to provide opioid use disorder treatment and transition planning services to persons in custody in local correctional facilities and tribal correctional facilities.

(2) The commission, in collaboration with the Oregon Health Authority, shall administer the grant program. At minimum, the commission and authority shall collaborate to provide grant recipients support with technical assistance and best practices.

SECTION 83. (1) The Oregon Criminal Justice Commission shall award grants to cities and counties in Oregon that operate a local correctional facility and to federally recognized tribes in Oregon that operate a tribal correctional facility.

(2) Applicants may submit an individual application or a joint application in partnership with other local correctional facilities or tribal correctional facilities.

(3) At least 10 percent of total moneys awarded to grant recipients must be awarded to local correctional facilities in rural areas, as defined by the commission by rule, or tribal correctional facilities. If any amount of the 10 percent is not awarded during an initial application cycle, the remaining amount may be awarded to any otherwise eligible local correctional facility or tribal correctional facility under a supplemental application cycle.

(4) The commission may enter a contract with a third party to provide statewide technical assistance to grant recipients.

(5) The commission shall consider geographic equity when awarding grant funds.

SECTION 84. Moneys awarded to grant recipients under section 83 of this 2024 Act may be used to:

(1) Provide medication, telemedicine or any other reasonable treatment to persons in custody with an opioid use disorder.

(2) Develop or operate mobile or nonmobile opioid treatment units.

(3) Administer screenings for opioid use disorder or risk of acute withdrawal.

(4) Facilitate transition planning services for persons in custody who seek or receive opioid use disorder treatment.

(5) Undertake any other actions reasonably calculated to mitigate operational or structural barriers to providing opioid use disorder treatment in local correctional facilities or tribal correctional facilities, including but not limited to mitigating any lack of secure storage for medication.

SECTION 85. The Oregon Criminal Justice Commission shall adopt rules necessary to administer sections 81 to 86 of this 2024 Act. The rules, at minimum, must:

(1) Establish a methodology for reviewing and approving grant applications and awarding grants.

(2) Require applicants to submit a statement acknowledging that any grant funds received must be expended in accordance with the allowable uses described in section 84 of this 2024 Act.

(3) Require applicants to submit a letter of commitment from each administrator of a local correctional facility or tribal correctional facility who is associated with the application, committing to participate in good faith in the grant program.

(4) Define "rural" for purposes of section 83 (3) of this 2024 Act.

SECTION 86. (1) The Oregon Criminal Justice Commission shall convene an advisory committee to evaluate applications and make recommendations to the commission for the awarding of grants under section 83 of this 2024 Act.

(2) The chairperson of the commission shall exercise discretion to appoint members to serve on the advisory committee.

SECTION 87. (1) The Oregon Jail-Based Medications for Opioid Use Disorder Fund is established in the State Treasury, separate and distinct from the General Fund. Interest

earned by the Oregon Jail-Based Medications for Opioid Use Disorder Fund shall be credited to the fund. The fund consists of moneys appropriated or otherwise transferred to the fund by the Legislative Assembly.

(2) Moneys in the fund are continuously appropriated to the Oregon Criminal Justice Commission for the purposes of carrying out sections 81 to 86 of this 2024 Act.

SECTION 88. No later than December 1, 2024, the Oregon Criminal Justice Commission shall submit a report, in the manner provided in ORS 192.245, to the interim committees of the Legislative Assembly related to the judiciary and health care. The report must include:

(1) The name of each recipient of a grant under section 83 of this 2024 Act and the amount of moneys each grant recipient has received to date.

(2) Opportunities, if any, for local correctional facilities or tribal correctional facilities to obtain medications for opioid use disorder from state agencies.

(3) Any other information relevant to the provision of opioid use disorder treatment to persons in custody in local correctional facilities or tribal correctional facilities.

SECTION 89. Section 88 of this 2024 Act is repealed on January 2, 2025.

CAPTIONS

SECTION 90. The unit captions used in this 2024 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2024 Act.

EMERGENCY CLAUSE

SECTION 91. This 2024 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2024 Act takes effect on its passage.

Passed by House February 29, 2024

.....
Timothy G. Sekerak, Chief Clerk of House

.....
Dan Rayfield, Speaker of House

Passed by Senate March 1, 2024

.....
Rob Wagner, President of Senate

Received by Governor:

.....M.,....., 2024

Approved:

.....M.,....., 2024

.....
Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M.,....., 2024

.....
LaVonne Griffin-Valade, Secretary of State

CONDITIONS

VAGINAL ITCHING

STATEWIDE DRUG THERAPY MANAGEMENT PROTOCOL for the OREGON PHARMACIST

AUTHORITY and PURPOSE: Per ORS 689.645, a pharmacist may provide patient care services pursuant to a statewide drug therapy management protocol.

- Following all elements outlined in OAR 855-115-0330 and OAR 855-115-0335, a pharmacist licensed and located in Oregon may prescribe a single course of treatment for non-complicated vaginal itching.

STANDARDIZED PATIENT ASSESSMENT PROCESS ELEMENTS:

- Utilize the standardized Vaginal Itching Intake Form (pg. 2)
- Utilize the standardized Vaginal Itching Assessment and Treatment Care Pathway (pg. 3-6)

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Vaginal Itching Self-Screening Intake Form
(CONFIDENTIAL-Protected Health Information)

Date _____/_____/_____ Date of Birth _____/_____/_____ Age_____
Legal Name_____ Preferred Name _____
Sex Assigned at Birth (circle) M / F Gender Identification (circle) M / F / Other_____
Preferred Pronouns (circle) She/Her/Hers, He/Him/His, They/Them/Their, Ze/Hir/Hirs, Other_____
Street Address _____
Phone ( ) _____ Email Address _____
Healthcare Provider Name _____ Phone ( ) _____ Fax ( ) _____
Do you have health insurance? Yes / No Insurance Provider Name _____
Any allergies to medications? Yes / No If yes, please list _____

1.	Has a provider ever diagnosed you with a yeast infection? If so, how recently? _____ How many have you experienced within the last year? _____ How many have you experienced within your lifetime? _____ Have you ever experienced a difficult to treat yeast infection or had treatment not work? What treatments (if any) have you tried for past and/or current yeast infections? Please list them here: _____ _____	□ Yes □ No □ Not sure □ Yes □ No □ Not sure
2.	Symptom review: - Soreness, burning, or itchy vaginal area - Abnormal discharge (color, smell, consistency, etc.) - Pain with urination - Fever - Pain in the lower abdomen and/or back - Other symptoms: _____	 □ Yes □ No □ Yes □ No □ Yes □ No □ Yes □ No □ Yes □ No
3.	Have you ever been sexually active? If so, how recently? _____	□ Yes □ No
4.	Have you ever been tested for OR diagnosed with a sexually transmitted infection? If yes, when? _____	□ Yes □ No □ Not sure
5.	When was the first day of your last menstrual period?	Date: _____
6.	Are you currently pregnant?	□ Yes □ No □ Not sure
7.	Are you using any of the following contraceptive devices? 1. Vaginal sponge 2. Diaphragm 3. Intrauterine device (IUD)	 □ Yes □ No □ Yes □ No □ Yes □ No
8.	Have you used antibiotics in the last month?	□ Yes □ No □ Not sure
9.	Has a provider ever diagnosed you with an autoimmune disease? If yes, list them here: _____ _____	□ Yes □ No □ Not sure
10.	Do you have diabetes?	□ Yes □ No □ Not sure
11.	Have you ever been diagnosed with a heart rhythm condition (or QT prolongation)? If yes, list them here: _____	□ Yes □ No □ Not sure
12.	Do you have any other medical problems? If yes, list them here: _____ _____	□ Yes □ No □ Not sure
13.	Are you currently taking any medications, supplements, and/or vitamins? If yes, list them here: _____ _____ _____	□ Yes □ No □ Not sure

Signature_____ Date_____

Standardized Assessment and Treatment Care Pathway

Vaginal Itching

1) Vaginal itching and Sexually Transmitted Infection (STI) Screen (Form Qs: #1-5)

a. Reoccurrence: If 4 or more episodes within 12 months or recurrent symptoms within 2 months → **Refer**
b. Symptoms inconsistent with vaginal itching: Pain with urination, fever, pain in the lower abdomen and/or back, symptoms consistent with STI, or any other inconsistencies.
   If YES to any of these symptoms → **Refer**

2) Pregnancy Screen (Form Qs: #5-6)

a. Did you have a baby less than 6 months ago, are you fully or nearly-fully breast feeding, AND have you had no menstrual period since the delivery?
b. Have you had a baby in the last 4 weeks?
c. Did you have a miscarriage or abortion in the last 7 days?
d. Did your last menstrual period start within the past 7 days?
e. Have you abstained from sexual intercourse since your last menstrual period or delivery?
f. Have you been using a reliable contraceptive method consistently and correctly?

If YES to AT LEAST ONE of these questions and is free of pregnancy symptoms, proceed to next step.

If NO to ALL of these questions, pregnancy cannot be ruled out → **Refer**

3) Medication and Disease State Screen (Form Qs: #7-13)

a. Are you using the following contraceptive devices: vaginal sponge, diaphragm, IUD → **Refer**
b. Do you have diabetes or other immunosuppressed conditions? → **Refer**
c. Are you taking corticosteroids or immunosuppressive medications, including antineoplastics? → **Refer**

4) Assess and Initiate Antifungal Therapy:

All therapies are equally effective in treating uncomplicated vaginal itchingChoice of therapy should be based on patient safety, preference, availability, and cost.
All therapy is limited to one course of treatment.

a. *Oral therapy*. If indicated, the pharmacist shall issue a prescription for fluconazole and counsel on side effects and follow-up.
   - Fluconazole 150mg tablet, #1
b. *Topical therapy*. If indicated, the pharmacist shall discuss the most appropriate option with the patient, issue a prescription, and counsel on side effects and follow-up of any one of the following treatments:
   - Clotrimazole (various strengths/formulations)
   - Miconazole (various strengths/formulations)
   - Tioconazole (various strengths/formulations)

5) Complete Patient Encounter

Advise: Patient should seek medical advice from a care provider if symptoms do not resolve in 7-14 days.
Encourage: Routine health screenings, STI prevention, etc.
Document: All required elements

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Standardized Assessment and Treatment Care Pathway

Vaginal Itching

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Medication options/considerations:

- ***Fluconazole***[1]:
  - *Dose and directions*: 150mg Tablet, quantity #1; Take one tablet by mouth one time. If symptoms do not resolve after 1 week, contact your primary care provider.
  - *Warnings/Precautions*: Potential patient harm is associated with known side effects of taking fluconazole. It is well tolerated, but may cause symptoms such as nausea, vomiting, dizziness, and headache. More rare side effects may include:
    - Prolonged QT interval which could lead to Torsades de Pointes. This is rarely a concern unless a patient is taking multiple QT prolonging drugs, has a preexisting heart condition, or known prolonged QT interval.
    - Hepatic toxicity (i.e. hepatitis, cholestasis, fulminant hepatic failure, etc.). Monitor liver function tests of patients with known impaired hepatic function
    - Hypersensitivity reactions: Use with caution in patients with hypersensitivity to other azoles
    - Skin reactions: Monitor for rash development
  - *Metabolism*: **Inhibits** CYP2C19 (strong), CYP2C9 (moderate), CYP3A4 (moderate)
  - *Contraindications for fluconazole use: (consider other therapy)*
    - Prolonged QT interval
    - Multiple QT prolonging drugs
    - Impaired hepatic function
    - Hypersensitivity reactions: Use with caution in patients with hypersensitivity to other azoles
    - Other interacting medications

- ***Clotrimazole***[2]*:*
  - *Dose and directions*:
    - Cream: If symptoms do not resolve after 1 week, contact your primary care provider.
      - 1%: One applicatorful inserted intravaginally at night daily for 7 days.
      - 2%: One applicatorful inserted intravaginally at night daily for 3 days.
      - 10%: One applicatorful to be inserted intravaginally at night as a single dose.
  - *Warnings/Precautions*: It is well tolerated, but may cause symptoms such as irritation and burning.
  - *Drug Interactions:*
    - Progesterone: may diminish the therapeutic effect of Progesterone (*Risk X: Avoid combination)*
    - Sirolimus: may increase the serum concentration of Sirolimus (*Risk C: Monitor therapy)*
    - Tacrolimus (systemic): may increase the serum concentration of Tacrolimus (Systemic) (*Risk C: Monitor therapy)*
  - *Contraindications for clotrimazole use: (consider other therapy)*
    - Progesterone
    - Sirolimus
    - Tacrolimus (systemic)
    - Other interacting medications

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- ***Miconazole***[3]*:*
  - *Dose and directions*:
    - Suppository Capsule: If symptoms do not resolve after 1 week, contact your primary care provider.
      - 100mg: one capsule inserted intravaginally at night daily for 7 days.
      - 200mg: one capsule inserted intravaginally at night daily for 3 days.
      - 1,200mg: one capsule to be inserted intravaginally at night as a single dose.
    - Cream: If symptoms do not resolve after 1 week, contact your primary care provider.
      - 2%: One applicatorful inserted intravaginally at night daily for 7 days.
      - 4%: One applicatorful inserted intravaginally at night daily for 3 days.
  - *Warnings/Precautions*: It is well tolerated, but may cause symptoms such as irritation and burning.
  - *Drug Interactions:*
    - Progesterone: may diminish the therapeutic effect of Progesterone (*Risk X: Avoid combination)*
    - Vitamin K Antagonists (i.e. warfarin): may increase the serum concentration of Vitamin K Antagonists (*Risk D: Consider therapy modification)*
    - Sulfonylureas: may inhibit the metabolism of oral sulfonylureas
  - *Contraindications for miconazole use: (consider other therapy)*
    - Progesterone
    - Vitamin K Antagonists (i.e. warfarin)
    - Sulfonylureas
    - Other interacting medications
- ***Tioconazole***[4]*:*
  - *Dose and directions*:
    - Ointment: If symptoms do not resolve after 1 week, contact your primary care provider.
      - 6.5%: One applicatorful to be inserted intravaginally at night as a single dose.
  - *Warnings/Precautions*: It is well tolerated, but may cause symptoms such as irritation and burning.
  - *Drug Interactions:*
    - Progesterone: may diminish the therapeutic effect of Progesterone (*Risk X: Avoid combination)*
  - *Contraindications for tioconazole use: (consider other therapy)*
    - Progesterone
    - Other interacting medications

References:
1. Fluconazole. Lexi-Drugs. Lexicomp. Wolters Kluwer Health, Inc. Riverwoods, IL. Available at: http://online.lexi.com. Updated February 12, 2020. Accessed February 14, 2020.
2. Clotrimazole. Lexi-Drugs. Lexicomp. Wolters Kluwer Health, Inc. Riverwoods, IL. Available at: http://online.lexi.com. Updated February 14, 2020. Accessed February 15, 2020.
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4. Tioconazole. Lexi-Drugs. Lexicomp. Wolters Kluwer Health, Inc. Riverwoods, IL. Available at: http://online.lexi.com. Updated November 22, 2019. Accessed February 15, 2020.
5. Peter G. Pappas, Carol A. Kauffman, David R. Andes, Cornelius J. Clancy, Kieren A. Marr, Luis Ostrosky-Zeichner, Annette C. Reboli, Mindy G. Schuster, Jose A. Vazquez, Thomas J. Walsh, Theoklis E. Zaoutis, Jack D. Sobel, Clinical Practice Guideline for the Management of Candidiasis: 2016 Update by the Infectious Diseases Society of America, Clinical Infectious Diseases, Volume 62, Issue 4, 15 February 2016, Pages e1–e50, https://doi.org/10.1093/cid/civ933

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Vaginal Itching Prescription

Optional -May be used by pharmacy if desired

Patient Name:	Date of birth:
Address:	
City/State/Zip Code:	Phone number:

Rx

Drug:

Sig:

Quantity:

Refills: 0

DAW: ____

Written Date: _____

Prescriber Name: _____Prescriber Signature: _____

Pharmacy Address: _____ Pharmacy Phone: _____

-or-

☐ Patient Referred

Notes:_____
_____
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CONDITIONS

SARS-CoV-2 Antiviral
TREATMENT OF COVID-19 INFECTION

STATEWIDE DRUG THERAPY MANAGEMENT PROTOCOL for the OREGON PHARMACIST

AUTHORITY and PURPOSE: Per ORS 689.645, a pharmacist may provide patient care services pursuant to a statewide drug therapy management protocol.

- Following all elements outlined in OAR 855-115-0330 and OAR 855-115-0335, a pharmacist licensed and located in Oregon may prescribe the SARS-CoV-2 Antiviral nirmatrelvir/ritonavir.

- **STANDARDIZED PATIENT ASSESSMENT PROCESS ELEMENTS:**
  - Utilize the standardized SARS-CoV-2 Antiviral:
    - Patient Intake Form (pg. x-x)
    - Assessment and Treatment Care Pathway (pg. x-x)
    - Prescription Template *optional* (pg. X)
    - Provider Notification (pg. x)

PHARMACIST TRAINING/EDUCATION:

- Pharmacist must be familiar with how to access patient laboratory data to assess renal and hepatic function.
- Review PAXLOVID resources for healthcare providers, available at:
  - Pfizer: https://paxlovid.pfizerpro.com/
  - FDA: PAXLOVID Patient Eligibility Screening Checklist Tool for Prescribers
- A minimum of 1 hour of training **is recommended**
  - CDC Webinar: Diagnostic Testing and Treatment Guidelines for COVID-19 and Influenza
  - APhA CPE: Oral Antivirals for COVID-19: Practical Considerations for Patient Selection, Evaluation for Safe Use, Monitoring and Referral
  - APhA Certificate Program: Pharmacy-Based Test And Treat Certificate Training Program (20 hours)

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SARS-CoV-2 Antiviral Self-Screening Patient Intake Form

(CONFIDENTIAL-Protected Health Information)

If you have any of the following, please go directly to the emergency room or have someone call 911.

□ New confusion □ Difficulty breathing □ Pain or pressure in the chest
□ Cannot stay awake □ Gray or blue-colored skin, lips, or nail beds □ Fast heart rate or palpitations
□ If you are on oxygen and have greater oxygen needs

Date _____/_____/_____ Date of Birth _____/_____/_____ Age_____
Legal Name_____ Name _____
Sex Assigned at Birth (circle) M / F Gender Identification (circle) M / F / Other____
Pronouns (circle) She/Her/Hers, He/Him/His, They/Them/Theirs, Ze/Hir/Hirs, Other_____Height_____Weight____
Street Address _____
Phone ( ) _____ Email Address _____
Healthcare Provider Name _____ Phone ( ) _____ Fax ( ) _____
Do you have health insurance? □ Yes □ No Insurance Provider Name _____
Any allergies to medications? □ Yes □ No If yes, please list _____
Which of the following best describes your racial or ethnic identity? Please check **ALL** that apply.
□ Black/African American □ Hispanic or Latino/a/x □ American Indian or Alaska Native □ Asian □ Other
□ Native Hawaiian/Pacific Islander □ Middle Eastern/North African □ White □ Not specified
Are you houseless, or live in a shelter, encampment, or transitional housing? □ Yes □ No

Background Information:

~~1.~~	~~Have you had a positive COVID-19 (SARS-CoV-2) antigen test within the past 5 days?~~ ~~If yes, please indicate the date of the positive test ___/___/_____.~~ ~~If no, would you like to be tested at the pharmacy today?~~	~~□ Yes □ No~~ ~~□ Yes □ No~~
1.	Have you experienced any of the following symptoms? If yes, select all that apply: □ Fever □ Chills □ Cough □ Fatigue □ Headache □ Sore throat or Laryngitis □ Difficulty breathing □ Muscle or body aches □ Loss of taste or smell □ Congestion/head cold □ Runny nose □ Nausea or Vomiting □ Diarrhea □ Loss of appetite □ Light sensitivity If yes, did the symptoms start in the past 5 days?	□ Yes □ No □ Yes □ No
2.	Do you have or have you had any of the following that would qualify you for COVID-19 treatment? Please ask the Pharmacist if you have any questions about this list.	
	A. Age 50 years or older	□ Yes □ No
	B. Asthma	□ Yes □ No
	C. Cancer	□ Yes □ No
	D. Cystic fibrosis	□ Yes □ No
	E. Dementia	□ Yes □ No
	F. Diabetes	□ Yes □ No
	G. Disability (e.g., mental, physical, emotional)	□ Yes □ No
	H. Heart condition	□ Yes □ No
	I. HIV infection	□ Yes □ No
	J. Immune system problems or medications affecting the immune system	□ Yes □ No
	K. Kidney disease	□ Yes □ No
	a. If yes, are you currently on dialysis?	□ Yes □ No
	L. Liver disease	□ Yes □ No
	M. Lung disease or blood clot in the lung	□ Yes □ No
	N. Mental health condition	□ Yes □ No
	O. Unvaccinated or not up to date on COVID-19 vaccinations	□ Yes □ No
	P. Obesity	□ Yes □ No
	Q. Physically inactive	□ Yes □ No
	R. Pregnancy or recent pregnancy	□ Yes □ No

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Commented [JD1]: SB 1506 states that the pharmacists must test before they prescribe. Meaning, the test must be done by the pharmacist that day, and there can be no self-testing. The wording is a little strange in the statute, but it definitely couples testing with prescribing – note the comma comes after prescribe. Will also need to change #2 in the treatment screening section.

SECTION 4. (1) Consistent with the protocols adopted by the State Board of Pharmacy by rule, as recommended by the Public Health and Pharmacy Formulary Advisory Committee, a pharmacist may test for severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) and prescribe, dispense and administer treatment, including drug therapy, for SARS-CoV-2. (2) When testing for SARS-CoV-2, a pharmacist may use: (a) A screening procedure that can be safely performed by a pharmacist; and (b) A test that: (A) Guides the pharmacist's clinical decision-making; (B) Is determined by the Centers for Medicare and Medicaid Services to qualify as a waived test under the Clinical Laboratory Improvement Amendments of 1988 (P.L. 100-578, 42 U.S.C. 201 and 263a) or federal regulations adopted pursuant to the Clinical Laboratory Improvement Amendments of 1988 or is approved by the United States Food and Drug Administration; and (C) Is approved by the board by rule for use under this section. (3) A pharmacist may delegate to a pharmacy technician or an intern under the pharmacist's supervision the administrative and technical tasks of performing a task described in subsection (2) of this section. (4) The board may adopt rules as necessary to carry out this section

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Overweight (BMI 25 to less than 30)
Sickle cell disease

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SARS-CoV-2 Antiviral Self-Screening Patient Intake Form

(CONFIDENTIAL-Protected Health Information)

	S. Smoking, current or former.....	□ Yes □ No
	T. Transplant of organ or bone marrow.....	□ Yes □ No
	U. Stroke or brain bleed.....	□ Yes □ No
	V. Problematic drug or alcohol use.....	□ Yes □ No
	W. Tuberculosis.....	□ Yes □ No
	X. Other: _____	□ Yes □ No
3.	Have you had bloodwork of kidney and liver function that is less than 12 months old? If yes, can you provide it to the Pharmacist now?	□ Yes □ No □ Yes □ No
4.	Do you have any known medication allergies? If yes, list them here:	□ Yes □ No
6.	Do you take any medicines, including herbs or supplements? If yes, list them here:	□ Yes □ No (notify Pharmacist if more space needed)
7.	Do you take any medicines that you do not remember the name of?	□ Yes □ No
8.	Please write the names of all pharmacies you have filled prescriptions with in the last 90 days: Pharmacy (location):_____ Pharmacy (location):_____ Pharmacy (location):_____ Pharmacy (location):_____	

Signature_____ Date ____/_____/_____

TO BE COMPLETED BY PHARMACIST:

1. SARS-CoV2 test
   a. Manufacturer: Lot #: Expiration Date: / /
   b. Test performed by: Date: / / Time: : AM / PM (circle one)
   c. Result: □ Reactive □ Non-Reactive □ Indeterminate
2. Weight _____ lbs.
   a. *If applicable* to verify obesity as only risk factor: Height __ ft. ___ in., BMI _____
3. Renal function:
   a. Provider verified eGFR is ≥60 mL/min *or* ≥30 to <60 mL/min *or* <30 mL/min (circle one).
      Provider name (phone):_____ **-or-**
   b. SCr:_____ mg/dL (date of lab:___/___/___). eGFR using CKD-EPI formula:_____ mL/min
4. Hepatic function:
   a. Provider-verified patient has: No Cirrhosis *or* Child-Pugh Class A *or* Class B *or* Class C (circle one)
      Provider name/phone:_____ **-or-**
   b. Total Bilirubin_____ mg/dL (date of lab:___/___/___), Albumin:_____ g/dL (date of lab:___/___/___),
      INR or Prothrombin Time (sec):_____ (date of lab:___/___/___).
      Child-Pugh score:_____ (6 points added for missing ascites and encephalopathy information)
      Estimated Child-Pugh: Class A: 5-6 points *or* Class B: 7-9 points *or* Class C: 10-15 points (circle one)

IF SARS-CoV-2 ANTIVIRAL WAS PRESCRIBED, COMPLETE THE FOLLOWING:

1. Dose (check one):
   □ Nirmatrelvir 300 mg (two 150 mg tablets) and ritonavir 100 mg (one 100 mg tablet) twice daily for 5 days
   □ Nirmatrelvir 150 mg (one 150 mg tablet) and ritonavir 100 mg (one 100 mg tablet) twice daily for 5 days
2. Healthcare Provider (if known) contacted/notified of therapy: □ Yes Date ____/_____/_____ □ Not Applicable

RPH Signature_____Date ____/_____/_____

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Standardized Assessment and Treatment Care Pathway

SARS-CoV-2 Antiviral

1) Assessment Screen (Self-screening Patient Intake Form, REALD demographics and pharmacist assessment)

a. Age < 18 years → **Refer to healthcare provider**
b. Clinical Factors listed below: → **Refer immediately to local Emergency Department or call 911**
   If the Pharmacist observes or the patient reports:
   □ New confusion □ Difficulty breathing □ Cannot stay awake
   □ Pain or pressure in the chest □ Gray or blue-colored skin, lips, or nail beds
   □ Fast heart rate or palpitations □ If patient is on oxygen and has greater oxygen needs

If referral criteria not met, *proceed to Step 2*.

2) Treatment Screen (Self-screening Patient Intake Form #1-2)

a. Positive CLIA-waived, EUA-authorized, FDA cleared, or FDA approved SARS-CoV-2 molecular or antigen test completed by Pharmacist (or Intern, Certified Oregon Pharmacy Technician or Pharmacy Technician)* today?

   NOTE: Results that are indeterminate or inconclusive results can suggest the presence of SARS-CoV-2 in quantities insufficient for the molecular or antigen test to be positive. It is recommended to collect a new specimen and retest. If the results are still indeterminate or inconclusive, the patient should be referred to their healthcare provider for further evaluation.

   *Per 2024 SB 1506: A Pharmacist may delegate to an Intern, Certified Oregon Pharmacy Technician or Pharmacy Technician who is under the Pharmacist's supervision the administrative and technical tasks of performing a SARS-CoV-2 molecular or antigen test.

b. Onset of mild to moderate COVID-19 symptoms within past 5 days?

   NOTE: fever or chills; cough; shortness of breath or difficulty breathing; fatigue; muscle or body aches; headache; new loss of taste or smell; sore throat; congestion or runny nose; nausea, vomiting; or diarrhea

If YES to *BOTH* Steps 2a **AND** 2b, *proceed to Step 3*.

3) Risk of Progression to Severe COVID-19 Screen (Self-screening Patient Intake Form #3, REALD demographics)

a. Did the patient attest to at least one risk factor in #3 on the Self-screening Patient Intake Form, which places an individual at high risk of progression to severe COVID-19?

   NOTE: Pharmacist must obtain or calculate BMI to verify obesity if #3.P. is the *only* risk factor checked "Yes" on #3 of the Self-screening Patient Intake Form. A BMI ≥30 is a risk factor for severe disease.

b. Does the patient identify as Black, African American, Hispanic, Latino/a/x, American Indian/Alaska Native, Asian, Asian American, or Pacific Islander?

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NOTE: Test results

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Overweight (BMI 25 to less than 30)
Sickle cell disease
Substance use disorders

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NOTE: People of racial and ethnic minority groups are most harmed by health inequities due to racial, ethnic and socioeconomic disparities. These health inequities place these individuals at high risk of progression to severe COVID-19.

c. Is the patient houseless or live in a shelter, encampment or transitional housing, which places an individual at high risk of progression to severe COVID-19?

NOTE: There is increased transmission of virus in indoor and outdoor congregate settings that do not provide protection from the environment, adequate access to hygiene and sanitation facilities, or connection to services and health care. These settings include those where people who are houseless, are sleeping outdoors or in encampments.

If YES to *EITHER* Step 3a, 3b, **OR** 3c, *proceed to Step 4*; otherwise, PAXLOVID is not indicated under this protocol.

4) Renal Function Assessment Screen

a. Is the patient currently on dialysis as reported on the Self-Screening Patient Intake Form Question #3.K.a.?

b. Did the pharmacist verify an eGFR ≥30 mL/min after consultation with a healthcare provider who is in an established patient-provider relationship with the individual patient?

c. Did the pharmacist obtain a SCr level that is less than 12 months old and calculate an eGFR ≥30 mL/min using an online calculator based on the 2021 CKD-EPI equation?

Note: Patient reporting of renal function is not adequate for utilization of this protocol.

If YES to Step 4a, PAXLOVID is contraindicated → Advise patient to seek care from medical provider for further evaluation.
If YES to *EITHER* Step 4b **OR** 4c, *proceed to Step 5*; otherwise, PAXLOVID is not indicated under this protocol → Advise patient to seek care from medical provider for further evaluation.

5) Hepatic Function Assessment Screen

a. Did the pharmacist verify the patient does not have Child-Pugh Class C liver disease (severe, decompensated) after consultation with a healthcare provider who is in an established patient-provider relationship with the individual patient?

b. Did the pharmacist obtain a total bilirubin, albumin and INR/prothrombin time that is less than 12 months old and estimate the Child-Pugh score to be <10 points (no liver cirrhosis, or Child-Pugh Class A or B) using an online calculator?

If provider cannot be consulted to verify hepatic function, pharmacist may calculate the Child-Pugh score using 3 points for missing ascites data and 3 points for missing encephalopathy data (adds 3 points for each missing data) for most conservative estimate.

Note: Patient reporting of liver function is not adequate for utilization of this protocol.

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Standardized Assessment and Treatment Care Pathway

SARS-CoV-2 Antiviral

If YES to *EITHER* Step 5a **OR** 5b, *proceed to Step* 6; otherwise, PAXLOVID is not indicated under this protocol → Advise patient to seek care from medical provider for further evaluation.

6) Allergy Screen (Self-screening Patient Intake Form #5)

Does the patient have a known allergy/hypersensitivity to any ingredient of PAXLOVID?

If NO known allergy, *proceed to Step 7*; otherwise, PAXLOVID is contraindicated → Advise patient to seek care from medical provider for further evaluation.

7) Assessment of Drug-Drug Interactions (Self-screening Patient Intake Form #6-8)

a. Did the pharmacist obtain a comprehensive list of current medications and supplements (prescribed and non-prescribed):
   i. Through access to health records or pharmacy records less than 12 months old **-or-**
   ii. In consultation with a healthcare provider in an established patient-provider relationship with the patient **-or-**
   iii. Through patient reporting

b. After review of the medications, did the pharmacist identify potential serious drug interactions with PAXLOVID using product labeling or other drug interaction tool?

If YES to Step 7a **AND** *NO* to Step 7b, *proceed to Step 8*; otherwise, PAXLOVID is not indicated under this protocol → Advise patient to seek care from medical provider for further evaluation.

8) Prescribe PAXLOVID

a. If eGFR ≥60 mL/min: nirmatrelvir 300 mg (two 150 mg tablets) and ritonavir 100 mg (one 100 mg tablet) twice daily for 5 days, or
b. If eGFR ≥30 to <60 mL/min: nirmatrelvir 150 mg (one 150 mg tablet) and ritonavir 100 mg (one 100 mg tablet) twice daily for 5 days.

9) Notify primary care provider (if known) within 5 days of receipt of therapy

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The Fact Sheet for Healthcare Providers (Section 7)¶
The FDA PAXLOVID Eligibility Screening Checklist Tool ¶
The University of Liverpool COVID-19 Drug Interactions tool¶

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Deleted: 8) Document the Patient Education¶
¶
Document that you communicated to your patient or parent/caregiver, as age appropriate, information consistent with:¶
The "Fact Sheet for Patients, Parents, and Caregivers - Emergency Use Authorization (EUA) of PAXLOVID" and provided a copy of this Fact Sheet to the patient or parent/caregiver prior to the patient receiving PAXLOVID ¶
Patient Counseling Information outlined in Section 17 of the Fact Sheet for Healthcare Providers.¶
Patients treated with PAXLOVID should continue to self-isolate and use infection control measures (e.g., wear mask, isolate, social distance, avoid sharing personal items, clean and disinfect "high touch" surfaces, and frequent handwashing) according to CDC guidelines.¶ ...

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Adverse Reactions and Medication Errors Reporting Requirements:¶
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Required reporting for serious adverse events and medication errors using FDA form 3500 as described in section 6.4 of EUA within 7 calendar days from the pharmacist's awareness of the event.¶ ...

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SARS-CoV-2 Antiviral Prescription

Optional-May be used by pharmacy if desired

Patient Name:	Date of birth:
Address:	
City/State/Zip Code:	Phone number:

Rx

☐ Drug: Paxlovid™ (nirmatrelvir 300 mg/ ritonavir 100 mg)

- Sig: Take two tablets of nirmatrelvir 150 mg (300 mg) and one tablet of ritonavir 100 mg twice daily for 5 days
- Quantity: #30
- Refills: none

☐ Drug: Paxlovid™ (renal dosing - nirmatrelvir 150 mg/ ritonavir 100 mg)

- Sig: Take one tablet of nirmatrelvir 150 mg and one tablet of ritonavir 100 mg twice daily for 5 days
- Quantity: #20
- Refills: none

Written Date: _____

Prescriber Name: _____Prescriber Signature: _____

Pharmacy Address: _____ Pharmacy Phone: _____

-or-

☐ Patient Referred

Notes:_____
_____
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Provider Notification
SARS-CoV-2 Antiviral

Pharmacy Name:_____ Pharmacist Name: _____

Pharmacy Address:_____

Pharmacy Phone: _____ Pharmacy Fax: _____

Dear Provider_____ (name), (____) _____ -_____ (FAX)

Your patient _____(name) _____/_____/_____ (DOB) was:

Prescribed the SARS-CoV2 Antiviral, Paxlovid™, at our Pharmacy noted above on ___/___/_____. The prescription issued and dispensed consisted of (check one):

- ☐ Paxlovid™ (nirmatrelvir 300 mg and ritonavir 100 mg)
  - Sig: Take two tablets of nirmatrelvir 150 mg (300 mg) and one tablet of ritonavir 100 mg twice daily for 5 days, #30, no refills
- ☐ Paxlovid™ (renal dosing- nirmatrelvir 150 mg and ritonavir 100 mg)
  - Sig: Take one tablet of nirmatrelvir 150 mg and one tablet of ritonavir 100 mg twice daily for 5 days, #20, no refills

Your patient was informed that an office visit with you or another provider on your team is recommended after finishing the course of treatment.

If you have further questions, please contact the prescribing pharmacy.

The prescription was issued pursuant to the Board of Pharmacy protocol authorized under OAR 855-115-0345.

Attention Pharmacy: This is a template document. Please feel free to customize it to your pharmacy, however you must retain all elements set forth by this template. The information may be transmitted electronically.

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Provided with the FDA EUA Paxlovid™ Fact Sheet for Patients, Parents, & Caregivers¶
https://www.fda.gov/media/155051/download¶
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NIH COVID-19 Treatment Guidelines:¶

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Enrolled
Senate Bill 1506

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with presession filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Health Care)

CHAPTER .....

AN ACT

Relating to pharmacy; creating new provisions; amending ORS 243.144, 243.877, 689.005 and 743A.051; and prescribing an effective date.

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

SECTION 1. Section 2 of this 2024 Act is added to and made a part of ORS chapter 414.

SECTION 2. Notwithstanding ORS 414.065 and 414.690, medical assistance provided to a member of a coordinated care organization or a medical assistance recipient who is not enrolled in a coordinated care organization shall include the testing and treatment, as described in section 4 of this 2024 Act, performed or provided by a pharmacist.

SECTION 3. Section 4 of this 2024 Act is added to and made a part of ORS chapter 689.

SECTION 4. (1) Consistent with the protocols adopted by the State Board of Pharmacy by rule, as recommended by the Public Health and Pharmacy Formulary Advisory Committee, a pharmacist may test for severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) and prescribe, dispense and administer treatment, including drug therapy, for SARS-CoV-2.

(2) When testing for SARS-CoV-2, a pharmacist may use:

(a) A screening procedure that can be safely performed by a pharmacist; and

(b) A test that:

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

(B) Is determined by the Centers for Medicare and Medicaid Services to qualify as a waived test under the Clinical Laboratory Improvement Amendments of 1988 (P.L. 100-578, 42 U.S.C. 201 and 263a) or federal regulations adopted pursuant to the Clinical Laboratory Improvement Amendments of 1988 or is approved by the United States Food and Drug Administration; and

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

(3) A pharmacist may delegate to a pharmacy technician or an intern under the pharmacist's supervision the administrative and technical tasks of performing a task described in subsection (2) of this section.

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

SECTION 5. ORS 689.005 is amended to read:

689.005. As used in this chapter:

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

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

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

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

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

(4) "Continuing pharmacy education" means:

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

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

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

(5) "Continuing pharmacy education unit" means the unit of measurement of credits for approved continuing education courses and programs.

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

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

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

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

(10) "Drug" means:

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

(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in a human or other animal;

(c) Articles, other than food, intended to affect the structure or any function of the body of humans or other animals; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(28) "Practice of clinical pharmacy" means:

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

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

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

(29) "Practice of pharmacy" means:

(a) The interpretation and evaluation of prescription orders;

(b) The compounding, dispensing and labeling of drugs and devices, except labeling by a manufacturer, packer or distributor of nonprescription drugs and commercially packaged legend drugs and devices;

(c) The prescribing and administering of vaccines and immunizations and the providing of patient care services pursuant to ORS 689.645;

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

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

(f) The proper and safe storage of drugs and devices and the maintenance of proper records regarding the safe storage of drugs and devices;

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

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

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

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

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

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

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

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

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

(p) The testing for severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) and the prescribing, dispensing and administering of treatment for SARS-CoV-2 pursuant to section 4 of this 2024 Act and rules adopted by the board pursuant to section 4 of this 2024 Act.

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

(a) In this state; or

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

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

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

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

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

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

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

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

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

(35) "Self-administered hormonal contraceptive" means a drug composed of a hormone or a combination of hormones that is approved by the United States Food and Drug Administration to

prevent pregnancy and that the patient to whom the drug is prescribed may administer to oneself. "Self-administered hormonal contraceptive" includes, but is not limited to, hormonal contraceptive patches and hormonal contraceptive pills.

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

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

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

(37) "Unit dose" means a sealed single-unit container so designed that the contents are administered to the patient as a single dose, direct from the container. Each unit dose container must bear a separate label, be labeled with the name and strength of the medication, the name of the manufacturer or distributor, an identifying lot number and, if applicable, the expiration date of the medication.

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

SECTION 6. ORS 689.005, as amended by section 5 of this 2024 Act, is amended to read:

689.005. As used in this chapter:

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

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

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

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

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

(4) "Continuing pharmacy education" means:

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

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

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

(5) "Continuing pharmacy education unit" means the unit of measurement of credits for approved continuing education courses and programs.

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

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

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

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

(10) "Drug" means:

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

(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in a human or other animal;

(c) Articles, other than food, intended to affect the structure or any function of the body of humans or other animals; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(28) "Practice of clinical pharmacy" means:

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

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

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

(29) "Practice of pharmacy" means:

(a) The interpretation and evaluation of prescription orders;

(b) The compounding, dispensing and labeling of drugs and devices, except labeling by a manufacturer, packer or distributor of nonprescription drugs and commercially packaged legend drugs and devices;

(c) The prescribing and administering of vaccines and immunizations and the providing of patient care services pursuant to ORS 689.645;

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

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

(f) The proper and safe storage of drugs and devices and the maintenance of proper records regarding the safe storage of drugs and devices;

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

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

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

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

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

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

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

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

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

[*(p) The testing for severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) and the prescribing, dispensing and administering of treatment for SARS-CoV-2 pursuant to section 4 of this 2024 Act and rules adopted by the board pursuant to section 4 of this 2024 Act*].

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

(a) In this state; or

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

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

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

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

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

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

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

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

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

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

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

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

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

(37) "Unit dose" means a sealed single-unit container so designed that the contents are administered to the patient as a single dose, direct from the container. Each unit dose container must bear a separate label, be labeled with the name and strength of the medication, the name of the manufacturer or distributor, an identifying lot number and, if applicable, the expiration date of the medication.

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

SECTION 7. ORS 743A.051 is amended to read:

743A.051. **(1)** Notwithstanding any provisions of a health benefit plan as defined in ORS 743B.005, whenever the plan provides for payment or reimbursement for a service that is within the lawful scope of practice of a pharmacist, the insurer:

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

[*(2)*] **(b)** Shall provide, in the same manner as would be provided for any other health care provider, payment or reimbursement for:

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

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

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

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

(C)(i) The testing for severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) and the prescribing, dispensing and administering of treatment for SARS-CoV-2 pursuant to section 4 of this 2024 Act; and

(ii) The service provided by the pharmacist; and

[*(c)(A)*] **(D)(i)** The prescription and dispensation of other prescription drugs by a licensed pharmacist if the State Board of Pharmacy or any state law authorizes the drug to be prescribed and dispensed by pharmacists licensed under ORS chapter 689; and

[*(B)*] **(ii)** The service provided by the pharmacist.

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

SECTION 8. ORS 743A.051, as amended by section 7 of this 2024 Act, is amended to read:

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

(a) May provide payment or reimbursement for the service when the service is provided by a pharmacist; and

(b) Shall provide, in the same manner as would be provided for any other health care provider, payment or reimbursement for:

(A)(i) The prescription of emergency refills of insulin and associated insulin-related devices and supplies as described in ORS 689.696; and

(ii) The service provided by the pharmacist;

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

(ii) The service provided by the pharmacist; **and**

[*(C)(i) The testing for severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) and the prescribing, dispensing and administering of treatment for SARS-CoV-2 pursuant to section 4 of this 2024 Act; and*]

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

[*(D)(i)*] **(C)(i)** The prescription and dispensation of other prescription drugs by a licensed pharmacist if the State Board of Pharmacy or any state law authorizes the drug to be prescribed and dispensed by pharmacists licensed under ORS chapter 689; and

(ii) The service provided by the pharmacist.

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

SECTION 9. ORS 243.144 is amended to read:

243.144. Benefit plans offered by the Public Employees' Benefit Board that reimburse the cost of medical and other health services and supplies must comply with the requirements for health benefit plan coverage described in:

(1) ORS 743A.058;

(2) ORS 743A.140;

(3) ORS 743A.141;

(4) ORS 743B.256;

(5) ORS 743B.287 (4);

(6) ORS 743B.420;

(7) ORS 743B.423;

(8) ORS 743B.601;

(9) ORS 743B.810; [*and*]

(10) ORS 743A.325**; and**

(11) ORS 743A.051 (2)(c).

SECTION 10. ORS 243.144, as amended by section 9 of this 2024 Act, is amended to read:

243.144. Benefit plans offered by the Public Employees' Benefit Board that reimburse the cost of medical and other health services and supplies must comply with the requirements for health benefit plan coverage described in:

(1) ORS 743A.058;
(2) ORS 743A.140;
(3) ORS 743A.141;
(4) ORS 743B.256;
(5) ORS 743B.287 (4);
(6) ORS 743B.420;
(7) ORS 743B.423;
(8) ORS 743B.601;
(9) ORS 743B.810; **and**
(10) ORS 743A.325[*; and*]
[*(11) ORS 743A.051 (2)(c)*].

SECTION 11. ORS 243.877 is amended to read:

243.877. Benefit plans offered by the Oregon Educators Benefit Board that reimburse the cost of medical and other health services and supplies must comply with the requirements for health benefit plan coverage described in:

(1) ORS 743A.058;
(2) ORS 743A.140;
(3) ORS 743A.141;
(4) ORS 743B.256;
(5) ORS 743B.287 (4);
(6) ORS 743B.420;
(7) ORS 743B.423;
(8) ORS 743B.601;
(9) ORS 743B.810; [*and*]
(10) ORS 743A.325[.]**; and**
(11) ORS 743A.051 (2)(c).

SECTION 12. ORS 243.877, as amended by section 11 of this 2024 Act, is amended to read:

243.877. Benefit plans offered by the Oregon Educators Benefit Board that reimburse the cost of medical and other health services and supplies must comply with the requirements for health benefit plan coverage described in:

(1) ORS 743A.058;
(2) ORS 743A.140;
(3) ORS 743A.141;
(4) ORS 743B.256;
(5) ORS 743B.287 (4);
(6) ORS 743B.420;
(7) ORS 743B.423;
(8) ORS 743B.601;
(9) ORS 743B.810; **and**
(10) ORS 743A.325[*; and*]
[*(11) ORS 743A.051 (2)(c)*].

SECTION 13. The amendments to ORS 243.144, 243.877, 689.005 and 743A.051 by sections 6, 8, 10 and 12 of this 2024 Act become operative on June 30, 2026.

SECTION 14. (1) The amendments to ORS 243.144 by section 9 of this 2024 Act apply to benefit plans issued, renewed or extended on or after October 1, 2024.

(2) The amendments to ORS 243.877 by section 11 of this 2024 Act apply to benefit plans issued, renewed or extended on or after October 1, 2024.

(3) The amendments to ORS 743A.051 by section 7 of this 2024 Act apply to health benefit plans issued, renewed or extended on or after October 1, 2024.

SECTION 15. Sections 2 and 4 of this 2024 Act are repealed on June 30, 2026.

SECTION 16. **(1) Sections 2 and 4 of this 2024 Act and the amendments to ORS 243.144, 243.877, 689.005 and 743A.051 by sections 5, 7, 9 and 11 of this 2024 Act become operative on October 1, 2024.**

(2) The Oregon Health Authority, the Oregon Educators Benefit Board, the Public Employees' Benefit Board and the State Board of Pharmacy may take any action before the operative date specified in this section that is necessary to enable the authority and the boards to exercise, on or after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the authority and the boards by sections 2 and 4 of this 2024 Act and the amendments to ORS 243.144, 243.877, 689.005 and 743A.051 by sections 5, 7, 9 and 11 of this 2024 Act.

SECTION 17. **This 2024 Act takes effect on the 91st day after the date on which the 2024 regular session of the Eighty-second Legislative Assembly adjourns sine die.**

Passed by Senate February 20, 2024

.....
Obadiah Rutledge, Secretary of Senate

.....
Rob Wagner, President of Senate

Passed by House February 28, 2024

.....
Dan Rayfield, Speaker of House

Received by Governor:

.....M.,....., 2024

Approved:

.....M.,....., 2024

.....
Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M.,....., 2024

.....
LaVonne Griffin-Valade, Secretary of State