

Chapter 475

1983 REPLACEMENT PART

Controlled Substances; Experimental Drugs

UNIFORM CONTROLLED SUBSTANCES ACT

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**UNIFORM CONTROLLED
SUBSTANCES ACT**

475.005 Definitions for ORS 475.005 to 475.285. As used in ORS 475.005 to 475.285 and 475.991 to 475.995, 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 employe of the carrier or warehouseman.
- (5) "Board" means the State Board of Pharmacy.
- (6) "Controlled substance" 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.
- (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, 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 or 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) "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.
- (15) "Marijuana" means all parts of the plant Cannabis family Moraceae, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil

or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

(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, certified nurse practitioner, physician's 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 or oral 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 or oral direction. Any label affixed to a drug prepared under written or oral 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. [1977 c.745 §1; 1979 c.777 §49; 1979 c.785 §5; 1981 c.220 §1; 1981 c.666 §1]

475.010 [Amended by 1953 c.342 §3; 1957 c.587 §6; 1965 c.545 §1; 1971 c.743 §378; 1973 c.697 §9; 1974 s.s. c.67 §5; repealed by 1977 c.745 §54]

475.015 [1977 c.745 §3; 1979 c.777 §50; repealed by 1981 c.666 §11]

475.020 [Repealed by 1957 c.587 §12]

475.025 [1977 c.745 §4; repealed by 1981 c.666 §11]

475.030 [Repealed by 1957 c.587 §12]

475.035 Authority to control schedule. (1) In arriving at any decision on changes in or addition to classification when changes or additions are proposed by the federal Drug Enforcement Administration or by any other reliable source, the board shall review the

scientific knowledge available regarding the substance, its pharmacological effects, patterns of use and misuse, and potential consequences of abuse, and consider the judgment of individuals with training and experience with the substance.

(2) Whenever the board determines that a change in or an addition to the schedule of a controlled substance is justified, the board by rule may order the change and fix the effective date thereof.

(3) If a substance is an ingredient of a controlled substance, the ingredient shall be considered to be in the same schedule as that controlled substance. Substances which are precursors of the ingredient shall not be subject to control solely because they are precursors of the ingredient.

(4) The board shall administer ORS 475.005 to 475.285 in accordance with ORS 183.310 to 183.550.

(5) Authority to control under this section does not extend to tobacco or to alcoholic liquor, distilled spirits, wine or malt beverages as those terms are defined or used in ORS chapters 471 and 472. [1977 c.745 §5; 1981 c.666 §2]

475.040 [Repealed by 1957 c.587 §12]

475.045 Exclusions. The board shall exclude any nonnarcotic substance from a schedule if such substance may, under the Federal Food, Drug, and Cosmetic Act and the law of this state, be lawfully sold over the counter without a prescription. [1977 c.745 §7a]

475.050 [Repealed by 1957 c.587 §12]

475.055 Publishing of schedules. The board shall publish the classification of controlled substances within 30 days following revision of any classification or reclassification of a controlled substance. [1977 c.745 §6; 1981 c.666 §3]

475.060 [Repealed by 1957 c.587 §12]

475.070 [Amended by 1961 c.648 §12; repealed by 1971 c.743 §432]

475.075 [1977 c.745 §2; 1979 c.777 §51; repealed by 1981 c.666 §11]

475.080 [Repealed by 1959 c.411 §22]

475.085 [1977 c.745 §55; 1979 c.777 §52; repealed by 1981 c.666 §11]

475.090 [Amended by 1953 c.543 §3; 1957 c.587 §7; repealed by 1971 c.743 §432]

475.095 Rules; fees. The board may adopt rules relating to fees and charge reasonable fees in addition to any other fees required by statute or rule, relating to the registration and

control of the manufacture, delivery and dispensing of controlled substances within this state. [1977 c.745 §7; 1981 c.666 §4]

475.100 [Amended by 1953 c.396 §2; 1957 c.587 §8; 1963 c.229 §1; 1965 c.15 §1; 1965 c.545 §2; 1971 c.743 §379; repealed by 1977 c.745 §54]

475.110 [Amended by 1953 c.396 §2; 1965 c.545 §3; 1971 c.743 §379a; repealed by 1977 c.745 §54]

475.120 [Repealed by 1971 c.743 §432]

475.125 Registration requirements.

(1) Every person who manufactures, delivers or dispenses any controlled substance within this state or who proposes to engage in the manufacture, delivery or dispensing of any controlled substance within this state, must obtain annually a registration issued by the board in accordance with its rules.

(2) Persons registered by the board under ORS 475.005 to 475.285 and 475.991 to 475.995 to manufacture, deliver, dispense or conduct research with controlled substances may possess, manufacture, deliver, dispense or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of ORS 475.045, 475.095 and 475.125 to 475.185 and other applicable laws of this state.

(3) The following persons need not register and may lawfully possess controlled substances under ORS 475.005 to 475.285 and 475.991 to 475.995:

(a) An agent or employe of any registered manufacturer, distributor or dispenser of any controlled substance if he is acting in the usual course of his business or employment.

(b) A common or contract carrier or warehouseman, or an employe thereof, whose possession of any controlled substance is in the usual course of business or employment.

(c) An ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner or in lawful possession of a Schedule V substance, unless otherwise prohibited.

(d) A practitioner otherwise licensed under the laws of this state and authorized to dispense or administer a controlled substance by the licensing authority.

(4) The board may waive by rule the requirement for registration of certain manufacturers or dispensers if it finds it consistent with the public health and safety.

(5) A separate registration is required at each principal place of business or professional

practice where the applicant manufactures, delivers or dispenses controlled substances.

(6) The board may inspect the establishment of a registrant or applicant for registration in accordance with the rules of the board. [1977 c.745 §8]

475.130 [Repealed by 1957 c.587 §12]

475.135 Grounds to grant or deny registration; scope of registration; effect of federal registration. (1) The board shall register or renew the registration of an applicant to manufacture or dispense controlled substances included in schedules under procedures defined in ORS 475.035, unless it determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the board shall consider the following factors:

(a) Failure to maintain effective controls against diversion of controlled substances into other than legitimate medical, scientific or industrial channels;

(b) Failure to comply with applicable state or local laws;

(c) Any convictions of the applicant under any federal or state laws relating to any controlled substance;

(d) Past experience in the manufacture, delivery or dispensing of controlled substances and the existence in the applicant's establishment of effective controls against diversion;

(e) Furnishing by the applicant of false or fraudulent material in any application filed under ORS 475.005 to 475.285;

(f) Suspension or revocation of the applicant's federal registration to manufacture, deliver or dispense controlled substances as authorized by federal law; or

(g) Any other factors relevant to and consistent with the public health and safety.

(2) Registration under subsection (1) of this section does not entitle a registrant to manufacture, deliver or dispense controlled substances in Schedule I or II other than those specified in the registration.

(3) Practitioners must be registered to conduct research with controlled substances in Schedules I through V if they are authorized to conduct research under the law of this state. The board need not require separate registration under ORS 475.045, 475.095 and 475.125 to 475.185 for practitioners engaging in research with controlled substances in Schedules I through V where the registrant is already registered under ORS 475.045, 475.095 and 475.125

to 475.185 in another capacity. Persons with valid registration from the Drug Enforcement Administration for research on controlled substances may conduct research within this state in compliance with other state law upon furnishing the board evidence of that federal registration, and are exempt from state prosecution for possession and distribution of controlled substances to the extent of the registration. Registration under ORS 475.005 to 475.285 does not exempt the registrant from compliance with any other relevant law of this state or the United States, unless such exemption is expressly provided under ORS 475.005 to 475.285.

(4) Notwithstanding this section, the manufacture, delivery or dispensing of any controlled substance excluded from any medical use by federal law is prohibited, except:

(a) For research authorized under subsection (3) of this section and ORS 475.225; or

(b) As otherwise provided by state or federal law.

(5) Compliance by manufacturers and distributors with the provisions of the federal law respecting registration, excluding fees, entitles them to be registered under ORS 475.045, 475.095 and 475.125 to 475.185. [1977 c.745 §9; 1979 c.777 §53; 1981 c.666 §5]

475.140 [Repealed by 1957 c.587 §12]

475.145 Revocation and suspension of registration. (1) A registration under ORS 475.135 to manufacture, deliver or dispense a controlled substance may be suspended or revoked by the board upon a finding that:

(a) The registrant has furnished false or fraudulent material information in any application filed under ORS 475.005 to 475.285;

(b) The registrant has been convicted of a felony under any state or federal law relating to any controlled substance;

(c) The registrant has had the federal registration suspended or revoked to manufacture, deliver or dispense controlled substances;

(d) The registrant has violated any rule of the board under ORS 475.005 to 475.285;

(e) The registrant has failed to maintain proper records or has failed to follow proper refill procedures; or

(f) Continuance of registration would be inconsistent with the public interest under any factor stated in ORS 475.135.

(2) The board may limit revocation or suspension of a registration to the particular controlled substance with respect to which grounds for revocation or suspension exist.

(3) If the board suspends or revokes a registration, all controlled substances owned or possessed by the registrant at the time of suspension or the effective date of the revocation order may be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all controlled substances may be forfeited to the state.

(4) The board shall promptly notify the administration of all orders suspending or revoking registration and all forfeitures of controlled substances. [1977 c.745 §10; 1981 c.666 §6]

475.150 [Amended by 1959 c.411 §1; 1971 c.418 §14; repealed by 1977 c.745 §54]

475.155 Order to show cause. (1) Before denying, suspending or revoking a registration, or refusing a renewal of registration, the board shall serve upon the applicant or registrant an order to show cause why registration should not be denied, revoked or suspended, or why the renewal should not be refused. The order to show cause shall contain a statement of the basis therefor and shall call upon the applicant or registrant to appear before the board at a time and place not less than 30 days after the date of service of the order. These proceedings shall be conducted in accordance with ORS 183.310 to 183.550 without regard to any criminal prosecution or other proceeding. Proceedings to refuse renewal of registration shall not abate the existing registration which shall remain in effect pending the outcome of the administrative hearing.

(2) The board may suspend, without an order to show cause, any registration simultaneously with the institution of proceedings under ORS 475.145 or where renewal of registration is refused, if it finds that there is an imminent danger to the public health or safety which warrants this action. The suspension shall continue in effect until the conclusion of the proceedings, including judicial review thereof, unless sooner withdrawn by the board or dissolved by a court of competent jurisdiction. [1977 c.745 §11]

475.160 [Repealed by 1977 c.745 §54]

475.165 Records of registrants. Persons registered to manufacture, deliver or dispense controlled substances under ORS 475.005 to 475.285 and 475.991 to 475.995 shall keep records and maintain inventories in conformance with the recordkeeping and inventory

treatment. [1979 c.253 §3]

475.610 [1955 c.573 §2; 1957 c.587 §9; repealed by 1959 c.411 §2 (475.615 enacted in lieu of 475.610)]

475.615 [1959 c.411 §3 (enacted in lieu of 475.610); repealed by 1977 c.745 §54]

475.620 [1955 c.573 §3; 1957 c.587 §10; repealed by 1959 c.411 §4 (475.625 enacted in lieu of 475.620)]

475.625 [1959 c.411 §5 (enacted in lieu of 475.620); 1963 c.137 §2; 1969 c.310 §2; repealed by 1971 c.743 §432]

475.630 [1955 c.573 §4; repealed by 1959 c.411 §6 (475.655 enacted in lieu of 475.630)]

475.635 [1959 c.411 §11 (enacted in lieu of 475.650); 1969 c.310 §3; repealed by 1971 c.743 §432]

475.640 [1955 c.573 §5; repealed by 1959 c.411 §8 (475.665 enacted in lieu of 475.640)]

475.645 [1959 c.411 §21 (enacted in lieu of 475.700); 1969 c.391 §15; 1971 c.743 §380; 1973 c.697 §20; 1977 c.745 §41; repealed by 1977 c.871 §29]

475.650 [1955 c.573 §6; repealed by 1959 c.411 §10 (475.635 enacted in lieu of 475.650)]

475.655 [1959 c.411 §7 (enacted in lieu of 475.630); 1963 c.137 §3; 1971 c.743 §381; repealed by 1973 c.697 §21]

475.660 [1955 c.573 §7; repealed by 1959 c.411 §12 (475.675 enacted in lieu of 475.660)]

475.665 [1959 c.411 §9 (enacted in lieu of 475.640); 1971 c.743 §382; 1973 c.697 §17; 1977 c.745 §42; repealed by 1977 c.871 §29]

475.670 [1955 c.573 §8; repealed by 1959 c.411 §14 (475.705 enacted in lieu of 475.670)]

475.675 [1959 c.411 §13 (enacted in lieu of 475.660); 1969 c.638 §2; 1973 c.697 §18; repealed by 1977 c.871 §29]

475.680 [1955 c.573 §§9, 13; repealed by 1959 c.411 §16 (475.685 enacted in lieu of 475.680)]

475.685 [1959 c.411 §17 (enacted in lieu of 475.680); 1973 c.697 §15; repealed by 1977 c.871 §29]

475.690 [1955 c.573 §9; repealed by 1959 c.411 §18 (475.695 enacted in lieu of 475.690)]

475.695 [1959 c.411 §19 (enacted in lieu of 475.690); 1973 c.697 §16; 1977 c.745 §48; repealed by 1977 c.871 §29]

475.700 [1955 c.573 §10; repealed by 1959 c.411 §20 (475.645 enacted in lieu of 475.700)]

475.705 [1959 c.411 §15 (enacted in lieu of 475.670); 1969 c.638 §3; 1973 c.697 §19; 1977 c.745 §49; repealed by 1977 c.871 §29]

475.710 [1955 c.573 §11; repealed by 1959 c.411 §22]

475.715 [1969 c.442 §1; renumbered 430.560]

475.720 [1955 c.573 §12; repealed by 1959 c.411 §22]

475.725 [1969 c.442 §2; renumbered 430.565]

475.730 [1955 c.573 §13; repealed by 1959 c.411 §22]

475.732 [1973 c.697 §12; repealed by 1977 c.745 §54 and 1977 c.871 §29]

475.740 [1955 c.573 §1; repealed by 1959 c.411 §22]

475.742 [1973 c.697 §14; repealed by 1977 c.871 §29]

475.750 [1955 c.573 §3; repealed by 1959 c.411 §22]

HYPODERMIC DEVICES

475.805 Providing hypodermic device to minor prohibited; exception. (1) No person shall sell or give a hypodermic device to a minor unless the minor demonstrates a lawful need therefor by authorization of a physician, parent or legal guardian or by other means acceptable to the seller or donor.

(2) As used in this section, "hypodermic device" means a hypodermic needle or syringe or medication packaged in a hypodermic syringe or any instrument adapted for the subcutaneous injection of a controlled substance as defined in ORS 475.005. [1983 c.738 §1]

PENALTIES

475.990 [1957 c.587 §11; 1969 c.310 §4; repealed by 1977 c.745 §45]

475.991 Penalty for unlawful delivery of imitation controlled substance. (1) A person commits the crime of unlawful delivery of an imitation controlled substance if the person knowingly:

(a) Delivers, other than by administering or dispensing, a substance that is not a controlled substance upon the express or implied representation that the substance is a controlled substance; or

(b) Delivers a substance that is not a controlled substance upon the express or implied representation that the substance is of such nature or appearance that the recipient of the delivery will be able to distribute the substance as a controlled substance.

(2) As used in this section, "deliver" or "delivery" means the actual or constructive transfer, or offer or agreement to transfer, from one person to another of a substance, whether or not there is an agency relationship.

(3) Unlawful delivery of an imitation controlled substance is a Class A misdemeanor. [1981 c.859 §2]

475.992 Prohibited acts generally; penalties. (1) Except as authorized by ORS 475.005 to 475.285 and 475.991 to 475.995, 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.

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

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

(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) Notwithstanding the placement of marijuana in a schedule of controlled substances under ORS 475.005 to 475.285:

(a) Any person who delivers marijuana for consideration is guilty of a Class B felony.

(b) Any person who delivers, for no consideration, less than one avoirdupois ounce of the dried leaves, stems and flowers of the plant Cannabis family Moraceae is guilty of a Class A misdemeanor, except that any person who delivers, for no consideration, less than five grams of the dried leaves, stems and flowers of the plant Cannabis family Moraceae is guilty of a violation, punishable by a fine of not more than \$100.

(3) Except as authorized in ORS 475.005 to 475.285 and 475.991 to 475.995, 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.

(4) 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 his professional practice, or except as otherwise authorized by ORS 475.005 to 475.285 and 475.991 to 475.995. Any person who violates this subsection with respect to:

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

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

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

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

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

(f) Notwithstanding the placement of marijuana in a schedule of controlled substances under ORS 475.005 to 475.285, any person who knowingly or intentionally is in unlawful possession of less than one avoirdupois ounce of the dried leaves, stems and flowers of the plant Cannabis family Moraceae is guilty of a violation, punishable by a fine of not more than \$100. [1977 c.745 §15; 1979 c.777 §55]

475.993 Prohibited acts for registrants; penalties. (1) It is unlawful for any person:

(a) Who is subject to ORS 475.045, 475.095 and 475.125 to 475.185 to deliver or dispense a controlled substance in violation of ORS 475.185;

(b) Who is a registrant, to manufacture a controlled substance not authorized by this registration, or to deliver or dispense a controlled substance not authorized by his registration to another registrant or other authorized person;

(c) To refuse or fail to make, keep or furnish any record, notification, order form, statement, invoice or information required under ORS 475.005 to 475.285 and 475.991 to 475.995;

(d) To refuse an entry into any premises for any inspection authorized by ORS 475.005 to 475.285 and 475.991 to 475.995; or

(e) To keep or maintain any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft or other structure or place, while knowingly permitting persons to use controlled substances in such places in violation of ORS 475.005 to 475.285 and 475.991 to 475.995, or which is used for keeping or selling them in violation of ORS 475.005 to 475.285 and 475.991 to 475.995.

(2) Any person who violates this section with respect to:

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

(b) A controlled substance in Schedule II, is guilty of a Class A misdemeanor.

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

(d) A controlled substance in Schedule IV or V, is guilty of a Class C misdemeanor. [1977 c.745 §16]

475.994 Prohibited acts involving records and fraud; penalties. (1) It is unlawful for any person knowingly or intentionally:

(a) To deliver as a registrant a controlled

475.275 Uniformity of interpretation. ORS 475.005 to 475.285 and 475.991 to 475.995 shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of ORS 475.005 to 475.285 and 475.991 to 475.995 among those states which enact similar laws. [1977 c.745 §28]

475.285 Short title. ORS 475.005 to 475.285 and 475.991 to 475.995 may be cited as the Uniform Controlled Substances Act. [1977 c.745 §29]

EXPERIMENTAL DRUGS

475.305 "Experimental drug" defined. As used in ORS 475.305 to 475.375, "experimental drug" means any drug identified by United States Food and Drug Administration as an investigational new drug except new drug experimentation involving toothpaste, mouthwash, antiperspirant or shampoo. [1977 c.636 §1; 1979 c.674 §1]

475.315 Consent to prescribe or administer experimental drug required. (1) No person shall prescribe or knowingly administer an experimental drug to another person unless that person obtains prior written consent as provided in ORS 475.325. Written consent shall be indicated on forms prescribed and furnished or approved by the State Board of Pharmacy, provided each form meets the requirements of ORS 475.305 to 475.375.

(2) A copy of the signed consent form and any supplemental form shall be sent to the State Board of Pharmacy. The board shall keep the copies on file and shall permit examination only by the patient, the physician supervising the administration of the experimental drug and if not specified to the contrary in writing by the patient in so far as the supplemental forms are concerned, to persons acting on behalf of the patient or the physician. [1977 c.636 §2; 1979 c.674 §2]

475.325 Who may give consent. (1) An adult patient may give informed written consent if:

(a) No guardian has been appointed for the patient; and

(b) A physician licensed to practice in this state, other than the person proposing to prescribe the experimental drug, certifies that the patient is competent to give informed written consent to the administration of the experimental drug.

(2) If an adult patient is not able to give informed written consent under subsection (1) of this section, consent may be given jointly by the guardian and any of the following available relatives of the patient in the order listed:

(a) The spouse.

(b) A son or daughter who is not a minor.

(c) Either parent.

(d) A brother or sister who is not a minor.

(e) A grandson or granddaughter who is not a minor.

(3) If no guardian has been appointed, the available relative in the order listed in subsection (2) of this section alone may provide the written consent required by subsection (2) of this section for the adult patient.

(4) If none of the persons specified in subsection (2) of this section can be located after exercise of due diligence, the guardian alone may provide the written consent required by subsection (2) of this section for the adult patient.

(5) If the patient is a minor, written consent may be provided by a parent or the guardian of the patient.

(6) If a patient is unable to give informed consent personally, and consent is obtained as provided in subsections (2) to (5) of this section, experimental drugs may be administered to the patient only for the purpose of diagnosing, treating or mitigating a disease or injury of the patient. [1977 c.636 §3; 1979 c.674 §3]

475.335 Information to be given to consenting person and relatives. (1) The patient or any other person providing written consent pursuant to ORS 475.325, before signing the consent form, shall be apprised of the names of manufacturers of the experimental drug and the physician who will supervise its administration and shall be advised of all known medical risks attendant to the use of the experimental drug.

(2) If the patient is to sign the consent form personally, the closest available relative of the patient shall be notified of the proposed use of the experimental drug and provided the information required in subsection (1) of this section unless the patient specifically requests by a supplemental form in writing that the relative not be advised of the patient's consent to the proposed use. If there is no written objection by the patient to the contrary, the relative shall be given opportunity to consult with the patient before the patient signs the consent form, unless none of the persons specified in ORS 475.325 (2) can be located after the exercise of due diligence.

(3) Failure to comply with the provisions of this section shall nullify any consent given pursuant to ORS 475.325. [1977 c.636 §4; 1979 c.674 §4].

475.345 Revocation of consent. Consent given under ORS 475.325 and any supplemental form filed under ORS 475.335 may be revoked at any time by written communication to the physician supervising the administration of the experimental drug. [1977 c.636 §5; 1979 c.674 §5]

475.355 Appraisal of patient condition to be given; other information. (1) Upon request, the physician supervising the administration of the experimental drug shall provide the patient, if the patient is not a minor, or a parent or the guardian of the patient, if the patient is a minor, with an appraisal of the patient's condition and the effects of the experimental drug upon the patient. The physician supervising the administration of the experimental drug shall also provide such information, upon request, to the guardian of an adult patient and to any person having a relationship to the adult patient specified in ORS 475.325 (2) unless the patient has specifically directed in writing that such persons not be notified.

(2) Upon request of a patient or a person who provides consent for a patient pursuant to ORS 475.325, any person designated by the patient or person who provides consent shall be notified of the use of the experimental drug and shall be provided with the information required under ORS 475.335 and subsection (1) of this section. [1977 c.636 §6; 1979 c.674 §6]

475.360 When person prohibited from prescribing experimental drug. A person having any ownership interest in a skilled nursing facility or an intermediate care facility is not authorized to prescribe an experimental drug for a patient in the facility in which the person has the ownership interest. [1979 c.674 §10]

475.365 When certain requirements waived. The State Board of Pharmacy may waive the disclosure of information requirements set forth in ORS 475.315 (2), 475.335 (2), or ORS 475.355 to a guardian or relative or other person or ORS 475.375 upon a detailed and specific showing by an applicant that compliance therewith would violate specific provisions of the laws or regulations of the United States. Nothing in this section is intended to relieve any person of responsibility under ORS 475.315. [1977 c.636 §7; 1979 c.674 §7]

475.375 Persons required to comply with ORS 475.305 to 475.375. A person who prescribes or administers any new drug labeled by the Federal Drug Administration as being tested for safety solely for investigational use by persons qualified by scientific training and experience to investigate the safety and effectiveness of drugs on humans shall comply with ORS 475.305 to 475.375 which relate to written consent and disclosure of information. [1977 c.636 §8; 1979 c.674 §8]

MARIJUANA

475.505 Definitions for ORS 475.505 to 475.515. As used in ORS 475.505 to 475.515, unless the context requires otherwise:

(1) "Marijuana" means marijuana or its chemical derivatives.

(2) "Physician" means a person licensed to practice medicine under ORS chapter 677. [1979 c.253 §1]

475.510 Supply; testing; transportation. (1) The Oregon State Police shall cause marijuana confiscated by it in criminal proceedings to be made available to the Health Division to be tested for contamination by other substances, including herbicides. If the Health Division finds the marijuana to be free from contamination, it shall cause it to be made available to physicians upon written request. If found contaminated, the marijuana shall be returned to the Oregon State Police for disposition in the same manner as other evidence.

(2) The Health Division, in consultation with the Oregon State Police, shall adopt rules governing the transport of the marijuana between the division and the police and other matters necessary to carry out the provisions of ORS 475.505 to 475.515. [1979 c.253 §2]

475.515 Authority to obtain, prescribe and dispense marijuana; authority to possess marijuana. (1) Physicians may lawfully obtain, prescribe and dispense marijuana made available through the Health Division for patients undergoing chemotherapy treatment or treatment for glaucoma. The physician shall keep all records of treatment, with these records made available to the Health Division upon written request.

(2) It shall be lawful for patients undergoing chemotherapy treatment or treatment for glaucoma to possess less than an ounce of marijuana. Evidence of treatment or therapy shall be in the form of a written statement by the attending physician that the person is undergoing such

requirements of federal law and with any additional rules the board issues. [1977 c.745 §12]

475.175 When order forms required.

Controlled substances in Schedules I and II shall be distributed by a registrant to another registrant only pursuant to an order form. Compliance with the provisions of federal law respecting order forms shall be deemed compliance with this section. [1977 c.745 §13]

475.185 When prescriptions required.

(1) Except when dispensed directly by a practitioner to an ultimate user, no controlled substance in Schedule II may be dispensed without the written prescription of a practitioner.

(2) In emergency situations, as defined by rule of the board, Schedule II drugs may be dispensed upon oral prescription of a practitioner, reduced promptly to writing and filed by the pharmacy. Prescriptions shall be retained in conformity with the requirements of ORS 475.165. No prescription for a Schedule II substance may be refilled.

(3) Except when dispensed directly by a practitioner to an ultimate user, a controlled substance included in Schedule III, IV or V, which is a prescription drug, shall not be dispensed without a written or oral prescription of a practitioner. The prescription shall not be filled or refilled more than six months after the date on which it was issued and no prescription authorized to be refilled may be refilled more than five times. Additional quantities of the controlled substances listed in Schedule III, IV or V may only be authorized by a practitioner through issuance of a new prescription.

(4) A controlled substance shall not be delivered or dispensed other than for a medical purpose.

(5) Except in good faith and in the course of professional practice only, a practitioner or a pharmacist may not dispense controlled substances.

(6) Any oral prescription authorized by statute or rule shall be reduced promptly to writing and filed by the pharmacy.

(7) Issuance, preparation, labeling, dispensing, recordkeeping and filing of prescriptions or medication orders shall be in conformance with the requirements of the federal law and rules of the board. [1977 c.745 §14; 1979 c.777 §54; 1981 c.666 §7]

475.190 Exception to prescription requirement. (1) Notwithstanding the provisions of ORS 475.185, upon registration with the State Board of Pharmacy, a humane society or

animal control agency may purchase, possess and, subject to subsection (4) of this section, administer sodium pentobarbital to euthanize injured, sick, homeless or unwanted domestic pets and other animals.

(2) The State Board of Pharmacy, after consultation with the Oregon State Veterinary Medical Examining Board, shall adopt rules according to ORS 183.325 to 183.410 establishing requirements for registration, renewal of registration and revocation or suspension of registration under subsection (1) of this section. Those rules shall include a provision that the State Board of Pharmacy will suspend or revoke the registration of any humane society or animal control agency that allows a person who is not certified under subsection (4) of this section to administer sodium pentobarbital.

(3) Any person who is registered under ORS 475.005 to 475.285 and 475.991 to 475.995 to deliver or dispense controlled substances may deliver or dispense sodium pentobarbital to a humane society or animal control agency registered under subsections (1) and (2) of this section.

(4) The Oregon State Veterinary Medical Examining Board, after consultation with the State Board of Pharmacy, shall adopt rules establishing requirements for certification of persons to administer sodium pentobarbital. Those rules may require that a person complete certain educational or training programs in order to be certified. No person shall administer sodium pentobarbital unless the person is certified by the Oregon State Veterinary Medical Examining Board. [1983 c.342 §2]

475.205 [1977 c.745 §24; repealed by 1981 c.666 §11]

475.215 Cooperative arrangements.

The board shall cooperate with federal and other state agencies in discharging its responsibilities concerning traffic in controlled substances and in suppressing the abuse of controlled substances. To this end, it may:

(1) Arrange for the exchange of information among governmental officials concerning the use and abuse of controlled substances; and

(2) Cooperate in training programs concerning controlled substance law enforcement at local and state levels. [1977 c.745 §22]

475.225 Education and research. (1) The Mental Health Division of the Department of Human Resources shall carry out educational programs designed to prevent and deter misuse and abuse of controlled substances. In connection with these programs it may:

(a) Promote better recognition of the problems of misuse and abuse of controlled substances within the regulated industry and among interested groups and organizations;

(b) Assist the regulated industry and interested groups and organizations in contributing to the reduction of misuse and abuse of controlled substances;

(c) Consult with interested groups and organizations to aid them in solving administrative and organizational problems;

(d) Evaluate procedures, projects, techniques and controls conducted or proposed as part of educational programs on misuse or abuse of controlled substances;

(e) Disseminate the results of research on misuse and abuse of controlled substances to promote a better public understanding of what problems exist and what can be done to combat them; and

(f) Assist in the education and training of state and local law enforcement officials in their efforts to control misuse and abuse of controlled substances.

(2) The division shall encourage research on the medical use, misuse and abuse of controlled substances. In connection with the research, and in furtherance of the enforcement of ORS 475.005 to 475.285 and 475.991 to 475.995, it may:

(a) Establish methods to assess accurately the physiological, psychological and social effects of controlled substances and identify their medical uses, relative hazard potential, and potential for abuse;

(b) Make studies and undertake programs of research to:

(A) Develop new or improved approaches, techniques, systems, equipment and devices to strengthen the enforcement of ORS 475.005 to 475.285 and 475.991 to 475.995;

(B) Determine patterns of use, misuse and abuse of controlled substances and the social effects thereof; and

(C) Improve methods for preventing, predicting, understanding and dealing with the misuse and abuse of controlled substances; or

(c) Enter into contracts with public agencies, institutions of higher education, and private organizations or individuals for the purpose of conducting research, demonstrations or special projects which bear directly on misuse and abuse of controlled substances.

(3) The division may enter into contracts for educational and research activities without

performance bonds and without regard to ORS 279.710 to 279.746. [1977 c.745 §25; 1981 c.666 §8]

475.235 Burden of proof; liabilities.

(1) It is not necessary for the state to negate any exemption or exception in ORS 475.005 to 475.285 and 475.991 to 475.995 in any complaint, information, indictment or other pleading or in any trial, hearing or other proceeding under ORS 475.005 to 475.285 and 475.991 to 475.995. 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 475.991 to 475.995, he is presumed not to be the holder of the registration or form. The burden of proof is upon him to rebut the presumption. [1977 c.745 §23]

475.245 Conditional discharge for possession as first offense. Whenever any person who has not previously been convicted of any offense under ORS 475.005 to 475.285 and 475.991 to 475.995 or under any statute of the United States or of any state relating to narcotic drugs, marijuana, stimulant, depressant or hallucinogenic drugs, pleads guilty to or is found guilty of possession of a controlled substance under ORS 475.992 (4), the court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation. Upon violation of a term or condition of probation, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him. 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. [1977 c.745 §21]

475.255 Status of penalties. Any penalty imposed for violation of ORS 475.005 to 475.285 and 475.991 to 475.995 is in addition to, and not in lieu of, any civil or administrative penalty or sanction otherwise authorized by law. [1977 c.745 §18]

475.265 When prosecution barred. If a violation of ORS 475.005 to 475.285 and 475.991 to 475.995 is a violation of a federal law or the law of another state, a conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state. [1977 c.745 §19]

substance classified in Schedule I or II, except pursuant to an order form as required by ORS 475.175;

(b) To use in the course of manufacture or delivery of a controlled substance a registration number which is fictitious, revoked, suspended or issued to another person;

(c) To acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge;

(d) To furnish false or fraudulent material information in, or omit any material information from, any application, report, record or other document required to be kept or filed under ORS 475.005 to 475.285 and 475.991 to 475.995; or

(e) To make, deliver or possess any punch, die, plate, stone or other thing designed to print, imprint or reproduce the trademark, trade name or other identifying mark, imprint or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render the drug a counterfeit substance.

(2) Any person who violates this section is guilty of a Class A misdemeanor. [1977 c.745 §17]

475.995 Penalties for distribution to minors. Except as authorized by ORS 475.005 to 475.285 and 475.991 to 475.995, it is unlawful for any person to deliver a controlled substance to a person under 18 years of age. Any person who violates this section with respect to:

(1) A controlled substance in Schedule I or II, is guilty of a Class A felony.

(2) A controlled substance in Schedule III, is guilty of a Class B felony.

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

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

(5) Notwithstanding the placement of marijuana in a schedule of controlled substances under ORS 475.005 to 475.285, and notwithstanding ORS 475.992 (2), delivery of marijuana to a minor is a Class A felony if:

(a) The defendant is 18 years of age or over; and

(b) The conviction is for delivery of marijuana to a person under 18 years of age who is at least three years younger than the defendant.

[1977 c.745 §20; 1979 c.777 §56]

475.997 Penalty for violation of ORS 475.305 to 475.375. Any intentional violation of any provision of ORS 475.305 to 475.375 is a Class A misdemeanor. [1977 c.636 §9]

