



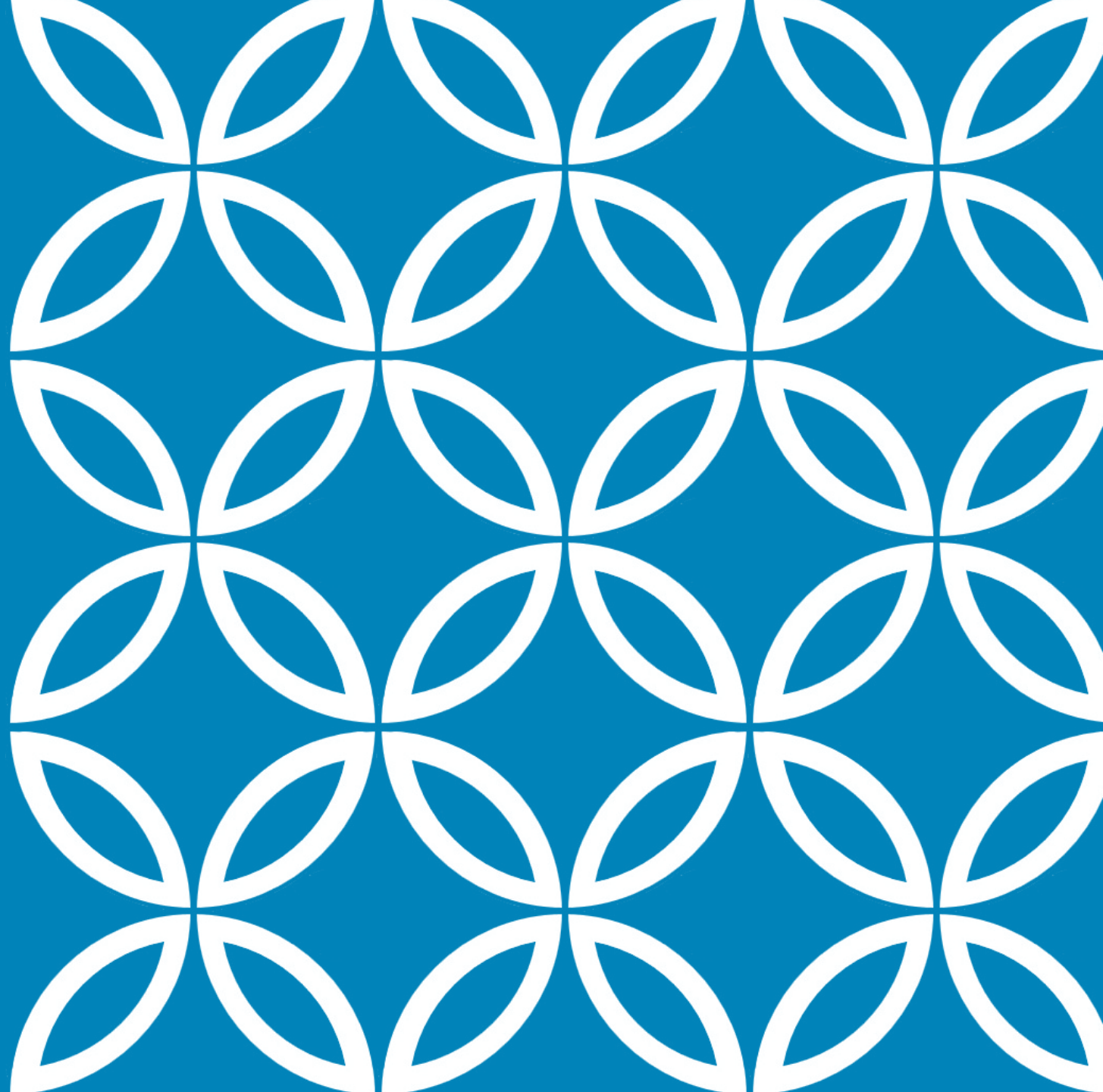
2021 BEHAVIORAL HEALTH LEGISLATION



OUTLINE

- I. Aid & Assist
- II. Guilty Except for Insanity
- III. Civil Commitment
- IV. Specialty Courts
- V. Measure 110
- VI. Oregon Health Authority
- VII. Oregon Judicial Department

AID & ASSIST



AID & ASSIST (SB 295) - TERMINOLOGY

- References to “*capacity to stand trial*” are changed to “*fitness to proceed*”
- Refers to “*public safety concerns*” rather than “*dangerousness*”
- Changes references to “*supervision*” by CMHPs to “*providing community restoration services*”
- Defines “*hospital level of care*”, “*community restoration services*”, and “*public safety concerns*”

AID & ASSIST (SB 295) - REPORTS

- CMHPs must report on the specific services necessary for restoration and whether those services are present and available in the community
- Courts have discretion on whether to order a CMHP consultation when the defendant is charged with certain high-level offenses
- Forensic evaluators are no longer required to opine on dangerousness of defendant and availability of community restoration services
- Confidentiality applies to all reports resulting from forensic examinations and CHMP consultations, and to all documents submitted to the court by OSH

AID & ASSIST (SB 295) — FINDING DEFENDANTS UNFIT

- Authorizes the court to order an appropriate action for a defendant who lacks fitness to proceed without holding a hearing if the parties agree and the court makes all findings required by law
- Requires notice in writing of firearms prohibition
- Conforms to federal law by requiring the court to set a review hearing within seven days for any defendant who remains in custody after it determines an appropriate action and to enter an order that is consistent with the defendant's constitutional due process rights

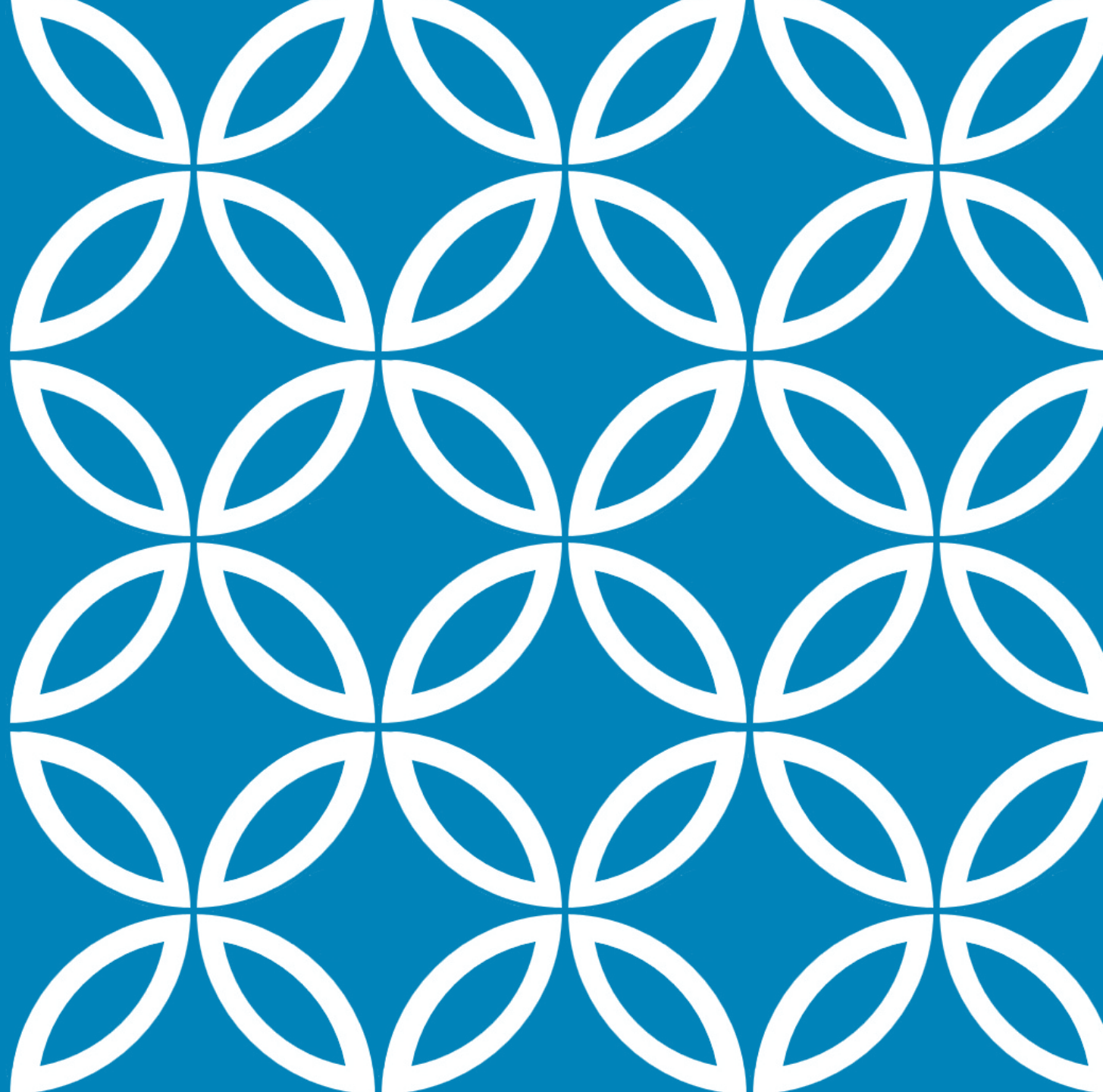
AID & ASSIST (SB 295) - COMMITMENT

- Clarifies when court has authority to commit defendants to OSH
- Clarifies when court may continue commitment after “9(b)” notice

AID & ASSIST (SB 295) — COMMUNITY RESTORATION

- Provides that, if the court determines that community restoration may be appropriate for a defendant who has warrants or holds in other jurisdictions, the courts in those jurisdictions must communicate within two judicial days and develop a plan to address their interests in a timely manner
- Prohibits a court from ordering community restoration services for a defendant in another county without permission of the receiving county

GUILTY EXCEPT FOR
INSANITY



GEI - DISTRICT ATTORNEY POLICIES (SB 200)

- District attorneys are required to adopt written policies on GEI dispositions by 12/1/22 and make policies available to the public

GEI - CONDITIONAL RELEASE (SB 206)

Parties must provide notice to opposing party, court, and PSRB if they intend to request conditional release

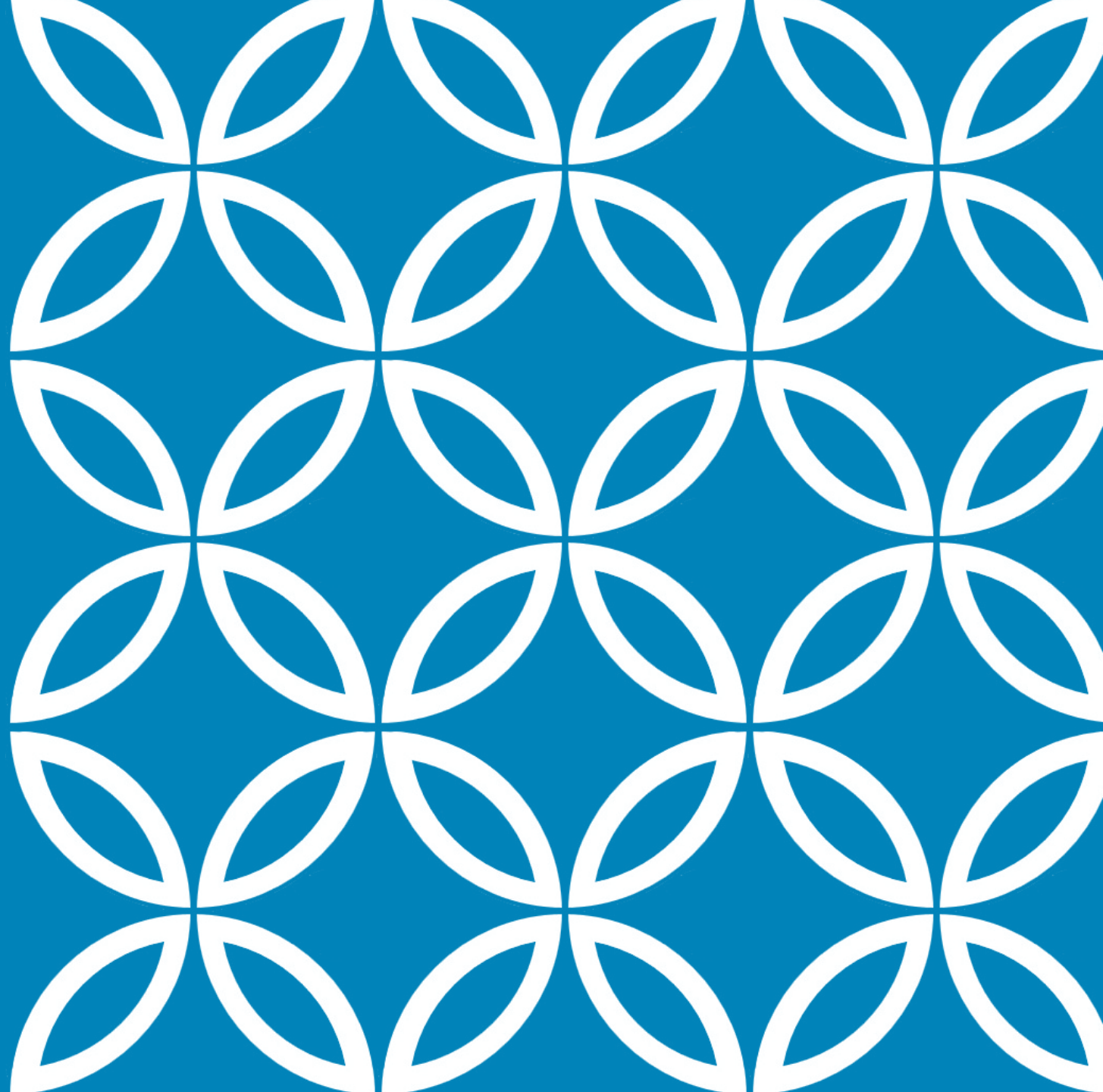
Court

- *Must* (C felonies) or *may* (A & B felonies) order local mental health program designated by PSRB to consult with person to determine whether appropriate treatment is available in the community
- May not order conditional release without a consultation and evaluation by local mental health program
- Must have as its primary concern the protection of society
- Must provide PSRB with order, supervisor, and conditions within one judicial day if defendant is placed on conditional release

PSRB

- Must hold review hearing within 90 days after conditional release
- Must establish rules for consultations and evaluations

CIVIL COMMITMENT



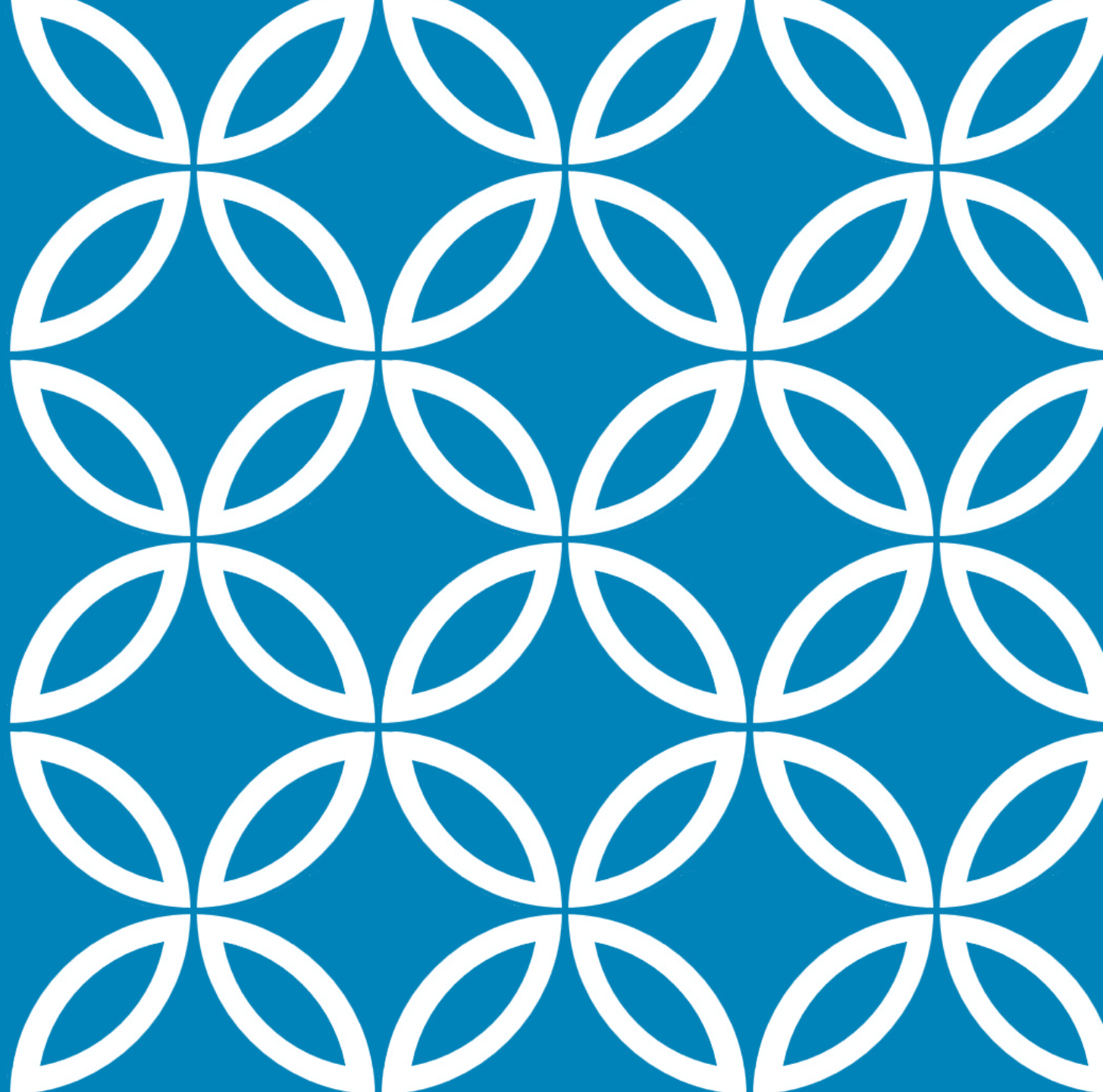
EXTREMELY DANGEROUS PERSON COMMITMENT

Under SB 205, the court:

- Must schedule a hearing and appoint an examiner upon receipt of petition
- May commit the person to OSH while the petition is pending upon a finding of probable cause
- Must commence hearing within 30 days if the person is in custody or committed, unless the court finds good cause, in which case hearing is required within 60 days of petition or notice of intent to file petition
- Must dismiss petition or release person if hearing is not commenced within 30/60 days

SB 72 allows physician or provider to subject person committed as extremely dangerous person with a mental illness to mental health treatment in a manner contrary to principal's wishes

SPECIALTY COURTS

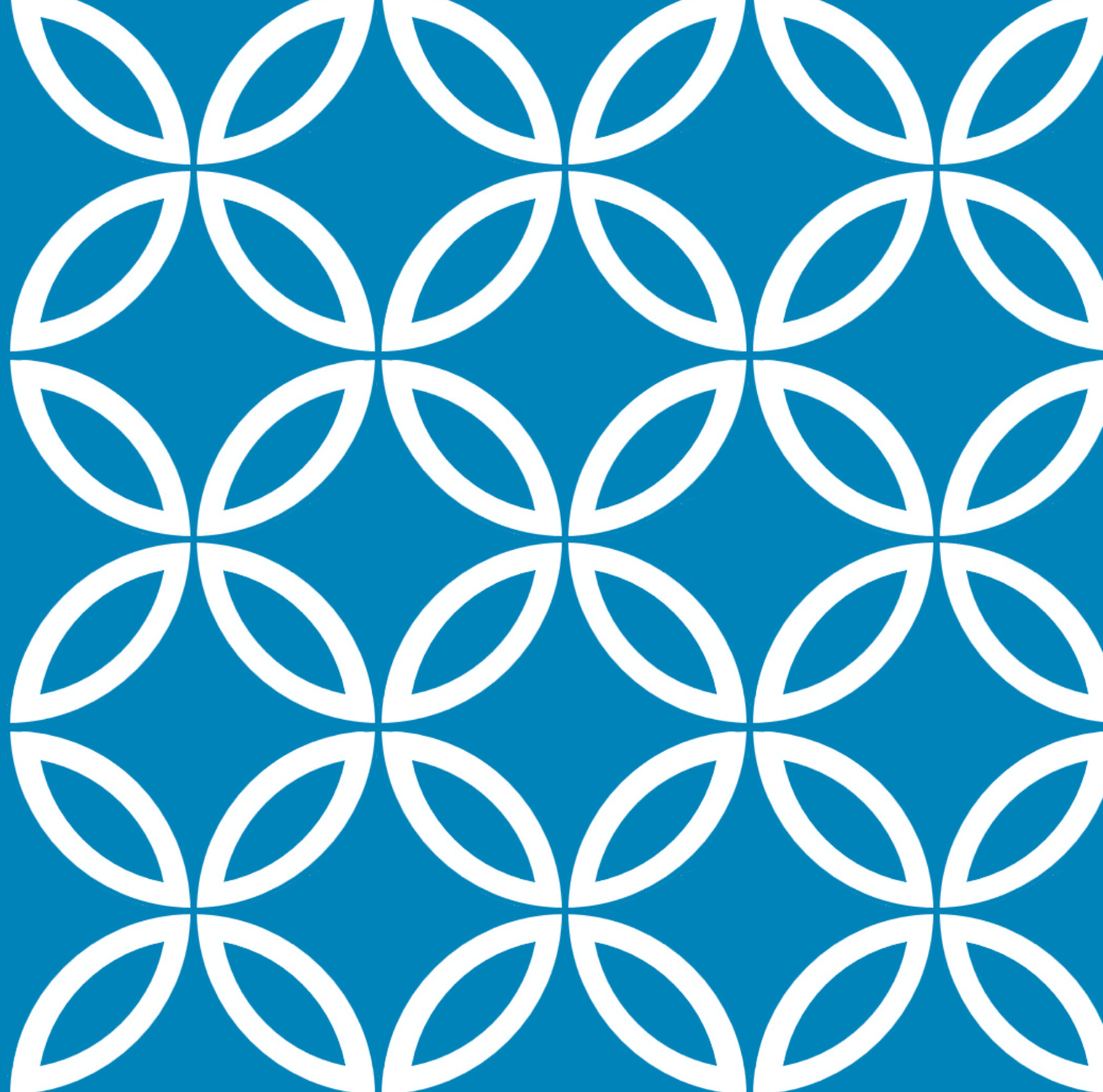




CONDITIONAL DISCHARGE FOR SPECIALTY COURT PARTICIPANTS (SB 218)

Expands the charges eligible for conditional discharge on probation to include any misdemeanor or Class C felony, other than DUII, if the defendant has been formally accepted into specialty court

MEASURE 110



MEASURE 110 (SB 755) — BHRNs

- Establishes grants program to implement Behavioral Health Resource Networks (BHRNs), which will provide screenings and increase other community services including, but not limited to peer support and transitional, supportive, and permanent housing
- Requires at least one BHRN operation within each county by 1/1/22
- Creates Oversight and Accountability Council to oversee program
- Requires OHA to establish BHRN statewide telephone hotline to provide screenings, and, at request of caller, provide verification of screening

MEASURE 110 (SB 755) — SCREENINGS

- Officer issuing citation must provide information on how to complete a screening
- If client executes release of information, entity shall provide verification to OHA (or a contractor for OHA), and OHA (or its contractor) shall forward the verification to the court
- Court shall dismiss citation if it receives verification that the person obtained a screening within 45 days of receiving the citation
- Failure to pay fine shall not be basis for further penalties or for a term of incarceration
- Class E violations are excluded from prosecution for failure to appear in a violation proceeding

MEASURE 110 — OTHER IMPLEMENTATION

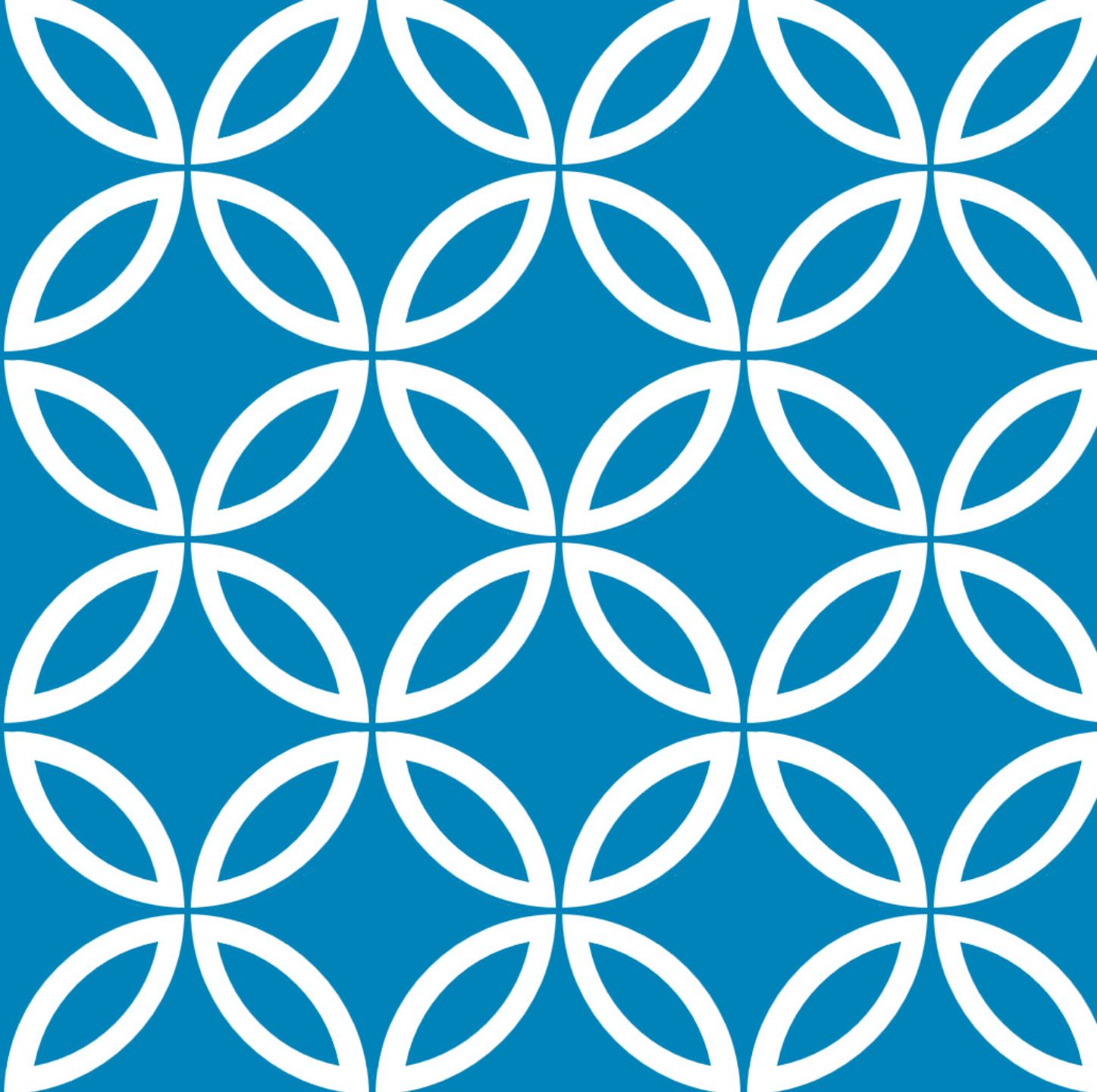
SB 755

- Allows prosecuting attorney to treat as a Class E violation any offense that would constitute a Class E violation, had the offense been committed on or after February 1, 2021
- Adds hydrocodone to M110 decriminalization scheme
- Specifies amount of fentanyl considered to be substantial or commercial quantity

SB 846

- Require State Treasurer to make recommendations regarding improvements to state financial administration, including Drug Addiction Treatment Recovery Act

OREGON HEALTH
AUTHORITY



OHA BUDGET (HB 5024) — SYSTEM INVESTMENTS

Regional Development and Innovation: \$130 million (\$65 million state, \$65 million federal) for increasing statewide capacity of residential facilities and housing for people with BH needs

Certified Community Behavioral Health Clinics (CCBHCs): \$121 million (\$24.5 million state general fund, \$96.5 million federal) to enable existing CCBHCs to provide services through the 2021-23 biennium.

Transformation and System Alignment: \$50 million for investments that align outcomes, roles, responsibilities, risk and incentives in Oregon's BH system.

OHA BUDGET (HB 5024) — SUBSTANCE USE TREATMENT

Drug Addiction and Recovery Services:

- \$302 million (other funds) for addiction and recovery services called for in Measure 110
- \$70 million to backfill funds to other BH programs redirected to fund BM 110.

OHA BUDGET (HB 5024) — AID & ASSIST

Oregon State Hospital (OSH) Capacity:

- \$31 million general fund and 110 positions to open two 24-bed SRTF units at the OSH Junction City campus
- \$20 million appropriation to the Emergency Board for supporting OSH staffing levels

Community Restoration:

- \$21.5 million (\$19.2 million state general fund, \$2.3 million federal) for community restoration and clinical services, rental assistance and wraparound support, and OHA operations for supporting the needs of aid & assist defendants

OHA BUDGET — OTHER BUDGET NOTES

CCO Contracts: OHA must report to legislature by 1/1/23 on plans for next round of CCO contracting.

Appropriation Structure: OHA must work with DAS and LFO to establish a more detailed agency-appropriate structure for its primary biennial budget bill prior to 2023 legislative session.

CRISIS AND PEER RESPITE SERVICES

HB 2417

- 24/7, statewide crisis hotline center (9-8-8) (\$5 million)
- Expanded mobile crisis services (\$10 million, distributed to counties)

HB 2980

- Four peer respite centers (\$6 million total)
 - Portland
 - Southern Oregon
 - Oregon Coast
 - Central/Eastern Oregon

HOUSING — HB 2316

Behavioral Health Housing Incentive Fund is transferred to OHA from Housing & Community Services

Fund is for:

- development of community-based housing (including residential treatment facilities) for individuals with mental illness and individuals with SUDs
- crisis intervention services, rental subsidies, and other housing-related services for individuals with mental illness and individuals with SUDs

HOUSING — HB 2086

- Requires OHA to adopt rules for CCOs to provide housing navigation services and address social determinants of health
- Allows OHA (subject to availability of funds) to administer financial assistance, loan, and other programs to assist development of housing for individuals with SUDs

EQUITY — MEDICAID WAIVER (HB 3353)

Requires OHA to seek a federal waiver to require CCOs to spend up to 3% of their budget on:

- Programs or services that improve health equity
- Community-based programs addressing the social determinants of health
- Efforts to diversify care locations
- Programs or services that improve the overall health of the community, or
- Enhancing payments to providers who:
 - Address the need for culturally and linguistically appropriate services in their communities
 - Can demonstrate that increased funding will improve health services provided to the community as a whole
 - Support staff based in the community that aid all underserved populations

EQUITY

HB 3352

Appropriates \$100 million to extend eligibility for medical assistance to adults who would be eligible but for their immigration status

HB 2086

Requires OHA to establish peer and community driven programs that ensure access to culturally specific/responsive BH services

HB 2980

At least one of the four new peer respite centers must participate in a pilot project to provide culturally responsive services to historically underrepresented communities

WORKFORCE — HB 2949

\$60 million to provide incentives to:

- increase the recruitment and retention of providers in the BH workforce and access to services for rural area
- develop a program to award qualified mental health care providers student loan forgiveness or student loan repayment subsidies.

\$20 million to provide grants to qualified licensed BH professionals to provide supervised clinical experience to designated BH associates and other individuals.

WORKFORCE — HB 2086

Requires OHA to:

- Report to legislature with recommendations on achieving living wage for BH care workers and more equitable wages between physical health care and BH workers
- Create workforce training and endorsements/certifications for BH providers of co-occurring disorder treatment

QUALITY — HB 2086

Requires OHA to:

- establish a Behavioral Health Committee to establish quality metrics for BH services provided by CCOs, health care providers, counties, and other government entities
- establish incentives to improve the quality of BH services
- evaluate/revise rules governing BH programs and services to reduce administrative burden of documentation
- contract with third-party vendor to survey medical assistance recipients about their experiences with BH care

MENTAL HEALTH ACCESS AND PARITY

HB 2086

Requires OHA to conduct a study of Medicaid rates paid for BH services compared to physical health services

HB 2469

Requires CCOs to provide mental health wellness appointments as prescribed by OHA by rule

MENTAL HEALTH ACCESS AND PARITY

HB 3046

- Requires insurance carriers that provide BH benefits to report annually on whether coverage of BH services is comparable with medical and surgical benefits
- Requires CCOs to provide information to OHA on treatment limitations and denials of BH services
- Requires OHA to annually report on CCO compliance with federal parity law, adequacy of provider networks, and coverage of BH services
- Requires CCOs, group health insurers, and issuers of individual health benefit plans to provide specified BH services
- Requires Department of Consumer and Business Services to adopt rules and conduct annual evaluations of whether health benefit plans include adequate BH service providers

LIMITS ON COST GROWTH TO HEALTH CARE (HB 2081)

- Authorizes OHA to hold insurers and providers accountable for containing health care costs and meeting annual 3.4% cost growth target
- Adds Performance Improvement Plans as the first accountability mechanism for payers and providers that exceed the cost growth target
- Provides for financial penalties on any provider or payer that that doesn't participate in the program or exceeds cost growth target without reasonable cause in 3 of 5 calendar years

SUBSTANCE USE DISORDER SERVICES

SB 721

- Adds SUDs to requirement that OHA adopt a policy that supports and promotes self-determination for persons receiving mental health and SUD services
- Makes Consumer Advisory Council independent and adds charge for Council to advise OHA on SUD as well as mental health services

HB 2086

- Allows OHA to establish minimum rates of reimbursement paid by OHA/CCOs to addiction treatment providers to ensure access to medical assistance recipients statewide

CO-OCCURRING DISORDERS (HB 2086)

HB 2086 appropriates \$10.2 million OHA to:

- Reimburse providers at enhanced fee-for-service rates for co-occurring treatment services
- Provide one-time start-up funding for programs that provide co-occurring disorder treatment
- Conduct study of reimbursement rates for co-occurring disorder treatments

CONTINUITY OF MEDICATION (HB 3045)

Prohibits OHA from requiring prior authorization for any mental health drug prescribed for a medical assistance recipient if:

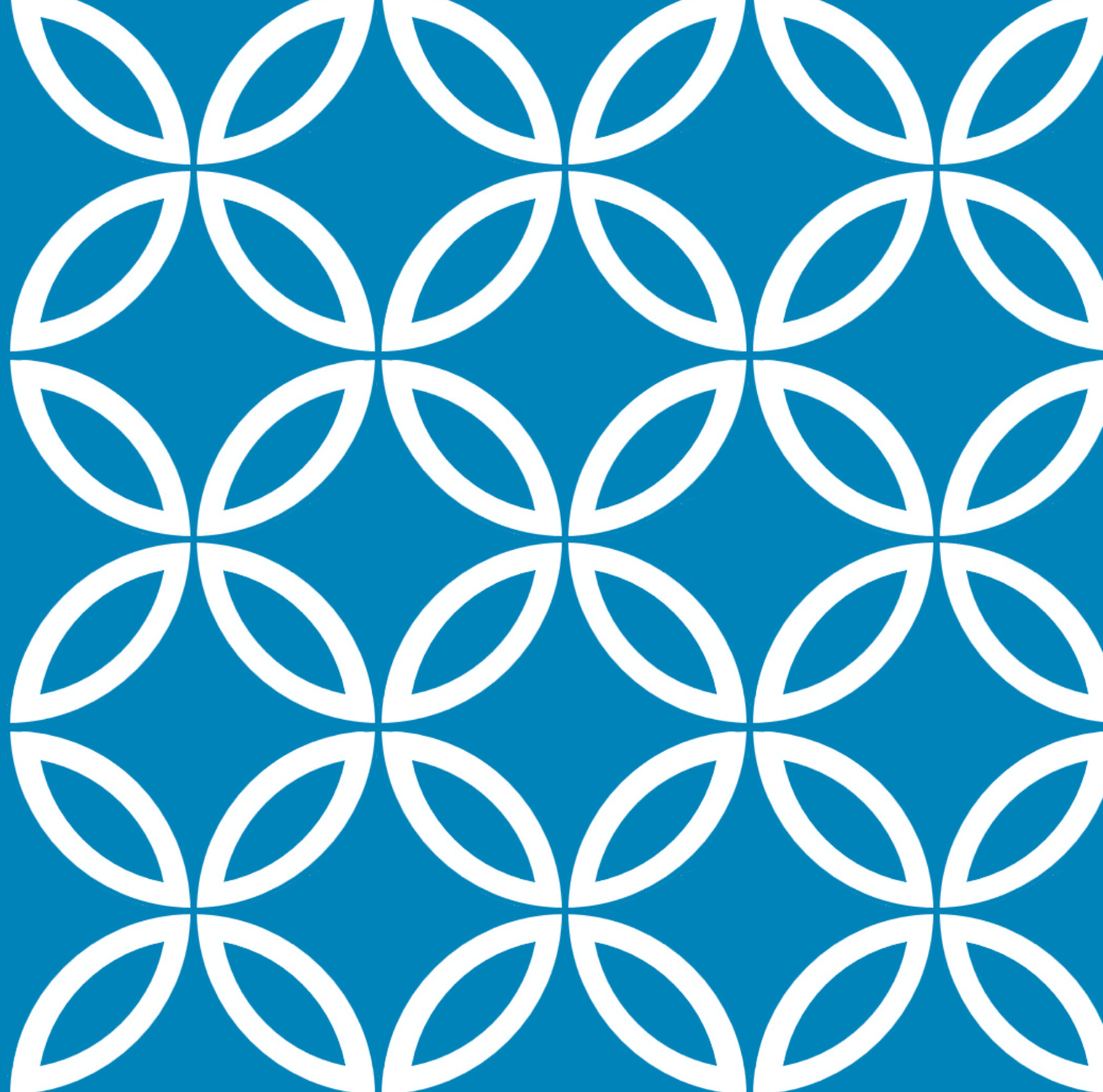
- The recipient has been in a course of treatment with the drug during the preceding 365-day period
- The prescriber specifies on the prescription “dispense as written” or includes the notation “D.A.W.” or words of similar meaning.

TELEHEALTH (HB 2508)

Requires OHA to:

- Reimburse cost of health services using telemedicine at the same reimbursement rate as in-person services
- Adopt rules to ensure CCO health benefit plans reimburse costs of telemedicine at equivalent rates

OREGON JUDICIAL
DEPARTMENT



OJD BUDGET

Budget note requests that OJD hold behavioral health summit

- Identify recommendations for improving outcomes for individuals in the criminal justice system with behavioral health and SUD disorders
- Report to Emergency Board by September 2022

\$1.9 million (10 positions / 8.8 FTE) for aid & assist and specialty court positions

Continued authorization for grant-funded specialty court positions