

Chapter 431

TITLE 36  
PUBLIC HEALTH AND SAFETY

- Chapter 431. State and Local Administration and Enforcement of Health Laws  
432. Vital Statistics  
433. Disease and Condition Control; Mass Gatherings; Indoor Air  
435. Birth Control; Termination of Pregnancy  
436. Sterilization  
437. Tuberculosis  
438. Clinical and Environmental Laboratories  
440. Health Districts; Port Hospitals  
441. Health Care Facilities  
442. Health Planning  
443. Home Health Agencies; Residential Facilities; Hospice Programs  
444. Special Medical Services for Children  
445. Indigents Injured in Motor Vehicle Accidents  
446. Manufactured Dwellings and Structures; Parks; Tourist Facilities  
447. Plumbing; Access by Disabled Persons  
448. Pool Facilities; Water and Sewage Systems  
450. Sanitary Districts and Authorities; Water Authorities  
451. County Service Facilities  
452. Vector and Weed Control  
453. Hazardous Substances; Radiation Sources  
454. Sewage Treatment and Disposal Systems  
455. Building Code  
456. Housing  
457. Urban Renewal  
458. Housing and Community Services Programs; Individual Development Accounts  
459. Solid Waste Management  
459A. Reuse and Recycling  
460. Elevators; Amusement Rides and Devices  
461. Oregon State Lottery  
462. Racing  
463. Boxing and Wrestling  
464. Games  
465. Hazardous Waste and Hazardous Materials I  
466. Hazardous Waste and Hazardous Materials II  
467. Noise Control  
468. Environmental Quality Generally  
468A. Air Quality  
468B. Water Quality  
469. Energy Conservation  
470. Small Scale Local Energy Projects

---

Chapter 431

1999 EDITION

State and Local Administration and

## Enforcement of Health Laws

### STATE ADMINISTRATION

- 431.035 Assistant director's authority to delegate functions
- 431.045 Deputy Assistant Director for Health; appointment; qualifications; duties; salary
- 431.065 Custody of records

### ENFORCEMENT OF HEALTH LAWS AND RULES

- 431.110 General powers of Health Division
- 431.120 Duties of Health Division
- 431.140 Effect of rules
- 431.150 Enforcement of health laws generally
- 431.155 Restraining violation of public health laws
- 431.157 County authority to restrain violation of public health laws
- 431.160 Commencement of prosecutions
- 431.170 Enforcing health laws and rules when local officers are delinquent
- 431.175 Warrant procedure
- 431.180 Interference with individual's selection of physician or treatment or with religious practice prohibited
- 431.190 Advisory board on health care professions; duties; purpose of board rules
- 431.195 Oregon Public Health Advisory Board; members; terms; meetings; compensation; duties

### FINANCIAL ADMINISTRATION; SURPLUS PROPERTY; FEDERAL AID

- 431.210 Health Division Account
- 431.220 Record of moneys in Health Division Account
- 431.230 Emergency or revolving fund
- 431.250 Federal grants to be handled by Department of Human Services; disbursement; planning

### BONE MARROW DONOR PROGRAM

- 431.270 Division duties

### SPINAL CORD INJURY RESEARCH BOARD

- 431.290 Spinal Cord Injury Research Board; members; terms; chairperson; meetings; rules
- 431.292 Duties of board; grants
- 431.294 Spinal Cord Injury Research Fund

#### STATE LABORATORY

- 431.310 Bacteriological and other examinations and newborn screening by state laboratory; fees

#### CONFERENCE OF LOCAL HEALTH OFFICIALS

- 431.330 Conference of Local Health Officials; officers of conference
- 431.335 Meetings of conference; notice; expenses of members and officers of conference
- 431.340 Recommendations of conference
- 431.345 Minimum standards for financial assistance to local boards of health
- 431.350 Division to adopt rules for ORS 431.330 to 431.350

#### LOCAL PUBLIC HEALTH SERVICES

- 431.375 Policy on local public health services
- 431.380 Distribution of funds for local purposes
- 431.385 Local annual plan; effect of failure to submit plan; approval; disapproval; variance

#### LOCAL BOARDS OF HEALTH

- 431.405 Purpose of ORS 431.405 to 431.510
- 431.410 Boards of health for counties
- 431.412 County board of health; formation; composition; advisory board
- 431.414 District board of health; formation; composition; advisory board
- 431.415 Powers and duties of local health boards; fee schedules
- 431.416 Local public health authority or health district; duties
- 431.418 Local public health administrator; health officer; duties; salary
- 431.440 Public health administrators have police powers
- 431.480 City boards abolished; expenditure of funds obtained from school district
- 431.510 Quarters and funds for local health boards
- 431.520 Disposal of local health records

431.530 Authority of local health administrator in emergency

431.550 Authority of Health Division to collect information from local public health administrators

#### EMERGENCY MEDICAL SERVICES AND TRAUMA SYSTEM

431.607 Health Division to develop comprehensive emergency medical services and trauma system

431.609 Designation of trauma areas; trauma system hospitals

431.611 Division to adopt rules; contents

431.613 Area trauma advisory boards; duties; members

431.617 Liability of provider

431.619 Continuous duties of division

431.623 Program created in Health Division

431.627 Designation of other trauma centers

431.633 Reporting of certain patients; reimbursement for certain services

#### HEALTH HAZARD ANNEXATIONS OR DISTRICT FORMATION

431.705 Definitions for ORS 431.705 to 431.760

431.710 When division to initiate district formation or annexation

431.715 Resolution requesting division to initiate formation or annexation

431.717 Compelling adoption of resolution

431.720 Commission to review certain plans; approval of plans

431.725 Division to review resolution; notice of hearing

431.730 Conduct of hearing

431.735 Assistant director's authority under ORS 431.705 to 431.760

431.740 Notice to boundary commission; service facilities to conform to plans and schedules

431.745 Petition for alternative plan

431.750 Commission review of alternative plan; certification of alternative plan

431.756 Judicial review

431.760 Certain persons prohibited from participating in proceedings

#### RECOMBINANT DNA

431.805 Definitions for ORS 431.805 and 431.810

431.810 Recombinant DNA research to comply with federal guidelines

#### SPECIAL PROGRAMS

431.825 Fetal alcohol syndrome pamphlets

431.827 Female genital mutilation prevention and education activities

431.830 Acquired immune deficiency syndrome services and program

#### SMOKING CESSATION AND TOBACCO USE REDUCTION

431.831 Smoking cessation program reimbursement; rules

431.832 Tobacco Use Reduction Account established

431.834 Division to adopt rules, contents

431.836 Division to prepare report

#### REGULATION OF TOBACCO SALES

431.840 Free distribution to minors prohibited; restriction on sales; notice

431.845 Civil penalty for violation of ORS 431.840

431.850 Procedure applicable to penalty

431.853 Random inspections of sellers of tobacco products; site; frequency

#### ALZHEIMER'S DISEASE

431.855 Alzheimer's Disease Research Fund

431.860 Control of fund

#### TOXIC HOUSEHOLD PRODUCTS

431.870 Definitions for ORS 431.870 to 431.915

431.875 Legislative findings

431.880 Aversive agent required

431.885 Toxic household products required to comply with aversive agent requirement; exemptions

431.887 Limitation on liability; application

431.890 Poison Prevention Task Force; members; meetings; duties

431.895 Efficacy and toxicity data available to task force; use; confidentiality of data

- 431.900 Reports to legislature
- 431.905 Enforcement by civil action; injunction; damages; attorney fees
- 431.910 Prohibited conduct
- 431.915 Civil penalty for violation of ORS 431.870 to 431.915

#### LEAD POISONING PREVENTION

- 431.920 Training provider accreditation; lead poisoning prevention programs; fees

#### REGULATION OF TANNING FACILITIES

- 431.925 Definitions for ORS 431.925 to 431.955
- 431.930 Purpose of ORS 431.925 to 431.955
- 431.935 Tanning device to comply with federal requirements; exception for certain phototherapy devices
- 431.940 Standards and regulation of tanning devices; fee; inspection
- 431.945 Written warning statement and sign; content
- 431.950 Civil penalty for violation of ORS 431.925 to 431.955
- 431.955 Disposition of receipts

#### PENALTIES

- 431.990 Penalties

#### CROSS-REFERENCES

Administrative cooperation between State Board of Examiners for Speech-Language Pathology and Audiology and Health Division, 681.470

Anatomical gifts by person whose death occurs in hospital, 97.958

Boundary commission proceedings to form new district or annex territory to existing district to relieve public health danger, 199.512

Child abuse assessments, 418.780 to 418.796

Child abuse, investigation by interagency and statewide teams, training, 418.747, 418.748

Correctional facility standards, 169.076 to 169.078, 169.740

Discrimination against optometrist prohibited, 683.035

Drug addiction, local health officer or physician appointed by Public Health Officer to examine persons for, Ch. 475

Emergency Medical Services Enhancement Account distributions, 442.625

Environmental Quality Commission, contracts with Health Division, 468.055

Family support services, 417.342

Health Division rules relating to genetic privacy, 659.700 to 659.720

Local government boundary changes, 199.466 to 199.512

Medicaid services through county health departments, contracts, 414.153

Medical records, access and review, 192.525

Mental Health and Developmental Disability Services Division, Ch. 430

Noise emissions, regulation, Ch. 467

Nuclear and thermal power plants, regulation, 469.300 to 469.563, 469.590 to 469.619, 469.930

Pool facilities, Health Division delegation of authority to counties for administration of certain laws, 448.100

Public health measure proceedings, 433.019

Rules of Board of Cosmetology, approval of Health Division, 690.205

Service district, formation on finding health hazard, 451.445

Substance abuse, testing standards, correctional facilities, 438.435

431.110

Health Division may receive and disburse federal funds for ambulances, emergency medical personnel, 682.295

431.120

Boating accidents, reporting deaths, 830.485

Filing and compiling marriage and divorce reports, 432.405

Interagency agreements to ensure single inspection and licensing of restaurants, 624.530

Licensing of restaurants, Ch. 624

Marriage license, health certificate, 106.041

Medical records, guidelines for access, 192.525

PCB disposal facility, recommendation concerning application, 466.280

Toxic substances in art or craft materials, regulation of use in schools, 453.245

431.210

Expenditures without allotment prohibited in certain cases, 291.238

Moneys received under statutes regulating licensing of nursing home administrators, 678.830

Moneys received under statutes regulating manufactured dwellings and structures and parks, 446.076

Pool facilities, inspection, 448.051

431.250

Federal grants for promotion of mental health to be handled by Mental Health and Developmental Disability Services Division, 430.140

431.410

Local mental health services, 430.610 to 430.695

431.412

Family planning and birth control services, 435.205

431.418

Certification of certain disabled persons for tax credit, 316.079

431.705 to 431.760

Filing boundary changes with tax assessor before April 1 necessary to affect taxes for year, 308.225

431.855, 431.860

Oregon Health Sciences University, Ch. 353

431.920

Definitions for lead poisoning prevention program, 701.500 to 701.515

**Note:** The name of the Department of Human Resources has been changed to the Department of Human Services and the title of the Director of Human Resources to the Director of Human Services. The name and title changes become operative on July 1, 2000. See sections 10 and 11, chapter 421, Oregon Laws 1999. References to the department and the director in this chapter use the name and the title that become operative on July 1, 2000.

**431.005** [1973 c.358 s.1; repealed by 1977 c.751 s.39]

**431.010** [Amended by 1967 c.461 s.1; 1969 c.695 s.7; 1971 c.650 s.5; repealed by 1973 c.358 s.15]

**431.015** [1973 c.358 s.2; repealed by 1977 c.751 s.39]

**431.019** [1973 c.358 s.2a; repealed by 1977 c.751 s.39]

**431.020** [Amended by 1967 c.461 s.2; 1971 c.650 s.6; repealed by 1973 c.358 s.15]

**431.023** [1973 c.358 s.4; repealed by 1977 c.751 s.39]



**431.025** [1971 c.650 s.11; repealed by 1973 c.358 s.15]

**431.030** [Repealed by 1971 c.650 s.51]

## STATE ADMINISTRATION

**431.035 Assistant director's authority to delegate functions.** (1) The Assistant Director for Health may delegate to any of the officers and employees of the Health Division the exercise or discharge in the assistant director's name of any power, duty or function of whatever character vested in or imposed upon the assistant director by the laws of Oregon. However, the power to administer oaths and affirmations, subpoena witnesses, take evidence and require the production of books, papers, correspondence, memoranda, agreements or other documents or records may be exercised by an officer or employee of the Health Division only when specifically delegated in writing by the assistant director.

(2) The official act of any such person so acting in the assistant director's name and by the authority of the assistant director shall be deemed to be an official act of the assistant director. [1973 c.829 s.2]

**431.040** [Amended by 1969 c.314 s.39; 1971 c.650 s.7; repealed by 1973 c.358 s.15]

**431.045 Deputy Assistant Director for Health; appointment; qualifications; duties; salary.** (1) The Assistant Director for Health, after interview of qualified persons, shall appoint a Deputy Assistant Director for Health who shall be responsible for such duties as the assistant director may prescribe.

(2) Either the Assistant Director for Health or the Deputy Assistant Director for Health shall be a physician licensed by the Board of Medical Examiners for the State of Oregon and certified by the American Board of Preventive Medicine who shall serve as the Public Health Officer and be responsible for the medical and paramedical aspects of the health programs within the division.

(3) The Deputy Assistant Director for Health shall be in the unclassified service and shall receive such salary as may be provided by law. [1971 c.650 s.2; 1973 c.358 s.5; 1977 c.267 s.18; 1987 c.618 s.1]

**431.050** [Amended by 1967 c.461 s.3; repealed by 1971 c.650 s.51]

**431.053** [1973 c.358 s.3; repealed by 1977 c.751 s.39]

**431.055** [1967 c.363 s.2; repealed by 1971 c.650 s.51]

**431.060** [Repealed by 1971 c.650 s.51]

**431.065 Custody of records.** (1) The Assistant Director for Health may designate employees to be custodian of records within any of the administrative units of the Health Division, and persons so designated shall have the duties and powers of custodians of public records as prescribed by law.

(2) Such designation shall be in writing and notice thereof shall be filed in the offices of the Secretary of State and the assistant director, and in the administrative unit to which the authorization applies.

(3) Authority conferred upon employees of the Health Division under this section is in addition to that conferred upon the assistant director by statute. The assistant director shall be responsible for the acts of designees under this section. [1971 c.37 s.2; 1977 c.582 s.7]

**431.070** [1961 c.723 s.1; 1969 c.314 s.40; repealed by 1971 c.650 s.51]

## ENFORCEMENT OF HEALTH LAWS AND RULES

**431.110 General powers of Health Division.** (1) Subject to ORS 417.300 and 417.305, the Health Division shall:

(a) Have direct supervision of all matters relating to the preservation of life and health of the people of the state.

(b) Keep the vital statistics and other health related statistics of the state.

(c) Make sanitary surveys and investigations and inquiries respecting the causes and prevention of diseases, especially of epidemics.

(d) Investigate, conduct hearings and issue findings in connection with annexations proposed by cities as provided

in ORS 222.840 to 222.915.

(e) Have full power in the control of all communicable diseases.

(f) Have authority to send a representative of the division to any part of the state when deemed necessary.

(g) From time to time, publish and distribute to the public in such form as the division determines, such information as in its judgment may be useful in carrying on the work or purposes for which the division was established.

(h) Carry out the duties imposed on the division under ORS chapter 690.

(2) Family support services provided by the Health Division shall be delivered in accordance with the principles described in ORS 417.342 and 417.344. [Amended by 1955 c.105 s.1; 1967 c.624 s.18; 1971 c.650 s.9; 1977 c.582 s.8; 1987 c.414 s.83; 1989 c.834 s.18; 1991 c.122 s.11]

**431.120 Duties of Health Division.** The Health Division shall:

(1) Enforce state health policies and rules.

(2) Have the custody of all books, papers, documents and other property belonging to the State Health Commission, which may be deposited in the division's office.

(3) Give such instructions as may be necessary, and forward them to the various local public health administrators throughout the state.

(4) Routinely conduct epidemiological investigations for each case of sudden infant death syndrome including, but not limited to, the identification of risk factors such as birth weight, maternal age, prenatal care, history of apnea and socioeconomic characteristics. The division may conduct such investigations through local health departments only upon adoption by rule of a uniform epidemiological data collection method.

(5) Adopt rules, related to loans and grants awarded under ORS 285B.410 to 285B.479 or 541.700 to 541.855 for the improvement of drinking water systems for the purpose of maintaining compliance with applicable state and federal drinking water quality standards. In adopting rules under this subsection, the Health Division shall coordinate the division's rulemaking process with the Water Resources Department and the Economic and Community Development Department in order to assure that rules adopted under this subsection are consistent with rules adopted under ORS 285B.467 and 541.845.

(6) Control health care capital expenditures by administering the state certificate of need program pursuant to ORS 442.325 to 442.344. [Amended by 1971 c.650 s.10; 1977 c.582 s.9; 1981 c.385 s.1; 1991 c.944 s.4; 1993 c.18 s.107; 1993 c.754 s.8]

**431.130** [Amended by 1959 c.629 s.5; 1959 c.684 s.2; 1961 c.725 s.10; 1963 c.32 s.1; 1965 c.362 s.3; 1969 c.14 s.2; 1969 c.641 s.16; 1971 c.195 s.1; 1971 c.413 s.13; 1971 c.763 s.13; 1973 c.408 s.33; 1973 c.833 s.41; 1973 c.835 s.233; repealed by 1977 c.582 s.61]

**431.140 Effect of rules.** (1) All rules of the Health Division shall have the force and effect of law.

(2) All state and local officers and employees, including peace officers, shall enforce such rules subject to the authority of the Assistant Director for Health. [Amended by 1959 c.314 s.21; 1973 c.833 s.42; 1977 c.582 s.10]

**431.150 Enforcement of health laws generally.** (1) The local public health administrators are charged with the strict and thorough enforcement of the public health laws of this state in their districts, under the supervision and direction of the Health Division. They shall make an immediate report to the division of any violation of such laws coming to their notice by observation, or upon the complaint of any person, or otherwise.

(2) The Health Division is charged with the thorough and efficient execution of the public health laws of this state in every part of the state, and with supervisory powers over all local public health administrators, to the end that all the requirements are complied with.

(3) The Health Division may investigate cases of irregularity or violation of law. All local public health administrators shall aid the division, upon request, in such investigation.

(4) When any case of violation of the public health laws of this state is reported to any district attorney or official acting in said capacity, such official shall forthwith initiate and promptly follow up the necessary proceedings against the parties responsible for the alleged violations of law.

(5) Upon request of the Health Division, the Attorney General shall likewise assist in the enforcement of the public health laws of this state. [Amended by 1959 c.314 s.22; 1971 c.650 s.12; 1973 c.833 s.43; 1973 c.835 s.165; 1974 c.36 s.12; 1977 c.582 s.11]

**431.155 Restraining violation of public health laws.** (1) Whenever it appears to the Health Division that any person is engaged or about to engage in any acts or practices which constitute a violation of any statute administered by the division or its assistant director, or any rule or order issued thereunder, the division may institute proceedings in the circuit courts to enforce obedience thereto by injunction, or by other processes, mandatory or otherwise, restraining such person, or its officers, agents, employees and representatives from further violation of such statute, rule or order, and enjoining upon them obedience thereto.

(2) The provisions of this section are in addition to and not in substitution of any other enforcement provisions contained in any statute administered by the Health Division or its assistant director. [1967 c.94 s.2; 1971 c.650 s.13; 1977 c.582 s.12]

**431.157 County authority to restrain violation of public health laws.** Pursuant to ORS 448.100 (1), 446.425 (1) and 624.510 (1), the county is delegated the authority granted to the Assistant Director for Health in ORS 431.155. [1983 c.370 s.4]

**Note:** 431.157 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 431 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**431.160 Commencement of prosecutions.** The district attorney, county attorney or Attorney General may institute prosecutions for violation of any public health statute by information, by indictment or by complaint verified before any magistrate. [Amended by 1959 c.314 s.23; 1973 c.833 s.44; 1977 c.582 s.13; 1995 c.658 s.104]

**431.170 Enforcing health laws and rules when local officers are delinquent.** (1) The Assistant Director for Health shall take direct charge of the functions that are necessary to preserve the public health in any county or district whenever any county or district official fails or refuses to administer or enforce the public health laws or rules which the Assistant Director for Health, the department of the assistant director or board is charged to enforce.

(2) The Assistant Director for Health may call to the aid of the assistant director such assistance as is necessary for the enforcement of such statutes and rules, the expense of which shall be borne by the county or district making the use of this procedure necessary, to be paid out of the respective county or district treasury upon vouchers properly certified by the Assistant Director for Health. [Amended by 1959 c.314 s.24; 1973 c.833 s.45; 1977 c.582 s.14]

**431.175 Warrant procedure.** If necessary, the Assistant Director for Health or a designee thereof, the State Fire Marshal or a designee thereof or an officer of a law enforcement agency may appear before any magistrate empowered to issue warrants in criminal cases, and require such magistrate to issue a warrant, directing it to any sheriff or deputy or any constable or police officer, to enter the described property or to remove any person or obstacle, or to defend any threatened violence to the assistant director or a designee thereof, the State Fire Marshal or a designee thereof or an officer, upon entering private property, or to assist the assistant director in any way. [Formerly 433.025; 1991 c.67 s.112]

**431.180 Interference with individual's selection of physician or treatment or with religious practice prohibited.** Nothing in the public health laws shall be construed to empower or authorize the Health Division or its representatives, or any county or district board of health or its representatives to interfere in any manner with the individual's right to select the physician or mode of treatment of the choice of the individual, nor interfere with the practice of any person whose religion treats or administers to the sick or suffering by purely spiritual means. However, sanitary laws and rules must be complied with. [Amended by 1977 c.582 s.15]

**431.190 Advisory board on health care professions; duties; purpose of board rules.** The Assistant Director for Health shall appoint, not later than 60 days after October 4, 1977, an advisory board to study the practices and procedures of the health care professions in this state and to recommend rules relating to the auditing of health care practices in hospitals which will:

- (1) Promote standard record keeping by hospitals and persons practicing any of the healing arts in hospitals;
- (2) Establish those criteria most appropriate for determining the proper objects of such auditing; and
- (3) Insure auditing of those practices and procedures most relevant to the causes and occurrence of professional negligence in hospitals. [1977 c.448 s.8; 1993 c.742 s.96]

**431.195 Oregon Public Health Advisory Board; members; terms; meetings; compensation; duties.** (1) There is established the Oregon Public Health Advisory Board to serve as an advisory body to the Assistant Director for Health.

(2) The members of the board shall be residents of this state and shall be appointed by the Governor. The board shall consist of 15 members at least one-half of whom shall be public members broadly representing the state as a whole and the others to include representatives of local government and public and private health providers. At least two representatives, one consumer and one provider, from the Oregon Health Council shall serve on the board.

(3) The Oregon Public Health Advisory Board shall:

(a) Advise the Assistant Director for Health on policy matters related to the operation of the agency.

(b) Provide a review of statewide public health issues and make recommendations to the assistant director.

(c) Participate in public health policy development.

(4) Members shall be appointed for four-year terms. No person shall serve more than two consecutive terms.

(5) The board shall meet at least quarterly.

(6) Members of the board shall be entitled to compensation and expenses as provided in ORS 292.495.

(7) Vacancies on the board shall be filled by appointments of the Governor for the unexpired term. [1983 c.653 s.1]

**Note:** 431.195 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 431 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

## FINANCIAL ADMINISTRATION; SURPLUS PROPERTY; FEDERAL AID

**431.210 Health Division Account.** (1) There is established in the General Fund the Health Division Account, classified separately as to federal and other moneys.

(2) All fines, fees, penalties, federal apportionments or contributions and other moneys received by the Health Division shall be turned over to the State Treasurer not later than the 10th day of the calendar month next succeeding their receipt by the division and shall be credited to the Health Division Account.

(3) All moneys credited to the Health Division Account hereby are appropriated and made available for the payment of expenses of the Health Division. [Amended by 1971 c.650 s.14; 1973 c.427 s.5; 1977 c.582 s.16]

**431.220 Record of moneys in Health Division Account.** The division shall keep a record of all moneys deposited in the Health Division Account. This record shall indicate by separate cumulative accounts the source from which the moneys are derived and the individual activity or program against which each withdrawal is charged. [Amended by 1973 c.427 s.6; 1977 c.582 s.17]

**431.230 Emergency or revolving fund.** (1) The Assistant Director for Health may request the Oregon Department of Administrative Services to, and when so requested, the Oregon Department of Administrative Services shall, draw a payment on the Health Division Account in favor of the Assistant Director for Health in a sum not exceeding \$25,000, which sum shall be used by the assistant director as an emergency or revolving fund.

(2) The emergency or revolving fund shall be deposited with the State Treasurer, and shall be at the disposal of the Assistant Director for Health. It may be used to pay advances for salaries, travel expenses or any other proper claim against, or expense of, the Health Division, the Department of Human Services or the health-related licensing boards for whom the division provides accounting services.

(3) Claims for reimbursement of advances paid from the emergency or revolving fund shall be submitted to the division for approval. When such claims are so approved, payments covering them shall be drawn in favor of the Assistant Director for Health and charged against the appropriate fund or account, and shall be used to reimburse the emergency or revolving fund.

(4) The division may establish petty cash funds within the emergency or revolving fund by drawing checks upon the emergency or revolving fund payable to the custodians of the petty cash funds. [Amended by 1973 c.427 s.7; 1975 c.614 s.16; 1999 c.829 s.6]

**431.240** [Repealed by 1955 c.147 s.1]

**431.250 Federal grants to be handled by Department of Human Services; disbursement; planning.** (1) The

Department of Human Services hereby is designated as the state agency to apply to and receive from the federal government or any agency thereof such grants for promoting public health and the prevention of disease, including grants for cancer control and industrial hygiene programs, as may be available to this state or any of its political subdivisions or agencies. The department may designate any of its divisions to make applications and receive funds for the purposes set forth in this subsection.

(2) For the purposes of subsection (1) of this section, the department shall:

(a) Disburse or supervise the disbursement of all funds made available at any time by the federal government or this state for those purposes.

(b) Adopt, carry out and administer plans for those purposes. Plans so adopted shall be made statewide in application insofar as reasonably feasible, possible or permissible, and shall be so devised as to meet the approval of the federal government or any of its agencies, not inconsistent with the laws of the state. [Amended by 1961 c.706 s.20a; 1967 c.343 s.1; 1971 c.650 s.15; 1973 c.829 s.20; 1977 c.751 s.34; subsections (3), (4) renumbered 442.110]

## BONE MARROW DONOR PROGRAM

**431.270 Division duties.** (1) The Health Division of the Department of Human Services shall educate residents of this state about:

(a) The need for bone marrow donors;

(b) The procedures required to become registered as a potential bone marrow donor, including procedures for determining a person's tissue type; and

(c) The medical procedures a donor must undergo to donate bone marrow or other sources of blood stem cells.

(2) The Health Division shall make special efforts to educate and recruit citizens of Oregon with a special emphasis on minority populations to volunteer as potential bone marrow donors. Means of communication may include use of press, radio and television, and placement of educational materials in appropriate health care facilities, blood banks and state and local agencies. The division in conjunction with the Department of Transportation shall make educational materials available at all places where driver licenses are issued or renewed. [1991 c.652 s.1]

**Note:** 431.270 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 431 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**431.275** [1991 c.652 s.5; repealed by 1999 c.59 s.123]

**431.280** [1991 c.652 s.6; repealed by 1999 c.59 s.123]

## SPINAL CORD INJURY RESEARCH BOARD

**431.290 Spinal Cord Injury Research Board; members; terms; chairperson; meetings; rules.** (1) There is established a Spinal Cord Injury Research Board consisting of 11 members appointed by the Governor.

(2) The term of office of each member is four years, but a member serves at the pleasure of the Governor. A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

(3) The appointment of a member to the board is subject to confirmation by the Senate in the manner prescribed in ORS 171.562 and 171.565.

(4) The members of the Spinal Cord Injury Research Board shall be citizens of this state who are well informed on the issues relating to spinal cord injuries and related disabilities. Members may include, but are not limited to:

(a) A minimum of five health professionals with clinical practice experience in each of the practice fields of neuroscience, neurology, neurosurgery, neuropharmacology and spinal cord rehabilitative medicine;

(b) A representative of the Oregon Disabilities Commission;

(c) A representative of a disabilities advocacy organization or an individual who advocates on behalf of persons with spinal cord injuries;

(d) A representative of the Senior and Disabled Services Division of the Department of Human Services;

(e) Members of the Legislative Assembly; and

(f) A person with a spinal cord injury.

(5) The board shall elect one of its members as chairperson and another as vice chairperson, for such terms and

with such duties and powers necessary for the performance of the functions of such offices as the board determines.

(6) The board shall meet at least once every three months at a place, day and hour determined by the chairperson. The board also shall meet at other times and places specified by the call of the chairperson or of a majority of the members of the board.

(7) In accordance with applicable provisions of ORS 183.310 to 183.550, the board may adopt rules necessary for the administration of the grant program and fund described in ORS 431.292 and 431.294. [1999 c.1044 ss.1,3]

**Note:** 431.290 to 431.294 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 431 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**431.292 Duties of board; grants.** (1) The Spinal Cord Injury Research Board may solicit, receive and review applications from public and private agencies, organizations and research institutions for grants from the Spinal Cord Injury Research Fund created under ORS 431.294, to conduct research programs that focus on the treatment and cure of spinal cord injury.

(2) After review of a grant application, the board shall grant approval of the application and disburse moneys from the Spinal Cord Injury Research Fund if the application meets the criteria established by the board and if money exists in the fund.

(3) The board may solicit contributions to the fund from public and private sources.

(4) The board shall provide the Governor and the Legislative Assembly with a biennial report no later than January 31 of each odd-numbered year that summarizes the status of funds appropriated for spinal cord injury research and the progress of the board in encouraging spinal cord injury research. [1999 c.1044 s.4]

**Note:** See note under 431.290.

**431.294 Spinal Cord Injury Research Fund.** (1) There is created within the State Treasury, separate and distinct from the General Fund, the Spinal Cord Injury Research Fund administered by the Spinal Cord Injury Research Board. Moneys in the fund are continuously appropriated for the purpose of carrying out ORS 431.292.

(2) The Spinal Cord Injury Research Fund shall consist of:

(a) Moneys appropriated to the fund by the Legislative Assembly; and

(b) Moneys obtained from gifts or grants by any public or private source received by the board under ORS 431.292

(3). [1999 c.1044 s.5]

**Note:** See note under 431.290.

## STATE LABORATORY

**431.310 Bacteriological and other examinations and newborn screening by state laboratory; fees.** (1) For the better protection of the public health the laboratory of the Health Division shall make bacteriological and other examinations of water, milk, blood, secretions or tissues required by any state, county or city institution, or officer, and may make such examinations for any licensed physician in accordance with the rules of the division.

(2) The division shall establish by rule and collect fees for tests performed in the state public health laboratory, not to exceed:

(a) \$16 per specimen for various newborn screening tests;

(b) \$35 per specimen for mycology and virology tests; and

(c) \$40 per specimen for reference culture tests.

(3) All money received for such tests shall be deposited in the Health Division Account to be used for expenses of the division. [Amended by 1977 c.582 s.18; 1981 c.630 s.1; 1983 c.351 s.1; 1993 c.374 s.1]

**431.320** [Repealed by 1967 c.146 s.1 (431.330, 431.335, 431.340, 431.345 and 431.350 enacted in lieu of 431.320)]

**431.325** [1971 c.650 s.17; 1977 c.582 s.19; repealed by 1993 c.742 s.95]

## CONFERENCE OF

## LOCAL HEALTH OFFICIALS

**431.330 Conference of Local Health Officials; officers of conference.** (1) The Conference of Local Health Officials is created. The conference shall consist of all local health officers and public health administrators, appointed pursuant to ORS 431.418 and such other local health personnel as may be included by the rules of the conference.

(2) The Conference of Local Health Officials shall select one of its members as chairperson, another as vice chairperson and another as secretary with such powers and duties necessary to the performance of the functions of such offices as the conference shall determine. The chairperson, after consultation with the Assistant Director for Health, shall appoint from the conference membership an executive committee. The executive committee with the chairperson shall advise the Assistant Director for Health in the administration of ORS 431.330 to 431.350. [1967 c.146 s.2 (enacted in lieu of 431.320); 1977 c.582 s.20; 1979 c.96 s.1]

**431.335 Meetings of conference; notice; expenses of members and officers of conference.** (1) The Conference of Local Health Officials shall meet at least annually at a place, day and hour determined by the executive committee and the Assistant Director for Health. The conference may meet specially at such other times as the Assistant Director for Health or the executive committee considers necessary.

(2) The Assistant Director for Health shall cause at least 10 days' notice of each meeting date to be given to the members. The chairperson or an authorized representative of the chairperson shall preside at all meetings of the conference.

(3) Each conference member shall receive from the local board which the conference member represents from funds available under ORS 431.510, the actual and necessary travel and other expenses incurred by the conference member in attendance at no more than two meetings of the conference per year. Additionally, subject to applicable law regulating travel and other expenses for state officers, a local health official who is a member of the executive committee of the conference or who is the chairperson shall receive from funds available to the Health Division, actual and necessary travel and other expenses for attendance at no more than six meetings per year of the executive committee called by the Health Division. [1967 c.146 s.3 (enacted in lieu of 431.320); 1977 c.582 s.21]

**431.340 Recommendations of conference.** The Conference of Local Health Officials may submit to the Health Division such recommendations on the rules and standards specified in ORS 431.345 and 431.350. [1967 c.146 s.6 (enacted in lieu of 431.320); 1977 c.582 s.22]

**431.345 Minimum standards for financial assistance to local boards of health.** In order to establish criteria for local boards of health to qualify for such financial assistance as may be made available, the Health Division, upon receipt of written approval from the Conference of Local Health Officials shall adopt minimum standards governing:

(1) Education and experience for professional and technical personnel employed in local health departments, such standards to be consistent with any applicable merit system.

(2) Organization, operation and extent of activities which are required or expected of local health departments to carry out their responsibilities in implementing the public health laws of this state and the rules of the Health Division. [1967 c.146 s.5 (enacted in lieu of 431.320); 1977 c.582 s.23]

**431.350 Division to adopt rules for ORS 431.330 to 431.350.** Upon receipt of written approval from the Conference of Local Health Officials the Health Division shall adopt rules necessary for the administration of ORS 431.330 to 431.350. [1967 c.146 s.4 (enacted in lieu of 431.320); 1977 c.582 s.24]

## LOCAL PUBLIC HEALTH SERVICES

**431.375 Policy on local public health services.** (1) The Legislative Assembly of the State of Oregon finds that each citizen of this state is entitled to basic public health services which promote and preserve the health of the people of Oregon. To provide for basic public health services the state, in partnership with county governments, shall maintain and improve public health services through county or district administered public health programs.

(2) County governments or health districts established under ORS 431.414 are the local public health authority responsible for management of local public health services unless the county contracts with private persons or an agency to act as the local public health authority or the county relinquishes authority to the state. If authority is relinquished, the state may then contract with private persons or an agency or perform the services.

(3) All expenditure of public funds utilized to provide public health services on the local level must be approved by the local public health authority unless the county has relinquished authority to the state or an exception has been approved by the Health Division with the concurrence of the Conference of Local Health Officials. [1983 c.398 s.1]

**Note:** 431.375 to 431.385 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 431 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**431.380 Distribution of funds for local purposes.** (1) From funds available to the division for local public health purposes, regardless of the source, the Health Division shall provide payments to the local public health authority on a per capita or other equitable formula basis to be used for public health services. Funding formulas shall be determined by the Health Division with the concurrence of the Conference of Local Health Officials.

(2) With respect to counties that have established joint public health services with another county, either by agreement or the formation of a district board of health, distribution of funds made available under the provisions of this section shall be prorated to such counties as provided by agreement or under ORS 431.510. [1983 c.398 s.2]

**Note:** See note under 431.375.

**431.385 Local annual plan; effect of failure to submit plan; approval; disapproval; variance.** (1) The local public health authority shall submit an annual plan to the Health Division for performing services pursuant to ORS 431.375 to 431.385 and 431.416. The annual plan shall be submitted no later than May 1 of each year or on a date mutually agreeable to the Health Division and the local public health authority.

(2) If the local public health authority decides not to submit an annual plan under the provisions of ORS 431.375 to 431.385 and 431.416, the Health Division shall become the local public health authority for that county or health district.

(3) The Health Division shall review and approve or disapprove each plan. Variances to the local public health plan must be approved by the Health Division. In consultation with the Conference of Local Health Officials, the Health Division shall establish the elements of a plan and an appeals process whereby a local health authority may obtain a hearing if its plan is disapproved. [1983 c.398 s.3]

**Note:** See note under 431.375.

## LOCAL BOARDS OF HEALTH

**431.405 Purpose of ORS 431.405 to 431.510.** It is the purpose of ORS 431.405 to 431.510 to encourage improvement and standardization of health departments in order to provide a more effective and more efficient public health service throughout the state. [1961 c.610 s.1]

**431.410 Boards of health for counties.** The governing body of each county shall constitute a board of health ex officio for each county of the state and may appoint a public health advisory board as provided in ORS 431.412 (5) to advise the governing body on matters of public health. [Amended by 1953 c.189 s.3; 1961 c.610 s.2; 1973 c.829 s.20a]

**431.412 County board of health; formation; composition; advisory board.** (1) The governing body of any county shall establish a county board of health, when authorized to do so by a majority of electors of the county at any general or special election, and may, if such authorization is made, establish a public health advisory board as provided in subsection (5) of this section.

(2) The county board of health shall consist of:

(a) One member of the county governing body selected by the body.

(b) One member of a common school district having jurisdiction over an entire county, the county school board or the education service district board who resides in the county and is selected by the education service district board, or the designee of that member.

(c) One physician who has been licensed to practice medicine in this state by the Board of Medical Examiners for the State of Oregon.

(d) One dentist who has been licensed to practice dentistry in this state by the Oregon Board of Dentistry.



(e) Three others.

(3) The members referred to in subsection (2)(c) to (e) of this section shall be appointed by the members serving under subsection (2)(a) and (b) of this section. The term of office of each of such appointed members shall be four years, terms to expire annually on February 1. The first appointments shall be for terms of one, two, three or four years, as designated by the appointing members of the board.

(4) Whenever a county board of health is created under this section, such board shall be in lieu of the board provided for in ORS 431.410.

(5) The governing body of the county may, as provided in subsection (1) of this section, appoint a public health advisory board for terms of four years, the terms to expire annually on February 1. The first appointments shall be for terms of one, two, three or four years as designated by the governing body. The advisory board shall meet regularly to advise the county board of health on matters of public health. The advisory board shall consist of:

(a) Persons licensed by this state as health care practitioners.

(b) Persons who are well informed on public health matters. [Formerly 431.470; 1963 c.544 s.49; 1977 c.582 s.25; 1981 c.127 s.1; 1987 c.618 s.2; 1991 c.167 s.26]

**431.414 District board of health; formation; composition; advisory board.** (1) Two or more contiguous counties may combine for the purpose of forming a district health unit when the governing body of each of the counties concerned adopt resolutions signifying their intention to do so.

(2) The governing bodies of the counties forming the district may meet together, elect a chairperson and transact business as a district board of health whenever a majority of the members of the governing bodies from each of the participating counties are present at any meeting.

(3) In lieu of the procedure in subsection (2) of this section, the governing bodies of the counties forming the district may, by a two-thirds vote of the members from each participating county, establish and, except as provided in paragraph (f) of this subsection, appoint a district board of health which shall consist of:

(a) One member from each participating county governing body selected by such body.

(b) One member from a school administrative unit within the district.

(c) One member from the administrative staff of a city within the district.

(d) Two physicians who have been licensed to practice medicine in this state by the Board of Medical Examiners for the State of Oregon and who are residents of the district.

(e) One dentist who has been licensed to practice dentistry in this state by the Oregon Board of Dentistry and who is a resident of the district.

(f) One person who is a resident of the district and who is to be appointed by the members serving under paragraphs (a) to (c) of this subsection.

(4) The term of office of the members referred to in subsection (3)(a) to (f) of this section shall be four years, the terms to expire annually on February 1. The first appointments shall be for terms of one, two, three or four years, as may be designated by two-thirds vote of the members from each participating county.

(5) Whenever a district board of health is created under this section, such board shall be in lieu of the board provided for in ORS 431.410 or 431.412.

(6) The governing bodies of the counties making up the district may appoint a public health advisory board for terms of four years, the terms to expire annually on February 1. The first appointments shall be for terms of one, two, three or four years as designated by the governing body. The advisory board shall meet regularly to advise the district board of health on matters of public health. The advisory board shall consist of:

(a) Persons licensed by this state as health care practitioners.

(b) Persons who are well informed on public health matters. [Formerly 431.610; 1973 c.829 s.21; 1977 c.582 s.26; 1987 c.618 s.3]

**431.415 Powers and duties of local health boards; fee schedules.** (1) The district or county board of health is the policymaking body of the county or district in implementing the duties of local departments of health under ORS 431.416.

(2) The district or county board of health shall adopt rules necessary to carry out its policies under subsection (1) of this section. The county or district board of health shall adopt no rule or policy which is inconsistent with or less strict than any public health law or rule of the Health Division.

(3) With the permission of the county governing body, a county board may, and with the permission of the governing bodies of the counties involved, a district board may, adopt schedules of fees for public health services

reasonably calculated not to exceed the cost of the services performed. The health department shall charge fees in accordance with such schedule or schedules adopted. [1961 c.610 s.6; 1973 c.829 s.22; 1977 c.582 s.27]

**431.416 Local public health authority or health district; duties.** The local public health authority or health district shall:

(1) Administer and enforce the rules of the local public health authority or the health district and public health laws and the rules of the Health Division.

(2) Assure activities necessary for the preservation of health or prevention of disease in the area under its jurisdiction as provided in the annual plan of the authority or district are performed. These activities shall include but not be limited to:

- (a) Epidemiology and control of preventable diseases and disorders;
- (b) Parent and child health services, including family planning clinics as described in ORS 435.205;
- (c) Collection and reporting of health statistics;
- (d) Health information and referral services; and
- (e) Environmental health services. [1961 c.610 s.8; 1973 c.829 s.23; 1977 c.582 s.28; 1983 c.398 s.4]

**431.418 Local public health administrator; health officer; duties; salary.** (1) Each district board of health shall appoint a qualified public health administrator to supervise the activities of the district in accordance with law. Each county governing body in a county that has created a county board of health under ORS 431.412 shall appoint a qualified public health administrator to supervise the activities of the county health department in accordance with law. In making such appointment, the district or county board of health shall consider standards for selection of administrators prescribed by the Health Division.

(2) Where the public health administrator is a physician licensed by the Board of Medical Examiners for the State of Oregon, the administrator shall serve as health officer for the district or county board of health. Where the public health administrator is not a physician licensed by the Board of Medical Examiners for the State of Oregon, the administrator will employ or otherwise contract for services with a health officer who shall be a licensed physician and who will perform those specific medical responsibilities requiring the services of a physician and shall be responsible to the public health administrator for the medical and paramedical aspects of the health programs.

(3) The public health administrator shall:

- (a) Serve as the executive secretary of the district or county health board, act as the administrator of the district or county health department and supervise the officers and employees appointed under paragraph (b) of this subsection.
- (b) Appoint with the approval of the health board, administrators, medical officers, public health nurses, sanitarians and such other employees as are necessary to carry out the duties and responsibilities of the office.
- (c) Provide the board at appropriate intervals information concerning the activities of the department and submit an annual budget for the approval of the county governing body except that, in the case of the district public health administrator, the budget shall be submitted to the governing bodies of the participating counties for approval.
- (d) Act as the agent of the Health Division in enforcing state public health laws and rules of the Health Division, including such sanitary inspection of hospitals and related institutions as may be requested by the Health Division.
- (e) Perform such other duties as may be required by law.

(4) The public health administrator shall serve until removed by the appointing board. The public health administrator shall engage in no occupation which conflicts with official duties and shall devote sufficient time to duties as public health administrator as may be necessary to fulfill the requirements of subsection (3) of this section. However, if the board of health is not created under ORS 431.412, it may, with the approval of the Assistant Director for Health, require less than full-time service of the public health administrator.

(5) The public health administrator shall receive a salary fixed by the appointing board and shall be reimbursed for actual and necessary expenses incurred in the performance of duties. [1961 c.610 s.7; 1973 c.829 s.24; 1977 c.582 s.29; 1981 c.127 s.2; 1993 c.26 s.1]

**431.420** [Amended by 1961 c.610 s.9; 1973 c.829 s.25; 1977 c.582 s.30; repealed by 1981 c.127 s.4]

**431.430** [Amended by 1961 c.610 s.10; 1973 c.829 s.26; repealed by 1981 c.127 s.4]

**431.440 Public health administrators have police powers.** All district and county public health administrators shall possess the powers of constables or other peace officers in all matters pertaining to the public health. [Amended

by 1961 c.610 s.11; 1973 c.829 s.27]

**431.450** [Amended by 1961 c.610 s.14; 1973 c.829 s.28; repealed by 1981 c.127 s.4]

**431.460** [Amended by 1961 c.610 s.12; 1973 c.829 s.29; repealed by 1981 c.127 s.4]

**431.470** [Amended by 1961 c.610 s.3; renumbered 431.412]

**431.480 City boards abolished; expenditure of funds obtained from school district.** (1) All city boards of health are abolished.

(2) Any school district may appropriate money to be expended for public health measures in such school district by the county or district board of health. [Amended by 1961 c.610 s.5; 1973 c.829 s.30]

**431.490** [Repealed by 1961 c.610 s.18]

**431.500** [Amended by 1953 c.189 s.3; repealed by 1961 c.610 s.18]

**431.510 Quarters and funds for local health boards.** (1) The governing body of the county shall provide adequate quarters and facilities for the office and health work of the county board of health and shall appropriate sufficient funds for the administration of the board and the operation of the health department.

(2) Where a district board is established under ORS 431.414, the governing body of each participating county shall appropriate annually a sum which shall be specifically designated for the operation of the board of health and the district department of health. [Amended by 1961 c.610 s.13; 1973 c.829 s.31]

**431.520 Disposal of local health records.** Public records, as defined in ORS 192.005, of district and county departments of health and community mental health clinics may be destroyed or otherwise disposed of in accordance with rules prescribed by the State Archivist. However, no records shall be required to be maintained for more than seven years from the date of the last entry for purposes of preserving evidence for any action, suit or proceeding. [1969 c.446 s.2; 1973 c.829 s.32]

**431.530 Authority of local health administrator in emergency.** (1) The local public health administrator may take any action which the Health Division or its assistant director could have taken, if an emergency endangering the public health occurs within the jurisdiction of any local public health administrator and:

(a) The circumstances of the emergency are such that the Health Division or its assistant director cannot take action in time to meet the emergency; and

(b) Delay in taking action to meet the emergency will increase the hazard to public health.

(2) Any local public health administrator who acts under subsection (1) of this section shall report the facts constituting the emergency and any action taken under the authority granted by subsection (1) of this section to the Assistant Director for Health by the fastest possible means. [1973 c.829 s.9; 1977 c.582 s.31]

**431.550 Authority of Health Division to collect information from local public health administrators.** Nothing in ORS 431.412, 431.418 and this section shall be construed to limit the authority of the Health Division to require facts and statistics from local public health administrators under its general supervisory power over all matters relating to the preservation of life and health of the people of the state. [1981 c.127 s.3]

**431.605** [1971 c.650 s.44; repealed by 1973 c.358 s.15]

## EMERGENCY MEDICAL SERVICES AND TRAUMA SYSTEM

**431.607 Health Division to develop comprehensive emergency medical services and trauma system.** In cooperation with representatives of the emergency medical services professions, the Health Division shall develop a comprehensive emergency medical services and trauma system. The division shall report progress on the system to the Legislative Assembly. [1985 c.191 s.1]

**431.608** [1987 c.918 s.9; repealed by 1997 c.546 s.4]

**431.609 Designation of trauma areas; trauma system hospitals.** (1) With the advice of the State Trauma Advisory Board, the Health Division shall:

(a) Develop and monitor a statewide trauma system; and

(b) Designate within the state, trauma areas consistent with local resources, geography and current patient referral patterns.

(2) Each trauma area shall have:

(a) Central medical control for all field care and transportation consistent with geographic and current communications capability.

(b) The development of triage protocols.

(c) One or more hospitals categorized according to trauma care capabilities using standards adopted by the Health Division by rule. Such rules shall be modeled after the American College of Surgeons Committee on Trauma standards.

(d) The establishment of area trauma advisory boards to develop trauma system plans for each trauma area.

(3) On and after July 1, 1986, the Health Division may designate trauma system hospitals in accordance with area trauma advisory board plans which meet state objectives and standards.

(4) Trauma system plans shall be implemented by June 30, 1987, in Health Systems Area I, and June 30, 1988, in Health Systems Areas II and III. [1985 c.191 s.2]

**431.610** [Amended by 1961 c.610 s.4; renumbered 431.414]

**431.611 Division to adopt rules; contents.** (1) Prior to approval and implementation of area trauma plans submitted to the Health Division by area trauma advisory boards, the division shall adopt rules pursuant to ORS 183.310 to 183.550 which specify state trauma objectives and standards, hospital categorization criteria and criteria and procedures to be utilized in designating trauma system hospitals.

(2) For approved area trauma plans recommending designation of trauma system hospitals, the division rules shall provide for:

(a) The transport of a member of a health maintenance organization, or other managed health care system, as defined by rule, to a hospital that contracts with the health maintenance organization when central medical control determines that the condition of the member permits such transport; and

(b) The development and utilization of protocols between designated trauma hospitals and health maintenance organizations, or other managed health care systems, as defined by rule, including notification of admission of a member to a designated trauma hospital within 48 hours of admission, and coordinated discharge planning between a designated trauma hospital and a hospital that contracts with a health maintenance organization to facilitate transfer of the member when the medical condition of the member permits. [1985 c.191 s.4]

**431.613 Area trauma advisory boards; duties; members.** (1) Area trauma advisory boards shall meet as often as necessary to identify specific trauma area needs and problems and propose to the Health Division area trauma system plans and changes that meet state standards and objectives. The Health Division acting with the advice of the State Trauma Advisory Board will have the authority to implement these plans.

(2) In concurrence with the Governor, the Health Division shall select members for each area from lists submitted by local associations of emergency medical technicians, emergency nurses, emergency physicians, surgeons, hospital administrators, emergency medical services agencies and citizens at large. Members shall be broadly representative of the trauma area as a whole and shall consist of at least 15 members per area trauma advisory board, including:

(a) Three surgeons;

(b) Two physicians serving as emergency physicians;

(c) Two hospital administrators from different hospitals;

(d) Two nurses serving as emergency nurses;

(e) Two emergency medical technicians serving different emergency medical services;

(f) Two representatives of the public at large selected from among those submitting letters of application in response to public notice by the Health Division. Public members shall not have an economic interest in any decision of the health care service areas;

(g) One representative of any bordering state which is included within the patient referral area;

- (h) One anesthesiologist; and
- (i) One ambulance service owner or operator or both. [1985 c.191 s.6]

**431.615** [1971 c.650 s.45; repealed by 1973 c.358 s.15]

**431.617 Liability of provider.** No provider shall be held liable for acting in accordance with approved trauma system plans. [1985 c.191 s.7]

**431.619 Continuous duties of division.** The Health Division shall continuously identify the causes of trauma in Oregon, and propose programs of prevention thereof for consideration by the Legislative Assembly or others. [1985 c.191 s.8]

**431.620** [Repealed by 1961 c.610 s.18]

**431.623 Program created in Health Division.** (1) The Emergency Medical Services and Trauma Systems Program is created within the Health Division for the purpose of administering and regulating ambulances, training and certifying emergency medical technicians, establishing and maintaining emergency medical systems including trauma systems and obtaining appropriate data from the Oregon Injury Registry as necessary for trauma reimbursement, system quality assurance and assuring cost efficiency.

(2) For purposes of ORS 431.607 to 431.619 and ORS chapter 682, the duties vested in the Health Division shall be performed by the Emergency Medical Services and Trauma Systems Program.

(3) The program shall be administered by a director.

(4) With moneys transferred to the program by ORS 442.625, the program shall apply those moneys to:

(a) Developing state and regional standards of care;

(b) Developing a statewide educational curriculum to teach standards of care;

(c) Implementing quality improvement programs;

(d) Creating a statewide data system for prehospital care; and

(e) Providing ancillary services to enhance Oregon's emergency medical service system. [1991 c.784 s.1; 1999 c.1056 s.6]

**Note:** 431.623 to 431.633 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 431 by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**431.625** [1971 c.650 s.46; repealed by 1977 c.582 s.61 and 1977 c.751 s.17a]

**431.627 Designation of other trauma centers.** (1) In addition to and not in lieu of ORS 431.607 to 431.617, the Health Division shall designate trauma centers in areas that are within the jurisdiction of trauma advisory boards other than in the area within the jurisdiction of area trauma advisory board 1.

(2) The Health Division shall enter into contracts with designated trauma centers and monitor and assure quality of care and appropriate costs for trauma patients meeting trauma system entry criteria.

(3) All findings and conclusions, interviews, reports, studies, communications and statements procured by or furnished to the Health Division, the State Trauma Advisory Board or an area trauma advisory board in connection with obtaining the data necessary to perform patient care quality assurance functions shall be confidential pursuant to ORS 192.501 to 192.505.

(4)(a) All data received or compiled by the State Trauma Advisory Board or any area trauma advisory board in conjunction with Health Division monitoring and assuring quality of trauma patient care shall be confidential and privileged, nondiscoverable and inadmissible in any proceeding. No person serving on or communicating information to the State Trauma Advisory Board or an area trauma advisory board shall be examined as to any such communications or to the findings or recommendations of such board. A person serving on or communicating information to the State Trauma Advisory Board or an area trauma advisory board shall not be subject to an action for civil damages for actions taken or statements made in good faith. Nothing in this section affects the admissibility in evidence of a party's medical records not otherwise confidential or privileged dealing with the party's medical care. The confidentiality provisions of ORS 41.675 and 41.685 shall also apply to the monitoring and quality assurance activities of the State Trauma Advisory Board, area trauma advisory boards and the Health Division.

(b) As used in this section, “data” includes but is not limited to written reports, notes, records and recommendations.

(5) Final reports by the Health Division, the State Trauma Advisory Board and area trauma advisory boards shall be available to the public.

(6) The Health Division shall publish a biennial report of the Emergency Medical Services and Trauma Systems Program and trauma systems activities. [1991 c.784 s.3]

**Note:** See note under 431.623.

**431.630** [Repealed by 1961 c.610 s.18]

**431.633 Reporting of certain patients; reimbursement for certain services.** (1) Designated trauma centers and providers, physical rehabilitation centers, alcohol and drug rehabilitation centers and ambulances shall develop a monthly log of all unsponsored, inadequately insured trauma system patients determined by the hospital to have an injury severity score greater than or equal to 13, and submit monthly to the Emergency Medical Services and Trauma Systems Program the true costs and unpaid balance for the care of these patients.

(2) No reimbursement for these patients shall occur until:

(a) All information required by the Emergency Medical Services and Trauma Systems Program rules is submitted to the Oregon Injury Registry; and

(b) The Emergency Medical Services and Trauma Systems Program confirms that the injury severity score, as defined by the Health Division by rule, is greater than or equal to 13.

(3) The Emergency Medical Services and Trauma Systems Program shall cause providers to be reimbursed in the following decreasing order of priority:

(a) Designated trauma centers and providers;

(b) Physical rehabilitation centers;

(c) Alcohol and drug rehabilitation centers; and

(d) Ambulances.

(4) Subject to the availability of funds, the Emergency Medical Services and Trauma Systems Program shall cause the designated trauma centers and providers to be paid first in full. Subsequent providers shall be paid from the balance remaining according to priority.

(5) Any matching funds, available pursuant to the federal Trauma Care Systems and Development Act of 1990 (H.R. 1602), that are available for purposes of the Emergency Medical Services and Trauma Systems Program may be used for related studies and projects and reimbursement for uncompensated care. [1991 c.784 s.4]

**Note:** See note under 431.623.

**431.640** [Repealed by 1961 c.610 s.18]

**431.650** [Repealed by 1961 c.610 s.18]

**431.660** [Repealed by 1961 c.610 s.18]

**431.670** [Repealed by 1961 c.610 s.18]

## HEALTH HAZARD ANNEXATIONS OR DISTRICT FORMATION

**431.705 Definitions for ORS 431.705 to 431.760.** As used in ORS 431.705 to 431.760, unless the context requires otherwise:

(1) “Assistant director” means the Assistant Director for Health.

(2) “Affected territory” means an area that is the subject of a proceedings under ORS 431.705 to 431.760 where there is a danger to public health or an alleged danger to public health.

(3) “Boundary commission” means a local government boundary commission created under ORS 199.410 to 199.430, 199.435 to 199.464, 199.480 to 199.505 and 199.510.

(4) “Commission” means the Environmental Quality Commission.

(5) "Danger to public health" means a condition which is conducive to the propagation of communicable or contagious disease-producing organisms and which presents a reasonably clear possibility that the public generally is being exposed to disease-caused physical suffering or illness, including a condition such as:

(a) Impure or inadequate domestic water.

(b) Inadequate installations for the disposal or treatment of sewage, garbage or other contaminated or putrefying waste.

(c) Inadequate improvements for drainage of surface water and other fluid substances.

(6) "District" means any one of the following:

(a) A metropolitan service district formed under ORS chapter 268.

(b) A county service district formed under ORS chapter 451.

(c) A sanitary district formed under ORS 450.005 to 450.245.

(d) A sanitary authority, water authority or joint water and sanitary authority formed under ORS 450.600 to 450.989.

(e) A domestic water supply district formed under ORS chapter 264.

(7) "Division" means the Health Division of the Department of Human Services.

(8) "Requesting body" means the county court, or local or district board of health that makes a request under ORS 431.715.

(9) "Service facilities" means water or sewer installations or works. [1973 c.361 s.1; 1975 c.266 s.1; 1981 c.452 s.1; 1993 c.577 s.20]

**431.710 When division to initiate district formation or annexation.** (1) ORS 431.705 to 431.760 shall not apply if the affected territory could be subject to an annexation proceeding under ORS 222.840 to 222.915.

(2) If the Health Division, in accordance with ORS 431.705 to 431.760, finds that a danger to public health exists within the affected territory and that such danger could be removed or alleviated by the construction, maintenance and operation of service facilities, the division shall initiate proceedings for the formation of or annexation to a district to serve the affected territory. If the affected territory is located within a district that has the authority to provide the service facilities, the division shall order the district to provide service facilities in the affected territory. [1973 c.361 s.2; 1981 c.888 s.3]

**431.715 Resolution requesting division to initiate formation or annexation.** (1) The county court or the local or district board of health having jurisdiction over territory where it believes conditions dangerous to the public health exist shall adopt a resolution requesting the Health Division to initiate proceedings for the formation of a district or annexation of territory to, or delivery of appropriate water or sewer services by, an existing district without vote or consent in the affected territory. The resolution shall:

(a) Describe the boundaries of the affected territory;

(b) Describe the conditions alleged to be causing a danger to public health;

(c) Request the division to ascertain whether conditions dangerous to public health exist in the affected territory and whether such conditions could be removed or alleviated by the provision of service facilities; and either

(d) Recommend a district that the affected territory could be included in or annexed to for the purpose of providing the requested service facilities; or

(e) Recommend that an existing district provide service facilities in the affected territory.

(2) The requesting body shall cause a certified copy of the resolution, together with the time schedule and preliminary plans and specifications, prepared in accordance with subsection (3) of this section, to be forwarded to the division.

(3) The requesting body shall cause a study to be made and preliminary plans and specifications prepared for the service facilities considered necessary to remove or alleviate the conditions causing a danger to public health. The requesting body shall prepare a schedule setting out the steps necessary to put the facilities into operation and the time required for each step in implementation of the plans.

(4) If the preliminary plans involve facilities that are subject to the jurisdiction of the Environmental Quality Commission, a copy of the documents submitted to the division under subsection (2) of this section shall be submitted to the commission for review, in accordance with ORS 431.725, of those facilities that are subject to its jurisdiction. No order or findings shall be adopted under ORS 431.735 or 431.756 until the plans of the requesting body for such facilities, if any, have been approved by the commission. [1973 c.361 s.3; 1981 c.888 s.4]

**431.717 Compelling adoption of resolution.** (1) Any person who may be adversely affected by the failure of a county court to adopt a resolution as required by ORS 431.715 (1) may seek to compel the adoption of such resolution through a writ of mandamus under ORS 34.105 to 34.240.

(2) The prevailing party in a proceeding under ORS 34.105 to 34.240 authorized by subsection (1) of this section is entitled to reasonable attorney fees in addition to costs and necessary disbursements. [1981 c.888 s.6]

**431.720 Commission to review certain plans; approval of plans.** (1) Upon receipt of the documents submitted under ORS 431.715 (4), the Environmental Quality Commission shall review them to determine whether the conditions dangerous to public health within the affected territory could be removed or alleviated by the provision of service facilities that are subject to the jurisdiction of the commission.

(2) If the commission considers such proposed facilities and the time schedule for installation of such facilities adequate to remove or alleviate the dangerous conditions, it shall approve the part of the plans that are subject to its jurisdiction and certify its approval to the Health Division.

(3) If the commission considers the proposed facilities or time schedule inadequate, it shall disapprove the part of the plans that are subject to its jurisdiction and certify its disapproval to the division. The commission shall also inform the requesting body of its approval or disapproval and, in case of disapproval, of the particular matters causing the disapproval. The requesting body may then submit additional or revised plans. [1973 c.361 s.4]

**431.725 Division to review resolution; notice of hearing.** (1) Upon receipt of the certified copy of a resolution adopted under ORS 431.715, the Health Division shall contact the requesting body within 30 days of receipt of the request and schedule the review and investigation of conditions in the affected territory. The division shall review and investigate conditions in the affected territory in accordance with the agreed upon schedule unless both parties agree to an extension. If it finds substantial evidence that a danger to public health exists in the territory, it shall issue an order setting a time and place for a hearing on the resolution. The hearing shall be held within the affected territory, or at a place near the territory if there is no suitable place within the territory at which to hold the hearing, not less than 30 or more than 50 days after the date of the order.

(2) Upon issuance of an order for a hearing, the division shall immediately give notice of the time and place of the hearing on the resolution by publishing the order and resolution in a newspaper of general circulation within the territory once each week for two successive weeks and by posting copies of the order in four public places within the territory prior to the hearing. [1973 c.361 s.5; 1981 c.452 s.2]

**431.730 Conduct of hearing.** (1) At the hearing on the resolution, any interested person shall be given a reasonable opportunity to be heard or to present written statements. The hearing shall be for the sole purpose of determining whether a danger to public health exists due to conditions in the affected territory and whether such conditions could be removed or alleviated by the provision of service facilities. Hearings under this section shall be conducted by a hearing officer assigned from the Hearing Officer Panel established under section 3, chapter 849, Oregon Laws 1999. It shall be conducted in accordance with the provisions of ORS 183.310 to 183.550. The Health Division shall publish a notice of the issuance of said findings and recommendations in the newspaper utilized for the notice of hearing under ORS 431.725 (2) advising of the opportunity for presentation of a petition under subsection (2) of this section.

(2) Within 15 days after the publication of notice of issuance of findings in accordance with subsection (1) of this section, any person who may be affected by the findings, or the affected district, may petition the assistant director according to rules of the division to present written or oral arguments relative to the proposal. If a petition is received, the assistant director may set a time and place for receipt of argument. [1973 c.361 s.6; 1975 c.266 s.2; 1999 c.849 s.81]

**Note:** The amendments to 431.730 by section 82, chapter 849, Oregon Laws 1999, become operative January 1, 2004. See section 83, chapter 849, Oregon Laws 1999. The text that is operative on and after January 1, 2004, is set forth for the user's convenience.

**431.730.** (1) At the hearing on the resolution, any interested person shall be given a reasonable opportunity to be heard or to present written statements. The hearing shall be for the sole purpose of determining whether a danger to public health exists due to conditions in the affected territory and whether such conditions could be removed or alleviated by the provision of service facilities. Hearings under this section shall be conducted by the Assistant Director for Health or by a hearing officer designated by the assistant director. It shall be conducted in accordance with



the provisions of ORS 183.310 to 183.550. The Health Division shall publish a notice of the issuance of said findings and recommendations in the newspaper utilized for the notice of hearing under ORS 431.725 (2) advising of the opportunity for presentation of a petition under subsection (2) of this section.

(2) Within 15 days after the publication of notice of issuance of findings in accordance with subsection (1) of this section, any person who may be affected by the findings, or the affected district, may petition the assistant director according to rules of the division to present written or oral arguments relative to the proposal. If a petition is received, the assistant director may set a time and place for receipt of argument.

**431.735 Assistant director's authority under ORS 431.705 to 431.760.** (1) If the Assistant Director for Health after investigation finds that no danger to public health exists because of conditions within the affected territory, or that such a danger does exist but the conditions causing it could not be removed or alleviated by the provision of service facilities, the assistant director shall issue an order terminating the proceedings under ORS 431.705 to 431.760 with reference to the affected territory.

(2) If the assistant director finds, after investigation and the hearing required by ORS 431.725, that a danger to public health exists because of conditions within the territory, and that such conditions could be removed or alleviated by the provisions of service facilities in accordance with the plans and specifications and the time schedule proposed, the assistant director shall enter findings in an order, directed to the officers described by ORS 431.740, setting out the service facilities to be provided.

(3) If the assistant director determines that a danger to public health exists because of conditions within only part of the affected territory, or that such conditions could be removed or alleviated in only part of the affected territory by the provision of service facilities, the assistant director may, subject to conditions stated in ORS 431.705 to 431.760, reduce the boundaries of the affected territory to that part which presents a danger or in which the conditions could be removed or alleviated if the area to be excluded would not be surrounded by the territory remaining to be annexed and would not be directly served by the sanitary, water or other facilities necessary to remove or alleviate the danger to public health existing within the territory remaining to be annexed. The findings shall describe the boundaries of the area as reduced by the assistant director.

(4) In determining whether to exclude any area the assistant director may consider whether or not such exclusion would unduly interfere with the removal or alleviation of the danger to public health in the area remaining to be annexed and whether the exclusion would result in an illogical boundary for the provision of services.

(5) The requesting body or the boundary commission shall, when requested, aid in the determinations made under subsections (3) and (4) of this section and, if necessary, cause a study to be made. [1973 c.361 s.7; 1975 c.266 s.3]

**431.740 Notice to boundary commission; service facilities to conform to plans and schedules.** (1) If a boundary commission has jurisdiction of the affected territory, the Assistant Director for Health shall file the findings and order with such boundary commission. If the affected territory is not within the jurisdiction of a boundary commission, the assistant director shall file the findings and order with the county court of the county having jurisdiction of the territory.

(2) The Health Division and the Environmental Quality Commission shall use their applicable powers of enforcement to insure that the service facilities are constructed or installed in conformance with the approved plans and schedules. [1973 c.361 s.8]

**431.745 Petition for alternative plan.** (1) At any time after the adoption of a resolution under ORS 431.715, a petition, signed by not less than 51 percent of the electors registered in the affected territory, may be filed with the Health Division. The petition shall suggest an alternative plan to the proposed formation or annexation for removal or alleviation of the conditions dangerous to public health. The petition shall state the intent of the residents to seek annexation to an existing city or special district authorized by law to provide service facilities necessary to remove or alleviate the dangerous conditions. The petition shall be accompanied by a proposed plan which shall state the type of facilities to be constructed, a proposed means of financing the facilities and an estimate of the time required to construct such facilities and place them in operation.

(2) Upon receipt of the petition, the division shall immediately forward a copy of the petition to the Environmental Quality Commission, if the plan accompanying the petition involves facilities that are subject to the jurisdiction of the commission. The division also shall forward a copy of the petition to the requesting body and to the county court or boundary commission where the division filed its findings under ORS 431.740 and direct the county court or boundary commission to stay the proceedings pending the review permitted under this section and ORS 431.750. [1973 c.361

**431.750 Commission review of alternative plan; certification of alternative plan.** (1) If the alternative plan submitted under ORS 431.745 (1) involves service facilities that are subject to the jurisdiction of the commission, the alternative plan shall be submitted to and reviewed by the Environmental Quality Commission and shall be approved or rejected by the commission within 30 days from the date of filing with the Health Division. In reviewing the alternative plan, the commission shall consider whether, in its judgment, the plan contains a preferable alternative for the alleviation or removal of the conditions dangerous to public health. If the commission determines that the original plan provides the better and most expeditious method of removing or alleviating the dangerous conditions, it shall disapprove the alternative plan and inform the division of its decision. The division shall order the proceedings on the finding filed under ORS 431.740 to resume.

(2) If the commission finds that the alternative plan provides a preferable method of alleviating or removing the dangerous conditions, the petitioners shall be granted six months within which to present to the commission information showing:

(a) That the affected territory has annexed to a city or special district authorized by law to provide the service facilities necessary to remove or alleviate the dangerous conditions, and that the financing of the extension of such facilities to the territory has been assured.

(b) Detailed plans and specifications for the construction of such facilities.

(c) A time schedule for the construction of such facilities.

(d) That such facilities, if constructed, will remove or alleviate the conditions dangerous to public health in a manner as satisfactory and expeditious as would be accomplished by the formation or annexation proposed by the original plans.

(3) The commission shall review the plan presented to it by the petitioners under subsection (2) of this section and shall promptly certify to the division whether the requirements of subsection (2) of this section have been met. If the requirements have been met, the division shall certify the alternative plan to the county court or boundary commission having jurisdiction and direct it to proceed in accordance with the alternative plan and in lieu of the plans filed under ORS 431.740. If the requirements of subsection (2) of this section are not met by the petitioners, the division shall certify that fact to the county court or boundary commission having jurisdiction and direct it to continue the proceedings on the plans filed under ORS 431.740. [1973 c.361 s.10]

**431.755** [1973 c.361 s.11; repealed by 1975 c.266 s.4 (431.756 enacted in lieu of 431.755)]

**431.756 Judicial review.** Judicial review of orders under ORS 431.705 to 431.760 shall be as provided in ORS 183.480, 183.485, 183.490 and 183.500. [1975 c.266 s.5 (enacted in lieu of 431.755)]

**431.760 Certain persons prohibited from participating in proceedings.** (1) A person who owns property or resides within affected territory that is subject to proceedings under the provisions of ORS 431.705 to 431.760 shall not participate in an official capacity in any investigation, hearing or recommendation relating to such proceedings. If the Assistant Director for Health is such a person, the assistant director shall so inform the Governor, who shall appoint another person to fulfill the duties of the assistant director in any investigation, hearing or recommendation relating to the such proceeding.

(2) Subsection (1) of this section does not excuse a member of a county court from voting on the order required by ORS 198.792 (2) or 451.445 (1). [1973 c.361 s.12]

## RECOMBINANT DNA

**431.805 Definitions for ORS 431.805 and 431.810.** As used in ORS 431.805 and 431.810:

(1) "Person" includes an individual, partnership, association, corporation, private institution or governmental entity.

(2) "Recombinant DNA research" means research on molecules that consist of segments of deoxyribonucleic acid from different organisms which are joined together in cell-free systems and which have the capacity to infect and replicate in some host cell, either autonomously or as an integrated part of the host genome. [1983 c.358 s.1]

**Note:** 431.805 and 431.810 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 431 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further

explanation.

**431.810 Recombinant DNA research to comply with federal guidelines.** Persons carrying out recombinant DNA research must comply with the recombinant research guidelines adopted by the National Institutes of Health and any subsequent modifications thereof. [1983 c.358 s.2]

**Note:** See note under 431.805.

**431.815** [1983 c.358 ss.3,4; repealed by 1999 c.108 s.1]

## SPECIAL PROGRAMS

**431.825 Fetal alcohol syndrome pamphlets.** The Health Division of the Department of Human Services shall provide to the counties of this state pamphlets described in ORS 106.081. The division may produce such pamphlets with moneys available for the purpose or may accept a gift of such pamphlets from any public or private source if the content is acceptable to the division. [1987 c.340 s.4]

**Note:** 431.825 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 431 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**431.827 Female genital mutilation prevention and education activities.** The Health Division of the Department of Human Services shall establish and implement appropriate education, prevention and outreach activities in communities that traditionally practice female circumcision, excision or infibulation for the purpose of informing:

- (1) Those communities of the health risks and emotional trauma inflicted by the practices;
- (2) Those communities and the medical community as to the existence and ramifications of ORS 163.207; and
- (3) Those communities that the practices constitute physical injuries to a child for purposes of ORS 419B.005.

[1999 c.737 s.2]

**Note:** 431.827 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 431 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**431.830 Acquired immune deficiency syndrome services and program.** The Adult and Family Services Division shall establish an acquired immune deficiency syndrome program for its clientele to provide education and prevention services. The Health Division shall establish an acquired immune deficiency syndrome program to provide education and prevention services to the public. Program authorized by this section may be operated by either division directly or under contract with public and private agencies. [1987 c.114 s.1]

**Note:** 431.830 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 431 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

## SMOKING CESSATION AND TOBACCO USE REDUCTION

**431.831 Smoking cessation program reimbursement; rules.** (1) The Health Division of the Department of Human Services shall develop a program to reimburse smoking cessation program providers for services provided to residents of this state who are not insured for smoking cessation costs.

(2) The Health Division shall adopt rules for the program established under subsection (1) of this section that include but are not limited to criteria for provider and participant eligibility and other program specifications. The rules shall establish a maximum reimbursement limit for each participant.

(3) Costs for smoking cessation programs funded under subsection (1) of this section are eligible for reimbursement from funds received by the State of Oregon from tobacco products manufacturers under the Master Settlement Agreement of 1998. [1999 c.1025 s.1]

**Note:** 431.831 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 431 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**431.832 Tobacco Use Reduction Account established.** (1) There is established in the General Fund the Tobacco Use Reduction Account.

(2) Amounts credited to the Tobacco Use Reduction Account are continuously appropriated to the Health Division for the funding of prevention and education programs designed to reduce cigarette and tobacco use. [1997 c.2 s.13]

**Note:** 431.832, 431.834 and 431.836 were adopted by the people by initiative petition and were added to and made a part of ORS chapter 431 but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**431.834 Division to adopt rules, contents.** The Health Division shall develop and adopt rules for awarding grants to programs for educating the public on the risk of tobacco use, including but not limited to:

- (1) Educating children on the health hazards and consequences of tobacco use; and
- (2) Promoting enrollment in smoking cessation programs and programs that prevent smoking-related diseases including cancer and other diseases of the heart, lungs and mouth. [1997 c.2 s.14]

**Note:** See note under 431.832.

**431.836 Division to prepare report.** During each biennium, the Health Division shall prepare a report regarding the awarding of grants from the Tobacco Use Reduction Account and the formation of public-private partnerships in connection with the receipt of funds from the account. The Health Division shall present the report to the Governor and to those committees of the Legislative Assembly to which matters of public health are assigned. [1997 c.2 s.15]

**Note:** See note under 431.832.

## REGULATION OF TOBACCO SALES

**431.840 Free distribution to minors prohibited; restriction on sales; notice.** (1) It shall be unlawful to do any of the following:

(a) To distribute free tobacco products to persons under 18 years of age as part of a marketing strategy to encourage the use of tobacco products.

(b) To fail as a retailer to post a notice substantially similar to that set forth in subsection (3) of this section in a location clearly visible to the seller and the purchaser that sale of tobacco products to persons under 18 years of age is prohibited.

(c) To sell cigarettes in any form other than a sealed package.

(2) As used in this section "tobacco products" means cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco, snuff, snuff flour, cavendish, plug and twist tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking, and shall include cigarettes as defined in ORS 323.010 (1).

(3) The notice shall be substantially as follows:

---

### NOTICE

The sale of tobacco in any form to persons under 18 years of age is prohibited by law. Any person who knowingly sells, or causes to be sold, tobacco to a person under 18 years of age commits the crime of endangering the welfare of a minor, pursuant to ORS 163.575.

---

[1989 c.764 s.1]

**Note:** 431.840 to 431.853 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 431 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**431.845 Civil penalty for violation of ORS 431.840.** (1) The civil penalty for violation of any provision of ORS 431.840 shall not be less than \$100 nor exceed \$500.

(2) The amounts collected under subsection (1) of this section shall be deposited to the credit of the General Fund. [1989 c.764 s.2; 1991 c.970 s.6]

**Note:** See note under 431.840.

**431.850 Procedure applicable to penalty.** Any civil penalty under ORS 431.845 shall be imposed as provided by ORS 183.090. [1989 c.764 ss.3,6; 1991 c.734 s.20]

**Note:** See note under 431.840.

**431.853 Random inspections of sellers of tobacco products; site; frequency.** (1) The Department of Human Services shall:

(a) Coordinate with law enforcement agencies to conduct random, unannounced inspections of Oregon wholesalers and retailers of tobacco products to insure compliance with Oregon laws designed to discourage the use of tobacco by minors including ORS 163.575, 163.580, 167.400, 167.402 and 431.840; and

(b) Submit a report describing:

(A) The activities carried out to enforce the laws listed in paragraph (a) of this subsection during the previous fiscal year;

(B) The extent of success achieved in reducing the availability of tobacco products to minors; and

(C) The strategies to be utilized for enforcing the laws listed in paragraph (a) of this subsection during the year following the report.

(2) The Department of Human Services shall adopt rules concerning random inspections of places that sell tobacco products consistent with section 1921, Public Law 102-321, 1992. The rules shall provide that inspections may take place:

(a) Only in areas open to the public;

(b) Only during hours that tobacco products are sold or distributed; and

(c) No more frequently than once a month in any single establishment unless a compliance problem exists or is suspected. [1993 c.788 s.1]

**Note:** See note under 431.840.

## ALZHEIMER'S DISEASE

**431.855 Alzheimer's Disease Research Fund.** (1) There is established as a separate and distinct fund in the State Treasury an Alzheimer's Disease Research Fund. The Alzheimer's Disease Research Fund shall consist of:

(a) An amount credited to the fund under ORS 305.749, which shall be transferred by the Department of Revenue to the fund.

(b) Gifts, grants and donations, in money or otherwise, for use as described in subsection (2) of this section, which the State Treasurer may solicit and accept from private and public sources and shall cause to be deposited and credited to the Alzheimer's Disease Research Fund.

(c) Interest or other earnings on the amounts described in paragraphs (a) and (b) of this subsection which shall inure to the benefit of the Alzheimer's Disease Research Fund.

(2) Moneys contained in the Alzheimer's Disease Research Fund are continuously appropriated for the purpose of grants to the Alzheimer's Disease Center of Oregon, a cooperative venture between Oregon Health Sciences University, Good Samaritan Hospital and Medical Center, the United States Department of Veterans Affairs and the Alzheimer's Disease and Related Disorders Association to carry out research on Alzheimer's disease and related disorders. [1987 c.902 s.3; 1989 c.987 s.23; 1991 c.67 s.113]

**Note:** 431.855 and 431.860 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 431 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**431.860 Control of fund.** Oregon Health Sciences University shall have access to and control of the moneys held in the Alzheimer's Disease Research Fund established under ORS 431.855 but shall use such moneys only for the purposes specified in ORS 431.855 (2). [1989 c.987 s.24]

**Note:** See note under 431.855.

## TOXIC HOUSEHOLD PRODUCTS

**431.870 Definitions for ORS 431.870 to 431.915.** As used in ORS 431.870 to 431.915:

- (1) "Household product" means any product intended for use under any of the following circumstances:
  - (a) In, on or around any structure, vehicle, article, surface or area associated with the household, including but not limited to nonagricultural outbuildings, noncommercial greenhouses, pleasure boats and recreational vehicles.
  - (b) In or around any preschool or child care facility.
- (2) "Task force" means the Poison Prevention Task Force.
- (3) "Toxic household product" means any product listed in ORS 431.885 that is customarily produced or distributed for sale for use in or about the household or is customarily stored by individuals in or about the household. [1991 c.915 s.2; 1995 c.278 s.54]

**Note:** 431.870 to 431.915 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 431 by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**431.875 Legislative findings.** The Legislative Assembly finds that:

- (1) Most poisonings involve children under six years of age.
- (2) The federal Poison Prevention Packaging Act of 1970 requires child-resistant safety packaging for various toxic household products in order to inhibit a child's ability to access poisonous substances. This effort, in conjunction with the formation of poison control centers, education efforts, availability of ipecac syrup for home treatment and labeling requirements, has significantly reduced the number of poisonings. However, most poisonings occur while the product is in use, rather than when stored, and many toxic household products are exempt from the child-resistant safety packaging laws.
- (3) The National Safety Council, the American Medical Association and the American Association of Poison Control Centers have noted that the addition of nontoxic aversive agents to toxic household products may make these products so unpalatable that many children reject the products upon, or shortly after, tasting them. These organizations have urged manufacturers of toxic household products to add nontoxic aversive agents to their products in addition to child resistant closures in order that ingestion of these products may be reduced, thus providing another means to prevent or mitigate severe poisonings.
- (4) Aversive agents are currently being used in various household products to mitigate child poisonings. [1991 c.915 s.1]

**Note:** See note under 431.870.

**431.880 Aversive agent required.** Any toxic household product that is listed in ORS 431.885 and is manufactured on or after July 1, 1993, and sold in this state, shall include an aversive agent approved by the Poison Prevention Task Force within the product in a concentration so as to render the product unpalatable. [1991 c.915 s.3]

**Note:** See note under 431.870.

**431.885 Toxic household products required to comply with aversive agent requirement; exemptions.** (1) The following toxic household products must comply with ORS 431.880:

- (a) Antifreeze containing 10 percent or more ethylene glycol by weight.
  - (b) Windshield washer fluid containing four percent or more methyl alcohol (methanol) by weight.
- (2) The following toxic household products are exempted from the requirements of ORS 431.880:
- (a) Pesticide products subject to registration under ORS chapter 634 or under the Federal Insecticide, Fungicide, Rodenticide Act.
  - (b) Any drug as defined in the Federal Food, Drug and Cosmetic Act (21 U.S.C.s.301 et seq.) or in ORS 689.005.

(c) Products exempted under the provisions of section 7, chapter 915, Oregon Laws 1991. [1991 c.915 s.4]

**Note:** See note under 431.870.

**431.887 Limitation on liability; application.** (1) A manufacturer, distributor or seller of a toxic household product that is required to contain an aversive agent under the provisions of ORS 431.880 is not liable to any person for any personal injury, death or property damage that results from the inclusion of the aversive agent in the toxic household product.

(2) The limitation on liability provided by this section is only applicable if the aversive agent is included in the toxic household product in concentrations approved by the Poison Prevention Task Force.

(3) The limitation on liability provided by this section does not apply if the personal injury, death or property damage results from willful and wanton misconduct by the manufacturer, distributor or seller of the toxic household product. [1995 c.76 s.2]

**Note:** See note under 431.870.

**431.890 Poison Prevention Task Force; members; meetings; duties.** (1) The Poison Prevention Task Force is created in the Poison Center of the Oregon Health Sciences University and consists of five members as follows:

(a) The Medical Director of the Oregon Poison Center or designee, who shall serve as chairperson.

(b) The Assistant Director for Health or a designee.

(c) A pediatrician licensed under ORS chapter 677, appointed by the Governor.

(d) A chemist from an academic institution, appointed by the Governor.

(e) A representative of a manufacturer of toxic household products, appointed by the Governor.

(2) Each member shall serve without compensation.

(3) The task force shall meet as considered necessary by the chairperson or on the call of three members of the task force.

(4) The task force shall meet for the purposes of reviewing, granting or denying requests for exemptions from and extensions of the requirements of ORS 431.870 to 431.915.

(5) The task force shall obtain and evaluate statewide poisoning incidence and severity data over a period of every two years for the purpose of making recommendations for the addition or deletion of products to ORS 431.885. [1991 c.915 s.5]

**Note:** See note under 431.870.

**431.895 Efficacy and toxicity data available to task force; use; confidentiality of data.** (1) The Poison Prevention Task Force may request efficacy and toxicity data, or other pertinent data it considers necessary, from the manufacturer of any toxic household product. The information shall be made available by the manufacturer to the task force upon request and shall remain confidential, if so requested.

(2) The task force may request data from and utilize the technical expertise of other state agencies or health care providers, or both, to evaluate the incidence and severity of poisoning, drug overdose and toxic exposure. [1991 c.915 s.8]

**Note:** See note under 431.870.

**431.900 Reports to legislature.** The Poison Prevention Task Force shall report to the Legislative Assembly as necessary with recommendations for the addition or deletion of products from the list set forth in ORS 431.885. The task force shall report to the Legislative Assembly any additional recommended measures which shall include reducing the incidence and severity of poisoning, poison prevention education activities and child resistant closure effectiveness. [1991 c.915 s.9]

**Note:** See note under 431.870.

**431.905 Enforcement by civil action; injunction; damages; attorney fees.** (1) Any person may bring a civil action in a court of competent jurisdiction to enforce the requirements of ORS 431.870 to 431.915. The court may

grant injunctive relief in any action brought pursuant to this section.

(2) Punitive damages may also be awarded in any action brought pursuant to this section.

(3) The court may award reasonable attorney fees to the prevailing party in an action under this section. [1991 c.915 s.11; 1995 c.618 s.70]

**Note:** See note under 431.870.

**431.910 Prohibited conduct.** (1) It is unlawful for any person to distribute or sell a toxic household product or cause a toxic household product to be distributed or sold in this state if it does not meet the requirements of ORS 431.870 to 431.915.

(2) The prohibition contained in subsection (1) of this section does not apply to a person engaged in the business of wholesale or retail distribution of a toxic household product, unless the person is engaged in the manufacture of the product, or has knowledge that a toxic household product which the person is distributing or selling is in violation of ORS 431.870 to 431.915.

(3) A distributor of a house brand shall not be considered a manufacturer for purposes of filing an application for an extension pursuant to section 6, chapter 915, Oregon Laws 1991, or for an exemption pursuant to section 7, chapter 915, Oregon Laws 1991. Nothing in this subsection is intended to exempt a distributor of a house brand from any other provisions of ORS 431.870 to 431.915. [1991 c.915 s.10]

**Note:** See note under 431.870.

**431.915 Civil penalty for violation of ORS 431.870 to 431.915.** (1) Any person who violates any provision of ORS 431.870 to 431.915 shall be liable for a civil penalty not to exceed \$5,000 for each day of violation, which shall be assessed and recovered in a civil action brought by the Health Division.

(2) All civil penalties collected pursuant to subsection (1) of this section shall be deposited in the General Fund. [1991 c.915 ss.12,13]

**Note:** See note under 431.870.

## LEAD POISONING PREVENTION

**431.920 Training provider accreditation; lead poisoning prevention programs; fees.** The Health Division shall:

(1) Develop accreditation programs for training providers;

(2) Prescribe the requirements for and the manner of testing the competency of license applicants for the protection of the public and as required by federal law;

(3) Prescribe those actions or circumstances that constitute failure to achieve or maintain competency, or that otherwise are contrary to the public interest, for which the agency may refuse to issue or renew or may suspend or revoke a certification;

(4) Develop and conduct programs to screen blood lead levels, to identify hazards and to educate the public, including parents, residential dwelling owners and child care facility operators, about the dangers of lead-based paint hazards and of appropriate precautions that should be taken to reduce the possibility of childhood lead poisoning; and

(5) Impose fees to the extent necessary to pay the costs of the following:

(a) Certification of training curriculums, up to \$1,500;

(b) Annual renewal of training providers and curriculums, up to \$500;

(c) Certification of trainers, up to \$500;

(d) Annual renewal of trainer's certification, up to \$250; and

(e) Certification test, up to \$85. [1995 c.795 s.6]

**Note:** 431.920 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 431 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

## REGULATION OF TANNING FACILITIES

**431.925 Definitions for ORS 431.925 to 431.955.** As used in ORS 431.925 to 431.955, unless the context requires



otherwise:

(1) “Phototherapy device” means equipment that emits ultraviolet radiation used by a health care professional in the treatment of disease or illness.

(2) “Tanning device” means any equipment that emits electromagnetic radiation with wavelengths in the air between 200 and 400 nanometers used for tanning of the skin including, but not limited to, a sunlamp, tanning booth or tanning bed. “Tanning device” also means any accompanying equipment including, but not limited to, protective eye wear, timers and handrails.

(3) “Tanning facility” means any location, place, area, structure or business that provides persons access to any tanning device. [1991 c.619 s.1]

**Note:** 431.925 to 431.955 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 431 by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**431.930 Purpose of ORS 431.925 to 431.955.** It is the purpose of ORS 431.925 to 431.955 to regulate tanning facilities to minimize the risks associated with suntanning with artificial ultraviolet light. These risks include, but may not be limited to:

- (1) Sunburn;
- (2) Premature aging of the skin;
- (3) Skin cancer;
- (4) Retinal damage;
- (5) Formation of cataracts;
- (6) Suppression of the immune system; and
- (7) Damage to the vascular system. [1991 c.619 s.2]

**Note:** See note under 431.925.

**431.935 Tanning device to comply with federal requirements; exception for certain phototherapy devices.** (1) Any tanning device used by a tanning facility shall comply with all applicable federal laws and regulations.

(2) ORS 431.925 to 431.955 does not apply to a phototherapy device used by or under the direct supervision of a physician licensed under ORS chapter 677. [1991 c.619 ss.3,4]

**Note:** See note under 431.925.

**431.940 Standards and regulation of tanning devices; fee; inspection.** (1) The Health Division shall adopt by rule standards and a system of registration for tanning devices. Any entity doing business in this state as a tanning facility shall register the tanning devices with the division in a manner prescribed by rule.

(2) The registration shall include payment of an annual registration fee of, not to exceed per tanning device, \$76, prescribed by rule in an amount sufficient to cover the costs of administering the regulatory program.

(3) The division may conduct inspections of tanning facilities to insure compliance with ORS 431.925 to 431.955. [1991 c.619 s.5; 1993 c.728 s.2]

**Note:** See note under 431.925.

**431.945 Written warning statement and sign; content.** (1) A tanning facility shall give each customer a written statement warning that:

(a) Not wearing the protective eye wear provided to each customer by the tanning facility may cause damage to the eyes.

(b) Overexposure to the tanning process causes burns.

(c) Repeated exposure to the tanning process may cause skin cancer or premature aging of the skin, or both.

(d) Abnormal skin sensitivity or burning may result from the tanning process if the customer is also consuming or using certain:

(A) Foods.

(B) Cosmetics.

(C) Medications such as tranquilizers, antibiotics, diuretics, high blood pressure medication, antineoplastics or

birth control pills.

(e) Any person taking a prescription or over-the-counter drug should consult a physician before using a tanning device.

(2) In addition to giving customers the written statement required by subsection (1) of this section, the tanning facility shall post a warning sign in any area where a tanning device is used. The Health Division shall adopt by rule the language for the warning sign. [1991 c.619 ss.6,7]

**Note:** See note under 431.925.

**431.950 Civil penalty for violation of ORS 431.925 to 431.955.** The Health Division may impose a civil penalty in an amount not to exceed \$500 for a violation of ORS 431.925 to 431.955 or rules of the division adopted pursuant to ORS 431.925 to 431.955. Civil penalties under this section shall be imposed in the manner provided by ORS 183.090. [1991 c.619 ss.9,13]

**Note:** See note under 431.925.

**431.955 Disposition of receipts.** Except as otherwise provided by law, all fees and other moneys received by the Health Division pursuant to ORS 431.925 to 431.955 shall be paid into the State Treasury and placed to the credit of the Health Division Account and are continuously appropriated to the division for the purposes of carrying out the provisions of ORS 431.925 to 431.955. If moneys received under ORS 431.925 to 431.955 are in excess of moneys required to administer the program authorized by ORS 431.925 to 431.955, the moneys may be used by the division to meet expenses of other programs administered by the division if an appropriate expenditure increase is approved by the Emergency Board. [1991 c.619 s.11]

**Note:** See note under 431.925.

## PENALTIES

**431.990 Penalties.** Unless otherwise specifically provided by any other statute, failure to obey any rules of the Health Division, or failure to obey any lawful written order issued by the Assistant Director for Health or any district or county public health administrator is a Class A misdemeanor. [Amended by 1959 c.629 s.46; 1961 c.610 s.15; 1973 c.408 s.34; 1973 c.829 s.33; 1977 c.582 s.32]

---