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Chapter 431

2013 EDITION

State and Local Administration and Enforcement of Health Laws

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- 431.005** [1973 c.358 §1; repealed by 1977 c.751 §39]
431.010 [Amended by 1967 c.461 §1; 1969 c.695 §7; 1971 c.650 §5; repealed by 1973 c.358 §15]
431.015 [1973 c.358 §2; repealed by 1977 c.751 §39]
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431.020 [Amended by 1967 c.461 §2; 1971 c.650 §6; repealed by 1973 c.358 §15]
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431.025 [1971 c.650 §11; repealed by 1973 c.358 §15]
431.030 [Repealed by 1971 c.650 §51]

STATE ADMINISTRATION

431.035 Power of Director of Oregon Health Authority to delegate functions; Public Health Director; appointment; duties. (1) The Director of the Oregon Health Authority may delegate to any of the officers and employees of the Oregon Health Authority the exercise or discharge in the director's name of any power, duty or function of whatever character vested in or imposed upon the 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 authority only when specifically delegated in writing by the director.

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

(3)(a) The Director of the Oregon Health Authority shall appoint a Public Health Director to perform the duties and exercise authority over public health emergency matters in the state and other duties as assigned by the director. The director may appoint the same person to serve as both the Public Health Director and the Public Health Officer appointed under ORS 431.045.

(b) The Public Health Director shall be an assistant director appointed by the Director of the Oregon Health Authority in accordance with ORS 409.130.

(c) The Public Health Director shall delegate to an employee of the authority the duties, powers and functions granted to the Public Health Director by ORS 431.264 and 433.443 in the event of the absence from the state or the unavailability of the director. The delegation must be in writing. [1973 c.829 §2; 2007 c.445 §1; 2009 c.595 §532]

431.040 [Amended by 1969 c.314 §39; 1971 c.650 §7; repealed by 1973 c.358 §15]

431.045 Public Health Officer; appointment; qualifications; duties. (1) The Director of the Oregon Health Authority shall appoint a physician licensed by the Oregon

Medical Board 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 Oregon Health Authority.

(2) The Public Health Officer is responsible for the duties imposed by 42 U.S.C. 300ff-133(g) and 300ff-136. The officer may adopt rules to carry out the officer's responsibilities under this subsection. [1971 c.650 §2; 1973 c.358 §5; 1977 c.267 §18; 1987 c.618 §1; 2001 c.900 §143; 2007 c.71 §119; 2009 c.595 §533; 2013 c.61 §1]

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

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

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

431.060 [Repealed by 1971 c.650 §51]

431.065 [1971 c.37 §2; 1977 c.582 §7; repealed by 2001 c.900 §261]

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

ENFORCEMENT OF HEALTH LAWS AND RULES

431.110 General powers of Oregon Health Authority. Subject to ORS 417.300 and 417.305, the Oregon Health Authority shall:

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

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

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

(4) Investigate, conduct hearings and issue findings in connection with annexations proposed by cities as provided in ORS 222.840 to 222.915.

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

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

(7) From time to time, publish and distribute to the public in such form as the authority determines, such information as in its judgment may be useful in carrying on the work or purposes for which the authority was established. [Amended by 1955 c.105 §1; 1967 c.624 §18; 1971 c.650 §9; 1977 c.582 §8; 1987 c.414 §83; 1989 c.834 §18; 1991 c.122 §11; 2001 c.900 §254; 2009 c.595 §534; 2013 c.61 §2]

431.120 Duties of Oregon Health Authority; rules. The Oregon Health Authority shall:

(1) Enforce state health policies and rules.

(2) Give any instructions that may be necessary, and forward them to the various local public health administrators throughout the state.

(3) 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 authority may conduct the investigations through local health departments only upon adoption by rule of a uniform epidemiological data collection method.

(4) Adopt rules related to loans and grants awarded under ORS 285B.560 to 285B.599 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 authority shall coordinate the authority's rulemaking process with the Water Resources Department and the Oregon Business Development Department in order to ensure that rules adopted under this subsection are consistent with rules adopted under ORS 285B.563 and 541.845.

(5) 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 §10; 1977 c.582 §9; 1981 c.385 §1; 1991 c.944 §4; 1993 c.18 §107; 1993 c.754 §8; 2005 c.835 §24; 2009 c.595 §535; 2013 c.61 §2a]

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

431.140 [Amended by 1959 c.314 §21; 1973 c.833 §42; 1977 c.582 §10; 2001 c.900 §144; repealed by 2007 c.445 §42]

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 Oregon Health Authority. They shall make an immediate report to the authority of any violation of such laws coming to their notice by observation, or upon the complaint of any person, or otherwise.

(2) The authority 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 authority may investigate cases of irregularity or violation of law. All local public health administrators shall aid the

authority, 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 authority, the Attorney General shall likewise assist in the enforcement of the public health laws of this state. [Amended by 1959 c.314 §22; 1971 c.650 §12; 1973 c.833 §43; 1973 c.835 §165; 1974 c.36 §12; 1977 c.582 §11; 2009 c.595 §536]

431.155 Restraining violation of public health laws. (1) Whenever it appears to the Oregon Health Authority that any person is engaged or about to engage in any acts or practices that constitute a violation of any statute relating to public health administered by the authority, or any rule or order issued thereunder, the authority 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 authority. [1967 c.94 §2; 1971 c.650 §13; 1977 c.582 §12; 2001 c.900 §145; 2009 c.595 §537]

431.157 County authority to restrain violation of public health laws. Pursuant to ORS 448.100 (1) and 446.425 (1), the county is delegated the authority granted to the Director of the Oregon Health Authority in ORS 431.155. [1983 c.370 §4; 2003 c.309 §5; 2009 c.595 §538]

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 §23; 1973 c.833 §44; 1977 c.582 §13; 1995 c.658 §104]

431.170 Enforcing health laws and rules when local officers are delinquent. (1) The Director of the Oregon Health Authority 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 that the director or board is charged to enforce.

(2) The director may call to the aid of the 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 director. [Amended by 1959 c.314 §24; 1973 c.833 §45; 1977 c.582 §14; 2001 c.900 §146; 2009 c.595 §539]

431.175 Warrant procedure. If necessary, the Director of the Oregon Health Authority 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 director or a designee thereof, the State Fire Marshal or a designee thereof or an officer, upon entering private property, or to assist the director in any way. [Formerly 433.025; 1991 c.67 §112; 2009 c.595 §540]

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 Oregon Health Authority 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 people who are sick or suffering by purely spiritual means. However, sanitary laws and rules must be complied with. [Amended by 1977 c.582 §15; 2007 c.70 §238; 2009 c.595 §541]

431.190 [1977 c.448 §8; 1993 c.742 §96; 2009 c.595 §542; repealed by 2011 c.720 §228]

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 Oregon Health Authority.

(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.

(3) The board shall:

(a) Advise the authority on policy matters related to public health programs.

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

(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 §1; 2001 c.900 §147; 2003 c.784 §10; 2005 c.771 §3; 2009 c.595 §543; 2011 c.720 §183]

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

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

(3) All moneys credited to the Public Health Account are continuously appropriated to the authority for the payment of expenses of the authority. [Amended by 1971 c.650 §14; 1973 c.427 §5; 1977 c.582 §16; 2001 c.900 §148; 2005 c.755 §36; 2009 c.595 §544; 2011 c.597 §194]

431.220 Record of moneys in Public Health Account. The Oregon Health Authority shall keep a record of all moneys deposited in the Public Health 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 §6; 1977 c.582 §17; 2007 c.71 §120; 2009 c.595 §545]

431.230 Emergency or revolving fund. (1) The Oregon Health Authority 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 Public

Health Account in favor of the Director of the Oregon Health Authority in a sum not exceeding \$25,000, which sum shall be used by the 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 director. It may be used to pay advances for salaries, travel expenses or any other proper claim against, or expense of, the authority or the health-related licensing boards for whom the authority provides accounting services.

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

(4) The authority 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 §7; 1975 c.614 §16; 1999 c.829 §6; 2003 c.14 §241; 2009 c.595 §546]

431.240 [Repealed by 1955 c.147 §1]

431.250 Federal grants to be handled by Oregon Health Authority; disbursement; planning. (1) The Oregon Health Authority 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.

(2) For the purposes of subsection (1) of this section, the authority 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 §20a; 1967 c.343 §1; 1971 c.650 §15; 1973 c.829 §20; 1977 c.751 §34; subsections (3), (4) renumbered 442.110; 2001 c.900 §149; 2009 c.595 §547]

EMERGENCY PLAN AND INCIDENT MANAGEMENT SYSTEM

431.260 Definitions. As used in ORS 431.035 to 431.530:

(1) “Children’s facility” has the meaning given that term in ORS 433.235.

(2) “Communicable disease” means a disease or condition, the infectious agent of which may be transmitted by any means from one person or from an animal to another person, that may result in illness, death or severe disability.

(3) “Condition of public health importance” means a disease, syndrome, symptom, injury or other threat to public health that is identifiable on an individual or community level.

(4) “Disease outbreak” means a significant or notable increase in the number of cases of a disease or other condition of public health importance.

(5) “Epidemic” means the occurrence in a community or region of a group of similar conditions of public health importance that are in excess of normal expectancy and derived from a common or propagated source.

(6) “Local public health administrator” means the public health administrator of a county or health district appointed under ORS 431.418 or the authorized representative of that public health administrator.

(7) “Local public health authority” means a county government, or a health district created under ORS 431.414 or a person or agency a county or health district has contracted with to act as the local public health authority.

(8) “Public health law” means any statute, rule or local ordinance that has the purpose of promoting or protecting the public health and that establishes the authority of the Oregon Health Authority, the Public Health Director, the Public Health Officer, a local public health authority or local public health administrator to enforce the statute, rule or local ordinance.

(9) “Public health measure” means a test, medical examination, treatment, isolation, quarantine or other measure imposed on an individual or group of individuals in order to prevent the spread of or exposure to a communicable disease, toxic substance or transmissible agent.

(10) “Reportable disease” means a disease or condition, the reporting of which enables a public health authority to take action to protect or to benefit the public health.

(11) “School” has the meaning given that term in ORS 433.235.

(12) "Specimen" means blood, sputum, urine, stool or other bodily fluids and wastes, tissues, and cultures necessary to perform required tests.

(13) "Test" means any diagnostic or investigative analyses or medical procedures that determine the presence or absence of, or exposure to, a condition of potential public health importance, or its precursor in an individual.

(14) "Toxic substance" means a substance that may cause illness, disability or death to persons who are exposed to it. [2007 c.445 §3; 2009 c.595 §548]

431.262 Power of Oregon Health Authority and local public health administrators to enforce public health laws; authorized actions; rules; penalties. (1) The Oregon Health Authority and local public health administrators shall have the power to enforce public health laws. The enforcement powers authorized by this section include, but are not limited to, the authority to:

(a) Investigate possible violations of public health laws;

(b) Issue subpoenas requiring testimony or the production of physical or other evidence;

(c) Issue administrative orders to enforce compliance with public health laws;

(d) Issue a notice of violation of a public health law and impose a civil penalty as established by rule not to exceed \$500 a day per violation;

(e) Enter private property at any reasonable time with consent of the owner or custodian of the property to inspect, investigate, evaluate or conduct tests, or take specimens or samples for testing, as may be reasonably necessary to determine compliance with any public health law;

(f) Enter a public place to inspect, investigate, evaluate, conduct tests, or take specimens or samples for testing as may be reasonably necessary to determine compliance with the provisions of any public health law;

(g) Seek an administrative warrant from an appropriate court authorizing the inspection, investigation, evaluation or testing, or taking of specimens or samples for testing, if denied entry to property;

(h) Restrict access to contaminated property;

(i) Require removal or abatement of a toxic substance on any property and prescribe the proper measures for the removal or abatement;

(j) Maintain a civil action to enforce compliance with public health laws, including a petition to a court for an order imposing a public health measure appropriate to the public health threat presented;

(k) Refer any possible criminal violations of public health laws to a district attorney or other appropriate law enforcement official; and

(L) Request the Attorney General to assist in the enforcement of the public health laws.

(2) Any administrative actions undertaken by the state under this section shall comply with the provisions of ORS chapter 183.

(3) State and local law enforcement officials, to the extent resources are available, must assist the Oregon Health Authority and local public health administrators in ensuring compliance with administrative or judicial orders issued pursuant to this section.

(4) Nothing in this section shall be construed to limit any other enforcement authority granted by law to a local public health authority or to the state. [2007 c.445 §4; 2009 c.595 §549]

431.264 Authority of Public Health Director to take public health actions; authorized actions; rules. (1) Unless the Governor has declared a public health emergency under ORS 433.441, the Public Health Director may, upon approval of the Governor or the designee of the Governor, take the public health actions described in subsection (2) of this section if the Public Health Director determines that:

(a)(A) A communicable disease, reportable disease, disease outbreak, epidemic or other condition of public health importance has affected more than one county;

(B) There is an immediate need for a consistent response from the state in order to adequately protect the public health;

(C) The resources of the local public health authority or authorities are likely to be quickly overwhelmed or unable to effectively manage the required response; and

(D) There is a significant risk to the public health; or

(b) A communicable disease, reportable disease, disease outbreak, epidemic or other condition of public health importance is reported in Oregon and is an issue of significant regional or national concern or is an issue for which there is significant involvement from federal authorities requiring state-federal coordination.

(2) The Public Health Director, after making the determinations required under

subsection (1) of this section, may take the following public health actions:

(a) Coordinate the public health response across jurisdictions.

(b) Prescribe measures for the:

(A) Identification, assessment and control of the communicable disease or reportable disease, disease outbreak, epidemic or other condition of public health importance; and

(B) Allocation and distribution of antitoxins, serums, vaccines, immunizing agents, antibiotics, antidotes and other pharmaceutical agents, medical supplies or personal protective equipment.

(c) After consultation with appropriate medical experts, create and require the use of diagnostic and treatment guidelines and provide notice of those guidelines to health care providers, institutions and facilities.

(d) Require a person to obtain treatment and use appropriate prophylactic measures to prevent the introduction or spread of a communicable disease or reportable disease, unless:

(A) The person has a medical diagnosis for which a vaccination is contraindicated; or

(B) The person has a religious or conscientious objection to the required treatments or prophylactic measures.

(e) Notwithstanding ORS 332.075, direct a district school board to close a children's facility or school under the jurisdiction of the board. The authority granted to the Public Health Director under this paragraph supersedes the authority granted to the district school board under ORS 332.075 to the extent the authority granted to the board is inconsistent with the authority granted to the director.

(f) Issue guidelines for private businesses regarding appropriate work restrictions.

(g) Organize public information activities regarding the public health response to circumstances described in subsection (1) of this section.

(h) Adopt reporting requirements for, and provide notice of those reporting requirements to, health care providers, institutions and facilities for the purpose of obtaining information directly related to the public health threat presented.

(i) Take control of antitoxins, serums, vaccines, immunizing agents, antibiotics, antidotes and other pharmaceutical agents, medical supplies or personal protective equipment.

(3) The authority granted to the Public Health Director under this section is not intended to override the general authority pro-

vided to a local public health authority except as already permitted by law, or under the circumstances described in subsection (1) of this section.

(4) If the Oregon Health Authority adopts temporary rules to implement subsection (2) of this section, the rules adopted are not subject to the provisions of ORS 183.335 (6)(a). The authority may amend the temporary rules adopted under this subsection as often as is necessary to respond to the public health threat.

(5) If it is necessary for the authority to purchase antitoxins, serums, vaccines, immunizing agents, antibiotics, antidotes or other pharmaceutical agents, medical supplies or personal protective equipment, the purchases are not subject to the provisions of ORS chapter 279A, 279B or 279C.

(6) If property is taken under the authority granted to the Public Health Director under subsection (2) of this section, the owner of the property is entitled to reasonable compensation from the state. [2007 c.445 §5; 2009 c.595 §550]

431.266 Rules. The Public Health Director, after consultation with local public health authorities and local public health administrators, shall adopt rules governing the development of emergency plans and an incident management system. [2007 c.445 §5a]

Note: 431.266 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.

BONE MARROW DONOR PROGRAM

431.270 Oregon Health Authority duties. (1) The Oregon Health Authority 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 Oregon Health Authority 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 Oregon Health Authority 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 §1; 2009 c.595 §551]

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 §5; repealed by 1999 c.59 §123]

431.280 [1991 c.652 §6; repealed by 1999 c.59 §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 Oregon Health Authority;

(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 chapter 183, 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 §§1,3; 2009 c.595 §552]

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 §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 §5]

Note: See note under 431.290.

STATE LABORATORY

431.310 Examinations by state laboratory; rules; fees. (1) For the better protection of the public health, the laboratory of the Oregon Health Authority shall make examinations of water, milk, blood, secretions, excretions, tissues or environmental samples required by any state or local agency in Oregon.

(2) In accordance with the rules of the authority, the authority may make examinations of water, milk, blood, secretions, excretions, tissues or environmental samples for any:

- (a) Country or territory;
- (b) Federal agency;
- (c) Agency of another state;
- (d) Tribal agency; or

(e) Health care practitioner licensed in any country, territory or state.

(3) The authority may adopt rules to implement this section and collect fees for tests performed in the state public health laboratory, subject to approval by the Oregon Department of Administrative Services prior to adopting a new fee or changing an existing fee.

(4) All moneys collected under subsection (3) of this section shall be deposited in the Public Health Account to be used for expenses of the state public health laboratory. [Amended by 1977 c.582 §18; 1981 c.630 §1; 1983 c.351 §1; 1993 c.374 §1; 2001 c.760 §1; 2009 c.595 §553; 2009 c.828 §63; 2011 c.100 §1]

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

431.325 [1971 c.650 §17; 1977 c.582 §19; repealed by 1993 c.742 §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 Director of the Oregon Health Authority, shall appoint from the conference membership an executive committee. The executive committee with the chairperson shall advise the director in the

administration of ORS 431.330 to 431.350. [1967 c.146 §2 (enacted in lieu of 431.320); 1977 c.582 §20; 1979 c.96 §1; 2009 c.595 §554]

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 Director of the Oregon Health Authority. The conference may meet specially at such other times as the director or the executive committee considers necessary.

(2) The director 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 Oregon Health Authority, actual and necessary travel and other expenses for attendance at no more than six meetings per year of the executive committee called by the authority. [1967 c.146 §3 (enacted in lieu of 431.320); 1977 c.582 §21; 2009 c.595 §555]

431.340 Recommendations of conference. The Conference of Local Health Officials may submit to the Oregon Health Authority such recommendations on the rules and standards specified in ORS 431.345 and 431.350. [1967 c.146 §6 (enacted in lieu of 431.320); 1977 c.582 §22; 2009 c.595 §556]

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 Oregon Health Authority, 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 Oregon Health Authority. [1967 c.146 §5 (enacted in lieu of 431.320); 1977 c.582 §23; 2009 c.595 §557]

431.350 Oregon Health Authority to adopt rules for ORS 431.330 to 431.350. Upon receipt of written approval from the Conference of Local Health Officials the Oregon Health Authority shall adopt rules necessary for the administration of ORS 431.330 to 431.350. [1967 c.146 §4 (enacted in lieu of 431.320); 1977 c.582 §24; 2009 c.595 §558]

LOCAL PUBLIC HEALTH SERVICES

431.375 Policy on local public health services; local public health authority; contracts for provision of maternal and child public health services by tribal governing council. (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 Oregon Health Authority with the concurrence of the Conference of Local Health Officials.

(4) The Oregon Health Authority:

(a) Shall contract for the provision of maternal and child public health services with any tribal governing council of a federally recognized Indian tribe that requests to receive funding and to deliver services under the federal Title V Maternal and Child Health Services Block Grant Program.

(b) May contract directly with any tribal governing council of a federally recognized Indian tribe for provision of public health services and programs not required under paragraph (a) of this subsection.

(5) Contracts authorized by subsection (4) of this section must specify that:

(a) Payments will be made to the tribe on a per capita or other equitable formula basis;

(b) The tribe must provide services that are comparable to the services provided by a local public health authority; and

(c) The tribe must comply with any state or federal requirements with which a local public health authority providing the same services must comply. [1983 c.398 §1; 2005 c.493 §1; 2009 c.595 §559]

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 Oregon Health Authority for local public health purposes, regardless of the source, the authority 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 authority 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 §2; 2009 c.595 §560]

Note: See note under 431.375.

431.385 Local plan; effect of failure to submit plan; approval; disapproval; variance. (1) The local public health authority shall submit a local plan to the Oregon Health Authority for performing services pursuant to ORS 431.375 to 431.385 and 431.416. The local plan shall be updated periodically on a date established by the Oregon Health Authority by rule or on a date mutually agreeable to the authority and the local public health authority.

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

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

(4) The Oregon Health Authority may adopt uniform timelines and requirements for the submission of local plans by local public health authorities and local mental health authorities and the submission of community health improvement plans by coordinated care organizations to the extent that the requirements for local plans and community health improvement plans overlap. [1983 c.398 §3; 2003 c.553 §6; 2009 c.595 §561; 2011 c.70 §7; 2012 c.37 §102; 2013 c.640 §§7,8]

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 §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 §3; 1961 c.610 §2; 1973 c.829 §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 board having jurisdiction over the entire county or of 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 Oregon Medical Board.

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

(e) Three other members.

(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 §49; 1977 c.582 §25; 1981 c.127 §1; 1987 c.618 §2; 1991 c.167 §26; 2003 c.226 §22]

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 Oregon Medical Board 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 §21; 1977 c.582 §26; 1987 c.618 §3]

431.415 Powers and duties of local health boards; rules; 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 Oregon Health Authority.

(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 §6; 1973 c.829 §22; 1977 c.582 §27; 2009 c.595 §562]

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 rules of the Oregon Health Authority.

(2) Assure activities necessary for the preservation of health or prevention of disease in the area under its jurisdiction as provided in the local 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 §8; 1973 c.829 §23; 1977 c.582 §28; 1983 c.398 §4; 2001 c.900 §150; 2009 c.595 §563; 2013 c.640 §9]

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 Oregon Health Authority.

(2) When the public health administrator is a physician licensed by the Oregon Medical Board, the administrator shall serve as health officer for the district or county board of health. When the public health administrator is not a physician licensed by the Oregon Medical Board, 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, environmental health specialists 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 county health 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 Oregon Health Authority in enforcing state public health laws and rules of the authority, including such sanitary inspection of hospitals and related institutions as may be requested by the authority.

(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 Director of the Oregon Health Authority, 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 §7; 1973 c.829 §24; 1977 c.582 §29; 1981 c.127 §2; 1993 c.26 §1; 2003 c.14 §242; 2003 c.547 §112; 2009 c.595 §564]

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

431.430 [Amended by 1961 c.610 §10; 1973 c.829 §26; repealed by 1981 c.127 §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 §11; 1973 c.829 §27]

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

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

431.470 [Amended by 1961 c.610 §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 §5; 1973 c.829 §30]

431.490 [Repealed by 1961 c.610 §18]

431.500 [Amended by 1953 c.189 §3; repealed by 1961 c.610 §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 §13; 1973 c.829 §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 §2; 1973 c.829 §32]

431.530 Authority of local health administrator in emergency. (1) The local public health administrator may take any action which the Oregon Health Authority or its 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 authority or its 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 Director of the Oregon Health Authority by the fastest possible means. [1973 c.829 §9; 1977 c.582 §31; 2009 c.595 §565]

431.550 Power of Oregon Health Authority 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 Oregon Health Authority to require facts and statistics from local public health ad-

ministrators 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 §3; 2009 c.595 §566]

EMERGENCY MEDICAL SERVICES AND TRAUMA SYSTEMS

431.575 Oregon Health Authority to develop comprehensive emergency medical services and trauma system. In cooperation with representatives of the emergency medical services professions, the Oregon Health Authority shall develop a comprehensive emergency medical services and trauma system. The authority shall report progress on the system to the Legislative Assembly. [Formerly 431.607]

431.580 State Trauma Advisory Board.

(1) The State Trauma Advisory Board is established within the Oregon Health Authority.

(2) The Director of the Oregon Health Authority shall, subject to subsection (3) of this section, appoint at least 17 members to serve on the State Trauma Advisory Board, including:

(a) At least one member from each area trauma advisory board described in ORS 431.613.

(b) At least two physicians who are trauma surgeons from each trauma center designated by the authority as a Level I trauma center.

(c) From trauma centers designated by the authority as Level I or Level II trauma centers:

(A) At least one physician who is a neurosurgeon; and

(B) At least one physician who is an orthopedic surgeon.

(d) From trauma centers designated by the authority as Level I trauma centers:

(A) At least one physician who practices emergency medicine; and

(B) At least one nurse who is a trauma program manager.

(e) From trauma centers designated by the authority as Level II trauma centers:

(A) At least one physician who is a trauma surgeon; and

(B) At least one nurse who is a trauma coordinator.

(f) From trauma centers designated by the authority as Level III trauma centers:

(A) At least one physician who is a trauma surgeon or who practices emergency medicine; and

(B) At least one nurse who is a trauma coordinator.

(g) At least one nurse who is a trauma coordinator from a trauma center designated by the authority as a Level IV trauma center.

(h) From a predominately urban area:

(A) At least one trauma hospital administration representative; and

(B) At least one emergency medical services provider.

(i) From a predominately rural area:

(A) At least one trauma hospital administration representative; and

(B) At least one emergency medical services provider.

(j) At least two public members.

(3)(a) In appointing members under subsection (2)(c) to (g) of this section, the director may not appoint a member from the same trauma center in consecutive terms.

(b) In appointing members under subsection (2)(j) of this section, the director may not appoint a member who has an economic interest in the provision of emergency medical services or trauma care.

(4)(a) The State Trauma Advisory Board shall:

(A) Advise the authority with respect to the authority's duties and responsibilities under ORS 431.575 to 431.619, 431.623, 431.627, 431.633, 431.635 and 431.671;

(B) Advise the authority with respect to the adoption of rules under ORS 431.575 to 431.619, 431.623, 431.633 and 431.671;

(C) Analyze data related to the emergency medical services and trauma system developed pursuant to ORS 431.575; and

(D) Suggest improvements to the emergency medical services and trauma system developed pursuant to ORS 431.575.

(b) In fulfilling the duties, functions and powers described in this subsection, the board shall:

(A) Make evidence-based decisions that emphasize the standard of care attainable throughout this state and by individual communities located in this state; and

(B) Seek the advice and input of coordinated care organizations.

(5)(a) The State Trauma Advisory Board may establish a Quality Assurance Subcommittee for the purposes of providing peer review support to and discussing evidence-based guidelines and protocols with the members of area trauma advisory boards and trauma care providers located in this state.

(b) Notwithstanding ORS 414.227, meetings of the subcommittee are not subject to ORS 192.610 to 192.690.

(c) Personally identifiable information provided by the State Trauma Advisory Board to individuals described in paragraph (a) of this subsection is not subject to ORS 192.410 to 192.505.

(6) A majority of the members of the board constitutes a quorum for the transaction of business.

(7) Official action taken by the board requires the approval of a majority of the members of the board.

(8) The board shall nominate and elect a chairperson from among its members.

(9) The board shall meet at the call of the chairperson or of a majority of the members of the board.

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

(11) The term of office of each member of the board is four years, but a member serves at the pleasure of the director. Before the expiration of the term of a member, the director shall appoint a successor whose term begins January 1 next following. A member is eligible for reappointment, but may not serve consecutive terms. If there is a vacancy for any cause, the director shall make an appointment to become immediately effective for the unexpired term.

(12) Members of the board are not entitled to compensation, but may be reimbursed from funds available to the Oregon Health Authority, for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amounts provided for in ORS 292.495. [2013 c.605 §1]

Note: Section 2, chapter 605, Oregon Laws 2013, provides:

Sec. 2. Notwithstanding the term of office specified by section 1 of this 2013 Act [431.580], of the members first appointed to the State Trauma Advisory Board:

(1) Four shall serve for a term ending January 1, 2015;

(2) Four shall serve for a term ending January 1, 2016;

(3) Four shall serve for a term ending January 1, 2017; and

(4) The remainder of the members shall serve for a term ending January 1, 2018. [2013 c.605 §2]

Note: 431.580 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.

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

431.607 [1985 c.191 §1; 2009 c.595 §567; renumbered 431.575 in 2013]

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

431.609 Designation of trauma areas; rules; trauma system hospitals. (1) With the advice of the State Trauma Advisory Board, the Oregon Health Authority 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 authority 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 authority 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 §2; 2009 c.595 §568]

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

431.611 Oregon Health Authority to adopt rules; contents. (1) Prior to approval and implementation of area trauma plans submitted to the Oregon Health Authority by area trauma advisory boards, the authority shall adopt rules pursuant to ORS chapter 183 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 authority 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 §4; 2009 c.595 §569]

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 Oregon Health Authority area trauma system plans and changes that meet state standards and objectives. The authority 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 authority shall select members for each area from lists submitted by local associations of emergency medical services providers, 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 services providers 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 authority. 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 §6; 2009 c.595 §570; 2011 c.703 §36]

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

431.617 Liability of provider. (1) A provider may not be held liable for acting in accordance with approved trauma system plans.

(2) A person who in good faith provides data or other information to the Oregon Trauma Registry in accordance with ORS 431.623 to 431.671 is immune from any civil

or criminal liability that might otherwise be incurred or imposed with respect to provision of the data. [1985 c.191 §7; 2009 c.848 §5]

431.619 Continuous duties of Oregon Health Authority. The Oregon Health Authority 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 §8; 2009 c.595 §571]

431.620 [Repealed by 1961 c.610 §18]

431.623 Emergency Medical Services and Trauma Systems Program created in Oregon Health Authority; Oregon Trauma Registry. (1) The Emergency Medical Services and Trauma Systems Program is created within the Oregon Health Authority for the purpose of administering and regulating ambulances, training and licensing emergency medical services providers, establishing and maintaining emergency medical systems, including trauma systems, and maintaining the Oregon Trauma Registry, as necessary for trauma reimbursement, system quality assurance and ensuring cost efficiency.

(2) For purposes of ORS 431.575 to 431.619 and ORS chapter 682, the duties vested in the authority 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 director of 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.

(5) The director of the program shall adopt rules for the Oregon Trauma Registry, establishing:

- (a) The information that must be reported by trauma centers;
- (b) The form and frequency of reporting; and

(c) Procedures and standards for the administration of the registry. [1991 c.784 §1; 1999 c.1056 §6; 2009 c.595 §572; 2009 c.848 §1; 2011 c.703 §1]

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

431.627 Designation of other trauma centers. (1) In addition to and not in lieu of ORS 431.575 to 431.617, the Oregon Health Authority 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 authority 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 authority, 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 authority 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 authority.

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

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

(6) The authority shall publish a biennial report of the Emergency Medical Services and Trauma Systems Program and trauma systems activities. [1991 c.784 §3; 2009 c.595 §573]

431.630 [Repealed by 1961 c.610 §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 Trauma Registry; and

(b) The Emergency Medical Services and Trauma Systems Program confirms that the injury severity score, as defined by the Oregon Health Authority 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 Trauma Care Systems Planning and Development Act of 1990 (P.L. 101-590), 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 §4; 2009 c.595 §574; 2009 c.848 §2]

431.635 Release of information from Oregon Trauma Registry. (1) As used in this section, "individually identifiable information" means:

(a) Individually identifiable health information as that term is defined in ORS 179.505; and

(b) Information that could be used to identify a health care provider, ambulance

service medical transportation agency or health care facility.

(2) Notwithstanding ORS 431.627, individually identifiable information may be released from the Oregon Trauma Registry:

(a) For use in executive session to conduct specific case reviews by:

(A) The State Trauma Advisory Board or any area trauma advisory board;

(B) The State Emergency Medical Service Committee; or

(C) The Emergency Medical Services for Children Advisory Committee.

(b) For quality assurance or quality improvement purposes to an emergency medical services provider or a designated trauma center if the information is related to the treatment of an individual by the provider or center.

(c) To a person conducting research only if an institutional review board has approved the research in accordance with 45 C.F.R. part 46 and the person agrees to maintain the confidentiality of the information.

(3) The Oregon Health Authority may release only the minimum amount of individually identifiable information necessary to carry out the purposes for which it is released under this section. [2009 c.848 §4; 2009 c.848 §4a]

431.640 [Repealed by 1961 c.610 §18]

431.650 [Repealed by 1961 c.610 §18]

431.660 [Repealed by 1961 c.610 §18]

431.670 [Repealed by 1961 c.610 §18]

431.671 Emergency Medical Services for Children Program; duties of Oregon Health Authority. (1) Subject to available funding from gifts, grants or donations, the Emergency Medical Services for Children Program is established in the Oregon Health Authority. The Emergency Medical Services for Children Program shall operate in cooperation with the Emergency Medical Services and Trauma Systems Program to promote the delivery of emergency medical and trauma services to the children of Oregon.

(2) The Oregon Health Authority shall:

(a) Employ or contract with professional, technical, research and clerical staff as required to implement this section.

(b) Provide technical assistance to the State Trauma Advisory Board on the integration of an emergency medical services for children program into the statewide emergency medical services and trauma system.

(c) Provide advice and technical assistance to area trauma advisory boards on the integration of an emergency medical services for children program into area trauma system plans.

(d) Establish an Emergency Medical Services for Children Advisory Committee.

(e) Establish guidelines for:

(A) The approval of emergency and critical care medical service facilities for pediatric care, and for the designation of specialized regional pediatric critical care centers and pediatric trauma care centers.

(B) Referring children to appropriate emergency or critical care medical facilities.

(C) Necessary prehospital and other pediatric emergency and critical care medical service equipment.

(D) Developing a coordinated system that will allow children to receive appropriate initial stabilization and treatment with timely provision of, or referral to, the appropriate level of care, including critical care, trauma care or pediatric subspecialty care.

(E) Protocols for prehospital and hospital facilities encompassing all levels of pediatric emergency services, pediatric critical care and pediatric trauma care.

(F) Rehabilitation services for critically ill or injured children.

(G) An interfacility transfer system for critically ill or injured children.

(H) Initial and continuing professional education programs for emergency medical services personnel, including training in the emergency care of infants and children.

(I) A public education program concerning the Emergency Medical Services for Children Program including information on emergency access telephone numbers.

(J) The collection and analysis of statewide pediatric emergency and critical care medical services data from emergency and critical care medical service facilities for the purpose of quality improvement by such facilities, subject to relevant confidentiality requirements.

(K) The establishment of cooperative interstate relationships to facilitate the provision of appropriate care for pediatric patients who must cross state borders to receive emergency and critical care services.

(L) Coordination and cooperation between the Emergency Medical Services for Children Program and other public and private organizations interested or involved in emergency and critical care for children. [2001 c.717 §1; 2009 c.595 §575]

STROKE CARE

431.673 Stroke Care Committee. (1) The Stroke Care Committee is established under the Oregon Health Authority.

(2) The Director of the Oregon Health Authority shall appoint at least 10 members to serve on the committee as follows:

(a) Two physicians who specialize in the care of stroke patients, one of whom is a neurologist;

(b) One physician who specializes in emergency medicine;

(c) At least three hospital administrators, or designees of hospital administrators, of whom:

(A) At least one must be from a certified Comprehensive Stroke Center;

(B) One must be from a certified Primary Stroke Center; and

(C) One must be from a rural hospital that uses Telestroke;

(d) One nurse who is a stroke coordinator or who works in an emergency department and has experience treating stroke;

(e) One emergency medical services provider who works for a licensed ambulance service;

(f) One health practitioner who specializes in rehabilitative medicine; and

(g) One individual who has experience advocating for the care of stroke patients and who is not a health care provider.

(3) In appointing members under subsection (2) of this section, the director must consider the geographic diversity of this state and appoint members who are from rural areas.

(4) For the purpose of achieving continuous improvement in the quality of stroke care, the committee shall:

(a) Analyze data related to the prevention and treatment of strokes;

(b) Identify potential interventions to improve stroke care; and

(c) Advise the authority on meeting the objectives of the authority, including but not limited to the objectives of the emergency medical services and trauma system developed pursuant to ORS 431.575, that are related to stroke care.

(5) A majority of the members of the committee constitutes a quorum for the transaction of business.

(6) Official action taken by the committee requires the approval of a majority of the members of the committee.

(7) The committee shall elect a chairperson from among its members.

(8) The committee shall meet at the call of the chairperson or of a majority of the members of the committee.

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

(10) The term of office of each member of the committee is four years, but a member serves at the pleasure of the director. Before the expiration of the term of a member, the director shall appoint a successor whose term begins January 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the director shall make an appointment to become immediately effective for the unexpired term.

(11) Members of the committee are not entitled to compensation, but may be reimbursed from funds available to the authority, for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amounts provided for in ORS 292.495. [2013 c.339 §1]

Note: Section 2, chapter 339, Oregon Laws 2013, provides:

Sec.2. Notwithstanding the term of office specified by section 1 of this 2013 Act [431.673], of the members first appointed to the Stroke Care Committee:

(1) Three shall serve for a term ending January 1, 2015;

(2) Three shall serve for a term ending January 1, 2016;

(3) Three shall serve for a term ending January 1, 2017; and

(4) The remainder of the members shall serve for a term ending January 1, 2018. [2013 c.339 §2]

431.675 Oregon Health Authority duties; database; confidentiality. (1) The Oregon Health Authority shall, in accordance with recommendations made by the Stroke Care Committee established under ORS 431.673, establish and implement a plan for achieving continuous improvement in the quality of stroke care. In implementing the plan, the authority shall:

(a) Require hospitals certified as Comprehensive Stroke Centers or Primary Stroke Centers through the Joint Commission or an equivalent organization, and encourage all other hospitals, to submit stroke care data to a database designated by the authority. A hospital that submits stroke care data under this paragraph must authorize the keeper of the database to permit the authority to access the submitted data.

(b) Designate a statewide or national stroke database to which hospitals described in paragraph (a) of this subsection are required to submit, or may submit, stroke care data for the purpose of obtaining information and statistics on stroke care. In designating the database, the authority shall ensure that the database:

(A) Has security protections in place to safely protect individually identifiable information to the extent that the database receives and maintains such information; and

(B) Aligns with the core consensus stroke metrics developed and approved by the American Heart Association, the American Stroke Association, the Joint Commission and the Centers for Disease Control and Prevention.

(c) Develop a data oversight process in accordance with recommendations made by the Stroke Care Committee.

(2) In addition to the duties described in subsection (1) of this section, the authority shall:

(a) Coordinate with national health organizations involved in improving the quality of stroke care to avoid duplicative information and redundant processes.

(b) Use information related to stroke care and reported pursuant to subsection (1)(a) of this section to support improvement in the quality of stroke care in accordance with guidelines that meet or exceed nationally recognized standards established by the American Stroke Association.

(c) Encourage the sharing of information among health care providers on practices that improve the quality of stroke care.

(d) Facilitate communication about data trends and treatment developments among health care providers and coordinated care organizations that provide services related to stroke care.

(e) Provide stroke care data and recommend improvements for stroke care to coordinated care organizations.

(f) Not later than the beginning of each odd-numbered year regular session of the Legislative Assembly, prepare and submit to the Legislative Assembly a report in the manner provided in ORS 192.245 summarizing the authority's activities under this section.

(3)(a) Information submitted to the designated database and accessed by the authority under this section:

(A) Is confidential and not subject to disclosure under ORS 192.410 to 192.505;

(B) May be disclosed only as permitted in paragraph (b) of this subsection and in accordance with rules adopted by the authority under this section;

(C) Is not subject to civil or administrative subpoena; and

(D) Is nondiscoverable and inadmissible in a judicial, administrative, arbitration or mediation proceeding.

(b) Individually identifiable information and information that identifies a hospital described in subsection (1)(a) of this section may not be disclosed by the authority without the approval of the hospital that submitted the information. Only deidentified information may be disclosed by the authority under this section. [2013 c.339 §3]

STATEWIDE INJURY AND VIOLENCE PREVENTION PROGRAM

431.678 Oregon Health Authority powers; rules. (1) Subject to available funding, including gifts, grants or donations, the Oregon Health Authority shall establish and administer a statewide injury and violence prevention program. In administering the program, the authority may:

(a) Collect and analyze data on injury and violence, including but not limited to data from death certificates, emergency department records, hospitalization records, medical examiner and coroner records and police reports and surveys;

(b) Develop and revise, as necessary, a comprehensive state plan for injury and violence prevention;

(c) Provide technical support and training to communities, local health departments, state and local agencies, organizations and individuals;

(d) Prepare an annual report on injury and violence in Oregon;

(e) Conduct special studies of, collect data on and monitor and evaluate activities related to the risk factors, protective factors, causes and prevention of morbidity and mortality resulting from injury that occurs as a result of unintentional or undetermined causes, nonfatal self-harming behavior, suicide, assault or homicide;

(f) Work with researchers to enhance knowledge about reducing injury and violence in Oregon;

(g) Develop collaborative relationships with other state agencies and private and community organizations for the purpose of establishing programs that promote injury and violence prevention;

(h) Provide information to assist in the development of institutional and public policies that will reduce injury and violence;

(i) Collaborate with local public health authorities, persons providing emergency medical services, hospitals, law enforcement agencies, research institutions and other organizations to conduct studies of, collect data on and monitor and evaluate activities related to the causes and prevention of injury and violence;

(j) Publish compilations of data and reports about injury and violence, provided that the data and reports do not identify individual cases or sources of information; and

(k) Adopt rules as necessary to carry out this section.

(2) Notwithstanding subsection (1) of this section, the authority may not require a hospital, as defined in ORS 442.015, to report data to the authority under this section unless the authority is otherwise authorized to require the hospital to report the data to the authority under other state or federal law.

(3)(a) Except as provided in paragraph (c) of this subsection, all data collected pursuant to this section is:

(A) Confidential and not subject to public disclosure law under ORS 192.410 to 192.505; and

(B) Privileged.

(b) Except as required by the administration or enforcement of the public health laws of this state or rules adopted under the public health laws of this state, a public health official, employee or agent may not be examined in an administrative or judicial proceeding as to the existence or content of data collected pursuant this section.

(c) The authority shall adopt rules under which confidential data collected pursuant to this section may be requested by a third party for the purpose of conducting research and studies for the public good. Research and studies conducted using confidential data collected pursuant to this section must be reviewed and approved by a committee established for the protection of human research subjects pursuant to 45 C.F.R. 46.

(4) A person who furnishes information to the authority for a purpose described in this section is not civilly or criminally liable for any loss, damage or injury arising out of the furnishing of that information to the authority.

(5) The authority may accept gifts, grants or donations from any public or private source for the purpose of carrying out this section. Funds received under this subsection shall be deposited in the Oregon Health Authority Fund established under ORS 413.101 and are continuously appropriated to the authority for the purposes of carrying out this section. [2013 c.313 §1]

AUTOMATED EXTERNAL DEFIBRILLATORS

431.680 Automated external defibrillators required at health clubs; exception. (1) As used in this section, “health club” means an indoor facility:

(a) With the primary purpose of offering exercise or athletic activities that patrons or members may participate in for a fee; and

(b) That typically has at the facility on a regular business day 50 or more persons who are employees, patrons or members participating in the exercise or athletic activities offered at the facility.

(2) The owner of a health club shall have on the premises at all times at least one automated external defibrillator.

(3) Subsection (2) of this section does not apply to a facility owned by a hotel as defined in ORS 699.005. [2005 c.551 §6; 2010 c.27 §2; 2010 c.62 §5]

431.690 Automated external defibrillators required at places of public assembly; exceptions. (1) As used in this section, “place of public assembly” means a single building that has 50,000 square feet or more of indoor floor space and where:

(a)(A) The public congregates for purposes such as deliberation, shopping, entertainment, amusement or awaiting transportation; or

(B) Business activities are conducted; and

(b) At least 50 individuals congregate on a normal business day.

(2) Notwithstanding ORS 431.680 (3), the owner of a place of public assembly shall have on the premises at least one automated external defibrillator.

(3) Notwithstanding subsection (2) of this section:

(a) A community college or a public university listed in ORS 352.002 shall have at least one automated external defibrillator on the campus of the community college or public university; and

(b) If the campus of the community college or public university contains more than one place of public assembly, the community college or public university shall ensure that at least one automated external defibrillator is readily available to each place of public assembly.

(4) Subsection (2) of this section does not apply to a building primarily used for worship or education associated with worship. [2009 c.450 §1; 2010 c.27 §1; 2010 c.62 §6; 2011 c.637 §270]

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) “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.

(2) "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.

(3) "Commission" means the Environmental Quality Commission.

(4) "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.

(5) "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.

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

(7) "Service facilities" means water or sewer installations or works. [1973 c.361 §1; 1975 c.266 §1; 1981 c.452 §1; 1993 c.577 §20; 2001 c.900 §151; 2009 c.595 §576]

431.710 When Oregon Health Authority 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 Oregon Health Authority, 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 authority 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 authority

shall order the district to provide service facilities in the affected territory. [1973 c.361 §2; 1981 c.888 §3; 2009 c.595 §577]

431.715 Resolution requesting Oregon Health Authority 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 Oregon Health Authority 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 authority 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 authority.

(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 authority 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 §3; 1981 c.888 §4; 2009 c.595 §578]

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 §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 Oregon Health Authority.

(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 authority. 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 §4; 2009 c.595 §579]

431.725 Oregon Health Authority to review resolution; notice of hearing. (1) Upon receipt of the certified copy of a resolution adopted under ORS 431.715, the Oregon Health Authority 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 authority 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 authority 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 §5; 1981 c.452 §2; 2009 c.595 §580]

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 an administrative law judge assigned from the Office of Administrative Hearings established under ORS 183.605. It shall be conducted in accordance with the provisions of ORS chapter 183. The Oregon Health Authority 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 Director of the Oregon Health Authority according to rules of the authority to present written or oral arguments relative to the proposal. If a petition is received, the director may set a time and place for receipt of argument. [1973 c.361 §6; 1975 c.266 §2; 1999 c.849 §§81,82; 2003 c.75 §35; 2009 c.595 §581]

431.735 Director's authority under ORS 431.705 to 431.760. (1) If the Director of the Oregon Health Authority 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 director shall issue an order terminating the proceedings under ORS 431.705 to 431.760 with reference to the affected territory.

(2) If the 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 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 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 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 director.

(4) In determining whether to exclude any area the 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 §7; 1975 c.266 §3; 2009 c.595 §582]

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 Director of the Oregon Health Authority shall file the findings and order with such boundary commission. If the affected territory is not within the jurisdiction of a boundary commission, the director shall file the findings and order with the county court of the county having jurisdiction of the territory.

(2) The Oregon Health Authority 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 §8; 2009 c.595 §583]

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 Oregon Health Authority. 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 authority 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 authority also shall forward a copy of the petition to the requesting body and to the county court or boundary commission where the authority 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 §9; 1983 c.83 §84; 2009 c.595 §584]

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 Oregon Health Authority. 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 authority of its decision. The authority 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 nec-

essary 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 authority whether the requirements of subsection (2) of this section have been met. If the requirements have been met, the authority 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 authority 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 §10; 2009 c.595 §585]

431.755 [1973 c.361 §11; repealed by 1975 c.266 §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 §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 Director of the Oregon Health Authority is such a person, the director shall so inform the Governor, who shall appoint another person to fulfill the duties of the 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 §12; 2009 c.595 §586]

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 §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 §2]

Note: See note under 431.805.

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

SPECIAL PROGRAMS

431.823 Dense breast tissue; notice; rules. (1) A facility, as defined in 42 U.S.C. 263b, must provide written notice, in the form prescribed by the Oregon Health Authority under subsection (2) of this section, to a patient on whom the facility has performed a mammogram if the mammogram shows the patient has dense breast tissue.

(2) The authority shall prescribe by rule the form and content of the notice provided under subsection (1) of this section. The notice must include but is not limited to all of the following:

(a) Information about breast density, based on the Breast Imaging Reporting and Data System established by the American College of Radiology;

(b) An explanation that dense breast tissue can make it harder to find cancer on a mammogram and that dense breast tissue may also be associated with an increased risk of breast cancer;

(c) That the patient may benefit from supplementary screening or diagnostic testing including a breast ultrasound; and

(d) That the patient should contact the patient's health care provider to find out whether the health care provider recommends additional testing.

(3) The authority shall adopt by rule a definition of “dense breast tissue” and shall amend the definition whenever necessary to ensure that the definition is consistent with current medical evidence. [2013 c.411 §1]

Note: 431.823 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.

431.825 Fetal alcohol syndrome pamphlets. The Oregon Health Authority shall provide to the counties of this state pamphlets described in ORS 106.081. The authority 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 authority. [1987 c.340 §4; 2009 c.595 §588]

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 Oregon Health Authority 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 §2; 2009 c.595 §589]

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 programs. (1) The Oregon Health Authority shall establish an acquired immune deficiency syndrome program:

(a) To provide education and prevention services to its clients; and

(b) To provide education and prevention services to the public.

(2) Programs authorized by this section may be operated by the authority directly or under contract with public and private agencies. [1987 c.114 §1; 2001 c.900 §152; 2009 c.595 §590]

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 Oregon Health Authority 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 authority 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 §1; 2009 c.595 §591]

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 Oregon Health Authority for the funding of prevention and education programs designed to reduce cigarette and tobacco use. [1997 c.2 §13; 2009 c.595 §592]

Note: 431.832 to 431.836 were enacted into law but were not added to or made a part of 431.705 to 431.990 by law. See Preface to Oregon Revised Statutes for further explanation.

431.834 Oregon Health Authority to adopt rules; contents. The Oregon Health Authority 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 §14; 2009 c.595 §593]

Note: See note under 431.832.

431.836 Oregon Health Authority to prepare report. During each biennium, the Oregon Health Authority 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 authority 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 §15; 2009 c.595 §594]

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 bidis, 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 §1; 2001 c.187 §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 §2; 1991 c.970 §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 183.745. [1989 c.764 §§3,6; 1991 c.734 §20]

Note: See note under 431.840.

431.853 Random inspections of sellers of tobacco products; site; frequency; rules. (1) The Oregon Health Authority 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 Oregon Health Authority 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 §1; 2009 c.595 §595]

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 pursuant to ORS 305.690 to 305.753, 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 and Science 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 §3; 1989 c.987 §23; 1991 c.67 §113; 2007 c.822 §19]

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 and Science 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 §24]

Note: See note under 431.855.

MATERNAL MENTAL HEALTH

431.862 Maternal Mental Health Patient and Provider Education Program; informational materials. (1) The Maternal Mental Health Patient and Provider Education Program is created in the Oregon Health Authority. The goal of the program is to identify and address maternal mental health disorders and to prevent the associated long-term negative outcomes from the disorders that result for women, children and families.

(2) The authority shall develop informational materials for health care providers who serve pregnant and postpartum patients, including patients who have experienced a post-pregnancy loss. The informational mate-

rials must be based on the recommendations made in the report of the work group on maternal mental health disorders pursuant to section 1, chapter 624, Oregon Laws 2009.

(3) The authority shall post the informational materials developed under subsection (2) of this section to the authority's website to educate the public about maternal mental health disorders. [2011 c.220 §1]

Note: 431.862 to 431.866 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.

431.864 Dissemination of informational materials. (1) Physicians, nurse midwives and other licensed health care professionals who provide prenatal and postnatal care to patients may provide to each patient, and family members of the patient, if appropriate, the informational materials published by the Oregon Health Authority under ORS 431.862 or other maternal mental health education materials that are approved by the authority.

(2) Hospitals and other health care facilities that provide maternity care may give postnatal and post-pregnancy loss patients, and family members of the patients, if appropriate, prior to the discharge of the patient, the informational materials published by the authority under ORS 431.862 or other maternal mental health education materials that are approved by the authority. [2011 c.220 §2; 2013 c.1 §63]

Note: See note under 431.862.

431.866 Funding. The Oregon Health Authority is authorized to apply for federal grants that are available under 42 U.S.C. 280g-11, 711 and 712 or any other appropriate federal funding source, and may solicit private gifts, grants or donations to carry out the provisions of ORS 431.862. [2011 c.220 §3]

Note: Section 4, chapter 220, Oregon Laws 2011, provides:

Sec. 4. (1) ORS 431.862 and 431.864 become operative on the date that the Office of the Legislative Counsel receives written notice from the Oregon Health Authority indicating that the authority has received an amount of moneys under ORS 431.866 that is sufficient to carry out the provisions of ORS 431.862.

(2) The authority may take the actions described in ORS 431.866 before the operative date specified in subsection (1) of this section to obtain the moneys necessary to carry out the provisions of ORS 431.862.

(3) Until the operative date specified in subsection (1) of this section, the authority shall report on the actions taken by the authority pursuant to ORS 431.866 to the Joint Committee on Ways and Means at least once during an odd-numbered year regular session of the Legislative Assembly. [2011 c.220 §4; 2012 c.107 §4]

Note: See note under 431.862.

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 §2; 1995 c.278 §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 or any series therein 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 non-toxic 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 non-toxic 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 §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 §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. §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 §4]

Note: Section 7, chapter 915, Oregon Laws 1991, provides:

Sec. 7. (1) A manufacturer shall apply to the Poison Prevention Task Force on or before April 1, 1993, for an exemption from the requirements of this Act [431.870 to 431.915] for a toxic household product that contains chemicals in which any aversive agent would be nonsoluble, nondispersible, unstable or would interfere with the safety or function of the product.

(2) The task force may grant an exemption if the manufacturer demonstrates to the task force, and the task force finds, that the toxic household product meets the exemption criteria described in subsection (1) of this section. [1991 c.915 §7]

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 §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 and Science 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 Director of the Oregon Health Authority 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 §5; 2009 c.595 §596]

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 §8]

Note: See note under 431.870.

431.900 Reports to Legislative Assembly. 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 §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 §11; 1995 c.618 §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 §10]

Note: See first note under 431.885.

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 Oregon Health Authority.

(2) All civil penalties collected pursuant to subsection (1) of this section shall be deposited in the General Fund. [1991 c.915 §§12,13; 2009 c.595 §597]

Note: See note under 431.870.

LEAD-BASED PAINT ACTIVITIES

431.917 Lead poisoning. (1) Lead poisoning is a significant health concern because lead is a potent neurotoxin that affects every system of the human body. It is harmful to individuals of all ages and is especially harmful to children, fetuses and women of childbearing age. Lead poisoning is one of the most common and preventable pediatric health problems in Oregon.

(2) Common renovation activities such as sanding, cutting and demolition can create hazardous lead dust and chips by disturbing lead-based paint, which can be harmful to adults and children.

(3) The federal government assists states in preventing lead poisoning and reducing lead hazards through:

(a)(A) The Lead-Based Paint Poisoning Prevention Act;

(B) The Lead Contamination Control Act of 1988;

(C) The Safe Drinking Water Act; and

(D) The Resource Conservation and Recovery Act of 1976.

(b) Implementing regulations of:

(A) The Department of Housing and Urban Development;

(B) The Environmental Protection Agency;

(C) The Occupational Safety and Health Administration; and

(D) The Centers for Disease Control and Prevention.

(c) The Residential Lead-Based Paint Hazard Reduction Act of 1992, which:

(A) Requires that sellers and landlords of residential housing constructed before 1978 notify buyers and tenants of known lead-based paint hazards; and

(B) Allows states to receive authorization from the Environmental Protection Agency to provide for the accreditation of lead-based paint activities and renovation training programs, the certification of persons completing training programs and the certification of lead-based paint activities and renovation contractors pursuant to standards developed by the agency. [2009 c.757 §1]

Note: 431.917 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.

431.918 Definitions for ORS 431.920 and 431.922. As used in ORS 431.920 and 431.922:

(1) "Certified" and "certification" means an action by the Oregon Health Authority verifying the successful completion of a training program accredited by the authority and any other requirements.

(2) "Firm" has the meaning given that term in 40 C.F.R. 745.83 and as further defined pursuant to the authorities described in ORS 431.917.

(3) "Lead-based paint" has the meaning given that term in P.L. 102-550, section 1004, and as further defined pursuant to the authorities described in ORS 431.917.

(4) "Lead-based paint activities" has the meaning given that term in 40 C.F.R. 745.223 and as further defined pursuant to the authorities described in ORS 431.917.

(5) "Renovation" has the meaning given that term in 40 C.F.R. 745.83 and as further defined pursuant to the authorities described in ORS 431.917. [2009 c.757 §2; 2009 c.828 §65]

Note: 431.918 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.

431.920 Power of Oregon Health Authority to regulate lead-based paint activities; fees. (1) The Oregon Health Authority shall:

(a) Certify firms and individuals to perform lead-based paint activities;

(b) Certify firms to perform renovation;

(c) Accredit training providers to provide lead-based paint activities and renovation training;

(d) Develop and approve training programs for lead-based paint activities and renovation;

(e) Establish standards based on best practices for the conduct of lead-based paint inspections, risk assessment and abatement services, renovation activities that disturb lead-based paint and the disposal of lead-based paint that are in addition to, not inconsistent with and not in lieu of any other workplace standards required by law;

(f) Develop and conduct programs to screen blood lead levels, identify hazards and educate the public, including but not limited to parents, residential dwelling owners, pediatric medical providers and child care facility operators, about the dangers of lead-based paint and about appropriate precautions that may reduce the probability of childhood lead poisoning;

(g) Adopt rules necessary to implement the provisions of this section and ORS 431.922 and 431.994; and

(h) Establish fees sufficient to recover the costs of implementing the provisions of this section and ORS 431.922 and 431.994, including but not limited to fees for:

(A) Certification and recertification to perform lead-based paint activities and renovation; and

(B) Accreditation and reaccreditation of lead-based paint training providers.

(2) The Oregon Health Authority may:

(a) Enter private or public property at any reasonable time with consent of the owner or custodian of the property to inspect, investigate, evaluate or conduct tests or take specimens or samples for testing, as necessary to determine compliance with ORS 431.922;

(b) Issue subpoenas to determine compliance with ORS 431.922;

(c) Suspend, revoke or modify a certification to perform lead-based paint activities or renovation if the holder of the certification fails to comply with state or federal statutes or regulations related to lead-based paint; and

(d) Suspend, revoke or modify a certified renovator's certification if the renovator fails to comply with state or federal statutes or regulations related to lead-based paint. [1995 c.795 §6; 2009 c.595 §598; 2009 c.828 §66]

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.

431.922 Performance of lead-based paint activities without certification prohibited. (1) An individual may not perform or offer to perform, for compensation, lead-based paint activities unless the individual is certified as provided under ORS 431.920 or is performing lead-based paint activities under the supervision of a person certified under ORS 431.920.

(2) A firm may not perform, or offer to perform, lead-based paint activities or renovation unless the firm is certified as provided under ORS 431.920 or is performing lead-based paint activities or renovation under the supervision of a person certified under ORS 431.920. [2009 c.757 §4]

Note: 431.922 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.

431.925 [1991 c.619 §1; renumbered 453.726 in 2011]

431.926 Lead poisoning prevention clearinghouse for schools. (1) The Oregon Health Authority shall develop and maintain a lead poisoning prevention clearinghouse on its website for public and private schools that provide instruction at levels kindergarten through grade 12 in order to provide these schools with information about:

(a) The dangers to students posed by the exposure to lead; and

(b) How to best protect students from the hazards posed by lead-based paint.

(2) In order to provide the information described in subsection (1) of this section, the clearinghouse must include:

(a) Information about the adverse health effects from exposure to lead;

(b) Information about the common sources of exposure to lead;

(c) Tips regarding how to recognize hazards posed by lead-based paint;

(d) Information about how to safely paint, or renovate, a school and thereby prevent exposure to lead;

(e) A list of this state's laws and rules relating to lead-based paint;

(f) Tips about how to comply with this state's laws and rules relating to lead-based paint;

(g) Information about how to maintain a school and keep it safe from the dangers posed by lead-based paint; and

(h) Resources and education materials concerning how to prevent students from being exposed to lead-based paint. [2012 c.11 §1]

Note: 431.926 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.

431.930 [1991 c.619 §2; renumbered 453.727 in 2011]

431.935 [1991 c.619 §§3,4; renumbered 453.728 in 2011]

431.940 [1991 c.619 §5; 1993 c.728 §2; 2007 c.856 §1; 2009 c.595 §599; renumbered 453.729 in 2011]

431.945 [1991 c.619 §§6,7; 2009 c.595 §600; renumbered 453.730 in 2011]

431.950 [1991 c.619 §§9,13; 2009 c.595 §601; renumbered 453.731 in 2011]

431.955 [1991 c.619 §11; 2009 c.595 §602; renumbered 453.732 in 2011]

PRESCRIPTION MONITORING PROGRAM (Definitions)

431.960 Definitions for ORS 431.962 to 431.978 and 431.992. As used in ORS 431.962 to 431.978 and 431.992:

(1) "Dispense" and "dispensing" have the meanings given those terms in ORS 689.005.

(2) "Drug outlet" has the meaning given that term in ORS 689.005.

(3) "Health professional regulatory board" has the meaning given that term in ORS 676.160.

(4) "Practitioner" means:

(a) A practitioner as defined in ORS 689.005; or

(b) An individual licensed to practice a profession in California, Idaho or Washington, if the requirements for licensure are similar, as determined by the Oregon Health Authority, to the requirements for being licensed as a practitioner as defined in ORS 689.005.

(5) "Prescription" has the meaning given that term in ORS 475.005.

(6) "Prescription drug" has the meaning given that term in ORS 689.005. [2009 c.799 §1; 2013 c.550 §1]

Note: 431.960 to 431.978 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.

(Program)

431.962 Establishment of program; rules; report to commission. (1)(a) The Oregon Health Authority, in consultation with the Prescription Monitoring Program Advisory Commission, shall establish and maintain a prescription monitoring program for monitoring and reporting prescription drugs dispensed by pharmacies in Oregon that are classified in schedules II through IV under the federal Controlled Substances Act, 21 U.S.C. 811 and 812, as modified by the State Board of Pharmacy by rule under ORS 475.035.

(b)(A) To fulfill the requirements of this subsection, the authority shall establish, maintain and operate an electronic system to monitor and report drugs described in paragraph (a) of this subsection that are dispensed by prescription.

(B) The system must operate and be accessible by practitioners and pharmacies 24 hours a day, seven days a week.

(C) The authority may contract with a state agency or private entity to ensure the effective operation of the electronic system.

(2) In consultation with the commission, the authority shall adopt rules for the operation of the electronic prescription monitoring program established under subsection (1) of this section, including but not limited to standards for:

(a) Reporting data;

(b) Providing maintenance, security and disclosure of data;

(c) Ensuring accuracy and completeness of data;

(d) Complying with the federal Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191) and regulations adopted under it, including 45 C.F.R. parts 160 and 164, federal alcohol and drug treatment confidentiality laws and regulations adopted under those laws, including 42 C.F.R. part 2, and state health and mental health confidentiality laws, including ORS 179.505, 192.517 and 192.553 to 192.581;

(e) Ensuring accurate identification of persons or entities requesting information from the database;

(f) Accepting printed or nonelectronic reports from pharmacies that do not have the capability to provide electronic reports; and

(g) Notifying a patient, before or when a drug classified in schedules II through IV is dispensed to the patient, about the prescription monitoring program and the entry of the prescription in the system.

(3) The authority shall submit an annual report to the commission regarding the prescription monitoring program established under this section. [2009 c.799 §2; 2011 c.720 §184; 2013 c.550 §2]

Note: See note under 431.960.

431.964 Duty of pharmacy to report to program; exceptions. (1) Not later than one week after dispensing a prescription drug that is subject to the prescription monitoring program established under ORS 431.962, a pharmacy shall electronically report to the Oregon Health Authority:

(a) The name, address, date of birth and sex of the patient for whom the prescription drug was prescribed;

(b) The identity of the pharmacy that dispensed the prescription drug and the date on which the prescription drug was dispensed;

(c) The identity of the practitioner who prescribed the prescription drug and the date on which the prescription drug was prescribed;

(d) The national drug code number for the prescription drug;

(e) The prescription number assigned to the prescription drug;

(f) The quantity of the prescription drug dispensed;

(g) The number of days for which the prescription drug was dispensed; and

(h) The number of refills of the prescription authorized by the practitioner and the number of the refill that the pharmacy dispensed.

(2) Notwithstanding subsection (1) of this section, the authority may not:

(a) Require the reporting of prescription drugs administered directly to a patient or dispensed pursuant to ORS 127.800 to 127.897;

(b) Collect or use Social Security numbers in the prescription monitoring program; or

(c) Disclose under ORS 431.966 (2)(a) the sex of the patient for whom a drug was prescribed. The sex of the patient may be disclosed only for the purpose of research or epidemiological study under ORS 431.966 (2)(b).

(3) Upon receipt of the data reported pursuant to subsection (1) of this section, the authority shall record the data in the electronic system operated pursuant to the prescription monitoring program.

(4)(a) The authority may grant a pharmacy a waiver of the electronic submission requirement of subsection (1) of this section for good cause as determined by the authority. The waiver shall state the format, method and frequency of the alternate non-electronic submissions from the pharmacy and the duration of the waiver.

(b) As used in this subsection, "good cause" includes financial hardship.

(5) This section does not apply to pharmacies in institutions as defined in ORS 179.010. [2009 c.799 §3; 2011 c.720 §185; 2013 c.550 §3]

Note: See note under 431.960.

431.966 Disclosure of information; corrections; records; immunity from liability. (1)(a) Except as provided under subsection (2) of this section, prescription monitoring information submitted under ORS 431.964 to the prescription monitoring program established in ORS 431.962:

(A) Is protected health information under ORS 192.553 to 192.581.

(B) Is not subject to disclosure pursuant to ORS 192.410 to 192.505.

(b) Except as provided under subsection (2)(a)(E) of this section, prescription monitoring information submitted under ORS 431.964 to the prescription monitoring program may not be used to evaluate a practitioner's professional practice.

(2)(a) To the extent that the law or regulation is applicable to the prescription monitoring program, if a disclosure of prescription monitoring information, other than the sex of a patient for whom a drug was prescribed, complies with the federal Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191) and regulations adopted under it, including 45 C.F.R. parts 160 and 164,

federal alcohol and drug treatment confidentiality laws and regulations adopted under those laws, including 42 C.F.R. part 2, and state health and mental health confidentiality laws, including ORS 179.505, 192.517 and 192.553 to 192.581, the Oregon Health Authority shall disclose the information:

(A) To a practitioner or pharmacist, or, if a practitioner or pharmacist authorizes the authority to disclose the information to a member of the practitioner's or pharmacist's staff, to a member of the practitioner's or pharmacist's staff. If a practitioner or pharmacist authorizes disclosing the information to a member of the practitioner's or pharmacist's staff under this subparagraph, the practitioner or pharmacist remains responsible for the use or misuse of the information by the staff member. To receive information under this subparagraph, or to authorize the receipt of information by a staff member under this subparagraph, a practitioner or pharmacist must certify that the requested information is for the purpose of evaluating the need for or providing medical or pharmaceutical treatment for a patient to whom the practitioner or pharmacist anticipates providing, is providing or has provided care.

(B) To a practitioner in a form that catalogs all prescription drugs prescribed by the practitioner according to the number assigned to the practitioner by the Drug Enforcement Administration of the United States Department of Justice.

(C) To designated representatives of the authority or any vendor or contractor with whom the authority has contracted to establish or maintain the electronic system of the prescription monitoring program.

(D) Pursuant to a valid court order based on probable cause and issued at the request of a federal, state or local law enforcement agency engaged in an authorized drug-related investigation involving a person to whom the requested information pertains.

(E) To a health professional regulatory board that certifies in writing that the requested information is necessary for an investigation related to licensure, renewal or disciplinary action involving the applicant, licensee or registrant to whom the requested information pertains.

(F) To a prescription monitoring program of another state if the confidentiality, security and privacy standards of the requesting state are determined by the authority to be equivalent to those of the authority.

(G) To the State Medical Examiner or designee of the State Medical Examiner, for the purpose of conducting a medicolegal investigation or autopsy.

(b) The authority may disclose information from the prescription monitoring program that does not identify a patient, practitioner or drug outlet:

(A) For educational, research or public health purposes;

(B) To a local public health authority, as defined in ORS 431.260; or

(C) To officials of the authority who are conducting special epidemiologic morbidity and mortality studies in accordance with ORS 413.196 and rules adopted under ORS 431.110.

(c) The authority shall disclose information relating to a patient maintained in the electronic system operated pursuant to the prescription monitoring program established under ORS 431.962 to that patient at no cost to the patient within 10 business days after the authority receives a request from the patient for the information.

(d)(A) A patient may request the authority to correct any information about the patient that is erroneous. The authority shall grant or deny a request to correct information within 10 business days after the authority receives the request.

(B) If the authority denies a patient's request to correct information under this paragraph, or fails to grant a patient's request to correct information under this paragraph within 10 business days after the authority receives the request, the patient may appeal the denial or failure to grant the request. Upon receipt of an appeal under this subparagraph, the authority shall conduct a contested case hearing as provided in ORS chapter 183. Notwithstanding ORS 183.450, in the contested case hearing, the authority has the burden of establishing that the information included in the prescription monitoring program is correct.

(e) The information in the prescription monitoring program may not be used for any commercial purpose.

(f) In accordance with ORS 192.553 to 192.581 and federal privacy regulations, any person authorized to prescribe or dispense a prescription drug and who is entitled to access a patient's prescription monitoring information may discuss or release the information to other health care providers involved with the patient's care, in order to provide safe and appropriate care coordination.

(3)(a) The authority shall maintain records of the information disclosed through the prescription monitoring program including, but not limited to:

(A) The identity of each person who requests or receives information from the pro-

gram and the organization, if any, the person represents;

(B) The information released to each person or organization; and

(C) The date and time the information was requested and the date and time the information was provided.

(b) Records maintained as required by this subsection may be reviewed by the Prescription Monitoring Program Advisory Commission.

(4) Information in the prescription monitoring program that identifies an individual patient must be removed no later than three years from the date the information is entered into the program.

(5) The authority shall notify the Attorney General and each affected individual of an improper disclosure of information from the prescription monitoring program.

(6)(a) If the authority or a person or entity required to report or authorized to receive or release controlled substance prescription information under this section violates this section or ORS 431.964 or 431.968, a person injured by the violation may bring a civil action against the authority, person or entity and may recover damages in the amount of \$1,000 or actual damages, whichever is greater.

(b) Notwithstanding paragraph (a) of this subsection, the authority and a person or entity required to report or authorized to receive or release controlled substance prescription information under this section are immune from civil liability for violations of this section or ORS 431.964 or 431.968 unless the authority, person or entity acts with malice, criminal intent, gross negligence, recklessness or willful intent.

(7) Nothing in ORS 431.962 to 431.978 and 431.992 requires a practitioner or pharmacist who prescribes or dispenses a prescription drug to obtain information about a patient from the prescription monitoring program. A practitioner or pharmacist who prescribes or dispenses a prescription drug may not be held liable for damages in any civil action on the basis that the practitioner or pharmacist did or did not request or obtain information from the prescription monitoring program. [2009 c.799 §4; 2011 c.720 §186; 2013 c.550 §4]

Note: See note under 431.960.

431.968 Duty of pharmacist to fill prescription. A pharmacist may not refuse to fill a valid prescription solely because the pharmacist cannot receive patient information from the prescription monitoring program established under ORS 431.962 at the time the patient requests that the prescription be filled. [2009 c.799 §5]

Note: See note under 431.960.

431.970 Reports to health professional regulatory boards. If a practitioner or pharmacist authorized to obtain controlled substance prescription information from the prescription monitoring system established under ORS 431.962 discloses or uses information obtained from the system in violation of ORS 431.966, the Oregon Health Authority shall report the individual to the appropriate health professional regulatory board. [2009 c.799 §7; 2011 c.720 §187]

Note: See note under 431.960.

431.972 Fees. (1) As used in this section, “board” means:

- (a) The Oregon Medical Board;
- (b) The Oregon Board of Dentistry;
- (c) The Oregon Board of Naturopathic Medicine;
- (d) The Oregon State Board of Nursing;
- (e) The Oregon Board of Optometry; and
- (f) The State Board of Pharmacy.

(2)(a) In addition to other licensing fees imposed by a board on licensees, a board shall adopt rules imposing a fee of \$25 per year on each person licensed by the board who is authorized to prescribe or dispense controlled substances. A board shall collect the fee at the same time the board collects other licensing fees imposed on licensees.

(b) A board shall retain 10 percent of the fees collected under paragraph (a) of this subsection to cover the costs of accounting and collection of the fees.

(c) On the first day of each calendar quarter, a board shall transmit 90 percent of the fees collected under paragraph (a) of this subsection during the preceding calendar quarter to the Electronic Prescription Monitoring Fund established in ORS 431.974. [2009 c.799 §8]

Note: See note under 431.960.

431.974 Electronic Prescription Monitoring Fund. (1) The Electronic Prescription Monitoring Fund is established in the State Treasury, separate and distinct from the General Fund. The Electronic Prescription Monitoring Fund consists of moneys transmitted to the fund under ORS 431.972 and any other moneys deposited in accordance with law. Interest earned by the fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the Oregon Health Authority for the purpose of carrying out the provisions of ORS 431.962 to 431.978 and 431.992.

(2) The authority may accept grants, donations, gifts or moneys from any source for deposit into the fund established by this section. [2009 c.799 §11; 2011 c.720 §188]

Note: See note under 431.960.

(Commission)

431.976 Prescription Monitoring Program Advisory Commission; purposes; members. (1) The Prescription Monitoring Program Advisory Commission is created for the purposes of:

(a) Studying issues related to the prescription monitoring program established under ORS 431.962;

(b) Reviewing the program’s annual report and making recommendations to the Oregon Health Authority regarding the operation of the program; and

(c) Developing criteria used to evaluate program data.

(2) The commission shall consist of 11 members appointed by the authority as follows:

(a) A person nominated by the Pain Management Commission;

(b) A person who dispenses controlled substances nominated by an association representing pharmacists;

(c) A practicing dentist nominated by an association representing dentists;

(d) A practicing physician nominated by an association representing physicians;

(e) A practicing doctor of osteopathy nominated by an association representing osteopathic physicians and surgeons;

(f) A nurse authorized to prescribe controlled substances nominated by an association representing nurses;

(g) A practicing naturopathic physician nominated by an association representing naturopathic physicians;

(h) A practicing optometrist, nominated by an association representing optometrists;

(i) A representative of the authority with expertise in administering addiction services; and

(j) Two members of the public, one of whom must be an expert in information technology. [2009 c.799 §9; 2011 c.720 §189]

Note: See note under 431.960.

431.978 Term; meetings; rules; quorum; expenses. (1) The term of office of each member of the Prescription Monitoring Program Advisory Commission is four years, but a member serves at the pleasure of the Oregon Health Authority. Before the expiration of the term of a member, the authority shall appoint a successor whose term begins on July 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the authority shall make an appointment to become immediately effective.

(2) The commission shall elect one of its members to serve as chairperson.

(3) The commission shall meet at least once annually at a time and place specified by the chairperson of the commission. The commission may meet at other times and places specified by the call of the chairperson or of a majority of the members of the commission.

(4) The commission may adopt rules necessary for the operation of the commission.

(5) A majority of the members of the commission constitutes a quorum for the transaction of business.

(6) Official action by the commission requires the approval of a majority of the members of the commission.

(7) The authority shall provide staff support to the commission.

(8) Members of the commission are not entitled to compensation, but may be reimbursed for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amounts provided for in ORS 292.495. Claims for expenses incurred in performing functions of the commission shall be paid out of funds appropriated to the authority for that purpose.

(9) All agencies of state government, as defined in ORS 174.111, are directed to assist the commission in the performance of its duties and, to the extent permitted by laws relating to confidentiality, to furnish such information and advice as the members of the commission consider necessary to perform their duties. [2009 c.799 §10; 2011 c.720 §190]

Note: See note under 431.960.

PENALTIES

431.990 Penalties. Unless otherwise specifically provided by any other statute, failure to obey any rules relating to public health of the Oregon Health Authority or failure to obey any lawful written order relating to public health issued by the Director of the Oregon Health Authority or any district or county public health administrator is a Class A misdemeanor. [Amended by 1959 c.629 §46; 1961 c.610 §15; 1973 c.408 §34; 1973 c.829 §33; 1977 c.582 §32; 2001 c.900 §153; 2009 c.595 §603]

431.992 Civil penalty for violation of ORS 431.964 to 431.968. (1) In addition to any other penalty provided by law, the Attorney General may impose a civil penalty not to exceed \$10,000 for each violation of ORS 431.964, 431.966 or 431.968. Each improper release of information from the prescription monitoring program in violation of ORS 431.966 is a separate violation.

(2) Civil penalties under this section shall be imposed as provided in ORS 183.745.

(3) The Department of Justice may adopt rules as required to carry out the provisions of this section.

(4) Penalties recovered under this section shall be paid into the State Treasury and credited to the General Fund. [2009 c.799 §6]

431.994 Civil penalty for violation of ORS 431.920 or 431.922. (1) Any person who violates any provision of, or any rule adopted under, ORS 431.920 or 431.922 shall forfeit and pay to the Public Health Account established under ORS 431.210 a civil penalty of not more than \$5,000 for each violation. Moneys paid to the Public Health Account under this section may be used only for the purposes of lead poisoning prevention, including consumer and industry outreach, public education, blood lead screening and other activities.

(2) Civil penalties under this section shall be imposed as provided in ORS 183.745.

(3) A civil penalty imposed under this section is in addition to and not in lieu of any other penalty or sanction provided by law.

(4) The Oregon Health Authority shall report all civil penalties or sanctions imposed under this section or a rule adopted under ORS 431.920 to each of the following state agencies:

- (a) The Construction Contractors Board;
- (b) The Occupational Safety and Health Division of the Department of Consumer and Business Services; and
- (c) The Department of Environmental Quality. [2009 c.757 §5; 2009 c.828 §67]

Note: Sections 1 and 2, chapter 609, Oregon Laws 2013, provide:

Sec. 1. Task Force on the Future of Public Health Services. (1) The Task Force on the Future of Public Health Services is established, consisting of 15 members appointed as follows:

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

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

(c) The Governor shall appoint:

(A) One member who is a county commissioner;

(B) Two members who are county public health officials;

(C) One member with expertise and experience in local health care;

(D) Two members who represent local nonprofit entities that regularly work with public health departments; and

(E) One member who is an academic professional specializing in public health.

(d) The Director of the Oregon Health Authority shall appoint three at large members.

(e) The Director of Human Services shall appoint one at large member.

(2)(a) The task force shall study the regionalization and consolidation of public health services and the future of public health services in this state in order to make recommendations for legislation.

(b) The task force shall focus on recommendations that:

(A) Create a public health system for the future.

(B) Explore the creation of regional structures to provide public health services that are consistent with the distribution of population and established patterns of delivery of health care services.

(C) Enhance efficiency and effectiveness in the provision of public health services.

(D) Allow for appropriate partnerships with regional health care service providers and community organizations.

(E) Consider cultural and historical appropriateness.

(F) Are supported by best practices.

(3) The task force may inform its deliberations with the opinions and practices of nationally recognized experts and programs.

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

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

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

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

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

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

(10)(a) No later than October 1, 2014, the task force shall submit, in the manner provided by ORS 192.245, to an interim committee of the Legislative Assembly related to public health, a report relating to the future of public health services, including an exploration of the regionalization and consolidation of public health services.

(b) If the task force determines that legislation is necessary, the report shall contain recommendations for legislative concepts.

(11) The Oregon Health Authority shall provide staff support to the task force.

(12) Notwithstanding ORS 171.072, members of the task force who are members of the Legislative Assembly are not entitled to mileage expenses or a per diem and serve as volunteers on the task force. Other members of the task force are not entitled to compensation or reimbursement for expenses and serve as volunteers on the task force.

(13) All agencies of state government, as defined in ORS 174.111, are directed to assist the task force in the performance of its duties and, to the extent permitted by laws relating to confidentiality, to furnish such information and advice as the members of the task force consider necessary to perform their duties. [2013 c.609 §1]

Sec. 2. Section 1 of this 2013 Act is repealed on the date of the convening of the 2016 regular session of the Legislative Assembly as specified in ORS 171.010 [February 1, 2016]. [2013 c.609 §2]

