

Chapter 430

2003 EDITION

Administration; Alcohol and Drug Abuse Programs

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DEFINITIONS

430.010 Definitions. As used in ORS 430.010 to 430.050, 430.140 to 430.170, 430.265, 430.270 and 430.610 to 430.695:

(1) "Department" means the Department of Human Services.

(2) "Health facility" means a facility licensed as required by ORS 441.015 or a facility accredited by the Joint Commission on Accreditation of Hospitals, either of which provides full-day or part-day acute treatment for alcoholism, drug addiction or mental or emotional disturbance, and is licensed to admit persons requiring 24-hour nursing care.

(3) "Residential facility" or "day or partial hospitalization program" means a program or facility providing an organized full-day or part-day program of treatment. Such a program or facility shall be licensed, approved, established, maintained, contracted with or operated by the department under:

(a) ORS 430.265 to 430.380 and 430.610 to 430.880 for alcoholism;

(b) ORS 430.265 to 430.380, 430.405 to 430.565 and 430.610 to 430.880 for drug addiction; or

(c) ORS 430.610 to 430.880 for mental or emotional disturbance.

(4) "Outpatient service" means:

(a) A program or service providing treatment by appointment and by medical or osteopathic physicians licensed by the Board of Medical Examiners for the State of Oregon under ORS 677.010 to 677.450; psychologists licensed by the State Board of Psychologist Examiners under ORS 675.010 to 675.150; nurse practitioners registered by the Oregon State Board of Nursing under ORS 678.010 to 678.410; or clinical social workers licensed by the State Board of Clinical Social Workers under ORS 675.510 to 675.600; or

(b) A program or service providing treatment by appointment that is licensed, approved, established, maintained, contracted with or operated by the department under:

(A) ORS 430.265 to 430.380 and 430.610 to 430.880 for alcoholism;

(B) ORS 430.265 to 430.380, 430.405 to 430.565 and 430.610 to 430.880 for drug addiction; or

(C) ORS 430.610 to 430.880 for mental or emotional disturbance. [Derived from 1961 c.706 §§1, 37; 1969 c.597 §81; 1983 c.601 §1; 1987 c.411 §4; 1989 c.721 §52; 1991 c.292 §1; 2001 c.900 §132]

430.020 [1961 c.706 §2; 1965 c.339 §20; repealed by 1969 c.597 §82 (430.021 enacted in lieu of 430.020)]

MENTAL HEALTH AND DEVELOPMENTAL DISABILITY SERVICES

430.021 Functions of Department of Human Services. Subject to ORS 417.300 and 417.305:

(1) The Department of Human Services shall direct, promote, correlate and coordinate all the activities, duties and direct services for the mentally or emotionally disturbed, mentally retarded and developmentally disabled, alcoholic and drug-dependent persons; and promote, correlate and coordinate the mental health and developmental disabilities activities of all governmental organizations throughout the state in which there is any direct contact with mental health and developmental disabilities programs.

(2) The department shall develop cooperative programs with interested private groups throughout the state to effect better community awareness and action in the field of mental health and developmental disabilities, and encourage and assist in all necessary ways community general hospitals to establish psychiatric services.

(3) To the greatest extent possible, the least costly settings for treatment, outpatient services and residential facilities shall be widely available and utilized except when contraindicated because of individual health care needs. State agencies that purchase treatment for mental or emotional disturbances shall develop criteria consistent with this policy. In reviewing applications for certificates of need, the Director of Human Services shall take this policy into account.

(4) The department shall establish, coordinate, assist and direct a community mental health and developmental disabilities program in cooperation with local government units and integrate such a program with the total state mental and developmental disabilities health program.

(5) The department shall promote public education in the state concerning mental health and developmental disabilities and act as the liaison center for work with all interested public and private groups and agencies in the field of mental health and developmental disabilities services.

(6) The department shall accept the custody of persons committed to its care by the courts of this state. [1969 c.597 §83 (enacted in lieu of 430.020); 1973 c.795 §4; 1983 c.601 §4; 1987 c.660 §20; 1989 c.116 §3; 1989 c.834 §17; 1991 c.122 §8; 2001 c.900 §133]

430.030 Application of ORS 430.021. The enumeration of duties, functions and powers under ORS 430.021 shall not be deemed exclusive nor construed as a limita-

tion on the powers and authority vested in the Department of Human Services by other provisions of law. [1961 c.706 §3; 1969 c.597 §85]

430.040 [1961 c.706 §§6, 8(2); repealed by 1963 c.490 §1 (430.041 enacted in lieu of 430.040)]

430.041 [1963 c.490 §2 (enacted in lieu of 430.040); repealed by 2001 c.900 §261]

430.050 Mental Health Advisory Board; qualifications; duties; compensation and expenses; Disability Issues Advisory Committee. (1) The Director of Human Services, with the approval of the Governor, shall appoint at least 15 but not more than 20 members of a Mental Health Advisory Board, composed of both lay and professionally trained individuals, qualified by training or experience to study the problems of mental health and make recommendations for the development of policies and procedures with respect to the state mental health programs. The membership shall provide balanced representation of program areas and shall include persons who represent the interests of children. At least four members of the board shall be disabled persons who shall serve as the Disability Issues Advisory Committee which is hereby established. The members of the board shall serve for terms of four years and are entitled to compensation and expenses as provided in ORS 292.495. The director may remove any member of the board for misconduct, incapacity or neglect of duty.

(2) The Department of Human Services shall adopt rules specifying the duties of the board. In addition to those duties assigned by rule, the board shall assist the department in planning and preparation of administrative rules for the assumption of responsibility for psychiatric care in state and community hospitals by community mental health and developmental disabilities programs, in accordance with ORS 430.630 (3)(e).

(3) The board shall meet at least once each quarter.

(4) The director may make provision for technical and clerical assistance to the Mental Health Advisory Board and for the expenses of such assistance.

(5) The Disability Issues Advisory Committee shall meet at least once annually to make recommendations to the Mental Health Advisory Board.

(6) As used in this section, "disabled person" means any person who:

(a) Has a physical or mental impairment which substantially limits one or more major life activities;

(b) Has a record of such an impairment; or

(c) Is regarded as having such an impairment. [1961 c.706 §18; 1969 c.314 §36; 1969 c.597 §86; 1981 c.750 §12; 1989 c.116 §4; 1989 c.777 §1]

430.060 [1961 c.706 §9; repealed by 1963 c.490 §5]

430.065 Standards for insurance reimbursement treatment programs; application and certification fees. (1) In adopting rules pursuant to ORS 743.556 (3), the Department of Human Services may consider standards proposed by the American Association of Partial Hospitalization as one possible source for such rules. In addition, an insurer or insurers and the department may mutually develop agreements, standards and procedures for programs that are approved by the department and that provide alternative arrangements for supervision or for review of treatment plans to become qualified to receive payments for treatment.

(2) The Department of Human Services may require payment of an application fee and a certification fee for the approval of noninpatient programs described in ORS 743.556 (3) and (4).

(3) Subject to the review of the Oregon Department of Administrative Services, the Department of Human Services may establish any fees to be imposed under subsection (2) of this section. The fees and charges established under this section shall not exceed the cost of administering the regulatory program of the Department of Human Services pertaining to the purpose for which the fee or charge is established, as authorized by the Legislative Assembly for the department's budget, as the budget may be modified by the Emergency Board. [1991 c.654 §1; 2001 c.900 §134]

Note: 430.065 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 430 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

430.070 [1961 c.706 §10; repealed by 1963 c.490 §5]

430.080 [1961 c.706 §7; 1967 c.263 §1; 1973 c.697 §6; renumbered 430.270]

430.090 [1961 c.706 §8(1); renumbered 430.260]

430.095 [1969 c.637 §1; renumbered 430.265]

430.100 [1961 c.706 §19; 1967 c.263 §2; 1969 c.314 §37; 1969 c.597 §87; 1971 c.622 §5; 1973 c.697 §7; repealed by 1985 c.740 §18]

430.103 [1969 c.459 §1; 1971 c.484 §1; repealed by 1973 c.697 §21]

430.107 [1969 c.442 §3; repealed by 1973 c.697 §21]

430.110 [1961 c.706 §16; 1969 c.597 §88; 1973 c.247 §1; repealed by 2001 c.900 §261]

430.120 [1961 c.706 §17; 1963 c.471 §3; repealed by 1973 c.807 §4]

430.130 [1961 c.706 §12; repealed by 1963 c.490 §5]

430.140 Federal grants for promoting mental health. (1) The Department of Human Services is designated as the state agency to apply to and receive from the federal government or any agency thereof such

grants for promoting mental health, including grants for mental 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 department is designated the Mental Health Authority for the State of Oregon and 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, except the funds made available by the state for the care of dependent or delinquent children in public or private institutions.

(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. [1961 c.706 §15]

430.150 [1961 c.706 §§13,14; repealed by 1963 c.490 §5]

430.160 Federal funds deposited in special account. All funds applied for and received by the Department of Human Services and allotted to the state by the Surgeon General, the Treasury Department, or other agency of the United States for the construction and operation of community facilities in carrying out the state plan for the promotion of mental health and retardation services, shall be deposited with the State Treasurer and shall be credited to a special account in the State Treasury, separate from the General Fund, to be used as a depository for such federal funds. Such funds hereby are continuously appropriated and shall be expended solely for the purpose of construction and operation of community facilities and in accordance with the plan upon which the allotment to the state was based. [1965 c.557 §5]

430.165 Fee schedules; collection of fees; definition. The Department of Human Services may prescribe fee schedules for any of the programs that it establishes and operates under ORS 430.265, 430.306 to 430.375, 430.405, 430.415, 430.850 to 430.880, 813.500 and 813.510. The fees shall be charged and collected by the department in the same manner as charges are collected under ORS 179.610 to 179.770. When the department acts under this section, "person in a state institution" or "person at a state institution" or any similar phrase, as defined in ORS 179.610, includes a person who receives services from a program for which fee schedules are established under this section. [1975 c.181 §2; 1983 c.338 §927; 2001 c.900 §228]

430.170 Revolving fund. (1) On request of the Department of Human Services, the Oregon Department of Administrative Services shall draw on amounts appropriated to the Department of Human Services for operating expenses for use by the Department of Human Services as a revolving fund. The revolving fund shall not exceed the aggregate sum of \$25,000 including unreimbursed advances. The revolving fund shall be deposited with the State Treasurer to be held in a special account against which the Department of Human Services may draw checks. The Department of Human Services may establish petty cash funds within the revolving fund by drawing checks upon the revolving fund payable to the custodians of the petty cash funds.

(2) The revolving fund may be used by the Department of Human Services to pay incidental expenses for which the department has appropriated funds.

(3) Claims for reimbursement of amounts paid from the revolving fund shall be submitted to the Department of Human Services and the Oregon Department of Administrative Services for approval. When such claims have been approved by the Department of Human Services and the Oregon Department of Administrative Services, a payment covering them shall be drawn in favor of the Department of Human Services and charged against the appropriate fund or account, and shall be used to reimburse the revolving fund. [1971 c.306 §8; 1999 c.829 §5]

430.180 Mental Health and Developmental Disability Services Account. (1) There is established in the General Fund of the State Treasury an account to be known as the Mental Health and Developmental Disability Services Account, to which all reimbursements to the Department of Human Services for cost and care of persons in state programs collected pursuant to ORS 179.610 to 179.770, 426.241, 427.108 and 430.165 shall be deposited.

(2) The moneys in the Mental Health and Developmental Disability Services Account are hereby continuously appropriated to the Department of Human Services for the purposes of paying the expenses of those state programs and associated administrative costs for which revenues are collected pursuant to ORS 179.770, 426.241 and 430.165 and revenues collected for those programs established pursuant to ORS 427.104, 427.106 (1977 Replacement Part) and 427.108.

(3) The Department of Human Services shall keep a record of all moneys credited to and deposited in the Mental Health and Developmental Disability Services Account. The record shall indicate by separate cumulative

accounts the source from which the moneys are derived.

(4) In order to facilitate financing the costs advanced as set forth in subsection (2) of this section, the department may at any time during the biennium transfer to the Mental Health and Developmental Disability Services Account, with the approval of the Director of the Oregon Department of Administrative Services, such funds as it deems necessary, not to exceed \$4 million, from funds duly appropriated to the department for a biennial period. Such funds so transferred shall be retransferred from the Mental Health and Developmental Disability Services Account by the department to the appropriation from which the original transfer was made. The retransfers shall be accomplished prior to the last day of each biennial period. [1977 c.384 §2; 1989 c.116 §6; 2001 c.487 §15]

430.190 Mental Health and Developmental Disability Services Institution Account. There is hereby established in the General Fund the Mental Health and Developmental Disability Services Institution Account. Such amounts appropriated, collected or received by the Department of Human Services for the purpose of institution operations shall be available for deposit in the Mental Health and Developmental Disability Services Institution Account. The Mental Health and Developmental Disability Services Institution Account is continuously appropriated to the Department of Human Services for institution operations. [1983 c.562 §4; 1985 c.494 §4; 1989 c.116 §8; 2001 c.900 §232]

430.195 Department of Human Services receipt of funds for client use; disbursements from trust accounts; authority of other agencies. (1) The Department of Human Services may receive funds that are the property of the department's clients or are contributed for the use of the department's clients. The department shall deposit such funds in trust accounts established under ORS 293.445. Interest earned by a trust account shall be credited to the account.

(2) Disbursements from a trust account shall be made for purposes for which the contributions or payments were made to the department. When such purposes include the care or maintenance of a client, the department may reimburse itself for care and services provided to the client.

(3) The department may by interagency agreement authorize another state agency to exercise the authority granted under this section. Any system of accounts used for purposes of this subsection shall provide detailed accountability for each receipt and disbursement of funds for each client. The department shall remain accountable for the

proper handling of the trust accounts authorized by this section. [1999 c.829 §7]

Note: 430.195 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 430 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

430.205 Definitions for ORS 430.205 and 430.210. As used in this section and ORS 430.210:

(1) "Facility" means any of the following which are licensed or certified by the Department of Human Services or which contract with that department or a program for the provision of services:

(a) A health care facility as defined in ORS 442.015;

(b) A domiciliary care facility as defined in ORS 443.205;

(c) A residential facility as defined in ORS 443.400; or

(d) An adult foster home as defined in ORS 443.705.

(2) "Person" means an individual who has a mental illness or developmental disability and receives services from a program or facility.

(3) "Program" means a community mental health and developmental disabilities program as described in ORS 430.610 to 430.695 and agencies with which it contracts to provide services.

(4) "Services" means mental health and developmental disabilities services provided under ORS 430.630. [1993 c.96 §2]

430.210 Rights of persons receiving mental health or developmental disability services; status of rights. (1) While receiving services, every person shall have the right to:

(a) Choose from available services those which are appropriate, consistent with the plan developed in accordance with paragraphs (b) and (c) of this subsection and provided in a setting and under conditions that are least restrictive to the person's liberty, that are least intrusive to the person and that provide for the greatest degree of independence.

(b) An individualized written service plan, services based upon that plan and periodic review and reassessment of service needs.

(c) Ongoing participation in planning of services in a manner appropriate to the person's capabilities, including the right to participate in the development and periodic revision of the plan described in paragraph (b) of this subsection, and the right to be provided with a reasonable explanation of all service considerations.

(d) Not receive services without informed voluntary written consent except in a medical emergency or as otherwise permitted by law.

(e) Not participate in experimentation without informed voluntary written consent.

(f) Receive medication only for the person's individual clinical needs.

(g) Not be involuntarily terminated or transferred from services without prior notice, notification of available sources of necessary continued services and exercise of a grievance procedure.

(h) A humane service environment that affords reasonable protection from harm and affords reasonable privacy.

(i) Be free from abuse or neglect and to report any incident of abuse without being subject to retaliation.

(j) Religious freedom.

(k) Not be required to perform labor, except personal housekeeping duties, without reasonable and lawful compensation.

(L) Visit with family members, friends, advocates and legal and medical professionals.

(m) Exercise all rights set forth in ORS 426.385 and 427.031 if the individual is committed to the Department of Human Services.

(n) Be informed at the start of services and periodically thereafter of the rights guaranteed by this section and the procedures for reporting abuse, and to have these rights and procedures prominently posted in a location readily accessible to the person and made available to the person's guardian and any representative designated by the person.

(o) Assert grievances with respect to infringement of the rights described in this section, including the right to have such grievances considered in a fair, timely and impartial grievance procedure.

(p) Have access to and communicate privately with any public or private rights protection program or rights advocate.

(q) Exercise all rights described in this section without any form of reprisal or punishment.

(2) The rights described in this section are in addition to, and do not limit, all other statutory and constitutional rights which are afforded all citizens including, but not limited to, the right to vote, marry, have or not have children, own and dispose of property, enter into contracts and execute documents.

(3) The rights described in this section may be asserted and exercised by the person, the person's guardian and any representative designated by the person.

(4) Nothing in this section shall be construed to alter any legal rights and responsibilities between parent and child. [1993 c.96 §3]

430.215 Department of Human Services responsibility for developmental disability services and psychiatric treatment services for children. The Department of Human Services shall be responsible for:

(1) Planning, policy development, administration and delivery of services to children with developmental disabilities and their families. Services to children with developmental disabilities may include, but are not limited to, case management, family support, crisis and diversion services, intensive in-home services, and residential and foster care services; and

(2) Psychiatric residential and day treatment services for children with mental or emotional disturbances. [1993 c.676 §28(2); 1999 c.316 §1]

Note: 430.215 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 430 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

ALCOHOL AND DRUG ABUSE PREVENTION, INTERVENTION AND TREATMENT

430.240 Goal of treatment programs for drug-dependent persons. The Department of Human Services in developing treatment programs for drug-dependent persons shall develop programs that assist drug-dependent persons to become persons who are able to live healthy and productive lives without the use of any natural or synthetic opiates. [1991 c.574 §2]

Note: 430.240 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 430 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

430.250 Policy. (1) The Legislative Assembly recognizes that:

(a) Dependence on alcohol or other drugs is treatable and preventable;

(b) The Legislative Assembly has a responsibility to the citizens of the state to ensure that all related services and resources are provided in an effective and efficient manner; and

(c) State agencies are accountable to coordinate all related services to the maximum extent possible.

(2) The Governor's Council on Alcohol and Drug Abuse Programs, created pursuant to ORS 430.255, shall implement the state

policy as set forth in subsection (1) of this section by:

(a) Developing a statewide alcohol and other drug abuse plan that:

(A) Incorporates priorities and recommendations contained in the alcohol and drug abuse related components of each local coordinated comprehensive plan;

(B) Describes the need for services and the process by which state resources shall be prioritized in order to meet the demand for services for children and families;

(C) Sets forth principles to guide the state in purchasing alcohol and other drug abuse prevention materials and treatment services; and

(D) Recommends goals, specific priorities and programs for review by the Governor and the Legislative Assembly; and

(b) Monitoring those programs and financial efforts of the state which prevent, intervene in and treat alcohol and other drug problems for compliance with the approved statewide alcohol and drug abuse plan.

(3) The Legislative Assembly expects as a condition of budget approval that all appropriate state agencies work with and through the Governor's Council on Alcohol and Drug Abuse Programs to assist:

(a) In the preparation of the proposed statewide alcohol and drug abuse plan;

(b) In the implementation, monitoring and evaluation of the statewide plan approved by the Legislative Assembly; and

(c) In developing and implementing methods for evaluating the effectiveness and efficiency of their respective alcohol and drug abuse prevention, intervention or treatment or rehabilitation services, or any of them. [1985 c.740 §1; 1999 c.1053 §33]

Note: 430.250 to 430.257 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 430 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

430.255 Governor's Council on Alcohol and Drug Abuse Programs; qualifications; duties; compensation and expenses; removal. (1)(a) There is created in the office of the Governor the Governor's Council on Alcohol and Drug Abuse Programs. The council shall consist of not more than 11 members who are appointed by the Governor for terms of four years. Members are eligible for one reappointment. Members must be without conflicting interests and as representative as possible of:

(A) Geographic regions of the state;

(B) At-risk populations, including among others, youth, the elderly, minorities and women;

(C) Knowledgeable professionals, such as pharmacists, physicians, attorneys and the like who are not necessarily representatives of professional organizations, but who may be recovering;

(D) Knowledgeable nonprofessionals who may represent advocate groups and who may be recovering; and

(E) Local advisory groups.

(b) In addition to the members appointed to the council under paragraph (a) of this subsection, the council shall include:

(A) One member appointed by the President of the Senate, who shall be a member of the Senate and who shall be a nonvoting, advisory member; and

(B) One member appointed by the Speaker of the House of Representatives, who shall be a member of the House of Representatives and who shall be a nonvoting, advisory member.

(2) The duties of the Governor's Council on Alcohol and Drug Abuse Programs are to:

(a) Assess the economic and social impact of alcohol and drug abuse on the State of Oregon and report the findings and recommendations to the Governor by January 1 of each even-numbered year.

(b) Review and make recommendations to the Governor on the goals, financing, priorities and a state plan for prevention, intervention and treatment of alcohol and drug abuse problems, which encompasses all appropriate state agencies and is consistent with ORS 430.258, by January 1 of each even-numbered year.

(c) Review alcohol and drug abuse programs and make recommendations to the Governor on the effectiveness and priorities for improvements of all such prevention and treatment programs for alcohol and drug problems engaged in or financed through state agencies by January 1 of each even-numbered year.

(d) Review and approve the components of the local coordinated comprehensive plan created pursuant to ORS 417.775 that address alcohol and other drug prevention and treatment plans developed under ORS 430.258.

(e) Work to ensure broad-based citizen involvement in the planning and execution of the alcohol and drug prevention and treatment plans at both the state and local level.

(3) Members of the council are entitled to compensation and expenses as provided under ORS 292.495.

(4) The Governor may remove any member for misconduct, incapacity or neglect of duty.

(5) The Director of Human Services shall provide the technical and financial support as is required and authorized by the Legislative Assembly and as is necessary to carry out this section and ORS 409.010, 430.250, 430.257, 430.258, 430.259, 430.270, 430.290, 430.359, 430.368, 430.535 and 430.630. [1985 c.740 §4; 1999 c.1053 §34]

Note: See note under 430.250.

430.257 Legislative findings; comprehensive state plan; assistance for council.

(1) The Legislative Assembly finds that alcohol and other drug use, abuse and addiction:

(a) Pose significant social and public health problems for Oregon;

(b) Impact the budgets and workloads of state and local agencies that provide services for children and families and contribute to incidences of crime, violence, accidents and deaths, as well as reducing worker productivity; and

(c) Contribute substantially to the problems faced by a significant number of persons served by the Department of Human Services, Department of Corrections, Oregon Youth Authority, Juvenile Crime Prevention Advisory Committee and State Commission on Children and Families.

(2) The Department of Human Services, Department of Corrections, Oregon Youth Authority, Juvenile Crime Prevention Advisory Committee and State Commission on Children and Families shall contribute to the development of a comprehensive state plan for alcohol and other drug prevention, intervention and treatment services.

(3) The administrative heads of the Department of Education, Department of Human Services, Oregon State Police, Department of Transportation, Oregon Liquor Control Commission, Juvenile Crime Prevention Advisory Committee and State Commission on Children and Families shall each designate an individual, or in the instance of multidivisional departments, individuals, to serve as liaison to and assist the Governor's Council on Alcohol and Drug Abuse Programs in meeting the policies, duties and responsibilities set forth in this section and ORS 409.010, 430.250, 430.255, 430.258, 430.259, 430.270, 430.290, 430.359, 430.368, 430.535 and 430.630. [1985 c.740 §6; 1987 c.660 §21; 1991 c.453 §2; 1999 c.1053 §35; 2001 c.900 §135]

Note: See note under 430.250.

430.258 Statewide plan of services for alcohol and drug abuse prevention and treatment. The Governor's Council on Alcohol and Drug Abuse Programs shall prepare criteria and policies for a statewide plan of services for alcohol and other drug prevention and treatment for children and fami-

lies to guide local alcohol and drug councils. Local commissions on children and families shall incorporate alcohol and other drug prevention and treatment plans developed pursuant to this section into the local coordinated comprehensive plan created under ORS 417.775. The criteria and policies prepared for the statewide plan of services shall:

(1) Describe the need for prevention and treatment services and strategies, and the method by which state and federal resources shall be prioritized in order to meet the needs, including prevention and treatment for families with young children and adolescents;

(2) Set forth principles guiding the purchase of prevention and treatment services and strategies from local community providers;

(3) Identify outcomes for the provision of prevention and treatment services and strategies and a method for monitoring those outcomes;

(4) Identify consistent standards for measuring prevention and treatment provision and success;

(5) Outline a process for providing training and technical assistance to state and local community providers, including prevention and treatment for special needs populations; and

(6) Identify how prevention and treatment services and strategies will link to other services and supports for children and families. [1999 c.1053 §31]

430.259 State agencies to cooperate in plan. All state agencies providing alcohol and other drug prevention and treatment services and strategies, or purchasing prevention and treatment services and strategies from local community providers approved or licensed by the Department of Human Services, shall coordinate with the office to report expenditures and client data for the purposes of service capacity utilization and monitoring resources and outcomes coordination in the statewide plan of services and strategies for alcohol and other drug prevention and treatment for children and families prepared under ORS 430.258. [1999 c.1053 §32]

430.260 [Formerly 430.090; repealed by 2001 c.900 §261]

430.265 Contracts with federal government for services to alcohol and drug-dependent persons. The Department of Human Services is authorized to contract with the federal government for services to alcohol and drug-dependent persons who are either residents or nonresidents of the State of Oregon. [Formerly 430.095]

430.270 Publicizing effects of alcohol and drugs. The Department of Human Services, in consultation with the Governor's Council on Alcohol and Drug Abuse Programs, shall take such means as it considers most effective to bring to the attention of the general public, employers, the professional community and particularly the youth of the state, the harmful effects to the individual and society of the irresponsible use of alcoholic beverages, controlled substances and other chemicals, and substances with abuse potential. [Formerly 430.080; 1979 c.744 §23; 1985 c.740 §12]

430.290 Prevention of alcoholism and drug dependency. (1) The objective of this section is to prevent alcoholism and drug dependency.

(2) To carry out the objective of this section, the Department of Human Services shall:

(a) Consult with and be advised by the Governor's Council on Alcohol and Drug Abuse Programs and the Mental Health Advisory Board in identifying program priorities for the primary prevention of alcoholism and drug dependency.

(b) Solicit program proposals that address identified priorities from agencies, associations, individuals or any political subdivision of this state and award and distribute moneys under this section in accordance with the provisions of this section.

(3) Every applicant for a grant to develop a primary prevention of alcoholism program shall be assisted in its preparation by the local alcohol planning committee, if there be one, operating in the area to which the application relates. Every applicant shall establish to the satisfaction of the department that the committee was actively involved in the development and preparation of such program.

(4) Every grant applicant shall include the recommendations of the local alcohol planning committee, if there be one, operating in the area. The department shall take the recommendations of the local alcohol planning committee into consideration before making or refusing a grant. [1973 c.582 §§1,2; 1985 c.740 §13]

430.305 [1971 c.622 §2; repealed by 1973 c.682 §1 (430.306 enacted in lieu of 430.305)]

430.306 Definitions for ORS 430.315 to 430.335, 430.397 and 430.399. As used in ORS 430.315 to 430.335, 430.397 and 430.399, unless the context requires otherwise:

(1) "Alcoholic" means any person who has lost the ability to control the use of alcoholic beverages, or who uses alcoholic beverages to the extent that the health of the person or that of others is substantially im-

paired or endangered or the social or economic function of the person is substantially disrupted. An alcoholic may be physically dependent, a condition in which the body requires a continuing supply of alcohol to avoid characteristic withdrawal symptoms, or psychologically dependent, a condition characterized by an overwhelming mental desire for continued use of alcoholic beverages.

(2) "Applicant" means a city, county or any combination thereof.

(3) "Department" means the Department of Human Services.

(4) "Detoxification center" means a publicly or privately operated profit or nonprofit facility approved by the department that provides emergency care or treatment for alcoholics or drug-dependent persons.

(5) "Director of the treatment facility" means the person in charge of treatment and rehabilitation programs at a treatment facility.

(6) "Drug-dependent person" means one who has lost the ability to control the personal use of controlled substances or other substances with abuse potential, or who uses such substances or controlled substances to the extent that the health of the person or that of others is substantially impaired or endangered or the social or economic function of the person is substantially disrupted. A drug-dependent person may be physically dependent, a condition in which the body requires a continuing supply of a drug or controlled substance to avoid characteristic withdrawal symptoms, or psychologically dependent, a condition characterized by an overwhelming mental desire for continued use of a drug or controlled substance.

(7) "Halfway house" means a publicly or privately operated profit or nonprofit, residential facility approved by the department that provides rehabilitative care and treatment for alcoholics or drug-dependent persons.

(8) "Local alcoholism planning committee" means a committee appointed or designated by the county governing body under ORS 430.342.

(9) "Other treatment facility" includes outpatient facilities, inpatient facilities and such other facilities as the department determines suitable, any of which may provide diagnosis and evaluation, medical care, detoxification, social services or rehabilitation for alcoholics or drug-dependent persons and which operate in the form of a general hospital, a state hospital, a foster home, a hostel, a clinic or other suitable form approved by the department. [1973 c.682

§1a (enacted in lieu of 430.305); 1977 c.856 §2; 1979 c.744 §24; 1987 c.61 §1; 2001 c.900 §136]

430.310 [1961 c.706 §21; repealed by 1963 c.490 §5]

430.315 Policy. The Legislative Assembly finds alcoholism or drug dependence is an illness. The alcoholic or drug-dependent person is ill and should be afforded treatment for that illness. To the greatest extent possible, the least costly settings for treatment, outpatient services and residential facilities shall be widely available and utilized except when contraindicated because of individual health care needs. State agencies that purchase treatment for alcoholism or drug dependence shall develop criteria consistent with this policy in consultation with the Department of Human Services. In reviewing applications for certificate of need, the Director of Human Services shall take this policy into account. [1971 c.622 §1; 1973 c.795 §5; 1983 c.601 §3; 1987 c.660 §22; 2001 c.900 §137]

430.320 [1961 c.706 §22; repealed by 1963 c.490 §5]

430.325 Prohibitions on local governments as to certain crimes. (1) A political subdivision in this state shall not adopt or enforce any local law or regulation that makes any of the following an offense, a violation or the subject of criminal or civil penalties or sanctions of any kind:

(a) Public intoxication.

(b) Public drinking, except as to places where any consumption of alcoholic beverages is generally prohibited.

(c) Drunk and disorderly conduct.

(d) Vagrancy or other behavior that includes as one of its elements either drinking alcoholic beverages or using controlled substances in public, being an alcoholic or a drug-dependent person, or being found in specified places under the influence of alcohol or controlled substances.

(e) Using or being under the influence of controlled substances.

(2) Nothing in subsection (1) of this section shall affect any local law or regulation of any political subdivision in this state against driving while under the influence of intoxicants, as defined in ORS 813.010, or other similar offenses that involve the operation of motor vehicles. [1971 c.622 §3; 1973 c.795 §6; 1975 c.715 §1; 1977 c.745 §39; 1983 c.338 §928]

430.330 [1961 c.706 §23; repealed by 1963 c.490 §5]

430.335 Authority of Department of Human Services relating to alcohol and drug dependence. Subject to the availability of funds therefor, the Department of Human Services may:

(1) Provide directly through publicly operated treatment facilities, which shall not be considered to be state institutions, or by contract with publicly or privately operated

profit or nonprofit treatment facilities, for the care of alcoholics or drug-dependent persons.

(2) Sponsor and encourage research of alcoholism and drug dependence.

(3) Seek to coordinate public and private programs relating to alcoholism and drug dependence.

(4) Apply for federally granted funds available for study or prevention and treatment of alcoholism and drug dependence. [1971 c.622 §4; 1973 c.795 §7; 1987 c.61 §2]

430.338 Purposes of laws related to alcoholism. The purposes of ORS 430.306, 430.338 to 430.380, 471.810, 473.030 and 473.050 are:

(1) To encourage local units of government to provide treatment and rehabilitation services to persons suffering from alcoholism;

(2) To foster sound local planning to address the problem of alcoholism and its social consequences;

(3) To promote a variety of treatment and rehabilitation services for alcoholics designed to meet the therapeutic needs of diverse segments of a community's population, recognizing that no single approach to alcoholism treatment and rehabilitation is suitable to every individual;

(4) To increase the independence and ability of individuals recovering from alcoholism to lead satisfying and productive lives, thereby reducing continued reliance upon therapeutic support;

(5) To insure sufficient emphasis upon the unique treatment and rehabilitation needs of minorities; and

(6) To stimulate adequate evaluation of alcoholism treatment and rehabilitation programs. [1977 c.856 §1]

Note: 430.338 and 430.342 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 430 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

430.340 [1961 c.706 §11; repealed by 1963 c.490 §5]

430.342 Local alcoholism planning committees; duties; members. (1) The governing body of each county or combination of counties in a mental health administrative area, as designated by the Department of Human Services shall appoint a local alcoholism planning committee or shall designate an already existing body to act as the local alcoholism planning committee.

(2) The committee shall identify needs and establish priorities for alcoholism services. In doing so, it shall coordinate its activities with existing community mental health planning bodies.

(3) Members of the committee shall be representative of the geographic area and shall be persons with interest or experience in developing programs dealing with alcohol problems. The membership of the committee shall include a number of minority members which reasonably reflects the proportion of the need for alcoholism treatment and rehabilitation services of minorities in the community. [1977 c.856 §3; 2001 c.899 §3]

Note: See note under 430.338.

430.345 Grants for alcohol and drug abuse prevention, intervention and treatment. Upon application therefor, the Department of Human Services may make grants from funds specifically appropriated for the purposes of carrying out ORS 430.345 to 430.380 to any applicant for the establishment, operation and maintenance of alcohol and drug abuse prevention, early intervention and treatment services. When necessary, a portion of the appropriated funds may be designated by the division for training and technical assistance, or additional funds may be appropriated for this purpose. Alcohol and drug abuse prevention, early intervention and treatment services shall be approved if the applicant establishes to the satisfaction of the department:

(1) The adequacy of the services to accomplish the goals of the applicant and the program goals are consonant with the purposes of ORS 430.306, 430.338 to 430.380, 471.810, 473.030 and 473.050 and goals of the State Plan for Alcohol Problems.

(2) The community need for the services as documented in the annual community mental health plan.

(3) That an appropriate operating relationship exists, or will exist with other community facilities able to assist in providing alcohol and drug abuse prevention, early intervention and treatment services, including nearby detoxification centers and half-way houses.

(4) That the services comply with the rules adopted by the department pursuant to ORS 430.357. [1973 c.682 §3; 1977 c.856 §4; 1987 c.53 §1]

430.347 Definitions for ORS 430.345 to 430.380. As used in ORS 430.345 to 430.380:

(1) "Applicant" means a county or combination of counties.

(2) "Minorities" means persons who are:

(a) Black Americans or persons having origins in any of the black racial groups of Africa.

(b) Hispanic Americans or persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.

(c) Native Americans or persons who are American Indian, Eskimo, Aleut or Native Hawaiian.

(d) Asian-Pacific Americans or persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the United States Trust Territories of the Pacific or the Northern Marianas.

(e) Asian-Indian Americans or persons whose origins are from India, Pakistan or Bangladesh.

(3) "Minority program" is a treatment and rehabilitation program that provides services primarily to minorities and that is intended to present treatment and rehabilitation opportunities designed to meet the particular needs of minorities, whether by its geographic location, methods of treatment or other factors. [1975 c.424 §7; 1977 c.856 §5; 1987 c.53 §2; 1987 c.167 §1]

430.350 Assistance and recommendation of local planning committee. (1)

Every applicant for a grant made under ORS 430.345 to 430.380 shall be assisted in the preparation and development of alcohol and drug abuse prevention, early intervention and treatment services by the local planning committee operating in the area to which the application relates. Every application shall establish to the satisfaction of the Department of Human Services that the committee was actively involved in the development and preparation of such program.

(2) The department shall require of every applicant for a grant made under ORS 430.345 to 430.380 the recommendation of the local planning committee in the area to which the application relates. The department shall take such recommendation into consideration before making or refusing grants under ORS 430.345 to 430.380. [1973 c.682 §4; 1977 c.856 §6; 1987 c.53 §3]

430.355 Grant application may cover more than one service.

An application for funds under ORS 430.345 to 430.380 may contain requests for funds to establish, operate and maintain any number of alcohol and drug abuse prevention, early intervention and treatment services. [1973 c.682 §5; 1977 c.856 §7; 1987 c.53 §4]

430.357 Rules for ORS 430.345 to 430.380. (1)

The Department of Human Services shall make all necessary and proper rules governing the administration of ORS 430.345 to 430.380, including but not limited to standards, consistent with modern knowledge about alcohol and drug abuse prevention, early intervention and treatment services.

(2) All standards and guidelines adopted by the Department of Human Services to

implement programs authorized under ORS 430.345 to 430.380 shall be adopted as rules pursuant to ORS chapter 183 regardless of whether they come within the definition of rule in ORS 183.310 (8). [Formerly 430.360; 1985 c.565 §70; 1987 c.53 §5]

430.359 Funding of services. (1) Upon approval of an application, the Department of Human Services shall enter into a matching fund relationship with the applicant. In all cases the amount granted by the department under the matching formula shall not exceed 50 percent of the total estimated costs, as approved by the department, of the alcohol and drug abuse prevention, early intervention and treatment services.

(2) The amount of state funds shall be apportioned among the applicants according to the community need of the applicant for services as compared with the community needs of all applicants. In evaluating the community needs of the applicant, the department, in consultation with the Governor's Council on Alcohol and Drug Abuse Programs, shall give priority consideration to those applications that identify and include alcohol and drug abuse prevention, early intervention and treatment services aimed at providing services to minorities with a significant population of affected persons. The funds granted shall be distributed monthly.

(3) Federal funds at the disposal of an applicant for use in providing alcohol and drug abuse prevention, early intervention and treatment services may be counted toward the percentage contribution of an applicant.

(4) An applicant that is, at the time of a grant made under this section, expending funds appropriated by its governing body for the alcohol and drug abuse prevention, early intervention and treatment services shall, as a condition to the receipt of funds under this section, maintain its financial contribution to these programs at an amount not less than the preceding year. However, the financial contribution requirement may be waived in its entirety or in part in any year by the Department of Human Services because of:

(a) The severe financial hardship that would be imposed to maintain the contribution in full or in part;

(b) The application of any special funds for the alcohol and drug abuse prevention, early intervention and treatment services in the prior year when such funds are not available in the current year;

(c) The application of federal funds, including but not limited to general revenue sharing, distributions from the Oregon and California land grant fund and block grant funds to the alcohol and drug abuse pre-

vention, early intervention and treatment services in the prior year when such funds are not available for such application in the current year; or

(d) The application of fund balances resulting from fees, donations or underexpenditures in a given year of the funds appropriated to counties pursuant to ORS 430.380 (2) to the alcohol and drug abuse prevention, early intervention and treatment services in the prior year when such funds are not available for such application in the current year.

(5) Any moneys received by an applicant from fees, contributions or other sources for alcohol and drug abuse prevention, early intervention and treatment services for service purposes, including federal funds, shall be considered a portion of an applicant's contribution for the purpose of determining the matching fund formula relationship. All moneys so received shall only be used for the purposes of carrying out ORS 430.345 to 430.380.

(6) Grants made pursuant to ORS 430.345 to 430.380 shall be paid from funds specifically appropriated therefor and shall be paid in the same manner as other claims against the state are paid. [Formerly 430.365; 1985 c.517 §1; 1985 c.740 §14; 1987 c.53 §6]

430.360 [1973 c.682 §6; 1977 c.856 §9; renumbered 430.357]

430.362 Application requirements for priority consideration. (1) To receive priority consideration under ORS 430.359 (2), an applicant shall clearly set forth in its application:

(a) The number of minorities within the county with significant populations of affected persons and an estimate of the nature and extent of the need within each minority population for alcohol and drug abuse prevention, early intervention and treatment services; and

(b) The manner in which the need within each minority population is to be addressed, including support for minority programs under the application.

(2) Minority program funding proposals included within an application must be clearly identified as minority programs and must include distinct or severable budget statements.

(3) Nothing in this section is intended to preclude any minority program from being funded by a city or county or to preclude any other program from serving the needs of minorities. [1977 c.856 §10; 1987 c.53 §7]

430.364 Consideration given requests for priority. Within the limits of available funds, in giving priority consideration under

ORS 430.359 (2), the Department of Human Services shall:

(1) Identify all applications containing funding proposals for minority programs and assess the extent to which such funding proposals address the needs of minorities as stated in ORS 430.362, adjusting such amounts as it deems justified on the basis of the facts presented for its consideration and such additional information as may be necessary to determine an appropriate level of funding for such programs, and award such funds to those applicants for the purposes stated in the application; and

(2) After making a determination of the appropriate level of funding minority programs under subsection (1) of this section, assess the remaining portions of all applications containing minority program funding proposals together with applications which do not contain funding proposals for minority programs on the basis of the remaining community need stated in ORS 430.345, adjusting such amounts as it deems justified on the basis of the facts presented for its consideration and such additional information as may be necessary to determine an appropriate level of funding such programs, and award such funds to those applicants. [1977 c.856 §11]

430.365 [1973 c.682 §§7,11; 1975 c.424 §8; 1977 c.856 §9; renumbered 430.359]

430.366 Requirements for service proposals. (1) Every proposal for alcohol and drug abuse prevention, early intervention and treatment services received from an applicant shall contain:

(a) A clear statement of the goals and objectives of the program for the following fiscal year, including the number of persons to be served and methods of measuring the success of services rendered;

(b) A description of services to be funded; and

(c) A statement of the minorities to be served, if a minority program.

(2) Thirty days before the end of each fiscal year, every service funded under ORS 430.306, 430.338 to 430.380, 471.810, 473.030 and 473.050 shall file a concise progress report with the Department of Human Services, including a narrative statement of progress made in meeting its goals and objectives for the year.

(3) The department shall assemble all progress reports received in each biennium and transmit them to the succeeding session of the Legislative Assembly. [1977 c.856 §12; 1987 c.53 §8]

430.368 Appeal and review of funding requests; conclusiveness of review. (1) Any alcohol and drug abuse prevention, early intervention and treatment service, including

but not limited to minority programs, aggrieved by any final action of an applicant with regard to requesting funding for the program from the Department of Human Services, may appeal the applicant's action to the Director of Human Services within 30 days of the action. For the purposes of this section "final action" means the submission of the applicant's compiled funding requests to the department. The director shall review, in consultation with the Governor's Council on Alcohol and Drug Abuse Programs, all appealed actions for compliance with the purposes and requirements of ORS 430.306, 430.338 to 430.380, 471.810, 473.030 and 473.050, including but not limited to ORS 430.338 (5).

(2) The director shall act on all appeals within 60 days of filing, or before the time of the department's decision on the applicant's funding request, whichever is less. The director is not required to follow procedures for hearing a contested case, but shall set forth written findings justifying the action. The decision of the director shall be final, and shall not be subject to judicial review. [1977 c.856 §13; 1983 c.740 §15; 1987 c.53 §9; 2003 c.14 §239]

430.370 County contracts for services; joint county-city operation. (1) A county may provide alcohol and drug abuse prevention, early intervention and treatment services by contracting therefor with public or private, profit or nonprofit agencies. A county entering into such a contract shall receive grants under ORS 430.345 to 430.380 only if the contracting agency meets the requirements of ORS 430.345.

(2) A city and county, or any combination thereof, may enter into a written agreement, as provided in ORS 190.003 to 190.620, jointly to establish, operate and maintain alcohol and drug abuse prevention, early intervention and treatment services. [1973 c.682 §§8, 9; 1977 c.856 §14; 1987 c.53 §10; 1987 c.61 §3]

430.375 Fee schedule. The Department of Human Services shall recommend fee schedules to be used in determining the dollar fee to charge a person admitted to approved alcohol and drug abuse prevention, early intervention and treatment services for the expenses incurred by the service in offering alcohol and drug abuse prevention, early intervention and treatment services. An individual facility may adopt the schedules developed by the department or may, subject to the approval of the department, develop and adopt its own fee schedules. The fee schedules adopted by each facility shall be applied uniformly to all persons admitted to the facility and shall be based on the costs of a person's alcohol and drug abuse prevention, early intervention and treatment services and the ability of the person to pay.

The person admitted shall be liable to the facility only to the extent indicated by the fee schedules. [1973 c.682 §10; 1977 c.856 §15; 1987 c.53 §11]

430.380 Mental Health Alcoholism and Drug Services Account; uses. (1) There is established in the General Fund of the State Treasury an account to be known as the Mental Health Alcoholism and Drug Services Account. Moneys deposited in the account are continuously appropriated for the purposes of ORS 430.345 to 430.380. Moneys deposited in the account may be invested in the manner prescribed in ORS 293.701 to 293.820.

(2) Forty percent of the moneys in the Mental Health Alcoholism and Drug Services Account shall be continuously appropriated to the counties on the basis of population. The counties must use the moneys for the establishment, operation and maintenance of alcohol and drug abuse prevention, early intervention and treatment services and for local matching funds under ORS 430.345 to 430.380.

(3) Forty percent of the moneys shall be continuously appropriated to the Department of Human Services to be used for state matching funds to counties for alcohol and drug abuse prevention, early intervention and treatment services pursuant to ORS 430.345 to 430.380.

(4) Twenty percent of the moneys shall be continuously appropriated to the Department of Human Services to be used for alcohol and drug abuse prevention, early intervention and treatment services for inmates of correctional and penal institutions and for parolees therefrom and for probationers as provided pursuant to rules of the department. However, prior to expenditure of moneys under this subsection, the department must present its program plans for approval to the appropriate legislative body which is either the Joint Ways and Means Committee during a session of the Legislative Assembly or the Emergency Board during the interim between sessions. [1975 c.424 §5; 1977 c.856 §16; 1987 c.53 §12]

430.385 Construction. Nothing in ORS 430.347, 430.359, 430.380, 471.805, 471.810, 473.030 or this section shall be construed as justification for a reduction in General Fund support of local alcohol and drug abuse prevention, early intervention and treatment services. [1975 c.424 §1; 1987 c.53 §13]

430.395 Funding of regional centers for treatment of drug and alcohol dependent adolescents; rules; criteria for areas served by centers. (1) Subject to the availability of funds, the Department of Human Services may fund regional centers for the treatment of adolescents with drug and alcohol dependencies.

(2) The Department of Human Services shall define by rule a minimum number of inpatient beds and outpatient slots necessary for effective treatment and economic operation of any regional center funded by state funds.

(3) The areas to be served by any treatment facility shall be determined by the following:

(a) Areas that demonstrate the most need;

(b) Areas with no treatment program or an inadequate program; and

(c) Areas where there is strong, organized community support for youth treatment programs.

(4) The area need is determined by:

(a) Current area youth admissions to treatment programs;

(b) Per capita consumption of alcohol in the area;

(c) Percentage of area population between 10 and 18 years of age;

(d) Whether the area has effective, specialized outpatient and early intervention services in place;

(e) Whether the area suffers high unemployment and economic depression; and

(f) Other evidence of need.

(5) As used in this section, "regional center" means a community residential treatment facility including intensive residential and outpatient care for adolescents with drug and alcohol dependencies. [1989 c.997 §1]

Note: 430.395 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 430 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

430.397 Voluntary admission of person to treatment facility; notice to parent or guardian. Any person may voluntarily apply for admission to any treatment facility, as defined in ORS 430.306, operated pursuant to rules of the Department of Human Services. The director of the treatment facility shall determine whether the person shall be admitted as a patient, or referred to another appropriate treatment facility or denied referral or admission. If the person is under 18 years of age or an incompetent, the director of the treatment facility shall notify the person's parents or guardian of the admission or referral. [Formerly 426.450]

Note: 430.397 to 430.401 were added to and made a part of ORS chapter 426 by legislative action but were not added to ORS chapter 430 or any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

430.399 When person must be taken to treatment facility; admission or referral; when jail custody may be used; confidentiality of records. (1) Any person who is intoxicated or under the influence of controlled substances in a public place may be taken or sent home or to a treatment facility by the police. However, if the person is incapacitated, the health of the person appears to be in immediate danger, or the police have reasonable cause to believe the person is dangerous to self or to any other person, the person shall be taken by the police to an appropriate treatment facility. A person shall be deemed incapacitated when in the opinion of the police officer or director of the treatment facility the person is unable to make a rational decision as to acceptance of assistance.

(2) The director of the treatment facility shall determine whether a person shall be admitted as a patient, or referred to another treatment facility or denied referral or admission. If the person is incapacitated or the health of the person appears to be in immediate danger, or if the director has reasonable cause to believe the person is dangerous to self or to any other person, the person must be admitted. The person shall be discharged within 48 hours unless the person has applied for voluntary admission to the treatment facility.

(3) In the absence of any appropriate treatment facility, an intoxicated person or a person under the influence of controlled substances who would otherwise be taken by the police to a treatment facility may be taken to the city or county jail where the person may be held until no longer intoxicated, under the influence of controlled substances or incapacitated.

(4) An intoxicated person or person under the influence of controlled substances, when taken into custody by the police for a criminal offense, shall immediately be taken to the nearest appropriate treatment facility when the condition of the person requires emergency medical treatment.

(5) The records of a patient at a treatment facility shall not be revealed to any person other than the director and staff of the treatment facility without the consent of the patient. A patient's request that no disclosure be made of admission to a treatment facility shall be honored unless the patient is incapacitated or disclosure of admission is required by ORS 430.397.

(6) As used in this section, "treatment facility" has the meaning given "other treatment facility" in ORS 430.306. [Formerly 426.460]

Note: See note under 430.397.

430.400 [Formerly 475.295; repealed by 1995 c.440 §41]

430.401 Liability of public officers. No peace officer, treatment facility and staff, physician or judge shall be held criminally or civilly liable for actions pursuant to ORS 430.315 to 430.335 and 430.397 to 430.401 provided the actions are in good faith, on probable cause and without malice. [Formerly 426.470]

Note: See note under 430.397.

PREVENTION OF DRUG ABUSE

430.405 Definitions for ORS 161.125, 430.270, 430.405 and 430.415. As used in ORS 161.125, 430.270, 430.405 and 430.415:

(1) "Department" means the Department of Human Services.

(2) "Director of the treatment facility" means the person in charge of treatment and rehabilitation programs at the treatment facility.

(3) "Drug abuse" means repetitive, excessive use of drugs or controlled substances short of dependence, without legal or medical supervision, that may have a detrimental effect on the individual or society.

(4) "Drug-dependent person" means one who has lost the ability to control the use of controlled substances or other substances with abuse potential, or who uses such substances or controlled substances to the extent that the health of the person or that of others is substantially impaired or endangered or the social or economic function of the person is substantially disrupted. A drug-dependent person may be physically dependent, a condition in which the body requires a continuing supply of a drug or controlled substance to avoid characteristic withdrawal symptoms, or psychologically dependent, a condition characterized by an overwhelming mental desire for continued use of a drug or controlled substance.

(5) "Treatment facility" means profit or nonprofit, public or private detoxification centers, outpatient clinics, residential facilities, hospitals and such other facilities as the Department of Human Services determines suitable, any of which may provide diagnosis and evaluation, medical care, detoxification, social services or rehabilitation for drug-dependent persons. [1973 c.697 §3; 1977 c.745 §47; 1979 c.744 §25; 1979 c.777 §46a; 1987 c.61 §4; 2001 c.900 §138]

430.415 Drug dependence as illness. The Legislative Assembly finds drug dependence is an illness. The drug-dependent person is ill and shall be afforded treatment for the illness of the drug-dependent person. [1973 c.697 §2]

430.425 [1973 c.697 §§4,5; repealed by 1985 c.740 §18]

DIVERSION PROGRAMS**(Definitions)**

430.450 Definitions for ORS 430.450 to 430.555. As used in ORS 430.450 to 430.555, unless the context requires otherwise:

(1) "Community diversion plan" means a system of services approved and monitored by the Department of Human Services in accordance with approved county mental health plans, which may include but need not be limited to, medical, educational, vocational, social and psychological services, training, counseling, provision for residential care, and other rehabilitative services designed to benefit the defendant and protect the public.

(2) "Crimes of violence against the person" means criminal homicide, assault and related offenses as defined in ORS 163.165 to 163.208, rape and sexual abuse, incest, or any other crime involving the use of a deadly weapon or which results in physical harm or death to a victim.

(3) "Department" means the Department of Human Services.

(4) "Diversion" means the referral or transfer from the criminal justice system into a program of treatment or rehabilitation of a defendant diagnosed as drug dependent and in need of treatment at department approved sites, on the condition that the defendant successfully fulfills the specified obligations of a program designed for rehabilitation.

(5) "Diversion coordinator" means a person designated by a county mental health program director to work with the criminal justice system and health care delivery system to screen defendants who may be suitable for diversion; to coordinate the formulation of individual diversion plans for such defendants; and to report to the court the performance of those defendants being treated under an individual diversion plan.

(6) "Director of the treatment facility" means the person in charge of treatment and rehabilitation programs at the treatment facility.

(7) "Drug abuse" means repetitive, excessive use of a drug or controlled substance short of dependence, without medical supervision, which may have a detrimental effect on the individual or society.

(8) "Drug-dependent person" means one who has lost the ability to control the personal use of controlled substances or other substances with abuse potential, or who uses such substances or controlled substances to the extent that the health of the person or that of others is substantially impaired or endangered or the social or economic func-

tion of the person is substantially disrupted. A drug-dependent person may be physically dependent, a condition in which the body requires a continuing supply of a drug or controlled substance to avoid characteristic withdrawal symptoms, or psychologically dependent, a condition characterized by an overwhelming mental desire for continued use of a drug or controlled substance.

(9) "Evaluation" means any diagnostic procedures used in the determination of drug dependency, and may include but are not limited to chemical testing, medical examinations and interviews.

(10) "Individual diversion plan" means a system of services tailored to the individual's unique needs as identified in the evaluation, which may include but need not be limited to medical, educational, vocational, social and psychological services, training, counseling, provision for residential care, and other rehabilitative services designed to benefit the defendant and protect the public. The plan shall include appropriate methods for monitoring the individual's progress toward achievement of the defined treatment objectives and shall also include periodic review by the court.

(11) "Treatment facility" means detoxification centers, outpatient clinics, residential care facilities, hospitals and such other facilities determined to be suitable by the Department of Human Services, any of which may provide diagnosis and evaluation, medical care, detoxification, social services or rehabilitation. [1977 c.871 §2; 1979 c.744 §26; 2001 c.900 §139]

(Treatment Program)

430.455 Information to drug-dependent person upon arrest. When a person is arrested for violation of the criminal statutes of this state which do not involve crimes of violence against another person, and the officer or person making the arrest has reasonable grounds for believing the arrested individual is a drug-dependent person, the officer or person making the arrest may:

(1) Fully inform the arrested person of the right of the arrested person to evaluation and the possible consequences of such evaluation;

(2) Inform the arrested person of the right of the arrested person to counsel before consenting to evaluation; and

(3) Fully explain the voluntary nature of the evaluation and the limitations upon the confidentiality of the information obtained during the evaluation. [1977 c.871 §7]

430.460 Consent to evaluation; effect of refusal. Upon obtaining the written consent of the arrested person, the officer or

person making the arrest shall request an approved site to conduct an evaluation to determine whether the arrested person is drug dependent. Refusal of the arrested person to consent to the evaluation is not admissible in evidence upon the trial of the arrested person. [1977 c.871 §8]

430.465 Referral for evaluation. A defendant may be informed of the rights of the defendant to evaluation and, upon giving written consent, may be referred for such evaluation at any time prior to conviction for the offense for which the defendant is charged, notwithstanding prior refusal to submit to evaluation. The procedures stipulated in ORS 430.455 and 430.460 shall be followed whenever the right to evaluation is restated under this section. [1977 c.871 §9]

430.470 Notice of right to evaluation if not given at time of arrest. (1) In the event that an officer or person making the arrest fails to inform the person arrested of the right to evaluation, and possible diversion, within 24 hours from the time of booking, an officer of the court or diversion coordinator may do so.

(2) At the time of arraignment, the judge shall inform the defendant of the rights described in ORS 430.455. [1977 c.871 §10]

430.475 Evaluation results as evidence; admissibility at subsequent trial; privileged communication. (1) The results of the evaluation of an arrested person suspected of being drug dependent shall be made available to the prosecuting and defense attorneys and the presiding judge for the judicial district, but shall not be entered into evidence in any subsequent trial of the accused except upon written consent of the accused or upon a finding by the court that the relevance of the results outweighs their prejudicial effect.

(2) Except as provided in subsection (1) of this section, results of evaluation or information voluntarily provided to evaluation or treatment personnel by a person under ORS 430.450 to 430.555 shall be confidential and shall not be admitted as evidence in criminal proceedings. Reports submitted to the court or the prosecutor by the diversion coordinator shall consist solely of matters required to be reported by the terms of the diversion plan, together with an assessment of the person's progress toward achieving the goals set forth in the plan. Communications between the person participating in the plan and the diversion coordinator shall be privileged unless they relate directly to the elements required to be reported under the diversion plan. [1977 c.871 §§11,27; 1995 c.781 §45]

430.480 Effect of ORS 430.450 to 430.555 on other evidence. Nothing in ORS 430.450 to 430.555 is intended to limit the introduction of other evidence bearing upon the question of whether or not a person is using or is under the influence of controlled substances. [1977 c.871 §12; 1979 c.744 §27]

430.485 Treatment may be ordered. When the results of the evaluation obtained under ORS 430.460 or 430.465 indicate that the defendant is a drug-dependent person within the meaning of ORS 430.450 to 430.555, and the results of the evaluation indicate that such person may benefit in a substantial manner from treatment for drug dependence, the prosecutor, with the concurrence of the court, may direct the defendant to receive treatment as a contingent alternative to prosecution. If defendant refuses treatment, criminal proceedings shall be resumed. [1977 c.871 §15]

430.490 Diversion plan for defendant; participation as condition of probation or parole. (1) Prior to the initiation of diversion, the local diversion coordinator shall submit an individual diversion plan for the defendant. Upon approval of the plan by the prosecutor and the court, the person diverted shall be required to follow the diversion plan as a condition of continuance in treatment. The plan shall be entered into the record of the court.

(2) Participation in a diversion program may be made a condition of probation or parole. [1977 c. 871 §§16,28]

430.495 Content of diversion plan; duration. (1) The diversion plan shall include appropriate methods for monitoring the progress of the diverted individual toward the achievement of the defined treatment objectives. In the presence of counsel, the defendant shall review the terms of the individual diversion plan, including methods for monitoring progress, and execute a written statement indicating consent. Such statement shall include a voluntary waiver of stipulated rights as necessary to implement the approved plan. Any authorized waiver under this section shall not extend beyond the time of participation by the person in the diversion plan.

(2) No individual diversion plan shall continue for more than the maximum time a person can be sentenced for the offense charged. [1977 c.871 §§17,21]

430.500 Dismissal of charges. (1) Upon successful completion of treatment, as outlined in the individual diversion plan, a request may be made to dismiss charges against the individual related to the offense for which diversion was initiated as an alternative to prosecution.

(2) When the prosecutor and the court have determined that the individual has successfully completed treatment, as outlined in the diversion plan, the prosecutor shall dismiss charges against the individual related to the offense for which diversion was initiated as an alternative to prosecution. [1977 c.871 §§18,19]

430.505 Expunction of verdict. If a person is diverted after conviction, but prior to sentencing, the court may order expunction from the record of the verdict of the court and all proceedings incident thereto upon successful completion of the diversion plan and a post-treatment period of three years, provided there have been no new convictions for misdemeanor or felony offenses. [1977 c.871 §20]

430.510 Notice when treatment unsuccessful. If treatment under ORS 430.450 to 430.555 is unsuccessful, the prosecuting attorney and the court shall be notified before the defendant is released from treatment. After such notice the prosecution may be resumed. If the person has been convicted of the offense for which the person has been arrested, the court may proceed to impose sentence, which shall take into account the period during which the person participated in treatment. [1977 c.871 §25]

430.515 Procedure to terminate treatment. Termination of treatment under ORS 430.450 to 430.555 may be instituted at any time by either the prosecutor, the director of the treatment facility, the court or the person diverted into treatment. An order to terminate treatment shall be based upon a finding of substantial violation of the diversion plan or upon a showing to the satisfaction of the court that the person diverted constitutes a threat to the peace and safety of the public and that continued treatment will involve direct risk to the community or the treatment facility. Such findings and showing shall be made before the court in open hearing, with the person under treatment entitled to counsel and to due process of law. [1977 c.871 §26]

430.520 [1977 c.871 §4; repealed by 1985 c.740 §18]

430.525 [1977 c.871 §§5,13; repealed by 1985 c.740 §18]

(Administration)

430.535 Duties of Department of Human Services; bilingual forms. (1) The Department of Human Services and the Governor's Council on Alcohol and Drug Abuse Programs shall, subject to the availability of funds, develop bilingual forms to assist non-English-speaking persons in understanding their rights under ORS 430.450 to 430.555.

(2) The department shall assist county mental health programs in the development of comprehensive and coordinated identification, evaluation, treatment, education and rehabilitation services for the drug-dependent person. The State Plan for Drug Problems shall be consistent with such system. [1977 c.871 §§3,14; 1985 c.740 §16]

430.540 Designation of and standards for evaluation sites. (1) The county mental health program director shall designate sites for evaluation in the county plan of individuals who may be or are known to be drug dependent. The Department of Human Services shall establish standards for such sites and periodically publish a list of approved sites.

(2) The costs of evaluation shall be borne by the county of appropriate jurisdiction. [1977 c.871 §6]

430.545 Procedures at evaluation sites; administration of antagonist drugs. (1) Evaluation sites provided for under ORS 430.450 to 430.555 shall conduct such procedures as may be necessary to determine if an individual is a drug-dependent person. A person shall be evaluated only with that person's written consent. Subject to approval of the Department of Human Services, the director of a treatment facility or the director of an evaluation site may designate personnel to provide treatment or evaluation as appropriate under the lawful limitations of their certification, licensure or professional practice.

(2) Antagonist drugs may be administered for diagnosis of addiction by a registered nurse at an approved site when the nurse has completed required training and a physician is available on call. Antagonist drugs shall not be administered without informed written consent of the person. [1977 c.871 §22; 1979 c.744 §28]

430.550 Discrimination prohibited. No person, otherwise eligible, shall be denied evaluation or treatment under ORS 430.450 to 430.555 on account of age, sex, race, nationality, religious preference or ability to pay. [1977 c.871 §24]

430.555 Liability for violation of civil rights or injuries to participant. Liability for violation of civil rights under ORS 430.450 to 430.555 or injuries to a person participating in a diversion program or caused by a person in a diversion program under ORS 430.450 to 430.555 shall, except in the case of gross negligence, be borne by the county making the arrest and the state in equal shares, and shall not extend to persons administering the provisions of ORS 430.450 to 430.555. [1977 c.871 §23]

DRUG DEPENDENCY TREATMENT PROGRAMS

430.560 Drug dependency treatment programs established by Department of Human Services; contracts; rules. (1) The Department of Human Services shall establish for drug-dependent persons treatment programs that involve:

(a) Detoxification;

(b) Detoxification with acupuncture and counseling; and

(c) The supplying of synthetic opiates to such persons under close supervision and control. However, the supplying of synthetic opiates shall be used only when detoxification or detoxification with acupuncture and counseling has proven ineffective or upon a written request of a physician licensed by the Board of Medical Examiners for the State of Oregon showing medical need for synthetic opiates if the request is approved in writing by the probation or parole officer, if any, of the drug-dependent person. The copy of the request and the approval must be included in the client's permanent treatment and releasing authority records.

(2) Notwithstanding subsection (1) of this section, synthetic opiates may be made available to a pregnant woman with her informed consent without prior resort to the treatment programs described in subsection (1)(a) and (b) of this section.

(3) In establishing the programs authorized by subsection (1) of this section, the Department of Human Services may enter into contracts with detoxification programs, physicians licensed by the Board of Medical Examiners for the State of Oregon, acupuncturists, counselors, licensed pharmacies and any agency of this state or a political subdivision in this state to conduct the required examinations and to supply the services used in the programs.

(4) The department shall establish rules of eligibility for the programs authorized by ORS 430.565 and this section, considering such factors as residency, duration of dependency on drugs or controlled substances, failure of previous attempts at abstinence and other relevant factors. The department shall establish reasonable fees for participation in the programs.

(5) Pursuant to ORS chapter 183, the department shall adopt rules governing the administration of the programs authorized by ORS 430.565 and this section. [Formerly 475.715; 1979 c.744 §29; 1991 c.574 §3]

430.565 Nonapplicability of drug laws to certain persons in treatment program. The provisions of any law restricting the use, possession, control or administration of a

controlled substance shall not apply to any physician, pharmacist or other person while participating in the program authorized by ORS 430.560 (1)(c) so long as the physician, pharmacist or other person complies with provisions of ORS 430.560 and this section and the rules of the Department of Human Services made pursuant to ORS 430.560 and this section. [Formerly 475.725; 1979 c.744 §30; 1991 c.574 §4]

430.570 Information concerning opiate inhibitors to drug dependent persons. The Department of Human Services shall cause information concerning the usefulness and feasibility of opiate inhibitors to be made available to persons involved in administering diversion programs, corrections programs and other programs for drug dependent persons. [1987 c.618 §4]

430.580 [1983 c.601 §2; repealed by 1987 c.411 §5]

430.590 Regulation of location of methadone clinic; enforcement. (1) It is unlawful for any person to commence operating a methadone clinic:

(a) Within 1,000 feet of the real property comprising an existing public or private elementary, secondary or career school attended primarily by minors; or

(b) Within 1,000 feet of the real property comprising an existing licensed child care facility. As used in this section, "licensed child care facility" means a child care center certified under ORS 657A.280 that is operating under authority of a valid business license.

(2) Commencing operation of a methadone clinic within 1,000 feet of a school or licensed child care facility is a nuisance and operation of the clinic shall be enjoined and abated as provided in ORS 105.550 to 105.600. [1991 c.574 §5; 1995 c.278 §52; 1995 c.343 §47; 2003 c.293 §14]

Note: 430.590 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 430 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

LOCAL MENTAL HEALTH AND DEVELOPMENTAL DISABILITY SERVICES

430.610 Legislative policy. It is declared to be the policy and intent of the Legislative Assembly that:

(1) Subject to the availability of funds, mental health services should be available to all mentally or emotionally disturbed, mentally retarded and developmentally disabled, alcohol abuser, alcoholic, drug abuser and drug-dependent persons regardless of age, county of residence or ability to pay;

(2) The Department of Human Services and other state agencies shall conduct their

activities in the least costly and most efficient manner so that delivery of services to the mentally or emotionally disturbed, mentally retarded and developmentally disabled, alcohol abuser, alcoholic, drug abuser and drug-dependent persons shall be effective and coordinated;

(3) To the greatest extent possible, mental health services shall be delivered in the community where the person lives in order to achieve maximum coordination of services and minimum disruption in the life of the person; and

(4) The State of Oregon shall encourage, aid and financially assist its county governments in the establishment and development of community mental health and developmental disabilities programs, including but not limited to, treatment and rehabilitation services for the mentally or emotionally disturbed, mentally retarded and developmentally disabled, alcohol abuser, alcoholic, drug abuser and drug-dependent persons and prevention of these problems through county administered community mental health and developmental disabilities programs. [1961 c.706 §36; 1973 c.639 §1; 1981 c.750 §1; 2001 c.900 §140]

430.620 Establishment of community mental health and developmental disabilities program by one or more counties.

(1) The county court or board of county commissioners, or its representatives designated by it for the purpose, of any county, on behalf of the county, may:

(a) In conformity with the rules of the Department of Human Services, establish and operate, or contract with a public agency or private corporation for, a community mental health and developmental disabilities program.

(b) Cooperate, coordinate or act jointly with any other county or counties or any appropriate officer or agency of such counties in establishing and operating or contracting for a community mental health and developmental disabilities program to service all such counties in conformity with the regulations of the department.

(c) Expend county moneys for the purposes referred to in paragraph (a) or (b) of this subsection.

(d) Accept and use or expend property or moneys from any public or private source made available for the purposes referred to in paragraph (a) or (b) of this subsection.

(2) All officers and agencies of a county, upon request, shall cooperate insofar as possible with the county court or board of county commissioners, or its designated representatives, in conducting programs and carrying on and coordinating activities under

subsection (1) of this section. [1961 c.706 §39; 1973 c.639 §2; 1981 c.750 §2; 1989 c.116 §10]

430.625 Disabled persons to serve on advisory committee. If any local mental health program has an advisory committee, disabled persons, as defined in ORS 430.050 (6), shall be appointed to serve on the advisory committee and shall meet separately as a disability issues advisory committee. [1989 c.777 §2]

Note: 430.625 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 430 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

430.630 Services to be provided by community mental health and developmental disabilities program; local mental health authorities; local mental health services plan.

(1) In addition to any other requirements that may be established by rule by the Department of Human Services and subject to the availability of funds, each community mental health and developmental disabilities program shall provide the following basic services to persons with mental retardation and developmental disabilities and alcohol abuse, alcoholism, drug abuse and drug dependence:

(a) Outpatient services;

(b) Aftercare for persons released from hospitals and training centers;

(c) Training, case and program consultation and education for community agencies, related professions and the public; and

(d) Guidance and assistance to other human service agencies for joint development of prevention programs and activities to reduce factors causing mental retardation and developmental disabilities and alcohol abuse, alcoholism, drug abuse and drug dependence.

(2) As alternatives to state hospitalization, it shall be the responsibility of the community mental health and developmental disabilities program to insure that, subject to the availability of funds, the following services for the mentally retarded and developmentally disabled, alcohol abuser, alcoholic, drug abuser and drug-dependent persons are available when needed and approved by the Department of Human Services:

(a) Emergency services on a 24-hour basis, such as telephone consultation, crisis intervention and prehospital screening examination;

(b) Care and treatment for a portion of the day or night, which may include day treatment centers, work activity centers and preschool programs;

(c) Residential care and treatment in facilities such as halfway houses,

detoxification centers and other community living facilities;

(d) Continuity of care, such as that provided by service coordinators, community case development specialists and core staff of federally assisted community mental health centers;

(e) Inpatient treatment in community hospitals; and

(f) Other alternative services to state hospitalization as defined by the department.

(3) In addition to any other requirements that may be established by rule of the department, each community mental health and developmental disabilities program, subject to the availability of funds, shall provide or ensure the provision of the following services to persons with mental or emotional disturbances:

(a) Screening and evaluation to determine the client's service needs;

(b) Crisis stabilization to meet the needs of persons suffering acute mental or emotional disturbances, including the costs of investigations and prehearing detention in community hospitals or other facilities approved by the department for persons involved in involuntary commitment procedures;

(c) Vocational and social services that are appropriate for the client's age, designed to improve the client's vocational, social, educational and recreational functioning;

(d) Continuity of care to link the client to housing and appropriate and available health and social service needs;

(e) Psychiatric care in state and community hospitals, subject to the provisions of subsection (4) of this section;

(f) Residential services;

(g) Medication monitoring;

(h) Individual, family and group counseling and therapy;

(i) Public education and information;

(j) Prevention of mental or emotional disturbances and promotion of mental health;

(k) Consultation with other community agencies; and

(L)(A) Preventive mental health services for children and adolescents, including primary prevention efforts, early identification and early intervention services. Preventive services should be patterned after service models that have demonstrated effectiveness in reducing the incidence of emotional, behavioral and cognitive disorders in children.

(B) As used in this subsection:

(i) "Early identification" means detecting emotional disturbance in its initial developmental stage;

(ii) "Early intervention services" for children at risk of later development of emotional disturbance means programs and activities for children and their families that promote conditions, opportunities and experiences that encourage and develop emotional stability, self-sufficiency and increased personal competence; and

(iii) "Primary prevention efforts" means efforts that prevent emotional problems from occurring by addressing issues early so that disturbances do not have an opportunity to develop.

(4) A community mental health and developmental disabilities program shall assume responsibility for psychiatric care in state and community hospitals, as provided in subsection (3)(e) of this section, in the following circumstances:

(a) The person receiving care is a resident of the county served by the program. For purposes of this paragraph, "resident" means the resident of a county in which the person maintains a current mailing address or, if the person does not maintain a current mailing address within the state, the county in which the person is found, or the county in which a court committed mentally ill person has been conditionally released.

(b) The person has been hospitalized involuntarily or voluntarily, pursuant to ORS 426.130 or 426.220, except for persons confined to the Secure Child and Adolescent Treatment Unit at Oregon State Hospital, or has been hospitalized as the result of a revocation of conditional release.

(c) Payment is made for the first 60 consecutive days of hospitalization.

(d) The hospital has collected all available patient payments and third-party reimbursements.

(e) In the case of a community hospital, the department has approved the hospital for the care of mentally or emotionally disturbed persons, the community mental health and developmental disabilities program has a contract with the hospital for the psychiatric care of residents and a representative of the program approves voluntary or involuntary admissions to the hospital prior to admission.

(5) Subject to the review and approval of the department, a community mental health and developmental disabilities program may initiate additional services after the services defined in this section are provided.

(6) Each community mental health and developmental disabilities program and the state hospital serving the program's ge-

ographic area shall enter into a written agreement concerning the policies and procedures to be followed by the program and the hospital when a patient is admitted to, and discharged from, the hospital and during the period of hospitalization.

(7) Each community mental health and developmental disabilities program shall have a mental health advisory committee, appointed by the board of county commissioners or the county court or, if two or more counties have combined to provide mental health services, the boards or courts of the participating counties or, in the case of a Native American reservation, the tribal council.

(8) A community mental health and developmental disabilities program may request and the department may grant a waiver regarding provision of one or more of the services described in subsection (3) of this section upon a showing by the county and a determination by the department that mentally or emotionally disturbed persons in that county would be better served and unnecessary institutionalization avoided.

(9) Each community mental health and developmental disabilities program shall cooperate fully with the Governor's Council on Alcohol and Drug Abuse Programs in the performance of its duties.

(10)(a) As used in this subsection, "local mental health authority" means one of the following entities:

(A) The board of county commissioners of one or more counties that establishes or operates a community mental health and developmental disabilities program;

(B) The tribal council, in the case of a federally recognized tribe of Native Americans that elects to enter into an agreement to provide mental health services; or

(C) A regional local mental health authority comprised of two or more boards of county commissioners.

(b) Each local mental health authority that provides mental health services shall determine the need for local mental health services and adopt a comprehensive local plan for the delivery of mental health services for children, families and adults that describes the methods by which the local mental health authority shall provide those services. The local mental health authority shall review and revise the local plan biennially. The purpose of the local plan is to create a blueprint to provide mental health services that are directed by and responsive to the mental health needs of individuals in the community served by the local plan.

(c) The local plan shall identify ways to:

(A) Coordinate and ensure accountability for all levels of care described in paragraph (e) of this subsection;

(B) Maximize resources for consumers and minimize administrative expenses;

(C) Provide supported employment and other vocational opportunities for consumers;

(D) Determine the most appropriate service provider among a range of qualified providers;

(E) Ensure that appropriate mental health referrals are made;

(F) Address local housing needs for persons with mental health disorders;

(G) Develop a process for discharge from state and local psychiatric hospitals and transition planning between levels of care or components of the system of care;

(H) Provide peer support services, including but not limited to drop-in centers and paid peer support;

(I) Provide transportation supports; and

(J) Coordinate services among the criminal and juvenile justice systems, adult and juvenile corrections systems and local mental health programs to ensure that persons with mental illness who come into contact with the justice and corrections systems receive needed care and to ensure continuity of services for adults and juveniles leaving the corrections system.

(d) When developing a local plan, a local mental health authority shall:

(A) Coordinate with the budgetary cycles of state and local governments that provide the local mental health authority with funding for mental health services;

(B) Involve consumers, advocates, families, service providers, schools and other interested parties in the planning process;

(C) Coordinate with the local public safety coordinating council to address the services described in paragraph (c)(J) of this subsection;

(D) Conduct a population based needs assessment to determine the types of services needed locally;

(E) Determine the ethnic, cultural and diversity needs of the population served by the local plan;

(F) Describe the anticipated outcomes of services and the actions to be achieved in the local plan;

(G) Ensure that the local plan coordinates planning, funding and services with:

(i) The educational needs of children and adults;

(ii) Providers of social supports, including but not limited to housing, employment, transportation and education; and

(iii) Providers of physical health and medical services;

(H) Describe how funds, other than state resources, may be used to support and implement the local plan;

(I) Demonstrate ways to integrate local services and administrative functions in order to support integrated service delivery in the local plan; and

(J) Involve the local mental health advisory committees described in subsection (7) of this section.

(e) The local plan must describe how the local mental health authority will ensure the delivery of and be accountable for clinically appropriate services in a continuum of care based on consumer needs. The local plan shall include, but not be limited to, services providing the following levels of care:

(A) Twenty-four-hour crisis services;

(B) Secure and nonsecure extended psychiatric care;

(C) Secure and nonsecure acute psychiatric care;

(D) Twenty-four-hour supervised structured treatment;

(E) Psychiatric day treatment;

(F) Treatments that maximize client independence;

(G) Family and peer support and self-help services;

(H) Support services;

(I) Prevention and early intervention services;

(J) Transition assistance between levels of care;

(K) Dual diagnosis services;

(L) Access to placement in state-funded psychiatric hospital beds; and

(M) Precommitment and civil commitment in accordance with ORS chapter 426.

(f) In developing the part of the local plan referred to in paragraph (c)(J) of this subsection, the local mental health authority shall collaborate with the local public safety coordinating council to address the following:

(A) Training for all law enforcement officers on ways to recognize and interact with persons with mental illness, for the purpose of diverting them from the criminal and juvenile justice systems;

(B) Developing voluntary locked facilities for crisis treatment and follow-up as an alternative to custodial arrests;

(C) Developing a plan for sharing a daily jail and juvenile detention center custody roster and the identity of persons of concern and offering mental health services to those in custody;

(D) Developing a voluntary diversion program to provide an alternative for persons with mental illness in the criminal and juvenile justice systems; and

(E) Developing mental health services, including housing, for persons with mental illness prior to and upon release from custody.

(g) Services described in the local plan shall:

(A) Address the vision, values and guiding principles described in the Report to the Governor from the Mental Health Alignment Workgroup, January 2001;

(B) Be provided to children and families as close to their homes as possible;

(C) Be culturally appropriate and competent;

(D) Be, for children and adults with mental health needs, from providers appropriate to deliver those services;

(E) Be delivered in an integrated service delivery system with integrated service sites or processes, and with the use of integrated service teams;

(F) Ensure consumer choice among a range of qualified providers in the community;

(G) Be distributed geographically;

(H) Involve consumers, families, clinicians, children and schools in treatment as appropriate;

(I) Maximize early identification and early intervention;

(J) Ensure appropriate transition planning between providers and service delivery systems, with an emphasis on transition between children and adult mental health services;

(K) Be based on the ability of a client to pay;

(L) Be delivered collaboratively;

(M) Use age-appropriate, research-based quality indicators;

(N) Use best-practice innovations; and

(O) Be delivered using a community-based, multisystem approach.

(h) A local mental health authority shall submit to the Department of Human Services a copy of the local plan and biennial revisions adopted under paragraph (b) of this subsection at time intervals established by the department.

(i) Each local commission on children and families shall reference the local plan for the delivery of mental health services in the local coordinated comprehensive plan created pursuant to ORS 417.775. [1961 c.706 §40; 1973 c.639 §3; 1981 c.750 §3; 1985 c.740 §17; 1987 c.903 §37; 1991 c.777 §2; 1995 c.79 §219; 2001 c.899 §1; 2003 c.553 §5; 2003 c.782 §1]

430.632 Biennial report on implementation of comprehensive local plan for delivery of mental health services. A local mental health authority shall submit to the Department of Human Services by October 1 of each even-numbered year a report on the implementation of the comprehensive local plan adopted under ORS 430.630 (10). [2001 c.899 §5]

Note: 430.632 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 430 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

430.635 Priority for preventive services for children. The children's mental health programs of the Department of Human Services shall address preventive services under ORS 430.630 (3)(L). The department budget shall give high priority to such services. [1991 c.777 §1]

Note: 430.635 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 430 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

430.640 Duties of Department of Human Services in assisting and supervising community mental health and developmental disabilities programs. (1) The Department of Human Services, in carrying out the legislative policy declared in ORS 430.610, subject to the availability of funds shall:

(a) Assist Oregon counties and groups of Oregon counties in the establishment and financing of community mental health and developmental disabilities programs operated or contracted for by one or more counties.

(b) If a county declines to operate or contract for a community mental health and developmental disabilities program, contract with another public agency or private corporation to provide the program. The county must be provided with an opportunity to review and comment.

(c) In an emergency situation when no community mental health and developmental disabilities program is operating within a county or a county is unable to provide a service essential to public health and safety, operate the program or service on a temporary basis.

(d) At the request of the tribal council of a federally recognized tribe of Native

Americans, contract with the tribal council for the establishment and operation of a community mental health and developmental disabilities program in the same manner that the department contracts with a county court or board of county commissioners.

(e) If a county agrees, contract with a public agency or private corporation for all services within one or more of the following program areas: Mental or emotional disturbances, drug abuse, mental retardation or other developmental disabilities and alcohol abuse and alcoholism.

(f) Approve or disapprove the biennial plan and budget information for the establishment and operation of each community mental health and developmental disabilities program. No subsequent amendments to or modifications of an approved plan or budget information involving more than 10 percent of the state funds provided for services under ORS 430.630 shall be placed in effect without prior approval of the department. However, an amendment or modification affecting 10 percent or less of state funds for services under ORS 430.630 within the portion of the program for persons with mental or emotional disturbances, or within the portion for persons with mental retardation and developmental disabilities or within the portion for persons with alcohol and drug dependence may be made without department approval.

(g) Make all necessary and proper rules to govern the establishment and operation of community mental health and developmental disabilities programs, including adopting rules defining the range and nature of the services which shall or may be provided under ORS 430.630.

(h) Collect data and evaluate services in the state hospitals in accordance with the same methods prescribed for community mental health and developmental disabilities programs under ORS 430.665.

(i) Develop guidelines that include, for the development of comprehensive local plans in consultation with local mental health authorities:

(A) The use of integrated services;

(B) The outcomes expected from services and programs provided;

(C) Incentives to reduce the use of state hospitals;

(D) Mechanisms for local sharing of risk for state hospitalization;

(E) The provision of clinically appropriate levels of care based on an assessment of the mental health needs of consumers; and

(F) The transition of consumers between levels of care.

(j) Work with local mental health authorities to provide incentives for community-based care whenever appropriate while simultaneously ensuring adequate statewide capacity.

(k) Provide technical assistance and information regarding state and federal requirements to local mental health authorities throughout the local planning process required under ORS 430.630 (10).

(L) Provide incentives for local mental health authorities to enhance or increase vocational placements for adults with mental health needs.

(m) Develop or adopt nationally recognized system-level performance measures, linked to the Oregon Benchmarks, for state-level monitoring and reporting of mental health services for children and adults, including but not limited to quality and appropriateness of services, outcomes from services, structure and management of local plans, prevention of mental health disorders and integration of mental health services with other needed supports.

(n) Develop standardized criteria for each level of care described in ORS 430.630 (10), including protocols for implementation of local plans, strength-based mental health assessment and case planning.

(o) Develop a comprehensive long-term plan for providing appropriate and adequate mental health treatment and services to children and adults that is derived from the needs identified in local plans, is consistent with the vision, values and guiding principles in the Report to the Governor from the Mental Health Alignment Workgroup, January 2001, and addresses the need for and the role of state hospitals.

(p) Report biennially to the Governor and the Legislative Assembly on the progress of the local planning process and the implementation of the local plans adopted under ORS 430.630 (10)(b) and the state planning process described in paragraph (o) of this subsection, and on the performance measures and performance data available under paragraph (m) of this subsection.

(q) On a periodic basis, not to exceed 10 years, reevaluate the methodology used to estimate prevalence and demand for mental health services using the most current nationally recognized models and data.

(r) Encourage the development of regional local mental health authorities comprised of two or more boards of county commissioners that establish or operate a community mental health and developmental disabilities program.

(2) The department may provide technical assistance and other incentives to assist in

the planning, development and implementation of regional local mental health authorities whenever the department determines that a regional approach will optimize the comprehensive local plan described under ORS 430.630 (10).

(3) The enumeration of duties and functions in subsection (1) of this section shall not be deemed exclusive nor construed as a limitation on the powers and authority vested in the department by other provisions of law. [1961 c.706 §38; 1973 c.639 §4; 1981 c.750 §7; 2001 c.325 §1; 2001 c.694 §1; 2001 c.899 §2]

430.642 [1995 c.270 §2; repealed by 2001 c.900 §261]

430.650 [1961 c.706 §41; 1963 c.490 §3; 1965 c.179 §1; 1967 c.70 §1; 1973 c.639 §5; 1974 s.s. c.56 §1; repealed by 1981 c.750 §17]

430.655 [1973 c.639 §9; repealed by 1981 c.750 §17]

430.660 Federal laws, rules and regulations govern activities under ORS 430.610 to 430.695 when federal funds involved. In all cases where federal funds are involved, the federal laws, rules and regulations applicable thereto shall govern notwithstanding any provision to the contrary in ORS 430.610 to 430.695. [1961 c.706 §42; 1973 c.639 §6]

430.665 Evaluation of programs; population schedule for distributing funds. (1) In order to improve services to mentally or emotionally disturbed persons and provide information for uniform analysis, each community mental health and developmental disabilities program shall collect and report data and evaluate programs in accordance with methods prescribed by the Department of Human Services after consultation with the program directors.

(2) Information collected by the department under subsection (1) of this section shall include, but need not be limited to:

- (a) Numbers of persons served;
- (b) Types of services provided; and
- (c) Cost of services.

(3) Within the limits of available funds allocated for the administration of community mental health and developmental disabilities programs, community mental health and developmental disabilities programs shall collect data and evaluate programs with moneys provided by the department. The department shall distribute funds so that programs within the same population grouping shall receive equal amounts of funds. The population groupings are:

- (a) More than 400,000 population.
- (b) Less than 400,000 but more than 100,000.
- (c) Less than 100,000 but more than 50,000.
- (d) Less than 50,000.

(4) During the first biennium that a new service is funded by the department, two percent of the service funds shall be set aside for use in data collection and evaluation of the service. Thereafter, the service shall be evaluated as a part of the total community mental health program. [1981 c.750 §5]

430.670 Contracts to provide services; approval of department; competition for subcontracts; exception. (1) A community mental health and developmental disabilities program may provide services by contracting therefor with a public agency, private corporation or individual. All elements of service provided for in the contract shall be considered as a part of a community mental health program for all purposes of ORS 430.610 to 430.695. Contracts authorized by this section shall comply with rules adopted by the Department of Human Services.

(2) A private corporation that contracts with a county or the Department of Human Services to operate a community mental health and developmental disabilities program shall provide an opportunity for competition among private care providers when awarding subcontracts for provision of services described in ORS 430.630 (1) to (3).

(3) In keeping with the principles of family support expressed in ORS 417.342 and notwithstanding subsection (2) of this section or ORS 291.047 (3), an entity operating a community mental health and developmental disabilities program may purchase services for an individual from a service provider without first providing an opportunity for competition among other service providers if the service provider is selected by the individual, the individual's family or the individual's guardian, as long as the service provider has been approved by the department to provide such service. [1963 c.117 §1; 1973 c.639 §7; 1981 c.750 §14; 1999 c.524 §1]

430.672 Contract requirements for community mental health and developmental disabilities programs. (1) Except for community mental health and developmental disabilities programs operated by the county, a county may impose only standards, requirements and conditions for mental health and developmental disabilities programs that are substantially similar to the standards, requirements and conditions established for such programs by the Department of Human Services.

(2) When a county contracts with a public agency or private corporation for a community mental health and developmental disabilities program, the county shall include in the contract only terms that are substantially similar to model contract terms developed by the department under ORS 430.640 (1)(g). The county may not add contractual

requirements, including qualifications for contractor selection, that are nonessential to the services provided under ORS 430.630. The county may add contract requirements that the county considers necessary to ensure the siting and maintenance of facilities of the community mental health and developmental disabilities program.

(3) The provisions of subsections (1) and (2) of this section apply only insofar as funds are provided by the department to the county for community mental health and developmental disabilities programs.

(4) As used in this section, "community mental health and developmental disabilities program" includes those program elements that serve only persons with developmental disabilities. [1999 c.524 §3; 2001 c.899 §4]

430.673 Mediation; retaliation prohibited; action for damages; attorney fees; rules. (1) When a dispute exists between a county and a community mental health and developmental disabilities program that is a private corporation or individual regarding the terms of their contract or the interpretation of an administrative rule of the Department of Human Services relating to department programs under this chapter, either party may request mediation under rules adopted by the department.

(2) A county may not retaliate against a community mental health and developmental disabilities program solely because the program:

(a) Requested mediation under subsection (1) of this section;

(b) Requested dispute resolution or filed an appeal under rules adopted by the department under this section with respect to a dispute described in subsection (1) of this section; or

(c) Initiated a contested case proceeding otherwise available under ORS chapter 183 with respect to a dispute described in subsection (1) of this section.

(3) For purposes of this section, "retaliate" means an adverse action taken by a county against a community mental health and developmental disabilities program to:

(a) Materially alter or terminate the contract between the county and the community mental health and developmental disabilities program; or

(b) Fail to renew the contract between the county and the community mental health and developmental disabilities program.

(4) Notwithstanding any other remedy provided by law, a community mental health and developmental disabilities program against which a county has retaliated in violation of subsection (2) of this section may

bring an action against the county for actual damages or \$1,000, whichever is greater. The court shall award reasonable attorney fees to the prevailing party in an action under this subsection. An action described in this section shall be considered a tort claim under ORS 30.260 to 30.300. Except as provided in this section, the provisions of ORS 30.260 to 30.300 apply to an action described in this section.

(5) In accordance with any applicable provision of ORS chapter 183, the department may adopt rules to carry out the provisions of this section. [1999 c.524 §4; 2003 c.430 §1]

430.675 Priorities for services provided by community mental health and developmental disabilities program. Within the limits of available funds, community mental health and developmental disabilities programs shall provide those services as defined in ORS 430.630 (3)(a) to (h) to persons in the following order of priority:

(1) Those persons who, in accordance with the assessment of professionals in the field of mental health, are at immediate risk of hospitalization for the treatment of mental or emotional disturbances or are in need of continuing services to avoid hospitalization or pose a hazard to the health and safety of themselves or others and those persons under 18 years of age who, in accordance with the assessment of professionals in the field of mental health, are at immediate risk of removal from their homes for treatment of mental or emotional disturbances or exhibit behavior indicating high risk of developing disturbances of a severe or persistent nature;

(2) Those persons who, because of the nature of their illness, their geographic location or their family income, are least capable of obtaining assistance from the private sector; and

(3) Those persons who, in accordance with the assessment of professionals in the field of mental health, are experiencing mental or emotional disturbances but will not require hospitalization in the foreseeable future. [1981 c.750 §6]

430.685 Priorities for services for mentally and emotionally disturbed persons. In allocating funds for community mental health and developmental disabilities programs affecting the mentally and emotionally disturbed, the Department of Human Services shall observe the following priorities:

(1) To assure the establishment and operation of community mental health and developmental disabilities programs for the mentally and emotionally disturbed in every geographic area of the state to provide some services in each category of services de-

scribed in ORS 430.630 (3) unless a waiver has been granted;

(2) To assure survival of services that address the needs of persons within the priority of services under ORS 430.675 and that meet department standards;

(3) To develop the interest and capacity of community mental health and developmental disabilities programs to provide new or expanded services to meet the needs for services under ORS 430.675 and to promote the equal availability of such services throughout the state; and

(4) To encourage and assist in the development of model projects to test new services and innovative methods of service delivery. [1981 c.750 §10]

430.690 Funding distribution formula; matching funds; administrative expenses.

(1) Within the limits of state funds, community mental health and developmental disabilities program services shall be funded as follows:

(a) Services defined in ORS 430.630 (1) and (2) shall be funded up to 100 percent with state funds.

(b) State funds available for payments to community mental health and developmental disabilities programs for services under ORS 430.630 (3) shall be paid by the Department of Human Services to the programs under the priorities set forth in ORS 430.685.

(2) If a group of counties acts jointly to operate a community mental health and developmental disabilities program, state funds shall be allocated, and the counties' contributions shall be prorated, in accordance with the agreement establishing the program.

(3) The counties or other entities operating community mental health and developmental disabilities programs shall not be required to match funds granted under subsections (1) and (2) of this section. However, the department may require matching funds if they are required as a condition of receipt of federal funds and the county or entity agrees to match funds.

(4) A reasonable portion of state funds granted under subsection (1)(b) of this section may be expended by community mental health and developmental disabilities programs and their subcontractors for expenses incurred in administering services. [1981 c.750 §§8,11]

430.695 Treatment of certain receipts as offsets to state funds; contracts for statewide or regional services; retention of receipts. (1) Any program fees, third-party reimbursements, contributions or funds from any source, except client resources applied toward the cost of care in group homes for

the mentally retarded and mentally ill and client resources and third-party payments for community psychiatric inpatient care, received by a community mental health and developmental disabilities program are not an offset to the costs of the services and shall not be applied to reduce the program's eligibility for state funds providing such funds are expended for mental health services approved by the Department of Human Services.

(2) Within the limits of available funds, the department may contract for specialized, statewide and regional services including but not limited to group homes for the mentally retarded or mentally or emotionally disturbed persons, day and residential treatment programs for mentally or emotionally disturbed children and adolescents and community services for clients of the Psychiatric Security Review Board.

(3) Beginning July 1, 1981, fees and third-party reimbursements, including all amounts paid pursuant to Title XIX of the Social Security Act by the Department of Human Services, for services rendered by the community mental health and developmental disabilities program and interest earned on such funds shall be retained by the program and expended for any service which meets the standards of the department. [1981 c.750 §9]

430.700 [1981 c.750 §13; repealed by 1995 c.79 §220]

CHILDREN'S MENTAL HEALTH SERVICES

430.705 Mental health services for children. Notwithstanding ORS 430.640, the State of Oregon, through the Department of Human Services, may establish the necessary facilities and provide comprehensive mental health services for children throughout the state. These services may include, but not be limited to the prevention of mental illness, and the prevention, treatment and restoration of emotionally disturbed, mentally ill and drug-dependent children. [1971 c.300 §2; 1999 c.59 §122; 2001 c.900 §140a]

430.710 [1963 c.581 §1; repealed by 1969 c.321 §9 and 1969 c.597 §281]

430.715 Hospital services; child care and residential treatment programs; other services. The Department of Human Services may contract for general hospital services and may provide or contract with public or private agencies or persons to provide child care and residential treatment programs to implement the objectives of ORS 430.705. The Department of Human Services may also purchase or contract for specific services and supplies for treatment of individual children. [1971 c.300 §3; 1995 c.278 §53]

430.720 [1963 c.581 §2; repealed by 1969 c.321 §9 and 1969 c.597 §281]

430.725 Gifts and grants. The Department of Human Services shall have authority to contract with private, nonprofit agencies and persons for receipt of grants-in-aid and other funds to be applied to child mental health service programs. [1971 c.300 §4]

430.730 [1963 c.581 §3; repealed by 1971 c.109 §1]

ABUSE REPORTING FOR MENTALLY ILL OR DEVELOPMENTALLY DISABLED PERSONS

430.735 Definitions for ORS 430.735 to 430.765. As used in ORS 430.735 to 430.765:

(1) "Abuse" means one or more of the following:

(a) Any death caused by other than accidental or natural means.

(b) Any physical injury caused by other than accidental means, or that appears to be at variance with the explanation given of the injury.

(c) Willful infliction of physical pain or injury.

(d) Sexual harassment or exploitation, including but not limited to any sexual contact between an employee of a facility or community program and an adult.

(e) Neglect that leads to physical harm through withholding of services necessary to maintain health and well-being. For purposes of this paragraph, "neglect" does not include a failure of the state or a community program to provide services due to a lack of funding available to provide the services.

(2) "Adult" means a person who is mentally ill or developmentally disabled, who is 18 years of age or older and receives services from a community program or facility.

(3) "Adult protective services" means the necessary actions taken to prevent abuse or exploitation of an adult, to prevent self-destructive acts and to safeguard an adult's person, property and funds. Any actions taken to protect an adult shall be undertaken in a manner that is least intrusive to the adult and provides for the greatest degree of independence.

(4) "Care provider" means an individual or facility that has assumed responsibility for all or a portion of the care of an adult as a result of a contract or agreement.

(5) "Community program" means a community mental health and developmental disabilities program as established in ORS 430.610 to 430.695.

(6) "Department" means the Department of Human Services.

(7) "Facility" means a residential treatment home or facility, residential care facility, adult foster care home, residential training home or facility or crisis respite facility.

(8) "Law enforcement agency" means:

(a) Any city or municipal police department;

(b) Any county sheriff's office;

(c) The Oregon State Police; or

(d) Any district attorney.

(9) "Public or private official" means:

(a) Physician, naturopathic physician, osteopathic physician, psychologist, chiropractor or podiatric physician and surgeon, including any intern or resident;

(b) Licensed practical nurse, registered nurse, nurse's aide, home health aide or employee of an in-home health service;

(c) Employee of the Department of Human Services, county health department, community mental health and developmental disabilities program or private agency contracting with a public body to provide any community mental health service;

(d) Peace officer;

(e) Member of the clergy;

(f) Licensed clinical social worker;

(g) Physical, speech or occupational therapist;

(h) Information and referral, outreach or crisis worker;

(i) Attorney;

(j) Licensed professional counselor or licensed marriage and family therapist; or

(k) Any public official who comes in contact with adults in the performance of the official's duties. [1991 c.744 §2; 1999 c.463 §7; 2003 c.443 §4]

Note: 430.735 to 430.765 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 430 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

430.737 Mandatory reports and investigations. The Legislative Assembly finds that for the purpose of preventing abuse and safeguarding and enhancing the welfare of adults who are mentally ill or developmentally disabled, it is necessary and in the public interest to require mandatory reports and thorough and unbiased investigations of allegedly abused mentally ill and developmentally disabled adults. [1991 c.744 §1; 2003 c.443 §1]

Note: See note under 430.735.

430.740 [1963 c.581 §4; repealed by 1969 c.321 §9]

430.743 Abuse report; content; action on report; notice to law enforcement agency and Department of Human Services. (1) When a report is required under ORS 430.765 (1) and (2), an oral report shall be made immediately by telephone or otherwise to the designee of the Department of Human Services or a law enforcement agency within the county where the person making the report is at the time of contact. If known, the report shall include:

(a) The name, age and present location of the allegedly abused adult;

(b) The names and addresses of persons responsible for the adult's care;

(c) The nature and extent of the alleged abuse, including any evidence of previous abuse;

(d) Any information that led the person making the report to suspect that abuse has occurred plus any other information that the person believes might be helpful in establishing the cause of the abuse and the identity of the perpetrator; and

(e) The date of the incident.

(2) When a report is received by the department's designee under this section, the designee shall immediately determine whether the reported victim has sustained any serious injury. If so, the designee shall immediately notify the department. If there is reason to believe a crime has been committed, the designee shall notify the law enforcement agency having jurisdiction within the county where the report was made. If the designee is unable to gain access to the allegedly abused adult, the designee may contact the law enforcement agency for assistance and the agency shall provide assistance. When a report is received by a law enforcement agency, the agency shall immediately notify the law enforcement agency having jurisdiction if the receiving agency does not. The receiving agency shall also immediately notify the department in cases of serious injury or death. [1991 c.744 §4; 2001 c.900 §14]

Note: See note under 430.735.

430.745 Investigation of abuse report; notice to medical examiners; findings; recommendations. (1) Upon receipt of any report of alleged abuse of an adult, the Department of Human Services or its designee shall investigate promptly to determine the nature and cause of the abuse. If the department or its designee determines that a law enforcement agency is conducting an investigation of the same incident, the department or its designee need not conduct its own investigation.

(2) The department or its designee may enter a facility and inspect and copy records

of a facility or community program if necessary for the completion of its investigation.

(3) In cases in which the department, its designee or the law enforcement agency conducting the investigation finds reasonable cause to believe that an adult has died as a result of abuse, it shall report that information to the appropriate medical examiner. The medical examiner shall complete an investigation as required under ORS chapter 146 and report the findings to the department, its designee or the law enforcement agency.

(4) Upon completion of an investigation conducted by a law enforcement agency, that agency shall provide the department or its designee with a report of its findings and supporting evidence.

(5) If the department or its designee determines that there is reasonable cause to believe that abuse occurred at a facility or that abuse was caused or aided by a person licensed by a licensing agency to provide care or services, it shall immediately notify each appropriate licensing agency and provide each licensing agency with a copy of its investigative findings.

(6) Upon completion of the investigation, the department or its designee shall prepare written findings which include recommended actions and a determination of whether protective services are needed. Appropriate protective services shall be provided as necessary to prevent further abuse of the adult. Any protective services provided shall be undertaken in a manner that is least intrusive to the adult and provides for the greatest degree of independence that is available within existing resources. [1991 c.744 §5]

Note: See note under 430.735.

430.746 Training requirements for persons investigating reports of alleged abuse. Any designee of the Department of Human Services who makes a determination or conducts an investigation under ORS 430.743 or 430.745 shall receive training and consultation that is necessary to allow the designee to make the determination or conduct a thorough and unbiased investigation. The training required under this section shall address the cultural and social diversity of the people of this state. [2003 c.443 §3]

Note: See note under 430.735.

430.747 Photographs of victim during investigation; exception; photographs as records. (1) In carrying out its duties under ORS 430.735 to 430.765, a law enforcement agency or the Department of Human Services' designee may photograph or cause to have photographed any victim who is the subject of the investigation for purposes of

preserving evidence of the condition of the victim at the time of investigation unless the victim knowingly refuses to be photographed.

(2) For purposes of ORS 430.763, photographs taken under authority of subsection (1) of this section shall be considered case records. [1991 c.744 §6]

Note: See note under 430.735.

430.750 [1963 c.581 §5; repealed by 1969 c.321 §9]

430.753 Immunity of persons making reports in good faith; confidentiality. (1) Anyone participating in good faith in making a report of abuse pursuant to ORS 430.743 and 430.765 (1) and (2) and who has reasonable grounds for making the report, shall have immunity from any civil liability that might otherwise be incurred or imposed with respect to the making or content of the report. The participant shall have the same immunity with respect to participating in any judicial proceeding resulting from the report.

(2) The identity of the person making the report shall be treated as confidential information and shall be disclosed only with the consent of that person, by judicial order or as otherwise permitted by ORS 430.763. [1991 c.744 §7]

Note: See note under 430.735.

430.755 Retaliation prohibited; liability for retaliation. (1) A facility, community program or person shall not retaliate against any person who reports in good faith suspected abuse or against the allegedly abused adult with respect to any report.

(2) Any facility, community program or person that retaliates against any person because of a report of suspected abuse shall be liable in a private action to that person for actual damages and, in addition, a penalty up to \$1,000, notwithstanding any other remedy provided by law.

(3)(a) Any adverse action is evidence of retaliation if taken within 90 days of a report.

(b) For purposes of this subsection, "adverse action" means any action taken by a facility, community program or person involved in a report against the person making the report or against the adult with respect to whom the report was made because of the report, and includes but is not limited to:

(A) Discharge or transfer from the facility, except for clinical reasons;

(B) Discharge from or termination of employment;

(C) Demotion or reduction in remuneration for services; or

(D) Restriction or prohibition of access to the facility or its residents. [1991 c.744 §8; 2003 c.443 §5]

Note: See note under 430.735.

430.757 Reports of abuse to be maintained by Department of Human Services. A proper record of all reports of abuse made under ORS 430.743 and 430.765 (1) and (2) shall be maintained by the Department of Human Services. [1991 c.744 §9]

Note: See note under 430.735.

430.760 [1969 c.253 §1; repealed by 1985 c.555 §26]

430.763 Confidentiality of records; when record may be made available to agency. Notwithstanding the provisions of ORS 192.410 to 192.505, the names of persons who made reports of abuse, witnesses of alleged abuse and the affected adults and materials under ORS 430.747 maintained under the provisions of ORS 430.757 are confidential and are not accessible for public inspection. However, the Department of Human Services shall make this information and any investigative report available to any law enforcement agency, to any public agency that licenses or certifies facilities or licenses or certifies the persons practicing therein and to any public agency providing protective services for the adult, if appropriate. The department shall also make this information and any investigative report available to any private agency providing protective services for the adult and to the protection and advocacy system for the affected adults designated pursuant to 42 U.S.C.A. 15041 et seq. When this information and any investigative report is made available to a private agency, the confidentiality requirements of this section apply to the private agency. [1991 c.744 §10; 2003 c.14 §240]

Note: See note under 430.735.

430.765 Duty of officials to report abuse; exceptions for privileged communications; exception for religious practice. (1) Any public or private official who has reasonable cause to believe that any adult with whom the official comes in contact while acting in an official capacity, has suffered abuse, or that any person with whom the official comes in contact while acting in an official capacity has abused an adult shall report or cause a report to be made in the manner required in ORS 430.743.

(2) Nothing contained in ORS 40.225 to 40.295 affects the duty to report imposed by subsections (1) and (2) of this section, except that a psychiatrist, psychologist, member of the clergy or attorney shall not be required to report such information communicated by a person if the communication is privileged under ORS 40.225 to 40.295.

(3) An adult who in good faith is voluntarily under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly

accredited practitioner thereof shall for this reason alone not be considered subjected to abuse under ORS 430.735 to 430.765. [1991 c.744 §§3,11]

Note: See note under 430.735.

430.770 [1969 c.253 §2; repealed by 1985 c.555 §26]

430.780 [1969 c.253 §3; repealed by 1985 c.555 §26]

430.790 [1969 c.253 §4; repealed by 1985 c.555 §26]

430.810 [1969 c.253 §5; repealed by 1985 c.555 §26]

430.820 [1969 c.253 §6; repealed by 1985 c.555 §26]

PROGRAM FOR PERSONS CONVICTED OF DRIVING UNDER INFLUENCE OF ALCOHOL; CRIMES COMMITTED WHILE INTOXICATED

430.850 Treatment program; eligibility.

(1) Subject to the availability of funds therefor, the Department of Human Services may establish and administer a treatment program with courts, with the consent of the judge thereof, for any person convicted of driving under the influence of alcohol, or of any crime committed while the defendant was intoxicated when the judge has probable cause to believe the person is an alcoholic or problem drinker and would benefit from treatment, who is eligible under subsection (2) of this section to participate in such program. The program shall involve medical and mental treatment to include at least the supplying of disulfiram or any other agent that interferes with normal metabolic degradation of alcohol in the body resulting in an increase in acetaldehyde concentrate in the blood, at regular intervals and under close supervision and control.

(2) A person eligible to participate in the program is a person who:

(a) Has been convicted of driving under the influence of alcohol if such conviction has not been appealed, or if such conviction has been appealed, whose conviction has been sustained upon appeal; or

(b) Has been convicted of any crime committed while the defendant was intoxicated if such conviction has not been reversed on appeal, and when the judge has probable cause to believe the person is an alcoholic or problem drinker and would benefit from treatment; and

(c) Has been referred by the participating court to the Department of Human Services for participation in the treatment program; and

(d) Prior to sentencing, has been medically evaluated by the Department of Human Services and accepted by the department as a participant in the program; and

(e) Has consented as a condition to probation to participate in the program; and

(f) Has been sentenced to probation by the court, a condition of which probation is participation in the program according to the rules adopted by the Department of Human Services under ORS 430.870. [1973 c.340 §1; 1993 c.14 §25]

430.860 Participation in program; report to court. The Department of Human Services may:

(1) Accept for medical evaluation any person meeting the conditions defined in ORS 430.850 (2)(a) or (b) and referred for participation in the program by a participating court, cause such medical evaluation to be made and report the results of the evaluation to the referring court;

(2) Within the limitation of funds available to the program, accept any person as a participant in the program who is eligible under ORS 430.850 (2) and whose medical evaluation shows the person suitable to participate in the program; and

(3) Report to the referring court the progress of, and any violation of rules of the department adopted under ORS 430.870 by, a participant. [1973 c.340 §2]

430.870 Rulemaking. The Department of Human Services shall adopt rules necessary to the efficient administration and functioning of the program and rules regulating the conduct of participants in the program. Rules regulating the conduct of participants in the program shall include but not be limited to rules requiring participants to keep appointments and the time, place and frequency of any dosages. [1973 c.340 §3]

430.880 Authority to accept gifts, grants or services. (1) The Department of Human Services may accept gifts and apply for and accept grants or services from the federal government or any of its agencies, from associations, individuals and private corporations to carry out the purposes of ORS 430.850 to 430.880.

(2) All moneys received by the department under ORS 430.850 to 430.880 shall be paid into the State Treasury and deposited in the General Fund to the credit of a special account. Such moneys are appropriated continuously to the department for the purposes of ORS 430.850 to 430.880. [1973 c.340 §4]

430.890 [1973 c.817 §4; repealed by 1979 c.419 §3]

430.891 [1975 c.150 §4; repealed by 1979 c.419 §3]

ALCOHOL AND DRUG TREATMENT FOR PREGNANT USERS

430.900 Definitions for ORS 430.900 to 430.930. As used in ORS 430.900 to 430.930, "substance" has the meaning of "controlled substance" as defined in ORS 475.005 and

includes alcoholic beverages or other substances with abuse potential. [1989 c.1046 §7]

430.905 Policy. The Legislative Assembly declares:

(1) Because the growing numbers of pregnant substance users and drug- and alcohol-affected infants place a heavy financial burden on Oregon's taxpayers and those who pay for health care, it is the policy of this state to take effective action that will minimize these costs.

(2) Special attention must be focused on preventive programs and services directed at women at risk of becoming pregnant substance users as well as on pregnant women who use substances or who are at risk of substance use or abuse.

(3) It is the policy of this state to achieve desired results such as alcohol- and drug-free pregnant women and healthy infants through a holistic approach covering the following categories of needs:

(a) Biological-physical need, including but not limited to detoxification, dietary and obstetrical.

(b) Psychological need, including but not limited to support, treatment for anxiety, depression and low self-esteem.

(c) Instrumental need, including but not limited to child care, transportation to facilitate the receipt of services and housing.

(d) Informational and educational needs, including but not limited to prenatal and postpartum health, substance use and parenting. [1989 c.1046 §1]

430.910 [1989 c.1046 §2; repealed by 2001 c.900 §261]

430.915 Health care providers to encourage counseling and therapy. If during routine pregnancy or prenatal care, the attending health care provider determines that the patient uses or abuses drugs or alcohol or uses unlawful controlled substances, or the patient admits such use to the provider, it is the policy of this state that the provider encourage and facilitate counseling, drug therapy and other assistance to the patient in order to avoid having the child, when born, become subject to protective services. [1989 c.1046 §3]

430.920 Risk assessment for drug and alcohol use; informing patient of results; assistance to patient in reducing need for controlled substances. (1) The attending health care provider shall perform during the first trimester of pregnancy or as early as possible a risk assessment which shall include an assessment for drug and alcohol usage. If the results of the assessment indicate that the patient uses or abuses drugs or alcohol or uses unlawful controlled substances, the provider shall tell the patient about the

potential health effects of continued substance abuse and recommend counseling by a trained drug or alcohol abuse counselor.

(2) The provider shall supply to the local public health administrator demographic information concerning patients described in subsection (1) of this section without revealing the identity of the patients. The local administrator shall use forms prescribed by the Department of Human Services and shall send copies of the forms and any compilation made from the forms to the Department of Human Services at such times as the department may require by rule.

(3) The provider, if otherwise authorized, may administer or prescribe controlled substances that relieve withdrawal symptoms and assist the patient in reducing the need for unlawful controlled substances according to medically acceptable practices. [1989 c.1046 §4]

430.925 Demonstration pilot projects; goals. Subject to the availability of federal funds, the Department of Human Services shall design and place in operation as soon as possible after August 5, 1989, two demonstration pilot projects in local health departments to alleviate the health related problems of pregnant and postpartum women and their infants which arise from substance use. One project shall be within a metropolitan statistical area and one project shall be in a rural area outside of a metropolitan statistical area. The project designs shall take account of the findings, policies and intent of ORS 430.900 to 430.930. Projects shall incorporate promising or innovative services and activities intended to realize the following goals:

(1) Promote the involvement and coordinated participation of multiple organizations in the delivery of comprehensive services for substance-using pregnant and postpartum women and their infants;

(2) Increase the availability and accessibility of prevention, early intervention and treatment services for these populations;

(3) Improve the identification of substance-using women and their recruitment into and retention in appropriate treatment programs;

(4) Decrease the incidence and prevalence of drug and alcohol use among pregnant and postpartum women;

(5) Decrease the incidence of pregnancy among women who use alcohol and other drugs through intensive family planning counseling and referral;

(6) Improve the birth outcomes of women who used alcohol and other drugs during pregnancy and to decrease the incidence of infants affected by maternal substance use;

(7) Reduce the severity of impairment among children born to substance-using women; and

(8) Promote continuing education among health providers to improve identification of pregnant women at risk of substance abuse or abusing substances and improved services to these women and their infants. [1989 c.1046 §5]

430.930 Drug and alcohol abuse education at Oregon Health and Science University. The Oregon Health and Science University shall have an integrated curriculum in the medical school to teach medical students drug and alcohol abuse assessment and treatment procedures and practices. [1989 c.1046 §6]

430.950 [1991 c.706 §1; repealed by 2001 c.900 §261]

430.955 Standardized screening instrument; assessing drug use during pregnancy. (1) The Department of Human Services and the Oregon Health and Science University shall develop a standardized screening instrument designed to identify the use of substances during pregnancy.

(2) The department and the Oregon Health and Science University shall request the boards responsible for the licensing of health care providers and appropriate professional organizations to work with them to conduct a series of training sessions for health professionals who provide maternity care on how to assess drug use in pregnancy. [1991 c.706 §4; 2001 c.900 §142]

Note: 430.955 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 430 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.