

Chapter 430

2017 EDITION

Mental Health; Developmental Disabilities; Substance Abuse Treatment Programs

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MENTAL HEALTH; DEVELOPMENTAL DISABILITIES

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DEFINITIONS

430.010 Definitions. As used in this chapter:

(1) “Outpatient service” means:

(a) A program or service providing treatment by appointment and by:

(A) Physicians licensed under ORS 677.100 to 677.228;

(B) Psychologists licensed by the Oregon Board of Psychology under ORS 675.010 to 675.150;

(C) Nurse practitioners registered by the Oregon State Board of Nursing under ORS 678.010 to 678.410;

(D) Regulated social workers authorized to practice regulated social work by the State Board of Licensed Social Workers under ORS 675.510 to 675.600;

(E) Professional counselors or marriage and family therapists licensed by the Oregon Board of Licensed Professional Counselors and Therapists under ORS 675.715 to 675.835; or

(F) Naturopathic physicians licensed by the Oregon Board of Naturopathic Medicine under ORS chapter 685; or

(b) A program or service providing treatment by appointment that is licensed, approved, established, maintained, contracted with or operated by the authority 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 disturbances.

(2) “Residential facility” 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 authority 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 disturbances. [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; 2007 c.70 §225; 2009 c.442 §38; 2009 c.549 §3; 2009 c.595 §458; 2011 c.658 §27; 2011 c.673 §15; 2013 c.36 §24; 2017 c.6 §2; 2017 c.356 §54; 2017 c.409 §12]

430.020 [1961 c.706 §2; 1965 c.339 §20; repealed by 1969 c.597 §82 (430.021 enacted in lieu of 430.020)]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 and Oregon Health Authority; report to authority on use of restraint or seclusion; rules. Subject to ORS 417.300 and 417.305:

(1) The Department of Human Services shall directly or through contracts with private entities, counties under ORS 430.620 or other public entities:

(a) Direct, promote, correlate and coordinate all the activities, duties and direct services for persons with developmental disabilities.

(b) Promote, correlate and coordinate the developmental disabilities activities of all governmental organizations throughout the state in which there is any direct contact with developmental disabilities programs.

(c) Establish, coordinate, assist and direct a community developmental disabilities program in cooperation with local government units and integrate such a program with the state developmental disabilities program.

(d) Promote public education in this state concerning developmental disabilities and act as the liaison center for work with all interested public and private groups and agencies in the field of developmental disabilities services.

(2) The Oregon Health Authority shall directly or by contract with private or public entities:

(a) Direct, promote, correlate and coordinate all the activities, duties and direct services for persons with mental or emotional disturbances, alcoholism or drug dependence.

(b) Promote, correlate and coordinate the mental health activities of all governmental organizations throughout the state in which there is any direct contact with mental health programs.

(c) Establish, coordinate, assist and direct a community mental health program in cooperation with local government units and integrate such a program with the state mental health program.

(d) Promote public education in this state concerning mental health and act as the liaison center for work with all interested public and private groups and agencies in the field of mental health services.

(3) The department and the authority shall develop cooperative programs with interested private groups throughout the state to effect better community awareness and action in the fields of mental health and developmental disabilities, and encourage and

assist in all necessary ways community general hospitals to establish psychiatric services.

(4) 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 the Oregon Health Authority shall take this policy into account.

(5) The department and the authority shall accept the custody of persons committed to its care by the courts of this state.

(6) The authority shall adopt rules to require a facility and a nonhospital facility as those terms are defined in ORS 426.005, and a provider that employs a person described in ORS 426.415, if subject to authority rules regarding the use of restraint or seclusion during the course of mental health treatment of a child or adult, to report to the authority each calendar quarter the number of incidents involving the use of restraint or seclusion. The aggregate data shall be made available to the public. [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; 2007 c.70 §226; 2007 c.164 §1; 2009 c.595 §459; 2011 c.720 §166; 2013 c.36 §25]

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 limitation on the powers and authority vested in the Department of Human Services or the Oregon Health Authority by other provisions of law. [1961 c.706 §3; 1969 c.597 §85; 2009 c.595 §460]

430.040 [1961 c.706 §86,8(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; Disability Issues Advisory Committee; rules.

(1) The Director of the Oregon Health Authority, 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 persons with disabilities 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 Oregon Health Authority shall adopt rules specifying the duties of the board. In addition to those duties assigned by rule, the board shall assist the authority in planning and preparation of administrative rules for the assumption of responsibility for psychiatric care in state and community hospitals by community mental health 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, "person with a disability" 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; 2007 c.70 §227; 2009 c.595 §461]

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

430.065 [1991 c.654 §1; 2001 c.900 §134; repealed by 2005 c.705 §2]

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

430.071 Policy to support and promote self-determination. The Oregon Health Authority shall adopt a policy that supports and promotes self-determination for persons receiving mental health services. The policy shall be designed to remove barriers that:

(1) Segregate persons with disabilities from full participation in the community in the most integrated setting in accordance with the United States Supreme Court decision in *Olmstead v. L.C.*, 527 U.S. 581 (1999); and

(2) Prevent persons with disabilities from enjoying a meaningful life, the benefits of community involvement and citizen rights guaranteed by law. [2007 c.805 §1; 2009 c.595 §462]

Note: 430.071 to 430.078 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.

430.073 Consumer Advisory Council.

(1) As used in this section and ORS 430.075, “consumer” means a person who has received or is receiving mental health or addiction services.

(2) The Director of the Oregon Health Authority shall establish a Consumer Advisory Council to advise the director on the provision of mental health services by the Oregon Health Authority. The council may review, evaluate and provide feedback on all site reviews related to mental health services provided by the authority.

(3) The director shall appoint 15 to 25 consumers to the council. In making appointments, the director shall strive to balance the representation according to geographic areas of the state, race, ethnicity and age.

(4) The authority shall provide administrative support to the council.

(5) A member of the council is entitled to compensation in an amount determined by the director and to actual and necessary travel expenses incurred by the member in the performance of the member’s official duties. Claims for compensation and expenses shall be paid out of funds appropriated to the authority for purposes of the council. [2007 c.805 §2; 2009 c.595 §463; 2015 c.287 §1]

Note: See note under 430.071.

430.075 Consumer participation on task forces, commissions, advisory groups and committees.

(1) Subject to the limitations in subsection (2) of this section, at least 20 percent of the membership of all task forces, commissions, advisory groups and committees established by a public body, as defined in ORS 174.109, shall be consumers, with representation balanced by age.

(2) Subsection (1) of this section applies only to task forces, commissions, advisory groups and committees established by a public body, as defined in ORS 174.109, that:

(a) Primarily relate to persons with mental health or addiction issues; and

(b) Are subject to ORS 192.630. [2007 c.805 §3]

Note: See note under 430.071.

430.078 Rules. The Oregon Health Authority shall adopt rules to implement ORS 430.071 to 430.075. [2007 c.805 §4; 2009 c.595 §464]

Note: See note under 430.071.

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 Oregon Health Authority 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 authority shall:

(a) Disburse or supervise the disbursement of all funds made available at any time by the federal government or this state for those purposes, 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; 2009 c.595 §465]

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

430.160 Federal funds deposited in special account.

All funds 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 or developmental disability 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; 2009 c.595 §466]

430.165 Fee schedules; collection of fees; definition.

The Oregon Health Authority 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 authority in the same manner as charges are collected under ORS 179.610 to 179.770. When the authority 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; 2009 c.595 §467]

430.170 [1971 c.306 §8; 1999 c.829 §5; 2009 c.595 §468; repealed by 2011 c.720 §228]

430.180 [1977 c.384 §2; 1989 c.116 §6; 2001 c.487 §15; repealed by 2009 c.595 §1204]

430.190 [1983 c.562 §4; 1985 c.494 §4; 1989 c.116 §8; 2001 c.900 §232; repealed by 2009 c.595 §1204]

430.195 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) The Oregon Health Authority may receive funds that are the property of the authority’s clients or are contributed for the use of the authority’s clients. The authority shall deposit such funds in trust accounts established under ORS 293.445. Interest earned by a trust account shall be credited to the account.

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

(4) The department or the authority 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 and the authority shall remain accountable for the proper handling of the trust accounts authorized by this section. [1999 c.829 §7; 2009 c.595 §469]

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.

430.197 Mental Health Services Fund. The Mental Health Services Fund is established in the State Treasury, separate and distinct from the General Fund. The Mental Health Services Fund comprises moneys collected or received by the Oregon Health Authority, the Department of Human Services and the Department of Corrections under ORS 179.640, 426.241 and 430.165. The moneys in the fund are continuously appropriated to the Oregon Health Authority, the Department of Human Services and the Department of Corrections for the purposes of paying the costs of:

(1) Services provided to a person in a state institution, as defined in ORS 179.610;

(2) Emergency psychiatric care, custody and treatment paid under ORS 426.241;

(3) Emergency care, custody or treatment provided to a person admitted to or detained in a state mental hospital or nonhospital facility under ORS 426.070, 426.140, 426.180 to 426.210, 426.228, 426.232 or 426.233; and

(4) Programs operating under ORS 430.265, 430.306 to 430.375, 430.405, 430.415, 430.850 to 430.880, 813.500 and 813.510. [2011 c.720 §226; 2012 c.25 §5; 2015 c.785 §8]

Note: 430.197 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 that are licensed or certified by the Oregon Health Authority or that contract with the authority 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 and receives services from a program or facility.

(3) “Program” means a community mental health program and agencies with which the program contracts to provide services.

(4) “Services” means mental health services provided under ORS 430.630. [1993 c.96 §2; 2009 c.595 §470; 2011 c.720 §167; 2013 c.36 §26]

430.210 Rights of persons receiving mental health services. (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, reasonable privacy and daily access to fresh air and the outdoors, except that such access may be limited when it would create significant risk of harm to the person or others.

(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 if the individual is committed to the Oregon Health Authority.

(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, including the name, address and telephone number of the system described in ORS 192.517 (1), 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 that 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 may be construed to alter any legal rights and responsibilities between parent and child. [1993 c.96 §3; 2005 c.550 §1; 2007 c.57 §2; 2009 c.595 §471; 2011 c.720 §168; 2013 c.36 §27]

430.212 Reconnection of family members to individual with developmental disability; rules. (1) The Department of Human Services shall establish a process by rule that implements the reconnection of family members with an individual with a developmental disability as defined in ORS 427.005.

(2) The rules adopted under subsection (1) of this section shall include a process that provides guidance for the release of information about the individual to family members when:

(a) The individual is incapable of providing consent for the release of information;

(b) The individual does not have a guardian or any representative designated by the individual who is authorized to release information; and

(c) The release of information is in the best interests of the individual as determined by the department. [2005 c.550 §2; 2011 c.658 §39]

Note: 430.212 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.

430.215 Responsibility for developmental disability services and psychiatric treatment services for children. (1) The

Department of Human Services shall be responsible for 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. The department may deliver the services directly or through contracts with private entities, counties under ORS 430.620 or other public entities.

(2) The Oregon Health Authority shall be responsible for psychiatric residential and day treatment services for children with mental or emotional disturbances. [1993 c.676 §28(2); 1999 c.316 §1; 2009 c.595 §472; 2013 c.36 §28]

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.

430.216 Report to Legislative Assembly. (1) The Department of Human Services shall report to each odd-numbered year regular session of the Legislative Assembly:

(a) On the safety of individuals receiving developmental disability services including, but not limited to:

(A) The average turnover of direct care workers in service settings.

(B) A summary of the training provided by the department or its contractors to direct care workers in service settings.

(C) A summary of the core competencies required of direct care workers in service settings by the state for licensing or certification.

(D) A summary of the average wages of direct care workers in service settings, presented by type of services provided.

(E) The number of complaints of abuse filed as required by ORS 430.765 and received by the department under ORS 430.743, reported by type of allegation.

(F) The number of direct care workers in service settings who were subject to criminal or civil action involving an individual with a developmental disability.

(G) The number of deaths, serious injuries, sexual assaults and rapes alleged to have occurred in service settings.

(b) A schedule of all license fees and civil penalties established by the department by rule pursuant to ORS 443.455 and 443.790.

(2) The department shall provide the report described in subsection (1)(a) of this section to the appropriate legislative committees, the Oregon Council on Developmental Disabilities and to the agency designated

to administer the state protection and advocacy system under ORS 192.517.

(3) As used in this section, “service settings” means any of the following that provide developmental disability services:

(a) An adult foster home as defined in ORS 443.705;

(b) A residential facility as defined in ORS 443.400;

(c) A location where home health services, as defined in ORS 443.014, are received by a resident;

(d) A location where in-home care services, as defined in ORS 443.305, are received by a resident; and

(e) A domiciliary care facility as defined in ORS 443.205. [2009 c.837 §4; 2009 c.828 §79; 2011 c.9 §60; 2011 c.545 §54; 2013 c.36 §29; 2017 c.679 §37]

Note: 430.216 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.

430.218 [2005 c.805 §1; renumbered 427.450 in 2011]

430.240 [1991 c.574 §2; 2009 c.595 §473; 2011 c.673 §16; renumbered 430.254 in 2011]

ALCOHOL AND DRUG ABUSE

(Alcohol and Drug Policy Commission)

430.241 Commission; members; terms; subcommittees. (1) As used in this section and ORS 430.242:

(a) “Local government” means a local government as defined in ORS 174.116 that receives state or federal funding for programs that provide alcohol or drug abuse prevention or treatment services.

(b) “Participating state agency” means the Department of Corrections, the Department of Human Services, the Oregon Health Authority, the Department of Education, the Oregon Criminal Justice Commission, the Oregon State Police, the Oregon Youth Authority or any other state agency that is approved by the Alcohol and Drug Policy Commission to license, contract for, provide or coordinate alcohol or drug abuse prevention or treatment services.

(c) “Provider” means any person that is licensed by the Oregon Health Authority to provide alcohol or drug abuse prevention or treatment services.

(2) There is created the Alcohol and Drug Policy Commission, which is charged with improving the effectiveness and efficiency of state and local alcohol and drug abuse prevention and treatment services.

(3) The membership of the commission consists of:

(a) At least 12 but no more than 16 members appointed by the Governor, subject

to confirmation by the Senate in the manner prescribed in ORS 171.562 and 171.565. The Governor shall appoint members, as the Governor deems practicable, to ensure representation from stakeholders directly impacted by the work of the commission. In making the appointments, the Governor shall consider representatives of:

- (A) District attorneys;
- (B) County sheriffs;
- (C) County commissioners;
- (D) Indian tribes;
- (E) Providers of alcohol and drug abuse prevention and treatment services;
- (F) Chiefs of police;
- (G) Alcohol or drug treatment researchers or epidemiologists;
- (H) Criminal defense attorneys;
- (I) The health insurance industry, hospitals or coordinated care organizations; and
- (J) Consumers of alcohol and drug abuse prevention and treatment services who are in recovery and the family members of consumers.

(b) Two members of the Legislative Assembly appointed to the commission as nonvoting members of the commission, acting in an advisory capacity only and including:

- (A) One member from among members of the Senate appointed by the President of the Senate; and
 - (B) One member from among members of the House of Representatives appointed by the Speaker of the House of Representatives.
- (c) A judge of a circuit court appointed to the commission as a nonvoting member by the Chief Justice of the Supreme Court.

(4) The Alcohol and Drug Policy Commission shall select one of its members as chairperson and another as vice chairperson, for such terms and with duties and powers necessary for the performance of the functions of such offices as the commission determines.

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

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

(7) The commission may establish a steering committee and subcommittees. These committees may be continuing or temporary. A person who is not a member of the commission may be appointed by the commission to serve on a subcommittee. The commission shall appoint subcommittee members to ensure representation from all

stakeholders directly impacted by the work of the commission.

(8) The term of office of each commission member appointed by the Governor is four years, but a member serves at the pleasure of the Governor. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective.

(9) The Oregon Health Authority shall provide staff support to the commission. Subject to available funding, the commission may contract with a public or private entity to provide staff support.

(10) Members of the commission who are not members of the Legislative Assembly are entitled to compensation and expenses incurred by them in the performance of their official duties in the manner and amounts provided for in ORS 292.495. Claims for compensation and expenses shall be paid out of funds appropriated to the Oregon Health Authority or funds appropriated to the commission for purposes of the commission.

(11)(a) The Governor shall appoint a Director of the Alcohol and Drug Policy Commission who shall serve at the pleasure of the Governor and be responsible for the dissemination and implementation of the commission's policies and the performance of the duties, functions and powers of the commission that are delegated to the director by the commission.

(b) The director shall be paid a salary as provided by law or, if not so provided, as prescribed by the Governor. [2009 c.856 §1; 2009 c.856 §31; 2011 c.673 §1; 2011 c.731 §23; 2012 c.37 §62; 2013 c.623 §18; 2015 c.405 §1]

Note: 430.241 and 430.242 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.

430.242 Long-term strategic prevention and treatment plan; rules. (1) For purposes of this section, "program" means a state or local alcohol and drug abuse prevention and treatment program.

(2) The Alcohol and Drug Policy Commission established under ORS 430.241 shall establish priorities and policies for alcohol and drug abuse prevention and treatment services as part of a long-term strategic prevention and treatment plan for this state. The plan must include, but is not limited to, recommendations regarding:

- (a) Capacity, type and utilization of programs;
- (b) Methods to assess the effectiveness and performance of programs;
- (c) The best use of existing programs;
- (d) Budget policy priorities for participating state agencies;

(e) Standards for licensing programs;

(f) Minimum standards for contracting for, providing and coordinating alcohol and drug abuse prevention and treatment services among programs that use federal, private or state funds administered by the state; and

(g) The most effective and efficient use of participating state agency resources to support programs.

(3) The commission may:

(a) Conduct studies related to the duties of the commission in collaboration with other state agencies;

(b) Apply for and receive gifts and grants for public and private sources; and

(c) Use funds received by the commission to carry out the purposes of ORS 430.241 and this section.

(4) The commission may adopt rules to carry out its duties under this section. [2011 c.673 §2; 2012 c.37 §63; 2013 c.623 §19; 2015 c.405 §2]

Note: See note under 430.241.

430.250 [1985 c.740 §1; 1999 c.1053 §33; repealed by 2009 c.856 §27]

(Prevention, Intervention and Treatment)

430.254 Goal of treatment programs for persons with drug dependence. The Oregon Health Authority shall develop treatment programs, meeting minimum standards adopted pursuant to ORS 430.357, to 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. [Formerly 430.240]

Note: 430.254 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.

430.255 [1985 c.740 §4; 1999 c.1053 §34; 2009 c.595 §474; repealed by 2009 c.856 §27]

430.256 Planning and administering alcohol and drug treatment programs; establishment of guidelines for program reviews and audits; rules. (1) The Director of the Oregon Health Authority shall administer alcohol and drug abuse programs, including but not limited to programs or components of programs described in ORS 430.397 to 430.401 and 475.225 and ORS chapters 430 and 801 to 822.

(2) Subject to ORS 417.300 and 417.305, the director shall:

(a) Report to the Alcohol and Drug Policy Commission on accomplishments and issues occurring during each biennium, and report on a new biennial plan describing resources, needs and priorities for all alcohol and drug abuse programs.

(b) Develop within the Oregon Health Authority priorities for alcohol and drug abuse programs and activities.

(c) Conduct statewide and special planning processes that provide for participation from state and local agencies, groups and individuals.

(d) Identify the needs of special populations including minorities, elderly, youth, women and individuals with disabilities.

(e) Subject to ORS chapter 183, adopt such rules as are necessary for the performance of the duties and functions specified by this section.

(3) The director may apply for, receive and administer funds, including federal funds and grants, from sources other than the state. Subject to expenditure limitation set by the Legislative Assembly, funds received under this subsection may be expended by the director:

(a) For the study, prevention or treatment of alcohol and drug abuse and dependence in this state.

(b) To provide training, both within this state and in other states, in the prevention and treatment of alcohol and drug abuse and dependence.

(4) The director shall, in consultation with state agencies and counties, establish guidelines to coordinate program review and audit activities by state agencies and counties that provide funds to alcohol and drug prevention and treatment programs. The purpose of the guidelines is to minimize duplication of auditing and program review requirements imposed by state agencies and counties on alcohol and drug prevention and treatment programs that receive state funds, including programs that receive beer and wine tax revenues under ORS 430.380 and 471.810. [Formerly 409.410; 2017 c.17 §37]

Note: 430.256 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.

430.257 [1985 c.740 §6; 1987 c.660 §21; 1991 c.453 §2; 1999 c.1053 §35; 2001 c.900 §135; 2009 c.595 §475; repealed by 2009 c.856 §27]

430.258 [1999 c.1053 §31; repealed by 2009 c.856 §27]

430.259 [1999 c.1053 §32; 2009 c.595 §476; repealed by 2009 c.856 §27]

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

430.262 Registration of sobering facilities; fees prohibited. (1) The Oregon Health Authority shall maintain a registry of sobering facilities.

(2) To be registered, a sobering facility shall send a written request to the Director of the Oregon Health Authority by certified

mail, return receipt requested. The written request must include the name and address of the sobering facility and a statement signed by an authorized representative that the facility meets the definition of a sobering facility in ORS 430.306.

(3) The authority may not impose a fee or other charge for the registration.

(4) The authority shall provide each sobering facility that submits a request for registration with a written confirmation of the facility's registration no later than 30 days after the authority receives the written request for registration. The confirmation must be sent by certified mail.

(5) The authority shall report to each regular session of the Legislative Assembly, beginning with the 2017 regular session, on the extent to which sobering facilities registered with the authority under this section have provided safe, clean and appropriate environments for police officers to take intoxicated persons. The authority may also report any other information that the authority determines may be useful to the Legislative Assembly in evaluating the benefits of sobering facilities. [2015 c.730 §2; 2017 c.203 §1]

Note: 430.262 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.

430.265 Contracts with federal government for services to alcohol and drug-dependent persons. The Oregon Health Authority 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; 2009 c.595 §477]

430.270 Publicizing effects of alcohol and drugs. (1) The Oregon Health Authority 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.

(2) The activities of the authority under this section may not be inconsistent with the long-term strategic alcohol and drug abuse prevention and treatment plan developed by the Alcohol and Drug Policy Commission under ORS 430.242. [Formerly 430.080; 1979 c.744 §23; 1985 c.740 §12; 2009 c.595 §478; 2009 c.856 §§9,18; 2011 c.673 §17; 2015 c.405 §3]

430.272 Inhalant abuse; education resources. (1) For purposes of this section, "inhalant" has the meaning given that term in ORS 167.808.

(2) The Director of the Oregon Health Authority shall develop education resources focusing on the problem of inhalant abuse by minors. The director shall ensure that special emphasis is placed on the education of parents about the risks of inhalant use. The director shall develop tools to help parents talk to their children about the extraordinary risks associated with even a single use of inhalants, as well as those risks that arise from repeated use.

(3) The director shall develop education resources focusing on merchants that sell products that contain inhalants. The director shall encourage merchants that sell products containing inhalants to post signs that inform the public that using inhalants for the purpose of intoxication is illegal and potentially deadly.

(4) The director shall develop and print a standard sign for the purposes of subsection (3) of this section, and shall make the sign available to merchants that elect to display the sign. The sign shall:

(a) Contain the message, "Illegal to inhale fumes for purpose of intoxication. Fumes may cause serious injury or death!"

(b) Be at least five by seven inches in size with lettering that is at least three-eighths of an inch in height.

(c) Contain a graphic depiction of the message to convey the message to a person who cannot read the message. If the depiction includes a picture of a person, the depiction of the person shall be of a minor and shall not reflect any specific race or culture.

(5) The sign developed under subsection (4) of this section shall be in English and in such other languages as may be commonly used in this state. Merchants shall be encouraged to post signs in languages other than English if English is not the primary language of a significant number of the patrons of the business. [Formerly 409.425]

Note: 430.272 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.

430.290 [1973 c.582 §§1,2; 1985 c.740 §13; 2009 c.595 §479; 2009 c.856 §§10,19; repealed by 2011 c.673 §45]

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

430.306 Definitions. As used in ORS 430.262, 430.315, 430.335, 430.342, 430.397, 430.399, 430.401, 430.402, 430.420 and 430.630, 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) "Detoxification center" means a publicly or privately operated profit or nonprofit facility approved by the Oregon Health Authority that provides emergency care or treatment for alcoholics or drug-dependent persons.

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

(4) "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.

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

(6) "Local planning committee" means a local planning committee for alcohol and drug prevention and treatment services appointed or designated by the county governing body under ORS 430.342.

(7) "Police officer" means a member of a law enforcement unit who is employed on a part-time or full-time basis as a peace officer, commissioned by a city, a county or the Department of State Police and responsible for enforcing the criminal laws of this state and any person formally deputized by the law enforcement unit to take custody of a person who is intoxicated or under the influence of controlled substances.

(8) "Sobering facility" means a facility that meets all of the following criteria:

(a) The facility operates for the purpose of providing to individuals who are acutely intoxicated a safe, clean and supervised environment until the individuals are no longer acutely intoxicated.

(b) The facility contracts with or is affiliated with a treatment program or a provider approved by the authority to provide addiction treatment, and the contract or affiliation agreement includes, but is not limited to, case consultation, training and advice and a plan for making referrals to addiction treatment.

(c) The facility, in consultation with the addiction treatment program or provider, has adopted comprehensive written policies and procedures incorporating best practices for the safety of intoxicated individuals, employees of the facility and volunteers at the facility.

(d) The facility is registered with the Oregon Health Authority under ORS 430.262.

(9) "Treatment facility" includes outpatient facilities, inpatient facilities and other facilities the authority determines suitable and that provide services that meet minimum standards established under ORS 430.357, 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 authority. [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; 2009 c.595 §480; 2011 c.673 §18; 2015 c.730 §1]

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 Oregon Health Authority. In reviewing applications for certificate of need, the Director of the Oregon Health Authority 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; 2009 c.595 §481]

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

430.325 [1971 c.622 §3; 1973 c.795 §6; 1975 c.715 §1; 1977 c.745 §39; 1983 c.338 §928; renumbered 430.402 in 2011]

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

430.335 Responsibility of Oregon Health Authority relating to alcohol and drug dependence. In accordance with the policies, priorities and standards established by the Alcohol and Drug Policy Commission under ORS 430.242, and subject to the availability of funds therefor, the Oregon Health Authority 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.
- (5) Directly or by contract with public or private entities, administer financial assistance, loan and other programs to assist the development of drug and alcohol free housing. [1971 c.622 §4; 1973 c.795 §7; 1987 c.61 §2; 2007 c.14 §6; 2009 c.595 §482; 2011 c.673 §19]

430.338 Purposes of laws related to alcoholism. The purposes of ORS 430.338 to 430.380 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 ensure 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; 2011 c.673 §20]

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 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 Alcohol and Drug Policy Commission, shall:

- (a) Appoint a local planning committee for alcohol and drug prevention and treatment services; or
 - (b) Designate an already existing body to act as the local planning committee for alcohol and drug prevention and treatment services.
- (2) The committee shall identify needs and establish priorities for alcohol and drug prevention and treatment services that best suit the needs and values of the community and shall report its findings to the Oregon Health Authority, the governing bodies of the counties served by the committee and the budget advisory committee of the commission.

(3) Members of the local planning committee shall be representative of the geographic area and shall be persons with interest or experience in developing alcohol and drug prevention and treatment services. The membership of the committee shall include a number of minority members which reasonably reflects the proportion of the need for prevention, treatment and rehabilitation services of minorities in the community. [1977 c.856 §3; 2001 c.899 §3; 2009 c.595 §483; 2011 c.673 §21]

Note: See note under 430.338.

430.345 Grants for alcohol and drug abuse prevention, intervention and treatment. Upon application therefor, the Oregon Health Authority may make grants from funds specifically appropriated for the purposes of carrying out ORS 430.338 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 authority 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 authority:

- (1)(a) The adequacy of the services to accomplish the goals of the applicant and the needs and priorities established under ORS 430.338 to 430.380; or
- (b) The community need for the services as determined by the local planning committee for alcohol and drug prevention and treatment services under ORS 430.342;

(2) That an appropriate operating agreement 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 halfway houses; and

(3) That the services comply with the rules adopted by the authority pursuant to ORS 430.357. [1973 c.682 §3; 1977 c.856 §4; 1987 c.53 §1; 2009 c.595 §484; 2011 c.673 §22]

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 Oregon Health Authority that the committee was actively involved in the development and preparation of such program.

(2) The authority 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 authority 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; 2009 c.595 §485]

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 Minimum standards; rules. (1) The Oregon Health Authority shall adopt rules to implement ORS 430.338 to 430.380 and to establish minimum standards for alcohol and drug prevention and treatment programs in accordance with the rules, policies, priorities and standards of the Alcohol and Drug Policy Commission under ORS 430.242.

(2) All standards and guidelines adopted by the authority to implement programs authorized under ORS 430.338 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 (9). [Formerly 430.360; 1985 c.565 §70; 1987 c.53 §5; 2009 c.595 §486; 2011 c.673 §23]

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

(2) The authority shall distribute funds to applicants consistent with the budget priority policies adopted by the Alcohol and Drug Policy Commission, the community needs as determined by local planning committees for alcohol and drug prevention and treatment services under ORS 430.342 and the particular needs of minority groups 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 authority 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 prevention, 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 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; 2009 c.595 §487; 2009 c.856 §§11,20; 2011 c.673 §24]

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 pre-

vention, 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 Oregon Health Authority 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 determined by the local planning committee for alcohol and drug prevention and treatment services under ORS 430.342, 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; 2009 c.595 §488; 2011 c.673 §25]

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

430.366 Requirements for service proposals and data reporting. (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) Each grant recipient and provider of alcohol and drug abuse prevention, early intervention and treatment services funded with moneys from the Mental Health Alcoholism and Drug Services Account established by ORS 430.380 shall report to the Alcohol and Drug Policy Commission all data regarding the services in the form and manner prescribed by the commission. This subsection does not apply to sobering facilities that receive moneys under ORS 430.380. [1977 c.856 §12; 1987 c.53 §8; 2009 c.595 §489; 2011 c.545 §55; 2011 c.673 §26; 2017 c.204 §2]

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 Oregon Health Authority, may appeal the applicant's action to the Director of the Oregon Health Authority 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 authority. The director shall review all appealed actions for compliance with the purposes and requirements of ORS 430.338 to 430.380.

(2) The director shall act on all appeals within 60 days of filing, or before the time of the authority'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; 2009 c.595 §490; 2009 c.856 §§12,21; 2011 c.673 §27]

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 or is a sobering facility registered under ORS 430.262.

(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 interven-

tion and treatment services. [1973 c.682 §§8,9; 1977 c.856 §14; 1987 c.53 §10; 1987 c.61 §3; 2017 c.204 §3]

430.375 Fee schedule. The Oregon Health Authority 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 authority or may, subject to the approval of the authority, 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; 2009 c.595 §491]

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 and to provide funding for sobering facilities registered under ORS 430.262. Moneys deposited in the account may be invested in the manner prescribed in ORS 293.701 to 293.857.

(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. The counties may use up to 10 percent of the moneys appropriated under this subsection to provide funds for sobering facilities registered under ORS 430.262.

(3) Forty percent of the moneys shall be continuously appropriated to the Oregon Health Authority 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. The authority may use up to 10 percent of the moneys appropriated under this subsection for matching funds to counties for sobering facilities registered under ORS 430.262.

(4) Twenty percent of the moneys shall be continuously appropriated to the Oregon

Health Authority 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 authority. However, prior to expenditure of moneys under this subsection, the authority 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.

(5) Counties and state agencies:

(a) May not use moneys appropriated to counties and state agencies under subsections (1) to (4) of this section for alcohol and drug prevention and treatment services that do not meet or exceed minimum standards established under ORS 430.357; and

(b) Shall include in all grants and contracts with providers of alcohol and drug prevention and treatment services a contract provision that the grant or contract may be terminated by the county or state agency if the provider does not meet or exceed the minimum standards adopted by the Oregon Health Authority pursuant to ORS 430.357. A county or state agency may not be penalized and is not liable for the termination of a contract under this section. [1975 c.424 §5; 1977 c.856 §16; 1987 c.53 §12; 2009 c.595 §492; 2011 c.673 §28; 2017 c.204 §1]

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) In accordance with ORS 430.357, and consistent with the budget priority policies adopted by the Alcohol and Drug Policy Commission, the Oregon Health Authority may fund regional centers for the treatment of adolescents with drug and alcohol dependencies.

(2) The authority 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 the local planning committee for alcohol and drug prevention and treatment services under ORS 430.342 using the following information:

(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; 2009 c.595 §493; 2011 c.673 §29]

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 operated pursuant to rules of the Oregon Health Authority. 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; 2009 c.595 §494; 2011 c.720 §169]

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 or sobering 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 sent home or taken to a sobering facility or to a treatment facility by a police officer. If the person is incapacitated

tated, the person shall be taken by the police officer to an appropriate treatment facility or sobering facility. If the health of the person appears to be in immediate danger, or the police officer has reasonable cause to believe the person is dangerous to self or to any other person, the person shall be taken by the police officer to an appropriate treatment facility or sobering facility. A person shall be deemed incapacitated when in the opinion of the police officer the person is unable to make a rational decision as to acceptance of assistance.

(2) When a person is taken to a treatment facility, the director of the treatment facility shall determine whether the person shall be admitted as a patient, referred to another treatment facility or a sobering 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) When a person is taken to a sobering facility, the staff of the sobering facility shall, consistent with the facility's comprehensive written policies and procedures, determine whether or not the person shall be admitted into the sobering facility. A person who is admitted shall be discharged from the sobering facility within 24 hours.

(4) In the absence of any appropriate treatment facility or sobering facility, or if a sobering facility determines that a person should not be admitted to the sobering facility, an intoxicated person or a person under the influence of controlled substances who would otherwise be taken by the police officer to a treatment facility or sobering 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.

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

(6) The records of a person at a treatment facility or sobering facility may not, without the person's consent, be revealed to any person other than the director and staff of the treatment facility or sobering facility. A person's request that no disclosure be made of admission to a treatment facility or sobering facility shall be honored unless the person is incapacitated or disclosure of ad-

mission is required by ORS 430.397. [Formerly 426.460; 2011 c.673 §30; 2015 c.730 §3]

Note: See note under 430.397.

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

(Miscellaneous)

430.401 Liability of public officers, providers, treatment facilities and sobering facilities. (1) A police officer, physician, naturopathic physician, physician assistant, nurse practitioner, judge, treatment facility, treatment facility staff member or sobering facility that is registered with the Oregon Health Authority under ORS 430.262 based on a written request for registration received by the authority before January 1, 2016, or the staff of the sobering facility, may not be held criminally or civilly liable for actions pursuant to ORS 430.315, 430.335, 430.397 to 430.401 and 430.402 provided the actions are in good faith, on probable cause and without malice.

(2) A sobering facility registered with the authority under ORS 430.262 based on a written request for registration received by the authority on or after January 1, 2016, and the staff of the sobering facility, may not be held criminally or civilly liable for actions pursuant to ORS 430.315, 430.335, 430.397 to 430.401 and 430.402 provided the actions are in good faith, on probable cause and without gross negligence. [Formerly 426.470; 2014 c.45 §47; 2015 c.730 §4; 2017 c.356 §55]

Note: See note under 430.397.

430.402 Prohibitions on local governments as to crimes involving use of alcohol, cannabis or drugs. (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 cannabis or controlled substances in public, being an alcoholic or a drug-dependent person, or being found in specified places under the influence of alcohol, cannabis or controlled substances.

(e) Using or being under the influence of cannabis or 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. [Formerly 430.325; 2017 c.21 §60]

PREVENTION OF DRUG ABUSE

430.405 “Drug-dependent person” defined for ORS 430.415. As used in ORS 430.415, “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. [1973 c.697 §3; 1977 c.745 §47; 1979 c.744 §25; 1979 c.777 §46a; 1987 c.61 §4; 2001 c.900 §138; 2007 c.71 §117]

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]

DRUG TREATMENT FOR OFFENDERS

430.420 Integration of drug treatment services into criminal justice system; plans. (1) In collaboration with local seizing agencies, the district attorney, the local public safety coordinating council and the local mental health advisory committee, a local planning committee appointed or designated pursuant to ORS 430.342 shall develop a plan to integrate drug treatment services, meeting minimum standards established pursuant to ORS 430.357, into the criminal justice system for offenders who commit nonviolent felony drug possession offenses. The plan may also include property offenders as provided for under ORS 475.245.

(2)(a) A plan may include, but need not be limited to, programs that occur before adjudication, after adjudication as part of a sentence of probation or as part of a conditional discharge.

(b) A plan must include, but need not be limited to:

(A) A description of local criminal justice and treatment coordination efforts;

(B) A description of the method by which local, state and federal treatment resources are prioritized and allocated to meet the

needs of the drug abusing offender population;

(C) The principles that guide criminal justice strategies for supervision and treatment of drug abusing offenders and the purchase of treatment services from local community providers;

(D) The desired outcomes for criminal justice strategies for supervision and treatment of drug abusing offenders and the provision of treatment services and identification of a method for monitoring and reporting the outcomes; and

(E) Consistent standards for measuring the success of criminal justice strategies for supervision and treatment of drug abusing offenders and the provision of treatment.

(3) A program must include, but need not be limited to:

(a) Ongoing oversight of the participant;

(b) Frequent monitoring to determine whether a participant is using controlled substances unlawfully; and

(c) A coordinated strategy governing responses to a participant’s compliance or noncompliance with the program.

(4) The local planning committee shall submit the plan to the Oregon Health Authority and shall provide the county board of commissioners with a copy of the plan. [2005 c.830 §43; 2009 c.595 §495; 2011 c.673 §31; 2012 c.37 §100]

Note: 430.420 to 430.426 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.

430.422 Drug Prevention and Education Fund. The Drug Prevention and Education Fund is established separate and distinct from the General Fund. The Drug Prevention and Education Fund consists of moneys deposited in the fund under ORS 131.597 and 430.426, and other moneys as may be appropriated to the fund by law. The moneys in the Drug Prevention and Education Fund are continuously appropriated to the Oregon Health Authority for the purpose of assisting counties in paying the costs incurred by the counties in providing drug treatment services pursuant to plans submitted under ORS 430.420. [2005 c.830 §46; 2009 c.595 §496]

Note: See note under 430.420.

430.424 Distribution of funds; funding criteria. Consistent with the budget priority policies adopted by the Alcohol and Drug Policy Commission, the Oregon Health Authority shall distribute moneys in the Drug Prevention and Education Fund established in ORS 430.422 based on a review of the plans submitted to the office under ORS

430.420. Funding criteria include, but need not be limited to, whether the plan includes the existence or development of a drug treatment court or a drug diversion program. [2005 c.830 §44; 2009 c.595 §497; 2011 c.673 §32]

Note: See note under 430.420.

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

430.426 Rules; acceptance of gifts, grants and donations. (1) The Oregon Health Authority shall adopt rules necessary to carry out the provisions of ORS 430.420 to 430.426.

(2) The authority may accept gifts, grants and donations from any source, public or private. Moneys accepted under this section must be deposited in the Drug Prevention and Education Fund to be used for the purposes for which the fund is established. [2005 c.830 §45; 2009 c.595 §498]

Note: See note under 430.420.

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) “Authority” means the Oregon Health Authority.

(2) “Community diversion plan” means a system of services approved and monitored by the Oregon Health Authority 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.

(3) “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.

(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 authority 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 suit-

able 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 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.

(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 authority as meeting minimum standards under ORS 430.357, 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; 2009 c.595 §499; 2011 c.673 §33]

(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 cannabis or controlled substances. [1977 c.871 §12; 1979 c.744 §27; 2017 c.21 §61]

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 satisfac-

tion 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 Requirement to develop bilingual forms. (1) The Oregon Health Authority 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 authority 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; 2009 c.595 §500; 2009 c.856 §§13,22]

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 Oregon Health Authority shall establish standards for such sites, consistent with ORS 430.357, 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; 2009 c.595 §501; 2011 c.673 §34]

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 Oregon Health Authority, 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 or naturopathic 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; 2009 c.595 §502; 2017 c.356 §56]

430.550 Discrimination prohibited. A person, otherwise eligible, may not be denied evaluation or treatment under ORS 430.450 to 430.555 on account of the person's race, religion, sex, sexual orientation, nationality, age or ability to pay. [1977 c.871 §24; 2007 c.100 §26]

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 TREATMENT PROGRAMS

430.560 Oregon Health Authority adoption of requirements for contracted drug treatment programs; rules. (1) The Oregon Health Authority shall adopt rules to establish requirements, in accordance with ORS 430.357, for drug treatment programs that contract with the authority and 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 Oregon Medical Board or a naturopathic physician licensed by the Oregon Board of Naturopathic Medicine showing medical need for synthetic opiates if the request is approved in writing by the parole and probation 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. [Formerly 475.715; 1979 c.744 §29; 1991 c.574 §3; 2005 c.264 §22; 2009 c.595 §503; 2011 c.673 §35; 2017 c.356 §57]

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 Oregon Health Authority made pursuant to ORS 430.560 and this section. [Formerly 475.725; 1979 c.744 §30; 1991 c.574 §4; 2009 c.595 §504]

430.570 Information concerning opiate inhibitors to drug dependent persons. The Oregon Health Authority 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; 2009 c.595 §505]

430.572 Internet access to opiate abuse or dependency treatment providers. (1) The Oregon Health Authority shall develop and regularly update a web-based, searchable inventory of the following:

- (a) Each opioid and opiate abuse or dependency treatment provider located in this state;
- (b) Treatment options offered by each opioid and opiate abuse or dependency treatment provider located in this state; and
- (c) The maximum capacity of each opioid and opiate abuse or dependency treatment provider located in this state.

(2) The authority shall post the inventory developed under subsection (1) of this section on a website of the authority. [2017 c.683 §7]

Note: 430.572 and 430.573 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.

430.573 Statewide capacity to provide opiate abuse or dependency treatment. (1) In developing the inventory required by ORS 430.572, the Oregon Health Authority shall analyze the data to determine whether identifiable geographic regions have insufficient treatment options for, or capacity to treat individuals suffering from, opioid or opiate abuse or dependency.

(2) Not later than September 15 of each year, the authority shall report to the interim committees of the Legislative Assembly related to health care, in the manner provided by ORS 192.245, on identifiable geographic regions that have insufficient treatment options for, or capacity to treat individuals suffering from, opioid or opiate abuse or dependency. [2017 c.683 §8]

Note: See note under 430.572.

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 329A.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.

(3) For purposes of this section, "within 1,000 feet" means a straight line measurement in a radius extending for 1,000 feet or less in every direction from any point on the boundary line of the real property comprising an existing public or private elementary, secondary or career school or an existing licensed child care facility under this section. [1991 c.574 §5; 1995 c.278 §52; 1995 c.343 §47; 2003 c.293 §14; 2013 c.588 §2]

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

(Generally)

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, services should be available to all persons with mental or emotional disturbances, developmental disabilities, alcoholism or drug dependence, and persons who are alcohol or drug abusers, regardless of age, county of residence or ability to pay;

(2) The Department of Human Services, the Oregon Health Authority and other state agencies shall conduct their activities in the least costly and most efficient manner so that delivery of services to persons with mental or emotional disturbances, developmental disabilities, alcoholism or drug dependence, and persons who are alcohol or drug abusers, shall be effective and coordinated;

(3) To the greatest extent possible, mental health and developmental disabilities ser-

vices 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 programs or community developmental disabilities programs, including but not limited to, treatment and rehabilitation services for persons with mental or emotional disturbances, developmental disabilities, alcoholism or drug dependence, and persons who are alcohol or drug abusers, and prevention of these problems through county administered community mental health programs or community developmental disabilities programs. [1961 c.706 §36; 1973 c.639 §1; 1981 c.750 §1; 2001 c.900 §140; 2007 c.70 §228; 2009 c.595 §506; 2011 c.720 §170]

430.620 Establishment of community mental health and developmental disabilities programs 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) By contract with and subject to the rules of the Department of Human Services, establish and operate, or contract with a public agency or private corporation for, a community developmental disabilities program.

(b) In conformity with the rules of the Oregon Health Authority, establish and operate, or contract with a public agency or private corporation for, a community mental health program.

(c) 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 program or community developmental disabilities program to service all such counties in conformity with the regulations of the department or the authority.

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

(e) Accept and use or expend property or moneys from any public or private source made available for the purposes referred to in paragraph (a), (b) or (c) 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; 2009 c.595 §507; 2013 c.36 §30]

430.625 [1989 c.777 §2; 2005 c.691 §1; 2007 c.70 §229; renumbered 430.631 in 2011]

(Mental Health Programs)

430.630 Services to be provided by community mental health programs; local mental health authorities; local mental health services plan. (1) In addition to any other requirements that may be established by rule by the Oregon Health Authority, each community mental health program, subject to the availability of funds, shall provide the following basic services to persons with alcoholism or drug dependence, and persons who are alcohol or drug abusers:

- (a) Outpatient services;
- (b) Aftercare for persons released from hospitals;
- (c) Training, case and program consultation and education for community agencies, related professions and the public;
- (d) Guidance and assistance to other human service agencies for joint development of prevention programs and activities to reduce factors causing alcohol abuse, alcoholism, drug abuse and drug dependence; and
- (e) Age-appropriate treatment options for older adults.

(2) As alternatives to state hospitalization, it is the responsibility of the community mental health program to ensure that, subject to the availability of funds, the following services for persons with alcoholism or drug dependence, and persons who are alcohol or drug abusers, are available when needed and approved by the Oregon Health Authority:

- (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 after-school 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 Oregon Health Authority.

(3) In addition to any other requirements that may be established by rule of the Ore-

gon Health Authority, each community mental health 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 with acute mental or emotional disturbances, including the costs of investigations and prehearing detention in community hospitals or other facilities approved by the authority 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;

(L) 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. As used in this paragraph:

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

(B) "Early intervention services" for children at risk of later development of emotional disturbances 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

(C) "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; and

(m) Preventive mental health services for older adults, 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 and behavioral disorders and suicide attempts in older adults. As used in this paragraph:

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

(B) "Early intervention services" for older adults at risk of development of emotional disturbances means programs and activities for older adults and their families that promote conditions, opportunities and experiences that encourage and maintain emotional stability, self-sufficiency and increased personal competence and that deter suicide; and

(C) "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 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 person with a mental illness 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 authority has approved the hospital for the care of persons with mental or emotional disturbances, the community mental health program has a contract with the hospital for the psychiatric care of residents and a representative of the program approves volun-

tary or involuntary admissions to the hospital prior to admission.

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

(6) Each community mental health program and the state hospital serving the program's geographic 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 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 program may request and the authority 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 authority that persons with mental or emotional disturbances in that county would be better served and unnecessary institutionalization avoided.

(9)(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 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 comprising 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, adults and older adults that describes the methods by which the local mental health authority shall provide those services. 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. A local mental health authority shall coordinate its local planning with the

development of the community health improvement plan under ORS 414.627 by the coordinated care organization serving the area. The Oregon Health Authority may require a local mental health authority to review and revise the local plan periodically.

(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, age-specific, 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, adults and older 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;

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

(N) Outreach to older adults at locations appropriate for making contact with older adults, including senior centers, long term care facilities and personal residences.

(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, older adults and families as close to their homes as possible;

(C) Be culturally appropriate and competent;

(D) Be, for children, older adults 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 Oregon Health Authority a copy of the local plan and revisions adopted under paragraph (b) of this subsection at time intervals established by the Oregon Health Authority. [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; 2005 c.22 §297; 2005 c.691 §2; 2007 c.70 §230; 2009 c.595 §508; 2009 c.856 §§14,23; 2011 c.720 §§171,172; 2012 c.37 §101; 2013 c.640 §§3,4]

430.631 Local advisory committees. (1) If any local mental health program has an advisory committee, persons with disabilities, as defined in ORS 430.050 (6), and older adults shall be appointed to serve on the advisory committee.

(2) The persons with disabilities described in subsection (1) of this section shall meet separately as a disability issues advisory committee. [Formerly 430.625]

Note: 430.631 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.

430.632 Report on implementation of comprehensive local plan for delivery of mental health services. The Oregon Health Authority may require a local mental health authority to periodically report to the Oregon Health Authority on the implementation of the comprehensive local plan adopted under ORS 430.630 (9). [2001 c.899 §5; 2009 c.595 §509; 2009 c.856 §24; 2011 c.720 §§175,176; 2013 c.640 §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.

430.634 Evaluation of programs; population schedule for distributing funds. (1) In order to improve services to persons with mental or emotional disturbances and provide information for uniform analysis, each community mental health program shall collect and report data and evaluate programs in accordance with methods prescribed by the Oregon Health Authority after consultation with the program directors.

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

(a) Numbers of persons served;

(b) Ages of persons served;

- (c) Types of services provided; and
- (d) Cost of services.

(3) Within the limits of available funds allocated for the administration of community mental health programs, community mental health programs shall collect data and evaluate programs with moneys provided by the authority. The authority 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 authority, 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. [Formerly 430.665]

430.635 [1991 c.777 §1; 2009 c.595 §510; renumbered 430.708 in 2011]

430.637 Criteria for certificate of approval issued to mental health or chemical dependency treatment provider; advisory committee; reporting requirements; rules. (1) As used in this section:

(a) "Assessment" means an on-site quality assessment of an organizational provider that is conducted:

(A) If the provider has not been accredited by a national organization meeting the quality standards of the Oregon Health Authority;

(B) By the Oregon Health Authority, another state agency or a contractor on behalf of the authority or another state agency; and

(C) For the purpose of issuing a certificate of approval.

(b) "Organizational provider" means an organization that provides mental health treatment or chemical dependency treatment and is not a coordinated care organization.

(2) The Oregon Health Authority shall convene a committee, in accordance with ORS 183.333, to advise the authority with respect to the adoption, by rule, of criteria for an assessment. The advisory committee shall advise the authority during the development of the criteria. The advisory committee shall be reconvened as needed to advise the authority with respect to updating the criteria to conform to changes in national accreditation standards or federal require-

ments for health plans and to advise the authority on opportunities to improve the assessment process. The advisory committee shall include, but is not limited to:

- (a) A representative of each coordinated care organization certified by the authority;
- (b) Representatives of organizational providers;
- (c) Representatives of insurers and health care service contractors that have been accredited by the National Committee for Quality Assurance; and
- (d) Representatives of insurers that offer Medicare Advantage Plans that have been accredited by the National Committee for Quality Assurance.

(3) The advisory committee described in subsection (2) of this section shall recommend:

- (a) Objective criteria for a shared assessment tool that complies with national accreditation standards and federal requirements for health plans;
- (b) Procedures for conducting an assessment;
- (c) Procedures to eliminate redundant reporting requirements for organizational providers; and

(d) A process for addressing concerns that arise between assessments regarding compliance with quality standards.

(4) If another state agency, or a contractor on behalf of the state agency, conducts an assessment that meets the criteria adopted by the authority under subsection (2) of this section, the authority may rely on the assessment as evidence that the organizational provider meets the assessment requirement for receiving a certificate of approval.

(5) The authority shall provide a report of an assessment to the organizational provider that was assessed and, upon request, to a coordinated care organization, insurer or health care service contractor.

(6) If an organizational provider has not been accredited by a national organization that is acceptable to a coordinated care organization, the coordinated care organization shall rely on the assessment conducted in accordance with the criteria adopted under subsection (2) of this section as evidence that the organizational provider meets the assessment requirement.

(7) This section does not:

(a) Prevent a coordinated care organization from requiring its own on-site quality assessment if the authority, another state agency or a contractor on behalf of the authority or another state agency has not con-

ducted an assessment in the preceding 36-month period; or

(b) Require a coordinated care organization to contract with an organizational provider.

(8)(a) The authority shall adopt by rule standards for determining whether information requested by a coordinated care organization from an organizational provider is redundant with respect to the reporting requirements for an assessment or if the information is outside of the scope of the assessment criteria.

(b) A coordinated care organization may request additional information from an organizational provider, in addition to the report of the assessment, if the request:

(A) Is not redundant and is within the scope of the assessment according to standards adopted by the authority as described in this subsection; and

(B) Is necessary to resolve questions about whether an organizational provider meets the coordinated care organization's policies and procedures for credentialing.

(c) The authority shall implement a process for resolving a complaint by an organizational provider that a reporting requirement imposed by a coordinated care organization is redundant or outside of the scope of the assessment criteria.

(9)(a) The authority shall establish and maintain a database containing the documents required by coordinated care organizations for the purpose of credentialing an organizational provider.

(b) With the advice of the committee described in subsection (2) of this section, the authority shall adopt by rule the content and operational function of the database including, at a minimum:

(A) The types of organizational providers for which information is stored in the database;

(B) The types and contents of documents that are stored in the database;

(C) The frequency by which the documents the authority shall obtain updated documents;

(D) The means by which the authority will obtain the documents; and

(E) The means by which coordinated care organizations can access the documents in the database.

(c) The authority shall provide training to coordinated care organization staff who are responsible for processing credentialing requests on the use of the database. [2013 c.362 §1; 2015 c.152 §1]

Note: Sections 3 and 4, chapter 152, Oregon Laws 2015, provide:

Sec. 3. (1) The Oregon Health Authority, with the advice of the committee described in ORS 430.637 (2), shall report to the Legislative Assembly, in the manner prescribed by ORS 192.245, on the effectiveness of the database in reducing the administrative burdens on organizational providers and coordinated care organizations in the credentialing process.

(2) The authority shall submit the first report no later than December 31, 2015. The authority shall submit subsequent reports no later than February 1 of each year beginning in 2016. [2015 c.152 §3]

Sec. 4. Section 3 of this 2015 Act is repealed on January 2, 2020. [2015 c.152 §4]

Note: 430.637 and 430.638 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.

430.638 Immunity from civil liability for reliance on certificate of approval. A coordinated care organization, insurer or health care service contractor that relies in good faith on an assessment conducted according to the criteria adopted under ORS 430.637 shall be immune from civil liability that might otherwise be incurred or imposed. [2013 c.362 §2]

Note: See second note under 430.637.

430.640 Duties of Oregon Health Authority in assisting and supervising community mental health programs; rules. (1) The Oregon Health Authority, 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 programs operated or contracted for by one or more counties.

(b) If a county declines to operate or contract for a community mental health 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 program is operating within a county or when 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 program in the same manner in which the authority 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:

- (A) Mental or emotional disturbances.
- (B) Drug abuse.
- (C) Alcohol abuse and alcoholism.

(f) Approve or disapprove the local plan and budget information for the establishment and operation of each community mental health program. 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 may not be placed in effect without prior approval of the authority. 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 alcohol or drug dependence may be made without authority approval.

(g) Make all necessary and proper rules to govern the establishment and operation of community mental health 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 programs under ORS 430.634.

(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;
- (F) The transition of consumers between levels of care; and
- (G) The development, maintenance and continuation of older adult mental health programs with mental health professionals trained in geriatrics.

(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 re-

quirements to local mental health authorities throughout the local planning process required under ORS 430.630 (9).

(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, adults and older 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 (9), 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, adults and older 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 (9)(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 program.

(2) The Oregon Health Authority may provide technical assistance and other incentives to assist in the planning, development and implementation of regional local mental health authorities whenever the Oregon Health Authority determines that a regional approach will optimize the comprehensive local plan described under ORS 430.630 (9).

(3) The enumeration of duties and functions in subsections (1) and (2) of this section shall not be deemed exclusive nor construed as a limitation on the powers and authority vested in the authority 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; 2005 c.691 §3; 2007 c.70 §231; 2009 c.595 §511; 2009 c.828 §22; 2009 c.856 §25; 2011 c.720 §§177,178; 2013 c.640 §6]

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

430.644 Priorities for services provided by community mental health programs. Within the limits of available funds, community mental health 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, including the potential for suicide, 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 mental 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. [Formerly 430.675]

430.646 Priorities for services for persons with mental or emotional disturbances. In allocating funds for community mental health programs affecting persons with mental or emotional disturbances, the Oregon Health Authority shall observe the following priorities:

(1) To ensure the establishment and operation of community mental health programs for persons with mental or emotional disturbances in every geographic area of the state to provide some services in each category of services described in ORS 430.630 (3) unless a waiver has been granted;

(2) To ensure survival of services that address the needs of persons within the priority of services under ORS 430.644 and that meet authority standards;

(3) To develop the interest and capacity of community mental health programs to provide new or expanded services to meet the needs for services under ORS 430.644 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. [Formerly 430.685]

430.648 Funding distribution formula; matching funds; administrative expenses.

(1) Within the limits of state funds, community mental health 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 programs for services under ORS 430.630 (3) shall be paid by the Oregon Health Authority to the programs under the priorities set forth in ORS 430.646.

(2) If a group of counties acts jointly to operate a community mental health program or community 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 programs or community developmental disabilities programs shall not be required to match funds granted under subsections (1) and (2) of this section. However, the Department of Human Services or the Oregon Health Authority 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 programs and their subcontractors for expenses incurred in administering services. [Formerly 430.690]

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

430.651 Use of population data in funding formula.

(1) If the Oregon Health Authority uses a formula for allocating to counties moneys, and if the formula includes population as a factor in determining the amount of each allocation, the authority shall calculate the formula annually using the most current population data that is available.

(2) The authority shall use as the source of the population data required by subsection

(1) of this section the primary population research center that is part of Portland State University. [Formerly 430.693; 2013 c.768 §143]

Note: 430.651 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.

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

430.660 [1961 c.706 §42; 1973 c.639 §6; renumbered 430.694 in 2011]

(Developmental Disabilities Programs)

430.662 Duties of Department of Human Services in regulating and assisting community developmental disabilities programs; rules. (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) Regulate and assist Oregon counties and groups of Oregon counties in the establishment and financing of community developmental disabilities programs operated or contracted for by one or more counties.

(b) If a county declines to operate or contract for a community 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) When no community developmental disabilities program is operating within a county, operate the program or service.

(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 developmental disabilities program in the same manner in which the department contracts with a county court or board of county commissioners.

(e) If necessary to carry out the legislative policy declared in ORS 430.610, contract with a public agency or private corporation, in cooperation with the county, for some or all developmental disabilities services.

(f) Approve or disapprove the biennial plan and budget information for the establishment and operation of each community developmental disabilities program. 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 430.664 may not 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 430.664 within the portion of the program for persons with developmental disabilities may be made without department approval.

(g) Make all necessary and proper rules to regulate the establishment and operation of community developmental disabilities programs.

(2) The enumeration of duties and functions in subsection (1) of this section may not be deemed exclusive or construed as a limitation on the powers and authority vested in the department by other provisions of law. [2011 c.720 §179; 2013 c.36 §31]

Note: 430.662 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.

430.664 Additional developmental disability services that may be provided. (1)

In addition to any other requirements that may be established by rule by the Department of Human Services, each community developmental disabilities program may contract with the department to provide or arrange for the provision of the following basic services to persons with developmental disabilities:

(a) Eligibility determination for developmental disability services.

(b) Access to developmental disability services in homes, work sites or other locations that promote independence, productivity and integration into the community.

(c) Case management services.

(d) Abuse investigation and protective services.

(e) Planning and coordination of activities with other agencies or organizations to ensure the effective and efficient service delivery and use of resources.

(f) Establishing and implementing a process to respond to complaints and grievances.

(g) Other alternative services as prescribed by the department by rule.

(2) Each community developmental disabilities program shall have a written management plan that governs the program's operating structure, goals and activities.

(3) Each community developmental disabilities program shall have a developmental disability advisory committee.

(4) Subject to the review and approval of the department, a community developmental disabilities program may initiate additional services after the services described in this section are provided. [2011 c.720 §174]

Note: 430.664 was added to and made a part of 430.610 to 430.695 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

430.665 [1981 c.750 §5; 2005 c.691 §4; 2007 c.70 §232; 2009 c.595 §512; renumbered 430.634 in 2011]

(Contracting for Services)**430.670 Contracts to provide services; approval of department or authority; competition for subcontracts; exception.**

(1) A community developmental disabilities program may provide services by contracting 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 developmental disabilities 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 community mental health program may provide services by contracting 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 Oregon Health Authority.

(3) A private corporation that contracts with a county, the Department of Human Services or the Oregon Health Authority to operate a community mental health program or community 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) and 430.664.

(4) In keeping with the principles of family support expressed in ORS 417.342 and notwithstanding subsection (3) of this section or ORS 291.047 (3), an entity operating a community mental health program or community 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 or the authority to provide such service. [1963 c.117 §1; 1973 c.639 §7; 1981 c.750 §14; 1999 c.524 §1; 2009 c.595 §513; 2011 c.720 §180]

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

(2) When a county contracts with a public agency or private corporation for a community mental health program or community

developmental disabilities program, the county shall include in the contract only terms that are substantially similar to model contract terms developed by the authority under ORS 430.640 or the department under ORS 430.662. The county may not add contractual requirements, including qualifications for contractor selection, that are nonessential to the services provided under ORS 430.630 or 430.664. The county may add contract requirements that the county considers necessary to ensure the siting and maintenance of facilities of the community mental health program or community developmental disabilities program.

(3) Subsections (1) and (2) of this section apply only insofar as funds are provided by the department to the county for community developmental disabilities programs or by the authority to the county for community mental health programs and do not apply to programs operated by counties without funding from the department or the authority. [1999 c.524 §3; 2001 c.899 §4; 2009 c.595 §514; 2009 c.828 §25; 2011 c.720 §181; 2013 c.36 §32]

430.673 Mediation; retaliation prohibited; action for damages; attorney fees; rules.

(1) When a dispute exists between a county and a community 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) When a dispute exists between a county and a community mental health program that is a private corporation or individual regarding the terms of their contract or the interpretation of an administrative rule of the Oregon Health Authority relating to authority programs under this chapter, either party may request mediation under rules adopted by the authority.

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

(a) Requested mediation under subsection (1) or (2) of this section;

(b) Requested dispute resolution or filed an appeal under rules adopted by the department or the authority; or

(c) Initiated a contested case proceeding otherwise available under ORS chapter 183 with respect to a dispute described in subsection (1) or (2) of this section.

(4) For purposes of this section, "retaliate" means an adverse action taken by a county against a community mental health

program or a community developmental disabilities program to:

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

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

(5) Notwithstanding any other remedy provided by law, a community mental health program or community developmental disabilities program against which a county has retaliated in violation of subsection (3) 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.

(6) In accordance with any applicable provision of ORS chapter 183, the department or the authority may adopt rules to carry out the provisions of this section. [1999 c.524 §4; 2003 c.430 §1; 2009 c.595 §515]

430.675 [1981 c.750 §6; 2005 c.691 §5; 2009 c.595 §516; renumbered 430.644 in 2011]

430.685 [1981 c.750 §10; 2007 c.70 §233; 2009 c.595 §517; renumbered 430.646 in 2011]

430.690 [1981 c.750 §§8,11; 2009 c.595 §518; renumbered 430.648 in 2011]

430.693 [2007 c.417 §1; 2009 c.595 §519; renumbered 430.651 in 2011]

(Miscellaneous)

430.694 Applicability of federal law to activities under ORS 430.610 to 430.695 involving federal funds. In all cases where federal laws, rules and regulations applicable thereto shall govern notwithstanding any provision to the contrary in ORS 430.610 to 430.695. [Formerly 430.660]

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 persons with developmental disabilities or mental illness and client resources and third-party payments for community psychiatric inpatient care, received by a community mental health program or a community developmental disabilities program are not an offset to the costs of the services and may not be applied to reduce the program's eligi-

bility for state funds, providing the funds are expended for mental health or developmental disabilities services approved by the Oregon Health Authority or the Department of Human Services.

(2) Within the limits of available funds, the authority and the department may contract for specialized, statewide and regional services including but not limited to group homes for persons with developmental disabilities or mental or emotional disturbances, day and residential treatment programs for children and adolescents with mental or emotional disturbances and community services for clients of the Psychiatric Security Review Board under ORS 161.315 to 161.351.

(3) Fees and third-party reimbursements, including all amounts paid pursuant to Title XIX of the Social Security Act by the Department of Human Services or the Oregon Health Authority, for mental health services or developmental disabilities services and interest earned on those fees and reimbursements shall be retained by the community mental health program or community developmental disabilities program and expended for any service that meets the standards of ORS 430.630 or 430.664. [1981 c.750 §9; 2007 c.70 §234; 2007 c.71 §118; 2009 c.595 §520; 2011 c.708 §28; 2011 c.720 §182; 2017 c.442 §27]

Note: The amendments to 430.695 by section 27, chapter 442, Oregon Laws 2017, become operative July 1, 2018. See section 36, chapter 442, Oregon Laws 2017. The text that is operative until July 1, 2018, is set forth for the user's convenience.

430.695. (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 persons with developmental disabilities or mental illness and client resources and third-party payments for community psychiatric inpatient care, received by a community mental health program or a community developmental disabilities program are not an offset to the costs of the services and may not be applied to reduce the program's eligibility for state funds, providing the funds are expended for mental health or developmental disabilities services approved by the Oregon Health Authority or the Department of Human Services.

(2) Within the limits of available funds, the authority and the department may contract for specialized, statewide and regional services including but not limited to group homes for persons with developmental disabilities or mental or emotional disturbances, day and residential treatment programs for children and adolescents with mental or emotional disturbances and community services for clients of the Psychiatric Security Review Board or the authority under ORS 161.315 to 161.351.

(3) Fees and third-party reimbursements, including all amounts paid pursuant to Title XIX of the Social Security Act by the Department of Human Services or the Oregon Health Authority, for mental health services or developmental disabilities services and interest earned on those fees and reimbursements shall be retained by the community mental health program or community developmental disabilities program and expended for any service that meets the standards of ORS 430.630 or 430.664.

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 Oregon Health Authority, may establish the necessary facilities and provide comprehensive mental health services for children throughout the state. These services may include, but need not be limited to:

(1) The prevention of mental illness, emotional disturbances and drug dependency in children; and

(2) The treatment of children with mental illness, emotional disturbances and drug dependency. [1971 c.300 §2; 1999 c.59 §122; 2001 c.900 §140a; 2007 c.70 §235; 2009 c.595 §521]

430.708 Priority for preventive services for children. The children's mental health programs of the Oregon Health Authority shall address preventive services under ORS 430.630 (3)(L). The authority budget shall give high priority to such services. [Formerly 430.635]

Note: 430.708 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.

430.710 [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 Oregon Health Authority 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 authority may also purchase or contract for specific services and supplies for treatment of individual children. [1971 c.300 §3; 1995 c.278 §53; 2009 c.595 §522]

430.717 Call center for indentifying and tracking placement settings. (1) The Oregon Health Authority shall contract with an Oregon-based nonprofit organization with the expertise to operate a 24-hour call center dedicated to tracking and providing information about available placement settings for children and adolescents needing high acuity behavioral health services.

(2) The call center shall also be responsible for:

(a) Implementing processes for service providers to submit data that can be used to assess and monitor, on a daily basis, statewide capacity to provide high acuity behavioral health services to children and adolescents;

(b) Recording the time from the first contact with the call center to the location of an appropriate placement; and

(c) Documenting the need for high acuity behavioral health services for children and adolescents. [2017 c.695 §1]

Note: 430.717 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.

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

430.725 Gifts and grants. The Oregon Health Authority 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; 2009 c.595 §523]

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

ABUSE REPORTING FOR ADULTS WITH MENTAL ILLNESS OR DEVELOPMENTAL DISABILITIES

430.731 Uniform investigation procedures; rules. (1) The Department of Human Services or a designee of the department shall conduct the investigations and make the findings required by ORS 430.735 to 430.765.

(2) The department shall prescribe by rule policies and procedures for the investigations of allegations of abuse of a person with a developmental disability as described in ORS 430.735 (2)(a) to ensure that the investigations are conducted in a uniform, objective and thorough manner in every county of the state including, but not limited to, policies and procedures that:

(a) Limit the duties of investigators solely to conducting and reporting investigations of abuse;

(b) Establish investigator caseloads based upon the most appropriate investigator-to-complaint ratios;

(c) Establish minimum qualifications for investigators that include the successful completion of training in identified competencies; and

(d) Establish procedures for the screening and investigation of abuse complaints and establish uniform standards for reporting the results of the investigation.

(3) A person employed by or under contract with the department, the designee of the department or a community developmental disabilities program to provide case management services may not serve as the lead investigator of an allegation of abuse of a person with a developmental disability.

(4) The department shall monitor investigations conducted by a designee of the department. [2009 c.837 §7; 2009 c.828 §82]

Note: 430.731 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.

430.735 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) Abandonment, including desertion or willful forsaking of a person with a developmental disability or the withdrawal or neglect of duties and obligations owed a person with a developmental disability by a caregiver or other person.

(b) Any physical injury to an adult 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 upon an adult.

(d) Sexual abuse of an adult.

(e) Neglect.

(f) Verbal abuse of a person with a developmental disability.

(g) Financial exploitation of a person with a developmental disability.

(h) Involuntary seclusion of a person with a developmental disability for the convenience of the caregiver or to discipline the person.

(i) A wrongful use of a physical or chemical restraint upon a person with a developmental disability, excluding an act of restraint prescribed by a physician licensed under ORS chapter 677, physician assistant licensed under ORS 677.505 to 677.525, naturopathic physician licensed under ORS chapter 685 or nurse practitioner licensed under ORS 678.375 to 678.390 and any treatment activities that are consistent with an approved treatment plan or in connection with a court order.

(j) An act that constitutes a crime under ORS 163.375, 163.405, 163.411, 163.415, 163.425, 163.427, 163.465 or 163.467.

(k) Any death of an adult caused by other than accidental or natural means.

(2) "Adult" means a person 18 years of age or older with:

(a) A developmental disability who is currently receiving services from a community program or facility or was previously determined eligible for services as an adult by a community program or facility; or

(b) A mental illness who is receiving 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, including petitioning for a protective order as defined in ORS 125.005. 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) "Caregiver" means an individual, whether paid or unpaid, or a 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 program or a community developmental disabilities program as established in ORS 430.610 to 430.695.

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

(7) "Financial exploitation" means:

(a) Wrongfully taking the assets, funds or property belonging to or intended for the use of a person with a developmental disability.

(b) Alarming a person with a developmental disability by conveying a threat to wrongfully take or appropriate money or property of the person if the person would reasonably believe that the threat conveyed would be carried out.

(c) Misappropriating, misusing or transferring without authorization any money from any account held jointly or singly by a person with a developmental disability.

(d) Failing to use the income or assets of a person with a developmental disability effectively for the support and maintenance of the person.

(8) "Intimidation" means compelling or deterring conduct by threat.

(9) "Law enforcement agency" means:

(a) Any city or municipal police department;

(b) A police department established by a university under ORS 352.121 or 353.125;

(c) Any county sheriff's office;

(d) The Oregon State Police; or

(e) Any district attorney.

(10) "Neglect" means:

(a) Failure to provide the care, supervision or services necessary to maintain the

physical and mental health of a person with a developmental disability that may result in physical harm or significant emotional harm to the person;

(b) The failure of a caregiver to make a reasonable effort to protect a person with a developmental disability from abuse; or

(c) Withholding of services necessary to maintain the health and well-being of an adult that leads to physical harm of an adult.

(11) "Person with a developmental disability" means a person described in subsection (2)(a) of this section.

(12) "Public or private official" means:

(a) Physician licensed under ORS chapter 677, physician assistant licensed under ORS 677.505 to 677.525, naturopathic physician, psychologist or chiropractor, 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 or Oregon Health Authority, local health department, community mental health program or community 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) Regulated 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;

(k) Any public official;

(L) Firefighter or emergency medical services provider;

(m) Member of the Legislative Assembly;

(n) Personal support worker, as defined by rule adopted by the Home Care Commission; or

(o) Home care worker, as defined in ORS 410.600.

(13) "Services" includes but is not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene or any other service essential to the well-being of an adult.

(14)(a) "Sexual abuse" means:

(A) Sexual contact with a nonconsenting adult or with an adult considered incapable

of consenting to a sexual act under ORS 163.315;

(B) Sexual harassment, sexual exploitation or inappropriate exposure to sexually explicit material or language;

(C) Any sexual contact between an employee of a facility or paid caregiver and an adult served by the facility or caregiver;

(D) Any sexual contact between a person with a developmental disability and a relative of the person with a developmental disability other than a spouse; or

(E) Any sexual contact that is achieved through force, trickery, threat or coercion.

(b) "Sexual abuse" does not mean consensual sexual contact between an adult and a paid caregiver who is the spouse of the adult.

(15) "Sexual contact" has the meaning given that term in ORS 163.305.

(16) "Verbal abuse" means to threaten significant physical or emotional harm to a person with a developmental disability through the use of:

(a) Derogatory or inappropriate names, insults, verbal assaults, profanity or ridicule; or

(b) Harassment, coercion, threats, intimidation, humiliation, mental cruelty or inappropriate sexual comments. [1991 c.744 §2; 1999 c.463 §7; 2003 c.443 §4; 2007 c.21 §2; 2007 c.70 §236; 2007 c.492 §2; 2009 c.442 §39; 2009 c.595 §524; 2009 c.837 §15; 2011 c.506 §41; 2011 c.703 §35; 2013 c.129 §27; 2013 c.180 §45; 2014 c.45 §48; 2015 c.179 §3; 2015 c.736 §69; 2017 c.17 §38; 2017 c.356 §58]

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 with mental illness or developmental disabilities, it is necessary and in the public interest to require mandatory reports and thorough and unbiased investigations of adults with mental illness or developmental disabilities who are allegedly abused. [1991 c.744 §1; 2003 c.443 §1; 2007 c.70 §237]

Note: See note under 430.735.

430.739 County multidisciplinary teams; protocols; reports. (1) The district attorney in each county shall be responsible for developing county multidisciplinary teams to consist of but not be limited to personnel from the community mental health program, the community developmental disabilities program, the Department of Human Services or a designee of the department, the Oregon Health Authority or a designee of

the authority, the local area agency on aging, the district attorney's office, law enforcement and an agency that advocates on behalf of individuals with disabilities, as well as others specially trained in the abuse of adults. A district attorney may delegate the responsibility to develop a county multidisciplinary team under this subsection to a designee or administrator who is or will be a member of the team pursuant to a written agreement.

(2) The teams shall develop a written protocol for immediate investigation of and notification procedures for cases of abuse of adults and for interviewing the victims. Each team also shall develop written agreements signed by member agencies that are represented on the team that specify:

- (a) The role of each member agency;
- (b) Procedures to be followed to assess risks to the adult;
- (c) Guidelines for timely communication between member agencies; and
- (d) Guidelines for completion of responsibilities by member agencies.

(3) Each team member shall have access to training in risk assessment, dynamics of abuse of adults and legally sound interview and investigatory techniques.

(4) All investigations of abuse of adults by the department or its designee or the authority or its designee and by law enforcement shall be carried out in a manner consistent with the protocols and procedures called for in this section.

(5) All information obtained by the team members in the exercise of their duties is confidential.

(6) Each team shall develop and implement procedures for evaluating and reporting compliance of member agencies with the protocols and procedures required under this section.

(7) Each team shall report to the Department of Justice and the Oregon Criminal Justice Commission, no later than July 1 of each year, the number of:

- (a) Substantiated allegations of abuse of adults in the county for the preceding calendar year.
- (b) Substantiated allegations of abuse referred to law enforcement because there was reasonable cause found that a crime had been committed.
- (c) Allegations of abuse that were not investigated by law enforcement.
- (d) Allegations of abuse that led to criminal charges.
- (e) Allegations of abuse that led to prosecution.

(f) Allegations of abuse that led to conviction. [2009 c.837 §8; 2009 c.828 §83; 2013 c.352 §10]

Note: 430.739 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.

430.740 [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 Department of Human Services, the designee of the department 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 abuse occurred and if 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 immediately 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.

(3) Upon receipt of a report of abuse under this section, the department or its designee shall notify:

- (a) The agency providing primary case management services to the adult; and

(b) The guardian or case manager of the adult unless the notification would undermine the integrity of the investigation because the guardian or case manager is suspected of committing abuse. [1991 c.744 §4; 2001 c.900 §141; 2009 c.837 §16]

Note: See note under 430.735.

430.745 Investigation of abuse; notice to medical examiners; findings; recommendations. (1) Upon receipt of any report of alleged abuse of an adult, or upon receipt of a report of a death of an adult that may have been caused by other than accidental or natural means, the Department of Human Services or its designee shall investigate promptly to determine if abuse occurred or whether a death was caused by 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 the 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, the department or its designee 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 that include recommended actions and a determination of whether protective services are needed. The department or its designee shall provide appropriate protective services 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.

(7) If the department or its designee determines that there is reason to believe a crime has occurred, the department or its designee shall report the findings to the appropriate law enforcement agency. The law enforcement agency must confirm its receipt of the report to the department or its designee. The agency shall notify the department or its designee of its determination:

(a) That there will be no criminal investigation, including an explanation of why there will be no criminal investigation;

(b) That the findings have been given to the district attorney for review; or

(c) That there will be a criminal investigation.

(8) If a law enforcement agency gives the findings of the department or its designee to the district attorney for review, the district attorney shall notify the department or its designee that the district attorney has received the findings and shall inform the department or its designee whether the findings have been received for review or for filing charges. A district attorney shall make the determination of whether to file charges within six months of receiving the findings of the department or its designee.

(9) If a district attorney files charges stemming from a report from the department or its designee and the district attorney makes a determination not to proceed to trial, the district attorney shall notify the department or its designee of the determination and shall include information explaining the basis for the determination. [1991 c.744 §5; 2009 c.837 §§17,18]

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 criminal or 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; 2015 c.179 §6]

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.

430.756 Immunity of employer reporting abuse by employee. A person who has personal knowledge that an employee or former employee of the person was found by the Department of Human Services or a law enforcement agency to have committed abuse under ORS 430.735 to 430.765, is immune from civil liability for the disclosure to a prospective employer of the employee or former employee of known facts concerning the abuse. [2009 c.837 §19]

Note: 430.756 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.

430.757 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 192.311 to 192.478, 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 system described in ORS 192.517 (1). 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; 2005 c.498 §9]

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 has suffered abuse, or that any person with whom the official comes in contact 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; 2017 c.346 §2]

Note: See note under 430.735.

430.768 Claims of self-defense addressed in certain reports of abuse; review teams; rules. (1) When the Department of Human Services investigates a report of abuse under ORS 430.735 to 430.765 at a residential training home as defined in ORS 443.400 that is operated by the department or a report of abuse at a state hospital described in ORS 426.010, the department shall address in the written report of its findings whether the person alleged to be responsible for the abuse was acting in self-defense.

(2) The department shall make a finding that the allegation of abuse is unsubstantiated if the department finds that:

(a) The person was acting in self-defense in response to the use or imminent use of physical force;

(b) The amount of force used was reasonably necessary to protect the person from violence or assault; and

(c) The person used the least restrictive procedures necessary under the circumstances in accordance with an approved behavior management plan or other method of response approved by the department by rule.

(3) Notwithstanding ORS 179.505, the department shall disclose to the person alleged to be responsible for the abuse a copy of its findings under subsection (1) of this section if the allegation of abuse is substantiated.

(4) If a person makes a claim of self-defense during an investigation of a report of abuse and the allegation is found to be substantiated, the person may ask the Director of Human Services to review the finding. The director shall appoint a review team to conduct the review and make a recommendation to the director under procedures adopted by the director by rule.

(5) As used in this section, "self-defense" means the use of physical force upon another

person in self-defense or to defend a third person. [2005 c.660 §1]

Note: 430.768 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.

430.770 [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 Oregon Health Authority 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 must meet minimum standards established by the authority under ORS 430.357.

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

(a)(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

(b)(A) Has been referred by the participating court to the authority for participation in the treatment program;

(B) Prior to sentencing, has been medically evaluated by the authority and accepted by the authority as a participant in the program;

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

(D) 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 authority under ORS 430.870. [1973 c.340 §1; 1993 c.14 §25; 2009 c.595 §525; 2011 c.673 §36]

430.860 Participation in program; report to court. The Oregon Health Authority may:

(1) Accept for medical evaluation any person meeting the conditions defined in ORS 430.850 (2)(a) 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 authority adopted under ORS 430.870 by, a participant. [1973 c.340 §2; 2009 c.595 §526; 2011 c.673 §37]

430.870 Rules. The Oregon Health Authority 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; 2009 c.595 §527]

430.880 Gifts, grants or services. (1) The Oregon Health Authority 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 authority 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 authority for the purposes of ORS 430.850 to 430.880. [1973 c.340 §4; 2009 c.595 §528]

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 DURING PREGNANCY

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 demographic information concerning patients described in subsection (1) of this section to

the Alcohol and Drug Policy Commission, for purposes related to the commission's accountability and data collection system, and to the local public health administrator, as defined in ORS 431.003, without revealing the identity of the patients. The local public health administrator shall use forms prescribed by the Oregon Health Authority and shall send copies of the forms and any compilation made from the forms to the authority at such times as the authority 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; 2009 c.595 §529; 2011 c.673 §38; 2015 c.736 §70]

430.925 [1989 c.1046 §5; 2009 c.595 §530; repealed by 2015 c.70 §12]

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 Oregon Health Authority and the Oregon Health and Science University shall develop a standardized screening instrument designed to identify the use of substances during pregnancy.

(2) The authority 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; 2009 c.595 §531]

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.