

TITLE 35

INSTITUTIONS FOR THE MENTALLY ILL AND MENTALLY DEFICIENT

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427. Fairview Home for the Mentally Deficient
428. Liability for Support of the Mentally Ill and Mentally Deficient

Chapter 426

1955 REPLACEMENT PART

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426.010 Oregon State Hospital, Portland State Hospital and Eastern Oregon State Hospital designated as state hospitals for mentally ill persons. The Oregon State Hospital in Salem, Marion County, the Portland State Hospital authorized to be located within a 20-mile radius of the county courthouse of Multnomah County, and the Eastern Oregon State Hospital in Pendleton, Umatilla County, shall be used as state hospitals for the confinement of mentally ill persons who are committed to such institutions. [Amended by 1955 c.651 §3]

426.020 Superintendents; other personnel; residence and subsistence. The superintendents of the hospitals mentioned in ORS 426.010 shall be well-educated physicians, licensed by the State Board of Medical Examiners to practice medicine and surgery. Each shall appoint an assistant superintendent and all other necessary physicians and medical assistants, who shall receive such salaries as the Oregon State Board of Control may authorize, within the appropriation therefor and limitations prescribed by law. The superintendents and all persons so appointed shall reside either at or near the hospitals or, in the case of the Oregon State Hospital, may reside at or near the farm operated in connection therewith, and shall be furnished residences or housekeeping rooms and household furniture, provisions, heat and light, at such rates of payment therefor as the Board of Control from time to time may prescribe. The assistant superintendents shall be well-educated physicians licensed by the State Board of Medical Examiners to practice medicine and surgery. [Amended by 1955 c.651 §4]

426.030 Portland State Hospital authorized and established. A hospital for the care and treatment of mentally ill persons hereby is authorized and directed to be located, constructed, operated and maintained in the area situated within a 20-mile radius of the county courthouse of Multnomah County, Oregon. The institution authorized by this section hereby is established as a state hospital and shall be known as the Portland State Hospital. [Amended by 1955 c.651 §5]

426.040 to 426.050 [Reserved for expansion]

426.060 Commitment to designated state hospital. (1) Commitments to the Oregon

State Hospital, the Portland State Hospital and the Eastern Oregon State Hospital shall be made by the judge of any court having probate jurisdiction in any county of this state.

(2) The judges of the counties of Benton, Clackamas, Clatsop, Columbia, Coos, Curry, Douglas, Jackson, Josephine, Klamath, Lake, Lane, Lincoln, Linn, Marion, Polk, Tillamook and Yamhill shall make their commitments to the Oregon State Hospital. The judges of the counties of Multnomah and Washington shall make their commitments to the Portland State Hospital. The judges of the counties of Baker, Crook, Deschutes, Gilliam, Grant, Harney, Jefferson, Hood River, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco and Wheeler shall make their commitments to the Eastern Oregon State Hospital.

(3) The Oregon State Board of Control may, in its discretion and for reasons which are satisfactory to the board, direct any judge to make his commitments to any hospital listed in subsection (1) of this section. The authority of the board on such matters shall be final. Amended by 1955 c.651 §6]

NOTE: The 1955 amendment to ORS 426.060 is operative from and after the date the Governor by proclamation declares that the Portland State Hospital is open and available to receive persons committed to it. Until that date ORS 426.060 as compiled in the 1953 edition will remain operative

426.070 Compelling appearance of mentally ill person. The judge of any court having probate jurisdiction in any county of this state, upon being notified in writing under oath by two persons or by the county health officer that any other person within the county is mentally ill and by reason of such illness is in need of treatment, care or custody, shall cause the allegedly mentally ill person to be brought before him at such time and place as he may direct. If necessary, the judge may issue a warrant of detention to the county health officer, or, in the absence or inability of such officer to act, to the sheriff of the county, directing the officer to take such person into his custody and produce him at the time and place stated in the warrant. The county health officer shall in no way be held criminally or civilly liable for the making of such notification provided he acts in good faith.

426.080 Execution and return of warrant of detention. The officer serving the warrant of detention and the citation provided for by ORS 426.090 shall, immediately

after service thereof, make a return upon the original warrant showing the time, place and manner of such service and file it with the clerk of the court. In executing the warrant of detention, the officer has all the powers provided by ORS 133.280 and 133.290, and may require the assistance of any peace officer or other person.

426.090 Citation; duty of district attorney. The judge may cause a citation to issue to the allegedly mentally ill person stating the nature of the information filed concerning him. The citation shall be served upon such person by the officer who takes such person into custody, by delivering a duly certified copy of the original thereof to him in person. In counties having a population of 300,000 or more, a copy of the citation shall be served upon the district attorney at least 48 hours before the time set for such person to be brought before the court. The district attorney shall be present at the court proceedings, in person or by deputy, to prevent fraud or collusion and to protect the interest of the person against whom the information has been filed.

426.100 Appointment and duty of legal counsel. If the allegedly mentally ill person, when brought before the court, requests the assistance of counsel to represent him at the proceedings provided for by ORS 426.070 to 426.150, the court shall give such person opportunity to obtain such legal counsel. If no such request is made by the allegedly mentally ill person, his legal guardian, relative or friend may, in the order named, request assistance of legal counsel. If no request for legal counsel is made by any party, the court may, at its discretion, appoint legal counsel. In all cases such legal counsel shall be present at the hearing and examination and may examine all witnesses offering testimony, and otherwise represent such person.

426.110 Appointment of examining physicians. The judge shall appoint at least two competent physicians licensed by the State Board of Medical Examiners for the State of Oregon to practice medicine and surgery, one of whom may be the county health officer, to examine the person as to his mental condition. In counties having a population of 10,000 or less, as determined by the latest federal census, the judge may appoint only one such physician, who may be the county health officer, but the judge may, in his dis-

cretion, appoint additional physicians, qualified as required by this section, to assist in the examination of the person as to his mental condition. If the allegedly mentally ill person requests in writing that one additional examining physician be appointed, or, if in the absence of such request by the allegedly mentally ill person, such request is made by the legal guardian, relative or friend of the alleged mentally ill person, the court shall appoint a physician nominated in such request; however, the court shall not appoint more than one such additional examining physician, who shall be a resident of the State of Oregon.

426.120 Physician's report; order of commitment. The physicians appointed shall examine the person as to his mental condition and report their separate or joint findings in writing, under oath, to the court, which findings immediately shall be filed with the clerk of the court. If the examining physicians find, and show by their verified findings, that the person examined is mentally ill and by reason of mental illness is in need of treatment, care or custody, and if the judge, after having examined the verified findings and considered all competent evidence submitted to him, is of the opinion that the person is in need of treatment, care or custody, he shall adjudge the person to be mentally ill and order him committed to the proper state hospital. The order of commitment shall direct that the mentally ill person be promptly and safely delivered to the superintendent of the proper state hospital, as provided in ORS 426.150.

426.130 Parole of mentally ill person before commitment. If the legal guardian, relative or friend of the mentally ill person requests that he be allowed to care for him in a place satisfactory to the judge, and shows that he, such applicant, is competent and financially able to care for the mentally ill person, and also if it appears to the court that the mentally ill person is not criminally inclined or violent, and that proper care and treatment can and will be provided him by such applicant, and that it would be to the best interest of the mentally ill person to be paroled, the judge may order that the mentally ill person be released and placed in the care and custody of such applicant. The order may be revoked and the mentally ill person committed to an Oregon state hospital whenever, in the opinion of the judge,

it is for the best interest of the mentally ill person.

426.140 Place of confinement; attendant. (1) No person, not incarcerated upon a criminal charge, who has been adjudged a mentally ill person or one against whom proceedings have been instituted shall be confined in any prison, jail or other inclosure where those charged with crime or violation of a municipal ordinance are incarcerated, if a place suitable for the comfortable, safe and humane confinement of such person is available.

(2) No alleged mentally ill person who has been taken into custody shall be confined, either before or after the hearing and examination, without an attendant in direct charge of him; and, if not confined in a county hospital, the health officer or sheriff having such person in his custody shall select some suitable person to act as attendant.

426.150 Commitment procedure. Upon receipt of the order of commitment, the health officer or the sheriff, as the case may be, shall take such mentally ill person into his custody, and insure his safekeeping and proper care until delivery is made to the superintendent of the proper state hospital or a designated employe thereof. Immediately after being notified of the court's order of commitment of such mentally ill person, the county health officer or the sheriff shall notify by telephone, if possible, the superintendent of the state hospital to which the person was committed, informing him of the fact that such person is being held awaiting delivery, and also stating the name, character, condition, sex and age of such person. The superintendent shall thereupon designate an employe of the hospital to take custody of such person and safely transport him to the state hospital. The employe, accompanied by such assistants as the superintendent may deem necessary, shall proceed to the place where the person is to be delivered into his custody, and, upon demand, shall be given custody of the committed mentally ill person, together with the certified record required by ORS 426.170. The employe shall issue appropriate receipts therefor and immediately proceed to transport the mentally ill person safely to the state hospital to which he has been committed, and there make delivery of him and the record to the superintendent or a designated employe of the hospital.

426.160 Record of proceedings. The judge shall cause to be recorded in the court records a full account of proceedings had at the hearing and examination, together with the judgment and order of the court and a copy of the orders issued.

426.170 Delivery of certified copy of record. If any person is adjudged mentally ill and ordered committed to a state hospital, a copy of the complete record in the case, certified to by the county clerk of the county, shall be given to the health officer of the county, or to the sheriff, for delivery to the superintendent of the state hospital to which such mentally ill person is committed. The record shall include the name, residence, nativity, sex and age of such mentally ill person and all other information that may be required by the rules and regulations promulgated by the Oregon State Board of Control.

426.180 Emergency commitment on application. If the judge of a court having probate jurisdiction in any county of this state is absent from the county seat or for any other reason is unable to act and there is no other judge available with authority to act so that a hearing on an application for commitment cannot be held immediately, a person charged by affidavit or affidavits of two other persons with being mentally ill may be admitted to a state hospital for the mentally ill for emergency treatment, care and custody, provided such affidavit sets forth the circumstances constituting the emergency and is accompanied by written application for admission to the hospital, executed in duplicate, and by a certificate to the effect that the person is so mentally ill as to be in need of immediate hospitalization, together with medical history of the case, including the name, condition, sex and age of the patient, and also the name and address of the nearest relative or legal guardian, if any, of the patient. The certificates, applications and case histories shall be made upon forms prescribed by the Oregon State Board of Control and shall be executed by the county health officer, or, if that officer is unable to act or is related to such person by blood or marriage, then by two physicians licensed by the Board of Medical Examiners and not related to such person by blood or marriage. [Amended by 1953 c.442 §2]

426.190 Admission on emergency commitment. Immediately upon execution of the documents mentioned in ORS 426.180, the person, together with the documents, shall be transported by the sheriff or other person on the authorization of the county health officers or his deputy to the state hospital indicated by law to receive such patient. The superintendent of the state hospital may refuse to admit the person unless he is satisfied from the documents that an emergency exists, and that the person is so mentally ill as to be in need of immediate hospitalization. The superintendent shall file such documents in the office of the hospital, where they shall remain a matter of record. If the superintendent is satisfied that an emergency exists, and that such person is so mentally ill as to be in need of immediate hospitalization, he shall receive and care for as a patient in the hospital the person named in the documents.

426.200 Court commitment following emergency admission. Within 48 hours after admission under ORS 426.190, an examination as to the mental condition of any person so admitted shall be commenced and shall be conducted as expeditiously as possible by two staff physicians of the state hospital where he has been received. If, after completion of the examination, the physicians certify that he is so mentally ill as to be in need of treatment, care or custody, the superintendent shall, if he determines that further hospitalization is necessary, within 48 hours thereafter, file a complaint with the court having probate jurisdiction in the county where the hospital is located, requesting a court commitment as provided by law. If the examining physicians certify that such person is not so mentally ill as to be in need of treatment, care or custody, the superintendent of the state hospital shall cause the person immediately to be discharged therefrom. If a court commitment is made, all expenses incurred in connection with the proceeding, including the expenses of examination, transportation, commitment and delivery of such person, shall be paid by the county of which the person is a resident; or, if such person is not a resident of this state, then by the county from which the emergency admission was made.

426.210 Limit of detention after commitment in emergency proceedings. In no event shall any person admitted to a state

hospital pursuant to the emergency proceedings provided by ORS 426.180 to 426.200 be detained therein by virtue of such proceedings for more than 15 days following admission.

426.220 Voluntary commitment on application. (1) Pursuant to rules and regulations promulgated by the Oregon State Board of Control, the superintendent of any state hospital for the treatment and care of the mentally ill may admit and hospitalize therein as a patient, for a period of not more than 30 days on the first application or for a period of not to exceed 90 days on any subsequent application, any person who may be suffering from nervous disorder or mental illness, and who voluntarily has made written application for such admission. No person under the age of 21 years shall be admitted as a patient to any such state hospital unless an application therefor in his behalf has been executed by his parent, adult next of kin, or legal guardian. No person so admitted to any state hospital shall be detained therein more than 10 days after he, if an adult, has given notice in writing of his desire to be discharged therefrom, or, if the patient is a minor, after notice in writing has been given by his parent, adult next of kin or legal guardian that such parent, adult next of kin or legal guardian desires that such minor be discharged therefrom. No person who accepts treatment as authorized in this section may give such notice within less than 20 days after admission to the hospital in case of a first commitment or 80 days after admission in case of any subsequent commitment.

(2) Any person voluntarily admitted to a state hospital pursuant to this section may, upon application and notice to the superintendent of the hospital concerned, be granted a temporary leave of absence from the hospital for a period of 48 hours or less, if such leave, in the opinion of the superintendent, will not interfere with the successful treatment or examination of the applicant for leave. [Amended by 1953 c.127 §2]

426.222 Establishment of out-patient clinics. The superintendents of existing and future state hospitals, with the approval of the Board of Control and with funds appropriated for that purpose by the legislature, may establish and maintain, in connection with and as a part of their respective institutions, out-patient clinics providing diagnostic

services and treatment for persons suffering from mental illness or epilepsy who are not admitted to a state hospital and for persons released from a hospital without a certificate of discharge in those cases which, in the opinion of the superintendent of the institution concerned, will benefit from treatment or consultation on an out-patient basis. [1953 c.597 §1]

426.224 Patients who may be received at out-patient clinics. Out-patient clinics in state hospitals may receive without commitment only those patients who are referred to them by a health officer or a physician licensed by the State Board of Medical Examiners or those specified in ORS 426.222. [1953 c.597 §2]

426.226 Supervision of out-patient clinics; fee schedules. (1) Treatment and services furnished by the out-patient clinics shall be under the supervision of the superintendents of the hospitals.

(2) The Board of Control, by its rules and regulations, shall establish fee schedules for services under ORS 426.222 and 426.224. [1953 c.597 §3]

426.230 Admission, to Oregon hospitals, of Oregon citizens adjudged mentally diseased in other states. The superintendent of any of the state hospitals mentioned in ORS 426.010, upon receipt of a certified copy of the order of commitment, shall receive into his institution and care for any citizen of Oregon who has been adjudged mentally diseased by the court of another state and committed to a similar institution in such state, when any such person has been returned to this state by the authorities of the state where originally committed. [Amended by 1955 c.651 §7]

426.240 Care and costs pending commitment and after commitment. (1) Upon order of a court of competent jurisdiction, any person charged according to law with being mentally diseased shall be cared for, pending proceedings for the commitment of such person and until commitment or release, but in no event in excess of 72 hours, in the county hospital of the county in which such proceedings are pending or in such other quarters suitable for the comfortable, safe and humane confinement of such person as are provided by the county court or board of county commissioners, of such county. The costs of such temporary care shall be paid as the other costs of such pro-

ceedings are paid under ORS 426.250 and 426.310.

(2) If any person is adjudged mentally ill as provided by ORS 426.120, he, or those legally responsible for his support, may be required to pay the cost of his hospitalization at such state hospital, as provided by ORS 428.040 to 428.060, if financially able so to do.

426.250 Payment of examining physicians. Any physician employed by the judge to make an examination as to the mental condition of a person alleged to be mentally ill shall be allowed not more than \$10 for such examination. Witnesses summoned and giving testimony shall receive the same fees as are paid in civil cases. The expenses of the examination and the care and custody of said patient, until delivery is made to the proper authorities from the hospital, shall be paid by the county in which the examination and commitment were made.

426.260 Transfer of patients from one hospital to another. The State Board of Control may transfer or remove patients from one hospital mentioned in ORS 426.010 to another hospital mentioned in ORS 426.010 whenever, in its judgment, the conditions of the patients will be improved or the cost of their maintenance be lessened. [Amended by 1955 c.651 §8]

426.270 Transfers between Oregon Fairview Home and state hospitals. Whenever the Board of Control is advised by the superintendent or physician of one of the state hospitals mentioned in ORS 426.010, and the superintendent or physician of the Oregon Fairview Home, that any inmate of such state hospital is mentally deficient and not insane and can be cared for at the Oregon Fairview Home with greater profit to said inmate than at such hospital, the Board of Control may order such inmate transferred from the hospital to the Oregon Fairview Home. All such reports by such superintendents and physicians shall be submitted under oath. [Amended by 1955 c.651 §9]

426.280 Parole of patient from hospital; liability for expenses and damages caused by parolee. The superintendent may grant a parole to a patient for any period of time under general conditions prescribed by the State Board of Control. The hospital paroling a patient, the superintendent thereof, and members of the State Board of Control, shall not be liable for a paroled patient's expenses while on parole, nor shall the su-

perintendent of any such hospital or any member of the Board of Control be liable for any damages whatsoever that are sustained by any person on account of the misconduct of such patient while on parole.

426.290 Readmission of parolee. (1) Every patient paroled shall be received back into the hospital paroling him upon the complaint, in writing, of any citizen of Oregon made to the superintendent of the hospital. The complaint shall be sworn to before some officer qualified to administer an oath, if the acts complained of are such as to indicate that the patient should no longer be permitted to remain at large.

(2) Every paroled patient must be received back into the hospital upon voluntary application to be admitted thereto. Every patient that is on parole shall be readmitted to the hospital without examination as to his sanity before any court or judge having jurisdiction over such matters.

426.300 Discharge of patients. (1) The superintendent of any state hospital wherein are confined persons adjudged to be mentally diseased may, by filing his written certificate with the State Board of Control, discharge any patient, except one held upon an order of a court or judge having criminal jurisdiction in an action or proceeding arising out of criminal offense, at any time as follows:

(a) A patient who, in his judgment, is recovered.

(b) A patient who, in his opinion, is a dotard and not mentally diseased.

(c) Any patient who is not recovered but whose discharge, in the judgment of the superintendent, will not be detrimental to the public welfare, or injurious to the patient.

(2) Before making such certificate, the superintendent shall satisfy himself by sufficient proof that the friends or relatives of the patient are willing and financially able to receive and properly care for the patient after his discharge.

426.305 Competency of patient being discharged. A certificate of discharge filed pursuant to ORS 426.300 shall state whether or not the patient is competent. A certified copy of this certificate shall be filed by the superintendent with the court which committed the patient. If it sufficiently appears from the certificate that the patient is competent, the court, without the filing of a pe-

tition or a hearing as provided in ORS 33.820 shall enter an order so declaring. [1955 c.522 §4]

426.310 Reimbursement of county in case of nonresident patients. If the mentally diseased patient is a resident of some other county in this state, the county making the commitment shall be reimbursed by the county of which the patient is a resident. All reasonable and actual expenses incurred and paid by the county by reason of the examination, commitment, custody and delivery of the nonresident patient to the proper authorities from the hospital to which he has been committed shall, upon presentation of a copy of the order of the judge making the examination and commitment, together with a properly itemized and certified claim covering the expense, be promptly paid to the county by the county of which the patient was a resident.

426.320 Payment of certain expenses by the state. All actual and necessary expenses incurred by the agent or attendant from the state hospital and his assistants, together with those of the patient or patients to be transferred after he has been taken from the custody of the sheriff, shall be paid by the state in the manner provided in ORS 426.330.

426.330 Presentation and payment of claims. The special funds authorized by section 10, chapter 342, Oregon Laws 1913, for the use of the superintendents of the Oregon State Hospital and the Eastern Oregon State Hospital, to better enable them promptly to meet the advances and expenses necessary in the matter of transferring patients to the state hospitals are continued in existence. The superintendents shall present their claims monthly with proper vouchers attached, showing the expenditures from the special funds during the preceding month, which claims, when approved by the Board of Control, shall be paid by the Secretary of State by warrant upon the State Treasurer against the fund appropriated to cover the cost of transporting the mentally diseased.

426.340 Use of "insane" and "insanity." In all proceedings under this chapter, the words "mentally diseased" shall be used in lieu of the word "insane," and the words "mental disease" shall be used in lieu of the word "insanity."

426.350 Crematory at Oregon State Hospital. The State Board of Control shall cause to be erected and maintained at the Oregon State Hospital a crematory or incinerator for the disposition of dead bodies of patients and other inmates of the institution or of any other state institutions, as provided by law.

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.
Done at Salem, Oregon,
on October 15, 1955.

Sam R. Haley
Legislative Counsel

