

## Chapter 428

### 1957 REPLACEMENT PART

## Responsibility for Care of the Mentally Ill and Mentally Deficient

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**LIABILITY FOR SUPPORT OF PERSONS COMMITTED TO STATE INSTITUTIONS**

**428.010 Duty of guardian or relative of inmate to reimburse state for maintenance; liability of inmate's estate for maintenance cost.** (1) If any person committed to a state institution for the mentally ill or mentally deficient, or a close relative of such person, is possessed of an estate or income sufficient to meet the expenses of his or her care and maintenance, without depriving of necessary support those dependent upon such person or relative, then the guardian or responsible relative of such person shall be required to reimburse the State of Oregon for the cost and expense of the care, board, lodging and clothing of such person during his or her stay in such state institution.

(2) All inmates of state institutions for the care of the mentally ill or the mentally deficient, and their estate or relatives, or both, as their respective responsibility may appear, shall be liable for the payment of the monthly charge fixed as provided by law for care and maintenance of inmates of such institutions, according to their ability to pay as provided in ORS 428.010 to 428.150.

(3) Upon the death of any person who is or has been an inmate of a state institution for the care of the mentally ill or the mentally deficient, his estate shall be liable for the monthly cost of care and maintenance of such inmate as computed under ORS 428.070 less any monthly payments made pursuant to a judicial determination of ability to pay under ORS 428.010 to 428.150 during the lifetime of such inmate. [Amended by 1955 c.597 §2]

**428.020 Order of liability of relatives; "ability to pay" defined.** (1) The relatives of mentally ill or mentally deficient persons shall be liable for the care and maintenance of such persons as follows: The husband for the wife, the wife for the husband, the parent or parents for his or her children, and the children for their parents, according to their respective abilities to pay.

(2) "Ability to pay," as referred to in subsection (1) of this section, means that the responsible person or persons have an estate or income, or both, sufficient to pay the amount determined by the court after allowing adequately for the current living expenses and other reasonable necessary present or future obligations of the responsible persons and all their other dependents.

**428.030 Subrogation of spouses, parents or children.** If any husband or wife, parent or parents, child or children are required to pay for care and maintenance as specified in this chapter, they shall have the right to subrogation to the extent of the amounts so paid with interest at six percent per annum and contribution against the estate of such mentally ill or mentally deficient person and other persons mentioned in ORS 428.010 and 428.020 who are liable therefor for their pro rata share.

**428.040 Process to compel appearance of persons liable for maintenance; appointment of guardian ad litem; examination of witnesses; order.** At the time of and as part of the proceedings for the commitment of a mentally ill or mentally deficient person to a state institution for the mentally ill or mentally deficient, as provided in ORS chapters 426 and 427, or when a resident of any county of this state has been received by an Oregon state institution for the mentally ill or for the mentally deficient, under ORS 426.220 or 428.230, the county judge or committing magistrate of the county shall cause a citation to be issued by the county clerk and served by the sheriff of the county, citing the person against whom proceedings for commitment for mental illness or mental deficiency have been commenced, or the person who has been so received by any such state institution, and any guardian, husband, wife, parents and children of such person, to appear in court before the judge at a time and place designated in the citation and show cause why an order should not be entered adjudging that the person or his estate or relatives or any combination thereof are financially able to pay for the care and maintenance of such person in a state institution. The county court or committing magistrate may direct subpoenas to be issued to any witness to appear and adduce evidence upon the trial of the matter for the purpose of determining the financial ability of the estate or such relatives, or both, to pay. If such person alleged to be mentally ill or mentally deficient, or such person so received by any such state institution, does not have a guardian, the court shall, if necessary, appoint some competent, disinterested person, at the expense of the county, as guardian ad litem to appear for and who shall have full authority to represent such person. All such persons shall be examined as witnesses under oath for the

purpose of determining the financial ability of the mentally ill or mentally deficient person, his estate or relatives, to pay for the care and maintenance of such person in the state institution to which he or she may be committed or has been admitted. Findings of facts shall be made as to the ability to pay for such care and maintenance as above set forth and an order therein against the proper person or persons or estate found responsible, and fixing such liability. An appeal may be taken to the circuit court within 30 days in the ordinary manner for taking appeals from orders of the county court, and within 30 days from the entry of an order of the circuit court having jurisdiction of such probate proceedings, to the Supreme Court. The order declaring the financial ability of the estate or persons found responsible, or both, to pay for such care and maintenance of such person shall remain in full force and effect unless modified or appealed. Any order or a modified order and appeal only shall be altered upon a new hearing upon citation to all persons interested. Where there has been a change in the ability of the person to pay as specified in the order, and, upon a change of ability to pay, the order shall be modified accordingly. [Amended by 1957 c.388 §13]

**428.050 District attorney's duty.** The district attorney, at the request of the county judge or committing magistrate or State Board of Control, shall appear at the inquest described in ORS 428.040 and present evidence with respect to the ability of the estate of the person who may be committed or has been admitted for mental illness or mental deficiency, or of his relatives, to pay the cost of care and maintenance in the state institution. The district attorney, on request of the Board of Control, if the Board of Control feels aggrieved by the order of the county judge or committing magistrate, shall appeal the cause to the circuit court and the Supreme Court, or either, as directed.

**428.060 Appointment of guardian for the estate of a mentally ill or mentally deficient person.** If no guardian has been appointed for the estate of the person mentioned in ORS 428.040 who may be committed or who has been admitted to an institution as provided in such section, the State Board of Control shall request, and the district attorney of the county of which

such person is a resident, or was a resident at the time of commitment or admittance, shall institute proper proceedings in the court having probate jurisdiction, for the appointment of a guardian for the estate of such person if necessary.

**428.070 Monthly cost of care and maintenance of inmate; how determined.** (1) Each mentally ill or mentally deficient person, his estate or relatives found to have the financial ability to pay for care and maintenance as specified in ORS 428.010 to 428.060, shall pay therefor the cost per month as herein provided, or such portion thereof as the court may find them able to pay. The monthly payment as determined by the court shall, in all cases, apply from the day the person is received at the institution.

(2) The cost of care and maintenance of a mentally ill or mentally deficient person in a state institution shall be determined by the Board of Control in the following manner: The board shall, as of June 30 each year, add all the costs chargeable to the maintenance and operation of state institutions for the care of mentally ill and mentally deficient persons for the fiscal year ending on that day. In computing such total cost there shall be included all expenses of providing care for inmates of the institutions, and the expenses of upkeep, but not replacement cost, of the buildings and grounds used in connection with such institutions. The total cost shall be divided by the number 12, and the result, expressed in dollars and cents, shall be established as the cost per month of operating said institutions. This cost shall be divided by the ascertained average number of inmates per month cared for in said institutions, and the number of dollars of the quotient so determined, without regard to any odd cents, shall be the monthly cost per inmate chargeable for the care and maintenance of each mentally ill or mentally deficient person in any such state institution for 12 months commencing September 1 each year. [Amended by 1957 c.92 §1]

**428.080 Determination of charge to be paid by estate or relatives of committed inmates.** The State Board of Control shall forward, at such intervals as in its judgment are advisable, to the county judge or committing magistrate of each county from which inmates of the state institutions for the care of the mentally ill and mentally deficient were committed, a list of inmates committed from

such county. Upon receipt of said list, it shall be the duty of the judge or committing magistrate forthwith to cause a citation to issue for each person on such list, the guardian and relatives aforesaid to appear and show cause and to determine their ability to pay as provided in ORS 428.010 to 428.150. Findings of fact shall be made relative to the financial ability to pay maintenance as set forth in ORS 428.010 to 428.150 and an order entered therein against the proper person or persons or estate so found responsible. A charge to be determined by the court but not exceeding the charge per month for care and maintenance fixed as provided by law shall be made to apply in all such cases from the date of origin of responsibility therefor fixed in such order, against the estate, if any, or such responsible relatives, or both. An appeal may be taken to the circuit court and to the Supreme Court as in cases specified in ORS 428.040, and the district attorney shall perform such duties therewith connected as the Board of Control may direct.

**428.090 Redetermination, upon petition of Board of Control or relatives or guardian of inmate or upon court's own initiative, of liability for maintenance.** The decision of the court as to whether or not the estate or relatives of mentally ill or mentally deficient persons are able to pay for their maintenance, and the amount thereof, shall not be permanent. The court shall, upon petition of the State Board of Control or by any person against whom such order has been entered under the provisions of ORS 428.010 to 428.150 or his guardian, or upon its own initiative at any time by citation, summon the guardian and any relatives or interested persons in order to redetermine the facts and the amount, if any, to be paid and by whom. Notice of each such proposed rehearing shall be given to the Secretary of the State Board of Control who shall also receive notice from the court of the decision based on each such hearing.

**428.100 Remittance of amounts due; refunds; appropriation.** (1) Remittance of amounts due for care and maintenance of persons committed to state institutions as provided in ORS 428.010 to 428.090 shall be made to the Secretary of the State Board of Control in advance on the first day of each calendar month during the time the person remains committed.

(2) The Oregon State Board of Control shall authorize the refund of any unearned advance payments for maintenance of patients at any of the state institutions in those cases where payments have been made in advance and the patient has died or is discharged or paroled before the end of the month for which such payment is made. The Secretary of State shall audit all claims for refunds when duly approved by the State Board of Control, and draw his warrant on the State Treasurer in payment thereof in favor of the person entitled thereto, payable from the General Fund of the State Treasury, and such amounts as are determined to be necessary for the payment of such refunds hereby are appropriated from the money collected under the provisions of ORS 428.010 to 428.150.

**428.110 Daily deposit of money received.** All money received by the Secretary of the State Board of Control under the provisions of ORS 428.010 to 428.150 shall be deposited daily with the State Treasurer for credit to the General Fund.

**428.120 Collection and disposal of delinquent payments.** In all cases where an order is entered against the estate, guardian or relatives of a mentally ill or mentally deficient person under the provisions of ORS 428.010 to 428.150, and delinquency in the payment of any amounts due the State of Oregon under such order continues for a period of more than 30 days, upon notification of any such delinquency, by the Oregon State Board of Control, the district attorney of the county wherein the judgment is entered shall proceed to collect the amounts due by appropriate proceedings. The funds so collected by the district attorney shall be forwarded by him at once to the Secretary of the State Board of Control, together with a statement showing by whom paid and for what patient.

**428.130 Satisfaction of order for payment on discharge of inmate; re-entry of order and resumption of payments on readmission to institution.** Whenever a person ceases to be an inmate of any state institution in connection with whom an order has been entered for care and maintenance against any person or estate under the provisions of ORS 428.010 to 428.150 the county judge or committing magistrate of the county in which such order is of record shall forthwith satisfy such order of record, upon re-

ceipt of notice from the Secretary of the State Board of Control that it has been fully paid. If the person is subsequently readmitted to the institution, the county judge or committing magistrate shall, upon due notice from the Secretary of the State Board of Control, reenter such order of record and the responsible estate or relatives shall resume monthly payments as before from the date of such readmittance.

**428.140 Providing clothing for inmate of Fairview Home.** When relatives are paying for care and maintenance as required by ORS 428.010 to 428.150 for an inmate of the institution for mentally deficient, they shall not be required to furnish clothing, but the institution shall provide such clothing.

**428.144 Proceedings to collect support money from estate of deceased inmate.** (1) The Oregon State Board of Control may present and file a claim for any support money under subsection (3) of ORS 428.010 in a proceeding upon the administration of the estate of any deceased inmate in like manner as other claims of creditors are filed and with such priorities as are provided in ORS 117.110.

(2) The Oregon State Board of Control may petition any court of competent jurisdiction for the issuance of letters of administration or testamentary in the estate of any deceased inmate who did not pay or for whom was not paid the full amount of cost of his care and maintenance as determined by subsection (2) of ORS 428.070. However, the board shall not file a petition under this subsection until at least 90 days after the death of the inmate and then only in the event that the inmate's estate is not otherwise being probated. [1955 c.597 §4]

**428.146 Compromise or waiver of claim against estate.** The Oregon State Board of Control may compromise any claim against the estate of a deceased inmate during the pendency of the probate proceeding by accepting other security therefor or in any other manner deemed equitable. The board may waive payment of any such claim in a case in which it finds that the enforcement thereof in whole or in part would be inequitable. [1955 c.597 §5]

**428.148 Responsible relative remains liable; limit on recovery against estate.** The recovery of any claim against the estate of any deceased inmate under ORS 428.144 and

428.146 shall not relieve any responsible relative from making payments in accordance with a judicial determination of ability to pay under ORS 428.010 to 428.150 nor shall it prevent the Oregon State Board of Control from recovering such payments by appropriate action. However, the board is not entitled under ORS 428.010 to 428.150 to recover amounts which exceed, in the aggregate, the total cost of care and maintenance of the deceased inmate as computed under ORS 428.070. [1955 c.597 §6]

**428.150 Employment of persons and promulgation of rules.** The State Board of Control may employ such persons and promulgate and enforce such rules and regulations as may be necessary to carry out the provisions of ORS 428.010 to 428.150.

428.160 to 428.200 [Reserved for expansion]

**OBLIGATIONS CONCERNING RESIDENT AND NONRESIDENT MENTALLY ILL AND MENTALLY DEFICIENT**

**428.210 Definitions for ORS 428.210 to 428.270.** As used in ORS 428.210 to 428.270, unless the context requires otherwise:

(1) "Board" means the Oregon State Board of Control.

(2) "Foreign hospital" means an institution in any other state which corresponds to the institutions defined in subsection (7) of this section.

(3) "Nonresident" means any person who is not a resident of this state as defined in subsection (6) of this section.

(4) "Other state" includes all the states, territories, possessions, commonwealths and agencies of the United States and the District of Columbia, with the exception of the State of Oregon.

(5) "Patient" means any person who has been committed by a court of competent jurisdiction to a state hospital, except a person committed to a state hospital pursuant to ORS 136.150 or 136.160.

(6) "Resident of this state" means a person who has lived in this state continuously for a period of one year and who has not acquired legal residence in any other state by living continuously therein for at least one year subsequent to his residence in this state.

(7) "State hospital" means any institution for the care and treatment of the mentally ill or mentally deficient, governed by the board. [1957 c.388 §5]

**428.220 Determining residence; board may admit to state hospital a person whose residence is not established.** (1) In determining whether or not any person committed by a court of competent jurisdiction to a state hospital or foreign hospital is a resident of this state:

(a) The time spent in a state hospital or foreign hospital or on parole therefrom shall not be counted in determining the residence of such person in this or any other state.

(b) The residence of such person at the time of commitment shall remain his residence for the duration of his commitment.

(2) The board may give written authorization for the admission to a state hospital whenever:

(a) The residence of any person cannot be established after reasonable and diligent investigation and effort.

(b) The peculiar circumstances of a case, in the judgment of the board, provide a sufficient reason for the suspension of the residence requirement provided by subsection (6) of ORS 428.210. [1957 c.388 §6]

**428.230 Return of nonresident patients; superintendents must admit eligible persons.**

(1) Except as provided in ORS 428.220, the board shall return nonresident patients to any other state in which they may have legal residence.

(2) The board may give written authorization for the return to a state hospital of a resident of Oregon who has been committed by a court of competent jurisdiction to a foreign hospital.

(3) The superintendent of any state hospital shall admit and care for any person eligible for admission pursuant to subsection (2) of this section or subsection (2) of ORS 428.220 upon receipt of a certified copy of the commitment papers and the written authorization of the board. [1957 c.388 §7]

**428.240 Reciprocal agreements for interstate exchange of nonresident patients.**

(1) For the purpose of facilitating the return of nonresident patients, the board may enter into a reciprocal agreement with any other state for the mutual exchange of persons committed by a court of competent jurisdiction to any state hospital or foreign hospital, whose legal residence is in the other's jurisdiction.

(2) In such agreements, the board may:

(a) Only for purposes of mutual exchange with the other state, vary the period

of residence required by subsection (6) of ORS 428.210.

(b) Provide for the arbitration of disputes arising out of the mutual exchange of such persons between this state and any other state. [1957 c.388 §8]

**428.250 Liability for expenses of returning nonresident patients.** (1) Except as provided in ORS 428.270, all expenses incurred under ORS 428.230 and 428.240 in returning nonresident patients from this state to any other state shall be paid by this state.

(2) All expenses of returning residents of this state shall be borne by the other state making the return. [1957 c.388 §9]

**428.260 Board may employ help for transporting nonresident patients; payment of expenses.**

(1) For the purpose of carrying out the provisions of ORS 428.210 to 428.270 and ORS 415.110, the board may employ all help necessary in arranging for and transporting nonresident patients.

(2) The cost and expense of providing such assistance and all expenses incurred in effecting the transportation of such patients shall be paid from funds appropriated for that purpose upon vouchers approved by the board and the superintendent of the state hospital from which such patients are transported. [1957 c.388 §10]

**428.270 Liability of persons for care and return of nonresident mentally ill or mentally deficient persons.**

(1) Any person, except an officer, agent or employe of a common carrier acting in the line of duty, who brings or in any way aids in bringing into this state any patient without the written authorization of the board, shall be liable to this state for all expenses incurred in the care of such patient and in the transportation of such patient to the other state where he legally resides.

(2) Hospitals and sanitariums, other than state hospitals, which care for and treat mentally ill and mentally deficient persons shall be responsible for the return of mentally ill or mentally deficient persons to their places of residence or domicile outside the state if they are brought into this state for treatment and care and are discharged from such institutions without being fully recovered.

(3) Failure to comply with the provisions of subsection (2) of this section shall render the person operating the hospital or sani-

tarium liable to reimburse the state for all expenses incurred in the care, maintenance and return of the mentally ill or mentally deficient persons to their places of residence or domicile outside the state. [1957 c.388 §11]

428.280 to 428.300 [Reserved for expansion]

**INTERSTATE COMPACT ON MENTAL HEALTH**

**428.310 Board of Control may execute and terminate compact concerning mentally ill and mentally deficient.** The State Board of Control may execute and terminate a compact on behalf of the State of Oregon with any state, territory or possession of the United States, the District of Columbia and the Commonwealth of Puerto Rico joining therein, in the form substantially as follows:

**INTERSTATE COMPACT ON MENTAL HEALTH**

The contracting states solemnly agree that:

**ARTICLE I**

The party states find that the proper and expeditious treatment of the mentally ill and mentally deficient can be facilitated by cooperative action, to the benefit of the patients, their families, and society as a whole. Further, the party states find that the necessity of and desirability for furnishing such care and treatment bears no primary relation to the residence or citizenship of the patient but that, on the contrary, the controlling factors of community safety and humanitarianism require that facilities and services be made available for all who are in need of them. Consequently, it is the purpose of this compact and of the party states to provide the necessary legal basis for the institutionalization or other appropriate care and treatment of the mentally ill and mentally deficient under a system that recognizes the paramount importance of patient welfare and to establish the responsibilities of the party states in terms of such welfare.

**ARTICLE II**

As used in this compact:

(a) "Sending state" shall mean a party state from which a patient is transported pursuant to the provisions of the compact or from which it is contemplated that a patient may be so sent.

(b) "Receiving state" shall mean a party state to which a patient is transported pur-

suant to the provisions of the compact or to which it is contemplated that a patient may be so sent.

(c) "Institution" shall mean any hospital or other facility maintained by a party state or political subdivision thereof for the care and treatment of mental illness or mental deficiency.

(d) "Patient" shall mean any person subject to or eligible as determined by the laws of the sending state, for institutionalization or other care, treatment or supervision pursuant to the provisions of this compact.

(e) "After-care" shall mean care, treatment and services provided a patient, as defined herein, on convalescent status or conditional release.

(f) "Mental illness" shall mean mental disease to such extent that a person so afflicted requires care and treatment for his own welfare, or the welfare of others, or of the community.

(g) "Mental deficiency" shall mean mental deficiency as defined by appropriate clinical authorities to such extent that a person so afflicted is incapable of managing himself and his affairs, but shall not include mental illness as defined herein.

(h) "State" shall mean any state, territory or possession of the United States, the District of Columbia and the Commonwealth of Puerto Rico.

**ARTICLE III**

(a) Whenever a person physically present in any party state shall be in need of institutionalization by reason of mental illness or mental deficiency, he shall be eligible for care and treatment in an institution in that state irrespective of his residence, settlement or citizenship qualifications.

(b) The provisions of paragraph (a) of this article to the contrary notwithstanding, any patient may be transferred to an institution in another state whenever there are factors based upon clinical determinations indicating that the care and treatment of said patient would be facilitated or improved thereby. Any such institutionalization may be for the entire period of care and treatment or for any portion or portions thereof. The factors referred to in this paragraph shall include the patient's full record with due regard for the location of the patient's family, character of the illness and probable duration thereof, and such other factors as shall be considered appropriate.

(c) No state shall be obliged to receive any patient pursuant to the provisions of paragraph (b) of this article unless the sending state has given advance notice of its intention to send the patient; furnished all available medical and other pertinent records concerning the patient; given the qualified medical or other appropriate clinical authorities of the receiving state an opportunity to examine the patient if said authorities so wish; and unless the receiving state shall agree to accept the patient.

(d) In the event that the laws of the receiving state establish a system of priorities for the admission of patients, an interstate patient under this compact shall receive the same priority as a local patient and shall be taken in the same order and at the same time that he would be taken if he were a local patient.

(e) Pursuant to this compact, the determination as to the suitable place of institutionalization for a patient may be reviewed at any time and such further transfer of the patient may be made as seems likely to be in the best interest of the patient.

#### ARTICLE IV

(a) Whenever, pursuant to the laws of the state in which a patient is physically present, it shall be determined that the patient should receive after-care or supervision, such care or supervision may be provided in a receiving state. If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state shall have reason to believe that after-care in another state would be in the best interest of the patient and would not jeopardize the public safety, they shall request the appropriate authorities in the receiving state to investigate the desirability of affording the patient such after-care in said receiving state, and such investigation shall be made with all reasonable speed. The request for investigation shall be accompanied by complete information concerning the patient's intended place of residence and the identity of the person in whose charge it is proposed to place the patient, the complete medical history of the patient, and such other documents as may be pertinent.

(b) If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state and the appropriate authorities in the receiving state find that the best

interest of the patient would be served thereby, and if the public safety would not be jeopardized thereby, the patient may receive after-care or supervision in the receiving state.

(c) In supervising, treating or caring for a patient on after-care pursuant to the terms of this article, a receiving state shall employ the same standards of visitation, examination, care and treatment that it employs for similar local patients.

#### ARTICLE V

Whenever a dangerous or potentially dangerous patient escapes from an institution in any party state, that state shall promptly notify all appropriate authorities within and without the jurisdiction of the escape in a manner reasonably calculated to facilitate the speedy apprehension of the escapee. Immediately upon the apprehension and identification of any such dangerous or potentially dangerous patient, he shall be detained in the state where found pending disposition in accordance with law.

#### ARTICLE VI

The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the patient, shall be permitted to transport any patient being moved pursuant to this compact through any and all states party to this compact, without interference.

#### ARTICLE VII

(a) No person shall be deemed a patient of more than one institution at any given time. Completion of transfer of any patient to an institution in a receiving state shall have the effect of making the person a patient of the institution in the receiving state.

(b) The sending state shall pay all costs of and incidental to the transportation of any patient pursuant to this compact, but any two or more party states may, by making a specific agreement for that purpose, arrange for a different allocation of costs as among themselves.

(c) No provision of this compact shall be construed to alter or affect any internal relationships among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

(d) Nothing in this compact shall be construed to prevent any party state or subdi-

vision thereof from asserting any right against any person, agency or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to any provision of this compact.

(e) Nothing in this compact shall be construed to invalidate any reciprocal agreement between a party state and a nonparty state relating to institutionalization, care or treatment of the mentally ill or mentally deficient, or any statutory authority pursuant to which such agreements may be made.

ARTICLE VIII

(a) Nothing in this compact shall be construed to abridge, diminish, or in any way impair the rights, duties and responsibilities of any patient's guardian on his own behalf or in respect of any patient for whom he may serve, except that where the transfer of any patient to another jurisdiction makes advisable the appointment of a supplemental or substitute guardian, any court of competent jurisdiction in the receiving state may make such supplemental or substitute appointment and the court which appointed the previous guardian shall upon being duly advised of the new appointment, and upon the satisfactory completion of such accounting and other acts as such court may by law require, relieve the previous guardian of power and responsibility to whatever extent shall be appropriate in the circumstances; provided, however, that in the case of any patient having settlement in the sending state, the court of competent jurisdiction in the sending state shall have the sole discretion to relieve a guardian appointed by it or continue his power and responsibility, whichever it shall deem advisable. The court in the receiving state may, in its discretion, confirm or reappoint the person or persons previously serving as guardian in the sending state in lieu of making a supplemental or substitute appointment.

(b) The term "guardian" as used in paragraph (a) of this article shall include any guardian, trustee, legal committee, conservator or other person or agency however designated who is charged by law with responsibility for the property of a patient.

ARTICLE IX

(a) No provision of this compact except Article V shall apply to any person institutionalized while under sentence in a penal or correctional institution or while subject to

trial on a criminal charge, or whose institutionalization is due to the commission of an offense for which, in the absence of mental illness or mental deficiency, said person would be subject to incarceration in a penal or correctional institution.

(b) To every extent possible, it shall be the policy of states party to this compact that no patient shall be placed or detained in any prison, jail or lockup, but such patient shall, with all expedition, be taken to a suitable institutional facility for mental illness or mental deficiency.

ARTICLE X

(a) Each party state shall appoint a "compact administrator" who, on behalf of his state, shall act as general coordinator of activities under the compact in his state and who shall receive copies of all reports, correspondence, and other documents relating to any patient processed under the compact by his state either in the capacity of sending or receiving state. The compact administrator or his duly designated representative shall be the official with whom other party states shall deal in any matter relating to the compact or any patient processed thereunder.

(b) The compact administrators of the respective party states shall have power to promulgate reasonable rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE XI

The duly constituted administrative authorities of any two or more party states may enter into supplementary agreements for the provision of any service or facility or for the maintenance of any institution on a joint or cooperative basis whenever the states concerned shall find that such agreements will improve services, facilities, or institutional care and treatment in the fields of mental illness or mental deficiency. No such supplementary agreement shall be construed so as to relieve any party state of any obligation which it otherwise would have under other provisions of this compact.

ARTICLE XII

This compact shall enter into full force and effect as to any state when entered into according to law and such state shall thereafter be a party thereto with any and all states legally joining therein.

ARTICLE XIII

(a) A state party to this compact may withdraw therefrom as provided by law and such renunciation shall be by the same authority which executed it. Such withdrawal shall take effect one year after notice thereof has been communicated officially and in writing to the governors and compact administrators of all other party states. However, the withdrawal of any state shall not change the status of any patient who has been sent to said state or sent out of said state pursuant to the provisions of the compact.

(b) Withdrawal from any agreement permitted by Article VII (b) as to costs or from any supplementary agreement made pursuant to Article XI shall be in accordance with the terms of such agreement.

ARTICLE XIV

This compact shall be liberally construed so as to effecuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state

or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. [1957 c.388 §14]

**428.320 Board of Control as compact administrator; rules; supplementary agreements.** Upon the execution of the compact authorized by ORS 428.310, the State Board of Control is authorized and empowered to carry out the duties of compact administrator and shall have power to promulgate rules and regulations to carry out more effectively the terms of the compact, and enter into supplementary agreements with appropriate officials of other states pursuant to Articles VII and XI of the compact. [1957 c.388 §15]

**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 December 2, 1957

Sam R. Haley  
Legislative Counsel

**CHAPTERS 429 AND 430**

[Reserved for expansion]