

Chapter 475

1957 REPLACEMENT PART

Narcotic and Habit-forming Drugs

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CROSS REFERENCES

Boats, operating while drugged, 488.160
Drugs, poisons, caustics and corrosives, Ch. 453
Pharmacists and pharmacies, Ch. 689
Teacher's certificate, revocation or refusal to issue for narcotic violation, 342.060, 342.070
Uniform Narcotic Drug Act, Ch. 474

475.050
Driving while under influence of drugs, 483.992
Flying while drugged prohibited, 493.160

475.090
Furnishing liquor to prisoners, 169.130

475.010 Definitions. As used in this chapter, "narcotic drugs" shall have the meaning provided for such term in ORS 474.010. [Amended by 1953 c.342 §3; 1957 c.587 §6]

475.020 [Repealed by 1957 c.587 §12]

475.030 [Repealed by 1957 c.587 §12]

475.040 [Repealed by 1957 c.587 §12]

475.050 [Repealed by 1957 c.587 §12]

475.060 [Repealed by 1957 c.587 §12]

475.070 Causing narcotic drug addiction. (1) Any person not authorized by law to manufacture, sell, prescribe or use narcotic drugs professionally, who causes or conspires to cause or knowingly contributes to the causing of narcotic drug addiction in any person, shall be punished, upon conviction, by imprisonment in the penitentiary for not more than five years for the first offense and not more than 10 years for the second and subsequent offenses.

(2) If such addiction is caused in a minor the person convicted shall be punished for the first offense by imprisonment for a period of not more than 10 years; and for the second offense, by imprisonment for life, or a shorter period, in the penitentiary.

475.080 Drug addict as vagrant. Any person who is an habitual user of any of the drugs or substances mentioned in ORS 474.010, shall be deemed a vagrant and shall be punished upon conviction as provided in ORS 166.060.

475.090 Furnishing inmates with alcoholic beverages or drugs. (1) Except as provided in subsection (2) of this section, no person shall bring, send or otherwise introduce into the penitentiary, any penitentiary road camp or forest camp of which the warden of the penitentiary has custody, or penitentiary farm or annex, or any other penal or correctional institution of this state, or any state hospital, or any county jail, county hospital, city jail or city hospital, or any prison camp, prison farm or any other place where inmates or prisoners are in the custody of officers or employees of the state or of any of the political subdivisions thereof, any drug or alcoholic beverage in any form, for the use of any such inmate or prisoner, without being authorized so to do by the rules governing such institution or place or by specific authorization of the per-

son in charge of such institution or place.

(2) Subsection (1) of this section does not apply to a physician or dentist, licensed to practice in this state, acting in good faith and in the course of his professional practice. [Amended by 1953 c.543 §3; 1957 c.587 §7]

475.100 Sale of certain drugs without prescription prohibited; penalty; preservation and inspection of prescriptions. (1) Except as provided in ORS 475.110, no person, firm or corporation shall sell, give away, barter, exchange or distribute amobarbital (5-ethyl-5-isoamylbarbituric acid), phenobarbital (5,5-ethyl, phenyl barbituric acid), acid diethylbarbituric, any salts, derivatives, or compounds of the foregoing substances, any preparation or compound containing any of the foregoing substances or their salts, derivatives or compounds, or any registered, trade-marked or copyrighted preparation or compound registered in the United States Patent Office containing more than four grains to the avoirdupois or fluid ounce of the foregoing substances, except:

(a) Upon a written prescription of a practitioner licensed by law to administer such drug; or

(b) Upon an oral prescription of a practitioner licensed to administer such drug which is reduced promptly to writing and filed by the pharmacist; or

(c) By refilling any such written or oral prescription if such refilling is authorized by the prescriber either in the original prescription or by oral order which is reduced promptly to writing and filed by the pharmacist.

(2) Every prescription or order required by subsection (1) of this section shall be at all times open to inspection by duly authorized officers of the law and shall be preserved for at least three years from the date of filing thereof.

(3) No person shall wilfully make any false statement in any prescription, order, report or record required by this section; or, by fraud, deceit, misrepresentation or subterfuge, obtain or attempt to obtain any drug listed in subsection (1) of this section or the administration of any drug listed therein. [Amended by 1953 c.396 §2; 1957 c.587 §8]

475.110 When ORS 475.100 not applicable. ORS 475.100 does not apply:

(1) To the sale at wholesale by drug jobbers, wholesalers and manufacturers to

pharmacies, or to physicians, dentists or veterinary surgeons, or to each other. For the purpose of this subsection, a pharmacy includes every store or shop where drugs, medicine or chemicals are dispensed or sold at retail, or where prescriptions are compounded, which has upon it or as a sign, the words "pharmacist," "pharmaceutical chemist," "apothecary," "druggist," "pharmacy," "drug store," "drugs," or any of these words, or the characteristic show bottles or globes, either colored or filled with colored liquids.

(2) To the sale at retail in pharmacies by pharmacists to each other or to physicians and surgeons, dentists or veterinary surgeons licensed to practice in this state. [Amended by 1953 c.396 §2]

475.120 Seizure and forfeiture of conveyances used in transporting or possessing narcotics. (1) Any district attorney, sheriff, deputy sheriff, constable or police officer charged with the enforcement of this chapter, having personal knowledge or reasonable information that narcotic drugs are being unlawfully carried or transported or possessed by any boat, vehicle or other conveyance, shall search the same without warrant and without any affidavit being filed. If he finds upon or in such conveyance, narcotic drugs unlawfully carried, transported or possessed, he shall seize them, arrest any person in charge of such conveyance and as soon as possible take the arrested person and the seized drugs before any court in the county in which the seizure is made. He shall also, without delay, make and file a complaint for such violation as the evidence justifies.

(2) Any such conveyance used by or with the knowledge of the owner or the person operating or in charge thereof in the unlawful transportation, or unlawful possession or concealment, of narcotic drugs within this state shall be forfeited to the state in the same manner, by the same procedure and with like effect as provided in ORS 471.660 and 471.665 for the forfeiture of conveyances used in unlawfully handling liquor.

475.130 [Repealed by 1957 c.587 §12]

475.140 [Repealed by 1957 c.587 §12]

475.150 Funds and officers available to enforce the narcotic laws. All special funds provided by law for enforcement of the

liquor laws of this state are available, under the direction of the Governor, for the enforcement of the laws of this state regulating or prohibiting the sale of narcotic drugs. All officers, agents and inspectors authorized by law to enforce the liquor laws of this state, shall likewise enforce the laws of this state regulating or prohibiting the sale of narcotic drugs.

475.160 Applicability of liquor laws setting apart funds for enforcement. Any provision by law for setting apart for law enforcement funds, fines collected for violation of the liquor laws of this state, unless otherwise provided therein, applies in like manner and in like proportions to fines collected for violation of the laws of this state regulating or prohibiting the sale of narcotic drugs. The maximum amounts of such funds shall be as fixed in the laws providing for funds to enforce liquor laws.

475.170 to 475.600 [Reserved for expansion]

475.610 Definitions. As used in ORS 475.610 to 475.750, unless the context requires otherwise:

(1) "Drug user" means any person who habitually uses any habit-forming narcotic drugs so as to endanger the public morals, health, safety or welfare, or who is so far addicted to the use of such habit-forming narcotic drugs as to have lost the power of self-control with reference to his addiction. Any person for whom a physician prescribes narcotic medication, or who is receiving narcotic medication from a physician, for bona fide medical ailments, is not included in the term "drug user."

(2) "Patient" means any person concerning whom there has been filed a statement as provided by ORS 475.620.

(3) "Physician" means any person licensed to practice medicine, surgery or osteopathy by the Board of Medical Examiners of the State of Oregon. [1955 c.573 §2; 1957 c.587 §9]

475.620 Filing statement that person is drug user. (1) Whenever it appears to the district attorney that any person in his county is a drug user, he may file in the office of the clerk of the circuit court a statement in writing setting forth that such person is a drug user.

(2) If the drug user is in the custody of any court or held by law enforcement authorities of this state or imprisoned in any

penal institution or jail in this state and charged with or convicted of any crime, the proceedings provided by ORS 475.610 to 475.750 shall be continued until such time as the drug user has been released from custody or is placed on parole or probation.

(3) A statement may be filed against any person convicted of any crime who has been placed on parole or probation, if in the opinion of the court having jurisdiction of the proceeding under ORS 475.610 to 475.750, the best interests of society and of the drug user would thereby be served. [1955 c.573 §3; 1957 c.587 §10]

475.630 Compelling appearance of drug user; service of statement and order of appearance. (1) Upon the filing of a statement by the district attorney pursuant to ORS 475.620, the judge of the circuit court shall cause the alleged drug user to be brought before him, at such place and time as he may direct, for the purpose of an examination and a hearing in accordance with ORS 475.650 to 475.670. If necessary, the judge may issue a warrant of detention to the sheriff or other peace officer designated by the court, directing such officer to take the alleged drug user into custody and produce him at the time and place stated in the warrant.

(2) A copy of the district attorney's statement and a copy of the court's order of appearance shall be served personally upon the proposed patient.

(3) Execution and return of any warrant served under subsection (1) of this section shall be made in accordance with ORS 426.080. If it is not necessary to serve a warrant upon the alleged drug user, the sheriff or other officer designated by the court shall make a return to the clerk of the court showing the time and place of service of the statement and order of the court upon the proposed patient. [1955 c.573 §4]

475.640 Right to legal counsel. Any patient shall have the right to the assistance of counsel at every stage of the judicial proceeding under ORS 475.610 to 475.750. The court shall advise the patient of his right to counsel and shall appoint counsel for him if the patient is unable to obtain counsel. [1955 c.573 §5]

475.650 Appointment of examining physicians; report. (1) When a statement has been filed under ORS 475.620, the court shall appoint at least two competent physicians,

one of whom may be the county health officer, to examine the patient.

(2) If necessary in the opinion of any one of the appointed physicians, the court may order the patient to be committed to a suitable hospital or other facility designated by the court for a period not to exceed five days for the purpose of examining the patient.

(3) Each physician shall, within such period of time as the court directs, file a written report of examination under oath, which shall include a finding and conclusion as to whether or not the patient is a drug user.

(4) The patient and his counsel may inspect the reports of examination. No such report and no evidence resulting from the personal examination of the patient or evidence offered by the patient shall be admissible against him in any judicial proceeding except a proceeding under ORS 475.610 to 475.750. [1955 c.573 §6]

475.660 Action on report. If, in a report filed pursuant to ORS 475.650, any one of the examining physicians states and finds that the patient is a drug user, or that he is unable to make a conclusive finding by reason of the refusal of the patient to submit to examination, the court shall forthwith set a time for a hearing. If it is the finding of the examining physicians that the patient is not a drug user, the court shall enter an order dismissing the proceeding without holding a hearing. If a hearing is required under this section, notice of the time and place of the hearing shall be served forthwith upon the patient. [1955 c.573 §7]

475.670 Hearing. (1) Upon the evidence adduced at the hearing the court shall make its findings and determine whether or not the patient is a drug user. The hearing shall be conducted without a jury.

(2) The patient may, after employment or appointment of counsel, waive a hearing under this section and consent to the finding of the court that he is a drug user.

(3) The hearing shall be conducted in as informal a manner as may be consistent with orderly procedure. The court shall receive all relevant and material evidence which may be offered and shall not be bound by the rules of evidence in actions at law.

(4) The patient shall have the right to present evidence in his own behalf and to subpoena and cross-examine witnesses. [1955 c.573 §8]

475.680 Commitment to state hospital.

(1) If the court finds that the patient is a drug user, it shall issue an order committing the patient to any state hospital having facilities for rehabilitation of drug users as provided in ORS 475.730.

(2) In making commitments to any state hospital under ORS 475.610 to 475.750, the court shall designate the receiving state hospital in accordance with the provisions of ORS 426.060, subject to the authority of the Oregon State Board of Control to transfer the patient to any other state hospital if necessary in the discretion of the board.

(3) Any person adjudged to be a drug user under ORS 475.610 to 475.750 and committed for rehabilitation shall remain under the jurisdiction and control of the committing court until such time as the court enters an order discharging the patient from custody.

(4) Upon receipt of the order of commitment, the officer designated therein shall take custody of the patient and follow the commitment procedure provided in ORS 426.150. [1955 c.573 §§9,13]

475.690 Reports of hospital head. The executive head of any state hospital to which the patient is committed shall file written reports at intervals directed by the court. The reports shall contain a statement of progress of the patient toward rehabilitation and recommendation concerning release of the patient from the hospital. [1955 c.573 §9]

475.700 Release of patient from commitment. (1) When the executive head of the hospital or other facility to which a patient is committed finds that the patient is no longer in need of rehabilitation or treatment or that the patient has received the maximum benefits, he shall give notice of such finding to the committing court. Thereupon, the court shall order the patient returned to the court by an officer designated by the court for such further action as the court deems necessary.

(2) The court may thereafter order the release of the patient from commitment and may in its discretion order the patient to undergo a program of care, treatment or rehabilitation as an out-patient in hospitals or other facilities designated by the court or require the patient to report periodically to any officer designated by the court, for such period as the court may direct, but not

exceed two years from the date of the order releasing the patient. [1955 c.573 §10]

475.710 Recommitment. Any patient who, during any period of probation under ORS 475.700, again becomes a drug user, may, upon finding by the officer designated to supervise the patient, that the patient has reverted to being a drug user, be recommitted after the court has given the patient an opportunity to show cause why his probation should not be revoked. For the purpose of this section the court shall have the same powers to order the appearance of the patient as is provided in ORS 475.630. [1955 c.573 §11]

475.720 Apprehension of escaped drug users. Any patient who escapes or absents himself from a facility to which he has been committed for rehabilitation or precommitment examination under ORS 475.610 to 475.750 may be apprehended by bench warrant of the committing court and may be punished by the committing court as for contempt under ORS 33.020. Thereafter, the court may hold such person to be returned to the hospital or facility from which the patient absented himself or for such other action as the court deems necessary. [1955 c.573 §12]

475.730 Establishment of facilities for drug users at state hospitals. The Oregon State Board of Control shall establish facilities at any one or all of the state hospitals for receiving and rehabilitating any patient committed pursuant to a proceeding under ORS 475.610 to 475.750. [1955 c.573 §13]

475.740 Construction of ORS 475.610 to 475.750. It is the purpose of ORS 475.610 to 475.750 to protect the health and safety of the people of the State of Oregon from the menace of drug addiction and to afford an opportunity for rehabilitation to the drug user. The Legislative Assembly intends that the criminal laws shall be enforced against drug users as well as other persons, and ORS 475.610 to 475.750 shall not be construed as intending to substitute treatment for punishment where crimes are committed by drug users. [1955 c.573 §1]

475.750 Proceedings not substitute for criminal proceedings. The proceedings under ORS 475.610 to 475.750 are in addition to and not a substitute for any criminal proceedings against any drug user who is charged with the commission of a crime. [1955 c.573 §3]

475.760 to 475.980 [Reserved for expansion]

ORS 475.100 is punishable, upon conviction, by a fine not exceeding \$200 or by imprisonment in the county jail not exceeding six months, or both.

475.990 Penalties. (1) Violation of ORS 475.090 is punishable, upon conviction, by a fine of not more than \$1,000 or by imprisonment in the state penitentiary for not more than five years, or both.

(3) Violation of subsection (3) of ORS 475.100 is punishable, upon conviction, by a fine of not more than \$500 or by imprisonment in the county jail not to exceed one year, or both. [1957 c.587 §11]

(2) Violation of subsection (1) or (2) of

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