

TITLE 36

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Chapter 431

1959 REPLACEMENT PART

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THE STATE BOARD OF HEALTH**431.010 The State Board of Health; membership; appointment; term; vacancy.**

(1) There hereby is established the State Board of Health.

(2) The board shall consist of nine members, eight of whom shall be appointed by the Governor, with the consent of the Senate, and one a secretary to be appointed by the board as provided in ORS 431.030.

(3) Upon the expiration of the term of any member, the Governor, with the consent of the Senate, shall appoint a new member for a term of four years.

(4) Any vacancy on the board may be filled by the Governor.

431.020 Qualifications of board members. (1) Seven of the members of the State Board of Health shall be physicians.

(2) One member shall be a dentist who has been actively engaged in the practice of dentistry in this state five years immediately prior to his appointment.

(3) One member shall be a registered pharmacist who shall also be a member of the Board of Pharmacy.

(4) All members shall be selected for their especial fitness.

431.030 The State Health Officer; election; removal. (1) At the first meeting, or as soon thereafter as a competent and suitable person can be secured, the board shall elect a secretary, who shall, by virtue of such election, become a member of the board and its executive officer.

(2) The secretary shall be officially known as the State Health Officer, who shall be a regularly graduated and reputable physician.

(3) The State Health Officer shall hold his office so long as he faithfully discharges its duties. He may be removed for just cause at any meeting of the board, a majority of the members voting in favor of removal.

431.040 Salaries and expenses of State Health Officer and members of board. (1) The State Health Officer shall receive an annual salary, which shall be fixed by the State Board of Health unless otherwise fixed in ORS 292.635, necessary traveling expenses and the necessary expenses for clerical service that the board deems necessary for his assistance. The board shall certify the amount due the State Health Officer, and, on presentation of the certificate, the Secre-

tary of State shall draw a warrant on the State Treasurer for the amount.

(2) The members of the board shall receive no per diem compensation for their services, but their traveling and other necessary expenses, while employed on the business of the board, shall be allowed and paid.

431.050 Meetings of board; quorum; president. (1) The board shall meet annually at Salem on the second Tuesday of January, and shall also hold special meetings where and when the board may provide, as frequently as the proper and efficient discharge of its duties may require.

(2) Three shall constitute a quorum for the transaction of business.

(3) The board shall elect from its own number a president.

431.060 Health office employes. Subject to the State Civil Service Law, the State Health Officer may employ or discharge any employe of the State Health Office.

431.070 to 431.100 [Reserved for expansion]

**ENFORCEMENT OF HEALTH LAWS
AND REGULATIONS; DUTIES OF
STATE HEALTH OFFICER**

431.110 General powers and duties of State Board of Health. The State Board of Health shall:

(1) Have direct supervision of all matters relating to the preservation of life and health of the people of the state.

(2) Keep the vital statistics of the state.

(3) Make sanitary surveys and investigations and inquiries respecting the causes and prevention of diseases, especially of epidemics.

(4) Have full power in the control of all communicable diseases.

(5) Have authority to send the State Health Officer or a committee of the board to any part of the state when deemed necessary.

(6) From time to time, publish and distribute to the public in such form as the board determines, such information as in its judgment may be useful in carrying on the work or purposes for which the board was established.

(7) Biennially, before the third day of each January preceding the meeting of the Legislative Assembly, make a report to the Governor concerning the work of the board

for the preceding biennium and containing such other information as the board considers to be of interest to the Governor, the Legislative Assembly or the public. [Amended by 1955 c.105 §1]

431.120 Duties of State Health Officer.
The State Health Officer shall:

(1) Perform the duties prescribed by the statutes listed in ORS 431.130 or required by the State Board of Health.

(2) Keep a record of the transactions of the board.

(3) Have the custody of all books, papers, documents and other property belonging to the board, which may be deposited in his office.

(4) Communicate with the other state boards of health and with the county boards of health throughout the state and keep and file reports received from such boards, and all correspondence of the office appertaining to the business of the board.

(5) Prepare all blank forms for the State Board of Health and all subordinate boards of health.

(6) Give such instructions as may be necessary, and forward them to the various health officers throughout the state.

431.130 Rules and regulations of the board. (1) The State Board of Health shall, in accordance with the provisions of ORS chapter 183, make such rules and regulations as, in its judgment, are necessary for carrying out ORS 146.030 to 146.060, 146.420 to 146.470, 146.560 to 146.590, subsection (2) of ORS 276.990, ORS 357.810, 419.202 to 419.222, 419.252, 419.256 to 419.262, 431.010 to 431.060, 431.110 to 431.180, 431.310, 431.320, 431.410 to 431.460, 433.005, 433.010, 433.105 to 433.155, 433.205 to 433.220, 433.230, 433.255 to 433.270, 433.705, 433.715, 434.260, 434.270, 437.010, 437.020, subsection (2) of 437.040, ORS 437.140, 437.410 to 437.550, 449.105, 449.125 to 449.135, 449.210 to 449.245, 449.325, 449.545, 449.575, 654.105 and 690.200, including rules and regulations concerning the control of venereal diseases and the care, treatment and quarantine of persons infected therewith.

(2) The State Board of Health may enforce the rules and regulations for the control of any of the communicable diseases by quarantining or by the adoption of such other reasonable measures as seem best for

limiting the spread of communicable diseases and for the preservation of the public health. [Amended by 1959 c.629 §5; 1959 c.684 §2]

Note: As indicated in the source note to ORS 431.130, this section was amended by two 1959 Acts; i.e., chapters 629 and 684, Oregon Laws 1959. Chapter 629 was approved by the Governor on May 26, 1959, and chapter 684 was approved on May 27, 1959. Both amendments have been compiled, although neither included the provisions of the other. ORS 431.130, as amended by 1959 c.629 §5, takes effect January 1, 1961. This amendment requires the Board of Health to make rules and regulations to carry out certain provisions in ORS chapter 146. Until January 1, 1961, ORS 431.130, as amended by 1959 c.684 §2, remains in effect. This amendment requires the Board of Health to make rules and regulations in accordance with ORS chapter 183 and authorizes the Board of Health to make rules and regulations to carry out the provisions of ORS 654.105.

431.140 Effect of rules and regulations upon local and state officers and the public in general. (1) All rules and regulations made pursuant to ORS 431.130 and under ORS 446.600 and 446.660 shall be binding upon all county and municipal health officers and other persons affected by the statutes listed in ORS 431.130 and by ORS 446.510 to 446.660 and shall have the force and effect of law.

(2) All executive officers, including police officers, sheriffs, constables and all county officers and employes of the state, shall enforce such regulations subject to the authority of the State Health Officer. [Amended by 1959 c.314 §21]

431.150 Enforcement of health laws generally. (1) The local health officers hereby are charged with the strict and thorough enforcement of the statutes listed in ORS 431.130 and of ORS 446.510 to 446.660 and subsections (4) and (5) of 446.990 in their districts, under the supervision and direction of the State Health Officer. They shall make an immediate report to the State Health Officer of any violation of the statutes listed in ORS 431.130 or of ORS 446.510 to 446.660 and subsections (4) and (5) of 446.990 coming to their notice by observation, or upon the complaint of any person, or otherwise.

(2) The State Health Officer hereby is charged with the thorough and efficient execution of the statutes listed in ORS 431.130 and of ORS 446.510 to 446.660 and subsections (4) and (5) of 446.990 in every part of the state, and with supervisory powers over all health officers, to the end that all the requirements are complied with.

(3) The State Health Officer may investigate cases of irregularity or violation of law, personally or by accredited representative. All health officers shall aid him, upon request, in such investigation.

(4) When deemed necessary, the State Health Officer shall report cases of violation of the statutes listed in ORS 431.130 or of ORS 446.510 to 446.660 and subsections (4) and (5) of 446.990 to the district attorney of the proper county with the statement of the facts and circumstances. When any such case of violation is reported to them by the State Health Officer, all district attorneys or officials acting in said capacity shall forthwith initiate and promptly follow up the necessary court proceedings against the parties responsible for the alleged violations of law.

(5) Upon request of the State Health Officer, the Attorney General shall likewise assist in the enforcement of the statutes listed in ORS 431.130 and of ORS 446.510 to 446.660 and subsections (4) and (5) of 446.990. [Amended by 1959 c.314 §22]

431.160 Jurisdiction and commencement of prosecutions. (1) Justice courts and municipal courts sitting as justice courts shall have concurrent jurisdiction with the circuit courts of all prosecutions arising under the statutes listed in ORS 431.130 or under ORS 446.510 to 446.660 and subsections (4) and (5) of 446.990.

(2) The district attorney, county attorney or Attorney General may institute prosecutions for violation of any statute listed in ORS 431.130 or of ORS 446.510 to 446.660 and subsections (4) and (5) of 446.990 by information, by indictment or by complaint verified before any magistrate. [Amended by 1959 c.314 §23]

431.170 Enforcing rules and regulations when local officers are delinquent. (1) The State Health Officer shall take direct charge of any county or city whenever any county or city official neglects or refuses to enforce the rules and regulations of the statutes listed in ORS 431.130 or of ORS 446.510 to 446.660 or the peace officers of a county or city refuse to or are unable to enforce those rules and regulations when directed to do so.

(2) The State Health Officer may call to his aid such assistance as is necessary for the enforcement of the rules and regulations, the expense of which shall be borne by the county or city making the use of this pro-

cedure necessary, to be paid out of the respective county or city treasury upon vouchers properly certified by the State Health Officer. [Amended by 1959 c.314 §24]

431.180 Interference with individual's selection of physician or treatment or with religious practice prohibited. Nothing in the statutes listed in ORS 431.130 and nothing in ORS 434.010 to 434.190 or 437.030 shall be construed to empower or authorize the State Board of Health or its representatives, or any county board of health or its representatives, or any city board of health or its representatives, to interfere in any manner with the individual's right to select the physician or mode of treatment of his choice, nor interfere with the practice of any person whose religion treats or administers to the sick or suffering by purely spiritual means. However, sanitary laws, rules and regulations must be complied with.

431.190 and 431.200 [Reserved for expansion]

FINANCIAL ADMINISTRATION; SURPLUS PROPERTY; FEDERAL AID

431.210 State Board of Health Account; sources; dedication. (1) There hereby is established in the General Fund the State Board of Health Account, classified separately as to federal and other moneys.

(2) All fines, fees, penalties, federal apportionments or contributions and other moneys received by the State Board of Health shall be turned over to the State Treasurer not later than the tenth day of the calendar month next succeeding their receipt by the board and shall be credited to the State Board of Health Account.

(3) All moneys credited to the State Board of Health Account hereby are appropriated and made available for the payment of expenses of the State Board of Health.

431.220 Record of moneys in State Board of Health Account. The State Health Officer shall keep a record of all moneys deposited in the State Board of Health Account. This record shall indicate by separate cumulative accounts the source from which the moneys are derived and the individual departmental activity or program against which each withdrawal is charged.

431.230 Emergency or revolving fund. (1) The State Health Officer, with the approval of the State Board of Health, may

request in writing the Secretary of State to, and when so requested, the Secretary of State shall, draw a warrant on the State Board of Health Account in favor of the State Health Officer in a sum not exceeding \$5,000, which sum shall be used by the State Health Officer as an emergency or revolving fund.

(2) The emergency or revolving fund shall be deposited with the State Treasurer, and shall be at the disposal of the State Health Officer. It may be used to pay advances for salaries, travel expenses or any other proper claim against, or expense of, the State Board of Health.

(3) All claims for reimbursement of advances paid from the emergency fund shall be approved by the State Board of Health and audited by the Secretary of State. When such claims are so approved and audited, warrants covering them shall be drawn in favor of the State Health Officer and charged against the appropriate fund or account, and shall be used to reimburse the emergency or revolving fund.

431.240 [Repealed by 1955 c.147 §1]

431.250 Federal grants to be handled by State Board of Health; disbursement; planning; merit system. (1) The State Board of Health hereby is designated as the state agency to apply to and receive from the Federal Government or any agency thereof such grants for promoting public health and the prevention of disease, including grants for cancer control, mental hygiene and industrial 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 board 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 in so far 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.

(c) Establish a merit system covering the employed personnel of district and county health departments engaged in the administration of public health laws, and promulgate rules and regulations necessary to establish and maintain such a merit system.

431.260 to 431.300 [Reserved for expansion]

STATE LABORATORY; HEALTH CONVENTIONS

431.310 Bacteriological examinations by state laboratory. For the better protection of the public health the laboratory of the State Board of Health shall make such bacteriological examinations of water, milk, blood, secretions and tissues required by any state, county or city institution, or officer, or for any regularly licensed physician in accordance with the rules and regulations of the board.

431.320 Public health and sanitation convention. The State Health Officer shall hold an annual convention of county and city health officers at such place as he deems convenient, for the discussion of questions pertaining to public health and sanitation. The convention shall continue in session for any time the State Health Officer deems necessary, not exceeding three days. The health officer of each county and city shall attend the convention. Each officer attending shall receive his actual and necessary traveling expenses, to be paid by the county or city concerned. However, no claim shall be allowed or paid for compensation or expenses unless it is accompanied by a certificate from the State Health Officer attesting the attendance of such health officer at the convention.

431.330 to 431.400 [Reserved for expansion]

LOCAL BOARDS OF HEALTH

431.410 Boards of health for counties and cities; local health officers. (1) The county judge and county commissioners, and the mayor and common council of each incorporated city, except where a regularly constituted board of health by statute or by ordinance of such city exists or may be created after February 17, 1905, shall constitute a board of health ex officio, for each county and city, respectively, of the state, whose duty it shall be to:

(a) Enforce the rules and regulations of the State Board of Health and such other rules and regulations of the county or city board of health as are provided by the State Board of Health.

(b) Perform such other duties as may from time to time be required of them by the State Health Officer pertaining to the health of the people.

(2) Each local board shall elect a secretary, who shall be in possession of a license issued to him by the State Board of Medical Examiners, who shall be the health officer of the appointing board when so commissioned by the State Board of Health, and who shall hold his office for the term of two years, unless sooner terminated as provided in ORS 431.420.

(3) The compensation of each county and city health officer shall be prescribed by the board appointing him or to which he belongs. His compensation, together with his necessary expenses, shall be paid by the county or city in which he serves, on the first Monday in September, December, March and July. However, no incorporated city or town shall pay its secretary less than \$10 per month, and no county board shall pay its secretary less than \$25 per month.

(4) Any county health officer may also, without additional compensation, serve as city health officer pursuant to an agreement to that effect between the county and the city. [Amended by 1953 c.189 §3]

431.420 Removal of health officers; causes; hearing. (1) The State Board of Health may remove at any time any county, city or town health officer for intemperance, failure to collect vital statistics, obey rules and regulations, keep records, make reports or answer letters of inquiry, or obey orders of the State Health Officer concerning the health of the people.

(2) The removal, however, shall not be made until five days' notice of the charges against such health officer have been mailed to him. The time and place for hearing such charges by the State Board of Health shall be in the county seat of the county or in the city or town of which the defendant is health officer and shall take place not later than one week after the time of mailing notice to such health officer.

(3) The defendant health officer may be represented by counsel and, after a hearing, as provided in this section, may be removed

by the appointing power for any of the causes specified. Removal shall carry with it his appointment as county, city or town health officer. Moreover, a health officer removed under this section shall not be reappointed without the consent of the State Board of Health.

431.430 Filling of vacancies. (1) In case of death, removal or resignation of any county or city health officer created under ORS 431.410, the vacancy shall be immediately filled by the county judge and commissioners at their first meeting, or mayor and the common council. An officer so appointed shall hold his office until the end of the term unless removed for cause as provided in ORS 431.420.

(2) In case of refusal or neglect by the said county or city officers to appoint a county or city health officer for a period of 30 days following such vacancy, the State Health Officer shall make such appointment.

431.440 Health officers have police powers. All county and city health officers shall possess the powers of constables or other peace officers in all matters pertaining to the public health.

431.450 Location of county health office. The office of the secretary of the county board of health shall be at the county seat.

431.460 Relation of local boards to State Board of Health; reports; keeping of records. (1) The board of health of each county and city shall be subordinate to the State Board of Health.

(2) The secretaries of the county boards shall report such facts and statistics as may be required under instructions from and in accordance with blanks furnished by the State Board of Health.

(3) The secretaries of city boards of health shall make reports of such facts and statistics as may be required under instructions and in accordance with the blanks furnished by the State Board of Health to the secretaries of the county boards of health to which city boards of health are subordinate.

(4) All books and records kept by the secretary of the county or city board shall be the property of the county or city where such records are kept, and filed with the county clerk or city official where such records can be consulted without fee.

431.470 County boards; establishment; membership; terms; replacing former boards. (1) The county court of any county may establish a county board of health, when authorized so to do by a majority of voters of the county at any general or special election, as provided in ORS 431.470 to 431.510.

(2) The county board of health shall consist of:

(a) One member of the county court selected by the court.

(b) The county school superintendent and the mayor of the largest city of the county which has not withdrawn from participation under ORS 431.480, who shall be known as the ex officio members.

(c) One physician who has been licensed to practice medicine in this state by the State Board of Medical Examiners. However, in counties in which a member of the State Board of Health is a resident, he shall automatically be the physician member during his residence in the county.

(d) One dentist who has been licensed to practice dentistry in this state by the State Board of Dental Examiners.

(e) Two laymen to be appointed by the ex officio members.

(3) The term of office of each of the appointed members shall be four years, the term of one to expire annually on February 1. The first appointments shall be for terms of one, two, three and four years, as designated by the ex officio members of the board.

(4) Whenever a county board of health is created under ORS 431.470 to 431.510, such board shall be in lieu of the board provided for in ORS 431.410.

431.480 City boards abolished; exception; city and school district appropriations expended by county board of health. (1) Whenever any county court establishes a county board of health under ORS 431.470, all city boards of health in such county shall be abolished, and such board of health shall have charge of all health activities in the county except that any city having a population of 5,000 or more may elect to maintain a separate board of health under existing laws.

(2) Any city or school district in a county which established a board under ORS 431.470 may appropriate money to be expended for public health measures in such

city or school district by the county board of health.

431.490 Powers and duties of county board. The county board of health established pursuant to ORS 431.470:

(1) Shall administer and enforce the health and sanitary laws of the state and of any city within the county participating under ORS 431.480.

(2) May conduct any activities for the preservation of health or the prevention of disease within the county that it may deem necessary.

(3) Shall have all the powers and duties imposed upon county boards of health by ORS 431.410 to 431.450, unless otherwise provided in ORS 431.470 to 431.510.

431.500 Secretary as county health officer; employment and compensation of assistants; county health officer acting as city health officer. (1) The county board of health shall employ a secretary, who shall be county health officer, and who shall devote his entire time to such duties. He shall be a physician and surgeon, licensed to practice in the state.

(2) The county board of health, with approval of the county court, shall fix the salary of the secretary and may employ such assistants as may be necessary to carry out the health program of the county, and fix their compensation.

(3) Any county health officer may also, without additional compensation, serve as city health officer in a city within the county of his jurisdiction pursuant to an agreement to that effect between the county and the city. [Amended by 1953 c.189 §3]

431.510 Quarters and funds of board. The county court shall provide suitable quarters for the office and health work of the county board of health and shall appropriate sufficient funds for the successful administration of the board.

431.520 to 431.600 [Reserved for expansion]

DISTRICT HEALTH UNITS

431.610 Formation of district health unit. (1) Two or more contiguous counties may combine for the purpose of forming a district health unit when the county judge and county commissioners of each of the counties concerned adopt resolutions signifying their intention to do so.

(2) The respective governing bodies concerned shall then form such district health unit which shall be operated under such terms as are agreed upon between them and in accordance with ORS 431.610 to 431.670.

431.620 District board of health; members; meetings; government. (1) All members of the county courts of each of the participating counties, and the district health officer, shall constitute the district board of health.

(2) The first meeting of the district board of health shall be held within 30 days after the formation of such unit. Thereafter it shall meet at least semiannually at a time and place to be designated by the chairman of the district board, and at such other time and places as the chairman may direct.

(3) The members of the district board of health shall choose their own chairman, and may adopt such rules and bylaws as they deem advisable for government of the board.

(4) A majority of the membership shall constitute a quorum for the transaction of business.

431.630 Powers and duties; relation to State Board of Health; limitations. (1) Each district board of health is vested with all the powers and charged with all the duties that are vested in the State Board of Health, in so far as they may be applicable to the conditions and situations within the district for which the district board of health was appointed.

(2) However, the district board of health shall not promulgate or adopt any rules or regulations unless they are in harmony with the rules and regulations of the State Board of Health in force at that time.

(3) The State Board of Health shall, in all matters relating to the public health, be supreme and superior to local boards of health.

431.640 District health officer; appointment; qualifications; confirmation. Each district board of health shall, within 30 days after the first meeting, appoint a district health officer who shall be a physician licensed by the State Board of Medical Examiners and possessed of such skill and experience in public health duties and sanitary science as may be required by the State Board of Health. The appointment of a district health officer requires the confirmation of the State Health Officer.

431.650 District health officer; full time service; compensation; duties; assistants. The district health officer shall:

(1) Not engage in any occupation which would conflict with his official duties, but shall devote his full time as such health officer.

(2) Serve at the pleasure of the board.

(3) Receive a salary fixed by the district board of health in conformance with appropriate merit rating, together with the actual expenses incurred in the performance of his official duties.

(4) Be the secretary and executive officer of the district board of health.

(5) Perform such other duties as may be required of him by law.

(6) With the approval of the board, appoint deputy health officers, public health nurses, sanitarians and such assistants as are necessary for the proper performance of his official duties.

431.660 Annual appropriation for salaries and expenses. (1) The county judge and county commissioners in each county within a district health unit shall appropriate annually a sum which shall be specifically designated for the maintenance of the district health unit.

(2) All salaries and expenses shall be paid jointly by the counties concerned and in such proportion as the various counties may agree.

431.670 District board supersedes local boards; appropriations by cities and school districts to be expended by district health unit. (1) In event that two or more counties combine for the purpose of forming a district health unit, ORS 431.410 to 431.510 do not apply to these counties, and all the rights and duties of the various local boards of health and health officers therein designated shall be vested in the district board of health.

(2) When two or more counties form a district health unit under ORS 431.610, all city boards of health within such counties shall be abolished, and such district board of health shall have charge of all health activities in those counties. Any city or any school district in such counties may appropriate money to be expended for public health measures in such city or school district by the district health unit.

431.680 to 431.980 [Reserved for expansion]

PENALTIES

431.990 Penalties. Violation of any of the statutes listed in ORS 431.130, except ORS 146.030 to 146.060, 146.420 to 146.470, 146.560 to 146.590 and 433.010, or any lawful rules or regulations of the State Board of Health, pursuant to the authority granted

in those statutes, or failure to obey any lawful order issued by any state, county or municipal health officer is a misdemeanor and is punishable, upon conviction, by a fine of not more than \$1,000 or by imprisonment for not more than a year, or both. [Amended by 1959 c.629 §46]

Note: The 1959 amendment to ORS 431.990 takes effect January 1, 1961. Until January 1, 1961, ORS 431.990, 1955 Replacement Part, will remain in effect.

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 November 1, 1959.

Sam R. Haley
Legislative Counsel

