Chapter 441

1963 REPLACEMENT PART

Hospitals Generally

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LICENSING AND SUPERVISION OF HOSPITALS

441.005 Definitions for ORS 441.005 to 441.080. As used in ORS 441.005 to 441.080, unless the context requires otherwise:

(1) "Hospital" means an institution devoted primarily to the rendering of healing, curing and nursing care, or healing, curing or nursing care which maintains and operates facilities for the diagnosis, treatment or care of two or more nonrelated individuals suffering from illness, injury or deformity, or where obstetrical or other healing, curing or nursing care is rendered over a period exceeding 24 hours.

(2) "Person" means any individual, firm, partnership, corporation, company, association or joint stock association, and includes any receiver, trustee, assignee or other similar representative thereof.

(3) "Governmental unit" means the state, or any county, municipality or other political subdivision, or any department, division, board or other agency of any of the foregoing.

(4) "Board" means the State Board of Health.

441.010 Purpose of ORS 441.005 to 441.080. The purpose of ORS 441.005 to 441.080 is to provide for the development, establishment and enforcement of basic standards:

(1) For the care and treatment of individuals in hospitals and other institutions which render healing, curing or nursing care.

(2) For the construction, maintenance and operation of such institutions which, in the light of existing knowledge, will insure such treatment as is recognized and authorized by the laws of this state as being safe treatment of such individuals in such institutions.

441.015 Licensing of hospitals required; compliance with rules. (1) After July 1, 1947, no person or governmental unit, acting severally or jointly with any other person or governmental unit, shall establish, conduct, maintain, manage or operate a hospital in this state without a license.

(2) Any hospital which is in operation at the time of promulgation of any applicable rules or regulations or minimum standards under ORS 441.055 shall be given a reasonable length of time within which to comply with such rules and regulations or minimum standards.

441.020 Licenses; application; fees; refund; exemptions. (1) Licenses shall be obtained from the State Board of Health.

(2) Applications shall be upon such forms and shall contain such information as the board may reasonably require, which may include affirmative evidence of ability to comply with such reasonable standards, rules and regulations as may lawfully be prescribed under ORS 441.055.

(3) Each application shall be accompanied by the license fee. If the license is denied, the fee shall be refunded to the applicant. If the license is issued, the fee shall be paid into the State Treasury to the credit of the board for carrying out the provisions of ORS 441.005 to 441.080.

(4) Except as otherwise provided in subsection (5) of this section, for hospitals with:

(a) Less than 50 beds, the annual license fee is $50.

(b) Fifty beds or more and less than 200 beds, the annual license fee is $75.

(c) Two hundred or more beds, the annual license fee is $100.

(5) For nursing homes, as defined in ORS 678.510 as limited by ORS 678.530, with:

(a) Less than 10 beds, the annual license fee is $30.

(b) Ten beds or more and less than 51 beds, the annual license fee is $45.

(c) Fifty-one beds or more, the annual license fee is $60.

(6) During the time the licenses remain in force holders thereof are not required to pay inspection fees to any county, city or other municipality.

(7) Hospitals operated by any governmental unit are exempted from payment of license fee.

[Amended by 1957 c.697 §1]

441.025 Licenses; issuance; renewal; transfer; posting. (1) Upon receipt of an application and the license fee, the board shall issue a license if it finds that the applicant and hospital facilities comply with ORS 441.005 to 441.080, the regulations of the board and if it receives a certificate of compliance issued by the State Fire Marshal, or his representative, pursuant to ORS 479.220.

(2) Each license, unless sooner suspended or revoked, shall be renewable annually for the fiscal year beginning on July 1 upon payment of the fee and approval by the

board of an annual report containing such information in such form as the board prescribes by regulation and upon a certificate of compliance being issued by the State Fire Marshal, or his representative, pursuant to ORS 479.220.

(3) Each license shall be issued only for the premises and persons or governmental units named in the application and shall not be transferable or assignable except with the written approval of the board.

(4) Licenses shall be posted in a conspicuous place on the licensed premises as prescribed by regulation of the board.
[Amended by 1957 c.697 §2; 1961 c.316 §6]

441.030 Denial, suspension or revocation of licenses; notice; effective date; request for hearing. (1) (a) The board, pursuant to ORS 479.215, shall deny, suspend or revoke a license in any case where the State Fire Marshal, or his representative, certifies that there is a failure to comply with all applicable laws, lawful ordinances, rules and regulations relating to safety from fire.

(b) The board may deny, suspend or revoke a license in any case where it finds that there has been a substantial failure to comply with ORS 441.005 to 441.080 or the rules, regulations or minimum standards promulgated under those statutes.

(2) A denial, suspension or revocation shall be effected by mailing to the applicant or licensee, by registered mail, or by personal service of, a notice setting forth the particular reasons for such action.

(3) A denial, suspension or revocation shall become effective 10 days after the mailing or service of the notice, unless the applicant or licensee, within such 10-day period, gives written notice to the board requesting a hearing, in which case the notice shall be deemed to be suspended.
[Amended by 1959 c.222 §1; 1961 c.316 §7]

441.035 Hearing; rescission of notice; service and effect of decision. (1) If a hearing has been requested, the applicant or licensee shall be given an opportunity for a prompt and fair hearing before the board. The procedure governing hearings authorized by this section shall be in accordance with rules promulgated by the board. The board may designate the State Health Officer or other representative to act in its behalf in holding and conducting hearings.

(2) At any time at or prior to the hearing, the board may rescind the notice of denial, suspension or revocation upon being satisfied that the reasons for the denial, suspension or revocation have been or will be removed.

(3) On the basis of any such hearing, or upon default of the applicant or licensee, the determination involved in the notice may be affirmed, modified or set aside by the board. A copy of such decision, setting forth the findings of facts and the particular reasons for the decision, shall be sent by registered or certified mail to or served personally upon the applicant or licensee.

(4) The decision shall become final 10 days after it is mailed or personally served, unless the applicant or licensee, within such 10-day period, appeals the decision to the court under ORS 441.045.
[Amended by 1959 c.222 §2; 1959 c.466 §1]

441.040 Judicial powers of board or appointed representative; records and transcripts of proceedings. (1) The board or its representative appointed under ORS 441.035 may administer oaths and issue and serve, or have served, subpenas for the attendance of witnesses and testimony. Witnesses subpenaed shall be allowed fees at a rate prescribed by the rules.

(2) A full and complete record shall be kept of all proceedings. All testimony shall be reported, but need not be transcribed unless the decision is appealed pursuant to ORS 441.045 or a transcript is requested by an interested party who shall pay the cost of preparing the transcript.
[Amended by 1959 c.222 §3]

441.045 Appeal to circuit court. (1) Any applicant or licensee who is dissatisfied with the decision of the board as a result of a hearing under ORS 441.035 may, by filing notice with the clerk of the court within 10 days after the date of mailing or personal service of the decision, appeal the decision to the circuit court of the county in which the applicant or licensee resides, or in which the institution is located. A copy of the notice of such appeal shall be delivered to the State Health Officer. Within 30 days, or such additional time as may be granted by the court after the notice of appeal has been delivered to the board, the latter shall certify and file in the court the transcript of the hearings on which the decision is based.

(2) The circuit court shall try the issues

de novo as an appeal in an equity suit and, upon good cause shown, the court may remand the case to the board to take further evidence, and the board may thereupon make new or modified findings of fact or decision.

(3) The court may affirm, modify or reverse the decision of the board, and either the applicant or licensee or the board may apply for such further review as is provided by law.

(4) Pending final disposition of the matter the status quo of the applicant or licensee shall be preserved, except as the court shall otherwise order in the public interest.

[Amended by 1959 c.222 §4; 1959 c.466 §2]

441.050 Additional remedies of board. Notwithstanding the existence and pursuit of any other remedy, the board may, in the manner provided by law, maintain an action in the name of the state for injunction or other process against any person or governmental unit to restrain or prevent the establishment, conduct, management or operation of a hospital without a license.

441.055 Rules, regulations and standards. The board, with the advice of the advisory council appointed under ORS 441.070, shall adopt, amend, promulgate and enforce such rules, regulations and standards with respect to the different types of hospitals and related institutions to be licensed as may be designed to further the accomplishment of the purposes of ORS 441.005 to 441.080.

441.060 Inspections; approval of plans and specifications. (1) The board shall make or cause to be made such inspections as it may deem necessary provided, that every institution coming under ORS 441.005 to 441.080 shall be inspected at least once annually.

(2) The board may prescribe by regulations that any licensee or prospective applicant desiring to make specified types of alteration or addition to its facilities or to construct new facilities shall, before commencing such alteration, addition or new construction, submit plans and specifications therefor to the board for preliminary inspection and approval or recommendations with respect to compliance with the regulations and standards authorized by ORS 441.055.

441.065 Exemption of certain religious institutions. ORS 441.005 to 441.080 or the rules and regulations adopted pursuant thereto do not authorize the supervision, regulation or control of the remedial care or treatment of residents or patients in any home or institution conducted for those who rely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well-recognized church or religious denomination, except as to the sanitary and safe conditions of the premises, cleanliness of operation and its physicial equipment, and in compliance with laws and regulations governing the regulation and control of communicable diseases.

441.070 Advisory council; appointment; qualifications; terms; State Health Officer ex officio member. (1) The Governor shall appoint an advisory council composed of nine residents of the state, three of whom shall have recognized ability in the field of hospital administration, one a representative of consumers of hospital service, one a member or representative of the State Public Welfare Commission, one a member of the Board of Medical Examiners, one a licensed nursing home administrator, one a member of the Oregon State Board of Nursing and one a registered pharmacist.

(2) Annually, upon the expiration of the term of any member, a successor shall be appointed for a term of four years.

(3) In case of appointment to an unexpired term, it shall be for the remainder of the term.

(4) The State Health Officer shall serve as ex officio member of the council.

[Amended by 1959 c.222 §5]

441.075 Advisory council; duties; meetings; compensation and expenses. (1) The advisory council shall consult and advise with the State Board of Health in matters of policy affecting administration of ORS 441.005 to 441.080, and in the development of rules, regulations and standards provided for under those statutes.

(2) The council shall meet not less than once each year and at any other time at the call of the State Health Officer.

(3) Members of the council, while serving on the business of the council, shall receive compensation at a rate to be established by the board, but not in excess of

$10 per diem. In addition, they shall be reimbursed for actual expenses incurred in the performance of the duties of their offices.

441.080 Biennial report by State Board of Health. The State Board of Health shall prepare and publish a biennial report of its activities and operations under ORS 441.005 to 441.075 and shall make such information available to the state legislature upon request.

441.085 to 441.100 [Reserved for expansion]

HOSPITAL AND MEDICAL FACILITY SURVEY AND CONSTRUCTION

441.105 Definitions for ORS 441.105 to 441.150. As used in ORS 441.105 to 441.150, unless the context requires otherwise:

(1) "Hospital" includes public health centers and general, tuberculosis, mental, chronic disease and other types of hospitals, and related facilities, such as laboratories, out-patient departments, nurses' home and training facilities, and central service facilities operated in connection with hospitals, but does not include any hospital furnishing primarily domiciliary care.

(2) "Public health center" means a publicly owned facility for the provision of public health services and medical care, including related facilities, such as laboratories, clinics and administrative offices operated in connection with public health centers.

(3) "Chronic disease hospital" means a hospital for the treatment of chronic illness, but does not include hospitals primarily for the care of mentally ill or tuberculosis patients.

(4) "Medical facility" includes diagnostic treatment centers, rehabilitation facilities and nursing homes.

(5) "Diagnostic or treatment center" means a facility for the diagnosis or diagnosis and treatment of ambulatory patients which is operated in connection with a nonprofit hospital or government agency and in which patient care is under the professional supervision of persons licensed to practice by the Board of Medical Examiners of the State of Oregon or, in the case of dental diagnosis or treatment, under the professional supervision of persons licensed to practice dentistry by the State Board of Dental Examiners.

(6) "Rehabilitation facility" means a facility which is operated for the primary purpose of assisting in the rehabilitation of disabled persons through an integrated program of medical, physiological, social and vocational evaluation and services under competent professional supervision in which the major portion of such evaluation and services is furnished within the facility, and either the facility is operated in connection with a hospital or all medical and related health services are prescribed by or under the general direction of persons licensed to practice by the Board of Medical Examiners of the State of Oregon.

(7) "Nursing home" is a facility for the accommodation of convalescents or other persons who are not acutely ill and not in need of hospital care, but who require skilled nursing care and related medical services, which is operated in connection with a hospital or in which such nursing care and medical services are prescribed by or are performed under the general direction of persons licensed to practice by the Board of Medical Examiners of the State of Oregon.

(8) "Nonprofit" means owned and operated by a corporation or association, no part of the net earnings of which inures, or which may lawfully inure, to the benefit of any private shareholder or individual.

(9) "Construction" includes construction of new buildings, expansion, remodeling and alteration of existing buildings, initial equipment, including medical transportation facilities, of any such buildings, and landscaping the site thereof, including architects' fees, legal counsel and all other expenses incidental to construction, but excluding the cost of off-site improvements and, except with respect to public health centers, the cost of the acquisition of land.

(10) "Surgeon General" means the Surgeon General of the United States Public Health Service.

[Amended by 1955 c.464 §1]

441.110 Hospital and Medical Facility Survey and Construction Advisory Council; members and qualifications. There is established a Hospital and Medical Facility Survey and Construction Advisory Council consisting of 11 members to be appointed by the Governor. The council shall include:

(1) Representatives of nongovernmental organizations or groups and of state agencies concerned with the operation, construction or utilization of hospitals.

(2) An architect.

(3) A representative of agriculture.

(4) A representative of labor.

(5) The State Health Officer, who shall act as its secretary.

[Amended by 1955 c.464 §2]

441.115 Advisory council; terms; compensation; meetings. (1) The term of each member of the advisory council shall be three years. Upon the expiration of the term of any member, a new member shall be appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term.

(2) Appointed council members, while serving on business of the council, shall receive compensation at a rate to be fixed by the State Board of Health but not exceeding $10 per day and shall also be entitled to receive an allowance for actual necessary travel and subsistence expenses while so serving away from their places of residence.

(3) The council shall meet as frequently as the State Board of Health deems necessary, but not less than once each year.

441.120 Duties of advisory council. The advisory council shall consult with the State Board of Health on matters pertaining to the carrying out of the purposes of ORS 441.105 to 441.150.

441.125 Hospital and medical facility survey. The State Board of Health, upon recommendation of the advisory council, shall make a survey of the physical facilities within the state now existing and which may be necessary to provide necessary physical facilities for furnishing necessary hospital, clinic, medical facility and similar services to all people of the state. This survey shall include:

(1) A survey of the location, size and character of all existing public and private, proprietary as well as nonprofit, hospitals and medical facilities within the state.

(2) An evaluation of the sufficiency of such hospitals and medical facilities to supply the necessary physical facilities for furnishing adequate hospital, clinical, medical facility and similar services to all the people of the state.

(3) Compilation of data and conclusions, together with a statement of the additional facilities necessary, in conjunction with the existing structures, to supply such services. The State Board of Health may utilize, so far as practicable, any appropriate reports, surveys and plans prepared by other state agencies.

[Amended by 1955 c.464 §3]

441.130 Hospital and medical facility construction plan; conforming to federal standards; reports to Surgeon General. Upon recommendation of the advisory council, the State Board of Health shall:

(1) Set forth the relative need, as determined in accordance with standards prescribed by the Surgeon General, for the several projects included in the hospital and medical facility construction program. This program shall also provide for construction, maintenance and operation in order of the relative need as determined by the hospital and medical facility survey and when funds are made available for that purpose.

(2) Provide such methods of administration of the plan as the Surgeon General finds necessary for its proper and efficient operation including provision for affording to an applicant for a construction project an opportunity for hearing before the State Board of Health.

(3) Make such reports in the form and containing such information as the Surgeon General may from time to time require and take steps necessary to assure the correctness and verification of such reports.

(4) From time to time review its construction program and submit to the Surgeon General and such other agencies as he may direct any necessary modifications of the plan.

[Amended by 1955 c.464 §4]

441.135 Applications for new hospital and medical facility construction. (1) The State Board of Health shall, in connection with the plan outlined in ORS 441.125 and 441.130, receive from public hospitals and medical facilities and from nonprofit hospitals and medical facilities applications for the construction of new buildings, expansion, remodeling, alteration of existing buildings, initial equipment of such buildings and landscaping of the site therefor.

(2) The applications may include costs of construction only.

(3) In the event that such applications are in accordance with the state plan as outlined in ORS 441.130, the State Board of Health shall approve such applications and allot funds for said purposes out of any moneys appropriated to the State of Oregon for such purpose.

(4) The authority of the State Board of Health and the advisory council, with respect to any application for construction, shall cease upon the completion of construction included in such application.
[Amended by 1955 c.464 §5]

441.140 Federal aid; use and deposit of funds for administration. (1) The State Board of Health may apply for and receive from the Surgeon General, or from the Treasury of the United States as directed by the Surgeon General, such sums as are available for the administration of ORS 441.105 to 441.150 and the carrying out of the purposes set forth therein. The costs of administration of those statutes shall be confined solely to such funds as may be made available.

(2) Reasonable allowances for the actual time of the members of the State Board of Health and the State Health Officer in the administration of ORS 441.105 to 441.150 shall be considered an expense of administration and shall be paid as other costs of administration of those statutes.

(3) Any sums appropriated by the Surgeon General, or by the Treasury of the United States, for the purpose of administration shall be deposited by the board with the State Treasurer. These funds shall be credited to the State Board of Health Account and shall be used solely for the purpose of administration of ORS 441.105 to 441.150.
[Amended by 1955 c.464 §6]

441.145 Use and deposit of funds for construction. All funds applied for and received by the State Board of Health and allotted to the state by the Surgeon General, the Treasury Department, or other agency of the United States, for construction in carrying out the plan under ORS 441.130, shall be deposited with the State Treasurer and shall be credited to the State Board of Health Account, to be used solely for the purpose of construction and in accordance with the plan upon which the allotment to the state was based.
[Amended by 1955 c.464 §7]

441.150 Administration; employes. (1) ORS 441.105 to 441.150 shall be administered by the State Board of Health which board is designated as the sole agency for carrying out the purposes of those statutes.

(2) The State Board of Health may employ such assistants as are necessary to carry out the purposes of ORS 441.105 to 441.150.

441.155 to 441.190 [Reserved for expansion]

HOSPITAL DISTRICTS

441.195 District created coterminous with each district existing on July 2, 1957; districts existing on July 2, 1957, abolished. (1) There hereby is created a hospital district territorially coterminous with each hospital district existing on July 2, 1957, if such existing hospital district was at that time a valid hospital district but for the fact that the electors of the district were required to have resided in the district for a period of not less than 90 days next preceding an election. In determining the boundaries of hospital districts created by this subsection, full effect shall be given to annexations effected by hospital districts prior to November 22, 1957, under ORS 441.205 to 441.410.

(2) Hospital districts created by subsection (1) of this section are subject to and shall be governed by ORS 441.205 to 441.410.

(3) Hospital districts territorially coterminous with hospital districts created by subsection (1) of this section hereby are abolished.
[1957(s.s.) c.13 §1]

441.200 New district succeeds to and replaces abolished district. Each hospital district created by subsection (1) of ORS 441.195 shall in all respects be the successor of and replace the territorially coterminous hospital district abolished by subsection (3) of ORS 441.195. Without limiting the foregoing:

(1) A successor hospital district is:

(a) The owner of all assets of the succeeded hospital district, including real and personal property, money, water, water rights and riparian rights.

(b) Successor party to the contracts of the succeeded hospital district.

(c) Successor party to court proceedings in which the succeeded hospital district was a party.

(d) Successor obligor and subject to the indebtedness, bonded or otherwise, of the succeeded hospital district.

(2) A successor hospital district shall levy and collect any tax lawfully assessed or collect any tax lawfully assessed and levied, as the case may be, by the succeeded hospital district.

(3) The rules and regulations of the succeeded hospital district are the rules and regulations of the successor hospital district until changed under ORS 441.205 to 441.410.

(4) The directors and officers of the succeeded hospital district are the directors and officers of the successor hospital district. Each such director and officer on November 22, 1957, shall hold office for a term equal to the unexpired term of his office in the succeeded hospital district.

[1957(s.s.) c.13 §2]

441.205 Definitions for ORS 441.205 to 441.410. As used in ORS 441.205 to 441.410, unless the context requires otherwise:

(1) "County court" means the county court or board of county commissioners, as the case may be, of the county in which a district to be incorporated under ORS 441.210, or a greater part thereof, is located.

(2) "County clerk" means the county clerk in which such a district, or a greater part thereof, is located.

(3) "Hospital district" means any corporation incorporated pursuant to ORS 441.205 to 441.410 for the purposes stated in ORS 441.210.

441.210 Hospital districts authorized. Districts may be incorporated as municipal corporations for the purpose of supplying their inhabitants with facilities for the care of sick and injured persons as provided in ORS 441.215 to 441.410. Such municipal corporations may consist of contiguous territory in one or more counties, or of a municipality with or without unincorporated territory, but no incorporated city shall be divided in the formation of any such municipal corporation.

441.215 [Repealed by 1957(s.s.) c.13 §4 (ORS 441.216 enacted in lieu of ORS 441.215)]

441.216 Petition for incorporation. A petition for the purpose of ORS 441.210 shall be in substantially the following form:

WARNING

It is a felony for anyone to sign any initiative or referendum petition with any name other than his own, or knowingly to sign his name more than once for the measure or to sign such petition when he is not a legal voter.

Petition for the incorporation of the district of ———, in the County of ———, State of Oregon, for the purpose of supplying for its inhabitants facilities for the care of sick and injured persons.

To the Honorable County Court of the State of Oregon for the County of ———:

We, the undersigned, citizens and legal voters of the State of Oregon and the County of ———, and residents within the limits of the district in said county (or counties) hereinafter described, respectfully demand that there shall be submitted to the qualified electors of the state who reside in the district described as follows, to wit:

(Here follows description of the boundaries of the proposed district)

the question whether or not said district shall be incorporated as a municipal corporation to be known as (here insert proposed name) hospital district and to elect five directors to carry out the purposes of the incorporation in accordance with the provisions of that certain Act of the Legislative Assembly of the State of Oregon, passed at the regular session in the year 1949, entitled "An Act to authorize districts to incorporate as municipal corporations for the purpose of supplying their inhabitants with facilities for the care of sick and injured persons; to issue, sell and dispose of bonds and other securities; to levy taxes; and to have the right of eminent domain for such purposes," and each for himself says: I have personally signed the petition; I am a legal voter of the State of Oregon and the County of ———, and resident of that portion of said county hereinbefore described. My residence and postoffice address are correctly written after my name.

Name ——, Residence ——, Postoffice ——.

(Here follow 20 lines for signatures.)

[1957(s.s.) c.13 §5 (enacted in lieu of ORS 441.215)]

441.220 Verification of petition; form. Each sheet of a petition under ORS 441.216 containing signatures shall be verified on the back thereof substantially in the following form by the person who circulated the sheet by his affidavit thereon and as a part thereof:

State of Oregon }
County of ———, } ss.

I ———, being first duly sworn, say: (Here shall be legibly written or typewritten the names of the signers of the sheet) signed this sheet and each of them signed his name thereto in my presence; I believe that each has stated his name, postoffice address and

residence correctly, and that each signer is a legal voter of the State of Oregon and of the County of ——— and resident within that portion of said county within the boundaries stated.

(Signature and postoffice address of affiant)

Subscribed and sworn to before me this ——— day of ———, A.D. 19——.

(Signature and title of officer before whom oath was made, and his postoffice address.)

441.225 Forms not mandatory. The forms given in ORS 441.216 and 441.220 are not mandatory, and, if substantially followed, shall be sufficient, disregarding any clerical and merely technical errors.

441.230 Filing petition; election call; issues submitted. (1) The petition provided for in ORS 441.216 shall be filed with the county clerk and shall be presented to the county court on the first day of a regular session of the county court held for the transaction of county business.

(2) The county court forthwith shall examine such petition, and, if it appears that the petition contains the names of 15 percent of the legal voters of that portion of the county or counties described in the petition, the county court shall call an election to be held within the proposed district, not less than 30 days nor more than 50 days after presentation to the court, as the county court shall determine.

(3) At the election there shall be submitted to the legal voters of the territory embraced within the boundaries described in such petition, whether that portion of the county or counties shall be incorporated as a municipal corporation for the purpose of supplying its inhabitants with facilities for the care of sick and injured persons and to be known as ——— (here insert proposed name).

441.235 Ballot title. The ballot title to be used at such election shall read as follows:

Shall that portion of ——— County (or counties), State of Oregon, described as ——— (here insert description of boundaries), be incorporated as a municipal corporation for the purpose of supplying its inhabitants with facilities for the care of sick and injured persons, and to be known as ——— (here insert proposed name) hospital district, in accordance with the provisions of that certain Act of the Legislative Assembly of the State of Oregon, passed at its regular session held in 1949, entitled "An Act to authorize districts to incorporate as municipal corporations for the purpose of supplying their inhabitants with facilities for the care of sick and injured persons; to issue, sell and dispose of bonds and other securities; to levy taxes; and to have the right of eminent domain for such purposes"?

441.240 Voting procedure; ballot; election officials; notice of time and place of election. (1) The affirmative of the measure on the official ballot shall be number 300 and the negative shall be numbered 301, both in numerals. The official ballot shall be prepared by the county clerk, in accordance with ORS 441.205 to 441.410 and the laws relative to elections.

(2) The county clerk shall designate the name, place and number of the polling places for holding the election and shall appoint three judges and three clerks of election, who shall be electors within the district, for each of the polling places so designated.

(3) Should any of the judges or clerks appointed fail to attend, their places shall be filled in the manner provided by law for a general election.

(4) The polls shall be kept open as provided for in general elections.

(5) The county clerk shall give notice of the election by causing a copy of the ballot title referred to in ORS 441.235, together with the date of and the polling places for holding the election, to be:

(a) Posted for four successive weeks prior to the election in each of three public places within the proposed district; and

(b) Published once a week for four successive weeks prior to the election in a newspaper of general circulation in the proposed district, or if there is no such newspaper, in some newspaper published and of general circulation in the county.

(6) The procedure in such elections, except where specifically set out in ORS 441.230 to 441.270, shall be as provided for in general elections.

[Amended by 1959 c.69 §1]

441.245 [Repealed by 1957(s.s.) c.13 §8]

441.250 Nominating petition for directors. Petitions for candidates to be voted for as directors shall contain the names of not less than 25 voters entitled to vote at such election. Before the name proposed can be placed on the ballot, the petition shall be

filed with the officer who makes up the ballot not less than 10 days before the election.

441.255 Ballot to include names of candidates for director. The county clerk, at the time of making up the official ballot, shall place thereon to be voted on at the election for incorporation, the names of all electors petitioned for to run as directors whose petitions have been filed in the office of the county clerk not less than 10 days before the date of the election. Such ballots shall have five blank lines thereon under the names printed, wherein may be written the name of any candidate for such office.

441.260 Canvass of votes; incorporation proclamation. (1) The judges and clerks shall return to the county clerk the canvass of the vote together with the ballots cast. On the seventh day after the election the county court shall hold a special session and proceed to canvass such vote, and if upon the canvass it appears that a majority of the votes cast at such special election has been cast in favor of incorporation, the county court shall cause to be entered upon its journal a proclamation in language substantially as follows:

Whereas, at a special election duly and regularly held on the —— day of ————, A.D. 19—, within that portion of ———— County (and ———— County), State of Oregon, described as (here insert description), there was submitted to the legal voters thereof the question whether all that portion of ———— County (and ———— County), State of Oregon, as above described, should be incorporated as a district for the purpose of supplying its inhabitants with facilities for the care of sick and injured persons, under and pursuant to the provisions of that certain Act of the Legislative Assembly of the State of Oregon, passed at its regular session held in 1949, entitled "An Act to authorize districts to incorporate as municipal corporations for the purpose of supplying their inhabitants with facilities for the care of sick and injured persons; to issue, sell and dispose of bonds and other securities; to levy taxes; and to have the right of eminent domain for such purposes"; and

Whereas, at such election so held —— votes were cast in favor of such incorporation, and —— votes were cast against such incorporation; and

Whereas, the incorporation of (here insert proposed name) hospital district received the affirmative vote of the majority of the votes cast at such election;

Now, therefore, the County Court of the County of ————, State of Oregon, does hereby proclaim and declare that all that part of ——— County (or Counties), State of Oregon, hereinbefore described has been duly and legally incorporated as a municipal corporation under the name of (here insert name) hospital district, under and pursuant to and with the powers vested in such corporation by virtue of that certain Act of the Legislative Assembly of the State of Oregon, passed at its regular session in the year 1949, as hereinbefore referred to.

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(2) The county court shall also canvass the votes for directors and cause the county clerk to issue certificates of election to the number named in the petition for incorporation receiving the highest number of votes.

441.265 Compensation of election officials. Each judge and clerk of an election under ORS 441.230 shall receive for his services $4 and no more, which shall be paid by the county clerk from the fund for that purpose. At the time of filing the petition for the election there shall be deposited with the county clerk by the petitioners the sum of $30 to pay the expenses of the election.

441.270 Mandamus; compelling county court or clerk to take action on petition. (1) If the county clerk refuses to accept and file petition for incorporation or if the county court refuses to call a special election, as provided in ORS 441.230 to 441.245, any citizen of the territory concerned may apply within 10 days after such refusal to the circuit court of the county for a writ of mandamus to compel the county court or county clerk to do so. If it is decided by the court that the petition is legally sufficient and the requisite number of signatures is attached thereto, the circuit court shall direct the county court to call an election. Such suit shall be advanced on the docket and decided by the court as quickly as possible.

(2) Either party may appeal to the Supreme Court within 10 days after the decision is rendered by serving upon the adverse party or his attorney a notice of appeal and filing the original of the notice with the clerk of the circuit court.

441.275 Hospital district as a separate corporation with perpetual succession. From and after the date of the proclamation made by the county court, as provided in ORS 441.260, that part of the county, or counties, embraced within the boundaries described in the proclamation shall be a separate public corporation for the purpose of supplying its inhabitants with hospital facilities for the care of sick and injured persons to be known by the name specified in the proclamation, and as such shall have perpetual succession.

441.280 Board of directors; qualifications; organization; oath. (1) The power and authority given to hospital districts, except as otherwise provided by ORS 441.205 to 441.410, is vested in and shall be exercised by a board of five directors each of whom shall be a qualified voter and freeholder within the district.

(2) Within 10 days after the issuance of the proclamation under ORS 441.260, the directors named in the petition for incorporation who received the highest vote at the election for incorporation shall meet and organize, first taking and subscribing an oath of office to the effect that they will support the Constitution of the United States and of the State of Oregon and the laws thereof, and will discharge faithfully the duties of director to the best of their ability.

441.285 Directors; terms; vacancies. (1) Except for the directors first elected, whose terms commence at their election, the term of office of each director shall begin on the first Monday of January following his election. The directors first elected shall determine by lot the length of term each shall hold office, with the term of two of the directors expiring at 12:01 a.m. of the first Monday in January following the first regular biennial general election following their election and the term of the other three expiring at 12:01 a.m. of the first Monday of January following the second regular biennial general election following their election.

(2) At each regular biennial general election following the election at which were elected the first directors, there shall be elected for a term of four years a sufficient number of directors to replace those whose terms expire in the following January.

(3) In the case of hospital districts in existence as of August 2, 1951, the terms of the incumbent directors that expire in January of even-numbered years are extended until 12:01 a.m. of the first Monday in January of the following year.

(4) A vacancy in the office of any director for any cause, including removal from within the boundaries of the hospital district, shall be filled by the remaining directors until the next regular biennial general election, at which election that office shall be filled by the electors of the district for the remaining part of the term of the director who ceased to be such.

441.290 Election of officers of board of directors; duties; quorum. (1) The directors shall, at the time of their organization, choose from their number a chairman, a secretary and a treasurer, who shall hold their offices until their successors are elected and qualified.

(2) These officers shall have, respectively, the powers and shall perform the duties usual in such cases and shall be known as the president, secretary and treasurer of the hospital district.

(3) A majority shall constitute a quorum to do business and, in the absence of the chairman, any other member may preside at any meeting.

441.295 Directors; meetings; compensation; interest in contracts prohibited. (1) The directors shall hold meetings at such time and place within the hospital district as they may, from time to time, determine, but they shall hold at least one regular meeting in each month on a day to be fixed by them, and may hold special meetings under such rules as they may make.

(2) No director shall receive any compensation for his services as such, but shall be paid all expenses actually and necessarily incurred by him in the services of the district.

(3) No director or other officer of a hospital district shall be interested directly or indirectly in any contract with or on behalf of the hospital district.

441.300 Treasurer's bond. The treasurer as such shall give bonds to the hospital district conditioned for the paying over by him of all moneys coming into his hands as treasurer. The amount of the bonds shall be, from time to time, fixed by the directors, based upon the amount of money in the hands of such treasurer or likely to come into his hands as such. All expense incident

to giving such bonds shall be paid by the hospital district out of its general funds.

441.305 Call and notice of regular and special elections; preparation of ballots. (1) The directors shall cause a notice to be given of every regular election relating to hospital district matters at the regular meeting of the directors in October, or, if the regular meeting is less than 15 days before the election, at a special meeting of the directors in October. The notice shall be posted in three public places in the hospital district at least 10 days prior to the day of election.

(2) The directors, at any regular meeting of the board of directors, may call a special election of the electors of the district and, if called, shall cause notice of the election to be posted by the directors in three conspicuous places within the district for a period of not less than 10 days prior to the date of holding the election.

(3) The secretary of the directors shall prepare sample and official ballots upon which shall be printed the names of all persons nominated for directors whose petitions contain the names of not less than 25 electors in the hospital district and which petitions have been filed with the secretary not less than 10 days before the election.

441.307 Qualifications for voters at district or proposed district election. Every qualified elector of the state who resides in a hospital district or proposed hospital district, as the case may be, is entitled to vote in any district or proposed district election under ORS 441.205 to 441.410.
[1957(s.s.) c.13 §7]

441.308 [Repealed by 1957(s.s.) c.13 §8]

441.310 District election procedure. (1) Before each regular biennial general election, the directors shall:

(a) Make a list of all voters in the district eligible to vote on hospital district matters with the name of the county in which is located each voter's polling place and the address thereof.

(b) Send to the sheriff of each county concerned one such list, a sealed ballot box for each polling place in the county at which voters eligible to vote in hospital district matters will vote, as determined from the list, and a number of ballots sufficient to provide a ballot for each eligible voter in the county.

(2) The sheriff shall deliver the appropriate number of ballots and one ballot box to the judges of election of each polling place in the county.

(3) The judges of those polling places, upon proper identification of the voter, shall give one ballot to each eligible voter.

(4) Upon its being completed, the voter shall put the ballot in the ballot box provided.

(5) The votes shall be counted and canvassed by the judges of election of each polling place. The judges shall certify the results to the directors who shall issue certificates of election the same as in general, state and county elections, except as otherwise provided in ORS 441.205 to 441.410.
[Amended by 1959 c.616 §1]

441.315 Initiative and referendum for hospital districts. (1) In the exercise of the initiative and referendum powers reserved under the Constitution of the State of Oregon to the legal voters of every municipality and district as to all local, special and municipal legislation of every sort and character in and for their respective municipalities and districts, the general laws of the state as applied to cities and towns shall govern in hospital districts except that the measures referred by the directors shall be required to be filed with the secretary not less than 30 days instead of 60, as provided in the general law.

(2) The chairman of the directors shall act as mayor and perform his duties. The secretary shall perform the duties of auditor or recorder. The attorney shall perform the duties of city attorney, and if there is no attorney, the secretary shall perform the duties required of the attorney.

441.320 Powers of hospital districts. Any corporation proclaimed under ORS 441.260 shall have all the powers necessary to carry out the purposes of ORS 441.205 to 441.410, including, but not confined to, the following:

(1) To sue and be sued.

(2) To contract and be contracted with.

(3) To have and use a corporate seal, and to alter the same at pleasure.

(4) To purchase, possess and dispose of such real and personal property as may be necessary and convenient to carry into effect the objects of the corporation, and to take, hold, possess and dispose of real and personal property, purchased from, or donated by, the United States, or any state, territory, county, city or other municipal

corporation or any person, firm, association or private corporation for the purpose of aiding in the objects of such corporation.

(5) To appoint such subordinate officers, agents, employes, staff and other personnel as the needs of the corporation may require, and to prescribe their duties and compensation.

(6) To prescribe and maintain a system of records in accordance with accepted standards of hospital administration.

(7) To adopt, amend, carry out and enforce rules and regulations with respect to any or all of the following:

(a) Admission of patients.

(b) Nursing personnel, laboratory personnel, dieticians and other skilled personnel.

(c) Laboratories, sanitation and other facilities of the hospital and their use.

(d) Admission to and conduct in the hospital of persons desiring to diagnose or treat any disease, injury or other physical or mental condition in such hospitals, or who may, after August 2, 1951, diagnose or treat any disease, injury or other physical or mental condition in such hospitals.

(e) Providing for application for membership and affiliation with any association of hospitals which has for its purpose the elevation of the standards of hospital care and necessary to qualify for such membership and affiliation.

(8) To construct, purchase, acquire by gift or otherwise, equipment and other property in connection therewith and to operate and maintain a hospital or hospitals, and conduct a hospital business within the district.

(9) To do all other things necessary to carry out the purposes of ORS 441.205 to 441.410.

441.325 Hospitalization charges. A hospital district shall charge sick and injured persons for the use of its hospital facilities and services rendered in connection therewith and fix and collect the rates therefor.

441.330 Eminent domain. A hospital district may exercise within its boundaries the same rights and powers of eminent domain and of purchasing, selling, condemning and appropriating real property, water, water rights and riparian rights, which cities and towns or other corporations have, to be exercised in any manner authorized by law.

441.335 Authority to issue bonds. (1) For the purpose of carrying into effect the powers granted by ORS 441.205 to 441.410, a hospital district, when authorized at any properly called election held for that purpose, may borrow money and sell and dispose of general obligation bonds.

(2) These bonds shall never exceed in the aggregate two and one-half percent of the true cash value of all taxable property within the district, computed in accordance with ORS 308.207.

(3) Notwithstanding the provisions of subsection (2) of this section, if the district has within its limits a population of 300 or over, it shall be permitted to issue bonds in an amount which shall not exceed in the aggregate 10 percent of the true cash value.

(4) The bonds shall be issued from time to time by the directors in behalf of the hospital district as authorized by its electors.
[Amended by 1963 c.9 §25]

441.340 Bond elections. Elections for the purpose of voting upon the question of borrowing money and selling and disposing of bonds as provided in ORS 441.335 and 441.345 to 441.355 shall be called, held and notice posted in the same manner as provided in ORS 441.305 for the calling, holding and posting notice of special elections in the district.

441.345 Bonds; maturity; interest; conditions. (1) The bonds shall mature serially within not to exceed 30 years from issue date, in like manner as bonds issued under ORS 287.008.

(2) The bonds shall bear such rate of interest not exceeding five percent per annum payable semiannually as the directors shall determine.

(3) The bonds shall be so conditioned that the hospital district promises and agrees therein to pay to the bearer thereof, at a place named therein, the principal sum thereof, with interest at the rate named therein, payable semiannually, in accordance with the tenor and terms of the interest coupons thereto attached.

441.350 Pledge of income and revenues to secure payment of bonds. (1) For the purpose of additionally securing the payment of the principal of and interest on general obligation bonds issued under ORS 441.335, a hospital district may, by resolu-

tion of its governing body, which resolution shall constitute part of the contract with the holders of such general obligation bonds, pledge all or any part of the net income or revenue of its properties.

(2) The governing body may adopt such a resolution without submitting the question of such pledge to a vote of the electors of the hospital district.

441.355 Advertisement and sale of bonds. All general obligation bonds issued under ORS 441.335 shall be advertised and sold as provided in ORS 287.002 for the sale of city bonds.

441.360 Tax levies; use; extension; collection; default. (1) Any hospital district may assess, levy and collect taxes not to exceed one-fourth of one percent (.0025) of the true cash value of all taxable property within the district, computed in accordance with ORS 308.207. The proceeds of such taxes shall be applied by it in carrying out the objects and purposes provided in ORS 441.210.

(2) A hospital district, each year, may also assess, levy and collect a special tax upon all such property, real and personal, in an amount sufficient to pay the yearly interest on bonds theretofore issued by the district and then outstanding, together with any portion of the principal of such bonds maturing within such year. The special tax shall be applied only in payment of interest and principal of bonds issued by the hospital district, but the district may apply any funds it may have toward the payment of principal and interest of any such bonds.

(3) All taxes needed shall be levied and returned to the county officer whose duty it is to extend the tax roll by the time required by law for city taxes to be levied and returned.

(4) All taxes levied by a hospital district shall become payable at the same time and be collected by the same officer who collects county taxes, and shall be turned over to the hospital district according to law.

(5) The county officer whose duty it is to extend the county levy shall extend the levy of the hospital district in the same manner as city taxes are extended.

(6) Property shall be subject to sale for the nonpayment of taxes levied by the hospital district in like manner and with like effect as in the case of county and state taxes.

[Amended by 1963 c.9 §26]

441.365 Expenditure and accounting of district funds; financial reports. (1) All moneys of a hospital district shall be deposited in one or more banks, to be designated by the directors, and shall be withdrawn or paid out only when previously ordered by vote of the directors, and upon checks signed by the treasurer and countersigned by the chairman, or in the absence or inability of said chairman to act, by the secretary. A receipt or voucher, showing clearly the nature and items covered by each check drawn, shall be kept on file.

(2) Annual reports shall be made and filed by the chairman, secretary and treasurer.

(3) At least once in each year a summary of receipts and expenditures shall be published in a newspaper of general circulation, published in the county in which the district is located.

[Amended by 1961 c.396 §1]

441.370 District records open to inspection; preservation of records. (1) All the proceedings of the directors shall be entered at large in a record book.

(2) All books, maps, plans, documents, correspondence, vouchers, reports and other papers and records pertaining to the business of the hospital district shall be carefully preserved and shall be open to inspection as public records.

441.375 Annual audit. An annual audit of the district shall be made by an auditor approved by the county court. A true and complete copy of the auditor's report of such audit shall be filed in the office of the county clerk in the county wherein the auditor was approved and shall remain a public record therein.

441.380 Proceedings to include contiguous territory in district. Any territory contiguous to an existing hospital district, but not within the boundaries of a hospital district, may be included in and incorporated with such hospital district by petition of 15 percent of the legal voters in such contiguous territory, approved by the board of directors of the annexing district by indorsement thereon and filed with the county clerk

of the county in which the contiguous territory is located and proceedings thereafter in the county court. The proceedings in the county court and the rights, powers and duties of petitioners and objectors shall be the same as in an original proceeding to incorporate a territory as a hospital district.

441.385 Elections on question of annexation. (1) If the petition of annexation is signed and acknowledged by the owners of all lands in the territory to be included, specifically describing such lands, an order incorporating the territory shall be entered by the county court after the board of directors of the hospital district verifies to the county court that an election has been held in the hospital district on such question and a majority of the votes cast was favorable to the inclusion of such territory.

(2) If the petition of annexation is signed and acknowledged by the owners of only a part of the lands to be included, an order incorporating the territory shall be entered by the county court only after the board of directors of the existing hospital district and the county clerk of the county in which the contiguous territory sought to be included is situated, each verifies to the county court that an election has been held in both the hospital district and the contiguous territory on the question of annexation, and that a majority of the votes cast in both the existing hospital district and the contiguous territory, severally, were favorable to the inclusion of the territory.

441.390 Annexed territory to assume share of district debt. Upon entry of an order by the county court incorporating contiguous territory with an existing hospital district, the territory shall become subject to the indebtedness, bonded or otherwise, of the existing hospital district in like manner as the territory within the district.

441.395 Boundaries of district; limitations. (1) The boundary lines of any hospital district shall include only such territory as may in reason be served by the hospital facilities thereof.

(2) Any hospital district heretofore or hereafter organized pursuant to ORS 441.210 to 441.410 may include within its boundaries all or any part of the territory of a port district organized under the provisions of ORS chapter 777, provided said port district does not then operate and maintain a hospital. [Subsection (2) enacted as 1957 c.584 §1]

441.400 Procedure for dissolution of district. (1) Any hospital district may be dissolved upon the vote of a majority of the electors of the district at an election held for that purpose pursuant to a petition to the county court, signed by a majority of the electors requesting the dissolution of the district and filed in the office of the county clerk.

(2) The county court shall:

(a) Fix the time and place for the hearing of the petition, which shall be not less than 10 nor more than 30 days from the receipt thereof.

(b) At least seven days prior to the hearing, publish a notice thereof by one insertion in a newspaper of general circulation in the district.

(3) At the hearing, the county court shall hear and pass upon the petition, together with any objections which may be made by any person interested therein. The county court may either grant or deny such petition or call an election upon the proposition of dissolution.

441.405 Election for dissolution; order of dissolution. (1) An election for dissolution shall be held in the same manner and under the same conditions and restrictions provided for an election for the formation of a hospital district, except that the ballots for the dissolution election shall state in substance the following proposition:

Shall ———— hospital district be dissolved?

Yes ——— I vote in favor of dissolving the district.

No ———— I vote against dissolving the district.

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(2) If, at the election, a majority of the votes cast is in favor of dissolution, the county court shall enter an order upon its records providing such dissolution.

441.410 Disposition of property of dissolved district; liquidation of debts. (1) The property of a dissolved hospital district shall remain the property of the county in which the district was located and may be used, together with any money remaining in the fund of such district, for general county purposes, or the property of the dissolved district may be sold, loaned or leased to another hospital district or city. The proceeds

of such sale or lease shall first be applied to payment of any existing indebtedness of the district, and any funds remaining after payment of such existing indebtedness shall be paid to the county treasurer for the benefit of the general fund of the county.

(2) If the liquidation of the assets of the district are insufficient to pay the indebtedness of the district, the district shall continue to exist until such indebtedness is liquidated. The last lawfully elected board of directors of the district may levy taxes within the limitations of ORS 441.360 for the liquidation of any indebtedness.

441.415 to 441.500 [Reserved for expansion]

MISCELLANEOUS PROVISIONS

441.505 Port hospitals; levy of taxes; property exempt from taxation. (1) Municipal corporations designated as ports may construct, maintain and operate hospitals within their respective boundaries, subject to the provisions and limitations upon indebtedness of such municipal corporations imposed by law.

(2) Should any port district under authority of subsection (1) of this section after August 20, 1957, construct, maintain and operate a hospital or hospital facilities and levy a tax for any indebtedness or other expense incurred therefor, all taxable property in the port district and also within a hospital district then operating hospital facilities shall be exempt from all taxes levied by a port district for such hospital purposes.

[Subsection (2) enacted as 1957 c.584 §2]

441.510 Access to hospital records. Any party legally liable or against whom a claim is asserted for compensation or damages for injuries may examine and make copies of all records of any hospital in reference to and connected with the hospitalization of the injured person.

441.515 to 441.985 [Reserved for expansion]

PENALTIES

441.990 Penalties. Violation of subsection (1) of ORS 441.015 is punishable, upon conviction, by a fine of not more than $100 for the first offense and not more than $500 for each subsequent offense. Each day of continuing violation after a first conviction shall be considered a subsequent offense.

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 1, 1963.

Sam R. Haley
Legislative Counsel