

# Chapter 441

## 1971 REPLACEMENT PART

### Hospitals Generally

#### LICENSING AND SUPERVISION OF INPATIENT CARE FACILITIES

- 441.005 Definitions for ORS 441.005 to 441.060
- 441.010 Purpose of ORS 441.005 to 441.060
- 441.015 Licensing of facilities required; compliance with rules
- 441.020 Application; fees; refund
- 441.022 Factors to be considered in licensing
- 441.025 License issuance; renewal; transfer; post-ing
- 441.030 Denial, suspension or revocation of li-censes; notice; effective date; request for hearing
- 441.037 Hearings; procedures; judicial review of rules and orders
- 441.050 Additional remedies
- 441.055 Rules, regulations and standards; evidence of compliance; financial statements
- 441.060 Inspections; approval of plans and speci-fications
- 441.065 Exemption of certain religious institutions
- 441.077 Revocation of license for imposing restric-tions upon certain physicians; construc-tion of section
- 441.085 Establishing licensing classifications; use of descriptive titles limited
- 441.090 Certificates of need required prior to con-struction, alteration or expansion; con-tent of application; fee; exceptions
- 441.095 Issuance of certificates of need; judicial re-view; waiver of requirements

#### HOSPITAL AND MEDICAL FACILITY SURVEY AND CONSTRUCTION

- 441.125 Hospital and medical facility survey
- 441.130 Hospital and medical facility construction plan; conforming to federal standards; reports to Surgeon General
- 441.135 Applications for construction; approval; ex-tent of authority
- 441.140 Federal aid; use and deposit of funds for administration
- 441.145 Medical Facilities Construction Account
- 441.150 Administration; employes

#### HOSPITAL DISTRICTS

- 441.195 District created coterminous with each dis-trict existing on July 2, 1957; districts existing on July 2, 1957, abolished
- 441.200 New district succeeds to and replaces abolished district
- 441.205 Definitions for ORS 441.205 to 441.375
- 441.210 Hospital districts authorized
- 441.280 Board of directors; qualifications; organi-zation; oath
- 441.285 Election of directors; terms of office
- 441.290 Election of officers of board of directors; duties; quorum
- 441.295 Directors; meetings
- 441.305 Call of special elections
- 441.315 Initiative and referendum for hospital dis-tricts
- 441.320 Powers of hospital districts
- 441.325 Hospitalization charges
- 441.330 Eminent domain
- 441.335 Authority to issue bonds
- 441.345 Bonds; maturity; interest; conditions
- 441.350 Pledge of income and revenues to secure payment of bonds
- 441.355 Advertisement and sale of bonds
- 441.360 Tax levies; use; extension; collection; de-fault
- 441.365 Expenditure and accounting of district funds
- 441.370 District records open to inspection; pres-ervation of records
- 441.375 Annual audit

#### MISCELLANEOUS

- 441.505 Port hospitals; levy of taxes; property exempt from taxation
- 441.510 Access to hospital records
- 441.515 Smoking of tobacco in certain hospital rooms prohibited

#### PENALTIES

- 441.990 Penalties

## CROSS REFERENCES

Administrative procedures and rules of state agencies, Ch. 183  
 Ambulances and hearses, license fees, 481.210  
 Compensation by health insurers for services performed at governmental hospitals, 743.116  
 County hospitals, Ch. 440  
 Deaths or injuries, report of to medical investigator, Ch. 146  
 Deaths, reporting, 432.307  
 Deceased persons, duty of hospitals to notify person liable for funeral expenses before sending remains to undertaker, 97.160  
 Dentists, nonresident, hospital permits, 679.050  
 Discrimination by race, creed, color or national origin prohibited, 30.870  
 Employes, labor-management relations, 662.705 to 662.795  
 Fund-raising activities, certain hospitals not subject to reporting requirements, 128.825  
 Indigents injured in motor vehicle accidents, hospital and medical costs of, Ch. 445  
 Liens of hospitals, enforcement of, 87.555 to 87.585  
 Medical care furnished to employes of public contractor, payment for, 279.540  
 Medical or dental treatment for minors without parental consent, 109.640  
 Mental health services, local, 430.610 to 430.660  
 Mentally ill and mentally deficient persons brought into state for treatment, liability of institutions receiving, 428.270  
 Mentally ill persons, procedure for commitment, Ch. 426  
 Nursing home administrators, 678.710 to 678.840  
 Pharmacy laws, exemption of hospitals from, 689.170  
 Phenylketonuria, reporting of cases required, 433.295  
 Ports, Ch. 777  
 Receipts for property taken from person in custody, 142.210  
 State aid to institutions supporting maternity and venereal cases, 418.505 to 418.530  
 Statistics to be kept by supervisors of institutions, 432.165  
 Tuberculosis hospitals, state and county, Ch. 437  
 Unemployment compensation exclusion, 657.030

## 441.015

License for institutions caring for venereally infected children, 418.355 to 418.370  
 Licensing of nursing home administrators, 678.710 to 678.840

## 441.060

Building regulations for hospitals, 479.030, 479.090

## 441.135

Building regulations for hospitals, 479.030, 479.090

## 441.150

Merit system for state employes, Ch. 240

## HOSPITAL DISTRICTS

Determination of legality of district organization and actions, 33.710, 33.720  
 Election procedures, Ch. 259  
 Enemy attack, continuity of government in event of, 236.445, 236.450  
 Formation, changes in organization, generally, 198.705 to 198.955  
 Population, determination of, 190.520

## 441.295

Bond for member, 198.220  
 Conflict of interests, 198.120  
 Recall procedure, 198.430  
 Vacancies, filling, 198.320

## 441.320

Cooperative and joint action by districts, Ch. 190  
 Municipal districts may have powers of people's utility district in certain cases, 261.310

## 441.330

Condemnation of property for public use, Ch. 35 and Ch. 281

## 441.335

Borrowing and bonds of districts, 287.010, 287.012

## 441.360

Public projects and improvements, financing costs of, 280.040 to 280.140  
 Tax levies submitted to tax supervising and conservation commission in counties over 300,000, 294.605

## 441.505

Tax levy for port hospitals, 777.430

## 441.510

Access to hospital records of inmates of state institutions, 179.495  
 Inadmissibility of certain hospital data, 41.675

### LICENSING AND SUPERVISION OF INPATIENT CARE FACILITIES

**441.005 Definitions for ORS 441.005 to 441.060.** As used in ORS 441.005 to 441.060 and 441.085 to 441.095, unless the context requires otherwise:

(1) "Inpatient care facility" means an establishment or a part of an establishment with permanent facilities for the furnishing of inpatient medical services or health-related services:

(a) "Hospital" means an establishment with an organized medical staff, with permanent facilities that include inpatient beds, and with medical services, including physician services and continuous nursing services under the supervision of registered nurses, to provide diagnosis and medical or surgical treatment primarily for but not limited to acutely ill patients and accident victims, or to provide treatment for the mentally ill.

(b) "Long term care facility" means an establishment with permanent facilities that include inpatient beds; providing medical services, including nursing services but excluding surgical procedures except as may be permitted by the rules of the division, to provide treatment for two or more unrelated patients primarily requiring inpatient convalescent or long term care. Facilities furnishing primarily domiciliary care are not included.

(c) "Special inpatient care facility" means an establishment with permanent inpatient beds and other facilities designed and utilized for special health care purposes, to include but not limited to: Rehabilitation center, college infirmary, chiropractic facility, facility for the treatment of alcoholism, or inpatient care facility meeting the requirements of ORS 441.065, and any other establishment falling within a classification established by the division, after determination of the need for such classification and the level and kind of health care appropriate for such classification.

(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) "Division" means the Health Division of the Department of Human Resources. [Amended by 1971 c.730 §1]

**441.010 Purpose of ORS 441.005 to 441.060.** The purpose of ORS 441.005 to 441.060 and 441.085 to 441.095 is to provide for the development, establishment and enforcement of basic standards:

(1) For the care and treatment of individuals in inpatient care facilities.

(2) For the construction, maintenance and operation of such facilities 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 facilities.

[Amended by 1971 c.730 §3]

**441.015 Licensing of facilities 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 an inpatient care facility in this state without a license.

(2) Any inpatient care facility 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.

[Amended by 1971 c.730 §4]

**441.020 Application; fees; refund.** (1) Licenses shall be obtained from the Health Division of the Department of Human Resources.

(2) Applications shall be upon such forms and shall contain such information as the division 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 division for carrying out the provisions of ORS 441.005 to 441.060 and 441.085 to 441.095.

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

rehabilitation centers, college infirmaries, facilities for the treatment of alcoholism, or chiropractic facilities with:

(a) Less than 50 beds, the annual license fee shall be up to \$100.

(b) Fifty beds or more and less than 200 beds, the annual license fee shall be up to \$150.

(c) Two hundred or more beds, the annual license fee shall be up to \$200.

(5) For any other inpatient care facilities with:

(a) Less than 10 beds, the annual license fee shall be up to \$60.

(b) Ten beds or more and less than 51 beds, the annual license fee shall be up to \$90.

(c) Fifty-one beds or more, the annual license fee shall be up to \$120.

(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) Any hospital license may be indorsed to permit operation of facilities of the licensee at more than one location. In such case the applicable license fee shall be the sum of the license fees which would be applicable if the facilities at each location were separately licensed.

[Amended by 1957 c.697 §1; 1969 c.535 §1; 1971 c.650 §19; 1971 c.730 §5]

**441.022 Factors to be considered in licensing.** In determining whether to license an inpatient care facility pursuant to ORS 441.025, the division shall consider only factors relating to the health and safety of individuals to be cared for therein and shall not consider whether the health care facility is or will be a governmental, charitable or other nonprofit institution or whether it is or will be an institution for profit.

[1967 c.584 §2; 1971 c.730 §6]

**441.025 License issuance; renewal; transfer; posting.** (1) Upon receipt of an application and the license fee, the Health Division of the Department of Human Resources shall issue a license if it finds that the applicant and inpatient care facilities comply with ORS 441.005 to 441.060 and 441.085 to 441.095, the regulations of the division and if it does not receive within the time specified a certificate of noncompliance issued by the State Fire Marshal, his deputy, or approved authority pursuant to ORS 479.220.

(2) Each license, unless sooner sus-

pending or revoked, shall be renewable annually for the fiscal year beginning on July 1 upon payment of the fee and approval by the division of an annual report containing such information as may be prescribed by the division, in such form as the division prescribes by regulation and if a certificate of noncompliance has not been issued by the State Fire Marshal, his deputy, or approved authority pursuant to ORS 479.215.

(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 division.

(4) Licenses shall be posted in a conspicuous place on the licensed premises as prescribed by regulation of the division.

(5) No license shall be issued or renewed for any inpatient care facility which has been constructed, expanded or altered in a manner subject to ORS 441.090, unless a certificate of need has first been issued therefor pursuant to ORS 441.095.

[Amended by 1957 c.697 §2; 1961 c.316 §6; 1967 c.89 §3; 1971 c.730 §7]

**441.030 Denial, suspension or revocation of licenses; notice; effective date; request for hearing.** (1) (a) The Health Division of the Department of Human Resources, 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 division 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 441.060 and 441.085 to 441.095 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 division requesting a hearing, in which case the notice shall be deemed to be suspended.

[Amended by 1959 c.222 §1; 1961 c.316 §7; 1971 c.730 §8]

**441.035** [Amended by 1959 c.222 §2; 1959 c.466 §1; 1971 c.730 §9; repealed by 1971 c.734 §21]

**441.037 Hearings; procedures; judicial review of rules and orders.** (1) Where the board proposes to refuse to issue or renew a license, or proposes to revoke or suspend a license, opportunity for hearing shall be accorded as provided in ORS 183.310 to 183.500.

(2) Promulgation of rules, conduct of hearings, issuance of orders and judicial review of rules and orders shall be in accordance with ORS 183.310 to 183.500.

[1971 c.734 §56]

**441.040** [Amended by 1959 c.222 §3; 1971 c.730 §10; repealed by 1971 c.734 §21]

**441.045** [Amended by 1959 c.222 §4; 1959 c.466 §2; 1971 c.730 §11; repealed by 1971 c.734 §21]

**441.050 Additional remedies.** Notwithstanding the existence and pursuit of any other remedy, the Health Division of the Department of Human Resources 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 an inpatient care facility without a license. [Amended by 1971 c.730 §12]

**441.055 Rules, regulations and standards; evidence of compliance; financial statements.** (1) The Health Division of the Department of Human Resources, with the advice of the advisory board which may be appointed under ORS 431.325, shall adopt, amend, promulgate and enforce such rules, regulations and standards with respect to the different types of health care facilities as may be designed to further the accomplishment of the purposes of ORS 441.005 to 441.060 and 441.085 to 441.095, and to carry out the standards and regulations of the State Board of Health adopted under ORS 431.325.

(2) Standards of hospital care shall include but not be limited to standards of adequate professional staff organizations, suitable delineation of professional privileges and adequate staff analyses of clinical records. The division may in its discretion accept certificates by the Joint Commission on Accreditation of Hospitals or the Committee on Hospitals of the American Osteopathic Association as evidence of compliance with acceptable standards.

(3) The division shall require hospitals to submit financial statements or reports at such intervals as the department may require, and which may be in a form approved by or acceptable to the American Hospital Association or the Oregon Association of Hospitals.

[Amended by 1965 c.352 §1; 1971 c.730 §13]

**441.060 Inspections; approval of plans and specifications.** (1) The Health Division of the Department of Human Resources shall make or cause to be made such inspections as it may deem necessary.

(2) The division 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, either prior to or after receiving a certificate of need pursuant to ORS 441.095, if required, submit plans and specifications therefor to the division for preliminary inspection and approval or recommendations with respect to compliance with the regulations and standards authorized by ORS 441.055.

[Amended by 1965 c.352 §2; 1971 c.730 §14]

**441.065 Exemption of certain religious institutions.** ORS 441.005 to 441.060 and 441.085 to 441.095 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 physical equipment.** This section does not exempt such a home or institution from the licensing requirements of ORS 441.005 to 441.060 and 441.085 to 441.095.

[Amended by 1971 c.730 §17]

**441.070** [Amended by 1959 c.222 §5; repealed by 1971 c.730 §25]

**441.075** [Amended by 1969 c.314 §44; repealed by 1971 c.730 §25]

**441.077 Revocation of license for imposing restrictions upon certain physicians; construction of section.** (1) If the governing body of a hospital excludes or expels a person licensed under ORS chapter 677 from staff membership, or limits in any way his professional privilege in the hospital solely because

of the school of medicine to which he belongs, the license of the hospital shall be subject to revocation in the manner provided in ORS 441.005 to 441.065.

(2) Nothing in this section is intended to limit the authority of the governing body of a hospital with respect to a person who has violated the provisions of ORS chapter 677 or the reasonable rules and regulations of the hospital.

[1971 c.274 §1]

Note: ORS 441.077 was not added to and made a part of ORS chapter 441 or of any series therein by legislative action.

441.080 [Repealed by 1971 c.730 §25]

**441.085 Establishing licensing classifications; use of descriptive titles limited.** (1) The division may by rule establish classifications for the various types of inpatient care facilities, hospitals, long term care facilities, and special inpatient care facilities which are licensed under ORS chapter 441.

(2) Health care facilities licensed by the division shall neither assume a descriptive title or be held out under any descriptive title other than the classification title established by the division and under which a health care facility is licensed.

[1971 c.730 §2]

**441.090 Certificates of need required prior to construction, alteration or expansion; content of application; fee; exceptions.**

(1) Prior to the construction, expansion, or alteration of a hospital for the purpose of increasing bed capacity, adding major new facilities or categories of service or changing license classifications, a certificate of need shall be obtained from the Comprehensive Health Planning Authority.

(2) (a) The application for a certificate of need shall be submitted to the Health Division of the Department of Human Resources on forms provided for this purpose. The division shall review the application to determine that it is proper and complete, and shall then refer the application to the Comprehensive Health Planning Authority for action. The application for a certificate of need shall include the following:

(A) The general geographic area to be served.

(B) The population to be served and the characterization of the population, as well as projections of population growth by an official federal or state agency.

(C) A description of the service or services to be provided.

(D) The anticipated demand for the hospital service or services to be provided.

(E) Utilization of existing programs within the area to be served offering the same or similar health care services.

(F) The benefit to the community or the population to be served which will result from the proposed project as well as the anticipated impact on other facilities offering the same or similar services in the area.

(G) A statement showing the existing working relationship among the hospitals with the defined population or area to be served.

(H) A description of how the proposed facility or service complements the comprehensive health plan of the area.

(I) Evaluation and recommendation as to need by the area-wide planning authority or if no area-wide planning authority has been organized the Comprehensive Health Planning Authority shall serve as the area-wide planning authority for this purpose.

(J) Such other information as may reasonably be required by the division.

(b) The application shall be accompanied by a fee in an amount not to exceed \$500 prescribed as provided in this section. Subject to the approval of the Executive Department, the Health Division shall prescribe fees for separate classifications of construction, expansion or alteration subject to this section, or for separate classifications of hospitals, not exceeding for any classification the costs of the division and of the Comprehensive Health Planning Authority incurred with respect to applications in the same classification.

(3) The Health Division may adopt criteria defining "major new facilities or categories of service" for purposes of this section, and exempting certain categories of inpatient care facilities from the application of this section in view of the specialized or limited nature of the services rendered or proposed to be rendered, or on the basis of other criteria which it may adopt by rule.

(4) Inpatient care facilities coming under the provisions of ORS 441.065 are not subject to this section or ORS 441.095.

[1971 c.730 §15]

**441.095 Issuance of certificates of need; judicial review; waiver of requirements.** (1) The Comprehensive Health Planning Authority shall issue a certificate of need if it finds that the proposed construction is reasonably

necessary to provide health care to the defined population in a manner which is economically practicable, which maintains high quality standards, which is appropriate to the timely and economic development of adequate and effective health services in the area. In making such determinations, the Comprehensive Health Planning Authority shall take into consideration:

(a) Recommendations of the area-wide health planning authorities.

(b) The relationship of the proposal to the area-wide health plan.

(c) The need for health care services in the area or the requirements of the defined population.

(d) The availability and adequacy of health care services in facilities which are currently serving the defined population and which conform to state standards.

(e) The need for special equipment and services in the area which are not reasonably and economically accessible to the defined population.

(f) The need for research and educational facilities.

(g) The probable economies and improvement in service that may be derived from the operation of joint central services or from joint, cooperative, or shared health resources which are accessible to the defined population.

(h) The availability of sufficient manpower in the professional disciplines required to maintain the facility.

(i) The plans for and development of comprehensive health services and facilities for the defined population to be served. Such services may be either direct or indirect through formal affiliation with other health programs in the area and shall include preventive diagnostic treatment and rehabilitation services.

(j) Whether or not the applicant has obtained all relevant approvals, licenses or consents required by law for its incorporation or establishment.

(k) The needs of members, subscribers and enrollees of institutions and health care plans which operate or support particular hospitals for the purpose of rendering health care to such members, subscribers and enrollees.

(L) In the case of an application by a hospital established or operated by a religious body or denomination, the needs of the members of such religious body or denomination for care and treatment in accord-

ance with their religious or ethical convictions may be considered to be public need.

(m) The proposed facility will be adequately funded.

(2) An applicant who is dissatisfied with the decision of the Comprehensive Health Planning Authority, or any person affected thereby, including the Administrator of the Health Division, is entitled to judicial review thereof under ORS 183.310 to 183.500.

(3) Construction shall not be instituted or commenced after July 1, 1971, except upon application for and receipt of a certificate of need as provided herein; provided, that in any case in which, prior to July 1, 1971, there has been proposed the expansion of an existing facility and preliminary plans have been submitted to the planning and construction division of the State Board of Health, the Health Division may waive all or any portion of the review process, but said facility shall proceed with its plans in an orderly and expeditious manner and commence construction not later than July 1, 1972.

(4) In the administration of ORS 441.005 to 441.030, 441.050 to 441.065, 441.085 to 441.095 and 441.125 to 441.150, consideration shall be given to the efficiency of the utilization of an existing hospital which is or will be serving the defined population to be served by a proposed new hospital or expansion of an existing hospital so as to avoid unnecessary duplication of facilities and to encourage maximum efficiency in the use of the hospitals which then serve or will be serving the defined population.

(5) "Defined population" as used in this section and ORS 441.090, means the population that is or may reasonably be expected to be served by an existing or proposed hospital. "Defined population" shall also include persons who prefer to receive the services of a particular recognized school or theory of medical care. "Defined population" shall not be limited to a geographical area.

[1971 c.730 §16]

### HOSPITAL AND MEDICAL FACILITY SURVEY AND CONSTRUCTION

441.105 [Amended by 1955 c.464 §1; 1965 c.308 §1; repealed by 1971 c.730 §25]

441.110 [Amended by 1955 c.464 §2; 1965 c.308 §2; repealed by 1971 c.730 §25]

441.115 [Amended by 1965 c.308 §3; 1969 c.314 §45; repealed by 1971 c.730 §25]

441.120 [Repealed by 1971 c.730 §25]

**441.125 Hospital and medical facility survey.** The Health Division 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 Health Division may utilize, so far as practicable, any appropriate reports, surveys and plans prepared by other state agencies.

(4) The Comprehensive Health Planning Authority in the Health Division shall consult and advise the division in the administration of hospital and medical construction matters.

[Amended by 1955 c.464 §3; 1971 c.730 §18]

**441.130 Hospital and medical facility construction plan; conforming to federal standards; reports to Surgeon General.** Upon recommendation of the Comprehensive Health Planning Authority, the Health Division 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 Health Division.

(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; 1971 c.730 §19]

**441.135 Applications for construction; approval; extent of authority.** (1) The Health Division of the Department of Human Resources 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 construction.

(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 Health Division 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 Health Division and the Comprehensive Health Planning Authority, with respect to any application for construction, shall cease upon the completion of construction included in such application. [Amended by 1955 c.464 §5; 1965 c.308 §4; 1971 c.730 §20]

**441.140 Federal aid; use and deposit of funds for administration.** (1) The Department of Human Resources 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 441.125 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 Health Division in the administration of ORS 441.125 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 Department of

Human Resources with the State Treasurer. These funds shall be credited to the Health Account and shall be used solely for the purpose of administration of ORS 441.125 to 441.150.

[Amended by 1955 c.464 §6; 1971 c.730 §21]

**441.145 Medical Facilities Construction Account.** All funds applied for and received by the Department of Human Resources 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 Medical Facilities Construction Account, hereby created in the State Treasury, separate from the General Fund. The moneys in the Medical Facilities Construction Account hereby are continuously appropriated 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; 1965 c.308 §5; 1965 c.439 §5; 1971 c.730 §22]

**441.150 Administration; employes.** (1) ORS 441.125 to 441.150 shall be administered by the Health Division of the Department of Human Resources which division is designated as the sole agency for carrying out the purposes of those statutes.

(2) The Health Division may employ such assistants as are necessary to carry out the purposes of ORS 441.125 to 441.150.

[Amended by 1971 c.730 §23]

### 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 subsec-

tion (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 441.375.

(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 441.375.** As used in ORS 441.205 to 441.375, unless the context requires otherwise:

(1) "County board" means the county court or board of county commissioners, as the case may be, of the county in which a district, or the greater portion of the taxable assessed value thereof, is located.

(2) "County clerk" means the county clerk of the county in which a district, or the

greater portion of the taxable assessed value thereof, is located.

(3) "District board" or "board" means the board of directors of a district.

(4) "Hospital district" or "district" means any corporation incorporated pursuant to ORS 441.205 to 441.375.

(5) "Owner" means the holder of the record title to real property or the vendee under a land sale contract, if there is such a contract.

(6) "Voter" means a registered voter of the state who resides in the hospital district or proposed hospital district.  
[Amended by 1969 c.343 §1]

#### 441.210 Hospital districts authorized.

(1) 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 441.205 to 441.375. Such municipal corporations may consist of territory in one or more counties, or of a city with or without unincorporated territory. A city shall not be divided in the formation of a hospital district.

(2) A hospital district organized under ORS 441.205 to 441.375 may include within its boundaries all or any part of the territory of a port district organized under ORS chapter 777 if the port district does not then operate a hospital.

[Amended by 1969 c.343 §2; 1971 c.727 §114]

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

441.216 [1957 (s.s.) c.13 §5 (enacted in lieu of ORS 441.215); 1969 c.343 §3; repealed by 1971 c.727 §203]

441.220 [Amended by 1969 c.343 §4; repealed by 1971 c.727 §203]

441.225 [Repealed by 1971 c.727 §203]

441.227 [1965 c.403 §2; 1969 c.343 §5; repealed by 1971 c.727 §203]

441.230 [Amended by 1965 c.403 §3; 1969 c.343 §6; repealed by 1971 c.727 §203]

441.235 [Amended by 1969 c.343 §7; repealed by 1971 c.647 §149 and by 1971 c.727 §203]

441.240 [Amended by 1959 c.69 §1; repealed by 1971 c.647 §149]

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

441.250 [Repealed by 1971 c.647 §149]

441.255 [Repealed by 1971 c.647 §149 and by 1971 c.727 §203]

441.260 [Amended by 1969 c.343 §8; repealed by 1971 c.727 §203]

441.265 [Repealed by 1971 c.647 §149 and by 1971 c.727 §203]

441.270 [Amended by 1969 c.343 §9; repealed by 1971 c.727 §203]

441.275 [Amended by 1969 c.343 §10; repealed by 1971 c.727 §203]

**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 441.375, is vested in and shall be exercised by a board of directors consisting of five members each of whom shall be a voter and freeholder within the district.

(2) Within 10 days after the issuance of the order of formation, the directors of the first board shall meet and organize after first taking and subscribing an oath of office.  
[Amended by 1969 c.343 §11; 1971 c.727 §117]

**441.285 Election of directors; terms of office.** (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 of 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.  
[Amended by 1969 c.343 §12; repealed by 1969 c.343 §28; amended by 1969 c.669 §8]

**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.** The district board shall hold meetings at such time and place within the district as it may, from time to time, determine, but it shall hold at least one regular meeting in each month on a day to be fixed by it, and may hold special meetings under such rules as it may make.

[Amended by 1969 c.343 §§13, 27; 1969 c.344 §6; 1971 c.403 §7]

**441.300** [Amended by 1969 c.343 §14; repealed by 1969 c.343 §29 and by 1969 c.345 §20]

**441.305 Call of special elections.** The board, at any regular meeting, may call a special election of the voters of the district.

[Amended by 1969 c.343 §15; 1971 c.647 §79]

**441.307** [1957(s.s.) c.13 §7; 1969 c.343 §16; repealed by 1971 c.647 §149]

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

**441.310** [Amended by 1959 c.616 §1; 1969 c.343 §17; repealed by 1971 c.647 §149]

**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 as provided by ORS 259.010 to 259.220.

(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.

[Amended by 1971 c.647 §80]

**441.320 Powers of hospital districts.** Any corporation formed under this chapter shall have all the powers necessary to carry out the purposes of ORS 441.205 to 441.375, 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, to enter into agreements to lease any such real and personal property for a term not to exceed 10 years, with or without an option to purchase the property, 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 the corporation.

(5) To appoint 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, nursing home or nursing homes, as defined by subsection (3) of ORS 678.510, and conduct such hospital business or nursing home business within the district.

(9) To provide ambulance service by contracting for such service or by acquiring the equipment and personnel necessary for the operation of such service.

(10) To construct, purchase, equip, operate, and maintain medical offices or clinic facilities within the district.

(11) To do all other things necessary to carry out the purposes of ORS 441.205 to 441.375.

[Amended by 1967 c.37 §1; 1967 c.353 §1; 1971 c.89 §1; 1971 c.727 §118]

**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) The general obligation bonds outstanding at one time 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 have bonds outstanding 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 district board in behalf of the hospital district as authorized by its electors. [Amended by 1963 c.9 §25; 1969 c.343 §18]

**441.340** [Repealed by 1971 c.647 §149]

**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 seven percent per annum payable semiannually as the district board shall determine.

(3) The bonds shall be so conditioned that the hospital district agrees therein to pay to the bearer, at a place named, which may be at the office of the county treasurer of the county in which the proceedings for organization of the district was conducted, the principal sum of the bonds, with interest at

the rate named, payable semiannually, in accordance with the tenor and terms of the interest coupons attached. Each bond payable at the office of the county treasurer shall be registered in accordance with ORS 208.200.

[Amended by 1969 c.2 §1; 1969 c.343 §19; 1969 c.694 §7; 1971 c.36 §4]

**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 resolution of the district board, 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 district board may adopt such a resolution without submitting the question of such pledge to voters of the hospital district. [Amended by 1969 c.343 §20]

**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. The proceeds of the taxes collected under subsection (1) of this section shall be turned over to the hospital district according to law. The proceeds of the taxes collected under subsection (2) of this section to pay bonds registered with the county treasurer shall be turned over to the county treasurer of the county in which the proceedings for organization of the district were conducted, to pay principal maturing and interest accruing on the district bonds.

(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 is 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; 1969 c.694 §8]

**441.365 Expenditure and accounting of district funds.** (1) Except as otherwise provided in subsection (4) of ORS 441.360, all money of a hospital district shall be deposited in one or more banks, to be designated by the district board. It shall be withdrawn or paid out only when previously ordered by vote of the board, and upon checks signed as provided by subsection (2) of this section. Receipts or vouchers, showing clearly the nature and items covered by each check drawn, shall be kept on file.

(2) Checks of a district shall be signed:

(a) By the treasurer and countersigned by the chairman, or in the absence or inability of the chairman to act, by the secretary; or

(b) By an administrative employe of the district designated by the board of directors, and countersigned by a director of the district.

[Amended by 1961 c.396 §1; 1969 c.343 §20a; 1969 c.694 §9; 1971 c.36 §5]

**441.370 District records open to inspection; preservation of records.** (1) All the proceedings of the district board 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.

[Amended by 1969 c.343 §21]

**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 [Amended by 1969 c.343 §22; repealed by 1971 c.727 §203]

441.385 [Amended by 1969 c.343 §23; repealed by 1971 c.727 §203]

441.390 [Amended by 1969 c.343 §24; repealed by 1971 c.727 §203]

441.395 [Subsection (2) enacted as 1957 c.584 §1; repealed by 1969 c.343 §30]

441.400 [Amended by 1969 c.343 §25; repealed by 1971 c.727 §203]

441.405 [Amended by 1969 c.343 §26; repealed by 1971 c.727 §203]

441.410 [Repealed by 1971 c.727 §203]

## MISCELLANEOUS

**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. However, after June 23, 1967, a port may not construct or acquire a hospital if any part of a hospital district organized pursuant to ORS 441.205 to 441.410 (1969 Replacement Part) lies within the boundaries of the port.

(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; 1967 c.498 §5]

**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 Smoking of tobacco in certain hospital rooms prohibited.** No visitor to a hospital, as defined in ORS 441.005, shall smoke any cigar, cigarette or tobacco in any form in any room of a hospital in which more than one patient is accommodated.  
[1971 c.166 §1]

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.

#### **PENALTIES**

**441.990 Penalties.** (1) Violation of subsection (1) of ORS 441.015 is punishable,

(2) Violation of ORS 441.515 is a misdemeanor.

[Subsection (2) enacted as 1971 c.166 §2]

#### **CERTIFICATE OF LEGISLATIVE COUNSEL**

Pursuant to ORS 173.170, I, Robert W. Lundy, 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, 1971.

Robert W. Lundy  
Legislative Counsel