

TITLE 36

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Chapter 431

1974 REPLACEMENT PART

State and Local Administration and Enforcement of Health Laws

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STATE HEALTH COMMISSION

431.005 State Health Commission; appointment; confirmation; term; vacancy; qualifications; compensation and expenses; administrator as secretary. (1) There hereby is established the State Health Commission.

(2) The commission shall consist of 13 members appointed by the Governor, subject to the confirmation of the Senate as provided in ORS 171.560 and 171.570.

(3) Each member shall serve for a term of three years and no member shall serve for more than six consecutive years.

(4) Any vacancy on the board may be filled by the Governor by appointment for the balance of the unexpired term.

(5) Two members of the commission shall be persons licensed under ORS chapter 677 who are primarily engaged in the private practice of medicine in the State of Oregon.

(6) At least three members of the commission shall be persons licensed under ORS chapter 678, 679, 682, 683, 684, 685 or 689 or employes of such licensee, or be an employe or representative of a licensee under ORS chapter 441. Not more than one person licensed under any such chapter or not more than any one employe or representative of any such licensee shall be appointed.

(7) The members of the commission are entitled to compensation and expenses as provided in ORS 292.495.

(8) The Administrator of the Health Division shall serve as the secretary of the commission, but shall not serve as a member of the commission.

[1973 c.358 §1]

431.010 [Amended by 1967 c.461 §1; 1969 c.695 §7; 1971 c.650 §5; repealed by 1973 c.358 §15]

431.015 Functions of commission. As limited by the provisions of subsection (4) of ORS 184.830, the State Health Commission shall:

(1) Be the policy-making agency of this state under the public health laws of this state.

(2) Be responsible for long-range health planning for the state.

(3) Cooperate with area-wide health planning authorities to identify public health needs in the area and recommend programs and policies to meet them.

(4) Serve as the area-wide health planning authority for any area in the state where an authority has not been organized.

(5) Study and comment as it considers necessary on methods to improve and make more economical the providing of health services in this state.

(6) Advise the Legislative Assembly regarding legislation necessary to improve the public health or carry out any function vested in the commission.

(7) Study and make recommendations to appropriate agencies concerning health care manpower needs, use of health care personnel and health care education.

(8) Study and make recommendations concerning emergency health care services including ambulance services.

[1973 c.358 §2]

431.019 Health evaluations and recommendations. The commission shall evaluate and make recommendations regarding the status of the health of the citizens of Oregon. Such evaluations and recommendations shall include:

(1) Health education of students and the general public with special consideration given to the health education of the indigent, including:

(a) Nutrition.

(b) Proper use of medical facilities.

(c) Ways to gain access into the medical care system.

(d) Dental care and optometry and their relationship to improved health.

(2) Nutrition, with particular emphasis on how existing state agencies can offer greater assistance to the indigent.

(3) The welfare system in Oregon, including:

(a) Its method of financing services.

(b) The amount of moneys resulting in actual services to the indigent.

(c) Qualification for public assistance.

(4) The quality of medical care in Oregon.

(5) The availability of medical care in Oregon.

(6) The cost of health care in Oregon.

(7) The cost of medical care in Oregon.

[1973 c.358 §2a]

431.020 [Amended by 1967 c.461 §2; 1971 c.650 §6; repealed by 1973 c.358 §15]

431.023 Select committees; Hospital Siting Advisory Committee. The State Health Commission may appoint such select committees representing health care disciplines as it considers necessary to advise it in carrying out its duties under ORS 431.015. The

commission shall appoint a Hospital Siting Advisory Committee.

[1973 c.358 §4]

431.025 [1971 c.650 §11; repealed by 1973 c.358 §15]

431.030 [Repealed by 1971 c.650 §51]

431.035 Administrator's authority to delegate functions. (1) The Administrator of the Health Division may delegate to any of the officers and employes of the Health Division the exercise or discharge in the administrator's name of any power, duty or function of whatever character vested in or imposed upon the administrator by the laws of Oregon. However, the power to administer oaths and affirmations, subpoena witnesses, take evidence and require the production of books, papers, correspondence, memoranda, agreements or other documents or records may be exercised by an officer or employe of the Health Division only when specifically delegated in writing by the administrator.

(2) The official act of any such person so acting in the administrator's name and by his authority shall be deemed to be an official act of the administrator.

[1973 c.829 §2]

431.040 [Amended by 1969 c.314 §39; 1971 c.650 §7; repealed by 1973 c.358 §15]

431.045 Public Health Officer; appointment; duties to include being Deputy Administrator of Health Division. (1) The Administrator of the Health Division shall, subject to the confirmation of the commission after interview of qualified persons, appoint a physician licensed by the Board of Medical Examiners for the State of Oregon as the Public Health Officer. The Public Health Officer shall be certified by the American Board of Preventive Medicine.

(2) The Public Health Officer shall serve as Deputy Administrator of the Health Division and be responsible to the Administrator of the Health Division for the medical and paramedical aspects of the health programs.

(3) The Public Health Officer shall be in the unclassified service, and his salary shall be set as provided by law.

[1971 c.650 §2; 1973 c.358 §5]

431.050 [Amended by 1967 c.461 §3; repealed by 1971 c.650 §51]

431.053 Rules of division. The Health Division shall, in accordance with the provisions of ORS chapter 183, adopt rules necessary and convenient, in its judgment,

for the implementation, administration and enforcement of the policies adopted by the State Health Commission.

[1973 c.358 §3]

431.055 [1967 c.363 §2; repealed by 1971 c.650 §51]

431.060 [Repealed by 1971 c.650 §51]

431.065 Custody of records. (1) The Administrator of the Health Division may designate an employe or employes to be custodian of the books, papers, documents and other records within any of the administrative divisions or sections of the Health Division, and persons so designated shall have the duties and powers of custodians of public records as prescribed by law.

(2) Such designation shall be in writing and notice thereof shall be filed in the offices of the Secretary of State and the Administrator of the Health Division, and in the division or section to which the authorization applies.

(3) Authority conferred upon employes of the Health Division under this section is in addition to that conferred upon the Administrator of the Health Division by statute. The Administrator of the Health Division shall be responsible for the acts of designees under this section.

[1971 c.37 §2]

431.070 [1961 c.723 §1; 1969 c.314 §40; repealed by 1971 c.650 §51]

ENFORCEMENT OF HEALTH LAWS AND REGULATIONS

431.110 General powers of Health Division. The Health Division shall:

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

(2) Keep the vital statistics of the state.

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

(4) Investigate, conduct hearings and issue findings in connection with annexations proposed by cities as provided in ORS 222.850 to 222.915.

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

(6) Have authority to send a representative of the division to any part of the state when deemed necessary.

(7) From time to time, publish and distribute to the public in such form as the

division determines, such information as in its judgment may be useful in carrying on the work or purposes for which the division was established.

[Amended by 1955 c.105 §1; 1967 c.624 §18; 1971 c.650 §9]

431.120 Duties of Health Division. The Health Division shall:

(1) Enforce policies and rules adopted by the State Board of Health.

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

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

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

[Amended by 1971 c.650 §10]

431.130 Rules and regulations. (1) The Health Division shall, in accordance with the provisions of ORS chapter 183, make such rules and regulations as, in its judgment, are necessary for carrying out subsection (2) of ORS 276.990, ORS 418.405 to 418.455, 418.505, 418.515 to 418.530, 418.855, 431.010 to 431.040, 431.060, 431.110 to 431.150, 431.160 to 431.180, 431.310, 431.330 to 431.350, 431.410, 431.420 to 431.460, 433.005, 433.010, 433.106 to 433.155, 433.205, 433.216, 433.220, 433.230, 433.255 to 433.270, 433.340 to 433.390, 433.705, 433.715, subsection (6) of 433.990, ORS 434.260, 434.270, 437.010, subsection (2) of 437.040, ORS 437.140, 437.410 to 437.500, 448.215 to 448.250, 482.141 and 690.200, including rules and regulations concerning the control of venereal diseases and the care, treatment and quarantine of persons infected therewith.

(2) The Health Division may enforce the rules and regulations for the control of any of the communicable diseases by quarantining or by the adoption of such other reasonable measures as seem best for limiting the spread of communicable diseases and for the preservation of the public health.

[Amended by 1959 c.629 §5; 1959 c. 684 §2; 1961 c.725 §10; 1963 c.32 §1; 1965 c.362 §3; 1969 c.14 §2; 1969 c.641 §16; 1971 c.195 §1; 1971 c.413 §13; 1971 c.763 §13; 1973 c.408 §33; 1973 c.833 §41; 1973 c.835 §233]

431.140 Effect of rules and regulations. (1) All rules and regulations made pursuant to ORS 431.130 shall be binding upon all county and municipal health officers and other persons affected by the statutes

listed in ORS 431.130 and shall have the force and effect of law.

(2) All executive officers, including police officers, sheriffs, constables and all county officers and employees of the state, shall enforce such regulations subject to the authority of the Administrator of the Health Division.

[Amended by 1959 c.314 §21; 1973 c.833 §42]

431.150 Enforcement of health laws generally.

(1) The local health officers are charged with the strict and thorough enforcement of the public health laws of this state in their districts, under the supervision and direction of the Health Division. They shall make an immediate report to the division of any violation of such laws coming to their notice by observation, or upon the complaint of any person, or otherwise.

(2) The Health Division is charged with the thorough and efficient execution of the public health laws of this state in every part of the state, and with supervisory powers over all health officers, to the end that all the requirements are complied with.

(3) The Health Division may investigate cases of irregularity or violation of law. All health officers shall aid the division, upon request, in such investigation.

(4) When deemed necessary, the Health Division shall report cases of violation of the public health laws of this state to the district attorney of the proper county with the statement of the facts and circumstances. When any such case of violation is reported to them by the division, all district attorneys or officials acting in said capacity shall forthwith initiate and promptly follow up the necessary court proceedings against the parties responsible for the alleged violations of law.

(5) Upon request of the Health Division, the Attorney General shall likewise assist in the enforcement of the public health laws of this state.

(6) As used in this section, "public health laws of this state" means ORS chapter 146, ORS 418.410, 418.510, 418.855, ORS chapters 433, 434, 437, ORS 448.205 to 448.325 and 448.990.

[Amended by 1959 c.314 §22; 1971 c.650 §12; 1973 c.833 §43; 1973 c.835 §165; 1974 s.s. c.36 §12]

431.155 Restraining violation of public health laws. (1) Whenever it appears to the Health Division that any person is engaged or about to engage in any acts or practices which constitute a violation of any statute administered by the division, or any

rule, regulation or order issued thereunder, the division may institute proceedings in the circuit courts to enforce obedience thereto by injunction, or by other processes, mandatory or otherwise, restraining such person, or its officers, agents, employes and representatives from further violation of such statute, rule, regulation or order, and enjoining upon them obedience thereto.

(2) The provisions of this section are in addition to and not in substitution of any other enforcement provisions contained in any statute administered by the Health Division.

[1967 c.94 §2; 1971 c.650 §13]

431.160 Jurisdiction and commencement of prosecutions. (1) Justice courts and municipal courts sitting as justice courts shall have concurrent jurisdiction with the circuit courts of all prosecutions arising under the statutes listed in ORS 431.130.

(2) The district attorney, county attorney or Attorney General may institute prosecutions for violation of any statute listed in ORS 431.130 by information, by indictment or by complaint verified before any magistrate.

[Amended by 1959 c.314 §23; 1973 c.833 §44]

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

(2) The Administrator of the Health Division may call to his aid such assistance as is necessary for the enforcement of the rules and regulations, the expense of which shall be borne by the county or city making the use of this procedure necessary, to be paid out of the respective county or city treasury upon vouchers properly certified by the Administrator of the Health Division.

[Amended by 1959 c.314 §24; 1973 c.833 §45]

431.180 Interference with individual's selection of physician or treatment or with religious practice prohibited. Nothing in the statutes listed in ORS 431.130 and nothing in ORS 434.010 to 434.190 or 437.030 shall be construed to empower or authorize the Health Division or its representatives, or any county board of health or its repre-

sentatives, or any city board of health or its representatives, to interfere in any manner with the individual's right to select the physician or mode of treatment of his choice, nor interfere with the practice of any person whose religion treats or administers to the sick or suffering by purely spiritual means. However, sanitary laws, rules and regulations must be complied with.

FINANCIAL ADMINISTRATION; SURPLUS PROPERTY; FEDERAL AID

431.210 Health Division Account. (1)

There is established in the General Fund the Health Division Account, classified separately as to federal and other moneys.

(2) All fines, fees, penalties, federal apportionments or contributions and other moneys received by the Health Division in connection with its responsibilities under the public health laws of this state shall be turned over to the State Treasurer not later than the 10th day of the calendar month next succeeding their receipt by the division and shall be credited to the Health Division Account.

(3) All moneys credited to the Health Division Account hereby are appropriated and made available for the payment of expenses of the Health Division in administering the public health laws of this state.

(4) As used in this section "public health laws of this state" includes the statutes listed in subsection (6) of ORS 431.150, all laws relating to licensing and regulation of health facilities, health-related professions and occupations and health planning.

[Amended by 1971 c.650 §14; 1973 c.427 §5]

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

[Amended by 1973 c.427 §6]

431.230 Emergency or revolving fund.

(1) The Administrator of the Health Division may request in writing the Secretary of State to, and when so requested, the Secretary of State shall, draw a warrant on the Health Division Account in favor of the Administrator of the Health Division in a sum not exceeding \$20,000, which sum shall be used by the administrator as an emergency or revolving fund.

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

(3) All claims for reimbursement of advances paid from the emergency fund shall be approved by the Health Division and audited by the Secretary of State. When such claims are so approved and audited, warrants covering them shall be drawn in favor of the Administrator of the Health Division and charged against the appropriate fund or account, and shall be used to reimburse the emergency or revolving fund. [Amended by 1973 c.427 §7]

431.240 [Repealed by 1955 c.147 §1]

431.250 Federal grants to be handled by Department of Human Resources; disbursement; planning. (1) The Department of Human Resources hereby is designated as the state agency to apply to and receive from the Federal Government or any agency thereof such grants for promoting public health and the prevention of disease, including grants for cancer control and industrial hygiene programs, as may be available to this state or any of its political subdivisions or agencies. The department may designate any of its divisions to make applications and receive funds for the purposes set forth in this subsection.

(2) For the purposes of subsection (1) of this section, the department shall:

(a) Disburse or supervise the disbursement of all funds made available at any time by the Federal Government or this state for those purposes.

(b) Adopt, carry out and administer plans for those purposes. Plans so adopted shall be made state-wide in application in so far as reasonably feasible, possible or permissible, and shall be so devised as to meet the approval of the Federal Government or any of its agencies, not inconsistent with the laws of the state.

[Amended by 1961 c.706 §20a; 1967 c.343 §1; 1971 c.650 §15; 1973 c.829 §20]

STATE LABORATORY

431.310 Bacteriological examinations by state laboratory. For the better protection of the public health the laboratory of the Health Division shall make such bacterio-

logical examinations of water, milk, blood, secretions and tissues required by any state, county or city institution, or officer, or for any regularly licensed physician in accordance with the rules and regulations of the division.

431.320 [Repealed by 1967 c.146 §1 (431.330, 431.335, 431.340, 431.345 and 431.350 enacted in lieu of 431.320)]

LICENSING OF HEALTH FACILITIES

431.325 Authority of Health Division in licensing health facilities; advisory boards.

(1) The Health Division is the authority responsible for licensing of health facilities in this state. The Administrator of the Health Division may appoint advisory boards, the members of which shall be skilled by training or experience in the areas of their responsibilities and who shall serve at his pleasure, who shall assist and advise him in carrying out his responsibilities and those of the division in the licensing, approval or supervision of clinical laboratories, hospitals, nursing homes, homes for the aged, group care homes, mobile home and tourist facilities, farm labor camps or swimming facilities, or in the performance of any other duties of the administrator or the division, as the administrator may in his discretion deem appropriate.

(2) Members of such boards shall be entitled to compensation and expenses as provided in ORS 292.495.

(3) The State Board of Health shall establish general or specific standards of health and sanitation applicable to health facilities, and the Health Division shall implement and require compliance with such standards.

[1971 c.650 §17]

CONFERENCE OF LOCAL HEALTH OFFICERS

431.330 Conference of Local Health Officers; officers of conference. (1) The Conference of Local Health Officers is created. The conference shall consist of all local health officers appointed pursuant to ORS 431.418 or pursuant to a statute or ordinance of a city.

(2) The Conference of Local Health Officers shall select annually one of its members as chairman, another as vice chairman and another as secretary with such powers and duties necessary to the performance of

the functions of such offices as the conference shall determine. The chairman, after consultation with the State Health Officer, shall appoint five members of the conference as the executive committee. The executive committee with the chairman shall advise the State Board of Health and the State Health Officer in the administration of ORS 431.330 to 431.350.

[1967 c.146 §2 (enacted in lieu of 431.320)]

431.335 Meetings of conference; notice; expenses of local health officers and officers of conference. (1) The Conference of Local Health Officers shall meet at least annually at a place, day and hour determined by the executive committee and the State Health Officer. The conference may meet specially at such other times as the State Health Officer or the executive committee considers necessary.

(2) The State Health Officer shall cause at least 10 days' notice of each meeting date to be given to the members. The chairman or his authorized representative shall preside at all meetings of the conference.

(3) A local health officer shall receive from the local board which he represents from funds available under ORS 431.510, his actual and necessary travel and other expenses incurred in attendance at no more than two meetings of the conference per year. Additionally, subject to applicable law regulating travel and other expenses for state officers, a local health officer who is a member of the executive committee of the conference or who is the chairman shall receive from funds available to the State Board of Health, his actual and necessary travel and other expenses for attendance at no more than six meetings per year of the executive committee called by the State Health Officer.

[1967 c.146 §3 (enacted in lieu of 431.320)]

431.340 Recommendations of conference. The Conference of Local Health Officers may submit to the State Board of Health such recommendations on the rules and standards specified in ORS 431.345 and 431.350.

[1967 c.146 §6 (enacted in lieu of 431.320)]

431.345 Minimum standards for financial assistance to local boards of health. In order to establish criteria for local boards of health to qualify for such financial assistance as may be made available, the State Board

of Health, upon receipt of written approval from the Conference of Local Health Officers shall adopt minimum standards governing:

(1) Education and experience for professional and technical personnel employed in local health departments, such standards to be consistent with any applicable merit system.

(2) Organization, operation and extent of activities which are required or expected of local health departments to carry out their responsibilities in implementing the public health laws of this state and the rules and regulations of the State Board of Health.

[1967 c.146 §5 (enacted in lieu of 431.320)]

431.350 State board to adopt rules for ORS 431.330 to 431.350. Upon receipt of written approval from the Conference of Local Health Officers the State Board of Health shall adopt rules necessary for the administration of ORS 431.330 to 431.350.

[1967 c.146 §4 (enacted in lieu of 431.320)]

LOCAL BOARDS OF HEALTH

431.405 Purpose of ORS 431.405 to 431.510. It is the purpose of ORS 431.405 to 431.510 to encourage improvement and standardization of health departments in order to provide a more effective and more efficient public health service throughout the state.

[1961 c.610 §1]

431.410 Boards of health for counties. The governing body of each county shall constitute a board of health ex officio for each county of the state and may appoint a public health advisory board as provided in subsection (5) of ORS 431.412 to advise the governing body on matters of public health. [Amended by 1953 c.189 §3; 1961 c.610 §2; 1973 c.829 §20a]

431.412 County board of health; formation; composition; advisory board. (1) The governing body of any county shall establish a county board of health, when authorized so to do by a majority of voters of the county at any general or special election, and may, if such authorization is made, establish a public health advisory board as provided in subsection (5) of this section.

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

(a) One member of the county governing body selected by the body.

(b) One member of the administrative school board, the county school board or the intermediate education district board who resides in the county and is selected by the intermediate education district board and the mayor of the largest city of the county which has not withdrawn from participation under ORS 431.480.

(c) One physician who has been licensed to practice medicine in this state by the State Board of Medical Examiners.

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

(e) Two others.

(f) In counties in which a member of the State Board of Health is a resident, he shall be a member of the board while he is a resident of the county and a member of the State Board of Health.

(3) The members referred to in paragraphs (c) to (e) of subsection (2) of this section shall be appointed by the members serving under paragraphs (a) and (b) of subsection (2) of this section. The term of office of each of such appointed members shall be four years, the term of one to expire annually on February 1. The first appointments shall be for terms of one, two, three and four years, as designated by the appointing members of the board.

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

(5) The governing body of the county may, as provided in subsection (1) of this section, appoint a public health advisory board for terms of four years, the terms to expire annually on February 1. The first appointments shall be for terms of one, two, three or four years as designated by the governing body. The advisory board shall meet regularly to advise the county board of health on matters of public health. The advisory board shall consist of:

(a) One registered nurse licensed by the Oregon State Board of Nursing who has had public health training or experience.

(b) One optometrist licensed by the Oregon State Board of Examiners in Optometry.

(c) One chiropractor licensed by the State Board of Chiropractic Examiners.

(d) One veterinarian licensed by the Oregon State Veterinary Medical Examining Board.

(e) One sanitarian registered with the

Department of Sanitarians of the State Board of Health.

(f) One other person who is well informed on public health matters.
[Formerly 431.470; 1963 c.544 §49]

431.414 District board of health; formation; composition; advisory board. (1) Two or more contiguous counties may combine for the purpose of forming a district health unit when the governing body of each of the counties concerned adopt resolutions signifying their intention to do so.

(2) The governing bodies of the counties forming the district may meet together, elect a chairman and transact business as a district board of health whenever a majority of the members of the governing bodies from each of the participating counties are present at any meeting.

(3) In lieu of the procedure in subsection (2) of this section, the governing bodies of the counties forming the district may, by a two-thirds vote of the members from each participating county, appoint a district board of health which shall consist of:

(a) One member from each participating county governing body selected by such body.

(b) One member from a school administrative unit within the district.

(c) One member from the administrative staff of a city within the district.

(d) Two physicians who have been licensed to practice medicine in this state by the Board of Medical Examiners for the State of Oregon and who are residents of the district.

(e) One dentist who has been licensed to practice dentistry in this state by the State Board of Dental Examiners and who is a resident of the district.

(f) One person who is a resident of the district and who is to be appointed by the members serving under paragraphs (a) to (c) of this subsection.

(g) In a district in which a member of the State Board of Health is a resident, he shall be a member of the board while he is a resident of the district and a member of the State Board of Health.

(4) Whenever a district board of health is created under this section, such board shall be in lieu of the board provided for in ORS 431.410 or 431.412.

(5) The governing bodies of the counties making up the district may appoint a public health advisory board for terms of four years, the terms to expire annually on February 1.

The first appointments shall be for terms of one, two, three or four years as designated by the governing body. The advisory board shall meet regularly to advise the district board of health on matters of public health. The advisory board shall consist of:

(a) One registered nurse licensed by the Oregon State Board of Nursing who has public health training or experience.

(b) One optometrist licensed by the Oregon Board of Optometry.

(c) One chiropractor licensed by the State Board of Chiropractic Examiners.

(d) One veterinarian licensed by the Oregon State Veterinary Medical Examining Board.

(e) One sanitarian registered with the Sanitarians Registration Board of the Health Division.

(f) One other person who is well informed on public health matters.

[Formerly 431.610; 1973 c.829 §21]

431.415 Powers and duties of local health boards; fee schedules. (1) The district or county board of health is vested with all the powers and charged with all the duties that are vested in the Health Division in so far as they may be applicable to the conditions and situations within the area under the jurisdiction of the board.

(2) The district or county board of health shall adopt rules and regulations necessary to the performance of its duties but shall adopt no rule or regulation not in compliance with the rules of the Health Division.

(3) With the permission of the county governing body, a county board may, and with the permission of the governing bodies of the counties involved, a district board may, adopt schedules of fees for immunization services or home health services reasonably calculated not to exceed the cost of the services performed. The health department shall charge fees in accordance with such schedule or schedules adopted.

[1961 c.610 §6; 1973 c.829 §22]

431.416 Local departments of health; duties. The district or county department of health shall:

(1) Administer and enforce the rules and regulations of the board and of the Health Division and the health and sanitary laws of the state.

(2) Conduct activities necessary for the preservation of health or prevention of disease in the area under its jurisdiction.

[1961 c.610 §8; 1973 c.829 §23]

431.418 Local public health administrator; health officer; duties; salary. (1) Each district or county board of health shall appoint a qualified public health administrator to supervise the activities of the district or county department in accordance with law. In making such appointment, the district or county board of health shall consider standards for selection of administrators prescribed by the Health Division.

(2) Where the public health administrator is a physician licensed by the Board of Medical Examiners for the State of Oregon, the administrator shall serve as health officer for the district or county board of health. Where the public health administrator is not a physician licensed by the Board of Medical Examiners for the State of Oregon, the administrator will employ or otherwise contract for services with a health officer who shall be a licensed physician and who will perform those specific medical responsibilities requiring the services of a physician and shall be responsible to the public health administrator for the medical and paramedical aspects of the health programs.

(3) The public health administrator shall:

(a) Serve as the executive secretary of the district or county health board, act as the administrator of the district or county health department and supervise the officers and employes appointed under paragraph (b) of this subsection.

(b) Appoint with the approval of the health board, administrators, medical officers, public health nurses, sanitarians and such other employes as are necessary to carry out the duties and responsibilities of his office.

(c) Provide the board at appropriate intervals information concerning the activities of the department and submit an annual budget for the approval of the county governing body except that, in the case of the district public health administrator, he shall submit his budget to the governing bodies of the participating counties for approval.

(d) Act as the agent of the Health Division in enforcing state laws and rules of the Health Division, including such sanitary inspection of hospitals and related institutions as may be requested by the Health Division.

(e) Perform such other duties as may be required by law.

(4) The public health administrator shall serve until such time as he may be removed by the appointing board or by the Health

Division administrator under ORS 431.420. He shall engage in no occupation which conflicts with his official duties and shall devote full time to his duties as public health administrator. However, if the board of health is not created under ORS 431.412, it may, with the approval of the Administrator of the Health Division, require less than full-time service of the public health administrator.

(5) The public health administrator shall receive a salary fixed by the appointing board and shall be reimbursed for actual and necessary expenses incurred in the performance of his duties.

[1961 c.610 §7; 1973 c.829 §24]

431.420 Removal of public health administrators; causes; hearing. (1) The Health Division administrator may remove at any time any district or county public health administrator for failure to collect vital statistics, obey rules, keep records, enforce the public health laws or for intemperance.

(2) The removal, however, shall not be effective until five days after notice of the charges against such public health administrator has been mailed to him. If within the five-day period the public health administrator requests, in writing, that a hearing be had on the charges, the Health Division administrator shall notify the members of the State Board of Health, who shall hold such a hearing in accordance with this section. The time and place for hearing such charges by the State Board of Health shall be in the county seat of the county of which the defendant is public health administrator or in the case of district public health administrator, in the county in which the district public health administrator has his office and shall take place not later than two weeks after the time of mailing the notice of charges to such public health administrator. Except as specifically provided in this section, such hearing shall be conducted as a contested case under the provisions of ORS chapter 183.

(3) Unless the State Board of Health finds that the charges are not supported by fact, it shall confirm the removal of the public health administrator. Removal shall carry with it his appointment as district or county public health administrator. Moreover, a public health administrator removed under this section shall not be reappointed without

the consent of the Health Division administrator.

[Amended by 1961 c.610 §9; 1973 c.829 §25]

431.430 Filling of vacancies. (1) In case of death, removal or resignation of any district or county public health administrator, the vacancy shall be immediately filled by the proper district or county board at the first meeting following the death, removal or resignation.

(2) In case of refusal or neglect by the district or county board to appoint a public health administrator within 60 days following such vacancy, the Health Division administrator shall make such appointment.

[Amended by 1961 c.610 §10; 1973 c.829 §26]

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

[Amended by 1961 c.610 §11; 1973 c.829 §27]

431.450 Location of office of health board. The office of the executive secretary of the county board of health shall be at the county seat of the county, or in the case of the district board, in the county seat of one of the counties of the district.

[Amended by 1961 c.610 §14; 1973 c.829 §28]

431.460 Records; reports. (1) The administrator of the district or county health department shall report such facts and statistics as may be required under instructions from the Health Division.

(2) All books and records kept by the administrator of the district or county health department shall be the property of the district or county where such records are kept, and shall be retained at the offices of the department of health where such records can be consulted without fee.

[Amended by 1961 c.610 §12; 1973 c.829 §29]

431.470 [Amended by 1961 c.610 §3; renumbered 431.412]

431.480 City boards abolished; expenditure of funds obtained from school district.

(1) All city boards of health are abolished.

(2) Any school district may appropriate money to be expended for public health measures in such school district by the county or district board of health.

[Amended by 1961 c.610 §5; 1973 c.829 §30]

431.490 [Repealed by 1961 c.610 §18]

431.500 [Amended by 1953 c.189 §3; repealed by 1961 c.610 §18]

431.510 Quarters and funds for local health boards. (1) The governing body of the county shall provide adequate quarters and facilities for the office and health work of the county board of health and shall appropriate sufficient funds for the administration of the board and the operation of the health department.

(2) Where a district board is established under ORS 431.414, the governing body of each participating county shall appropriate annually a sum which shall be specifically designated for the operation of the board of health and the district department of health.

[Amended by 1961 c.610 §13; 1973 c.829 §31]

431.520 Disposal of local health records. Public records, as defined in ORS 192.005, of district and county departments of health and community mental health clinics may be destroyed or otherwise disposed of in accordance with rules prescribed by the State Archivist. However, no records shall be required to be maintained for more than seven years from the date of the last entry for purposes of preserving evidence for any action, suit or proceeding.

[1969 c.446 §2; 1973 c.829 §32]

431.530 Authority of local health administrator in emergency. (1) If an emergency endangering the public health occurs within the jurisdiction of any local health administrator and:

(a) The authority to deal with such emergency is in the jurisdiction of the Administrator of the Health Division, and

(b) The Administrator of the Health Division has not contracted with the local health administrator to delegate authority to meet the emergency, and

(c) The circumstances of the emergency are such that the local health administrator cannot seek the assistance of the Administrator of the Health Division in time to allow the Administrator of the Health Division to meet the emergency, and

(d) Delay in taking action to meet the emergency will increase the hazard to public health; then the local health administrator is hereby authorized to take any action which the Administrator of the Health Division could have taken to meet such emergency.

(2) Any local health administrator who acts under subsection (1) of this section shall report the facts constituting the emergency and any action taken under the au-

thority granted by subsection (1) of this section to the Administrator of the Health Division by the fastest possible means.

[1973 c.829 §9]

HEALTH PLANNING

431.605 [1971 c.650 §44; repealed by 1973 c.358 §15]

431.610 [Amended by 1961 c.610 §4; renumbered 431.414]

431.615 [1971 c.650 §45; repealed by 1973 c.358 §15]

431.620 [Repealed by 1961 c.610 §18]

431.625 Reports of administrator. The Administrator of the Health Division shall identify health manpower requirements and inadequacies, if any, and advise on curriculum and program development for health occupations and professions in this state necessary to meet such requirements and correct any inadequacies. He may appoint advisory committees to assist him. He shall submit reports to the Legislative Assembly, the Comprehensive Health Planning Authority, appropriate institutions, the State Board of Higher Education, the State Board of Education, and the appropriate health licensing boards.

[1971 c.650 §46]

431.630 [Repealed by 1961 c.610 §18]

431.640 [Repealed by 1961 c.610 §18]

431.650 [Repealed by 1961 c.610 §18]

431.660 [Repealed by 1961 c.610 §18]

431.670 [Repealed by 1961 c.610 §18]

HEALTH HAZARD ANNEXATIONS OR DISTRICT FORMATION

431.705 Definitions for ORS 431.705 to 431.760. As used in ORS 431.705 to 431.760, unless the context requires otherwise:

(1) "Administrator" means the Administrator of the Health Division.

(2) "Affected territory" means an area that is the subject of a proceedings under ORS 431.705 to 431.760 where there is a danger to public health or an alleged danger to public health.

(3) "Boundary commission" means a local government boundary commission created under ORS 199.410 to 199.510.

(4) "Commission" means the Environmental Quality Commission.

(5) "Danger to public health" means a

condition which is conducive to the propagation of communicable or contagious disease-producing organisms and which presents a reasonably clear possibility that the public generally is being exposed to disease-caused physical suffering or illness, including a condition such as:

(a) An impure or inadequate potable water supply.

(b) Inadequate installations for the disposal or treatment of sewage, garbage or other contaminated or putrefying waste.

(c) Inadequate improvements for drainage of surface water and other fluid substances.

(6) "District" means any one of the following:

(a) A metropolitan service district formed under ORS chapter 268.

(b) A county service district formed under ORS chapter 451.

(c) A sanitary district formed under ORS 450.005 to 450.245.

(d) A sanitary authority formed under ORS 450.675 to 450.980.

(7) "Division" means the Health Division of the Department of Human Resources.

(8) "Requesting body" means the county court, or local or district board of health that makes a request under ORS 431.715.

(9) "Service facilities" means water or sewer installations or works.

[1973 c.361 §1]

431.710 When division to initiate district formation or annexation. (1) ORS 431.705 to 431.760 shall not apply if the affected territory could be subject to an annexation proceeding under ORS 222.850 to 222.915.

(2) If the division, in accordance with ORS 431.705 to 431.760, finds that a danger to public health exists within the affected territory and that such danger could be removed or alleviated by the construction, maintenance and operation of service facilities, the division shall initiate proceedings for the formation of or annexation to a district to serve the affected territory.

[1973 c.361 §2]

431.715 Resolution requesting division to initiate formation or annexation. (1) The county court or the local or district board of health having jurisdiction over territory where it believes conditions dangerous to the public health exist may adopt a resolution requesting the division to initiate proceedings for the formation of or annexation

of territory to a district without vote or consent in the affected territory. The resolution shall:

(a) Describe the boundaries of the affected territory;

(b) Describe the conditions alleged to be causing a danger to public health;

(c) Request the division to ascertain whether conditions dangerous to public health exist in the affected territory and whether such conditions could be removed or alleviated by the provision of service facilities; and

(d) Recommend a district that the affected territory could be included in or annexed to for the purpose of providing the requested service facilities.

(2) The requesting body shall cause a certified copy of the resolution, together with the time schedule and preliminary plans and specifications, prepared in accordance with subsection (3) of this section, to be forwarded to the division.

(3) The requesting body shall cause a study to be made and preliminary plans and specifications prepared for the service facilities considered necessary to remove or alleviate the conditions causing a danger to public health. The requesting body shall prepare a schedule setting out the steps necessary to put the facilities into operation and the time required for each step in implementation of the plans.

(4) If the preliminary plans involve facilities that are subject to the jurisdiction of the commission, a copy of the documents submitted to the division under subsection (2) of this section shall be submitted to the commission for review, in accordance with ORS 431.725, of those facilities that are subject to its jurisdiction. No order or findings shall be adopted under ORS 431.735 or 431.755 until the plans of the requesting body for such facilities, if any, have been approved by the commission.

[1973 c.361 §3]

431.720 Commission to review certain plans; approval of plans. (1) Upon receipt of the documents submitted under subsection (4) of ORS 431.715, the commission shall review them to determine whether the conditions dangerous to public health within the affected territory could be removed or alleviated by the provision of service facilities that are subject to the jurisdiction of the commission.

(2) If the commission considers such proposed facilities and the time schedule for

installation of such facilities adequate to remove or alleviate the dangerous conditions, it shall approve the part of the plans that are subject to its jurisdiction and certify its approval to the division.

(3) If the commission considers the proposed facilities or time schedule inadequate, it shall disapprove the part of the plans that are subject to its jurisdiction and certify its disapproval to the division. The commission shall also inform the requesting body of its approval or disapproval and, in case of disapproval, of the particular matters causing the disapproval. The requesting body may then submit additional or revised plans.
[1973 c.361 §4]

431.725 Division to review resolution; notice of hearing. (1) Upon receipt of the certified copy of a resolution adopted under ORS 431.715, the division shall review and investigate conditions in the affected territory. If it finds substantial evidence that a danger to public health exists in the territory, it shall issue an order setting a time and place for a hearing on the resolution. The hearing shall be held within the affected territory, or at a place near the territory if there is no suitable place within the territory at which to hold the hearing, not less than 30 or more than 50 days after the date of the order.

(2) Upon issuance of an order for a hearing, the division shall immediately give notice of the time and place of the hearing on the resolution by publishing the order and resolution in a newspaper of general circulation within the territory once each week for two successive weeks and by posting copies of the order in four public places within the territory prior to the hearing.
[1973 c.361 §5]

431.730 Conduct of hearing. At the hearing on the resolution, any interested person shall be given a reasonable opportunity to be heard or to present written statements. The hearing shall be for the sole purpose of determining whether a danger to public health exists due to conditions in the affected territory and whether such conditions could be removed or alleviated by the provision of service facilities. It may be conducted by the administrator or by a hearings officer designated by the administrator. It shall be conducted in accordance with the provisions of ORS chapter 183.
[1973 c.361 §6]

431.735 Administrator's authority under ORS 431.705 to 431.760. (1) If the administrator after investigation finds that no danger to public health exists because of conditions within the affected territory, or that such a danger does exist but the conditions causing it could not be removed or alleviated by the provision of service facilities, he shall issue an order terminating the proceedings under ORS 431.705 to 431.760 with reference to the affected territory.

(2) If the administrator finds, after investigation and the hearing required by ORS 431.725, that a danger to public health exists because of conditions within the territory, and that such conditions could be removed or alleviated by the provisions of service facilities in accordance with the plans and specifications and the time schedule proposed, he shall enter his findings in an order, directed to the officers described by ORS 431.740, setting out the service facilities to be provided.

(3) During the administrator's investigation of the proposal, if he determines that a danger to public health exists because of conditions within only part of the affected territory, or that such conditions could be removed or alleviated in only part of the affected territory by the provision of service facilities, he shall reduce the boundaries of the affected territory to that part which presents a danger or in which the conditions could be removed or alleviated. The findings entered under subsection (2) of this section shall describe the boundaries of the affected territory as reduced by the administrator under this subsection.
[1973 c.361 §7]

431.740 Notice to boundary commission; service facilities to conform to plans and schedules. (1) If a boundary commission has jurisdiction of the affected territory, the administrator shall file his findings and order with such boundary commission. If the affected territory is not within the jurisdiction of a boundary commission, the administrator shall file his findings and order with the county court of the county having jurisdiction of the territory.

(2) The division and the commission shall use their applicable powers of enforcement to insure that the service facilities are constructed or installed in conformance with the approved plans and schedules.
[1973 c.361 §8]

431.745 Petition for alternative plan.

(1) At any time after the adoption of a resolution under ORS 431.715, a petition, signed by not less than 51 percent of the registered voters in the affected territory, may be filed with the division. The petition shall suggest an alternative plan to the proposed formation or annexation for removal or alleviation of the conditions dangerous to public health. The petition shall state the intent of the residents to seek annexation to an existing city or special district authorized by law to provide service facilities necessary to remove or alleviate the dangerous conditions. The petition shall be accompanied by a proposed plan which shall state the type of facilities to be constructed, a proposed means of financing the facilities and an estimate of the time required to construct such facilities and place them in operation.

(2) Upon receipt of such petition, the division shall immediately forward a copy of the petition to the commission, if the plan accompanying the petition involves facilities that are subject to the jurisdiction of the commission. The division also shall forward a copy of the petition to the requesting body and to the county court or boundary commission where the division filed its findings under ORS 431.740 and direct the county court or boundary commission to stay the proceedings pending the review permitted under this section and ORS 431.750.

[1973 c.361 §9]

431.750 Commission review of alternative plan; certification of alternative plan.

(1) If the alternative plan submitted under subsection (1) of ORS 431.745 involves service facilities that are subject to the jurisdiction of the commission, the alternative plan shall be submitted to and reviewed by the commission and shall be approved or rejected by the commission within 30 days from the date of filing with the division. In reviewing the alternative plan, the commission shall consider whether, in its judgment, the plan contains a preferable alternative for the alleviation or removal of the conditions dangerous to public health. If the commission determines that the original plan provides the better and most expeditious method of removing or alleviating the dangerous conditions, it shall disapprove the alternative plan and inform the division of its decision. The division shall order the proceedings on the finding filed under ORS 431.740 to resume.

(2) If the commission finds that the alternative plan provides a preferable method of alleviating or removing the dangerous conditions, the petitioners shall be granted six months within which to present to the commission information showing:

(a) That the affected territory has annexed to a city or special district authorized by law to provide the service facilities necessary to remove or alleviate the dangerous conditions, and that the financing of the extension of such facilities to the territory has been assured.

(b) Detailed plans and specifications for the construction of such facilities.

(c) A time schedule for the construction of such facilities.

(d) That such facilities, if constructed, will remove or alleviate the conditions dangerous to public health in a manner as satisfactory and expeditious as would be accomplished by the formation or annexation proposed by the original plans.

(3) The commission shall review the plan presented to it by the petitioners under subsection (2) of this section and shall promptly certify to the division whether the requirements of subsection (2) of this section have been met. If the requirements have been met, the division shall certify the alternative plan to the county court or boundary commission having jurisdiction and direct it to proceed in accordance with the alternative plan and in lieu of the plans filed under ORS 431.740. If the requirements of subsection (2) of this section are not met by the petitioners, the division shall certify that fact to the county court or boundary commission having jurisdiction and direct it to continue the proceedings on the plans filed under ORS 431.740.

[1973 c.361 §10]

431.755 Judicial review. (1) Within 30 days after the findings of the administrator are filed with the county court or boundary commission under ORS 431.740, any resident of the affected territory or any county or district, named in an annexation proposed in the proceedings, acting through its governing body, may appeal the finding of the administrator to the circuit court of the county in which the affected territory is located. The division and the requesting body, if that body is not the plaintiff, shall be joined as defendants.

(2) The circuit court shall review only

the record of the proceedings before the division except as to alleged procedural irregularities not shown on the record.

(3) The circuit court may set aside a finding of the administrator if:

(a) The division has exceeded its jurisdiction in issuing the finding;

(b) There is not substantial evidence to support the finding; or

(c) The proceeding upon which such finding was based was conducted contrary to the procedural requirements of ORS chapter 183 and in a manner prejudicial to the plaintiff.

(4) If the circuit court finds no grounds as described by subsection (3) of this section, to warrant setting aside the finding, it shall issue an order directing the county court or the boundary commission having jurisdiction to adopt an order in accordance with ORS 198.792, 199.512 or 451.445. Such an order shall not be made until the expiration of the time for appeal provided by subsection (1) of this section and, in the event an appeal is filed, until determination of that appeal and the expiration of the time for filing notice of appeal therefrom.

(5) In the case of an appeal where the findings appealed from have been filed with a boundary commission, the 120-day suspension period provided by subsection (2) of ORS 199.465 shall not begin to run until the appeal is determined and the results thereof certified to the boundary commission.
[1973 c.361 §11]

431.760 Certain persons prohibited from participating in proceedings. (1) A person who owns property or resides within affected territory that is subject to proceedings under the provisions of ORS 431.705 to 431.760 shall not participate in his official capacity in any investigation, hearing or recommendation relating to such proceedings. If the administrator is such a person, he shall so inform the Governor, who shall appoint another person to fulfill the duties of the administrator in any investigation, hearing or recommendation relating to such proceeding.

(2) Subsection (1) of this section does not excuse a member of a county court from voting on the order required by subsection (2) of ORS 198.792 or subsection (1) of ORS 451.445.

[1973 c.361 §12]

PENALTIES

431.990 Penalties. Violation of any of the statutes listed in ORS 431.130, except ORS 433.010, or any lawful rules of the State Board of Health and Health Division pursuant to the authority granted in those statutes, or failure to obey any lawful order issued by any state, district or county public health administrator is a misdemeanor and is punishable, upon conviction, by a fine of not more than \$1,000 or by imprisonment for not more than a year, or both.

[Amended by 1959 c.629 §46; 1961 c.610 §15; 1973 c.408 §34; 1973 c.829 §33]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Thomas G. Clifford, 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 June 1, 1974.

Thomas G. Clifford
Legislative Counsel

