

Chapter 475

1974 REPLACEMENT PART

Narcotic and Dangerous Drugs

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475.010 Definitions. As used in this chapter, unless the context requires otherwise:

(1) "Dangerous drug" means:

(a) Amobarbital, secobarbital, pentobarbital, phenobarbital, acid diethylbarbituric, amphetamine, dextroamphetamine, mephentermine, methamphetamine, phenmetrazine, methylphenidate hydrochloride, glutethimide, methyprylon, meprobamate, chlordiasepoxide HCL, diazepam, oxazepam, chloral hydrate, paraldehyde, ethchlorvynol and ethinamate, any salts, derivates or compounds of the foregoing substances, any preparations or compound containing any of the foregoing substances or their salts, derivatives or compounds or any registered trade-marked or copyrighted preparation or compound registered in the United States Patent Office containing any of the foregoing substances; and

(b) All products containing the substances lysergic acid diethylamide, psilocybin, dimethyltryptamine, methyltryptamine, peyote and mescaline; and

(c) Hashish, hashish oil or liquid tetrahydrocannabinols, whether synthetic or naturally derived, extracted from hashish; and

(d) Any other drug designated by the Committee on Drug Problems as a dangerous drug and included in published regulations of the State Board of Pharmacy under ORS 689.620.

(2) "Licensed medical practitioner," "pharmacist," "pharmacy" and "prescription" have the meaning provided for those terms in ORS 689.010.

(3) "Narcotic drugs" and "veterinarian" have the meaning provided for those terms in ORS 474.010.

(4) "Hashish" and "hashish oil" have the meaning given those terms by ORS 474.010. [Amended by 1953 c.342 §3; 1957 c.587 §6; 1965 c.545 §1; 1971 c.743 §378; 1973 c.697 §9; 1974 s.s. c.67 §5]

475.020 [Repealed by 1957 c.587 §12]

475.030 [Repealed by 1957 c.587 §12]

475.040 [Repealed by 1957 c.587 §12]

475.050 [Repealed by 1957 c.587 §12]

475.060 [Repealed by 1957 c.587 §12]

475.070 [Amended by 1961 c.648 §12; repealed by 1971 c.743 §432]

475.080 [Repealed by 1959 c.411 §22]

475.090 [Amended by 1953 c.543 §3; 1957 c.587 §7; repealed by 1971 c.743 §432]

475.100 Sale or possession of dangerous drugs without prescription prohibited; preservation and inspection of prescriptions.

(1) Except as provided in ORS 475.110, no person shall sell, give away, barter, distribute, buy, receive or possess a dangerous drug except:

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

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

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

(d) Without prescription if such drug is combined with one or more additional ingredients that prevent ingestion of an amount of such drug sufficient to cause a stimulating or hypnotic effect upon the central nervous system and if for this reason the combination may be sold without prescription under federal law.

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

[Amended by 1953 c.396 §2; 1957 c.587 §8; 1963 c.229 §1; 1965 c.15 §1; 1965 c.545 §2; 1971 c.743 §379]

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

(1) To sales by drug wholesalers and manufacturers to pharmacies, or to licensed medical practitioners and veterinarians, or to sales by drug wholesalers and manufacturers to each other made within the scope of the lawful conduct of their business.

(2) To sales by pharmacists to each other or to licensed medical practitioners and veterinarians when the sale or other transaction is made within the scope of the lawful practice of their profession.

[Amended by 1953 c.396 §2; 1965 c.545 §3; 1971 c.743 §379a]

475.120 [Repealed by 1971 c.743 §432]

475.130 [Repealed by 1957 c.587 §12]

475.140 [Repealed by 1957 c.587 §12]

475.150 Funds and officers available to enforce the narcotic laws; officers immune from prosecution under law. (1) All special funds provided by law for enforcement of the liquor laws of this state are available for

the enforcement of the laws of this state regulating or prohibiting the sale and use of narcotic or dangerous drugs.

(2) All officers, agents and inspectors authorized by law to enforce the liquor laws of this state, shall likewise enforce the laws of this state regulating or prohibiting the sale or use of narcotic or dangerous drugs.

(3) All duly authorized peace officers, agents and inspectors, while investigating violations of the laws of this state regulating or prohibiting the sale and use of narcotic or dangerous drugs in the performance of their official duties, and persons working under their immediate direction, supervision or instruction, are immune from prosecution under those laws.

[Amended by 1959 c.411 §1; 1971 c.418 §14]

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

475.610 [1955 c.573 §2; 1957 c.587 §9; repealed by 1959 c.411 §2 (475.615 enacted in lieu of 475.610)]

475.615 Definitions for ORS 475.615 to 475.705. As used in ORS 475.615 to 475.705, unless the context requires otherwise:

(1) "Dispense" includes sell, exchange, leave with, give away, deliver or in any manner relinquish possession to another.

(2) "Physician" means a person licensed by the State Board of Medical Examiners. [1959 c.411 §3 (enacted in lieu of 475.610)]

475.620 [1955 c.573 §3; 1957 c.587 §10; repealed by 1959 c.411 §4 (475.625 enacted in lieu of 475.620)]

475.625 [1959 c.411 §5 (enacted in lieu of 475.620); 1963 c.137 §2; 1969 c.310 §2; repealed by 1971 c.743 §432]

475.630 [1955 c.573 §4; repealed by 1959 c.411 §6 (475.655 enacted in lieu of 475.630)]

475.635 [1959 c.411 §11 (enacted in lieu of 475.650); 1969 c.310 §3; repealed by 1971 c.743 §432]

475.640 [1955 c.573 §5; repealed by 1959 c.411 §8 (475.665 enacted in lieu of 475.640)]

475.645 Examination and treatment of persons arrested for drug law violations; court record; confidentiality of certain information. (1) When a person who has

been arrested for violation of ORS 167.217, or who has been arrested upon another charge and is suspected of violating ORS 167.217, submits to examination for drug dependence under ORS 475.665 and is found to be drug dependent, the court may require treatment as a condition of bail and may consider the results of such treatment and the defendant's cooperation therewith, in sentencing. Where deemed to be in the best interests of a drug-dependent arrestee, the district attorney with the concurrence of the court may continue treatment as a contingent alternative to prosecution.

(2) Detoxification of any drug-dependent arrestee shall be provided in a facility approved by the division on the request of the arrestee. Such request cannot be revoked until detoxification is completed. Arraignment shall be delayed until detoxification is completed.

(3) If the director of the treatment facility finds that the drug-dependent arrestee may be substantially benefited by further treatment, he may apply to the court for an order directing that person to remain at the treatment facility for an additional period, not to exceed one year, before being released. If the court finds that additional treatment would be beneficial, the court may direct that the drug-dependent arrestee be held for such treatment for a period not to exceed one year, upon the written consent of the arrestee. However, the arrestee shall remain in treatment under this subsection no longer than the maximum time he could be sentenced for the offense for which he is charged.

(4) If continuing treatment is successful, based on biochemical surveillance and social rehabilitation, charges of criminal use of drugs under ORS 167.217 shall be dismissed. The district attorney and the court shall be notified of the release of the person prior to termination of treatment.

(5) If treatment is unsuccessful, the district attorney and the court shall be notified before the arrestee is released from treatment, whereupon, the prosecution may be resumed.

(6) First offenders who plead guilty to criminal use of drugs under ORS 167.217 may receive treatment under ORS 475.732. Upon the successful completion of treatment the plea of guilty and all proceedings leading thereto shall be expunged from the record upon order of the court.

(7) For all other drug offenses, the court may give suspended sentences with immediate probation and may for a term not to exceed the maximum sentence authorized by law require treatment as a condition of probation, except where a prison sentence is required by statute.

(8) The sentence of imprisonment under ORS 167.217 shall be reduced by the number of days a person is in a treatment facility, for the same offense, under subsections (2), (3), (6) and (7) of this section.

(9) Results of tests or of information voluntarily provided to treatment personnel by the drug-dependent arrestee under subsections (1), (2), (3) and (6) of this section shall be confidential and shall not be admitted as evidence in criminal proceedings. [1959 c.411 §21 (enacted in lieu of 475.700); 1969 c.391 §15; 1971 c.743 §380; 1973 c.697 §20]

Note: The amendments to 475.645, 475.665, 475.675, 475.685, 475.695 and 475.705 by chapter 697, Oregon Laws 1973, do not become operative until July 1, 1974. See 1973 c.697 §22.

475.650 [1955 c.573 §6; repealed by 1959 c.411 §10 (475.635 enacted in lieu of 475.650)]

475.655 [1959 c.411 §7 (enacted in lieu of 475.630); 1963 c.137 §3; 1971 c.743 §381; repealed by 1973 c.697 §21]

475.660 [1955 c.573 §7; repealed by 1959 c.411 §12 (475.675 enacted in lieu of 475.660)]

475.665 Tests on suspected drug users; use of results in evidence. (1) When a person is arrested for violation of ORS 167.217, or is arrested upon another charge and is suspected of violating that section, the officer or person making the arrest shall inform the person of his right to examination and the possible consequences and may, upon the written consent of the arrested person, request an approved evaluation site to administer tests within 48 hours of apprehension to determine whether the arrested person is using or is under the influence of narcotic or other dangerous drugs. Results of the tests shall be made available without delay to the person requesting the tests and to the person tested. At a subsequent trial of that person, and upon the request of either party, the court may admit those results in evidence. Refusal of the arrested person to consent to the tests at the time of his arrest is not admissible in evidence upon his trial.

(2) Nothing in this section is intended to limit the introduction of other evidence bearing upon the question of whether or not a

person is using or is under the influence of narcotic or other dangerous drugs.

[1959 c.411 §9 (enacted in lieu of 475.640); 1971 c.743 §382; 1973 c.697 §17]

Note: See note under 475.645.

475.670 [1955 c.573 §8; repealed by 1959 c.411 §14 (475.705 enacted in lieu of 475.670)]

475.675 Periodic tests for drug use as a condition of probation or parole. (1) When a court in this state grants probation to a person whom the court has good cause to believe is or has been a drug-dependent person or an unlawful user of narcotic or other dangerous drugs or places on parole a drug-dependent person or an unlawful user of narcotic or other dangerous drugs, the court may require as a condition to probation or parole that the probationer or parolee consent to undergo periodic tests by the Mental Health Division or at evaluation sites designated by the division, to determine whether the probationer or parolee is using or is under the influence of narcotic or other dangerous drugs. Such surveillance shall occur on at least a weekly basis, at random times, unless there is sufficient reason to do otherwise; and results shall be reported to the probation officer.

(2) When the State Board of Parole and Probation grants a parole to a person whom the board has good cause to believe is or has been a drug-dependent person or an unlawful user of narcotic or other dangerous drugs, a condition of the parole shall be that the parolee consent to undergo periodic tests as provided in subsection (1) of this section. [1959 c.411 §13 (enacted in lieu of 475.660); 1969 c.638 §2; 1973 c.697 §18]

Note: See note under 475.645.

475.680 [1955 c.573 §§9, 13; repealed by 1959 c.411 §16 (475.685 enacted in lieu of 475.680)]

475.685 Establishment of evaluation and surveillance sites; providing forms for reports and consents. (1) Subject to the availability of funds, the division shall establish sites for evaluation and surveillance of individuals suspected or known to be drug dependent, establish standards for such sites and periodically publish a list of those sites approved by the division.

(2) The division shall provide the forms for the reports and written consent required by ORS 475.695.

[1959 c.411 §17 (enacted in lieu of 475.680); 1973 c.697 §15]

Note: See note under 475.645.

475.690 [1955 c.573 §9; repealed by 1959 c.411 §18 (475.695 enacted in lieu of 475.690)]

475.695 Tests to be performed at evaluation sites; testing only upon written consent; conditions for performance of certain tests. (1) Evaluation sites provided under ORS 475.685 shall administer tests under ORS 475.665, 475.675 and 475.732. A person shall be tested only upon his written consent.

(2) Narcotic antagonist drugs may be administered for detection of narcotic addiction by a registered nurse at an approved site when the nurse has completed required training and a physician is available on call.

(3) Urine collection at evaluation sites shall be obtained under direct observation with positive identification of the donor, utilizing urine containers clearly marked with the person's code prior to collection and stored in a secure area.

[1959 c.411 §19 (enacted in lieu of 475.690); 1973 c.697 §16]

Note: See note under 475.645.

475.700 [1955 c.573 §10; repealed by 1959 c.411 §20 (475.645 enacted in lieu of 475.700)]

475.705 Costs of tests. The cost of administering tests under ORS 475.665 shall be the responsibility of the county initiating the arrest. The cost of administering tests under ORS 475.675 shall be the responsibility of the Corrections Division, subject to availability of funds appropriated therefor, or of the local court initiating such action. Costs of evaluation and surveillance for individuals participating in the drug exemption program under ORS 475.732 shall be paid from funds appropriated to the Mental Health Division for this purpose.

[1959 c.411 §15 (enacted in lieu of 475.670); 1969 c.638 §3; 1973 c.697 §19]

Note: See note under 475.645.

475.710 [1955 c.573 §11; repealed by 1959 c.411 §22]

475.715 Treatment program established by the Mental Health Division; contracts for program; rules. (1) The Mental Health Division shall establish for persons dependent on narcotic drugs a treatment program that involves the supplying of synthetic narcotic drugs to such persons under close supervision and control.

(2) In establishing the program authorized by subsection (1) of this section, the Mental Health Division may enter into contracts with physicians licensed by the Board of Medical Examiners for the State of Oregon, with licensed pharmacies and with any

agency of this state or a political subdivision in this state to conduct the required examinations and to supply the synthetic narcotics used in the program.

(3) The Mental Health Division shall establish rules of eligibility for the program authorized by ORS 430.107, 475.725 and this section, considering such factors as residency, duration of drug dependency, failure of previous attempts at abstinence and other relevant factors. The division shall establish reasonable fees for participation in the program.

(4) Pursuant to ORS 183.310 to 183.500, the Mental Health Division shall adopt rules governing the administration of the program authorized by ORS 430.107, 475.725 and this section.

[1969 c.442 §1]

475.720 [1955 c.573 §12; repealed by 1959 c.411 §22]

475.725 Nonapplicability of narcotic drug laws to certain persons in treatment program. The provisions of any law restricting the use, possession, control or administration of narcotic drugs shall not apply to any physician, pharmacist or other person while he is participating in the program authorized by ORS 475.715 so long as he complies with provisions of ORS 430.107, 475.715 and this section and the rules of the Mental Health Division made pursuant to ORS 430.107, 475.715 and this section.

[1969 c.442 §2]

475.730 [1955 c.573 §13; repealed by 1959 c.411 §22]

475.732 Exemption from prosecution for persons who voluntarily apply for treatment for drug use; procedure. Persons who voluntarily submit themselves to and are accepted by the division or its designee for treatment of and rehabilitation from the effects of the use of narcotic or other dangerous drugs shall be exempt from prosecution under ORS 167.217 for the criminal use of such drugs as provided by this section:

(1) Request for exemption shall be made to the division or its designee. The division shall periodically publish a list of facilities approved for the exemption program.

(2) Each applicant for exemption shall be fully advised of the scope and limits of the exemption program.

(3) A person seeking exemption shall be advised that identification of other drug abusers is not a condition for obtaining exemption.

(4) As a condition for participation in the exemption program, following detoxification and hospitalization, where such treatment is indicated, persons shall submit to urinalysis at least weekly until they are clinically rehabilitated. Treatment may be terminated at the request of the person or the director of the treatment facility.

(5) The exemption from criminal prosecution shall apply only to the illegal use or dependence on a narcotic or other dangerous drug occurring prior to the acceptance by the division or its designee of the person for treatment under this section.

(6) Exemption applies only to disclosures which are voluntary and made prior to the time the person is apprehended for the drug offense in question.

(7) There shall be no exemption from any criminal investigation and prosecution for violation of other laws and regulations, including criminal activity in drugs as set forth in ORS 167.207, if such investigation and prosecution are based on evidence other than that provided by the person in the course of seeking exemption for treatment under this section.

[1973 c.697 §12]

Note: 475.732 does not become operative until July 1, 1974. See 1973 c.697 §22.

475.740 [1955 c.573 §1; repealed by 1959 c.411 §22]

475.742 Minors voluntarily seeking treatment for drug abuse or dependence; parental consent not required; costs of treatment. (1) When a minor voluntarily seeks treatment for drug abuse or dependence, consent of the parents or legal guardian shall not be required for care, diagnosis or treatment when provided by a licensed physician or by a community mental health program pursuant to ORS 430.620, or other treatment facility approved by the division. With the consent of the minor, the treatment person

shall attempt to involve the parents in the treatment and rehabilitation of the minor when appropriate and in the best interest of the patient.

(2) Neither the parents nor legal guardian of any such minor shall be liable for payment of any such care, diagnosis or treatment unless the parents or legal guardian authorizes or agrees to pay for such care, diagnosis or treatment.

(3) A physician or community mental health program may advise the parents or legal guardian of any such minor of such care, diagnosis or treatment, or the need of any treatment, without the consent of the patient; and any such physician or mental health program shall not be liable for advising such parents or legal guardian without the consent of the patient.

[1973 c.697 §14]

Note: 475.742 does not become operative until July 1, 1974. See 1973 c.697 §22.

475.750 [1955 c.573 §3; repealed by 1959 c.411 §22]

475.760 to 475.980 [Reserved for expansion]

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

(2) Violation of subsection (1) or (2) of ORS 475.100 is punishable, upon conviction, by a fine not exceeding \$5,000 or by imprisonment in the county jail not exceeding one year, or both, or by imprisonment in the penitentiary not exceeding 10 years, or by a fine of not more than \$5,000, or both.

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

[1957 c.587 §11; 1969 c.310 §4]

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