

# Chapter 430

## 1979 REPLACEMENT PART

### State and Local Mental Health Administration

	<b>DEFINITIONS</b>		
430.010	"Division" defined	430.385	Construction
	<b>MENTAL HEALTH DIVISION</b>		<b>PREVENTION OF DRUG ABUSE</b>
430.021	Functions of Mental Health Division	430.405	Definitions for ORS 161.125, 430.100, 430.270 and 430.405 to 430.425
430.030	Division not limited by ORS 430.021	430.415	Drug dependence as illness
430.041	Rules and regulations; personnel	430.425	Duties of division
430.050	Mental Health Advisory Board; compensation and expenses		<b>DIVERSION PROGRAMS</b>
430.100	Oregon Council on Alcohol and Drug Problems; compensation and expenses; committees		(Definitions)
430.110	Assistant Director for Mental Health	430.450	Definitions for ORS 430.450 to 430.555
430.140	Division to obtain and use federal grants for promoting mental health		(Treatment Program)
430.160	Federal funds deposited in special account	430.455	Information to drug-dependent person upon arrest
430.165	Fee schedules; collection of fees; definition	430.460	Consent to evaluation; effect of refusal
430.170	Revolving fund	430.465	Referral for evaluation
430.180	Mental Health Services Account	430.470	Notice of right to evaluation if not given at time of arrest
	<b>TREATMENT OF ALCOHOLISM AND DRUG DEPENDENCY</b>	430.475	Evaluation results as evidence; admissibility at subsequent trial; privileged communication
430.260	Alcoholic rehabilitation clinic and agency	430.480	Effect of ORS 430.450 to 430.555 on other evidence
430.265	Contracts with Federal Government for services to alcohol and drug-dependent persons	430.485	Treatment may be ordered
430.270	Publicizing effects of alcohol and drugs	430.490	Diversion plan for defendant; participation as condition of probation or parole
430.290	Prevention of alcoholism and drug dependency	430.495	Content of diversion plan; duration
430.306	Definitions for ORS 426.450 to 426.460, 430.100 and 430.315 to 430.335	430.500	Dismissal of charges
430.315	Policy	430.505	Expunction of verdict
430.325	Prohibitions on local governments as to certain crimes	430.510	Notice when treatment unsuccessful
430.335	Authority of Mental Health Division	430.515	Procedure to terminate treatment
430.338	Policy		(Administration)
430.342	Local alcoholism planning committees	430.520	State Drug Diversion Subcommittee
430.345	Grants for alcoholism treatment and rehabilitation programs	430.525	Duties of subcommittee
430.347	Definitions for ORS 430.345 to 430.380	430.535	Duties of Mental Health Division; bilingual forms
430.350	Assistance and recommendation of local alcoholism planning committee	430.540	Designation of and standards for evaluation sites
430.355	Grant application may cover more than one program	430.545	Procedures at evaluation sites; administration of antagonist drugs
430.357	Rules for ORS 430.345 to 430.380	430.550	Discrimination prohibited
430.359	Funding of programs	430.555	Liability for violation of civil rights or injuries to participant
430.362	Application requirements for priority consideration		<b>MISCELLANEOUS</b>
430.364	Consideration given requests for priority	430.560	Treatment programs established by the Mental Health Division; contracts; rules
430.366	Requirements for treatment and rehabilitation program proposals	430.565	Nonapplicability of drug laws to certain persons in treatment program
430.368	Appeal and review of funding requests; conclusiveness of assistant director's review		<b>LOCAL MENTAL HEALTH SERVICES</b>
430.370	County contracts for services; joint county-city operation	430.610	Legislative policy on local mental health services
430.375	Fee schedule	430.620	Establishment of community mental health
430.380	Mental Health Alcoholism and Drug Services Account; appropriations and use of money		

## MENTAL HEALTH

- clinic by one or more counties  
430.630 Services to be provided by mental health clinic; alternative and additional services  
430.640 Duties of division in assisting and supervising mental health clinics  
430.650 State aid to counties rendering community mental health services  
430.655 Use of federal revenue sharing moneys by counties  
430.660 Federal laws, rules and regulations govern activities under ORS 430.610 to 430.660 when federal granted funds involved  
430.670 Contracts to provide services; approval of division

### CHILDREN'S MENTAL HEALTH SERVICES

- 430.705 Mental health services for children  
430.715 Hospital and day care and residential treatment programs  
430.725 Gifts and grants

### PROGRAM FOR TRAINABLE MENTALLY RETARDED

- 430.760 "Trainable mentally retarded" defined  
430.770 Duties of Mental Health Division  
430.780 Programs conducted under contracts with school districts  
430.790 Reimbursement of programs conducted by private agencies  
430.810 Mental Health Division to administer programs  
430.820 Standards for contractors

### PROGRAM FOR PERSONS CONVICTED OF DRIVING UNDER INFLUENCE OF ALCOHOL; CRIMES COMMITTED WHILE INTOXICATED

- 430.850 Treatment program; eligibility  
430.860 Participation in program; report to court  
430.870 Rules of division  
430.880 Authority to accept gifts, grants or services

## CROSS REFERENCES

- Administration of state institutions, Ch. 179  
Administrative procedures governing state agencies, 183.310 to 183.500  
Angling licenses for persons in state institutions, 497.162  
Identification cards for persons 60 years of age or older, 305.350 to 305.365  
Medical records, access and review, 192.550  
Mental Health Division duties regarding care and release of persons committed by criminal court, 161.336 to 161.351  
Reinstatement of driver's license of problem drinker or drug-dependent person, 482.477  
Rules for assignment of persons within jurisdiction of criminal court to state mental hospital, 161.390

### 430.021

- Change in use of institution for mentally ill or retarded, 179.325  
Cost of care for person at state institution, determination of rates and costs by division, 179.701  
Eastern Oregon, Columbia Park Hospital and Training Center, leasing certain property for private use, 273.405 to 273.465  
Fairview Hospital for the mentally retarded, Ch. 427  
Human Resources Department to coordinate programs and services of division, 184.750  
Investigation of allegedly mentally ill person, 426.070  
Mental Health Compact, division to act as administrator, 428.320  
Mental Health Division to promulgate rules for assignment of persons to state mental hospitals, 161.335 to 161.390  
Mentally ill or deficient, nonresident, 428.210 to 428.270  
Mentally ill, state hospitals, Ch. 426  
Narcotic and dangerous drugs, treatment programs, Ch. 475  
Rules to approve facilities for emergency care of mentally ill, 426.175  
State institutions, generally, Ch. 179

### 430.041

- Condemnation for public use, Ch. 281  
Narcotic addicts, treating, 475.645  
State Merit System Law, Ch. 240  
Status and salary of superintendents of state mental institutions, 179.331, 179.340  
Transferring mentally ill veterans to federal hospitals, 408.580

### 430.050

- Subsistence and travel expenses of state officers and employees, 292.210 to 292.288

### 430.100

- Definitions, 430.306, 430.405

### 430.110

- Authority of Assistant Director for Mental Health over assistants, officers, employees, 179.390

### 430.140

- Federal grants for prevention of disease to be handled by Health Division, 431.250  
Federal law to prevail when federal granted funds used for local mental health services, 430.660

### 430.270

- Definitions, 430.405

### 430.335

- Alcoholics, admission to treatment facilities, 426.450

### 430.505

- Expunction of criminal records, 137.225

### 430.620

- Community mental health clinic records, preservation and destruction, 431.520

### 430.630

- Child welfare services, Ch. 418

## DEFINITIONS

**430.010 "Division" defined.** As used in ORS 430.010 to 430.050, 430.100 to 430.170, 430.260 to 430.270 and 430.610 to 430.670, unless the context requires otherwise, "division" means the Mental Health Division.

[Derived from 1961 c.706 §1, 37; 1969 c.597 §81]

## MENTAL HEALTH DIVISION

**430.020** [1961 c.706 §2; 1965 c.339 §20; repealed by 1969 c.597 §82 (430.021 enacted in lieu of 430.020)]

**430.021 Functions of Mental Health Division.** (1) The Mental Health Division is responsible for the administration of the state mental health programs and the mental health laws of the state.

(2) The division shall direct, promote, correlate and coordinate all the activities, duties and direct services for the mentally or emotionally disturbed, mentally retarded and developmentally disabled, alcoholic and drug-dependent persons; and promote, correlate and coordinate the mental health activities of all governmental organizations throughout the state in which there is any direct contact with mental health programs.

(3) The division shall develop cooperative programs with interested private groups throughout the state to effect better community awareness and action in the field of mental health, and encourage and assist in all necessary ways community general hospitals to establish psychiatric services.

(4) The division shall establish, coordinate, assist and direct a community mental health program in cooperation with local government units and integrate such a program with the total state mental health program.

(5) The division shall promote public education in the state concerning mental health and act as the liaison center for work with all interested public and private groups and agencies in the field of mental health.

(6) The division shall accept the custody of persons committed to its care by the courts of this state. [1969 c.597 §83 (enacted in lieu of 430.020); 1973 c.795 §4]

**430.030 Division not limited by ORS 430.021.** The enumeration of duties, functions and powers under ORS 430.021 shall not be deemed exclusive nor construed as a limita-

tion on the powers and authority vested in the division by other provisions of law. [1961 c.706 §3; 1969 c.597 §85]

**430.040** [1961 c.706 §§6, 8(2); repealed by 1963 c.490 §1 (430.041 enacted in lieu of 430.040)]

**430.041 Rules and regulations; personnel.** In order to carry out the programs and responsibilities of the Mental Health Division, the division shall:

(1) Make rules and regulations not inconsistent with the law, for the administration of the division.

(2) Employ the assistants, technical or otherwise, necessary to carry out the purposes of the division. [1963 c.490 §2 (enacted in lieu of 430.040)]

**430.050 Mental Health Advisory Board; compensation and expenses.** (1) The Assistant Director for Mental Health with the approval of the Governor, shall appoint a Mental Health Advisory Board, composed of both lay and professionally trained individuals, qualified by training or experience to study the problems of mental health and make recommendations for the development of policies and procedures with respect to the state mental health programs. The members of the board shall serve for terms of four years and are entitled to compensation and expenses as provided in ORS 292.495. The assistant director may remove any member of the board for misconduct, incapacity or neglect of duty.

(2) The assistant director may make provision for technical and clerical assistance to the Mental Health Advisory Board and for the expenses of such assistance. [1961 c.706 §18; 1969 c.314 §36; 1969 c.597 §86]

**430.060** [1961 c.706 §9; repealed by 1963 c.490 §5]

**430.070** [1961 c.706 §10; repealed by 1963 c.490 §5]

**430.080** [1961 c.706 §7; 1967 c.263 §1; 1973 c.697 §6; renumbered 430.270]

**430.090** [1961 c.706 §8(1); renumbered 430.260]

**430.095** [1969 c.637 §1; renumbered 430.265]

**430.100 Oregon Council on Alcohol and Drug Problems; compensation and expenses; committees.** (1) The Assistant Director for Mental Health, with the approval of the Governor, shall appoint an Oregon Council on Alcohol and Drug Problems composed of at least 24 members, to advise and assist the Mental Health Division in carrying out ORS 430.270 and 430.425. The members

of the council shall serve for terms of four years and are entitled to compensation and expenses as provided in ORS 292.495. The assistant director may remove any member for misconduct, incapacity or neglect of duty.

(2) The council shall advise the assistant director regarding policies and goals of the division's alcohol and drug programs, and shall encourage public understanding and support of such programs.

(3) The Assistant Director for Mental Health may make provision for technical and clerical assistance to the Oregon Council on Alcohol and Drug Problems and for the expenses of such assistance.

(4) Consistent with federal requirements, the council will be divided into a Committee on Alcohol Problems composed of at least 12 members and a Committee on Drug Problems composed of at least 12 members. The Oregon Council on Alcohol and Drug Problems shall meet as a whole at least annually.

(5) Members of the Committee on Alcohol Problems shall include at least the following:

- (a) One physician.
- (b) One physician specializing in the practice of psychiatry.
- (c) One member of the Oregon Liquor Control Commission.
- (d) One member of the Oregon State Bar.
- (e) One law enforcement officer.
- (f) One educator.
- (g) Six public members, to include former alcoholics.

(6) Members of the Committee on Drug Problems shall include at least the following:

- (a) One physician.
- (b) One physician specializing in the practice of psychiatry.
- (c) One member of the State Board of Pharmacy.
- (d) One pharmacologist.
- (e) One member of the Oregon State Bar.
- (f) One law enforcement officer.
- (g) One educator.
- (h) Five public members, to include former drug-dependent persons. [1961 c.706 §19; 1967 c.263 §2; 1969 c.314 §37; 1969 c.597 §87; 1971 c.622 §5; 1973 c.697 §7]

**430.103** [1969 c.459 §1; 1971 c.484 §1; repealed by 1973 c.697 §21]

**430.107** [1969 c.442 §3; repealed by 1973 c.697 §21]

**430.110 Assistant Director for Mental Health.** The Mental Health Division shall be under the supervision and control of an assistant director, who shall be appointed as provided in ORS 184.760. The assistant director shall be a person who, by training and experience, is well qualified to perform the duties of the office and to direct the activities of the division in carrying out ORS 430.021. The assistant director shall be responsible for the duties imposed upon the division. [1961 c.706 §16; 1969 c.597 §88; 1973 c.247 §1]

**430.120** [1961 c.706 §17; 1963 c.471 §3; repealed by 1973 c.807 §4]

**430.130** [1961 c.706 §12; repealed by 1963 c.490 §5]

**430.140 Division to obtain and use federal grants for promoting mental health.** (1) The Mental Health Division is designated as the state agency to apply to and receive from the Federal Government or any agency thereof such grants for promoting mental health, including grants for mental hygiene programs, as may be available to this state or any of its political subdivisions or agencies.

(2) For the purposes of subsection (1) of this section, the division is designated the Mental Health Authority for the State of Oregon and shall:

(a) Disburse or supervise the disbursement of all funds made available at any time by the Federal Government or this state for those purposes, except the funds made available by the state for the care of dependent or delinquent children in public or private institutions.

(b) Adopt, carry out and administer plans for those purposes. Plans so adopted shall be made statewide in application in so far as reasonably feasible, possible or permissible, and shall be so devised as to meet the approval of the Federal Government or any of its agencies, not inconsistent with the laws of the state. [1961 c.706 §15]

**430.150** [1961 c.706 §§13, 14; repealed by 1963 c.490 §5]

**430.160 Federal funds deposited in special account.** All funds applied for and received by the Mental Health Division and allotted to the state by the Surgeon General, the Treasury Department, or other agency of the United States for the construction and operation of community facilities in carrying out the state plan for the promotion of mental health and retardation services, shall be de-

posited with the State Treasurer and shall be credited to a special account in the State Treasury, separate from the General Fund, to be used as a depository for such federal funds. Such funds hereby are continuously appropriated and shall be expended solely for the purpose of construction and operation of community facilities and in accordance with the plan upon which the allotment to the state was based. [1965 c.557 §5]

**430.165 Fee schedules; collection of fees; definition.** The Mental Health Division may prescribe fee schedules for any of the programs which it establishes and operates under ORS 430.260, 430.265, 430.306 to 430.375, 430.405 to 430.425, 430.850 to 430.880, 482.477 and 482.478. The fees shall be charged and collected by the Mental Health Division in the same manner as charges are collected under ORS 179.610 to 179.770. When the Mental Health Division acts under this section, "person in a state institution" or "person at a state institution" or any similar phrase, as defined in ORS 179.610, includes a person who receives services from a program for which fee schedules are established under this section. [1975 c.181 §2]

**430.170 Revolving fund.** (1) On written request of the Mental Health Division, the Executive Department shall draw warrants on amounts appropriated to the Mental Health Division for operating expenses for use by the division as a revolving fund. The revolving fund shall not exceed the aggregate sum of \$25,000 including unreimbursed advances. The revolving fund shall be deposited with the State Treasurer to be held in a special account against which the division may draw checks.

(2) The revolving fund may be used by the division to pay for travel expenses for employes of the division and for any consultants or advisers for whom payment of travel expenses is authorized by law, or advances therefor, or for purchases required from time to time or for receipt or disbursement of federal funds available under federal law.

(3) All claims for reimbursement of amounts paid from the revolving fund shall be approved by the division and by the Executive Department. When such claims have been approved, a warrant covering them shall be drawn in favor of the division and charged against the appropriate fund or account, and shall be used to reimburse the revolving fund. [1971 c 306 §8]

**430.180 Mental Health Services Account.** (1) There is established in the General Fund of the State Treasury an account to be known as the Mental Health Services Account, to which all reimbursements for cost and care of persons in state programs collected pursuant to ORS 179.610 to 179.770, 426.241, 427.108 and 430.165 shall be deposited.

(2) The moneys in the Mental Health Services Account are hereby continuously appropriated to the Mental Health Division of the Department of Human Resources for the purposes of paying the expenses of those state programs and associated administrative costs for which revenues are collected pursuant to ORS 179.770, 426.240 and 430.165 and revenues collected for those programs established pursuant to ORS 427.104, 427.106 (1977 Replacement Part) and 427.108.

(3) The Mental Health Division shall keep a record of all moneys credited to and deposited in the Mental Health Services Account. The record shall indicate by separate cumulative accounts the source from which the moneys are derived.

(4) In order to facilitate financing the costs advanced as set forth in subsection (2) of this section, the division may at any time during the biennium transfer to the Mental Health Services Account, with the approval of the Director of the Executive Department, such funds as it deems necessary, not to exceed \$4 million, from funds duly appropriated to the division for a biennial period. Such funds so transferred shall be retransferred from the Mental Health Services Account by the division to the appropriation from which the original transfer was made. The retransfers shall be accomplished prior to the last day of each biennial period. [1977 c. 384 §2]

## TREATMENT OF ALCOHOLISM AND DRUG DEPENDENCY

**430.260 Alcoholic rehabilitation clinic and agency.** The Mental Health Division shall maintain and operate a rehabilitation clinic and agency for the treatment of persons addicted to the excessive use of alcoholic beverages. A reasonable charge may be made for such treatment to persons financially able to pay a charge. [Formerly 430.090]

**430.265 Contracts with Federal Government for services to alcohol and drug-dependent persons.** The Mental Health

Division is authorized to contract with the Federal Government for services to alcohol and drug-dependent persons who are either residents or nonresidents of the State of Oregon. [Formerly 430.095]

**430.270 Publicizing effects of alcohol and drugs.** The Mental Health Division, in consultation with the Oregon Council on Alcohol and Drug Problems, shall take such means as it considers most effective to bring to the attention of the general public, employers, the professional community and particularly the youth of the state, the harmful effects to the individual and society of the irresponsible use of alcoholic beverages, controlled substances and other chemicals, and substances with abuse potential. [Formerly 430.080; 1979 c 744 §23]

**430.290 Prevention of alcoholism and drug dependency.** (1) The objective of this section is to prevent alcoholism and drug dependency.

(2) To carry out the objective of this section, the Mental Health Division shall:

(a) Consult with and be advised by the Oregon Council on Alcohol and Drug Problems and the Mental Health Advisory Board in identifying program priorities for the primary prevention of alcoholism and drug dependency.

(b) Solicit program proposals that address identified priorities from agencies, associations, individuals or any political subdivision of this state and award and distribute moneys under this section in accordance with the provisions of this section.

(c) Every applicant for a grant to develop a primary prevention of alcoholism program shall be assisted in its preparation by the local alcohol planning committee, if there be one, operating in the area to which the application relates. Every applicant shall establish to the satisfaction of the division that the committee was actively involved in the development and preparation of such program.

(d) The division shall require that every grant applicant include the recommendations of the local alcohol planning committee, if there be one, operating in the area. The division shall take the recommendations of the local alcohol planning committee into consideration before making or refusing a grant.

[1973 c.582 §1, 2]

**430.305** [1971 c.622 §2; repealed by 1973 c 682 §1 (430.306 enacted in lieu of 430.305)]

**430.306 Definitions for ORS 426.450 to 426.460, 430.100 and 430.315 to 430.335.** As used in ORS 426.450 to 426.460, 430.100 and 430.315 to 430.335, unless the context requires otherwise:

(1) "Assistant director" means the assistant director of the division.

(2) "Alcoholic" means any person who has lost the ability to control the use of alcoholic beverages, or who uses alcoholic beverages to the extent that the health of the person or that of others is substantially impaired or endangered or the social or economic function of the person is substantially disrupted. An alcoholic may be physically dependent, a condition in which the body requires a continuing supply of alcohol to avoid characteristic withdrawal symptoms, or psychologically dependent, a condition characterized by an overwhelming mental desire for continued use of alcoholic beverages.

(3) "Applicant" means a city, county or any combination thereof.

(4) "Detoxification center" means a publicly or privately operated nonprofit facility approved by the division that provides emergency care or treatment for alcoholics or drug-dependent persons.

(5) "Director of the treatment facility" means the person in charge of treatment and rehabilitation programs at a treatment facility.

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

(7) "Drug-dependent person" means one who has lost the ability to control the personal use of controlled substances or other substances with abuse potential, or who uses such substances or controlled substances to the extent that the health of the person or that of others is substantially impaired or endangered or the social or economic function of the person is substantially disrupted. A drug-dependent person may be physically dependent, a condition in which the body requires a continuing supply of a drug or controlled substance to avoid characteristic withdrawal symptoms, or psychologically dependent, a condition characterized by an overwhelming mental desire for continued use of a drug or controlled substance.

(8) "Halfway house" means a publicly or privately operated nonprofit, residential facility approved by the division that provides

rehabilitative care and treatment for alcoholics or drug-dependent persons.

(9) "Local alcoholism planning committee" means a committee appointed or designated by the county governing body under ORS 430.342.

(10) "Other treatment facility" includes outpatient facilities, inpatient facilities and such other facilities as the division determines suitable, any of which may provide diagnosis and evaluation, medical care, detoxification, social services or rehabilitation for alcoholics or drug-dependent persons and which operate in the form of a general hospital, a state hospital, a foster home, a hostel, a clinic or other suitable form approved by the division. [1973 c.682 §1a (enacted in lieu of 430.305); 1977 c.856 §2; 1979 c.744 §24]

**430.310** [1961 c.706 §21; repealed by 1963 c.490 §5]

**430.315 Policy.** The Legislative Assembly finds alcoholism or drug dependence is an illness. The alcoholic or drug-dependent person is ill and should be afforded treatment for his illness. [1971 c.622 §1; 1973 c.795 §5]

**430.320** [1961 c.706 §22, repealed by 1963 c.490 §5]

**430.325 Prohibitions on local governments as to certain crimes.** (1) A political subdivision in this state shall not adopt or enforce any local law or regulation that makes any of the following an offense, a violation or the subject of criminal or civil penalties or sanctions of any kind:

(a) Public intoxication.

(b) Public drinking, except as to places where any consumption of alcoholic beverages is generally prohibited.

(c) Drunk and disorderly conduct.

(d) Vagrancy or other behavior that includes as one of its elements either drinking alcoholic beverages or using controlled substances in public, being an alcoholic or a drug-dependent person, or being found in specified places under the influence of alcohol or controlled substances.

(e) Using or being under the influence of controlled substances.

(2) Nothing in subsection (1) of this section shall affect any local law or regulation of any political subdivision in this state against driving while under the influence of intoxicants, as defined in ORS 487.540, or other

similar offenses that involve the operation of motor vehicles. [1971 c.622 §3; 1973 c.795 §6; 1975 c.715 §1; 1977 c.745 §39]

**430.330** [1961 c.706 §23; repealed by 1963 c.490 §5]

**430.335 Authority of Mental Health Division.** Subject to the availability of funds therefor, the Mental Health Division may:

(1) Provide directly through publicly operated treatment facilities, which shall not be considered to be state institutions, or by contract with publicly or privately operated treatment facilities, for the care of alcoholics or drug-dependent persons.

(2) Sponsor and encourage research of alcoholism and drug dependence.

(3) Seek to coordinate public and private programs relating to alcoholism and drug dependence.

(4) Apply for federally granted funds available for study or prevention and treatment of alcoholism and drug dependence. [1971 c.622 §4; 1973 c.795 §7]

**430.338 Policy.** The purposes of ORS 430.306, 430.338 to 430.380, 471.810, 473.030 and 473.050 are:

(1) To encourage local units of government to provide treatment and rehabilitation services to persons suffering from alcoholism;

(2) To foster sound local planning to address the problem of alcoholism and its social consequences;

(3) To promote a variety of treatment and rehabilitation services for alcoholics designed to meet the therapeutic needs of diverse segments of a community's population, recognizing that no single approach to alcoholism treatment and rehabilitation is suitable to every individual;

(4) To increase the independence and ability of individuals recovering from alcoholism to lead satisfying and productive lives, thereby reducing continued reliance upon therapeutic support;

(5) To insure sufficient emphasis upon the unique treatment and rehabilitation needs of minorities; and

(6) To stimulate adequate evaluation of alcoholism treatment and rehabilitation programs. [1977 c.856 §1]

**Note:** 430.338 and 430.432 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 430 or any series therein by legislative action. See the Preface to Oregon Revised Statutes for further explanation.

430.340 [1961 c.706 §11; repealed by 1963 c.490 §5]

**430.342 Local alcoholism planning committees.** (1) The governing body of each county or combination of counties in a mental health administrative area, as designated by the Mental Health Division shall appoint a local alcoholism planning committee or shall designate an already existing body to act as the local alcoholism planning committee.

(2) The committee shall identify needs and establish priorities for alcoholism services in the annual community mental health plan required by ORS 430.630. In doing so, it shall coordinate its activities with existing community mental health planning bodies.

(3) Members of the committee shall be representative of the geographic area and shall be persons with interest or experience in developing programs dealing with alcohol problems. The membership of the committee shall include a number of minority members which reasonably reflects the proportion of the need for alcoholism treatment and rehabilitation services of minorities in the community. [1977 c.856 §3]

Note: See note under 430.338.

**430.345 Grants for alcoholism treatment and rehabilitation programs.** Upon application therefor, the division may make grants from funds specifically appropriated for the purposes of carrying out ORS 430.345 to 430.380 to any applicant for the establishment, operation and maintenance of alcoholism treatment and rehabilitation programs. When necessary, a portion of the appropriated funds may be designated by the division for training and technical assistance, or additional funds may be appropriated for this purpose. An alcoholism treatment and rehabilitation program shall be approved if the applicant establishes to the satisfaction of the division:

(1) The adequacy of the treatment and rehabilitation program to accomplish the goals of the applicant and the program goals are consonant with the purposes of ORS 430.306, 430.338 to 430.380, 471.810, 473.030 and 473.050 and goals of the State Plan for Alcohol Problems.

(2) The community need for the treatment and rehabilitation program as documented in the annual community mental health plan.

(3) That an appropriate operating relationship exists, or will exist with other community facilities able to assist in the treatment and rehabilitation of alcoholics, includ-

ing nearby detoxification centers and halfway houses.

(4) That the treatment and rehabilitation program complies with the rules adopted by the division pursuant to ORS 430.357. [1973 c.682 §3; 1977 c.856 §4]

**430.347 Definitions for ORS 430.345 to 430.380.** As used in ORS 430.345 to 430.380:

(1) "Applicant" means a county or combination of counties.

(2) "Minorities" means special population groups separately identified and enumerated by the Bureau of the Census of the United States Department of Commerce or by any other reliable, generally accepted method on the basis of unique social or economic characteristics which may be distinguished from the predominant social or economic characteristics of the general population of this state, including but not limited to Indians, Negroes, persons of Spanish-speaking heritage, or other ethnic, racial, religious or cultural populations.

(3) "Minority program" is a treatment and rehabilitation program that provides services primarily to minorities and that is intended to present treatment and rehabilitation opportunities designed to meet the particular needs of minorities, whether by its geographic location, methods of treatment or other factors.

(4) "Treatment and rehabilitation program" means an organized activity providing specified treatment and rehabilitation opportunities for alcoholics. [1975 c.424 §7; 1977 c.856 §5]

**430.350 Assistance and recommendation of local alcoholism planning committee.** (1) Every applicant for a grant made under ORS 430.345 to 430.380 shall be assisted in the preparation and development of alcoholism treatment and rehabilitation programs by the local alcoholism planning committee operating in the area to which the application relates. Every application shall establish to the satisfaction of the division that the committee was actively involved in the development and preparation of such program.

(2) The division shall require of every applicant for a grant made under ORS 430.345 to 430.380 the recommendation of the local alcoholism planning committee in the area to which the application relates. The division shall take such recommendation into

consideration before making or refusing grants under ORS 430.345 to 430.380. [1973 c.682 §4; 1977 c.856 §6]

**430.355 Grant application may cover more than one program.** An application for funds under ORS 430.345 to 430.380 may contain requests for funds to establish, operate and maintain any number of alcoholism treatment and rehabilitation programs. [1973 c.682 §5; 1977 c.856 §7]

**430.357 Rules for ORS 430.345 to 430.380.** (1) The division shall make all necessary and proper rules governing the administration of ORS 430.345 to 430.380, including but not limited to standards, consistent with modern knowledge about alcoholism rehabilitation techniques, to be met by alcoholism treatment and rehabilitation programs.

(2) Rules necessary for execution of ORS 430.306, 430.338 to 430.380, 471.810, 473.030 and 473.050 shall be adopted by October 4, 1977.

(3) All standards and guidelines adopted by the Mental Health Division to implement programs authorized under ORS 430.345 to 430.380 shall be adopted as rules pursuant to ORS 183.310 to 183.500 regardless of whether they come within the definition of rule in subsection (7) of ORS 183.310. [Formerly 430.360]

**430.359 Funding of programs.** (1) Upon approval of an application, the division shall enter into a matching fund relationship with the applicant. In all cases the amount granted by the division under the matching formula shall not exceed 50 percent of the total estimated costs, as approved by the division, of the alcoholism treatment and rehabilitation program.

(2) The amount of state funds shall be apportioned among the applicants according to the community need of the applicant for alcoholism treatment and rehabilitation services as compared with the community needs of all applicants. In evaluating the community needs of the applicant, the division, in consultation with the Committee on Alcohol Problems created by subsection (4) of ORS 430.100, shall give priority consideration to those applications that identify and include treatment and rehabilitation programs aimed at providing alcoholism treatment and rehabilitation services to minorities with a significant population of affected persons. The funds granted shall be distributed monthly.

(3) Federal funds at the disposal of an applicant or treatment and rehabilitation program for use in alcoholism treatment and rehabilitation may be counted toward the percentage contribution of an applicant.

(4) An applicant that is, at the time of a grant made under this section, expending funds appropriated by its governing body for the treatment and rehabilitation of alcoholics shall, as a condition to the receipt of funds under this section, maintain its financial contribution to these programs at an amount not less than the preceding year.

(5) Any moneys received by an applicant or treatment and rehabilitation program from treatment and rehabilitation fees, contributions or other sources for alcoholism treatment and rehabilitation purposes, including federal funds, shall be considered a portion of an applicant's contribution for the purpose of determining the matching fund formula relationship. All moneys so received shall only be used for the purposes of carrying out ORS 430.345 to 430.380.

(6) Grants made pursuant to ORS 430.345 to 430.380 shall be paid from funds specifically appropriated therefor and shall be paid in the same manner as other claims against the state are paid. [Formerly 430.365]

**430.360** [1973 c.682 §6; 1977 c.856 §9; renumbered 430.357]

**430.362 Application requirements for priority consideration.** (1) To receive priority consideration under subsection (2) of ORS 430.359, an applicant shall clearly set forth in its application:

(a) The number of minorities within the county with significant populations of affected persons and an estimate of the nature and extent of the need within each minority population for alcoholism treatment and rehabilitation services; and

(b) The manner in which the need within each minority population is to be addressed, including support for minority programs under the application.

(2) Minority program funding proposals included within an application must be clearly identified as minority programs and must include distinct or severable budget statements.

(3) Nothing in this section is intended to preclude any minority program from being funded by a city or county or to preclude any other program from serving the needs of mi-

norities. [1977 c.856 §10]

**430.364 Consideration given requests for priority.** Within the limits of available funds, in giving priority consideration under subsection (2) of ORS 430.359, the division shall:

(1) Identify all applications containing funding proposals for minority programs and assess the extent to which such funding proposals address the needs of minorities as stated in ORS 430.362, adjusting such amounts as it deems justified on the basis of the facts presented for its consideration and such additional information as may be necessary to determine an appropriate level of funding for such programs, and award such funds to those applicants for the purposes stated in the application; and

(2) After making a determination of the appropriate level of funding minority programs under subsection (1) of this section, assess the remaining portions of all applications containing minority program funding proposals together with applications which do not contain funding proposals for minority programs on the basis of the remaining community need stated in ORS 430.345, adjusting such amounts as it deems justified on the basis of the facts presented for its consideration and such additional information as may be necessary to determine an appropriate level of funding such programs, and award such funds to those applicants. [1977 c 856 §11]

**430.365** [1973 c 682 §§7, 11; 1975 c.424 §8; 1977 c.856 §9; renumbered 430.359]

**430.366 Requirements for treatment and rehabilitation program proposals.** (1) Every treatment and rehabilitation program proposal received by an applicant shall contain:

(a) A clear statement of the goals and objectives of the program for the following fiscal year, including the number of persons to be treated and methods of measuring the success of services rendered;

(b) A description of treatment and rehabilitation services to be funded; and

(c) A statement of the minorities to be served, if a minority program.

(2) Thirty days before the end of each fiscal year, every treatment and rehabilitation program funded under ORS 430.306, 430.338 to 430.380, 471.810, 473.030 and 473.050 shall file a concise progress report with the division, including a narrative statement of progress

made in meeting its goals and objectives for the year.

(3) The division shall assemble all progress reports received in each biennium and transmit them to the succeeding session of the Legislative Assembly. [1977 c.856 §12]

**430.368 Appeal and review of funding requests; conclusiveness of assistant director's review.** (1) Any treatment and rehabilitation program, including but not limited to minority programs, aggrieved by any final action of an applicant with regard to requesting funding for the program from the division, may appeal the applicant's action to the assistant director of the division within 30 days of the action. For the purposes of this section "final action" means the submission of the applicant's compiled funding requests to the division. The assistant director shall review, in consultation with the Committee on Alcohol Problems created by subsection (4) of ORS 430.100, all appealed actions for compliance with the purposes and requirements of ORS 430.306, 430.338 to 430.380, 471.810, 473.030 and 473.050, including but not limited to subsection (5) of ORS 430.338.

(2) The assistant director shall act on all appeals within 60 days of filing, or before the time of the division's decision on the applicant's funding request, whichever is less. He is not required to follow procedures for hearing a contested case, but shall set forth written findings justifying his action. The decision of the assistant director shall be final, and shall not be subject to judicial review. [1977 c.856 §13]

**430.370 County contracts for services; joint county-city operation.** (1) A county may provide alcoholism treatment and rehabilitation services by contracting therefor with private nonprofit agencies. A county entering into such a contract shall receive grants under ORS 430.345 to 430.380 only if the contracting agency meets the requirements of ORS 430.345.

(2) A city and county, or any combination thereof, may enter into a written agreement, as provided in ORS chapter 190, jointly to establish, operate and maintain alcoholism treatment and rehabilitation programs. [1973 c.682 §88, 9; 1977 c.856 §14]

**430.375 Fee schedule.** The division shall recommend fee schedules to be used in determining the dollar fee to charge a person admitted to approved alcoholism treatment

and rehabilitation programs for the expenses incurred by the program in offering treatment and rehabilitation services. An individual facility may adopt the schedules developed by the division or may, subject to the approval of the division, develop and adopt its own fee schedules. The fee schedules adopted by each facility shall be applied uniformly to all persons admitted to the facility and shall be based on the costs of a person's treatment or rehabilitation program and his ability to pay. The person admitted shall be liable to the facility only to the extent indicated by the fee schedules. [1973 c.682 §10; 1977 c.856 §15]

**430.380 Mental Health Alcoholism and Drug Services Account; appropriations and use of money.** (1) There is established in the General Fund of the State Treasury an account to be known as the Mental Health Alcoholism and Drug Services Account. Moneys deposited in the account are continuously appropriated for the purposes of ORS 430.345 to 430.380. Moneys deposited in the account may be invested in the manner prescribed in ORS 293.701 to 293.776.

(2) Forty percent of the moneys in the Mental Health Alcoholism and Drug Services Account shall be continuously appropriated to the counties on the basis of population. The counties must use the moneys for the establishment, operation and maintenance of alcoholism treatment and rehabilitation programs and for local matching funds under ORS 430.345 to 430.380.

(3) Forty percent of the moneys shall be continuously appropriated to the Mental Health Division to be used for state matching funds to counties for alcoholism services pursuant to ORS 430.345 to 430.380.

(4) Twenty percent of the moneys shall be continuously appropriated to the Mental Health Division to be used for alcoholism and drug dependence treatment and rehabilitation services for inmates of correctional and penal institutions and for parolees therefrom and for probationers as provided pursuant to rules of the division. However, prior to expenditure of moneys under this subsection, the Mental Health Division must present its program plans for approval to the appropriate legislative body which is either the Joint Ways and Means Committee during a session of the Legislative Assembly or the Emergency Board during the interim between sessions. [1975 c.424 §5; 1977 c.856 §16]

**430.385 Construction.** Nothing in ORS 430.347, 430.359, 430.380, 471.805, 471.810, 473.030 or this section shall be construed as justification for a reduction in General Fund support of local alcohol programs and services. [1975 c.424 §1]

## PREVENTION OF DRUG ABUSE

**430.405 Definitions for ORS 161.125, 430.100, 430.270 and 430.405 to 430.425.** As used in ORS 161.125, 430.100, 430.270 and 430.405 to 430.425, unless the context requires otherwise:

(1) "Drug-dependent person" means one who has lost the ability to control the use of controlled substances or other substances with abuse potential, or who uses such substances or controlled substances to the extent that the health of the person or that of others is substantially impaired or endangered or the social or economic function of the person is substantially disrupted. A drug-dependent person may be physically dependent, a condition in which the body requires a continuing supply of a drug or controlled substance to avoid characteristic withdrawal symptoms, or psychologically dependent, a condition characterized by an overwhelming mental desire for continued use of a drug or controlled substance.

(2) "Drug abuse" means repetitive, excessive use of drugs or controlled substances short of dependence, without legal or medical supervision, which may have a detrimental effect on the individual or society.

(3) "Division" means the Mental Health Division.

(4) "Assistant director" means the Assistant Director for Mental Health.

(5) "Treatment facility" means detoxification centers, outpatient clinics, residential facilities, hospitals and such other facilities as the Mental Health Division determines suitable, any of which may provide diagnosis and evaluation, medical care, detoxification, social services or rehabilitation for drug-dependent persons.

(6) "Director of the treatment facility" means the person in charge of treatment and rehabilitation programs at the treatment facility. [1973 c.697 §3; 1977 c.745 §47; 1979 c.744 §25; 1979 c.777 §46a]

**430.415 Drug dependence as illness.** The Legislative Assembly finds drug dependence is an illness. The drug-dependent person is ill and shall be afforded treatment for his illness. [1973 c.697 §2]

**430.425 Duties of division.** (1) Subject to the availability of funds therefor, the division shall establish a comprehensive and coordinated program for the prevention of drug abuse and the early identification, treatment and rehabilitation of drug-dependent persons.

(2) In addition to the duties listed in subsection (1) of this section, the division shall, by delegation from the Department of Human Resources, serve as the single state agency administering the state alcohol and drug plans and receiving federal funds through the Department of Human Resources to be used in alcohol and drug abuse prevention and treatment programs. [1973 c.697 §§4, 5]

### **DIVERSION PROGRAMS (Definitions)**

**430.450 Definitions for ORS 430.450 to 430.555.** As used in ORS 430.450 to 430.555, unless the context requires otherwise:

(1) "Assistant director" means the Assistant Director for Mental Health.

(2) "Community diversion plan" means a system of services approved and monitored by the Mental Health Division in accordance with approved county mental health plans, which may include but need not be limited to, medical, educational, vocational, social and psychological services, training, counseling, provision for residential care, and other rehabilitative services designed to benefit the defendant and protect the public.

(3) "Crimes of violence against the person" means criminal homicide, assault and related offenses as defined in ORS 163.165 to 163.205, rape and sexual abuse, incest, or any other crime involving the use of a deadly weapon or which results in physical harm or death to a victim.

(4) "Diversion" means the referral or transfer from the criminal justice system into a program of treatment or rehabilitation of a defendant diagnosed as drug dependent and in need of treatment at Mental Health Division approved sites, on the condition that the defendant successfully fulfills the specified

obligations of a program designed for rehabilitation.

(5) "Diversion coordinator" means a person designated by a county mental health program director to work with the criminal justice system and health care delivery system to screen defendants who may be suitable for diversion; to coordinate the formulation of individual diversion plans for such defendants; and to report to the court the performance of those defendants being treated under an individual diversion plan.

(6) "Director of the treatment facility" means the person in charge of treatment and rehabilitation programs at the treatment facility.

(7) "Division" means the Mental Health Division.

(8) "Drug abuse" means repetitive, excessive use of a drug or controlled substance short of dependence, without medical supervision, which may have a detrimental effect on the individual or society.

(9) "Drug-dependent person" means one who has lost the ability to control the personal use of controlled substances or other substances with abuse potential, or who uses such substances or controlled substances to the extent that the health of the person or that of others is substantially impaired or endangered or the social or economic function of the person is substantially disrupted. A drug-dependent person may be physically dependent, a condition in which the body requires a continuing supply of a drug or controlled substance to avoid characteristic withdrawal symptoms, or psychologically dependent, a condition characterized by an overwhelming mental desire for continued use of a drug or controlled substance.

(10) "Evaluation" means any diagnostic procedures used in the determination of drug dependency, and may include but are not limited to chemical testing, medical examinations and interviews.

(11) "Individual diversion plan" means a system of services tailored to the individual's unique needs as identified in the evaluation, which may include but need not be limited to medical, educational, vocational, social and psychological services, training, counseling, provision for residential care, and other rehabilitative services designed to benefit the defendant and protect the public. The plan shall include appropriate methods for monitoring the individual's progress toward

achievement of the defined treatment objectives and shall also include periodic review by the court.

(12) "Treatment facility" means detoxification centers, outpatient clinics, residential care facilities, hospitals and such other facilities determined to be suitable by the Mental Health Division, any of which may provide diagnosis and evaluation, medical care, detoxification, social services or rehabilitation.

[1977 c.871 §2; 1979 c.744 §26]

**430.455 Information to drug-dependent person upon arrest.** When a person is arrested for violation of the criminal statutes of this state which do not involve crimes of violence against another person, and the officer or person making the arrest has reasonable grounds for believing the arrested individual is a drug-dependent person, the officer or person making the arrest may:

(1) Fully inform the arrested person of his right to evaluation and the possible consequences of such evaluation;

(2) Inform the arrested person of his right to counsel before consenting to evaluation; and

(3) Fully explain the voluntary nature of the evaluation and the limitations upon the confidentiality of the information obtained during the evaluation. [1977 c.871 §7]

**430.460 Consent to evaluation; effect of refusal.** Upon obtaining the written consent of the arrested person, the officer or person making the arrest shall request an approved site to conduct an evaluation to determine whether the arrested person is drug dependent. Refusal of the arrested person to consent to the evaluation is not admissible in evidence upon his trial. [1977 c.871 §8]

**430.465 Referral for evaluation.** A defendant may be informed of his rights to evaluation and, upon giving written consent, may be referred for such evaluation at any time prior to conviction for the offense for which he is charged, notwithstanding prior refusal to submit to evaluation. The procedures stipulated in ORS 430.455 and 430.460 shall be followed whenever the right to evaluation is restated under this section. [1977 c.871 §9]

**430.470 Notice of right to evaluation if not given at time of arrest.** (1) In the event that an officer or person making the arrest fails to inform the person arrested of

the right to evaluation, and possible diversion, within 24 hours from the time of booking, an officer of the court or diversion coordinator may do so.

(2) At the time of arraignment, the judge shall inform the defendant of the rights described in ORS 430.455. [1977 c.871 §10]

**430.475 Evaluation results as evidence; admissibility at subsequent trial; privileged communication.** (1) The results of the evaluation of an arrested person suspected of being drug dependent shall be made available to the prosecuting and defense attorneys and the presiding judge of the court of appropriate jurisdiction, but shall not be entered into evidence in any subsequent trial of the accused except upon written consent of the accused or upon a finding by the court that the relevance of the results outweighs their prejudicial effect.

(2) Except as provided in subsection (1) of this section, results of evaluation or information voluntarily provided to evaluation or treatment personnel by a person under ORS 430.450 to 430.555 shall be confidential and shall not be admitted as evidence in criminal proceedings. Reports submitted to the court or the prosecutor by the diversion coordinator shall consist solely of matters required to be reported by the terms of the diversion plan, together with an assessment of the person's progress toward achieving the goals set forth in the plan. Communications between the person participating in the plan and the diversion coordinator shall be privileged unless they relate directly to the elements required to be reported under the diversion plan. [1977 c. 871 §§11, 27]

**430.480 Effect of ORS 430.450 to 430.555 on other evidence.** Nothing in ORS 430.450 to 430.555 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 controlled substances. [1977 c.871 §12; 1979 c.744 §27]

**430.485 Treatment may be ordered.** When the results of the evaluation obtained under ORS 430.460 or 430.465 indicate that the defendant is a drug-dependent person within the meaning of ORS 430.450 to 430.555, and the results of the evaluation indicate that such person may benefit in a substantial manner from treatment for drug dependence, the prosecutor, with the concurrence of the court, may direct the defendant to

receive treatment as a contingent alternative to prosecution. If defendant refuses treatment, criminal proceedings shall be resumed. [1977 c.871 §15]

**430.490 Diversion plan for defendant; participation as condition of probation or parole.** (1) Prior to the initiation of diversion, the local diversion coordinator shall submit an individual diversion plan for the defendant. Upon approval of the plan by the prosecutor and the court, the person diverted shall be required to follow the diversion plan as a condition of continuance in treatment. The plan shall be entered into the record of the court.

(2) Participation in a diversion program may be made a condition of probation or parole. [1977 c 871 §§16, 28]

**430.495 Content of diversion plan; duration.** (1) The diversion plan shall include appropriate methods for monitoring the progress of the diverted individual toward the achievement of the defined treatment objectives. In the presence of counsel, the defendant shall review the terms of the individual diversion plan, including methods for monitoring progress, and execute a written statement indicating consent. Such statement shall include a voluntary waiver of stipulated rights as necessary to implement the approved plan. Any authorized waiver under this section shall not extend beyond the time of participation by the person in the diversion plan.

(2) No individual diversion plan shall continue for more than the maximum time a person can be sentenced for the offense charged. [1977 c.871 §§17, 21]

**430.500 Dismissal of charges.** (1) Upon successful completion of treatment, as outlined in the individual diversion plan, a request may be made to dismiss charges against the individual related to the offense for which diversion was initiated as an alternative to prosecution.

(2) When the prosecutor and the court have determined that the individual has successfully completed treatment, as outlined in the diversion plan, the prosecutor shall dismiss charges against the individual related to the offense for which diversion was initiated as an alternative to prosecution. [1977 c 871 §§18, 19]

**430.505 Expunction of verdict.** If a person is diverted after conviction, but prior to sentencing, the court may order expunction from the record of the verdict of the court and all proceedings incident thereto upon successful completion of the diversion plan and a post-treatment period of three years, provided there have been no new convictions for misdemeanor or felony offenses. [1977 c.871 §20]

**430.510 Notice when treatment unsuccessful.** If treatment under ORS 430.450 to 430.555 is unsuccessful, the prosecuting attorney and the court shall be notified before the defendant is released from treatment. After such notice the prosecution may be resumed. If the person has been convicted of the offense for which the person has been arrested, the court may proceed to impose sentence, which shall take into account the period during which the person participated in treatment. [1977 c.871 §25]

**430.515 Procedure to terminate treatment.** Termination of treatment under ORS 430.450 to 430.555 may be instituted at any time by either the prosecutor, the director of the treatment facility, the court or the person diverted into treatment. An order to terminate treatment shall be based upon a finding of substantial violation of the diversion plan or upon a showing to the satisfaction of the court that the person diverted constitutes a threat to the peace and safety of the public and that continued treatment will involve direct risk to the community or the treatment facility. Such findings and showing shall be made before the court in open hearing, with the person under treatment entitled to counsel and to due process of law. [1977 c.871 §26]

#### (Administration)

**430.520 State Drug Diversion Subcommittee.** There is hereby created a State Drug Diversion Subcommittee of the Committee on Drug Problems of the Oregon Council on Alcohol and Drug Problems, to consist of the following members appointed by the Executive Committee of the Committee on Drug Problems:

- (1) One district attorney;
- (2) One member of a local police department;
- (3) One representative of local drug treatment facilities;
- (4) One judge of the circuit court;

(5) At least one member representative of an ethnic, racial or cultural minority within the state;

(6) One health professional licensed to practice under the laws of this state; and

(7) One member from a local alcohol and drug advisory council. [1977 c.871 §4]

**430.525 Duties of subcommittee.** (1) The State Drug Diversion Subcommittee shall assist the division in the development of all forms used to implement ORS 430.450 to 430.555. The division shall, subject to the availability of funds, print and distribute the forms to treatment facilities, evaluation sites, law enforcement agencies, prosecuting attorneys and the courts of this state, as appropriate to their respective functions under ORS 430.450 to 430.555.

(2) The State Drug Diversion Subcommittee shall:

(a) Review and comment on the state and local plans, under ORS 430.450 and subsection (2) of 430.535;

(b) Advise and assist the division in the implementation of ORS 430.450 to 430.555;

(c) Promote the coordination and cooperation between agencies and units of government involved in diversion programs;

(d) Review and comment upon rules adopted pursuant to ORS 430.450 to 430.555;

(e) Review problems encountered in the administration and implementation of ORS 430.450 to 430.555 and annually report its recommendations for administrative revisions and statutory changes to the assistant director and the legislature; and

(f) Review and comment upon all grant applications at the state or local level which impact upon the implementation of ORS 430.450 to 430.555 and report its recommendations to the assistant director. [1977 c.871 §§5, 13]

**430.535 Duties of Mental Health Division; bilingual forms.** (1) The division and the State Drug Diversion Subcommittee shall, subject to the availability of funds, develop bilingual forms to assist non-English speaking persons in understanding their rights under ORS 430.450 to 430.555.

(2) The division shall assist county mental health programs in the development of comprehensive and coordinated identification, evaluation, treatment, education and rehabilitation services for the drug-dependent person.

The State Plan for Drug Problems shall be consistent with such system. [1977 c.871 §§3, 14]

**430.540 Designation of and standards for evaluation sites.** (1) The county mental health program director shall designate sites for evaluation in the county plan of individuals who may be or are known to be drug dependent. The Mental Health Division shall establish standards for such sites and periodically publish a list of approved sites.

(2) The costs of evaluation shall be borne by the county of appropriate jurisdiction. [1977 c.871 §6]

**430.545 Procedures at evaluation sites; administration of antagonist drugs.** (1) Evaluation sites provided for under ORS 430.450 to 430.555 shall conduct such procedures as may be necessary to determine if an individual is a drug-dependent person. A person shall be evaluated only with that person's written consent. Subject to approval of the division, the director of a treatment facility or the director of an evaluation site may designate personnel to provide treatment or evaluation as appropriate under the lawful limitations of their certification, licensure or professional practice.

(2) Antagonist drugs may be administered for diagnosis of addiction by a registered nurse at an approved site when the nurse has completed required training and a physician is available on call. Antagonist drugs shall not be administered without informed written consent of the person. [1977 c.871 §22; 1979 c.744 §28]

**430.550 Discrimination prohibited.** No person, otherwise eligible, shall be denied evaluation or treatment under ORS 430.450 to 430.555 on account of age, sex, race, nationality, religious preference or ability to pay. [1977 c.871 §24]

**430.555 Liability for violation of civil rights or injuries to participant.** Liability for violation of civil rights under ORS 430.450 to 430.555 or injuries to a person participating in a diversion program or caused by a person in a diversion program under ORS 430.450 to 430.555 shall, except in the case of gross negligence, be borne by the county making the arrest and the state in equal shares, and shall not extend to persons administering the provisions of ORS 430.450 to 430.555. [1977 c.871 §23]

### MISCELLANEOUS

**430.560 Treatment programs established by the Mental Health Division; contracts; rules.** (1) The Mental Health Division shall establish for drug-dependent persons a treatment program that involves the supplying of synthetic opiates 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 opiates used in the program.

(3) The Mental Health Division shall establish rules of eligibility for the program authorized by ORS 430.565 and this section, considering such factors as residency, duration of dependency on drugs or controlled substances, 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 430.565 and this section.

[Formerly 475.715; 1979 c.744 §29]

**430.565 Nonapplicability of drug laws to certain persons in treatment program.** The provisions of any law restricting the use, possession, control or administration of a controlled substance shall not apply to any physician, pharmacist or other person while participating in the program authorized by ORS 430.560 so long as the physician, pharmacist or other person complies with provisions of ORS 430.560 and this section and the rules of the Mental Health Division made pursuant to ORS 430.560 and this section.

[Formerly 475.725; 1979 c.744 §30]

### LOCAL MENTAL HEALTH SERVICES

**430.610 Legislative policy on local mental health services.** It is declared to be the policy and intent of the Legislative Assembly that the State of Oregon shall encourage, aid and financially assist its county gov-

ernments in the establishment and development of community mental health programs, including but not limited to treatment and rehabilitation services for the mentally or emotionally disturbed, mentally retarded and developmentally disabled, alcoholic and drug-dependent persons and prevention of these problems through county administered community mental health programs. [1961 c.706 §36; 1973 c.639 §1]

**430.620 Establishment of community mental health clinic by one or more counties.** (1) The county court or board of county commissioners, or its representatives designated by it for the purpose, of any county, on behalf of the county, may:

(a) Under the direction and in conformity with the regulations of the Mental Health Division, establish and operate, or contract with a public agency or private corporation for, a community mental health program.

(b) Cooperate, coordinate or act jointly with any other county or counties or any appropriate officer or agency of such counties in establishing and operating or contracting for a community mental health program to service all such counties in conformity with the regulations of the division.

(c) Expend county moneys for the purposes referred to in paragraph (a) or (b) of this subsection.

(d) Accept and use or expend property or moneys from any public or private source made available for the purposes referred to in paragraph (a) or (b) of this subsection.

(2) All officers and agencies of a county, upon request, shall cooperate in so far as possible with the county court or board of county commissioners, or its designated representatives, in conducting programs and carrying on and coordinating activities under subsection (1) of this section. [1961 c.706 §39; 1973 c.639 §2]

**430.630 Services to be provided by mental health clinic; alternative and additional services.** (1) In addition to any other requirements which may be established and promulgated by the Mental Health Division, each community mental health program shall provide the following basic services:

(a) Outpatient services for persons with mental or emotional disturbances, mental retardation and developmental disabilities, and alcohol and drug problems.

(b) Aftercare for persons released from hospitals with mental or emotional disturbances, mental retardation and developmental disabilities, and alcohol and drug problems.

(c) Training, case and program consultation and education for community agencies, related professions and the public.

(d) Guidance and assistance to other human service agencies for joint development of prevention programs and activities to reduce factors causing mental or emotional disturbances, mental retardation and developmental disabilities, alcoholism and drug dependence.

(2) As alternatives to state hospitalization, it shall be the responsibility of the community mental health program to insure that, subject to the availability of funds, the following services for the mentally or emotionally disturbed, mentally retarded and developmentally disabled, alcoholic and drug-dependent persons are available when needed and approved by the Mental Health Division:

(a) Emergency services on a 24-hour basis, such as telephone consultation, crisis intervention and prehospital screening examination.

(b) Care and treatment for a portion of the day or night, which may include day treatment centers, work activity centers and pre-school programs.

(c) Residential care and treatment in facilities such as halfway houses, detoxification centers and other community living facilities.

(d) Continuity of care, such as that provided by service coordinators, community case development specialists and core staff of federally assisted community mental health centers.

(e) Inpatient treatment in community hospitals.

(f) Other alternative services to state hospitalization as defined by the Mental Health Division.

(3) Subject to the review and approval of the division, a community mental health program may initiate additional services after the basic services defined in subsection (1) of this section are provided.

(4) Each community mental health program shall submit an annual plan and progress report documenting needs and conformance with the requirements of subsections (1), (2) and (3) of this section, and shall maintain

records and submit other data, as required by the division. [1961 c.706 §40; 1973 c.639 §3]

**430.640 Duties of division in assisting and supervising mental health clinics.** (1) The Mental Health Division, in carrying out the legislative policy declared in ORS 430.610, shall in general:

(a) Assist and direct Oregon counties and groups of Oregon counties in the establishment and financing of community mental health programs operated or contracted for by one or more counties.

(b) Establish and promulgate the standards and requirements to be met by the annual plan for the establishment and operation of each community mental health program.

(c) Approve or disapprove the annual plan for the establishment and operation of each community mental health program. No subsequent amendments to or modifications of approved plans shall be placed in effect without prior approval of the division.

(d) Make all necessary and proper rules and regulations to govern the establishment and operation of community mental health programs.

(2) The enumeration of duties and functions in subsection (1) of this section shall not be deemed exclusive nor construed as a limitation on the powers and authority vested in the division by other provisions of law. [1961 c.706 §38; 1973 c.639 §4]

**430.650 State aid to counties rendering community mental health services.** (1) Community mental health expenditures made by a county pursuant to ORS 430.610 to 430.670 and the regulations of the Mental Health Division shall be reimbursed by the state in accordance with the provisions of this section and the regulations of the division promulgated pursuant to ORS 430.610 to 430.670.

(2) Upon the approval of the annual plan for each community mental health program in accordance with paragraph (c) of subsection (1) of ORS 430.640, the division shall enter into a matching fund relationship with the county to finance the community mental health program. In all cases, except as provided in subsection (5) of this section, the matching formula shall be 50 percent state funds to 50 percent county funds with the amount of state funds being determined by the amount of appropriation available.

(3) Subject to appropriation therefor, there shall be paid to each county on account of expenditures subject to reimbursement by the state pursuant to subsection (2) of this section, up to 50 percent of the net amount expended from county funds. However, 70 percent of all amounts paid for community mental health programs by the Department of Human Resources for services rendered pursuant to Title XIX of the Social Security Act shall be deducted from the state's contribution. Any moneys received by the county from program fees, contributions or other sources for program purposes, except state and federal grants, shall be considered a portion of the county's contribution for the purpose of determining the net amount of county funds expended, if such funds are expended for mental health program operations.

(4) With respect to counties which have established joint community mental health programs, expenditures subject to reimbursement shall mean the prorated expenditures of such counties as provided by the agreements establishing such programs.

(5) The division may contract with any county for any program providing alternatives to state hospitalization described in subsection (2) of ORS 430.630. Prior to entering into any contract, a county shall insure that its financial contribution to community mental health programs will not be reduced because of payments under the contract. The division shall contract with a county for up to 100 percent of the funds necessary to finance these programs. Any program fees, contributions or funds available from other sources shall be applied as an offset to the cost of a program.

(6) When certified by the assistant director of the division, claims for state reimbursements shall be presented to the Secretary of State for payment in the manner that other claims against the state are paid. [1961 c.706 §41; 1963 c.490 §3; 1965 c.179 §1; 1967 c.70 §1; 1973 c.639 §5; 1974 s.s. c.56 §1]

**430.655 Use of federal revenue sharing moneys by counties.** Notwithstanding subsection (3) of ORS 430.650, any county funds derived from federal revenue sharing moneys that are expended by the county for community mental health purposes shall be considered a portion of the county's contribution for the purpose of determining the net amount of county funds expended for purposes of state reimbursement under ORS 430.650. [1973 c.639 §9]

**430.660 Federal laws, rules and regulations govern activities under ORS 430.610 to 430.660 when federal granted funds involved.** In all cases where federal granted funds are involved, the federal laws, rules and regulations applicable thereto shall govern notwithstanding any provision to the contrary in ORS 430.610 to 430.670. [1961 c.706 §42; 1973 c.639 §6]

**430.670 Contracts to provide services; approval of division.** A community mental health program may provide services by contracting therefor with a public agency or private corporation, provided that any such contract is approved by the division. All elements of service provided for in the contract shall be considered as a part of a community mental health program for all purposes of ORS 430.610 to 430.670. [1963 c.117 §1; 1973 c.639 §7]

## CHILDREN'S MENTAL HEALTH SERVICES

**430.705 Mental health services for children.** The State of Oregon, through the Children's Services Division created under chapter 401, Oregon Laws 1971, may establish the necessary facilities and provide comprehensive mental health services for children throughout the state. These services may include, but not be limited to the prevention of mental illness, and the prevention, treatment and restoration of emotionally disturbed, mentally ill and drug-dependent children. [1971 c.300 §2]

**Note:** The Legislative Counsel has not, pursuant to 173.160, undertaken to substitute specific ORS references for the words "this Act" in 430.705. Chapter 401, Oregon Laws 1971, enacted into law and amended ORS sections which may be found by referring to the 1971 Comparative Section Table located in volume 6A of Oregon Revised Statutes.

**430.710** [1963 c.581 §1; repealed by 1969 c.321 §9 and 1969 c.597 §281]

**430.715 Hospital and day care and residential treatment programs.** The Children's Services Division may contract for general hospital services and may provide or contract with public or private agencies or persons to provide day care and residential treatment programs to implement the objectives of ORS 430.705. The Children's Services Division may also purchase or contract for specific services and supplies for treatment of individual children. [1971 c.300 §3]

**430.720** [1963 c.581 §2; repealed by 1969 c.321 §9 and 1969 c.597 §281]

**430.725 Gifts and grants.** The Children's Services Division shall have authority to contract with private, nonprofit agencies and persons for receipt of grants-in-aid and other funds to be applied to child mental health service programs. [1971 c.300 §4]

**430.730** [1963 c.581 §3; repealed by 1971 c.109 §1]

**430.740** [1963 c.581 §4; repealed by 1969 c.321 §9]

**430.750** [1963 c.581 §5; repealed by 1969 c.321 §9]

### PROGRAM FOR TRAINABLE MENTALLY RETARDED

**430.760 "Trainable mentally retarded" defined.** As used in ORS 430.760 to 430.820 unless the context requires otherwise, "trainable mentally retarded" means a mentally retarded person who is incapable of meaningful achievement in traditional academic subjects but who is capable of profiting to a meaningful degree from instruction in self-care, social skills and simple job and vocational skills but does not include mentally retarded children as defined in ORS 343.410. [1969 c.253 §1]

**430.770 Duties of Mental Health Division.** In order to provide programs for trainable mentally retarded persons, the Mental Health Division, subject to limitation of funds appropriated by the legislature therefor, may:

(1) Contract with school districts or education service districts to provide, or cause to be provided by a private agency, classes for trainable mentally retarded children if:

(a) The school districts within the education service district approve the contract by a resolution adopted in the manner provided in subsection (2) of ORS 334.175; or

(b) Any school district within the education service district contracts with the education service district in the manner provided in subsection (3) of ORS 334.175 for such classes.

(2) Contract with private agencies to provide classes for trainable mentally retarded persons.

(3) Provide or contract with public or private agencies to provide diagnostic and evaluation services necessary for the mentally retarded.

(4) Provide counseling services to parents or guardians of mentally retarded persons or

may contract with public or private agencies or persons to provide such services. [1969 c.253 §2]

**430.780 Programs conducted under contracts with school districts.** (1) Any child who participates in classes under subsection (1) of ORS 430.770 shall be considered enrolled in school in the district in which he resides for purposes of any financial aid to the school district that is based on or distributed according to enrollment.

(2) Any school district with a child residing therein who is participating in classes under subsection (1) of ORS 430.770 for the trainable mentally retarded in another school district shall contribute to the school district providing or causing to be provided, the classes, an amount equal to the per capita operating cost of the district providing or causing to be provided, the classes for each such child.

(3) A school district providing or causing to be provided by a private agency classes under subsection (1) of ORS 430.770 or any school district contracting with an education service district in the manner provided in subsection (3) of ORS 334.175 for such class for the trainable mentally retarded shall be reimbursed by the Mental Health Division, within the limit of funds appropriated therefor, for its approved costs in providing or causing to be provided by a private agency or by an education service district such classes less the school district's per capita operating cost multiplied by the number of children participating in such classes.

(4) Any education service district providing or causing to be provided classes under subsection (1) of ORS 430.770 for trainable mentally retarded children in the manner provided in subsection (2) of ORS 334.175 shall be reimbursed by the Mental Health Division, within the limit of funds appropriated therefor, for its approved costs in providing, or causing to be provided by a private agency, such classes, less the school district's per capita operating cost of each participating district multiplied by the number of children residing in each such district. [1969 c.253 §3]

**430.790 Reimbursement of programs conducted by private agencies.** Programs offered pursuant to contract under subsection (2) of ORS 430.770 shall be reimbursed from funds appropriated therefor at a uniform rate

of not less than 60 percent and not more than 75 percent of the approved costs of the program. [1969 c.253 §4]

**430.810 Mental Health Division to administer programs.** (1) The Mental Health Division shall determine:

(a) Eligibility for participation of trainable mentally retarded persons in programs contracted for by the division pursuant to ORS 430.760 to 430.820.

(b) Qualifications for contracting with the division to provide any program for mentally retarded persons.

(c) Approved costs, considering expenses for staff, equipment and supplies, transportation of children and such other costs as the division may consider necessary.

(2) All determinations of the division are final and are not subject to administrative or judicial appeal. [1969 c.253 §5]

**430.820 Standards for contractors.** In entering into contracts under ORS 430.770, the Mental Health Division shall consider:

(1) The financial ability of the program contractor to carry on the program under the state reimbursement schedule.

(2) The adequacy of the program, including the training of program personnel.

(3) The safety of the facilities used for the program.

(4) The compliance of the program contractor with all applicable licensing laws and safety regulations. [1969 c.253 §6]

**PROGRAM FOR PERSONS  
CONVICTED OF DRIVING  
UNDER INFLUENCE OF  
ALCOHOL; CRIMES  
COMMITTED WHILE  
INTOXICATED**

**430.850 Treatment program; eligibility.** (1) Subject to the availability of funds therefor, the Mental Health Division may establish and administer a treatment program with courts, with the consent of the judge thereof, for any person convicted of driving under the influence of alcohol, or of any crime committed while the defendant was intoxicated when the judge has probable cause to believe the person is an alcoholic or problem drinker and would benefit from treatment, who is eligible under subsection (2) of this section to participate in such program. The

program shall involve medical and mental treatment to include at least the supplying of disulfiram or any other agent that interferes with normal metabolic degradation of alcohol in the body resulting in an increase in acetaldehyde concentrate in the blood, at regular intervals and under close supervision and control.

(2) A person eligible to participate in the program is a person who:

(a) Has been convicted of driving under the influence of alcohol if such conviction has not been appealed, or if such conviction has been appealed, whose conviction has been sustained upon appeal; or

(b) Has been convicted of any crime committed while the defendant was intoxicated if such conviction has not been reversed on appeal, and when the judge has probable cause to believe the person is an alcoholic or problem drinker and would benefit from treatment; and

(c) Has been referred by the participating court to the Mental Health Division for participation in the treatment program; and

(d) Prior to sentencing, has been medically evaluated by the Mental Health Division and accepted by the division as a participant in the program; and

(e) Has consented as a condition to probation to participate in the program; and

(f) Has been placed upon probation by the court, a condition of which probation is participation in the program according to the rules adopted by the Mental Health Division under ORS 430.870. [1973 c.340 §1]

**430.860 Participation in program; report to court.** The Mental Health Division may:

(1) Accept for medical evaluation any person meeting the conditions defined in paragraph (a) or (b) of subsection (2) of ORS 430.850 and referred for participation in the program by a participating court, cause such medical evaluation to be made and report the results of the evaluation to the referring court;

(2) Within the limitation of funds available to the program, accept any person as a participant in the program who is eligible under subsection (2) of ORS 430.850 and whose medical evaluation shows him suitable to participate in the program; and

(3) Report to the referring court the progress of, and any violation of rules of the division adopted under ORS 430.870 by, a participant. [1973 c.340 §2]

**430.870 Rules of division.** The Mental Health Division shall adopt rules necessary to the efficient administration and functioning of the program and rules regulating the conduct of participants in the program. Rules regulating the conduct of participants in the program shall include but not be limited to rules requiring participants to keep appointments and the time, place and frequency of any dosages. [1973 c.340 §3]

**430.880 Authority to accept gifts, grants or services.** (1) The Mental Health Division may accept gifts and apply for and accept grants or services from the Federal Government or any of its agencies, from associations, individuals and private corporations to carry out the purposes of ORS 430.850 to 430.880.

(2) All moneys received by the division under ORS 430.850 to 430.880 shall be paid into the State Treasury and deposited in the General Fund to the credit of a special account. Such moneys are appropriated continuously to the division for the purposes of ORS 430.850 to 430.880. [1973 c.340 §4]

~~430.890~~ [1973 c.817 §4; repealed by 1979 c.419 §3]

~~430.891~~ [1975 c.150 §4; repealed by 1979 c.419 §3]

#### 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,  
October 1, 1979.

Thomas G. Clifford  
Legislative Counsel

