

Chapter 430

1985 REPLACEMENT PART

Mental Health Administration; Alcohol and Drug Abuse Programs

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DEFINITIONS

430.010 Definitions. As used in ORS 430 010 to 430 050, 430 100 to 430 170, 430 260 to 430 270 and 430 610 to 430 700, unless the context requires otherwise

(1) "Division" means the Mental Health Division

(2) "Health facility" means a facility licensed as required by ORS 441 015 or a facility accredited by the Joint Commission on Accreditation of Hospitals, either of which provides full-day or part-day acute treatment for alcoholism, drug addiction or mental or emotional disturbance, and is licensed to admit persons requiring 24-hour nursing care

(3) "Residential facility" means a program or facility providing an organized full-day or part-day program of treatment, but not licensed to admit persons requiring 24-hour nursing care Such a program or facility shall be

(a) Licensed, approved, established, maintained, contracted with or operated by the Mental Health Division under ORS 430 041, 430 260 to 430 380 and 430 610 to 430 880 for alcoholism,

(b) Licensed, approved, established, maintained, contracted with or operated by the Mental Health Division under ORS 430 041, 430 260 to 430 380, 430 405 to 430 565 and 430 610 to 430 880 for drug addiction, or

(c) Licensed, approved, established, maintained, contracted with or operated by the Mental Health Division under ORS 430 041 and 430.610 to 430 880 for mental or emotional disturbance

(4) "Outpatient service" means a program or service providing treatment by appointment Such a program or service shall be

(a) Licensed, approved, established, maintained, contracted with or operated by the Mental Health Division under ORS 430 041, 430 260 to 430 380 and 430.610 to 430 880 for alcoholism,

(b) Licensed, approved, established, maintained, contracted with or operated by the Mental Health Division under ORS 430.041, 430.260 to 430 380, 430 405 to 430 565 and 430 610 to 430 880 for drug addiction,

(c) Licensed, approved, established, maintained, contracted with or operated by the Mental Health Division under ORS 430 041 and 430 610 to 430 880 for mental or emotional disturbance, or

(d) Provided by medical or osteopathic physicians licensed by the Board of Medical Exam-

iners for the State of Oregon as provided under ORS 677 010 to 677 450, psychologists licensed by the State Board of Psychologist Examiners as provided under ORS 675 010 to 675 150, nurse practitioners registered by the Oregon State Board of Nursing as provided under ORS 678 010 to 678 410, or clinical social workers registered by the State Board of Clinical Social Workers as provided under ORS 675 510 to 675 610 [Derived from 1961 c 706 §§1, 37, 1969 c 597 §81, 1983 c 601 §1]

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) To the greatest extent possible, the least costly settings for treatment, outpatient services and residential facilities shall be widely available and utilized except when contraindicated because of individual health care needs. State agencies that purchase treatment for mental or emotional disturbances shall develop criteria consistent with this policy in consultation with the Mental Health Division and the State Health Planning and Development Agency In reviewing applications for certificates of need, the State Health Planning and Development Agency shall take this policy into account

(5) 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

(6) 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

(7) 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, 1983 c 601 §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 limitation 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; qualifications; duties; compensation and expenses. (1) The Assistant Director for Mental Health, with the approval of the Governor, shall appoint at least 15 but not more than 20 members of 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 membership shall provide balanced representation of program areas and shall include persons who represent the interests of children. 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 division shall adopt rules specifying the duties of the board. In addition to those duties assigned by rule the board shall assist the division in planning and preparation of administrative rules for the assumption of responsibility for psychiatric care in state and community hospitals by community mental health programs, in accordance with ORS 430 630 (3)(e)

(3) The board shall meet at least once each quarter

(4) 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, 1981 c 750 §12]

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 [1961 c 706 §19, 1967 c 263 §2, 1969 c 314 §37, 1969 c 597 §87, 1971 c 622 §5, 1973 c 697 §7, repealed by 1985 c 740 §18]

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 deposited 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, 813.500 and 813.510. 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, 1983 c 338 §927]

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 employees 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]

430.190 Mental Health Division Institution Account. There is hereby established in the General Fund the Mental Health Division Institution Account. Such amounts appropriated, collected or received by the Mental Health Division for the purpose of institution operations shall be available for deposit in the

Mental Health Division Institution Account
The Mental Health Division Institution Account is continuously appropriated to the Mental Health Division for institution operations [1983 c 562 §4, 1985 c 494 §4]

TREATMENT OF ALCOHOLISM AND DRUG DEPENDENCY

430.250 Policy. (1) The Legislative Assembly recognizes that

(a) Dependence on alcohol or other drugs is treatable and preventable,

(b) The Legislative Assembly has a responsibility to the citizens of the state to insure that all related services and resources are provided in an effective and efficient manner, and

(c) State agencies are accountable to coordinate all related services to the maximum extent possible

(2) The Governor's Council on Alcohol and Drug Abuse Programs, created pursuant to ORS 430 255, shall implement the state policy as set forth in subsection (1) of this section by

(a) Developing a state-wide alcohol and drug abuse plan which recommends goals, specific priorities and programs for review by the Governor and the Legislative Assembly; and

(b) Monitoring those programs and financial efforts of the state which prevent, intervene in and treat alcohol and other drug problems for compliance with the approved state-wide alcohol and drug abuse plan

(3) The Legislative Assembly expects as a condition of budget approval that all appropriate state agencies work with and through the Governor's Council on Alcohol and Drug Abuse Programs to assist

(a) In the preparation of the proposed state-wide alcohol and drug abuse plan,

(b) In the implementation, monitoring and evaluation of the state-wide plan approved by the Legislative Assembly, and

(c) In developing and implementing methods for evaluating the effectiveness and efficiency of their respective alcohol and drug abuse prevention, intervention or treatment or rehabilitation services, or any of them [1985 c 740 §1]

Note 430 250 to 430 257 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 Preface to Oregon Revised Statutes for further explanation

430.255 Governor's Council on Alcohol and Drug Abuse Programs; qualifications;

duties; compensation and expenses; removal. (1) There is created in the office of the Governor the Governor's Council on Alcohol and Drug Abuse Programs The council shall consist of not more than 11 members who are appointed by the Governor for terms of four years Members are eligible for one reappointment Members must be without conflicting interests and as representative as possible of.

(a) Geographic regions of the state;

(b) At-risk populations, including among others, youth, the elderly, minorities and women,

(c) Knowledgeable professionals, such as pharmacists, physicians, attorneys and the like who are not necessarily representatives of professional organizations, but who may be recovering,

(d) Knowledgeable nonprofessionals who may represent advocate groups and who may be recovering; and

(e) Local advisory groups.

(2) The duties of the Governor's Council on Alcohol and Drug Abuse Programs are to

(a) Assess the economic and social impact of alcohol and drug abuse on the State of Oregon and report the findings and recommendations to the Governor by January 1 of each even-numbered year

(b) Review and make recommendations to the Governor on the goals, financing, priorities and a state plan for prevention, intervention and treatment of alcohol and drug abuse problems, which encompasses all appropriate state agencies, by January 1 of each even-numbered year

(c) Review alcohol and drug abuse programs and make recommendations to the Governor on the effectiveness and priorities for improvements of all such prevention and treatment programs for alcohol and drug problems engaged in or financed through state agencies by January 1 of each even-numbered year

(3) Members of the council are entitled to compensation and expenses as provided under ORS 292 495

(4) The Governor may remove any member for misconduct, incapacity or neglect of duty

(5) The Assistant Director for Alcohol and Drug Abuse Programs shall provide the technical and financial support as is required and authorized by the Legislative Assembly and as is necessary to carry out this section and ORS 184.750, 430 250, 430 257, 430 270, 430 290, 430 359, 430 368, 430 535 and 430 630 [1985 c 740 §4]

Note: See note under 430 250

430.257 Assistance for council. The administrative heads of the Department of Transportation, Department of Education, Department of Human Resources, Oregon State Police, Traffic Safety Commission, Oregon Liquor Control Commission, Juvenile Services Commission and State Health Planning and Development Agency shall each designate an individual, or in the instance of multidivisional departments, individuals, to serve as liaison to and assist both the Governor's Council on Alcohol and Drug Abuse Programs and the Assistant Director for Alcohol and Drug Abuse Programs in meeting the policies, duties and responsibilities set forth in this section and ORS 184 750, 430 250, 430 255, 430 270, 430 290, 430 359, 430 368, 430 535 and 430 630 [1985 c 740 §6]

Note See note under 430 250

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 Governor's Council on Alcohol and Drug Abuse Programs, 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, 1985 c 740 §12]

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 Governor's Council on Alcohol and Drug Abuse Pro-

grams 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

(3) 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

(4) Every grant applicant shall 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, 1985 c 740 §13]

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, 426 460 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 that illness. To the greatest extent possible, the least costly settings for treatment, outpatient services and residential facilities shall be widely available and utilized except when contraindicated because of individual health care needs. State agencies that purchase treatment for alcoholism or drug dependence shall develop criteria consistent with this policy in consultation with the Mental Health Division and the State Health Planning and Development Agency. In reviewing applica-

tions for certificate of need, the State Health Planning and Development Agency shall take this policy into account [1971 c 622 §1, 1973 c 795 §5, 1983 c 601 §3]

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 813.010, 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, 1983 c 338 §928]

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 Purpose. 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 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, including 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 oppor-

tunities 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) 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 183 550 regardless of whether they come within the definition of rule in ORS 183 310 (8) [Formerly 430 360, 1985 c 565 §70]

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 Governor's Council on Alcohol and Drug Abuse Programs, 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. However, the financial contribution requirement may be waived in its entirety or in part in any year by the Mental Health Division because of

(a) The severe financial hardship that would be imposed to maintain the contribution in full or in part,

(b) The application of any special funds for the treatment and rehabilitation of alcoholics in the prior year when such funds are not available in the current year,

(c) The application of federal funds, including but not limited to general revenue sharing, distributions from the Oregon and California land grant fund and block grant funds to the treatment and rehabilitation of alcoholics in the prior year when such funds are not available for such application in the current year, or

(d) The application of fund balances resulting from fees, donations or underexpenditures in a given year of the funds appropriated to counties pursuant to ORS 430 380 (2) to the treatment and rehabilitation of alcoholics in the prior year when such funds are not available for such application in the current 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, 1985 c 517 §1, 1985 c 740 §14]

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 ORS 430 359 (2), 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 minorities [1977 c 856 §10]

430.364 Consideration given requests for priority. Within the limits of available funds, in giving priority consideration under ORS 430 359 (2), 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 Governor's Council on Alcohol and Drug Abuse Programs, 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 ORS 430 338 (5)

(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. The assistant director is not required to follow procedures for hearing a contested case, but shall set forth written findings justifying the action. The decision of the assistant director shall be final, and shall not be subject to judicial review. [1977 c 856 §13, 1983 c 740 §15]

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 190.003 to 190.620, jointly to establish, operate and maintain alcoholism treatment and rehabilitation programs. [1973 c 682 §§8, 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 the ability of the person 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, 293.810 and 293.820.

(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, 430.270 and 430.405 to 430.425. As used in ORS 161.125, 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 the illness of the drug-dependent person [1973 c 697 §2]

430 425 [1973 c 697 §§4, 5, repealed by 1985 c 740 §18]

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 163 208, 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]

(Treatment Program)

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 the right of the arrested person to evaluation and the possible consequences of such evaluation,

(2) Inform the arrested person of the right of the arrested person 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 the trial of the arrested person [1977 c 871 §8]

430.465 Referral for evaluation. A defendant may be informed of the rights of the defendant to evaluation and, upon giving written consent, may be referred for such evaluation at any time prior to conviction for the offense for which the defendant 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 [1977 c 871 §4, repealed by 1985 c 740 §18]

430.525 [1977 c 871 §§5, 13, repealed by 1985 c 740 §18]

430.535 Duties of division; bilingual forms. (1) The division and the Governor's Council on Alcohol and Drug Abuse Programs 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, 1985 c 740 §16]

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 183 550, 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]

430.580 Approved outpatient programs. (1) If a residential program is offered by or through a health facility, it must be either approved by the Mental Health Division or accredited by the Joint Commission on Accreditation of Hospitals

(2) If an outpatient program is offered by or through a health facility, it must be either approved by the Mental Health Division or accredited by the Joint Commission on Accreditation of Hospitals [1983 c 601 §2]

LOCAL MENTAL HEALTH SERVICES

430.610 Legislative policy. It is declared to be the policy and intent of the Legislative Assembly that

(1) Subject to the availability of funds, mental health services should be available to all mentally or emotionally disturbed, mentally retarded and developmentally disabled, alcohol abuser, alcoholic, drug abuser and drug-dependent persons regardless of age, county of residence or ability to pay,

(2) The divisions of the Department of Human Resources and other state agencies shall conduct their activities in the least costly and most efficient manner so that delivery of services to the mentally or emotionally disturbed, mentally retarded and developmentally disabled, alcohol abuser, alcoholic, drug abuser and drug-dependent persons shall be effective and coordinated,

(3) To the greatest extent possible, mental health services shall be delivered in the community where the person lives in order to achieve maximum coordination of services and minimum disruption in the life of the person, and

(4) The State of Oregon shall encourage, aid and financially assist its county governments 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 alcohol abuser, alcoholic, drug abuser and drug-dependent persons and prevention of these problems through county administered community mental health programs [1961 c 706 §36, 1973 c 639 §1, 1981 c 750 §1]

430.620 Establishment of community mental health program 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) In conformity with the rules 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, 1981 c 750 §2]

430.630 Services to be provided by mental health program; alternative and additional services. (1) In addition to any other requirements which may be established by rule by the Mental Health Division, each community mental health program shall provide the following basic services to persons with mental retardation and developmental disabilities and alcohol abuse, alcoholism, drug abuse and drug dependence

(a) Outpatient services,

(b) Aftercare for persons released from hospitals and training centers,

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

(d) Guidance and assistance to other human service agencies for joint development of prevention programs and activities to reduce factors causing mental retardation and developmental disabilities and alcohol abuse, alcoholism, drug abuse 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 retarded and developmentally disabled, alcohol abuser, alcoholic, drug abuser 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 preschool 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, and

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

(3) In addition to any other requirements which may be established by rule of the Mental Health Division, each community mental health program, subject to the availability of funds, shall provide or assure the provision of the following services to persons with mental or emotional disturbances

(a) Screening and evaluation to determine the client's service needs,

(b) Crisis stabilization to meet the needs of persons suffering acute mental or emotional disturbances, including the costs of investigations and prehearing detention in community hospitals or other facilities approved by the division for persons involved in involuntary commitment procedures,

(c) Vocational and social services that are appropriate for the client's age, designed to improve the client's vocational, social, educational and recreational functioning,

(d) Continuity of care to link the client to housing and appropriate and available health and social service needs,

(e) Psychiatric care in state and community hospitals, subject to the provisions of subsection (4) of this section and ORS 430 700,

(f) Residential services,

(g) Medication monitoring,

(h) Individual, family and group counseling and therapy,

(i) Public education and information,

(j) Prevention of mental or emotional disturbances and promotion of mental health, and

(k) Consultation with other community agencies

(4) A community mental health program shall assume responsibility for psychiatric care in state and community hospitals, as provided in paragraph (e) of subsection (3) of this section and as consistent with ORS 430 700, in the following circumstances

(a) The person receiving care is a resident of the county served by the program. For purposes of this paragraph, "resident" means the resident of a county in which the person maintains a current mailing address or, if the person does not maintain a current mailing address within the state, the county in which the person is found, or the county in which a court committed mentally ill person has been conditionally released

(b) The person has been hospitalized involuntarily or voluntarily, pursuant to ORS 426 130 (3) or 426 220, except for persons confined to the Secure Child and Adolescent Treatment Unit at Oregon State Hospital, or has been hospitalized as the result of a revocation of conditional release

(c) Payment is made for the first 60 consecutive days of hospitalization

(d) The hospital has collected all available patient payments and third-party reimbursements

(e) In the case of a community hospital, the division has approved the hospital for the care of mentally or emotionally disturbed persons, the community mental health program has a contract with the hospital for the psychiatric care of residents and a representative of the program approves voluntary or involuntary admissions to the hospital prior to admission

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

(6) Each community mental health program and the state hospital serving the program's geographic area shall enter into a written agreement concerning the policies and procedures to be followed by the program and the hospital when a patient is admitted to, and discharged from, the hospital and during the period of hospitalization

(7) Each community mental health program shall submit a biennial plan, budget information and progress report documenting needs and conformance with the requirements of this section and shall maintain records and submit other data, including the evaluation data described in ORS 430 655, as required by the division

(8) Each community mental health program shall have a mental health advisory committee, appointed by the board of county commissioners or the county court or, if two or more counties have combined to provide mental health services, the boards or courts of the participating counties or, in the case of a Native American reservation, the tribal council

(9) A community mental health program may request and the Mental Health Division may grant a waiver regarding provision of one or more of the services described in subsection (3) of this section upon a showing by the county and a determination by the division that mentally or emotionally disturbed persons in that county would be better served and unnecessary institutionalization avoided.

(10) Each community mental health program shall cooperate fully with the Governor's Council on Alcohol and Drug Abuse Programs in the performance of its duties [1961 c 706 §40, 1973 c 639 §3, 1981 c 750 §3, 1985 c 740 §17]

430.640 Duties of division in assisting and supervising mental health programs.

(1) The Mental Health Division, in carrying out the legislative policy declared in ORS 430 610, subject to the availability of funds shall

(a) Assist 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) If a county declines to operate or contract for a community mental health program, contract with another public agency or private corporation to provide the program. The county must be provided with an opportunity to review and comment

(c) In an emergency situation when no community mental health program is operating within a county or a county is unable to provide a service essential to public health and safety, operate the program or service on a temporary basis

(d) At the request of the tribal council of a land-based tribe of Native Americans whose reservation extends into two or more counties, contract with the tribal council for the establishment and operation of a community mental health program in the same manner that the division contracts with a county court or board of county commissioners

(e) If a county agrees, contract with a public agency or private corporation for all services within one or more of the following program areas. Mental or emotional disturbances, drug abuse, mental retardation or other developmental disabilities and alcohol abuse and alcoholism

(f) Establish and promulgate the standards and requirements to be met by the biennial plan and budget information for the establishment and operation of each community mental health program including the requirement that all services described in ORS 430 630 (3) are provided by each program unless a waiver has been granted

(g) Approve or disapprove the biennial plan and budget information for the establishment and operation of each community mental health program No subsequent amendments to or modifications of an approved plan or budget information involving more than 10 percent of the state funds provided for services under ORS 430 630 shall be placed in effect without prior approval of the division However, an amendment or modification affecting 10 percent or less of state funds for services under ORS 430 630 within the portion of the program for persons with mental or emotional disturbances, or within the portion for persons with mental retardation and developmental disabilities or within the portion for persons with alcohol and drug dependence may be made without division approval

(h) Make all necessary and proper rules to govern the establishment and operation of community mental health programs, including adopting rules defining the range and nature of the services which shall or may be provided under ORS 430 630

(i) Collect data and evaluate services in the state hospitals in accordance with the same methods prescribed for community mental health programs under ORS 430 655

(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, 1981 c 750 §7]

430 650 [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, repealed by 1981 c 750 §17]

430 655 [1973 c 639 §9, repealed by 1981 c 750 §17]

430.660 Federal laws, rules and regulations govern activities under ORS 430.610 to 430.670 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 430 700 [1961 c 706 §42, 1973 c 639 §6]

430.665 Evaluation of programs; population schedule for distributing funds. (1) In order to improve services to mentally or emotionally disturbed persons and provide information for uniform analysis, each community mental health program shall collect and report data and evaluate programs in accordance with methods prescribed by the division after consultation with the program directors

(2) Information collected by the division under subsection (1) of this section shall include, but need not be limited to

- (a) Numbers of persons served,
- (b) Types of services provided, and
- (c) Cost of services

(3) Within the limits of available funds allocated for the administration of community mental health programs, community mental health programs shall collect data and evaluate programs with moneys provided by the division The division shall distribute funds so that programs within the same population grouping shall receive equal amounts of funds The population groupings are

- (a) More than 400,000 population
- (b) Less than 400,000 but more than 100,000
- (c) Less than 100,000 but more than 50,000.
- (d) Less than 50,000

(4) During the first biennium that a new service is funded by the division, two percent of the service funds shall be set aside for use in data collection and evaluation of the service Thereafter, the service shall be evaluated as a part of the total community mental health program [1981 c 750 §5]

430.670 Contracts to provide services; approval of division. (1) A community men-

tal health program may provide services by contracting therefor with a public agency, private corporation or individual. 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 430 700.

(2) A private corporation which contracts with a county or the division to operate a community mental health program shall provide an opportunity for competition among private care providers when awarding subcontracts for provision of services described in ORS 430 630 (1) to (3) [1963 c 117 §1, 1973 c 639 §7, 1981 c 750 §14].

430.675 Priority for services where hospitalization possible. Within the limits of available funds, community mental health programs shall provide those services as defined in ORS 430 630 (3)(a) to (h) to persons in the following order of priority:

(1) Those persons who, in accordance with the assessment of professionals in the field of mental health, are at immediate risk of hospitalization for the treatment of mental or emotional disturbances or are in need of continuing services to avoid hospitalization or pose a hazard to the health and safety of themselves or others and those persons under 18 years of age who, in accordance with the assessment of professionals in the field of mental health, are at immediate risk of removal from their homes for treatment of mental or emotional disturbances or exhibit behavior indicating high risk of developing disturbances of a severe or persistent nature,

(2) Those persons who, because of the nature of their illness, their geographic location or their family income, are least capable of obtaining assistance from the private sector, and

(3) Those persons who, in accordance with the assessment of professionals in the field of mental health, are experiencing mental or emotional disturbances but will not require hospitalization in the foreseeable future [1981 c 750 §6].

430.685 Priorities for services for mentally and emotionally disturbed. In allocating funds for community mental health programs affecting the mentally and emotionally disturbed, the Mental Health Division shall observe the following priorities:

(1) To assure the establishment and operation of community mental health programs for the mentally and emotionally disturbed in every geographic area of the state to provide some services in each category of services described in ORS 430 630 (3) unless a waiver has been granted,

(2) To assure survival of services that address the needs of persons within the priority of services under ORS 430 675 and that meet division standards,

(3) To develop the interest and capacity of community mental health programs to provide new or expanded services to meet the needs for services under ORS 430 675 and to promote the equal availability of such services throughout the state, and

(4) To encourage and assist in the development of model projects to test new services and innovative methods of service delivery [1981 c 750 §10].

430.690 Distribution formula; matching funds; administrative expenses. (1) Within the limits of state funds, community mental health program services shall be funded as follows:

(a) Services defined in ORS 430 630 (1) and (2) shall be funded up to 100 percent with state funds.

(b) State funds available for payments to community mental health programs for services under ORS 430 630 (3) shall be paid by the Mental Health Division to the programs under the priorities set forth in ORS 430 685.

(2) If a group of counties acts jointly to operate a community mental health program, state funds shall be allocated, and the counties' contributions shall be prorated, in accordance with the agreement establishing the program.

(3) The counties or other entities operating community mental health programs shall not be required to match funds granted under subsections (1) and (2) of this section. However, the division may require matching funds if they are required as a condition of receipt of federal funds and the county or entity agrees to match funds.

(4) A reasonable portion of state funds granted under paragraph (b) of subsection (1) of this section may be expended by community mental health programs and their subcontractors for expenses incurred in administering services [1981 c 750 §§8, 11].

430.695 Where local receipts treated as offsets or receipts. (1) Any program fees, third-party reimbursements, contributions or funds from any source, except client resources applied toward the cost of care in group homes for the mentally retarded and mentally ill and client resources and third-party payments for community psychiatric inpatient care, received by a community mental health program are not an offset to the costs of the services and shall not be

applied to reduce the program's eligibility for state funds providing such funds are expended for mental health services approved by the division

(2) Within the limits of available funds, the division may contract for specialized, state-wide and regional services including but not limited to group homes for the mentally retarded or mentally or emotionally disturbed persons, day and residential treatment programs for mentally or emotionally disturbed children and adolescents and community services for clients of the Psychiatric Security Review Board

(3) Beginning July 1, 1981, fees and third-party reimbursements, including all amounts paid pursuant to Title XIX of the Social Security Act by the Department of Human Resources, for services rendered by the community mental health program and interest earned on such funds shall be retained by the program and expended for any service which meets the standards of the division [1981 c 750 §9]

430.700 Local plan to assume responsibility for state-provided care. (1) After July 1, 1981, but before the date fixed under subsection (6) of this section, each community mental health program may prepare an addendum to its mental health plan and budget information to provide for the program's assumption of responsibility for psychiatric care in state and community hospitals, in accordance with ORS 430 630 (3)(e) and (4)

(2) Upon approval of the addendum to the mental health plan and budget information by the Mental Health Division, the division shall transfer funds as specified by contract to the program for assumption of the responsibility described in subsection (1) of this section

(3) During the 1981-1983 biennium, with the cooperation of one or more community mental health programs, the Mental Health Division shall undertake pilot projects to determine whether it is feasible to use state hospital resources and funds to provide community mental health services

(4) Any such project may include, but is not limited to, the following provisions:

(a) Transfer of funds for state hospital services to one or more community mental health programs for the provision of community mental health services,

(b) Closure of one or more wards at any state hospital,

(c) Payment by a community mental health program of the cost of care or a portion of the cost of care at state hospitals for patients from the program's service area,

(d) Transferring to a participating community mental health program the responsibility for the care, custody and treatment of voluntarily committed mentally ill persons and involuntarily committed mentally ill persons under ORS chapter 426

(5) The division shall report to the 1983 Legislative Assembly concerning the nature of projects undertaken pursuant to this section, the results of the projects and shall recommend a method for implementation of a state-wide system under which community mental health programs shall assume responsibility for state hospital services to persons described in ORS 430 630 (3)(e) and (4)(a), (b), (c) and (d)

(6) The 1983 Legislative Assembly shall establish the effective date by which each community mental health program shall assume responsibility for psychiatric care in state and community hospitals in accordance with ORS 430 630 (3)(e) and (4)(a), (b), (c) and (d) [1981 c 750 §13]

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]

430 760 [1969 c 253 §1, repealed by 1985 c 555 §26]

430 770 [1969 c 253 §2, repealed by 1985 c 555 §26]

430 780 [1969 c 253 §3, repealed by 1985 c 555 §26]

430 790 [1969 c 253 §4, repealed by 1985 c 555 §26]

430 810 [1969 c 253 §5, repealed by 1985 c 555 §26]

430 820 [1969 c 253 §6, repealed by 1985 c 555 §26]

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 ORS 430 850 (2)(a) or (b) 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 ORS 430 850 (2) and whose medical evaluation shows the person 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]

MENTAL HEALTH; ALCOHOL AND DRUG ABUSE

430 891 [1975 c 150 §4, repealed by 1979 c 419 §3]
