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Chapter 431

1989 EDITION

State and Local Administration and Enforcement of Health Laws

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- 431.005 [1973 c.358 §1; repealed by 1977 c.751 §39]
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 431.015 [1973 c.358 §2; repealed by 1977 c.751 §39]
 431.019 [1973 c.358 §2a; repealed by 1977 c.751 §39]
 431.020 [Amended by 1967 c.461 §2; 1971 c.650 §6, repealed by 1973 c.358 §15]
 431.023 [1973 c.358 §4; repealed by 1977 c.751 §39]
 431.025 [1971 c.650 §11; repealed by 1973 c.358 §15]
 431.030 [Repealed by 1971 c.650 §51]

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

(2) The official act of any such person so acting in the assistant director's name and by the authority of the assistant director shall be deemed to be an official act of the assistant director. [1973 c.829 §2]

431.040 [Amended by 1969 c.314 §39; 1971 c.650 §7; repealed by 1973 c.358 §15]

431.045 Deputy Assistant Director for Health; appointment; qualifications; duties; salary. (1) The Assistant Director for Health, after interview of qualified persons, shall appoint a Deputy Assistant Director for Health who shall be responsible for such duties as the assistant director may prescribe.

(2) Either the Assistant Director for Health or the Deputy Assistant Director for Health shall be a physician licensed by the Board of Medical Examiners for the State of Oregon and certified by the American Board of Preventive Medicine who shall serve as the Public Health Officer and be responsible for the medical and paramedical aspects of the health programs within the division.

(3) The Deputy Assistant Director for Health shall be in the unclassified service and shall receive such salary as may be provided by law. [1971 c.650 §2; 1973 c.358 §5; 1977 c.267 §18; 1987 c.618 §1]

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

431.053 [1973 c.358 §3; repealed by 1977 c.751 §39]

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

431.060 [Repealed by 1971 c.650 §51]

431.065 Custody of records. (1) The Assistant Director for Health may designate employees to be custodian of records within any of the administrative units of the Health Division, and persons so designated shall have the duties and powers of custodians of public records as prescribed by law.

(2) Such designation shall be in writing and notice thereof shall be filed in the offices of the Secretary of State and the assistant director, and in the administrative unit to which the authorization applies.

(3) Authority conferred upon employees of the Health Division under this section is in addition to that conferred upon the assistant director by statute. The assistant director shall be responsible for the acts of designees under this section. [1971 c.37 §2, 1977 c.582 §7]

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

ENFORCEMENT OF HEALTH LAWS AND RULES

431.110 General powers of Health Division. Subject to ORS 417.300 and 417.305, the Health Division shall:

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

(2) Keep the vital statistics and other health related statistics of the state.

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

(4) Investigate, conduct hearings and issue findings in connection with annexations proposed by cities as provided in ORS 222.840 to 222.915.

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

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

(7) From time to time, publish and distribute to the public in such form as the division determines, such information as in its judgment may be useful in carrying on the work or purposes for which the division was established.

(8) Carry out the duties imposed on the division under ORS chapter 690. [Amended by 1955 c.105 §1; 1967 c.624 §18; 1971 c.650 §9; 1977 c.582 §8; 1987 c.414 §83; 1989 c.834 §18]

431.120 Duties of Health Division. The Health Division shall:

(1) Enforce state health policies and rules.

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

(3) Give such instructions as may be necessary, and forward them to the various local public health administrators throughout the state.

(4) Routinely conduct epidemiological investigations for each case of sudden infant death syndrome including, but not limited to, the identification of risk factors such as birth weight, maternal age, prenatal care, history of apnea and socioeconomic characteristics. The division may conduct such investigations through local health departments only upon adoption by rule of a uniform epidemiological data collection method. [Amended by 1971 c.650 §10; 1977 c.582 §9, 1981 c.385 §1]

431.130 [Amended by 1959 c.629 §5; 1959 c.684 §2; 1961 c.725 §10; 1963 c.32 §1, 1965 c.362 §3, 1969 c.14 §2, 1969 c.641 §16, 1971 c.195 §1, 1971 c.413 §13; 1971 c.763 §13; 1973 c.408 §33, 1973 c.833 §41; 1973 c.835 §233; repealed by 1977 c.582 §61]

431.140 Effect of rules. (1) All rules of the Health Division shall have the force and effect of law.

(2) All state and local officers and employees, including peace officers, shall enforce such rules subject to the authority of the Assistant Director for Health. [Amended by 1959 c.314 §21; 1973 c.833 §42; 1977 c.582 §10]

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

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

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

(4) When any case of violation of the public health laws of this state is reported to any district attorney or official acting in said capacity, such official shall forthwith initiate and promptly follow up the necessary pro-

ceedings against the parties responsible for the alleged violations of law.

(5) Upon request of the Health Division, the Attorney General shall likewise assist in the enforcement of the public health laws of this state. [Amended by 1959 c.314 §22; 1971 c.650 §12, 1973 c.833 §43, 1973 c.835 §165; 1974 s.s. c.36 §12; 1977 c.582 §11]

431.155 Restraining violation of public health laws. (1) Whenever it appears to the Health Division that any person is engaged or about to engage in any acts or practices which constitute a violation of any statute administered by the division or its assistant director, or any rule or order issued thereunder, the division may institute proceedings in the circuit courts to enforce obedience thereto by injunction, or by other processes, mandatory or otherwise, restraining such person, or its officers, agents, employees and representatives from further violation of such statute, rule or order, and enjoining upon them obedience thereto.

(2) The provisions of this section are in addition to and not in substitution of any other enforcement provisions contained in any statute administered by the Health Division or its assistant director. [1967 c.94 §2; 1971 c.650 §13; 1977 c.582 §12]

431.157 County authority to restrain violation of public health laws. Pursuant to ORS 448.100 (1), 446.425 (1) and 624.510 (1), the county is delegated the authority granted to the Assistant Director for Health in ORS 431.155. [1983 c.370 §4]

Note: 431.157 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 431 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

431.160 Jurisdiction and commencement of prosecutions. (1) District courts have concurrent jurisdiction with the circuit courts of all prosecutions arising under the public health statutes.

(2) The district attorney, county attorney or Attorney General may institute prosecutions for violation of any public health statute by information, by indictment or by complaint verified before any magistrate. [Amended by 1959 c.314 §23; 1973 c.833 §44; 1977 c.582 §13]

431.170 Enforcing health laws and rules when local officers are delinquent. (1) The Assistant Director for Health shall take direct charge of the functions that are necessary to preserve the public health in any county or district whenever any county or district official fails or refuses to administer or enforce the public health laws or rules which the Assistant Director for Health, the department of the assistant director or board is charged to enforce.

(2) The Assistant Director for Health may call to the aid of the assistant director such assistance as is necessary for the enforcement of such statutes and rules, the expense of which shall be borne by the county or district making the use of this procedure necessary, to be paid out of the respective county or district treasury upon vouchers properly certified by the Assistant Director for Health. [Amended by 1959 c.314 §24; 1973 c.833 §45; 1977 c.582 §14]

431.175 Warrant procedure. If necessary, the Assistant Director for Health or a designee thereof, the State Fire Marshal or a designee thereof or an officer of a law enforcement agency may appear before any magistrate empowered to issue warrants in criminal cases, and require such magistrate to issue a warrant, directing it to any sheriff or deputy or any constable or policeman, to enter the described property or to remove any person or obstacle, or to defend any threatened violence to the assistant director or a designee thereof, the State Fire Marshal or a designee thereof or an officer, upon entering private property, or to assist the assistant director in any way. [Formerly 433.025]

Note: Section 27, chapter 915, Oregon Laws 1989, provides:

Sec. 27. The provisions of this Act first become operative on July 1, 1989, for purposes of operation of rules and other actions necessary to implement fully the provisions of this Act on July 1, 1990. However, if the Emergency Board reviews but does not approve fees as required under section 14 of this Act, this Act shall not be implemented until July 1, 1991.

Note: 431.175 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 431 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

431.180 Interference with individual's selection of physician or treatment or with religious practice prohibited. Nothing in the public health laws shall be construed to empower or authorize the Health Division or its representatives, or any county or district board of health or its representatives to interfere in any manner with the individual's right to select the physician or mode of treatment of the choice of the individual, nor interfere with the practice of any person whose religion treats or administers to the sick or suffering by purely spiritual means. However, sanitary laws and rules must be complied with. [Amended by 1977 c.582 §15]

431.190 Advisory board on health care professions; duties; purpose of board rules. The Assistant Director for Health shall appoint, not later than 60 days after October 4, 1977, an advisory board under ORS 431.325 to study the practices and procedures of the health care professions in this state and to recommend rules relating to the

auditing of health care practices in hospitals which will:

(1) Promote standard record keeping by hospitals and persons practicing any of the healing arts in hospitals;

(2) Establish those criteria most appropriate for determining the proper objects of such auditing; and

(3) Insure auditing of those practices and procedures most relevant to the causes and occurrence of professional negligence in hospitals. [1977 c.448 §8]

431.195 Oregon Public Health Advisory Board; members; terms; meetings; compensation; duties. (1) There is established the Oregon Public Health Advisory Board to serve as an advisory body to the Assistant Director for Health.

(2) The members of the board shall be residents of this state and shall be appointed by the Governor. The board shall consist of 15 members at least one-half of whom shall be public members broadly representing the state as a whole and the others to include representatives of local government and public and private health providers. At least two representatives, one consumer and one provider, from the Oregon Health Council shall serve on the board.

(3) The Oregon Public Health Advisory Board shall:

(a) Advise the Assistant Director for Health on policy matters related to the operation of the agency.

(b) Provide a review of state-wide public health issues and make recommendations to the assistant director.

(c) Participate in public health policy development.

(4) Members shall be appointed for four-year terms. No person shall serve more than two consecutive terms.

(5) The board shall meet at least quarterly.

(6) Members of the board shall be entitled to compensation and expenses as provided in ORS 292.495.

(7) Vacancies on the board shall be filled by appointments of the Governor for the unexpired term. [1983 c.653 §1]

Note: 431.195 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 431 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation

FINANCIAL ADMINISTRATION; SURPLUS PROPERTY; FEDERAL AID

431.210 Health Division Account. (1) There is established in the General Fund the

Health Division Account, classified separately as to federal and other moneys.

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

(3) All moneys credited to the Health Division Account hereby are appropriated and made available for the payment of expenses of the Health Division. [Amended by 1971 c 650 §14; 1973 c 427 §5; 1977 c 582 §16]

431.220 Record of moneys in Health Division Account. The division shall keep a record of all moneys deposited in the Health Division Account. This record shall indicate by separate cumulative accounts the source from which the moneys are derived and the individual activity or program against which each withdrawal is charged. [Amended by 1973 c.427 §6; 1977 c.582 §17]

431.230 Emergency or revolving fund.

(1) The Assistant Director for Health may request in writing the Executive Department to, and when so requested, the Executive Department shall, draw a warrant on the Health Division Account in favor of the Assistant Director for Health in a sum not exceeding \$20,000, which sum shall be used by the assistant director as an emergency or revolving fund.

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

(3) All claims for reimbursement of advances paid from the emergency fund shall be approved by the Health Division. When such claims are so approved, warrants covering them shall be drawn in favor of the Assistant Director for Health and charged against the appropriate fund or account, and shall be used to reimburse the emergency or revolving fund. [Amended by 1973 c.427 §7; 1975 c.614 §16]

431.240 [Repealed by 1955 c.147 §1]

431.250 Federal grants to be handled by Department of Human Resources; disbursement; planning. (1) The Department of Human Resources hereby is designated as the state agency to apply to and receive from the Federal Government or any agency thereof such grants for promoting public health and the prevention of disease, including grants for cancer control and industrial hygiene programs, as may be available to

this state or any of its political subdivisions or agencies. The department may designate any of its divisions to make applications and receive funds for the purposes set forth in this subsection.

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

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

(b) Adopt, carry out and administer plans for those purposes. Plans so adopted shall be made state wide in application in so far as reasonably feasible, possible or permissible, and shall be so devised as to meet the approval of the Federal Government or any of its agencies, not inconsistent with the laws of the state. [Amended by 1961 c 706 §20a, 1967 c 343 §1, 1971 c 650 §15; 1973 c 829 §20, 1977 c.751 §34; subsections (3), (4) renumbered 442.110]

STATE LABORATORY

431.310 Bacteriological and other examinations by state laboratory; fees. (1) For the better protection of the public health the laboratory of the Health Division shall make bacteriological and other examinations of water, milk, blood, secretions or tissues required by any state, county or city institution, or officer, and may make such examinations for any licensed physician in accordance with the rules of the division.

(2) The division shall establish by rule and collect fees for tests performed in the state public health laboratory, not to exceed:

(a) \$10 per specimen for various metabolic disease tests;

(b) \$35 per specimen for mycology and virology tests; and

(c) \$40 per specimen for reference culture tests.

(3) All money received for such tests shall be deposited in the Health Division Account to be used for expenses of the division. [Amended by 1977 c 582 §18, 1981 c.630 §1; 1983 c.351 §1]

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

LICENSING OF HEALTH FACILITIES

431.325 Authority of Health Division in licensing health facilities; advisory boards. (1) The Health Division is the authority responsible for licensing of health facilities in this state. The Assistant Director for Health may appoint advisory boards, the members of which shall be skilled by training or experience in the areas of their responsibilities and who shall serve at the pleasure of the assistant director, who shall assist and

advise in carrying out the responsibilities of the assistant director and those of the division in the licensing, approval or supervision of clinical laboratories, hospitals, nursing homes, homes for the aged, group care homes, manufactured dwelling and tourist facilities or swimming facilities, or in the performance of any other duties of the assistant director or the division, as the assistant director may deem appropriate.

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

(3) The Health Division shall establish general or specific standards of health and sanitation applicable to health facilities, and shall implement and require compliance with such standards. [1971 c.650 §17, 1977 c.582 §19]

CONFERENCE OF LOCAL HEALTH OFFICIALS

431.330 Conference of Local Health Officials; officers of conference. (1) The Conference of Local Health Officials is created. The conference shall consist of all local health officers and public health administrators, appointed pursuant to ORS 431.418 and such other local health personnel as may be included by the rules of the conference.

(2) The Conference of Local Health Officials shall select one of its members as chairman, another as vice chairman and another as secretary with such powers and duties necessary to the performance of the functions of such offices as the conference shall determine. The chairman, after consultation with the Assistant Director for Health, shall appoint from the conference membership an executive committee. The executive committee with the chairman shall advise the Assistant Director for Health in the administration of ORS 431.330 to 431.350. [1967 c.146 §2 (enacted in lieu of 431.320), 1977 c.582 §20, 1979 c.96 §1]

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

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

(3) Each conference member shall receive from the local board which the conference

member represents from funds available under ORS 431.510, the actual and necessary travel and other expenses incurred by the conference member in attendance at no more than two meetings of the conference per year. Additionally, subject to applicable law regulating travel and other expenses for state officers, a local health official who is a member of the executive committee of the conference or who is the chairman shall receive from funds available to the Health Division, actual and necessary travel and other expenses for attendance at no more than six meetings per year of the executive committee called by the Health Division. [1967 c.146 §3 (enacted in lieu of 431.320), 1977 c.582 §21]

431.340 Recommendations of conference. The Conference of Local Health Officials may submit to the Health Division such recommendations on the rules and standards specified in ORS 431.345 and 431.350. [1967 c.146 §6 (enacted in lieu of 431.320); 1977 c.582 §22]

431.345 Minimum standards for financial assistance to local boards of health. In order to establish criteria for local boards of health to qualify for such financial assistance as may be made available, the Health Division, upon receipt of written approval from the Conference of Local Health Officials shall adopt minimum standards governing:

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

(2) Organization, operation and extent of activities which are required or expected of local health departments to carry out their responsibilities in implementing the public health laws of this state and the rules of the Health Division. [1967 c.146 §5 (enacted in lieu of 431.320), 1977 c.582 §23]

431.350 Division to adopt rules for ORS 431.330 to 431.350. Upon receipt of written approval from the Conference of Local Health Officials the Health Division shall adopt rules necessary for the administration of ORS 431.330 to 431.350. [1967 c.146 §4 (enacted in lieu of 431.320); 1977 c.582 §24]

LOCAL PUBLIC HEALTH SERVICES

431.375 Policy on local public health services. (1) The Legislative Assembly of the State of Oregon finds that each citizen of this state is entitled to basic public health services which promote and preserve the health of the people of Oregon. To provide for basic public health services the state, in partnership with county governments, shall maintain and improve public health services

through county or district administered public health programs.

(2) County governments or health districts established under ORS 431.414 are the local public health authority responsible for management of local public health services unless the county contracts with private persons or an agency to act as the local public health authority or the county relinquishes authority to the state. If authority is relinquished, the state may then contract with private persons or an agency or perform the services.

(3) All expenditure of public funds utilized to provide public health services on the local level must be approved by the local public health authority unless the county has relinquished authority to the state or an exception has been approved by the Health Division with the concurrence of the Conference of Local Health Officials. [1983 c 398 §1]

Note: 431.375 to 431.385 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 431 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

431.380 Distribution of funds for local purposes. (1) From funds available to the division for local public health purposes, regardless of the source, the Health Division shall provide payments to the local public health authority on a per capita or other equitable formula basis to be used for public health services. Funding formulas shall be determined by the Health Division with the concurrence of the Conference of Local Health Officials.

(2) With respect to counties that have established joint public health services with another county, either by agreement or the formation of a district board of health, distribution of funds made available under the provisions of this section shall be prorated to such counties as provided by agreement or under ORS 431.510. [1983 c 398 §2]

Note: See note under 431.375.

431.385 Local annual plan; effect of failure to submit plan; approval; disapproval; variance. (1) The local public health authority shall submit an annual plan to the Health Division for performing services pursuant to ORS 431.375 to 431.385 and 431.416. The annual plan shall be submitted no later than May 1 of each year or on a date mutually agreeable to the Health Division and the local public health authority.

(2) If the local public health authority decides not to submit an annual plan under the provisions of ORS 431.375 to 431.385 and 431.416, the Health Division shall become the local public health authority for that county or health district.

(3) The Health Division shall review and approve or disapprove each plan. Variances to the local public health plan must be approved by the Health Division. In consultation with the Conference of Local Health Officials, the Health Division shall establish the elements of a plan and an appeals process whereby a local health authority may obtain a hearing if its plan is disapproved. [1983 c 398 §3]

Note: See note under 431.375

LOCAL BOARDS OF HEALTH

431.405 Purpose of ORS 431.405 to 431.510. It is the purpose of ORS 431.405 to 431.510 to encourage improvement and standardization of health departments in order to provide a more effective and more efficient public health service throughout the state. [1961 c.610 §1]

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

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

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

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

(b) One member of the administrative school board, the county school board or the education service district board who resides in the county and is selected by the education service district board, or the designee of that member.

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

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

(e) Three others.

(3) The members referred to in paragraphs (c) to (e) of subsection (2) of this section shall be appointed by the members serving under paragraphs (a) and (b) of subsection (2) of this section. The term of office of each of such appointed members shall be

four years, terms to expire annually on February 1. The first appointments shall be for terms of one, two, three or four years, as designated by the appointing members of the board.

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

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

(a) Persons licensed by this state as health care practitioners.

(b) Persons who are well informed on public health matters. [Formerly 431.470; 1963 c 544 §49, 1977 c 582 §25; 1981 c.127 §1; 1987 c.618 §2]

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

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

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

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

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

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

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

(e) One dentist who has been licensed to practice dentistry in this state by the Oregon

Board of Dentistry and who is a resident of the district.

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

(4) The term of office of the members referred to in paragraphs (c) to (f) of subsection (3) of this section shall be four years, the terms to expire annually on February 1. The first appointments shall be for terms of one, two, three or four years, as may be designated by two-thirds vote of the members from each participating county.

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

(6) The governing bodies of the counties making up the district may appoint a public health advisory board for terms of four years, the terms to expire annually on February 1. The first appointments shall be for terms of one, two, three or four years as designated by the governing body. The advisory board shall meet regularly to advise the district board of health on matters of public health. The advisory board shall consist of:

(a) Persons licensed by this state as health care practitioners.

(b) Persons who are well informed on public health matters. [Formerly 431.610; 1973 c.829 §21; 1977 c 582 §26; 1987 c 618 §3]

431.415 Powers and duties of local health boards; fee schedules. (1) The district or county board of health is the policymaking body of the county or district in implementing the duties of local departments of health under ORS 431.416.

(2) The district or county board of health shall adopt rules necessary to carry out its policies under subsection (1) of this section. The county or district board of health shall adopt no rule or policy which is inconsistent with or less strict than any public health law or rule of the Health Division.

(3) With the permission of the county governing body, a county board may, and with the permission of the governing bodies of the counties involved, a district board may, adopt schedules of fees for public health services reasonably calculated not to exceed the cost of the services performed. The health department shall charge fees in accordance with such schedule or schedules adopted. [1961 c 610 §6; 1973 c.829 §22; 1977 c.582 §27]

431.416 Local public health authority or health district; duties. The local public health authority or health district shall:

(1) Administer and enforce the rules of the local public health authority or the

health district and public health laws and the rules of the Health Division.

(2) Assure activities necessary for the preservation of health or prevention of disease in the area under its jurisdiction as provided in the annual plan of the authority or district are performed. These activities shall include but not be limited to:

(a) Epidemiology and control of preventable diseases and disorders;

(b) Parent and child health services, including family planning clinics as described in ORS 435.205;

(c) Collection and reporting of health statistics;

(d) Health information and referral services; and

(e) Environmental health services. [1961 c.610 §8, 1973 c.829 §23, 1977 c.582 §28, 1983 c.398 §4]

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

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

(3) The public health administrator shall:

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

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

(c) Provide the board at appropriate intervals information concerning the activities

of the department and submit an annual budget for the approval of the county governing body except that, in the case of the district public health administrator, the budget shall be submitted to the governing bodies of the participating counties for approval.

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

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

(4) The public health administrator shall serve until removed by the appointing board. The public health administrator shall engage in no occupation which conflicts with official duties and shall devote full time to duties as public health administrator. However, if the board of health is not created under ORS 431.412, it may, with the approval of the Assistant Director for Health, require less than full-time service of the public health administrator.

(5) The public health administrator shall receive a salary fixed by the appointing board and shall be reimbursed for actual and necessary expenses incurred in the performance of duties. [1961 c.610 §7; 1973 c.829 §24; 1977 c.582 §29, 1981 c.127 §2]

431.420 [Amended by 1961 c.610 §9, 1973 c.829 §25; 1977 c.582 §30; repealed by 1981 c.127 §4]

431.430 [Amended by 1961 c.610 §10, 1973 c.829 §26; repealed by 1981 c.127 §4]

431.440 Public health administrators have police powers. All district and county public health administrators shall possess the powers of constables or other peace officers in all matters pertaining to the public health. [Amended by 1961 c.610 §11, 1973 c.829 §27]

431.450 [Amended by 1961 c.610 §14, 1973 c.829 §28; repealed by 1981 c.127 §4]

431.460 [Amended by 1961 c.610 §12; 1973 c.829 §29; repealed by 1981 c.127 §4]

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

431.480 City boards abolished; expenditure of funds obtained from school district. (1) All city boards of health are abolished.

(2) Any school district may appropriate money to be expended for public health measures in such school district by the county or district board of health. [Amended by 1961 c.610 §5; 1973 c.829 §30]

431.490 [Repealed by 1961 c.610 §18]

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

431.510 Quarters and funds for local health boards. (1) The governing body of

the county shall provide adequate quarters and facilities for the office and health work of the county board of health and shall appropriate sufficient funds for the administration of the board and the operation of the health department.

(2) Where a district board is established under ORS 431.414, the governing body of each participating county shall appropriate annually a sum which shall be specifically designated for the operation of the board of health and the district department of health. [Amended by 1961 c 610 §13, 1973 c 829 §31]

431.520 Disposal of local health records. Public records, as defined in ORS 192.005, of district and county departments of health and community mental health clinics may be destroyed or otherwise disposed of in accordance with rules prescribed by the State Archivist. However, no records shall be required to be maintained for more than seven years from the date of the last entry for purposes of preserving evidence for any action, suit or proceeding. [1969 c 446 §2, 1973 c.829 §32]

431.530 Authority of local health administrator in emergency. (1) The local public health administrator may take any action which the Health Division or its assistant director could have taken, if an emergency endangering the public health occurs within the jurisdiction of any local public health administrator and:

(a) The circumstances of the emergency are such that the Health Division or its assistant director cannot take action in time to meet the emergency; and

(b) Delay in taking action to meet the emergency will increase the hazard to public health.

(2) Any local public health administrator who acts under subsection (1) of this section shall report the facts constituting the emergency and any action taken under the authority granted by subsection (1) of this section to the Assistant Director for Health by the fastest possible means. [1973 c 829 §9; 1977 c 582 §31]

431.550 Authority of Health Division to collect information from local public health administrators. Nothing in ORS 431.412, 431.418 and this section shall be construed to limit the authority of the Health Division to require facts and statistics from local public health administrators under its general supervisory power over all matters relating to the preservation of life and health of the people of the state. [1981 c.127 §3]

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

EMERGENCY MEDICAL SERVICES AND TRAUMA SYSTEM

431.607 Health Division to develop comprehensive emergency medical services and trauma system. In cooperation with representatives of the emergency medical services professions, the Health Division shall develop a comprehensive emergency medical services and trauma system. The division shall report progress on the system to the Legislative Assembly. [1985 c.191 §1]

431.608 Trauma system hospitals designation; application costs; fees; uses. (1) Applications to be categorized or designated as trauma system hospitals shall be made upon forms provided by the Health Division. Applications shall be accompanied by payment of costs incurred by the division to survey facilities for the purpose of assessing compliance with standards. The charges shall not exceed the actual costs of the surveys.

(2) The division shall collect a biennial nonrefundable fee from all hospitals which are categorized or designated as trauma system hospitals.

(3) The fee amounts shall be as follows:

Level I	\$ 10,000
Level II	\$ 6,000
Level III	\$ 1,000
Level IV	\$ 500

(4) Fees collected under subsection (3) of this section shall be deposited to the Health Division Account to be used only for the purpose of collecting and analyzing information related to prevention of trauma and monitoring of the trauma system. All such information shall be exempt from public disclosure except as statistical reports compiled by the division. [1987 c.918 §9]

431.609 Designation of trauma areas; trauma system hospitals. (1) With the advice of the State Trauma Advisory Board, the Health Division shall:

(a) Develop and monitor a state-wide trauma system; and

(b) Designate within the state, trauma areas consistent with local resources, geography and current patient referral patterns.

(2) Each trauma area shall have:

(a) Central medical control for all field care and transportation consistent with geographic and current communications capability.

(b) The development of triage protocols.

(c) One or more hospitals categorized according to trauma care capabilities using standards adopted by the Health Division by rule. Such rules shall be modeled after the

American College of Surgeons Committee on Trauma standards.

(d) The establishment of area trauma advisory boards to develop trauma system plans for each trauma area.

(3) On and after July 1, 1986, the Health Division may designate trauma system hospitals in accordance with area trauma advisory board plans which meet state objectives and standards.

(4) Trauma system plans shall be implemented by June 30, 1987, in Health Systems Area I, and June 30, 1988, in Health Systems Areas II and III. [1985 c.191 §2]

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

431.611 Division to adopt rules; contents. (1) Prior to approval and implementation of area trauma plans submitted to the Health Division by area trauma advisory boards, the division shall adopt rules pursuant to ORS 183.310 to 183.550 which specify state trauma objectives and standards, hospital categorization criteria and criteria and procedures to be utilized in designating trauma system hospitals.

(2) For approved area trauma plans recommending designation of trauma system hospitals, the division rules shall provide for:

(a) The transport of a member of a health maintenance organization, or other managed health care system, as defined by rule, to a hospital that contracts with the health maintenance organization when central medical control determines that the condition of the member permits such transport; and

(b) The development and utilization of protocols between designated trauma hospitals and health maintenance organizations, or other managed health care systems, as defined by rule, including notification of admission of a member to a designated trauma hospital within 48 hours of admission, and coordinated discharge planning between a designated trauma hospital and a hospital that contracts with a health maintenance organization to facilitate transfer of the member when the medical condition of the member permits. [1985 c 191 §4]

431.613 Area trauma advisory boards; duties; members. (1) Area trauma advisory boards shall meet as often as necessary to identify specific trauma area needs and problems and propose to the Health Division area trauma system plans and changes that meet state standards and objectives. The Health Division acting with the advice of the State Trauma Advisory Board will have the authority to implement these plans.

(2) In concurrence with the Governor, the Health Division shall select members for

each area from lists submitted by local associations of emergency medical technicians, emergency nurses, emergency physicians, surgeons, hospital administrators, emergency medical services agencies and citizens at large. Members shall be broadly representative of the trauma area as a whole and shall consist of at least 15 members per area trauma advisory board, including:

(a) Three surgeons;

(b) Two physicians serving as emergency physicians;

(c) Two hospital administrators from different hospitals;

(d) Two nurses serving as emergency nurses;

(e) Two emergency medical technicians serving different emergency medical services;

(f) Two representatives of the public at large selected from among those submitting letters of application in response to public notice by the Health Division. Public members shall not have an economic interest in any decision of the health care service areas;

(g) One representative of any bordering state which is included within the patient referral area;

(h) One anesthesiologist; and

(i) One ambulance service owner or operator or both. [1985 c.191 §6]

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

431.617 Liability of provider. No provider shall be held liable for acting in accordance with approved trauma system plans. [1985 c 191 §7]

431.619 Continuous duties of division. The Health Division shall continuously identify the causes of trauma in Oregon, and propose programs of prevention thereof for consideration by the Legislative Assembly or others. [1985 c.191 §8]

431.620 [Repealed by 1961 c 610 §18]

431.625 [1971 c 650 §46; repealed by 1977 c 582 §61 and 1977 c 751 §17a]

431.630 [Repealed by 1961 c.610 §18]

431.640 [Repealed by 1961 c 610 §18]

431.650 [Repealed by 1961 c 610 §18]

431.660 [Repealed by 1961 c.610 §18]

431.670 [Repealed by 1961 c 610 §18]

HEALTH HAZARD ANNEXATIONS OR DISTRICT FORMATION

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

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

(2) "Affected territory" means an area that is the subject of a proceedings under

ORS 431.705 to 431.760 where there is a danger to public health or an alleged danger to public health.

(3) "Boundary commission" means a local government boundary commission created under ORS 199.410 to 199.430, 199.435 to 199.464, 199.480 to 199.505 and 199.510.

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

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

- (a) Impure or inadequate domestic water.
- (b) Inadequate installations for the disposal or treatment of sewage, garbage or other contaminated or putrefying waste.
- (c) Inadequate improvements for drainage of surface water and other fluid substances.

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

- (a) A metropolitan service district formed under ORS chapter 268.
- (b) A county service district formed under ORS chapter 451.
- (c) A sanitary district formed under ORS 450.005 to 450.245.
- (d) A sanitary or a water supply authority formed under ORS 450.650 to 450.989.
- (e) A domestic water supply district formed under ORS chapter 264.

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

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

(9) "Service facilities" means water or sewer installations or works. [1973 c.361 §1; 1975 c.266 §1, 1981 c.452 §1]

431.710 When division to initiate district formation or annexation. (1) ORS 431.705 to 431.760 shall not apply if the affected territory could be subject to an annexation proceeding under ORS 222.840 to 222.915.

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

that has the authority to provide the service facilities, the division shall order the district to provide service facilities in the affected territory. [1973 c.361 §2, 1981 c.888 §3]

431.715 Resolution requesting division to initiate formation or annexation. (1) The county court or the local or district board of health having jurisdiction over territory where it believes conditions dangerous to the public health exist shall adopt a resolution requesting the division to initiate proceedings for the formation of a district or annexation of territory to, or delivery of appropriate water or sewer services by, an existing district without vote or consent in the affected territory. The resolution shall:

- (a) Describe the boundaries of the affected territory;
- (b) Describe the conditions alleged to be causing a danger to public health;
- (c) Request the division to ascertain whether conditions dangerous to public health exist in the affected territory and whether such conditions could be removed or alleviated by the provision of service facilities; and either
- (d) Recommend a district that the affected territory could be included in or annexed to for the purpose of providing the requested service facilities; or

(e) Recommend that an existing district provide service facilities in the affected territory.

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

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

(4) If the preliminary plans involve facilities that are subject to the jurisdiction of the commission, a copy of the documents submitted to the division under subsection (2) of this section shall be submitted to the commission for review, in accordance with ORS 431.725, of those facilities that are subject to its jurisdiction. No order or findings shall be adopted under ORS 431.735 or 431.756 until the plans of the requesting body for such facilities, if any, have been approved by the commission. [1973 c.361 §3; 1981 c.888 §4]

431.717 Compelling adoption of resolution. (1) Any person who may be adversely affected by the failure of a county court to adopt a resolution as required by ORS 431.715 (1) may seek to compel the adoption of such resolution through a writ of mandamus under ORS 34.110 to 34.240.

(2) The prevailing party in a proceeding under ORS 34.110 to 34.240 authorized by subsection (1) of this section is entitled to reasonable attorney fees in addition to costs and necessary disbursements. [1981 c.888 §6]

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

(2) If the commission considers such proposed facilities and the time schedule for installation of such facilities adequate to remove or alleviate the dangerous conditions, it shall approve the part of the plans that are subject to its jurisdiction and certify its approval to the division.

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

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

(2) Upon issuance of an order for a hearing, the division shall immediately give no-

tice of the time and place of the hearing on the resolution by publishing the order and resolution in a newspaper of general circulation within the territory once each week for two successive weeks and by posting copies of the order in four public places within the territory prior to the hearing. [1973 c.361 §5, 1981 c.452 §2]

431.730 Conduct of hearing. (1) At the hearing on the resolution, any interested person shall be given a reasonable opportunity to be heard or to present written statements. The hearing shall be for the sole purpose of determining whether a danger to public health exists due to conditions in the affected territory and whether such conditions could be removed or alleviated by the provision of service facilities. It may be conducted by the assistant director or by a hearings officer designated by the assistant director. It shall be conducted in accordance with the provisions of ORS 183.310 to 183.550. The division shall publish a notice of the issuance of said findings and recommendations in the newspaper utilized for the notice of hearing under ORS 431.725 (2) advising of the opportunity for presentation of a petition under subsection (2) of this section.

(2) Within 15 days after the publication of notice of issuance of findings in accordance with subsection (1) of this section, any person who may be affected by the findings, or the affected district, may petition the assistant director according to rules of the division to present written or oral arguments relative to the proposal. If a petition is received, the assistant director may set a time and place for receipt of argument. [1973 c.361 §6, 1975 c.266 §2]

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

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

officers described by ORS 431.740, setting out the service facilities to be provided.

(3) If the assistant director determines that a danger to public health exists because of conditions within only part of the affected territory, or that such conditions could be removed or alleviated in only part of the affected territory by the provision of service facilities, the assistant director may, subject to conditions stated in ORS 431.705 to 431.760, reduce the boundaries of the affected territory to that part which presents a danger or in which the conditions could be removed or alleviated if the area to be excluded would not be surrounded by the territory remaining to be annexed and would not be directly served by the sanitary, water or other facilities necessary to remove or alleviate the danger to public health existing within the territory remaining to be annexed. The findings shall describe the boundaries of the area as reduced by the assistant director.

(4) In determining whether to exclude any area the assistant director may consider whether or not such exclusion would unduly interfere with the removal or alleviation of the danger to public health in the area remaining to be annexed and whether the exclusion would result in an illogical boundary for the provision of services.

(5) The requesting body or the boundary commission shall, when requested, aid in the determinations made under subsections (3) and (4) of this section and, if necessary, cause a study to be made. [1973 c 361 §7; 1975 c.266 §3]

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

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

431.745 Petition for alternative plan. (1) At any time after the adoption of a resolution under ORS 431.715, a petition, signed by not less than 51 percent of the electors registered in the affected territory, may be filed with the division. The petition shall suggest an alternative plan to the proposed formation or annexation for removal or alleviation of the conditions dangerous to public

health. The petition shall state the intent of the residents to seek annexation to an existing city or special district authorized by law to provide service facilities necessary to remove or alleviate the dangerous conditions. The petition shall be accompanied by a proposed plan which shall state the type of facilities to be constructed, a proposed means of financing the facilities and an estimate of the time required to construct such facilities and place them in operation.

(2) Upon receipt of the petition, the division shall immediately forward a copy of the petition to the commission, if the plan accompanying the petition involves facilities that are subject to the jurisdiction of the commission. The division also shall forward a copy of the petition to the requesting body and to the county court or boundary commission where the division filed its findings under ORS 431.740 and direct the county court or boundary commission to stay the proceedings pending the review permitted under this section and ORS 431.750. [1973 c.361 §9; 1993 c 83 §84]

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

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

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

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

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

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

(3) The commission shall review the plan presented to it by the petitioners under subsection (2) of this section and shall promptly certify to the division whether the requirements of subsection (2) of this section have been met. If the requirements have been met, the division shall certify the alternative plan to the county court or boundary commission having jurisdiction and direct it to proceed in accordance with the alternative plan and in lieu of the plans filed under ORS 431.740. If the requirements of subsection (2) of this section are not met by the petitioners, the division shall certify that fact to the county court or boundary commission having jurisdiction and direct it to continue the proceedings on the plans filed under ORS 431.740. [1973 c.361 §10]

431.755 [1973 c.361 §11; repealed by 1975 c.266 §4 (431.756 enacted in lieu of 431.755)]

431.756 Judicial review. Judicial review of orders under ORS 431.705 to 431.760 shall be as provided in ORS 183.480, 183.485, 183.490 and 183.500. [1975 c.266 §5 (enacted in lieu of 431.755)]

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

(2) Subsection (1) of this section does not excuse a member of a county court from voting on the order required by ORS 198.792 (2) or 451.445 (1). [1973 c.361 §12]

RECOMBINANT DNA

431.805 Definitions for ORS 431.805 to 431.815. As used in 431.805 to 431.815:

(1) "Person" includes an individual, partnership, association, corporation, private institution or governmental entity.

(2) "Recombinant DNA research" means research on molecules that consist of segments of deoxyribonucleic acid from different

organisms which are joined together in cell-free systems and which have the capacity to infect and replicate in some host cell, either autonomously or as an integrated part of the host genome. [1983 c.358 §1]

Note: 431.805 to 431.815 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 431 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation

431.810 Recombinant DNA research to comply with federal guidelines. Persons carrying out recombinant DNA research must comply with the recombinant research guidelines adopted by the National Institute of Health and any subsequent modifications thereof. [1983 c.358 §2]

Note: See note under 431.805.

431.815 Registration of organisms used in research; registration information. (1) A person shall not solicit or accept, directly or indirectly, any organisms containing recombinant DNA or conduct research with such organisms unless registered with the Health Division.

(2) Registration may include such information as the Health Division finds necessary and appropriate to carry out the purposes of ORS 431.805 to 431.815. [1983 c.358 §§3, 4]

Note: See note under 431.805

SPECIAL PROGRAMS

431.825 Fetal alcohol syndrome pamphlets. The Health Division of the Department of Human Resources shall provide to the counties of this state pamphlets described in ORS 106.081. The division may produce such pamphlets with moneys available for the purpose or may accept a gift of such pamphlets from any public or private source if the content is acceptable to the division. [1987 c.340 §4]

Note: 431.825 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 431 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation

431.830 Acquired immune deficiency syndrome services and program. The Adult and Family Services Division shall establish an acquired immune deficiency syndrome program for its clientele to provide education and prevention services. The Health Division shall establish an acquired immune deficiency syndrome program to provide education and prevention services to the public. Program authorized by this section may be operated by either division directly or under contract with public and private agencies. [1987 c.114 §1]

Note: 431.830 was enacted into law by the Legislative Assembly but was not added to or made a part

of ORS chapter 431 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

DISTRIBUTION OF TOBACCO

431.840 Free distribution to minors prohibited; restriction on sales; notice. (1) It shall be unlawful to do any of the following:

(a) To distribute free tobacco products to persons under 18 years of age as part of a marketing strategy to encourage the use of tobacco products.

(b) To fail as a retailer to post a notice substantially similar to that set forth in subsection (3) of this section in a location clearly visible to the seller and the purchaser that sale of tobacco products to persons under 18 years of age is prohibited.

(c) To sell cigarettes in any form other than a sealed package.

(2) As used in this section "tobacco products" means cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco, snuff, snuff flour, cavendish, plug and twist tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking, and shall include cigarettes as defined in ORS 323.010 (1).

(3) The notice shall be substantially as follows:

NOTICE

The sale of tobacco in any form to persons under 18 years of age is prohibited by law. Any person who knowingly sells, or causes to be sold, tobacco to a person under 18 years of age commits the crime of endangering the welfare of a minor, pursuant to ORS 163.575.

[1989 c.764 §1]

Note: 431.840 to 431.850 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 431 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

431.845 Civil penalty. (1) The civil penalty for violation of any provision of ORS 431.840 shall not exceed \$500.

(2) The amounts collected under subsection (1) of this section shall be deposited to the credit of the General Fund. [1989 c.764 §2]

Note: See note under 431.840.

431.850 Penalty notice; review; recordation. (1) Any civil penalty imposed under ORS 431.845 shall become due and payable when the person incurring the penalty receives a notice in writing from the Health Division. The notice referred to in this section shall be sent by registered or certified mail and shall include:

(a) A reference to the particular sections of the statute, rule, standard or order involved;

(b) A short and plain statement of the matters asserted or charged;

(c) A statement of the amount of the penalty or penalties imposed; and

(d) A statement of the right of the person to request a hearing.

(2) The person to whom the notice is addressed shall have 20 days from the date of mailing of the notice in which to make written application for a hearing before the assistant director.

(3) Any person who makes application as provided for in subsection (2) of this section shall be entitled to a hearing. The hearing shall be conducted as a contested case hearing pursuant to the applicable provisions of ORS 183.413 to 183.470.

(4) Judicial review of an order made after a hearing under subsection (3) of this section shall be as provided in ORS 183.480 to 183.497 for judicial review of contested cases.

(5) When an order assessing a civil penalty under this section becomes final by operation of law or on appeal, and the amount of penalty is not paid within 10 days after the order becomes final, the order may be recorded with the county clerk in any county of this state. The clerk shall thereupon record the name of the person incurring the penalty and the amount of the penalty in the County Clerk Lien Record. [1989 c.764 §§3,6]

Note: See note under 431.840

ALZHEIMER'S DISEASE

431.855 Alzheimer's Disease Research Fund. (1) There is established as a separate and distinct fund in the State Treasury an Alzheimer's Disease Research Fund. The Alzheimer's Disease Research Fund shall consist of:

(a) An amount credited to the fund under ORS 305.835, which shall be transferred by the Department of Revenue to the fund.

(b) Gifts, grants and donations, in money or otherwise, for use as described in subsection (2) of this section, which the State Treasurer may solicit and accept from private and public sources and shall cause to

be deposited and credited to the Alzheimer's Disease Research Fund.

(c) Interest or other earnings on the amounts described in paragraphs (a) and (b) of this subsection which shall inure to the benefit of the Alzheimer's Disease Research Fund.

(2) Moneys contained in the Alzheimer's Disease Research Fund are continuously appropriated for the purpose of grants to the Alzheimer's Disease Center of Oregon, a cooperative venture between Oregon Health Sciences University, Good Samaritan Hospital and Medical Center, the Veterans Administration and the Alzheimer's Disease and Related Disorders Association to carry out research on Alzheimer's disease and related disorders. [1987 c 902 §3, 1989 c 987 §23]

Note: 431.855 and 431.860 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 431 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation

431.860 Control of fund. Oregon Health Sciences University shall have access to and control of the moneys held in the Alzheimer's Disease Research Fund established under ORS 431.855 but shall use such moneys only for the purposes specified in ORS 431.855 (2). [1989 c.987 §24]

Note: See note under 431.855.

PENALTIES

431.990 Penalties. Unless otherwise specifically provided by any other statute, failure to obey any rules of the Health Division, or failure to obey any lawful written order issued by the Assistant Director for Health or any district or county public health administrator is a Class A misdemeanor. [Amended by 1959 c 629 §46, 1961 c 610 §15; 1973 c.408 §34, 1973 c.829 §33, 1977 c 582 §32]