

Chapter 430

1993 EDITION

Administration; Alcohol and Drug Abuse Programs

	DEFINITIONS	430.347	Definitions for ORS 430.345 to 430.380
430.010	Definitions	430.350	Assistance and recommendation of local planning committee
	MENTAL HEALTH AND DEVELOPMENTAL DISABILITY SERVICES DIVISION	430.355	Grant application may cover more than one service
430.021	Functions of Mental Health and Developmental Disability Services Division	430.357	Rules for ORS 430.345 to 430.380
430.030	Division not limited by ORS 430.021	430.359	Funding of services
430.041	Rules and regulations; personnel	430.362	Application requirements for priority consideration
430.050	Mental Health Advisory Board; qualifications; duties; compensation and expenses; Disability Issues Advisory Committee	430.364	Consideration given requests for priority
430.065	Standards for insurance reimbursement treatment programs; application and certification fees	430.366	Requirements for service proposals
430.110	Assistant Director for Mental Health and Developmental Disability Services	430.368	Appeal and review of funding requests; conclusiveness of assistant director's review
430.140	Division to obtain and use federal grants for promoting mental health	430.370	County contracts for services; joint county-city operation
430.160	Federal funds deposited in special account	430.375	Fee schedule
430.165	Fee schedules; collection of fees; definition	430.380	Mental Health Alcoholism and Drug Services Account; uses
430.170	Revolving fund	430.385	Construction
430.180	Mental Health and Developmental Disability Services Account	430.395	Funding of regional centers for treatment of drug and alcohol dependent adolescents; criteria for centers
430.190	Mental Health and Developmental Disability Services Division Institution Account	430.400	Use of moneys from Criminal Fine and Assessment Account
430.205	Definitions for ORS 430.205 and 430.210		PREVENTION OF DRUG ABUSE
430.210	Rights of service recipients; status of rights	430.405	Definitions for ORS 161.125, 430.270, 430.405 and 430.415
	ALCOHOL AND DRUG ABUSE PREVENTION, INTERVENTION AND TREATMENT	430.415	Drug dependence as illness
430.240	Goal of treatment programs for drug-dependent persons		DIVERSION PROGRAMS
430.250	Policy		(Definitions)
430.255	Governor's Council on Alcohol and Drug Abuse Programs; qualifications; duties; compensation and expenses; removal	430.450	Definitions for ORS 430.450 to 430.555 (Treatment Program)
430.257	Assistance for council	430.455	Information to drug-dependent person upon arrest
430.260	Alcoholic rehabilitation clinic and agency	430.460	Consent to evaluation; effect of refusal
430.265	Contracts with Federal Government for services to alcohol and drug-dependent persons	430.465	Referral for evaluation
430.270	Publicizing effects of alcohol and drugs	430.470	Notice of right to evaluation if not given at time of arrest
430.290	Prevention of alcoholism and drug dependency	430.475	Evaluation results as evidence; admissibility at subsequent trial; privileged communication
430.306	Definitions for ORS 426.450 to 426.460, 430.100 and 430.315 to 430.335	430.480	Effect of ORS 430.450 to 430.555 on other evidence
430.315	Policy	430.485	Treatment may be ordered
430.325	Prohibitions on local governments as to certain crimes	430.490	Diversion plan for defendant; participation as condition of probation or parole
430.335	Authority of Mental Health and Developmental Disability Services Division	430.495	Content of diversion plan; duration
430.338	Purpose	430.500	Dismissal of charges
430.342	Local alcoholism planning committees	430.505	Expunction of verdict
430.345	Grants for alcohol and drug abuse prevention, intervention and treatment	430.510	Notice when treatment unsuccessful
		430.515	Procedure to terminate treatment (Administration)
		430.535	Duties of division; bilingual forms

ADMINISTRATION; ALCOHOL AND DRUG ABUSE

- 430.540 Designation of and standards for evaluation sites
- 430.545 Procedures at evaluation sites; administration of antagonist drugs
- 430.550 Discrimination prohibited
- 430.555 Liability for violation of civil rights or injuries to participant

MISCELLANEOUS

- 430.560 Treatment programs established by Mental Health and Developmental Disability Services Division; contracts; rules
- 430.565 Nonapplicability of drug laws to certain persons in treatment program
- 430.570 Information concerning opiate inhibitors to drug dependent persons
- 430.590 Regulation of location of methadone clinic; enforcement

LOCAL MENTAL HEALTH AND DEVELOPMENTAL DISABILITY SERVICES

- 430.610 Legislative policy
- 430.620 Establishment of community mental health and developmental disabilities program by one or more counties
- 430.625 Disabled persons to serve on advisory committee
- 430.630 Services to be provided by mental health and developmental disabilities program; alternative and additional services
- 430.635 Priority for preventive services for children
- 430.640 Duties of division in assisting and supervising mental health and developmental disabilities programs
- 430.660 Federal laws, rules and regulations govern activities under ORS 430.610 to 430.700 when federal granted funds involved
- 430.665 Evaluation of programs; population schedule for distributing funds
- 430.670 Contracts to provide services; approval of division
- 430.675 Priority for services where hospitalization possible
- 430.685 Priorities for services for mentally and emotionally disturbed
- 430.690 Distribution formula; matching funds; administrative expenses
- 430.695 Where local receipts treated as offsets or receipts
- 430.700 Local plan to assume responsibility for state-provided care

CHILDREN'S MENTAL HEALTH SERVICES

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

ABUSE REPORTING FOR MENTALLY ILL OR DEVELOPMENTALLY DISABLED

- 430.735 Definitions for ORS 430.735 to 430.765
- 430.737 Mandatory reporting policy
- 430.743 Abuse report; content; action on report; notice to law enforcement agency

- 430.745 Investigation of abuse report; notice to medical examiners; findings; recommendations
- 430.747 Photographs of victim during investigation; photographs as records
- 430.753 Immunity of persons making reports in good faith
- 430.755 Retaliation by facility prohibited; liability for retaliation
- 430.757 Reports of abuse to be maintained by division
- 430.763 Confidentiality of records; when record may be made available to agency
- 430.765 Duty of officials to report abuse; exceptions for privileged communications; exception for religious practice

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

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

ALCOHOL AND DRUG TREATMENT FOR PREGNANT USERS

- 430.900 Definitions for ORS 430.900 to 430.930
- 430.905 Policy
- 430.910 Problem study; model for providing services; advisory committee
- 430.915 Health care providers to encourage counseling and therapy
- 430.920 Risk assessment for drug and alcohol use; informing patient of results; assistance to patient in reducing need for controlled substances
- 430.925 Demonstration pilot projects; goals
- 430.930 Drug and alcohol abuse education at Oregon Health Sciences University
- 430.950 Management team to advise on grant applications for treatment of pregnant substance abusers
- 430.955 Standardized screening instrument; assessing drug use during pregnancy

METHADONE PROGRAM

(Temporary provisions relating to Methadone Program are compiled as notes following ORS 430.955)

CROSS REFERENCES

- Administration of state institutions, Ch. 179
- Administrative procedures governing state agencies, 183.310 to 183.550
- Alcohol and drug abuse programs, moneys available, 430.400
- Angling licenses for persons in state institutions, 497.162
- Declarations for mental health treatment, 127.700 to 127.737
- Division duties regarding care and release of persons committed by criminal court, 161.336 to 161.351
- Family support services, 417.342
- Hardship driver permit for problem drinker or drug-dependent person, 813.500

MENTAL HEALTH; ALCOHOL AND DRUG ABUSE

- Liability insurance for county and private community care providers, 278.315
- Medical records, access and review, 192.550
- Minor, treatment for mental disorder or chemical dependency without parental consent, 109.675
- Records of developmentally disabled or mentally ill individuals, 192.517
- Rules for assignment of persons within jurisdiction of criminal court to state mental hospital, 161.390
- Standards for drug treatment programs for juvenile offenders, 419C.239
- Substance abuse, testing standards, correctional facilities, 438.435
- Training in fire safety inspection, 476.030
- 430.021**
- Change in use of institution for mentally ill or retarded, 179.325
- Cost of care for person at state institution, determination of rates and costs by division, 179.701
- Division to adopt rules for assignment of persons to state mental hospitals, 161.335 to 161.390
- Emergency care of mentally ill, 426.228 to 426.238
- Examination and treatment of child after juvenile court disposition, 419B.346, 419C.489
- Fairview Training Center for the mentally retarded, Ch. 427
- Human Resources Department to provide programs and services, 409.010
- Investigation of allegedly mentally ill person, 426.070
- Mental Health Compact, division to act as administrator, 428.320
- Mentally ill or deficient, nonresident, 428.210 to 428.270
- Mentally ill, state hospitals, Ch. 426
- Narcotic and dangerous drugs, treatment programs, Ch. 475
- State institutions, generally, Ch. 179
- 430.041**
- Condemnation for public use, Ch. 281
- Drug addicts, treating, 475.645
- State Personnel Relations Law, Ch. 240
- Status and salary of superintendents of state mental institutions, 179.331, 179.340
- Transferring mentally ill veterans to federal hospitals, 408.580
- 430.050**
- Subsistence and travel expenses of state officers and employees, 292.210 to 292.288
- 430.110**
- Authority of assistant director over assistants, officers, employees, 179.390
- 430.140**
- Federal grants for prevention of disease to be handled by Health Division, 431.250
- 430.306 to 430.335**
- Expansion of treatment programs, 137.229
- Evaluations of defendants convicted of crimes, 137.227
- "Health care facility," exception, 441.017
- 430.335**
- Alcoholic or drug dependent persons, admission to treatment facilities, 426.450
- 430.505**
- Expunction of criminal records, 137.225
- 430.610 to 430.700**
- "Health care facility," exception, 441.017
- 430.620**
- Community mental health clinic records, preservation and destruction, 431.520
- 430.630**
- Child welfare services, Ch. 418
- 430.705**
- Responsibility of division when State Commission on Children and Families operative, 1993 c.676 §28
- 430.735 to 430.765**
- Abuse investigation, child, interagency teams training, statewide team, 418.747, 418.749
- Abuse reporting:
- Elderly, 410.610 to 410.700
- Nursing home residents, 441.630 to 441.680

DEFINITIONS

430.010 Definitions. As used in ORS 430.010 to 430.050, 430.110 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 and Developmental Disability Services 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" or "day or partial hospitalization program" means a program or facility providing an organized full-day or part-day program of treatment. Such a program or facility shall be:

(a) Licensed, approved, established, maintained, contracted with or operated by the office of Alcohol and Drug Abuse Programs 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 office of Alcohol and Drug Abuse Programs 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 and Developmental Disability Services 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 office of Alcohol and Drug Abuse Programs 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 office of Alcohol and Drug Abuse Programs 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 and Developmental Disability Services 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

Examiners 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 licensed by the State Board of Clinical Social Workers as provided under ORS 675.510 to 675.600. [Derived from 1961 c.706 §§1, 37; 1969 c.597 §81; 1983 c.601 §1; 1987 c.411 §4; 1989 c.721 §52; 1991 c.292 §1]

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

MENTAL HEALTH AND DEVELOPMENTAL DISABILITY SERVICES DIVISION

430.021 Functions of Mental Health and Developmental Disability Services Division. Subject to ORS 417.300 and 417.305:

(1) The Mental Health and Developmental Disability Services Division is responsible for the administration of the state mental health and developmental disabilities programs and the mental health and developmental disabilities 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 for families requiring family support services as described in ORS 417.342 and 417.344; and promote, correlate and coordinate the mental health and developmental disabilities activities of all governmental organizations throughout the state in which there is any direct contact with mental health and developmental disabilities 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 developmental disabilities, 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 and Developmental Disability Services Division and the office of the director. In reviewing applications for certificates of

need, the director shall take this policy into account.

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

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

(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; 1987 c.660 §20; 1989 c.116 §3; 1989 c.834 §17; 1991 c.122 §8]

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 and Developmental Disability Services 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; Disability Issues Advisory Committee. (1) The Assistant Director for Mental Health and Developmental Disability Services, 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. At least four members of the board shall be disabled persons who shall serve as the Disability Is-

sues Advisory Committee which is hereby established. 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 and developmental disabilities 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.

(5) The Disability Issues Advisory Committee shall meet at least once annually to make recommendations to the Mental Health Advisory Board.

(6) As used in this section, "disabled person" means any person who:

(a) Has a physical or mental impairment which substantially limits one or more major life activities;

(b) Has a record of such an impairment; or

(c) Is regarded as having such an impairment. [1961 c.706 §18; 1969 c.314 §36; 1969 c.597 §86; 1981 c.750 §12; 1989 c.116 §4; 1989 c.777 §1]

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

430.065 Standards for insurance reimbursement treatment programs; application and certification fees. (1) In adopting rules pursuant to ORS 743.556 (3), the office of Alcohol and Drug Abuse Programs and the Mental Health and Developmental Disability Services Division may consider standards proposed by the American Association of Partial Hospitalization as one possible source for such rules. In addition, an insurer or insurers and the office of Alcohol and Drug Abuse Programs, or an insurer or insurers and the Mental Health and Developmental Disability Services Division may mutually develop agreements, standards and procedures for programs that are approved by the office or the division and that provide alternative arrangements for supervision or for review of treatment plans to become qualified to receive payments for treatment.

(2) The office of Alcohol and Drug Abuse Programs and the Mental Health and Devel-

opmental Disability Services Division may require payment of an application fee and a certification fee for the approval of noninpatient programs described in ORS 743.556 (3) and (4).

(3) Subject to the review of the Oregon Department of Administrative Services, the office of Alcohol and Drug Abuse Programs and the Mental Health and Developmental Disability Services Division may establish any fees to be imposed under subsection (2) of this section. The fees and charges established under this section shall not exceed the cost of administering the regulatory program of the division pertaining to the purpose for which the fee or charge is established, as authorized by the Legislative Assembly for the division's budget, as the budget may be modified by the Emergency Board. [1991 c.654 §1]

Note: 430.065 was enacted into law by the Legislative Assembly but was 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.

430.070 [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 and Developmental Disability Services. The Mental Health and Developmental Disability Services Division shall be under the supervision and control of an assistant director, who shall be appointed as provided in ORS 409.130. 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 and Developmental Disability Services 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 and Developmental Disability Services 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 and Developmental Disability Services 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, 430.415, 430.850 to 430.880, 813.500 and 813.510. The fees shall be charged and collected by the division in the same manner as charges are collected under ORS 179.610 to 179.770. When the 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 and Developmental Disability Services Division, the

Oregon Department of Administrative Services shall draw warrants on amounts appropriated to the 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 Oregon Department of Administrative Services. 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 and Developmental Disability Services Account. (1) There is established in the General Fund of the State Treasury an account to be known as the Mental Health and Developmental Disability 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 and Developmental Disability Services Account are hereby continuously appropriated to the Mental Health and Developmental Disability Services 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, 426.241 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 and Developmental Disability Services Division shall keep a record of all moneys credited to and deposited in the Mental Health and Developmental Disability 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 and Developmental Disability Services Account, with the approval of the Director of the Oregon Department of Administrative Services, 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 and Developmental Disability 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; 1989 c.116 §6]

430.190 Mental Health and Developmental Disability Services Division Institution Account. There is hereby established in the General Fund the Mental Health and Developmental Disability Services Division Institution Account. Such amounts appropriated, collected or received by the Mental Health and Developmental Disability Services Division for the purpose of institution operations shall be available for deposit in the Mental Health and Developmental Disability Services Division Institution Account. The Mental Health and Developmental Disability Services Division Institution Account is continuously appropriated to the Mental Health and Developmental Disability Services Division for institution operations. [1983 c.562 §4; 1985 c.494 §4; 1989 c.116 §8]

430.205 Definitions for ORS 430.205 and 430.210. As used in this section and ORS 430.210:

(1) "Facility" means any of the following which are licensed or certified by the Mental Health and Developmental Disability Services Division or which contract with that division or a program for the provision of services:

(a) A health care facility as defined in ORS 442.015;

(b) A domiciliary care facility as defined in ORS 443.205;

(c) A residential facility as defined in ORS 443.400; or

(d) An adult foster home as defined in ORS 443.705.

(2) "Person" means an individual who has a mental illness or developmental disability and receives services from a program or facility.

(3) "Program" means a community mental health and developmental disabilities program as described in ORS 430.610 to 430.700 and agencies with which it contracts to provide services.

(4) "Services" means mental health and developmental disabilities services provided under ORS 430.630. [1993 c.96 §2]

430.210 Rights of service recipients; status of rights. (1) While receiving services, every person shall have the right to:

(a) Choose from available services those which are appropriate, consistent with the plan developed in accordance with paragraphs (b) and (c) of this subsection and provided in a setting and under conditions that are least restrictive to the person's liberty, that are least intrusive to the person and that provide for the greatest degree of independence.

(b) An individualized written service plan, services based upon that plan and periodic review and reassessment of service needs.

(c) Ongoing participation in planning of services in a manner appropriate to the person's capabilities, including the right to participate in the development and periodic revision of the plan described in paragraph (b) of this subsection, and the right to be provided with a reasonable explanation of all service considerations.

(d) Not receive services without informed voluntary written consent except in a medical emergency or as otherwise permitted by law.

(e) Not participate in experimentation without informed voluntary written consent.

(f) Receive medication only for the person's individual clinical needs.

(g) Not be involuntarily terminated or transferred from services without prior notice, notification of available sources of necessary continued services and exercise of a grievance procedure.

(h) A humane service environment that affords reasonable protection from harm and affords reasonable privacy.

(i) Be free from abuse or neglect and to report any incident of abuse without being subject to retaliation.

(j) Religious freedom.

(k) Not be required to perform labor, except personal housekeeping duties, without reasonable and lawful compensation.

(l) Visit with family members, friends, advocates and legal and medical professionals.

(m) Exercise all rights set forth in ORS 426.385 and 427.031 if the individual is committed to the Mental Health and Developmental Disability Services Division.

(n) Be informed at the start of services and periodically thereafter of the rights

guaranteed by this section and the procedures for reporting abuse, and to have these rights and procedures prominently posted in a location readily accessible to the person and made available to the person's guardian and any representative designated by the person.

(o) Assert grievances with respect to infringement of the rights described in this section, including the right to have such grievances considered in a fair, timely and impartial grievance procedure.

(p) Have access to and communicate privately with any public or private rights protection program or rights advocate.

(q) Exercise all rights described in this section without any form of reprisal or punishment.

(2) The rights described in this section are in addition to, and do not limit, all other statutory and constitutional rights which are afforded all citizens including, but not limited to, the right to vote, marry, have or not have children, own and dispose of property, enter into contracts and execute documents.

(3) The rights described in this section may be asserted and exercised by the person, the person's guardian and any representative designated by the person.

(4) Nothing in this section shall be construed to alter any legal rights and responsibilities between parent and child. [1993 c.96 §3]

ALCOHOL AND DRUG ABUSE PREVENTION, INTERVENTION AND TREATMENT

430.240 Goal of treatment programs for drug-dependent persons. The Mental Health and Developmental Disability Services Division in developing treatment programs for drug-dependent persons shall develop programs that assist drug-dependent persons to become persons who are able to live healthy and productive lives without the use of any natural or synthetic opiates. [1991 c.574 §2]

Note: 430.240 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 430 by legislative action. See Preface to Oregon Revised Statutes for further explanation.

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 statewide 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 statewide 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 statewide alcohol and drug abuse plan;

(b) In the implementation, monitoring and evaluation of the statewide 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 409.010, 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 Education, Department of Human Resources, Oregon State Police, Department of Transportation, Oregon Liquor Control Commission and State Commission on Children and Families 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 409.010, 430.250, 430.255, 430.270, 430.290, 430.359, 430.368, 430.535 and 430.630. [1985 c.740 §6; 1987 c.660 §21; 1991 c.453 §2]

Note: See note under 430.250.

430.260 Alcoholic rehabilitation clinic and agency. The Mental Health and Devel-

opmental Disability Services 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 and Developmental Disability Services 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 and Developmental Disability Services 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 and Developmental Disability Services Division shall:

(a) Consult with and be advised by the Governor's Council on Alcohol and Drug Abuse Programs 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 profit or 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 and Developmental Disability Services 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 profit or 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; 1987 c.61 §1]

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 and Developmental Disability Services Division and the office of the director. In reviewing applications for certificate of need, the director shall take this policy into account. [1971 c.622 §1; 1973 c.795 §5; 1983 c.601 §3; 1987 c.660 §22]

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 and Developmental Disability Services Division. Subject to the availability of funds therefor, the Mental Health and Developmental Disability Services 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 profit or nonprofit 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; 1987 c.61 §2]

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 430.342 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 and Developmental Disability Services 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 alcohol and drug abuse prevention, intervention and treatment. 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 alcohol and drug abuse prevention, early intervention and treatment services. 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. Alcohol and drug abuse prevention, early intervention and treatment services shall be approved if the applicant establishes to the satisfaction of the division:

(1) The adequacy of the services 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 services 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 providing alcohol and drug abuse prevention, early

intervention and treatment services, including nearby detoxification centers and half-way houses.

(4) That the services comply with the rules adopted by the division pursuant to ORS 430.357. [1973 c.682 §3; 1977 c.856 §4; 1987 c.53 §1]

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 persons who are:

(a) Black Americans or persons having origins in any of the Black racial groups of Africa.

(b) Hispanic Americans or persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.

(c) Native Americans or persons who are American Indian, Eskimo, Aleut or Native Hawaiian.

(d) Asian-Pacific Americans or persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the United States Trust Territories of the Pacific or the Northern Marianas.

(e) Asian-Indian Americans or persons whose origins are from India, Pakistan or Bangladesh.

(3) "Minority program" is a treatment and rehabilitation program that provides services primarily to minorities and that is intended to present treatment and rehabilitation opportunities designed to meet the particular needs of minorities, whether by its geographic location, methods of treatment or other factors. [1975 c.424 §7; 1977 c.856 §5; 1987 c.53 §2; 1987 c.167 §1]

430.350 Assistance and recommendation of local 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 alcohol and drug abuse prevention, early intervention and treatment services by the local 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 planning committee in the area to which the application relates. The division shall take such recommendation into consideration before making or refusing grants un-

der ORS 430.345 to 430.380. [1973 c.682 §4; 1977 c.856 §6; 1987 c.53 §3]

430.355 Grant application may cover more than one service. An application for funds under ORS 430.345 to 430.380 may contain requests for funds to establish, operate and maintain any number of alcohol and drug abuse prevention, early intervention and treatment services. [1973 c.682 §5; 1977 c.856 §7; 1987 c.53 §4]

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 alcohol and drug abuse prevention, early intervention and treatment services.

(2) All standards and guidelines adopted by the Mental Health and Developmental Disability Services 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; 1987 c.53 §5]

430.359 Funding of services. (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 alcohol and drug abuse prevention, early intervention and treatment services.

(2) The amount of state funds shall be apportioned among the applicants according to the community need of the applicant for 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 alcohol and drug abuse prevention, early intervention and treatment services aimed at providing 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 for use in providing alcohol and drug abuse prevention, early intervention and treatment services 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 alcohol and drug abuse prevention, early

intervention and treatment services 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 and Developmental Disability Services 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 alcohol and drug abuse prevention, early intervention and treatment services 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 alcohol and drug abuse prevention, early intervention and treatment services 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 alcohol and drug abuse prevention, early intervention and treatment services in the prior year when such funds are not available for such application in the current year.

(5) Any moneys received by an applicant from fees, contributions or other sources for alcohol and drug abuse prevention, early intervention and treatment services for service 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; 1987 c.53 §6]

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 alcohol and drug abuse prevention, early intervention and treatment 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; 1987 c.53 §7].

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 service proposals. (1) Every proposal for alcohol and drug abuse prevention, early intervention and treatment services received from 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 served and methods of measuring the success of services rendered;

(b) A description of 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 service 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; 1987 c.53 §8]

430.368 Appeal and review of funding requests; conclusiveness of assistant director's review. (1) Any alcohol and drug abuse prevention, early intervention and treatment service, 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; 1987 c.53 §9]

430.370 County contracts for services; joint county-city operation. (1) A county may provide alcohol and drug abuse prevention, early intervention and treatment services by contracting therefor with public or private, profit or 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 alcohol

and drug abuse prevention, early intervention and treatment services. [1973 c.682 §§8, 9; 1977 c.856 §14; 1987 c.53 §10; 1987 c.61 §3]

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 alcohol and drug abuse prevention, early intervention and treatment services for the expenses incurred by the service in offering alcohol and drug abuse prevention, early intervention and treatment 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 alcohol and drug abuse prevention, early intervention and treatment services 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; 1987 c.53 §11]

430.380 Mental Health Alcoholism and Drug Services Account; uses. (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 293.820.

(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 alcohol and drug abuse prevention, early intervention and treatment services 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 and Developmental Disability Services Division to be used for state matching funds to counties for alcohol and drug abuse prevention, early intervention and treatment services pursuant to ORS 430.345 to 430.380.

(4) Twenty percent of the moneys shall be continuously appropriated to the Mental Health and Developmental Disability Services Division to be used for alcohol and drug abuse prevention, early intervention and treatment 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 division must present its pro-

gram 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; 1987 c.53 §12]

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 and drug abuse prevention, early intervention and treatment services. [1975 c.424 §1; 1987 c.53 §13]

430.395 Funding of regional centers for treatment of drug and alcohol dependent adolescents; criteria for centers. (1) Subject to the availability of funds, the Department of Human Resources may fund regional centers for the treatment of adolescents with drug and alcohol dependencies.

(2) The office of Alcohol and Drug Abuse Programs shall define by rule a minimum number of inpatient beds and outpatient slots necessary for effective treatment and economic operation of any regional center funded by state funds.

(3) The areas to be served by any treatment facility shall be determined by the following:

(a) Areas that demonstrate the most need;

(b) Areas with no treatment program or an inadequate program; and

(c) Areas where there is strong, organized community support for youth treatment programs.

(4) The area need is determined by:

(a) Current area youth admissions to treatment programs;

(b) Per capita consumption of alcohol in the area;

(c) Percentage of area population between 10 and 18 years of age;

(d) Whether the area has effective, specialized outpatient and early intervention services in place;

(e) Whether the area suffers high unemployment and economic depression; and

(f) Other evidence of need.

(5) As used in this section, "regional center" means a community residential treatment facility including intensive residential and outpatient care for adolescents with drug and alcohol dependencies. [1989 c.997 §1]

Note: 430.395 and 430.400 [formerly 475.295] 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.

430.400 Use of moneys from Criminal Fine and Assessment Account. Moneys transferred to the Department of Human Resources for use by alcohol and drug abuse programs under ORS 137.303 shall be used only for the following purposes:

(1) To pay for providing treatment for individuals who enter diversion agreements under ORS 135.907 and for juveniles who enter treatment programs under 419C.443 (1) and who are found to be indigent. Payment for treatment under this subsection may include treatment for problem drinking, alcoholism or drug dependency. Payment shall be made as provided by the Mental Health and Developmental Disability Services Division by rule to agencies or organizations providing treatment.

(2) To pay for evaluations required under ORS 135.907 and 419C.443 (1).

(3) To pay the cost of administration of the moneys by the Mental Health and Developmental Disability Services Division.

(4) To pay for materials, resources and training supplied by the Mental Health and Developmental Disability Services Division to those persons, organizations or agencies performing the diagnostic assessments or providing education or treatment to persons under ORS 135.907 and 419C.443 (1).

(5) To pay for providing treatment or prevention programs required under ORS 135.907 and 419C.443 (1) for individuals who are found to be indigent and, subject to availability of funds, for individuals who are found to be partially indigent. Standards for determining indigency and partial indigency shall be established by rule. [Formerly 475.295]

Note: See note under 430.395.

PREVENTION OF DRUG ABUSE

430.405 Definitions for ORS 161.125, 430.270, 430.405 and 430.415. As used in ORS 161.125, 430.270, 430.405 and 430.415, 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 and Developmental Disability Services Division.

(4) "Assistant director" means the Assistant Director for Mental Health and Developmental Disability Services.

(5) "Treatment facility" means profit or nonprofit, public or private detoxification centers, outpatient clinics, residential facilities, hospitals and such other facilities as the Mental Health and Developmental Disability Services 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; 1987 c.61 §4]

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 and Developmental Disability Services.

(2) "Community diversion plan" means a system of services approved and monitored by the Mental Health and Developmental Disability Services 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 and Developmental Disability Services 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 and Developmental Disability Services 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 ben-

efit 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 and Developmental Disability Services 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] .1

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]

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]

(Administration)

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 and Developmental Disability Services 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 Mental Health and Developmental Disability Services Division; contracts; rules. (1) The Mental Health and Developmental Disability Services Division shall establish for drug-dependent persons treatment programs that involve:

(a) Detoxification;

(b) Detoxification with acupuncture and counseling; and

(c) The supplying of synthetic opiates to such persons under close supervision and control. However, the supplying of synthetic opiates shall be used only when detoxification or detoxification with acupuncture and counseling has proven ineffective or upon a written request of a physician licensed by the Board of Medical Examiners for the State of Oregon showing medical need for synthetic opiates if the request is approved in writing by the probation or parole officer, if any, of the drug-dependent person. The copy of the request and the approval must be included in the

client's permanent treatment and releasing authority records.

(2) Notwithstanding subsection (1) of this section, synthetic opiates may be made available to a pregnant woman with her informed consent without prior resort to the treatment programs described in of subsection (1)(a) and (b) of this section.

(3) In establishing the programs authorized by subsection (1) of this section, the Mental Health and Developmental Disability Services Division may enter into contracts with detoxification programs, physicians licensed by the Board of Medical Examiners for the State of Oregon, acupuncturists, counselors, licensed pharmacies and any agency of this state or a political subdivision in this state to conduct the required examinations and to supply the services used in the programs.

(4) The division shall establish rules of eligibility for the programs 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 programs.

(5) Pursuant to ORS 183.310 to 183.550, the division shall adopt rules governing the administration of the programs authorized by ORS 430.565 and this section. [Formerly 475.715; 1979 c.744 §29; 1991 c.574 §3]

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 (1)(c) 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 and Developmental Disability Services Division made pursuant to ORS 430.560 and this section. [Formerly 475.725; 1979 c.744 §30; 1991 c.574 §4]

430.570 Information concerning opiate inhibitors to drug dependent persons. The Mental Health and Developmental Disability Services Division shall cause information concerning the usefulness and feasibility of opiate inhibitors to be made available to persons involved in administering diversion programs, corrections programs and other programs for drug dependent persons. [1987 c.618 §4]

430.580 [1983 c.601 §2; repealed by 1987 c.411 §5]

430.590 Regulation of location of methadone clinic; enforcement. (1) It is

unlawful for any person to commence operating a methadone clinic:

(a) Within 1,000 feet of the real property comprising an existing public or private elementary, vocational or secondary school attended primarily by minors; or

(b) Within 1,000 feet of the real property comprising an existing licensed day care facility. As used in this section, "licensed day care facility" means a day care facility, as defined in ORS 657A.250, that provides day care to five or more children and is operating under authority of a valid business license.

(2) Commencing operation of a methadone clinic within 1,000 feet of a school or licensed day care facility is a nuisance and operation of the clinic shall be enjoined and abated as provided in ORS 105.550 to 105.600. [1991 c.574 §5]

Note: 430.590 was enacted into law by the Legislative Assembly but was 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.

LOCAL MENTAL HEALTH AND DEVELOPMENTAL DISABILITY 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 and developmental disabilities programs, including but not limited to, treatment and rehabilitation services for the mentally or emotionally disturbed, mentally retarded and develop-

mentally disabled, alcohol abuser, alcoholic, drug abuser and drug-dependent persons and prevention of these problems through county administered community mental health and developmental disabilities programs. [1961 c.706 §36; 1973 c.639 §1; 1981 c.750 §1]

430.620 Establishment of community mental health and developmental disabilities 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 and Developmental Disability Services Division, establish and operate, or contract with a public agency or private corporation for, a community mental health and developmental disabilities 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 and developmental disabilities 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; 1989 c.116 §10]

430.625 Disabled persons to serve on advisory committee. If any local mental health program has an advisory committee, disabled persons, as defined in ORS 430.050 (6), shall be appointed to serve on the advisory committee and shall meet separately as a disability issues advisory committee. [1989 c.777 §2]

Note: 430.625 was enacted into law by the Legislative Assembly but was 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.

430.630 Services to be provided by mental health and developmental disabilities program; alternative and additional services. (1) In addition to any other requirements which may be established by rule by the Mental Health and Developmental Disability Services Division, each community

mental health and developmental disabilities 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 and developmental disabilities 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 and Developmental Disability Services 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 division.

(3) In addition to any other requirements which may be established by rule of the division, each community mental health and developmental disabilities 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;

(k) Consultation with other community agencies; and

(L)(A) Preventive mental health services for children and adolescents, including primary prevention efforts, early identification and early intervention services. Preventive services should be patterned after service models that have demonstrated effectiveness in reducing the incidence of emotional, behavioral and cognitive disorders in children.

(B) As used in this subsection:

(i) "Early identification" means detecting emotional disturbance in its initial developmental stage;

(ii) "Early intervention services" for children at risk of later development of emotional disturbance means programs and activities for children and their families that promote conditions, opportunities and experiences that encourage and develop emotional stability, self-sufficiency and increased personal competence; and

(iii) "Primary prevention efforts" means efforts that prevent emotional problems from occurring by addressing issues early so that disturbances do not have an opportunity to develop.

(4) A community mental health and developmental disabilities program shall assume responsibility for psychiatric care in state and community hospitals, as provided in subsection (3)(e) 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 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 and developmental disabilities 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 and developmental disabilities program may initiate additional services after the services defined in this section are provided.

(6) Each community mental health and developmental disabilities 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 and developmental disabilities 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 430.665, as required by the division.

(8) Each community mental health and developmental disabilities 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 and developmental disabilities program may request and the 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 and developmental disabilities 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; 1987 c.903 §37; 1991 c.777 §2]

430.635 Priority for preventive services for children. The children's mental health programs of the Mental Health and Developmental Disability Services Division of the Department of Human Resources shall address preventive services under ORS 430.630 (3)(L). The division budget shall give high priority to such services. [1991 c.777 §1]

Note: 430.635 was enacted into law by the Legislative Assembly but was 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.

430.640 Duties of division in assisting and supervising mental health and developmental disabilities programs. (1) The Mental Health and Developmental Disability Services 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 and developmental disabilities programs operated or contracted for by one or more counties.

(b) If a county declines to operate or contract for a community mental health and developmental disabilities 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 and developmental disabilities 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 and developmental disabilities 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 and developmental disabilities 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 and developmental disabilities 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 and developmental disabilities 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 and developmental disabilities programs under ORS 430.665.

(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 430.700 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 and developmental disabilities 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 and developmental disabilities programs, community mental health and developmental disabilities 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 mental health and developmental disabilities 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 and developmental disabilities 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 and developmental disabilities 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 and developmental disabilities programs affecting the mentally and emotionally disturbed, the Mental Health and Developmental Disability Services Division shall observe the following priorities:

(1) To assure the establishment and operation of community mental health and developmental disabilities 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 and developmental disabilities 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 and developmental disabilities 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 and developmental disabilities programs for services under ORS 430.630 (3) shall be paid by the Mental Health and Developmental Disability Services 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 and developmental disabilities 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 and developmental disabilities 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 and developmental disabilities 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 and developmental disabilities 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 pro-

viding 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, statewide 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 and developmental disabilities 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 and developmental disabilities 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 and Developmental Disability Services 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 and developmental disabilities programs, the 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 and developmental disabilities 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 and developmental disabilities 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 and developmental disabilities 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 statewide system under which community mental health and developmental disabilities 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 and developmental disabilities 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 "chapter 401, Oregon Laws 1971" 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 15 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]

ABUSE REPORTING FOR MENTALLY ILL OR DEVELOPMENTALLY DISABLED

430.735 Definitions for ORS 430.735 to 430.765. As used in ORS 430.735 to 430.765:

(1) "Abuse" means one or more of the following:

(a) Any death caused by other than accidental or natural means.

(b) Any physical injury caused by other than accidental means, or that appears to be at variance with the explanation given of the injury.

(c) Willful infliction of physical pain or injury.

(d) Sexual harassment or exploitation, including but not limited to any sexual contact between an employee of a facility or community program and an adult.

(2) "Adult" means a person who is mentally ill or developmentally disabled, who is 18 years of age or older and receives services from a community program or facility.

(3) "Adult protective services" means the necessary actions taken to prevent abuse or exploitation of an adult, to prevent self-destructive acts and to safeguard an adult's person, property and funds. Any actions taken to protect an adult shall be undertaken in a manner that is least intrusive to the adult and provides for the greatest degree of independence.

(4) "Care provider" means an individual or facility that has assumed responsibility for all or a portion of the care of an adult as a result of a contract or agreement.

(5) "Community program" means a community mental health and developmental disabilities program as established in ORS 430.610 to 430.700.

(6) "Division" means the Mental Health and Developmental Disability Services Division of the Department of Human Resources.

(7) "Facility" means a residential treatment home or facility, residential care facility, adult foster care home, residential training home or facility or crisis respite facility.

(8) "Law enforcement agency" means:

(a) Any city or municipal police department;

(b) Any county sheriff's office;

(c) The Oregon State Police; or

(d) Any district attorney.

(9) "Public or private official" means:

(a) Physician, naturopathic physician, osteopathic physician, psychologist, chiropractor or podiatric physician and surgeon, including any intern or resident;

(b) Licensed practical nurse, registered nurse, nurse's aide, home health aide or employee of an in-home health service;

(c) Employee of the Department of Human Resources, county health department, community mental health and developmental disabilities program or private agency contracting with a public body to provide any community mental health service;

(d) Peace officer;

(e) Member of the clergy;

(f) Licensed clinical social worker;

(g) Physical, speech or occupational therapist;

(h) Information and referral, outreach or crisis worker;

(i) Attorney; or

(j) Any public official who comes in contact with adults in the performance of the official's duties. [1991 c.744 §2]

Note: 430.735 to 430.765 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.

430.737 Mandatory reporting policy. The Legislative Assembly finds that for the purpose of preventing abuse and safeguarding and enhancing the welfare of adults who are mentally ill or developmentally disabled, it is necessary and in the public interest to require mandatory reports and investigations of allegedly abused mentally ill and developmentally disabled adults. [1991 c.744 §1]

Note: See note under 430.735.

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

430.743 Abuse report; content; action on report; notice to law enforcement agency. (1) When a report is required under ORS 430.765 (1) and (2), an oral report shall be made immediately by telephone or otherwise to the Mental Health and Developmental Disability Services Division's designee or a law enforcement agency within the county where the person making the report is at the time of contact. If known, the report shall include:

(a) The name, age and present location of the allegedly abused adult;

(b) The names and addresses of persons responsible for the adult's care;

(c) The nature and extent of the alleged abuse, including any evidence of previous abuse;

(d) Any information that led the person making the report to suspect that abuse has occurred plus any other information that the person believes might be helpful in establishing the cause of the abuse and the identity of the perpetrator; and

(e) The date of the incident.

(2) When a report is received by the division's designee under this section, the designee shall immediately determine whether the reported victim has sustained any serious injury. If so, the designee shall immediately notify the division. If there is reason to believe a crime has been committed, the designee shall notify the law enforcement agency having jurisdiction within the county where the report was made. If the designee is unable to gain access to the allegedly abused adult, the designee may contact the law enforcement agency for assistance and the agency shall provide assistance. When a report is received by a law enforcement agency, the agency shall immediately notify the law enforcement agency having jurisdiction if the receiving agency does not. The receiving agency shall also immediately notify the division in cases of serious injury or death. [1991 c.744 §4]

Note: See note under 430.735.

430.745 Investigation of abuse report; notice to medical examiners; findings; recommendations. (1) Upon receipt of any report of alleged abuse of an adult, the division or its designee shall investigate promptly to determine the nature and cause of the abuse. If the division or its designee determines that a law enforcement agency is conducting an investigation of the same incident, the division or its designee need not conduct its own investigation.

(2) The division or its designee may enter a facility and inspect and copy records of a facility or community program if necessary for the completion of its investigation.

(3) In cases in which the division, its designee or the law enforcement agency conducting the investigation finds reasonable cause to believe that an adult has died as a result of abuse, it shall report that information to the appropriate medical examiner. The medical examiner shall complete an investigation as required under ORS chapter 146 and report the findings to the division, its designee or the law enforcement agency.

(4) Upon completion of an investigation conducted by a law enforcement agency, that

agency shall provide the division or its designee with a report of its findings and supporting evidence.

(5) If the division or its designee determines that there is reasonable cause to believe that abuse occurred at a facility or that abuse was caused or aided by a person licensed by a licensing agency to provide care or services, it shall immediately notify each appropriate licensing agency and provide each licensing agency with a copy of its investigative findings.

(6) Upon completion of the investigation, the division or its designee shall prepare written findings which include recommended actions and a determination of whether protective services are needed. Appropriate protective services shall be provided as necessary to prevent further abuse of the adult. Any protective services provided shall be undertaken in a manner that is least intrusive to the adult and provides for the greatest degree of independence that is available within existing resources. [1991 c.744 §5]

Note: See note under 430.735.

430.747 Photographs of victim during investigation; photographs as records. (1) In carrying out its duties under ORS 430.735 to 430.765, a law enforcement agency or the Mental Health and Developmental Disability Services Division's designee may photograph or cause to have photographed any victim who is the subject of the investigation for purposes of preserving evidence of the condition of the victim at the time of investigation unless the victim knowingly refuses to be photographed.

(2) For purposes of ORS 430.763, photographs taken under authority of subsection (1) of this section shall be considered case records. [1991 c.744 §6]

Note: See note under 430.735.

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

430.753 Immunity of persons making reports in good faith. (1) Anyone participating in good faith in making a report of abuse pursuant to ORS 430.743 and 430.765 (1) and (2) and who has reasonable grounds for making the report, shall have immunity from any civil liability that might otherwise be incurred or imposed with respect to the making or content of the report. The participant shall have the same immunity with respect to participating in any judicial proceeding resulting from the report.

(2) The identity of the person making the report shall be treated as confidential information and shall be disclosed only with the consent of that person, by judicial order or as otherwise permitted by ORS 430.763. [1991 c.744 §7]

Note: See note under 430.735.

430.755 Retaliation by facility prohibited; liability for retaliation. (1) A facility, community program or person shall not retaliate against any person who reports in good faith suspected abuse or against the allegedly abused adult with respect to any report.

(2) Any facility, community program or person that retaliates against any person because of a report of suspected abuse or neglect shall be liable in a private action to that person for actual damages and, in addition, a penalty up to \$1,000, notwithstanding any other remedy provided by law.

(3)(a) Any adverse action is evidence of retaliation if taken within 90 days of a report.

(b) For purposes of this subsection, "adverse action" means any action taken by a facility, community program or person involved in a report against the person making the report or against the adult with respect to whom the report was made because of the report, and includes but is not limited to:

(A) Discharge or transfer from the facility, except for clinical reasons;

(B) Discharge from or termination of employment;

(C) Demotion or reduction in remuneration for services; or

(D) Restriction or prohibition of access to the facility or its residents. [1991 c.744 §8]

Note: See note under 430.735.

430.757 Reports of abuse to be maintained by division. A proper record of all reports of abuse made under ORS 430.743 and 430.765 (1) and (2) shall be maintained by the Mental Health and Developmental Disability Services Division. [1991 c.744 §9]

Note: See note under 430.735.

430.760 [1969 c.253 §1; repealed by 1985 c.555 §26]

430.763 Confidentiality of records; when record may be made available to agency. Notwithstanding the provisions of ORS 192.410 to 192.505, the names of persons who made reports of abuse, witnesses of alleged abuse and the affected adults and materials under ORS 430.747 maintained under the provisions of ORS 430.757 are confidential and are not accessible for public inspection. However, the Mental Health and Developmental Disability Services Division shall make this information and any investigative report available to any law enforcement agency, to any public agency that licenses or certifies facilities or licenses or certifies the persons practicing therein and to any public agency providing protective services for the adult, if appropriate. The division shall also make this information and

any investigative report available to any private agency providing protective services for the adult and to the protection and advocacy system for the affected adults designated pursuant to 42 U.S.C. §6012. When this information and any investigative report is made available to a private agency, the confidentiality requirements of this section apply to the private agency. [1991 c.744 §10]

Note: See note under 430.735.

430.765 Duty of officials to report abuse; exceptions for privileged communications; exception for religious practice. (1) Any public or private official who has reasonable cause to believe that any adult with whom the official comes in contact while acting in an official capacity, has suffered abuse, or that any person with whom the official comes in contact while acting in an official capacity has abused an adult shall report or cause a report to be made in the manner required in ORS 430.743.

(2) Nothing contained in ORS 40.225 to 40.295 affects the duty to report imposed by subsections (1) and (2) of this section, except that a psychiatrist, psychologist, member of the clergy or attorney shall not be required to report such information communicated by a person if the communication is privileged under ORS 40.225 to 40.295.

(3) An adult who in good faith is voluntarily under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall for this reason alone not be considered subjected to abuse under ORS 430.735 to 430.765. [1991 c.744 §§3,11]

Note: See note under 430.735.

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 and Developmental Disability Services 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 el-

igible 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 and Developmental Disability Services Division for participation in the treatment program; and

(d) Prior to sentencing, has been medically evaluated by the Mental Health and Developmental Disability Services 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 sentenced to probation by the court, a condition of which probation is participation in the program according to the rules adopted by the Mental Health and Developmental Disability Services Division under ORS 430.870. [1973 c.340 §1; 1993 c.14 §25]

430.860 Participation in program; report to court. The Mental Health and Developmental Disability Services 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 and Developmental Disability Services 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 and Developmental Disability Services Division may accept gifts and apply for and accept grants or services from the Federal Government or any of its agencies, from associations, individuals and private corporations to carry out the purposes of ORS 430.850 to 430.880.

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

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

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

ALCOHOL AND DRUG TREATMENT FOR PREGNANT USERS

430.900 Definitions for ORS 430.900 to 430.930. As used in ORS 430.900 to 430.930, "substance" has the meaning of "controlled substance" as defined in ORS 475.005 and includes alcoholic beverages or other substances with abuse potential. [1989 c.1046 §7]

430.905 Policy. The Legislative Assembly declares:

(1) Because the growing numbers of pregnant substance users and drug- and alcohol-affected infants place a heavy financial burden on Oregon's taxpayers and those who pay for health care, it is the policy of this state to take effective action that will minimize these costs.

(2) Special attention must be focused on preventive programs and services directed at women at risk of becoming pregnant substance users as well as on pregnant women who use substances or who are at risk of substance use or abuse.

(3) It is the policy of this state to achieve desired results such as alcohol- and drug-free pregnant women and healthy infants through a holistic approach covering the following categories of needs:

(a) Biological-physical need, including but not limited to detoxification, dietary and obstetrical.

(b) Psychological need, including but not limited to support, treatment for anxiety, depression and low self-esteem.

(c) Instrumental need, including but not limited to child care, transportation to facilitate the receipt of services and housing.

(d) Informational and educational needs, including but not limited to prenatal and postpartum health, substance use and parenting. [1989 c.1046 §1]

430.910 Problem study; model for providing services; advisory committee. (1) The Department of Human Resources shall study, within the resources of the department, the problem of substance-using pregnant and postpartum women and their infants. The study shall focus on prevention, education and treatment located in community, inpatient, outpatient and residential settings. The study shall cover but not be limited to the following subjects:

(a) Identification of the size and nature of the problem including the number of women and infants affected. The affected or target population shall be divided into categories relevant for such efforts as assessment, counseling, treatment and referral. Trends shall be identified which affect the nature or scope of programs and services.

(b) Creation of a base for defining and implementing strategies, programs and services by collecting and analyzing information about:

(A) Existing strategies, programs and services, their effectiveness and how they could be improved or expanded.

(B) The location of existing programs and their accessibility to the target population.

(C) The extent and effectiveness of cooperation among programs, agencies and governments.

(D) The costs and funding of current services.

(E) Gaps in programs and services or lack of programs or services.

(c) Preparation of a statewide, case-management model for providing services to pregnant substance users and their infants. The prime goal of the model is to make appropriate and necessary treatment and services accessible to all pregnant substance users in the most effective and economical manner. The model may include some or all of the following elements:

(A) Coordination and integration of existing services.

(B) Outreach and identification of target populations and encouragement of receptivity to treatment or services.

(C) Reduction of costs or other means of increasing the accessibility and acceptance of services.

(D) Expansion of existing services where need exceeds supply or where certain populations are not adequately served.

(E) Augmentation of existing services as by adding prenatal or postpartum care, or both, to drug treatment programs or vice versa.

(F) Creation of new comprehensive services.

(d) Development of a detailed plan for implementing the statewide, case-management model prepared in response to paragraph (c) of this subsection.

(e) A schedule and budget for implementing the statewide, case-management model. The budget shall detail costs and include the identification of funding sources sufficient to cover costs.

(2) The Director of the Department of Human Resources shall appoint and regularly convene an advisory committee to assist in all phases of the conduct of the study. Members of the advisory committee shall include, but not be limited to, representatives of the following agencies:

- (a) Children's Services Division;
- (b) Office of Alcohol and Drug Abuse Programs;
- (c) Health Division;
- (d) Adult and Family Services Division;
- (e) Oregon Health Sciences University;
- (f) Board of Medical Examiners for the State of Oregon;
- (g) Oregon State Board of Nursing;
- (h) Oregon Healthy Mothers/Healthy Babies Coalition;
- (i) Mental Health and Developmental Disability Services Division;
- (j) Department of Corrections;
- (k) Local government health agencies;
- (L) Local government alcohol and drug abuse programs; and
- (m) Oregon Association of Hospitals. [1989 c.1046 §2]

430.915 Health care providers to encourage counseling and therapy. If during routine pregnancy or prenatal care, the attending health care provider determines that the patient uses or abuses drugs or alcohol or uses unlawful controlled substances, or the patient admits such use to the provider, it is the policy of this state that the provider

encourage and facilitate counseling, drug therapy and other assistance to the patient in order to avoid having the child, when born, become subject to protective services. [1989 c.1046 §3]

430.920 Risk assessment for drug and alcohol use; informing patient of results; assistance to patient in reducing need for controlled substances. (1) The attending health care provider shall perform during the first trimester of pregnancy or as early as possible a risk assessment which shall include an assessment for drug and alcohol usage. If the results of the assessment indicate that the patient uses or abuses drugs or alcohol or uses unlawful controlled substances, the provider shall tell the patient about the potential health effects of continued substance abuse and recommend counseling by a trained drug or alcohol abuse counselor.

(2) The provider shall supply to the local public health administrator demographic information concerning patients described in subsection (1) of this section without revealing the identity of the patients. The local administrator shall use forms prescribed by the Health Division and shall send copies of the forms and any compilation made from the forms to the Health Division at such times as the division may require by rule.

(3) The provider, if otherwise authorized, may administer or prescribe controlled substances that relieve withdrawal symptoms and assist the patient in reducing the need for unlawful controlled substances according to medically acceptable practices. [1989 c.1046 §4]

430.925 Demonstration pilot projects; goals. Subject to the availability of federal funds, the Health Division shall design and place in operation as soon as possible after August 5, 1989, two demonstration pilot projects in local health departments to alleviate the health related problems of pregnant and postpartum women and their infants which arise from substance use. One project shall be within a metropolitan statistical area and one project shall be in a rural area outside of a metropolitan statistical area. The project designs shall take account of the findings, policies and intent of ORS 430.900 to 430.930. Projects shall incorporate promising or innovative services and activities intended to realize the following goals:

(1) Promote the involvement and coordinated participation of multiple organizations in the delivery of comprehensive services for substance-using pregnant and postpartum women and their infants;

(2) Increase the availability and accessibility of prevention, early intervention and treatment services for these populations;

(3) Improve the identification of substance-using women and their recruitment into and retention in appropriate treatment programs;

(4) Decrease the incidence and prevalence of drug and alcohol use among pregnant and postpartum women;

(5) Decrease the incidence of pregnancy among women who use alcohol and other drugs through intensive family planning counseling and referral;

(6) Improve the birth outcomes of women who used alcohol and other drugs during pregnancy and to decrease the incidence of infants affected by maternal substance use;

(7) Reduce the severity of impairment among children born to substance-using women; and

(8) Promote continuing education among health providers to improve identification of pregnant women at risk of substance abuse or abusing substances and improved services to these women and their infants. [1989 c.1046 §5]

430.930 Drug and alcohol abuse education at Oregon Health Sciences University. The Oregon Health Sciences University shall have an integrated curriculum in the medical school to teach medical students drug and alcohol abuse assessment and treatment procedures and practices. [1989 c.1046 §6]

430.950 Management team to advise on grant applications for treatment of pregnant substance abusers. The Director of the Department of Human Resources shall appoint a management team to advise the office of Alcohol and Drug Abuse Programs on the preparation of standards for county grant applications and to advise and assist counties and regions in planning for treatment of pregnant substance abusers. The management team shall work with divisions of the Department of Human Resources and with other state agencies to plan for such treatment programs. [1991 c.706 §1]

Note: 430.950 and 430.955 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 430 by legislative action. See Preface to Oregon Revised Statutes for further explanation.

430.955 Standardized screening instrument; assessing drug use during pregnancy. (1) The Health Division, the office of Alcohol and Drug Abuse Programs and the Oregon Health Sciences University shall develop a standardized screening instrument designed to identify the use of substances during pregnancy.

(2) The Health Division, the office of Alcohol and Drug Abuse Programs and the Oregon Health Sciences University shall re-

quest the boards responsible for the licensing of health care providers and appropriate professional organizations to work with them to conduct a series of training sessions for health professionals who provide maternity care on how to assess drug use in pregnancy. [1991 c.706 §4]

Note: See note under 430.950.

METHADONE PROGRAM

Note: Chapter 740, Oregon Laws 1993, is temporary. The text is set forth for the user's convenience.

Sec. 1. Methadone Advisory Committee. (1) The Methadone Advisory Committee is established consisting of nine members appointed by the Assistant Director for Alcohol and Drug Abuse Programs. Except as provided in subsection (2)(g) of this section, the committee members shall be independent of methadone treatment services.

(2) The assistant director shall appoint to the committee:

(a) A representative of the Oregon Health Sciences University School of Pharmacy;

(b) A judge;

(c) A physician who has training or experience in understanding addiction;

(d) An individual who works in the alcohol and drug abuse field;

(e) A member of the Methadone Task Force;

(f) A representative of the office of Alcohol and Drug Abuse Programs;

(g) An individual receiving methadone treatment services;

(h) An individual who, once having received methadone as part of a drug treatment program, has not been receiving methadone for at least two years prior to appointment and is not unlawfully using any controlled substance; and

(i) An individual to represent the general public.

(3) Of the members to be appointed in accordance with subsection (2)(g) and (h) of this section, one shall be male and one shall be female.

(4) The term of office of each member ends June 30, 1994. If there is a vacancy for any cause, the assistant director shall make an appointment to become effective immediately for the unexpired term. [1993 c.740 §1]

Sec. 2. Duties of committee. (1) The Methadone Advisory Committee shall:

(a) Examine Oregon statutes and rules relating to synthetic opiate drug intake and treatment services;

(b) Review the enforcement of the statutes and rules described in paragraph (a) of this subsection;

(c) Review the recommendations made by the Methadone Task Force in its report of April 1993;

(d) Not later than July 15, 1994, submit a report to the office of Alcohol and Drug Abuse Programs that:

(A) Describes synthetic opiate drug intake and treatment services in Oregon; and

(B) Makes recommendations to improve synthetic opiate drug intake and treatment services in Oregon; and

(e) Assist the office of Alcohol and Drug Abuse Programs in the office's application for funding from the federal Anti-Drug Act block grant funds.

(2) The office of Alcohol and Drug Abuse Programs shall consider the recommendations of the committee and shall submit a report, including drafts of proposed

legislation, to the Sixty-eighth Legislative Assembly that:

(a) Describes synthetic opiate drug intake and treatment services in Oregon;

(b) Reviews the recommendations of the committee;

(c) Describes the changes already implemented by the office of Alcohol and Drug Abuse Programs; and

(d) If necessary, makes recommendations, including drafts of proposed legislation, to improve further the synthetic opiate drug intake and treatment services in Oregon. [1993 c.740 §2]

Sec. 3. Eligibility for synthetic opiates. Effective July 1, 1995, or the date this section becomes operative under section 7 of this Act, whichever is later, no person shall supply synthetic opiates to an individual in a community drug and alcohol abuse treatment setting unless the individual has approval through the intake process, as described in section 4 of this Act, or unless the individual was receiving synthetic opiates as part of a drug treatment program on July 1, 1995, or the date this section becomes operative. [1993 c.740 §3]

Sec. 4. Intake process to qualify to receive synthetic opiates. (1) The Assistant Director for Alcohol and Drug Abuse Programs shall develop, adopt and implement by rule the operation of an intake process of all individuals in this state receiving synthetic opiate drug treatment. The intake decisions shall be independent of methadone treatment services.

(2) The assistant director shall include by rule standardized procedures for the intake process to review and evaluate whether an individual addicted to controlled substances, as defined in ORS 475.005, should receive synthetic opiates as a part of treatment for drug addiction.

(3) The intake process, pursuant to rules adopted under subsections (1) and (2) of this section, shall include:

(a) Local review and evaluation, utilizing the existing network of local drug treatment programs, to determine whether an individual addicted to controlled substances and participating in a drug treatment pro-

gram should receive synthetic opiates as a part of treatment for drug addiction;

(b) When appropriate, approval for an individual to receive synthetic opiates as a part of treatment for drug addiction;

(c) Periodic review of drug addiction treatment programs using synthetic opiates, including reviewing the progress of representative samples of individuals under treatment; and

(d) Provisions that the intake process not dictate a specific treatment program for the individual.

(4) All drug treatment programs shall cooperate insofar as permitted by federal laws and regulations in providing client and other information requested by the office of Alcohol and Drug Abuse Programs through the intake process and in all other ways considered necessary by the assistant director to carry out the provisions of this Act. [1993 c.740 §4]

Sec. 5. Review; evaluation. The office of Alcohol and Drug Abuse Programs shall review synthetic opiate drug treatment services at regular intervals to evaluate the effectiveness of such treatment services. [1993 c.740 §5]

Sec. 6. Receipt of contributions. The office of Alcohol and Drug Abuse Programs may accept contributions of funds and assistance from the United States, its agencies, or from any other source, public or private, for the purposes of the intake process described in section 4 of this Act. The office may agree to conditions on the contributions and assistance not inconsistent with the purposes of this Act. All such funds are to aid in financing the functions of the intake process and shall be deposited in the General Fund of the State Treasury to the credit of separate accounts for the office and shall be disbursed for the purpose for which contributed in the same manner as funds appropriated for the office. [1993 c.740 §6]

Sec. 7. Sections 3 and 4 of this Act shall become operative only if the Director of the Department of Human Resources certifies that funds are available for the operation of the intake process authorized under section 4 of this Act. [1993 c.740 §7]