

# Enrolled Senate Bill 165

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CHAPTER .....

## AN ACT

Relating to mental health program services; amending ORS 426.005, 427.005, 430.640 and 430.672.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** ORS 430.640 is amended to read:

430.640. (1) The Department of Human Services, 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 when 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 federally recognized tribe of Native Americans, 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 department 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) Operate a program or contract with another entity to operate a program to provide mental retardation and other developmental disabilities services required by ORS 430.630 if a local mental health authority, as defined in ORS 430.630, declines to provide or contract for the provision of mental retardation and other developmental disabilities services.**

[(f)] (g) Approve or disapprove the biennial plan and budget information for the establishment and operation of each community mental health and developmental disabilities program. 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 may not be placed in effect without prior approval of the department. 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 or developmental disabilities or within the portion for persons with alcohol or drug dependence may be made without department approval.

[(g)] **(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.

[(h)] **(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.

[(i)] **(j)** Develop guidelines that include, for the development of comprehensive local plans in consultation with local mental health authorities:

(A) The use of integrated services;

(B) The outcomes expected from services and programs provided;

(C) Incentives to reduce the use of state hospitals;

(D) Mechanisms for local sharing of risk for state hospitalization;

(E) The provision of clinically appropriate levels of care based on an assessment of the mental health needs of consumers;

(F) The transition of consumers between levels of care; and

(G) The development, maintenance and continuation of older adult mental health programs with mental health professionals trained in geriatrics.

[(j)] **(k)** Work with local mental health authorities to provide incentives for community-based care whenever appropriate while simultaneously ensuring adequate statewide capacity.

[(k)] **(L)** Provide technical assistance and information regarding state and federal requirements to local mental health authorities throughout the local planning process required under ORS 430.630 (10).

[(L)] **(m)** Provide incentives for local mental health authorities to enhance or increase vocational placements for adults with mental health needs.

[(m)] **(n)** Develop or adopt nationally recognized system-level performance measures, linked to the Oregon Benchmarks, for state-level monitoring and reporting of mental health services for children, adults and older adults, including but not limited to quality and appropriateness of services, outcomes from services, structure and management of local plans, prevention of mental health disorders and integration of mental health services with other needed supports.

[(n)] **(o)** Develop standardized criteria for each level of care described in ORS 430.630 (10), including protocols for implementation of local plans, strength-based mental health assessment and case planning.

[(o)] **(p)** Develop a comprehensive long-term plan for providing appropriate and adequate mental health treatment and services to children, adults and older adults that is derived from the needs identified in local plans, is consistent with the vision, values and guiding principles in the Report to the Governor from the Mental Health Alignment Workgroup, January 2001, and addresses the need for and the role of state hospitals.

[(p)] **(q)** Report biennially to the Governor and the Legislative Assembly on the progress of the local planning process and the implementation of the local plans adopted under ORS 430.630 (10)(b) and the state planning process described in paragraph [(o)] **(p)** of this subsection, and on the performance measures and performance data available under paragraph [(m)] **(n)** of this subsection.

[(q)] **(r)** On a periodic basis, not to exceed 10 years, reevaluate the methodology used to estimate prevalence and demand for mental health services using the most current nationally recognized models and data.

[(r)] **(s)** Encourage the development of regional local mental health authorities comprised of two or more boards of county commissioners that establish or operate a community mental health and developmental disabilities program.

(2) The department may provide technical assistance and other incentives to assist in the planning, development and implementation of regional local mental health authorities whenever the de-

partment determines that a regional approach will optimize the comprehensive local plan described under ORS 430.630 (10).

(3) 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 department by other provisions of law.

**SECTION 2.** ORS 426.005 is amended to read:

426.005. (1) As used in ORS 426.005 to 426.390, unless the context requires otherwise:

[(a) "Department" means the Department of Human Services.]

**(a) "Community mental health and developmental disabilities program director" means the director of the entity that provides the services described in ORS 430.630 (3), (4) and (5).**

(b) "Director of the facility" means a superintendent of a state mental hospital, the chief of psychiatric services in a community hospital or the person in charge of treatment and rehabilitation programs at other treatment facilities.

(c) "Facility" means a state mental hospital, community hospital, residential facility, detoxification center, day treatment facility or such other facility as the Department of **Human Services** determines suitable, any of which may provide diagnosis and evaluation, medical care, detoxification, social services or rehabilitation for committed mentally ill persons.

(d) "Mentally ill person" means a person who, because of a mental disorder, is one or more of the following:

(A) Dangerous to self or others.

(B) Unable to provide for basic personal needs and is not receiving such care as is necessary for health or safety.

(C) A person:

(i) With a chronic mental illness, as defined in ORS 426.495;

(ii) Who, within the previous three years, has twice been placed in a hospital or approved inpatient facility by the department under ORS 426.060;

(iii) Who is exhibiting symptoms or behavior substantially similar to those that preceded and led to one or more of the hospitalizations or inpatient placements referred to in sub-subparagraph (ii) of this subparagraph; and

(iv) Who, unless treated, will continue, to a reasonable medical probability, to physically or mentally deteriorate so that the person will become a person described under either subparagraph (A) or (B) of this paragraph or both.

(e) "Nonhospital facility" means any facility, other than a hospital, that is approved by the department to provide adequate security, psychiatric, nursing and other services to persons under ORS 426.232 or 426.233.

(f) "Prehearing period of detention" means a period of time calculated from the initiation of custody during which a person may be detained under ORS 426.228, 426.231, 426.232 or 426.233.

(2) Whenever a community mental health and developmental disabilities program director, director of the facility, superintendent of a state hospital or administrator of a facility is referred to, the reference includes any designee such person has designated to act on the person's behalf in the exercise of duties.

**SECTION 3.** ORS 427.005 is amended to read:

427.005. As used in this chapter:

(1) "Adaptive behavior" means the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected for age and cultural group.

(2) "Care" means:

(a) Supportive services, including, but not limited to, provision of room and board;

(b) Supervision;

(c) Protection; and

(d) Assistance in bathing, dressing, grooming, eating, management of money, transportation or recreation.

[(3) "Department" means the Department of Human Services.]

(3) **“Community mental health and developmental disabilities program director” means the director of the entity that provides services described in ORS 430.630 to persons with mental retardation or other developmental disabilities.**

(4) “Developmental period” means the period of time between birth and the 18th birthday.

(5) “Director of the facility” means the superintendent of a state training center, or the person in charge of care, treatment and training programs at other facilities.

(6) “Facility” means a state training center, community hospital, group home, activity center, intermediate care facility, community mental health clinic, or such other facility or program as the Department of **Human Services** approves to provide necessary services to persons with mental retardation.

(7) “Incapacitated” means a person is unable, without assistance, to properly manage or take care of personal affairs or is incapable, without assistance, of self-care.

(8) “Independence” means the extent to which persons with mental retardation or developmental disabilities exert control and choice over their own lives.

(9) “Integration” means:

(a) Use by persons with mental retardation or developmental disabilities of the same community resources that are used by and available to other persons;

(b) Participation by persons with mental retardation or developmental disabilities in the same community activities in which persons without disabilities participate, together with regular contact with persons without disabilities; and

(c) Residence by persons with developmental disabilities in homes or in home-like settings that are in proximity to community resources, together with regular contact with persons without disabilities in their community.

(10) “Intellectual functioning” means functioning as assessed by one or more of the individually administered general intelligence tests developed for the purpose.

(11) “Mental retardation” means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period. Persons of borderline intelligence may be considered to have mental retardation if there is also serious impairment of adaptive behavior. Definitions and classifications shall be consistent with the “Manual on Terminology and Classification in Mental Retardation” of the American Association on Mental Deficiency[, 1977 Revision]. Mental retardation is synonymous with mental deficiency.

(12) “Minor” means an unmarried person under 18 years of age.

(13) “Physician” means a person licensed by the Oregon Medical Board to practice medicine and surgery.

(14) “Productivity” means engagement in income-producing work by a person with mental retardation or a developmental disability which is measured through improvements in income level, employment status or job advancement or engagement by a person with mental retardation or a developmental disability in work contributing to a household or community.

(15) “Resident” means a person admitted to a state training center either voluntarily or after commitment to the department.

(16) “Significantly subaverage” means a score on a test of intellectual functioning that is two or more standard deviations below the mean for the test.

(17) “State training center” means Eastern Oregon Training Center and any other facility operated by the department for the care, treatment and training of persons with mental retardation.

(18) “Training” means:

(a) The systematic, planned maintenance, development or enhancement of self-care, social or independent living skills; or

(b) The planned sequence of systematic interactions, activities, structured learning situations or education designed to meet each resident’s specified needs in the areas of physical, emotional, intellectual and social growth.

(19) "Treatment" means the provision of specific physical, mental, social interventions and therapies which halt, control or reverse processes that cause, aggravate or complicate malfunctions or dysfunctions.

**SECTION 4.** ORS 430.672 is amended to read:

430.672. (1) Except for community mental health and developmental disabilities programs operated by the county, a county may impose only standards, requirements and conditions for mental health and developmental disabilities programs that are substantially similar to the standards, requirements and conditions established for such programs by the Department of Human Services.

(2) When a county contracts with a public agency or private corporation for a community mental health and developmental disabilities program, the county shall include in the contract only terms that are substantially similar to model contract terms developed by the department under ORS 430.640 [(1)(g)] **(1)(h)**. The county may not add contractual requirements, including qualifications for contractor selection, that are nonessential to the services provided under ORS 430.630. The county may add contract requirements that the county considers necessary to ensure the siting and maintenance of facilities of the community mental health and developmental disabilities program.

(3) The provisions of subsections (1) and (2) of this section apply only insofar as funds are provided by the department to the county for community mental health and developmental disabilities programs.

(4) As used in this section, "community mental health and developmental disabilities program" includes those program elements that serve only persons with developmental disabilities.

**Passed by Senate February 25, 2009**

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Secretary of Senate

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President of Senate

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Speaker of House

**Received by Governor:**

.....M.,....., 2009

**Approved:**

.....M.,....., 2009

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Governor

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.....M.,....., 2009

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Secretary of State