

Enrolled Senate Bill 781

Sponsored by Senator MORRISETTE, Representatives DALTO, MARCH; Senator WESTLUND,
Representatives BOONE, GILMAN, HANSEN, HASS, JENSON, KOMP, KRIEGER, MERKLEY,
NELSON, SHIELDS, G SMITH, TOMEI, WITT

CHAPTER

AN ACT

Relating to mental health; creating new provisions; amending ORS 410.720, 430.625, 430.630, 430.640,
430.665 and 430.675; and declaring an emergency.

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

SECTION 1. ORS 430.625 is amended to read:

430.625. (1) If any local mental health program has an advisory committee, disabled persons, as defined in ORS 430.050 (6), **and older adults** shall be appointed to serve on the advisory committee. *[and]*

(2) **The disabled persons described in subsection (1) of this section** shall meet separately as a disability issues advisory committee.

SECTION 2. ORS 430.630 is amended to read:

430.630. (1) In addition to any other requirements that may be established by rule by the Department of Human Services and subject to the availability of funds, 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; **and**
- (e) **Age-appropriate treatment options for older adults.**

(2) As alternatives to state hospitalization, it *[shall be]* **is** the responsibility of the community mental health and developmental disabilities program to *[insure]* **ensure** 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 Department of Human Services:

- (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 department.

(3) In addition to any other requirements that may be established by rule of the department, each community mental health and developmental disabilities program, subject to the availability of funds, shall provide or ensure 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 department 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;

(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]* **paragraph:**

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

[(ii)] (B) "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)] (C) "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[.]; **and**

(m) Preventive mental health services for older adults, 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 and behavioral disorders and suicide attempts in older adults. As used in this paragraph:

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

(B) "Early intervention services" for older adults at risk of development of emotional disturbance means programs and activities for older adults and their families that promote conditions, opportunities and experiences that encourage and maintain emotional stability, self-sufficiency and increased personal competence and that deter suicide; and

(C) **“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, 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 department 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 department, 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 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.

(8) A community mental health and developmental disabilities program may request and the department 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 department that mentally or emotionally disturbed persons in that county would be better served and unnecessary institutionalization avoided.

(9) 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.

(10)(a) As used in this subsection, “local mental health authority” means one of the following entities:

(A) The board of county commissioners of one or more counties that establishes or operates a community mental health and developmental disabilities program;

(B) The tribal council, in the case of a federally recognized tribe of Native Americans that elects to enter into an agreement to provide mental health services; or

(C) A regional local mental health authority comprised of two or more boards of county commissioners.

(b) Each local mental health authority that provides mental health services shall determine the need for local mental health services and adopt a comprehensive local plan for the delivery of mental health services for children, families, [and] adults **and older adults** that describes the methods by which the local mental health authority shall provide those services. The local mental health authority shall review and revise the local plan biennially. The purpose of the local plan is

to create a blueprint to provide mental health services that are directed by and responsive to the mental health needs of individuals in the community served by the local plan.

(c) The local plan shall identify ways to:

(A) Coordinate and ensure accountability for all levels of care described in paragraph (e) of this subsection;

(B) Maximize resources for consumers and minimize administrative expenses;

(C) Provide supported employment and other vocational opportunities for consumers;

(D) Determine the most appropriate service provider among a range of qualified providers;

(E) Ensure that appropriate mental health referrals are made;

(F) Address local housing needs for persons with mental health disorders;

(G) Develop a process for discharge from state and local psychiatric hospitals and transition planning between levels of care or components of the system of care;

(H) Provide peer support services, including but not limited to drop-in centers and paid peer support;

(I) Provide transportation supports; and

(J) Coordinate services among the criminal and juvenile justice systems, adult and juvenile corrections systems and local mental health programs to ensure that persons with mental illness who come into contact with the justice and corrections systems receive needed care and to ensure continuity of services for adults and juveniles leaving the corrections system.

(d) When developing a local plan, a local mental health authority shall:

(A) Coordinate with the budgetary cycles of state and local governments that provide the local mental health authority with funding for mental health services;

(B) Involve consumers, advocates, families, service providers, schools and other interested parties in the planning process;

(C) Coordinate with the local public safety coordinating council to address the services described in paragraph (c)(J) of this subsection;

(D) Conduct a population based needs assessment to determine the types of services needed locally;

(E) Determine the ethnic, **age-specific**, cultural and diversity needs of the population served by the local plan;

(F) Describe the anticipated outcomes of services and the actions to be achieved in the local plan;

(G) Ensure that the local plan coordinates planning, funding and services with:

(i) The educational needs of children, [and] adults **and older adults**;

(ii) Providers of social supports, including but not limited to housing, employment, transportation and education; and

(iii) Providers of physical health and medical services;

(H) Describe how funds, other than state resources, may be used to support and implement the local plan;

(I) Demonstrate ways to integrate local services and administrative functions in order to support integrated service delivery in the local plan; and

(J) Involve the local mental health advisory committees described in subsection (7) of this section.

(e) The local plan must describe how the local mental health authority will ensure the delivery of and be accountable for clinically appropriate services in a continuum of care based on consumer needs. The local plan shall include, but not be limited to, services providing the following levels of care:

(A) Twenty-four-hour crisis services;

(B) Secure and nonsecure extended psychiatric care;

(C) Secure and nonsecure acute psychiatric care;

(D) Twenty-four-hour supervised structured treatment;

(E) Psychiatric day treatment;

- (F) Treatments that maximize client independence;
- (G) Family and peer support and self-help services;
- (H) Support services;
- (I) Prevention and early intervention services;
- (J) Transition assistance between levels of care;
- (K) Dual diagnosis services;
- (L) Access to placement in state-funded psychiatric hospital beds; *[and]*
- (M) Precommitment and civil commitment in accordance with ORS chapter 426[.]; **and**
- (N) Outreach to older adults at locations appropriate for making contact with older adults, including senior centers, long term care facilities and personal residences.**

(f) In developing the part of the local plan referred to in paragraph (c)(J) of this subsection, the local mental health authority shall collaborate with the local public safety coordinating council to address the following:

- (A) Training for all law enforcement officers on ways to recognize and interact with persons with mental illness, for the purpose of diverting them from the criminal and juvenile justice systems;
- (B) Developing voluntary locked facilities for crisis treatment and follow-up as an alternative to custodial arrests;
- (C) Developing a plan for sharing a daily jail and juvenile detention center custody roster and the identity of persons of concern and offering mental health services to those in custody;
- (D) Developing a voluntary diversion program to provide an alternative for persons with mental illness in the criminal and juvenile justice systems; and
- (E) Developing mental health services, including housing, for persons with mental illness prior to and upon release from custody.

(g) Services described in the local plan shall:

- (A) Address the vision, values and guiding principles described in the Report to the Governor from the Mental Health Alignment Workgroup, January 2001;
- (B) Be provided to children, **older adults** and families as close to their homes as possible;
- (C) Be culturally appropriate and competent;
- (D) Be, for children, **older adults** and adults with mental health needs, from providers appropriate to deliver those services;
- (E) Be delivered in an integrated service delivery system with integrated service sites or processes, and with the use of integrated service teams;
- (F) Ensure consumer choice among a range of qualified providers in the community;
- (G) Be distributed geographically;
- (H) Involve consumers, families, clinicians, children and schools in treatment as appropriate;
- (I) Maximize early identification and early intervention;
- (J) Ensure appropriate transition planning between providers and service delivery systems, with an emphasis on transition between children and adult mental health services;
- (K) Be based on the ability of a client to pay;
- (L) Be delivered collaboratively;
- (M) Use age-appropriate, research-based quality indicators;
- (N) Use best-practice innovations; and
- (O) Be delivered using a community-based, multisystem approach.

(h) A local mental health authority shall submit to the Department of Human Services a copy of the local plan and biennial revisions adopted under paragraph (b) of this subsection at time intervals established by the department.

(i) Each local commission on children and families shall reference the local plan for the delivery of mental health services in the local coordinated comprehensive plan created pursuant to ORS 417.775.

SECTION 3. 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) 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] **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 and developmental disabilities or within the portion for persons with alcohol and drug dependence may be made without department approval.

(g) 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) 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) 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; [and]

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

(k) 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) Provide incentives for local mental health authorities to enhance or increase vocational placements for adults with mental health needs.

(m) 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, [and] 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) 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) Develop a comprehensive long-term plan for providing appropriate and adequate mental health treatment and services to children, [and] 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) 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) of this subsection, and on the performance measures and performance data available under paragraph (m) of this subsection.

(q) 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) 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 department 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 4. ORS 430.665 is amended to read:

430.665. (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 Department of Human Services after consultation with the program directors.

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

(a) Numbers of persons served;

(b) Ages of persons served;

~~[(b)]~~ **(c)** Types of services provided; and

~~[(c)]~~ **(d)** 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 department. The department 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 department, 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.

SECTION 5. ORS 430.675 is amended to read:

430.675. 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, **including the potential for suicide**, 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.

SECTION 6. ORS 410.720 is amended to read:

410.720. (1) It is the policy of this state to provide [*for the*] mental health [*needs of*] **and addiction services for all Oregon senior citizens and persons with disabilities** through a comprehensive and coordinated statewide network of local [*senior*] mental health services and alcohol and drug abuse education and treatment. These services should involve family and friends and be provided in the least restrictive and most appropriate settings.

(2) **The Department of Human Services shall facilitate the formation of local community partnerships between the senior, disability, mental health, alcohol and drug abuse and health care communities by supporting the development of program approaches including, but not limited to:**

(a) **Mental health and addiction screenings and assessments in long term care settings;**

(b) **Outreach services to seniors and persons with disabilities in their homes, including gatekeeper programs, neighborhood programs and programs designed for rural communities;**

(c) **Multilingual and multicultural medical and psychiatric services for ethnic minorities with physical disabilities and hearing impairments;**

(d) **Education and training for health care consumers, health care professionals and mental health and addiction services providers on mental health and addiction issues, programs and services for seniors and persons with disabilities; and**

(e) **Education and consultation services for primary care physicians treating seniors and persons with disabilities.**

[~~(2)~~] (3) In carrying out the provisions of [*subsection (1)*] **subsections (1) and (2)** of this section, the department [*of Human Services*] shall:

(a) **Develop plans for service coordination within the department; [*and*]**

(b) **Recommend budget provisions for the delivery of needed services offered by the department; and**

(c) **Develop plans for expanding mental health and addiction services for seniors and persons with disabilities to meet the increasing demand.**

SECTION 7. (1) **The Department of Human Services or the Department of Corrections shall dispense as written a prescription for a brand-name mental health drug prescribed for a person while the person is in the custody of an institution described in ORS 179.321 if the prescription specifies “dispense as written” or contains the notation “D.A.W.” or other words of similar meaning.**

(2) **If, at the time of commitment to the custody of an institution described in ORS 179.321, a person has a prescription for a specified brand-name mental health drug and the prescription specifies “dispense as written” or contains the notation “D.A.W.” or other words of similar meaning, the Department of Human Services or the Department of Corrections shall ensure that the person is prescribed the specified brand-name drug until a li-**

censed health professional with prescriptive privileges evaluates the person and becomes responsible for the treatment of the person.

SECTION 8. Section 7 of this 2005 Act applies to persons in the custody of an institution described in ORS 179.321 on or after the effective date of this 2005 Act.

SECTION 9. This 2005 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect on its passage.

Passed by Senate April 12, 2005

Received by Governor:

Repassed by Senate July 20, 2005

.....M.,....., 2005

Approved:

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Secretary of Senate

.....M.,....., 2005

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President of Senate

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Governor

Passed by House June 30, 2005

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.....M.,....., 2005

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Speaker of House

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Secretary of State