

# Tackling Administrative Burden in Behavioral Health

## **HB4092 Workgroup 2024 Preliminary Recommendations**

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Report to the 2025 Oregon Legislature  
*December 11, 2024*

## Background

HB4092<sup>1</sup>, enacted in the 2024 legislative session, directs the Oregon Council for Behavioral Health (OCBH), through a contract with the Oregon Health Authority (OHA), to convene a committee of behavioral health partners to assess and develop recommendations to modernize statutes, administrative rules, and contracts. The goals of the recommendations are to relieve administrative burden on service providers and to clarify roles and responsibilities of various entities in the public behavioral health system.

This legislation builds on the work launched in 2022 through the “Tackling Administrative Burden” (TAB) subgroup of the Behavioral Health Transformation Workgroup, convened by Sen. Lieber and Rep. Nosse in partnership with OHA following an historic legislative investment into the behavioral health workforce. Now, as in 2022, behavioral health partners repeatedly cite administrative burden as a key challenge exacerbating the state’s behavioral health workforce shortages. The scope of this work goes beyond the challenges posed by administrative burden and workforce shortages. The charge of the 4092 Workgroup is to:

- Identify redundancies, contradictions, and outdated language in Chapters 414 and 430 and recommend solutions to address or resolve to increase efficiencies to better serve Oregonians;
- Define and clarify the roles and responsibilities under Chapters 414 and 430 and related contract expectations and deliverables of all major behavioral health system partners;
- Develop recommendations to ensure a regulatory framework that is better for the population of behavioral health consumers and publicly funded providers by maximizing access to behavioral health services, creating portability and accountability for the workforce, promoting behavioral and physical health integration, and addressing differences between the regulatory structure for privately and publicly funded health services in the state.

In subsection (8), the law requires that the group provide preliminary recommendations by December 14, 2024 for legislative changes related to the identification of redundancies, contradictions, and outdated language in Chapter 414 and 430 and recommended solutions to address or resolve the issues that increase efficiencies in the publicly-funded behavioral health system to better serve Oregonians. This report reflects the 4092 Workgroup’s preliminary recommendations. A final set of recommendations are due December 15, 2025. Final recommendations will include recommended changes to the regulatory framework so that it is better for the population of behavioral health care consumers and the publicly funded providers needed to serve the population.

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<sup>1</sup> <https://olis.oregonlegislature.gov/liz/2024R1/Downloads/MeasureDocument/HB4092>

## HB4092 Workgroup Members

The Workgroup was formally convened beginning on June 24, 2024 with Cathy Kaufmann and Diana Bianco selected as the contract facilitators. Over 45 individuals were invited to participate in the Workgroup, representing the following organizations:

- American Federation of State County & Municipal Employees
- AllCare Health
- Association of Oregon Counties
- Association of Oregon Community Mental Health Programs
- CareOregon
- CCO Oregon
- Clatsop Behavioral Health
- Columbia County
- Deschutes County Health Services
- Eastern Oregon CCO
- HealthShare of Oregon
- Hospital Association of Oregon
- Mental Health Regulatory Agency
- Mental Health & Addiction Certification Board of Oregon
- Mid-Columbia Center for Living
- National Alliance on Mental Illness Oregon
- Native American Rehabilitation Association NW
- NW Treatment
- Oregon Health Authority
- Oregon Justice Department
- Oregon Council for Behavioral Health
- Oregon Mental Health Consumers Association
- PacificSource
- Providence
- Wasco County Youth Services
- Willamette Health Council
- Yamhill CCO

Workgroup participants include both voting and non-voting members. Required voting seats were identified in HB 4092 and filled as follows:

### **Behavioral Health Advocacy Organization:**

Chris Bouneff, National Alliance on Mental Illness Oregon

**Consumer:** Kevin Fitts, Oregon Mental Health Consumers' Association

**CCO:** Ann Ford, Eastern Oregon CCO

**CMHP:** Al Barton, Mid-Columbia Center for Living

**Counties:** Gina Nikkel, Association of Oregon Counties

**Culturally-Specific BH Organization:** Jackie Mercer, NARA NW and Jessica Macklin, NW Treatment

**Hospitals:** Robin Henderson, Providence

**Labor Org:** Anna Peña, American Federation of State County & Municipal Employees

**Mental Health Regulation Agency:** LaRee Stashek

**Mental Health & Addiction Certification Board of Oregon:** Kristi McKinney

**Oregon Health Authority:** Jon Collins, Christa Jones, Dave Inbody

**OJD:** Judge Denise Keppinger

**Provider:** Heather Jefferis, Oregon Council for Behavioral Health

**Tribal Health Services:** vacant (seat declined)

Non voting members participated fully in Workgroup discussions and the development of recommendations using a consensus approach. Formal approval of the final set of 2024 preliminary recommendations was done by voting members only, with OHA abstaining and the remaining voting members present supporting these recommendations. Voting members who were absent for the vote were: Kevin Fitts, Jackie Mercer and Anna Peña.

Lastly, a Steering Committee made up of the following workgroup participants provided guidance to the contract facilitators:

- Chris Bouneff, National Alliance on Mental Illness Oregon
- Ann Ford, Eastern Oregon CCO
- Heather Jefferis, Oregon Council for Behavioral Health
- Cherryl Ramirez, Association of Oregon Community Mental Health Programs
- Samantha Shepherd, CCO Oregon

### **Group Agreements**

Before beginning the review and assessment of ORS 414 and 430, the Workgroup developed and agreed upon the following principles to guide their work:

- Center health equity, consumer experience, workforce, quality, consumer protection and public safety, as well as sustainability and efficiency in the development and analysis of the recommendations.
- Come prepared to think big, making sure to honor the work and not just create a report that sits on a desk afterwards with no real changes. Get to the “why” and genuinely talk through issues for clarity and understanding.
- Have honest discussions with each other.
- Listen actively – be genuinely curious and open to learning.
- Respect others when they are talking and avoid interrupting.
- Consider, and be considerate of, different perspectives.
- Collaborate, create and build using a “both/and” approach.
- Varied and opposing ideas are welcome. Challenge ideas, not people.
- Speak with authenticity and grace.
- Lean in/Lean back: If you tend not to talk, challenge yourself to participate more. If you tend to dominate the conversation, step back and give space for others.
- Respect the group’s time -- keep your comments concise and to the point.
- Attend all meetings and if you must miss a meeting, please note the name of your proxy in advance.

- Be present and participate. Most meetings are virtual, so keep your camera on as much as possible.

## 2024 Preliminary Recommendations

Workgroup participants reviewed all sections of ORS 414 and 430 pertaining to behavioral health and identified the following recommendations and/or further assessment to inform final recommendations.

### Recommendations Across Multiple Chapters / Sections

1. **Update, define and consolidate terminology:** A variety of terms are included throughout Chapters 414 and 430 that are outdated and, in some instances, derogatory to consumers. Furthermore, multiple terms are used that may have the same or similar meanings, not all of which are defined. For example, ORS 430.306 provides a lengthy definition for a “drug-dependent person” but not for a person with a “substance use disorder.” Similarly, some statutes in Chapter 430 use “mental illness” while others use “mental or emotional disturbance.” This creates confusion in a vital chapter of law from which many programs pull directives. The Workgroup recommends “vintage” terms be replaced with terminology used by [SAMHSA](#). For example, utilize “substance use disorder” in place of “drug-addicted person” or “drug dependent person,” and use the umbrella term “behavioral health services” rather than “addiction treatment” and “mental health and psychiatric health care.” Unifying terms should be defined at the start of each chapter with specialized terms defined as needed within certain statutory programs. These new definitions should be cross referenced in 430.630 (which identifies services to be provided by community mental health programs, local mental health authorities and the local mental health services plan), as well as other relevant sections.
2. **Clarify and streamline committees and advisory bodies:** Workgroup members noted that there are too many state advisory bodies, committees and workgroups related to behavioral health all of which take a significant amount of provider time. Furthermore, there is confusion as to which groups are active and the membership of these groups. The Workgroup believes these groups should be streamlined, but must first better understand current structure and practice. The 2024 recommendation is that OHA be directed to develop a census of all existing and/or statutorily required committees, advisory bodies and workgroups related to behavioral health, including membership, meeting frequency, time and location, with links to recent agendas and, to the extent practical, meeting materials, and provide a consolidated list with this information to the

Workgroup and/or house it on a centralized OHA web page. This information will inform recommendations from the Workgroup in 2025, highlighting duplication and proposing specific changes. Furthermore, the Workgroup requests, to the extent feasible, OHA pause the creation of any additional advisory groups/ committees until the final recommendations of this Workgroup are developed.

3. **Consolidate and align consumer rights:** Currently, language pertaining to consumer / member rights exist in ORS 430.210 and 414.60, as well as in CFRs, OARs, the OHP handbook, the CFAA, and the CCO contract, all with slightly different language, causing confusion for consumers and administrative burden for providers and payers. The Workgroup recommends consolidation and alignment of consumer rights language across laws and documents. When possible, documents should provide clear references to the location of the rights within statute or OAR.
  
4. **Apply terms for funding-dependent services consistently throughout Chapters 430 and 414:** In ORS 430.630 and several other places within Chapter 430, a variety of terms are used to describe financial allocations in connection with treatment or services. Those terms include “subject to the availability of funds” and “to the extent funding is available.” This creates a challenge for full implementation of these programs and services. Embedded within this problem are the thornier issues of unfunded mandates in statute, and an inability to dictate the actions of future legislative action. The Workgroup recommends using one specific term, preferably “subject to the availability of funds” throughout Chapter 430, as well as in Chapter 414.

### Section Specific Recommendations

Section	4092 Workgroup Recommendation
<b>430.140</b> Federal grants for promoting mental health	Review language in this section to assure community-based organizations are not unnecessarily required to adhere to federal reporting requirements intended for states rather than those intended for community organizations and other entities.
<b>430.270</b> Publicizing effects of alcohol and drugs	Require OHA to share informational materials it develops to adhere with this requirement with providers. Sharing this information will avoid individual providers needing to duplicate state efforts to meet DUI program education requirements. OHA has noted there may be a fiscal impact for this recommendation.

<b>430.278</b> Oregon Health Authority to evaluate rules governing behavioral health programs to reduce administrative burdens on providers	The language in this section can be strengthened and clarified so that the requirement for administrative burden review is less ambiguous. The Workgroup recommends establishing a regular cadence for this review along with requiring a process to allow behavioral health providers to bring concerns forward without having to wait for a formal rule review process.
<b>430.315</b> Policy	The current section is in need of updates. It was drafted prior to the federal Mental Health parity act and the creation of CCOs and utilizes terminology from a point of time when substance use disorder was not nationally required to be part of a health care benefit. Today, substance use disorder and mental health concerns are required to be included in healthcare coverage both in Oregon and in Federal Parity law. The Workgroup recommends language in this section be updated to direct public bodies and contractors of public bodies that provide services and treatment to individuals with mental health and substance use disorder to reduce stigmatizing language, policies, and procedures wherever possible.
<b>430.345</b> Grants for prevention of, intervention in and treatment for substance use disorder	The Workgroup recommends this section be removed as it is no longer current. Furthermore, this section exemplifies an ongoing issue pervasive throughout ORS 430 of requirements being placed in statute that are more appropriately placed in rule.
<b>430.368</b> Appeal and review of funding requests; conclusiveness of review	The Workgroup recommends this section be removed as it is no longer relevant nor accurate.
<b>430.375</b> Fee Schedule	The Workgroup recommends this section be updated to reflect CCOs and streamlined because much of what is included is no longer accurate given requirements outlined in Chapter 414.
<b>430.380</b> Mental Health Alcoholism and Drug Services Account; uses	Language should be updated to reflect the current name of the account (Mental Health and Substance Use Account).
<b>430.389</b> Council to approve grants and funding to Behavioral Health Resource Networks and other entities to increase access to treatment and services	The Workgroup recommends moving language from 430.630 to (2)(c) of this section. ("Community mental health programs, subject to availability of funds provided by the State of Oregon, shall provide guidance and assistance to local Behavioral Health Resource Networks for the joint development of programs and activities to increase access to treatment.")
<b>430.399</b> When person must be taken to treatment facility or	The Workgroup notes this section will need to be updated to reflect changes through Oregon's 1115 Waiver allowing for Medicaid enrollment for the incarcerated population up to 90-days pre-release.

sobering facility; admission or referral; when jail custody may be used	
<b>430.560</b> Oregon Health Authority adoption of requirements for contracted drug treatment programs; rules.	In addition to updating terminology, the Workgroup recommends aligning language on treatment with the current treatment evidence base and updating language on process to accurately reflect current practice.
<b>430.610</b> Legislative Policy	In addition to updating terminology and using a consistent term for funding dependent services, the Workgroup recommends adding the nine federally recognized tribes in Oregon to the entities the State of Oregon shall encourage, aid and support to subsection (4).
<b>430.620</b> Establishment of community mental health and developmental disabilities programs by one or more counties	The Workgroup recommends adding language to reflect CCOs in subsection (c) as follows (in italics): (c) Cooperate, coordinate or act jointly with any other county or counties or any appropriate officer or agency of such counties, <i>as well as Coordinated Care Organizations</i> , in establishing and operating or contracting for a community mental health program or community developmental disabilities program to service all such counties in conformity with the regulations of the department or the authority.
<b>430.634</b> Evaluation of programs; population schedule for distributing funds	The Workgroup recommends this section be removed as it is no longer accurate nor relevant.
<b>430.637</b> Criteria for certificate of approval issued to mental health or substance use disorder treatment provider; advisory committee; reporting requirements; rules	The Workgroup noted the current lack of alignment between state and federal standards as a significant challenge for behavioral health providers, and recommends language be added requiring OHA to accept national accreditation body standards, to the greatest extent possible, to reduce administrative burden and avoid duplication. The Workgroup recommends requiring OHA to sustain relationships with National Accreditation Bodies that offer behavioral health accreditation and clearly post and distribute each accreditation body's accreditation elements that meet the criteria standards of OHA. Additionally, the Workgroup recommends requiring the advisory committee be reconvened annually (rather than as needed). Lastly, the Workgroup recommends (8)(b) be amended to note that CCOs may request additional information from providers, beyond the report of the assessment, only to the extent required by the state or external quality review and if the provider is currently under corrective action by OHA. The Workgroup notes that the need for stronger alignment with national standards has come up repeatedly with multiple efforts to address the issue. The Workgroup welcomes collaboration with other leaders and/or partners working towards a solution.



<b>430.646</b> Priorities for services for persons with mental or emotional disturbances	In addition to updating outdated terms, including renaming the section “Priorities for services for persons with mental health or substance use disorder,” the Workgroup recommends adding “evidence-based” to the description of new services and innovative methods to subsection (4).
<b>430.648</b> Funding distribution formula; matching funds; administrative expenses	The Workgroup recommends updating this section to accurately reflect current funding distribution formulas. This recommendation also applies to 430.651, a related subsequent section.
<b>430.731</b> Uniform investigation procedures; rules	The Workgroup recommends (2)(a) of this section be amended to include the language in italics: “Limit the duties of investigators solely to conducting and reporting investigations of abuse, <i>unless a formal agreement is created between the department and the community developmental disabilities program that addresses any potential for conflicts of interest</i> ” and subsection (3) be deleted ( <i>A person employed by or under contract with the department, the designee of the department or a community developmental disabilities program to provide case management services may not serve as the lead investigator of an allegation of abuse of a person with a developmental disability.</i> ).
<b>430.739</b> County multidisciplinary teams; protocols; reports	In subsection (7), amend language to reflect that each team shall report to the district attorney (rather than the Department of Justice and the Oregon Criminal Justice Commission) to reflect current practice.
<b>430.743</b> Abuse report; content...	Clarify that a written report is also acceptable and that the report may be submitted by secure electronic means.
<b>414.025</b> Definitions for ORS chapters 411, 413 and 414	In addition to updating outdated terminology, this section needs an updated, accurate definition of Behavioral Health homes.
<b>414.577</b> Community health assessment and adoption of community health improvement plan; rules.	The Workgroup recommends adding local mental health authorities, and/or community mental health programs to subsection (1), as well as adding a new subsection (4) to note the Community Health Assessment and Community Health Improvement Plan shall be the comprehensive assessment and plan to assess community health priorities and strategies for improvement.
<b>414.595</b> External quality reviews of coordinated care organizations; limits on documentation and reporting requirements	The Workgroup recommends language be added to clarify that OHA or its contracted review organization will not assign findings or penalties to an individual CCO associated with documents or templates created by OHA for CCO use.

<b>414.726</b> Requirement to use certified or qualified health care interpreters; reimbursement; rules.	The Workgroup notes the challenges statewide, and particularly in rural areas, in finding certified interpreters and recommends adding language to this section directing OHA to provide support for identifying interpreters through a resource list or other means.
<b>414.723</b> Telemedicine services; rules	Add language to subsection (5) clarifying the section does not require the authority or a CCO to pay a provider if that provider is not licensed or credentialed within the State of Oregon.
<b>414.780</b> Coordinated care organization reporting of data to assess compliance with mental health parity requirements; annual assessment.	Add language to subsection (4)(b) stating the Oregon Health Authority and Coordinated Care Organizations will ensure that entry into behavioral health treatment is no more onerous nor burdensome to members than entry into similar medical/surgical services, unless directed by federal or state law or rules.

## Developing the 2025 Final Recommendations

### Clarifying Roles and Accountabilities for Behavioral Health Care

The Workgroup has spent a significant amount of time reviewing and discussing language in Chapter 430 (particularly 430.630) and, to some extent, Chapter 414, that reflect roles and accountabilities for funding and delivering behavioral health care in the state. There is consensus among members that statutory language does not accurately reflect current practice, as well as shared concern about possible unintended consequences of recommending changes without allowing for an appropriate amount of time to process and consider potential impacts. Further, the Workgroup wants to balance having the right amount of specificity in the statute without too much detail. To move this work forward, a subcommittee of the Workgroup will be convened in early 2025 to work through questions and concerns around roles, responsibilities and accountabilities and make recommendations to be discussed and vetted by the full Workgroup.

### Reflecting Consumer Voice and the Value of Peer Services

Consumer participation and voices with lived experience in the Workgroup are critical to the success of this process. The Workgroup has solicited and received input from consumer participants and will work in continued partnership with them to identify the input that is directly related to administrative burden. Issues that may not be relevant to reducing administrative burden will be shared nonetheless to ensure the input and concerns are appropriately lifted up.

### **Streamlining, Clarifying and Aligning Planning and Reporting Requirements**

Workgroup members have identified a shared goal of streamlining reporting and aligning local planning requirements and clarifying roles and accountabilities. The Workgroup will continue to review Chapters 414 and 430, as well as administrative rules, to develop recommendations to further these goals, while centering and prioritizing consumer and community needs.

**Clarify and Centralize Reporting and Directory Requirement Language:** Many sections throughout Chapter 430 reflect reporting and directory requirements. The Workgroup will examine roles and responsibilities related to reporting and directory requirements and develop recommendations to simplify and reorganize these requirements into one centralized section for increased clarity and understanding for providers (with cross-references to other relevant sections).

### **Coordinating with Partners Outside the Workgroup**

As part of its ongoing work to develop statutory and regulatory framework recommendations, the Workgroup will coordinate with relevant partners outside its members, including tribal representatives, peer groups, corrections, DHS Adults and People with Disabilities (ADP) and Office of Developmental and Disabilities Services (ODDS), the System of Care Advisory Council (SOCAC), the Oregon Coalition of Local Health Officials (CLHO), the Oregon Department of Veterans Affairs and others, to gather their input and insights into the development of final recommendations.