

**Enrolled**  
**Senate Bill 159**

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CHAPTER .....

AN ACT

Relating to communicable diseases; amending ORS 433.001, 433.004 and 433.008; and declaring an emergency.

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

**SECTION 1.** ORS 433.001 is amended to read:

433.001. As used in ORS 433.001 to 433.045 and 433.110 to 433.770 unless the context requires otherwise:

- (1) "Communicable disease" has the meaning given that term in ORS 431.260.
- [(2) "*Condition of public health importance*" has the meaning given that term in ORS 431.260.]
- (2) "Control" means a person without a reportable disease about whom information is collected for purposes of comparison to a person or persons with the reportable disease.**
- (3) "Department" means the Department of Human Services.
- (4) "Director" means the Director of Human Services.
- (5) "Disease outbreak" has the meaning given that term in ORS 431.260.**
- (6) "Epidemic" has the meaning given that term in ORS 431.260.**
- (7) "Health care provider" has the meaning given that term in ORS 433.443.**
- (8) "Individual" means a natural person.**
- (9) "Individually identifiable health information" has the meaning given that term in ORS 433.443.**
- [(5)] **(10) "Isolation" means the physical separation and confinement of a person or group of persons who are infected or reasonably believed to be infected with a communicable disease or possibly communicable disease from nonisolated persons to prevent or limit the transmission of the disease to nonisolated persons.**
- [(6)] **(11) "Local public health administrator" has the meaning given that term in ORS 431.260.**
- [(7) "*Local public health authority*" has the meaning given that term in ORS 431.260.]
- [(8)] **(12) "Property" means animals, inanimate objects, vessels, public conveyances, buildings and all other real or personal property.**
- [(9)] **(13) "Public health measure" has the meaning given that term in ORS 431.260.**
- [(10)] **(14) "Quarantine" means the physical separation and confinement of a person or group of persons who have been or may have been exposed to a communicable disease or possibly communicable disease and who do not show signs or symptoms of a communicable disease, from**

persons who have not been exposed to a communicable disease or possibly communicable disease, to prevent or limit the transmission of the disease to other persons.

[(11)] **(15)** "Reportable disease" has the meaning given that term in ORS 431.260.

[(12)] **(16)** "Toxic substance" has the meaning given that term in ORS 431.260.

**SECTION 2.** ORS 433.004 is amended to read:

433.004. (1) The Department of Human Services shall by rule:

- (a) Specify reportable diseases;
- (b) Identify those categories of persons who must report reportable diseases and the circumstances under which the reports must be made;
- (c) Prescribe the procedures and forms for making such reports and transmitting the reports to the department; and
- (d) Prescribe measures **and methods** for investigating the source and controlling reportable diseases.

(2) Persons required under the rules to report reportable diseases shall do so by reporting to the local public health administrator. The local public health administrator shall transmit such reports to the department.

**(3) The department or local public health administrator may investigate a case of a reportable disease, disease outbreak or epidemic. The investigation may include, but is not limited to:**

- (a) Interviews of:**
  - (A) The subject of a reportable disease report;**
  - (B) Controls;**
  - (C) Health care providers; or**
  - (D) Employees of a health care facility.**

**(b) Requiring a health care provider, any public or private entity, or an individual who has information necessary for the investigation to:**

- (A) Permit inspection of the information by the department or local public health administrator; and**
- (B) Release the information to the department or local public health administrator.**
- (c) Inspection, sampling and testing of real or personal property with consent of the owner or custodian of the property or with an administrative warrant.**

**(4)(a) The department shall establish by rule the manner in which information may be requested and obtained under subsection (3) of this section.**

**(b) Information requested may include, but is not limited to, individually identifiable health information related to:**

- (A) The case;**
- (B) An individual who may be the potential source of exposure or infection;**
- (C) An individual who has been or may have been exposed to or affected by the disease;**
- (D) Policies, practices, systems or structures that may have affected the likelihood of disease transmission; and**
- (E) Factors that may influence an individual's susceptibility to the disease or likelihood of being diagnosed with the disease.**

[(3)] **(5)** In addition to other grounds for which a state agency may exercise disciplinary action against its licensees or certificate holders, the substantial or repeated failure of a licensee or certificate holder to report when required to do so under subsection (2) **or (3)** of this section shall be cause for the exercise of any of the agency's disciplinary powers.

[(4)] **(6)** Any person making a report **or providing information** under this section is immune from any civil or criminal liability that might otherwise be incurred or imposed with respect to the making of a report **or providing information** under this section [or to the contents of the report].

**SECTION 3.** ORS 433.008 is amended to read:

433.008. [(1) *Notwithstanding ORS 192.410 to 192.505, the Department of Human Services, the local public health administrator, all officers and employees thereof and all persons to whom disclosures are*

*made under this subsection or subsection (2) of this section shall not disclose the name or address of, or otherwise disclose the identity of, any person reported under ORS 433.004 except to officers or employees of federal, state or local government public health agencies as may be necessary for the administration or enforcement of public health laws or rules.]*

**(1)(a) Except as provided in subsection (2) of this section, information obtained by the Department of Human Services or a local public health administrator in the course of an investigation of a reportable disease or disease outbreak is confidential and is exempt from disclosure under ORS 192.410 to 192.505.**

**(b) Except as required for the administration or enforcement of public health laws or rules, a state or local public health official or employee may not be examined in an administrative or judicial proceeding about the existence or contents of a reportable disease report or other information received by the department or local public health administrator in the course of an investigation of a reportable disease or disease outbreak.**

*[(2) If the department or local public health administrator has determined that a reported person's disease or condition is in a contagious state and that the person is violating the rules of the department pertaining to control of that disease, it may disclose that person's name and address to persons other than those stated in subsection (1) of this section if clear and convincing evidence in the particular instance requires disclosure to avoid a clear and immediate danger to other individuals or to the public generally.]*

**(2) The department or a local public health administrator may release information obtained during an investigation of a reportable disease or disease outbreak to:**

**(a) State, local or federal agencies authorized to receive the information under state or federal law;**

**(b) Health care providers if necessary for the evaluation or treatment of a reportable disease;**

**(c) Law enforcement officials to the extent necessary to carry out the authority granted to the Public Health Director and local public health administrators under ORS 433.121, 433.128, 433.131, 433.138 and 433.142;**

**(d) A person who may have been exposed to a communicable disease;**

**(e) A person with information necessary to assist the department or local public health administrator in identifying an individual who may have been exposed to a communicable disease; and**

**(f) The individual who is the subject of the information or the legal representative of that individual.**

**(3) The department or local public health administrator may release individually identifiable information under subsection (2)(d) or (e) of this section only if there is clear and convincing evidence that the release is necessary to avoid an immediate danger to other individuals or to the public.**

**(4) The department or local public health administrator may release only the minimum amount of information necessary to carry out the purpose of the release pursuant to subsection (2) of this section.**

**(5) A decision not to disclose information under this subsection, if made in good faith, shall not subject the entity or person withholding the information to any liability.**

*[(3) Except where required in connection with the administration or enforcement of public health laws or rules, no public health official or employee shall be examined in an administrative or judicial proceeding as to the existence or contents of a report under ORS 433.004 or any record thereof.]*

*[(4) The disclosures and examination prohibited by this section may otherwise be authorized by the specific written consent of the person who is the subject of the report or the authorized representative of the person.]*

**(6) Nothing in this section:**

(a) Prevents the department or a local public health administrator from publishing statistical compilations and reports relating to reportable disease investigations if the compilations and reports do not identify individual cases or sources of information;

(b) Affects the confidentiality or admissibility into evidence of information not otherwise confidential or privileged that is obtained from sources other than the department; or

(c) Prevents dispositions of information pursuant to ORS 192.105.

**SECTION 4.** This 2009 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect on its passage.

Passed by Senate April 7, 2009

Received by Governor:

Repassed by Senate May 22, 2009

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

Approved:

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Secretary of Senate

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

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President of Senate

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Governor

Passed by House May 19, 2009

Filed in Office of Secretary of State:

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Speaker of House

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

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Secretary of State