

**B-Engrossed**  
**Senate Bill 910**

Ordered by the House May 31  
Including Senate Amendments dated April 15 and House Amendments  
dated May 31

Sponsored by Senator STEINER HAYWARD, Representative WILDE; Representative PRUSAK (at the request of Multnomah County)

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Requires retail or hospital pharmacy to provide written notice in conspicuous manner of availability of naloxone at pharmacy. Allows pharmacist, upon being presented with prescription for opiate or opioid of specified strength, to offer to prescribe and provide naloxone kit.

Removes requirement for written approval by parole or probation officer for administration of synthetic opiate as treatment for opiate addiction if requirements of statute are met.

Allows county or local public health authority to waive siting restrictions on methadone clinics to extent necessary to remove unreasonable barriers to patients' access to treatment.

*[Requires monitoring of naloxone equivalents by prescription drug monitoring program.]* Permits Oregon Health Authority to identify by rule other drugs that are subject to monitoring under **prescription drug monitoring** program. Removes requirement for pharmacy to report name, address, phone number, date of birth and sex of patient for whom naloxone was prescribed.

Allows pharmacy, health care professional or pharmacist to distribute multiple naloxone kits to social service agencies or other persons who work with individuals who have experienced opiate overdose and allows subsequent distribution to individual likely to experience opiate overdose or family member of individual.

**Permits Oregon Health Authority to review prescription monitoring information of individual who dies from drug overdose.**

Takes effect on 91st day following adjournment sine die.

**A BILL FOR AN ACT**

1  
2 Relating to drug treatment; creating new provisions; amending ORS 192.355, 430.560, 430.590,  
3 431A.855, 431A.860, 431A.865, 431A.867, 431A.869, 689.681 and 689.682; and prescribing an effective date.  
4

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

6 **SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS chapter 689.**

7 **SECTION 2. (1) A retail or hospital outpatient pharmacy shall provide written notice in**  
8 **a conspicuous manner that naloxone and the necessary medical supplies to administer**  
9 **naloxone are available at the pharmacy.**

10 **(2) The State Board of Pharmacy may adopt rules to carry out this section.**

11 **SECTION 3. ORS 430.560 is amended to read:**

12 430.560. (1) The Oregon Health Authority shall adopt rules to establish requirements, in accordance with ORS 430.357, for drug treatment programs that contract with the authority and that  
13 involve:  
14

15 (a) Detoxification;

16 (b) Detoxification with acupuncture and counseling; and

17 (c) The supplying of synthetic opiates to such persons under close supervision and control.

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 However, the supplying of synthetic opiates shall be used only when detoxification or detoxification  
2 with acupuncture and counseling has proven ineffective or upon a written request of a physician  
3 licensed by the Oregon Medical Board or a naturopathic physician licensed by the Oregon Board  
4 of Naturopathic Medicine showing medical need for synthetic opiates [*if the request is approved in*  
5 *writing by the parole and probation officer, if any, of the drug-dependent person. The*]. A copy of the  
6 request [*and the approval*] must be included in the client's permanent treatment and releasing au-  
7 thority records.

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

11 **SECTION 4.** ORS 430.590 is amended to read:

12 430.590. (1) It is unlawful for any person to commence operating a methadone clinic:

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

15 (b) Within 1,000 feet of the real property comprising an existing licensed child care facility. As  
16 used in this section, "licensed child care facility" means a child care center certified under ORS  
17 329A.280 that is operating under authority of a valid business license.

18 (2) Commencing operation of a methadone clinic within 1,000 feet of a school or licensed child  
19 care facility is a nuisance and operation of the clinic shall be enjoined and abated as provided in  
20 ORS 105.550 to 105.600.

21 (3) For purposes of this section, "within 1,000 feet" means a straight line measurement in a ra-  
22 dius extending for 1,000 feet or less in every direction from any point on the boundary line of the  
23 real property comprising an existing public or private elementary, secondary or career school or an  
24 existing licensed child care facility under this section.

25 **(4) A county or a local public health authority, as defined in ORS 431.003, may waive the**  
26 **siting restrictions under this section to the extent necessary to remove unreasonable barriers**  
27 **to patients' accessing medically necessary treatment at methadone clinics.**

28 **SECTION 5.** ORS 431A.855, as amended by section 8, chapter 45, Oregon Laws 2018, is amended  
29 to read:

30 431A.855. (1)(a) The Oregon Health Authority, in consultation with the Prescription Monitoring  
31 Program Advisory Commission, shall establish and maintain a prescription monitoring program for  
32 monitoring and reporting:

33 (A) Prescription drugs dispensed by pharmacies licensed by the State Board of Pharmacy that  
34 are classified in schedules II through IV under the federal Controlled Substances Act, 21 U.S.C. 811  
35 and 812, as modified by the board by rule under ORS 475.035; [*and*]

36 (B) Prescribed naloxone dispensed by pharmacies; **and**

37 **(C) Other drugs identified by rules adopted by the authority.**

38 (b)(A) To fulfill the requirements of this subsection, the authority shall establish, maintain and  
39 operate an electronic system to monitor and report drugs described in paragraph (a) of this sub-  
40 section that are dispensed by prescription.

41 (B) The electronic system must:

42 (i) Operate and be accessible by practitioners and pharmacies 24 hours a day, seven days a  
43 week; and

44 (ii) Allow practitioners to register as required under section 7, chapter 45, Oregon Laws 2018,  
45 and to apply for access to the electronic system in accordance with rules adopted by the authority

1 under subsection (2) of this section.

2 (C) The authority may contract with a state agency or private entity to ensure the effective  
3 operation of the electronic system.

4 (2) In consultation with the commission, the authority shall adopt rules for the operation of the  
5 electronic prescription monitoring program established under subsection (1) of this section, including  
6 standards for:

7 (a) Reporting data;

8 (b) Providing maintenance, security and disclosure of data;

9 (c) Ensuring accuracy and completeness of data;

10 (d) Complying with the federal Health Insurance Portability and Accountability Act of 1996 (P.L.  
11 104-191) and regulations adopted under that law, including 45 C.F.R. parts 160 and 164, federal al-  
12cohol and drug treatment confidentiality laws and regulations adopted under those laws, including  
13 42 C.F.R. part 2, and state health and mental health confidentiality laws, including ORS 179.505,  
14 192.517 and 192.553 to 192.581;

15 (e) Ensuring accurate identification of persons or entities requesting information from the da-  
16 tabase;

17 (f) Accepting printed or nonelectronic reports from pharmacies that do not have the capability  
18 to provide electronic reports;

19 (g) Notifying a patient, before or when a drug classified in schedules II through IV is dispensed  
20 to the patient, about the prescription monitoring program and the entry of the prescription in the  
21 electronic system; and

22 (h) Registering practitioners with the electronic system.

23 (3) The authority shall submit an annual report to the commission regarding the prescription  
24 monitoring program established under this section.

25 **SECTION 6.** ORS 431A.860 is amended to read:

26 431A.860. (1) Not later than 72 hours after dispensing a prescription drug that is subject to the  
27 prescription monitoring program established under ORS 431A.855, a pharmacy shall electronically  
28 report to the Oregon Health Authority:

29 (a) *[If the prescription drug is classified in schedules II through IV under the federal Controlled*  
30 *Substances Act, 21 U.S.C. 811 and 812, as modified by the State Board of Pharmacy by rule under*  
31 *ORS 475.035]* **For prescription drugs described in ORS 431A.855 (1)(a)(A) and other drugs**  
32 **identified by the authority by rule**, the name, address, phone number, date of birth and sex of the  
33 patient for whom the prescription drug was prescribed;

34 (b) The identity of the pharmacy that dispensed the prescription drug and the date on which the  
35 prescription drug was dispensed;

36 (c) The identity of the practitioner who prescribed the prescription drug and the date on which  
37 the prescription drug was prescribed;

38 (d) The national drug code number for the prescription drug;

39 (e) The prescription number assigned to the prescription drug;

40 (f) The quantity of the prescription drug dispensed;

41 (g) The number of days for which the prescription drug was dispensed; and

42 (h) The number of refills of the prescription authorized by the practitioner and the number of  
43 the refill that the pharmacy dispensed.

44 *[(2)(a)]* (2) Notwithstanding subsection (1) of this section, the authority may not:

45 *[(A)]* (a) Require the reporting of prescription drugs administered directly to a patient or dis-

1    pensed pursuant to ORS 127.800 to 127.897; **or**

2        [(B)] **(b)** Collect or use Social Security numbers in the prescription monitoring program.[]; *or*]

3        [(C) *Disclose under ORS 431A.865 (2)(a) the sex of the patient for whom a drug was prescribed.*]

4        [(b) *The sex of the patient for whom a drug was prescribed may be disclosed only for the purpose*  
5 *of research or epidemiological study under ORS 431A.865 (2)(b).*]

6        (3) Upon receipt of the data reported pursuant to subsection (1) of this section, the authority  
7 shall record the data in the electronic system established under ORS 431A.855.

8        (4)(a) The authority may, for good cause as determined by the authority, grant a pharmacy a  
9 waiver of the requirement that the information to be reported under subsection (1) of this section  
10 be submitted electronically. The waiver must state the format, method and frequency of the alter-  
11 nate nonelectronic submissions from the pharmacy and the duration of the waiver.

12        (b) As used in this subsection, “good cause” includes financial hardship.

13        (5) This section does not apply to pharmacies in institutions as defined in ORS 179.010.

14        **SECTION 7.** ORS 431A.865 is amended to read:

15        431A.865. (1)(a) Except as provided under [subsection (2)] **subsections (2) and (3)** of this section,  
16 prescription monitoring information submitted under ORS 431A.860 to the prescription monitoring  
17 program established in ORS 431A.855:

18        (A) Is protected health information under ORS 192.553 to 192.581.

19        (B) Is confidential and not subject to disclosure under ORS 192.311 to 192.478.

20        (b) Except as provided under subsection [(2)(a)(H)] **(3)(a)(H)** of this section, prescription moni-  
21 toring information submitted under ORS 431A.860 to the prescription monitoring program may not  
22 be used to evaluate a practitioner’s professional practice.

23        **(2) The Oregon Health Authority may review the prescription monitoring information of**  
24 **an individual who dies from a drug overdose.**

25        [(2)(a)] **(3)(a)** [To the extent that the law or regulation is applicable to the prescription monitoring  
26 program, if a disclosure of prescription monitoring information, other than the sex of a patient for  
27 whom a drug was prescribed, complies with the federal Health Insurance Portability and Account-  
28 ability Act of 1996 (P.L. 104-191) and regulations adopted under that law, including 45 C.F.R. parts  
29 160 and 164, federal alcohol and drug treatment confidentiality laws and regulations, including 42  
30 C.F.R. part 2, and state health and mental health confidentiality laws, including ORS 179.505, 192.517  
31 and 192.553 to 192.581,] **Except as provided in paragraph (c) of this subsection,** the Oregon  
32 Health Authority shall disclose [the] **prescription monitoring information reported to the au-**  
33 **thority under ORS 431A.860:**

34        (A) To a practitioner or pharmacist, or, if a practitioner or pharmacist authorizes the authority  
35 to disclose the information to a member of the practitioner’s or pharmacist’s staff, to a member of  
36 the practitioner’s or pharmacist’s staff. If a practitioner or pharmacist authorizes disclosing the in-  
37 formation to a member of the practitioner’s or pharmacist’s staff under this subparagraph, the  
38 practitioner or pharmacist remains responsible for the use or misuse of the information by the staff  
39 member. To receive information under this subparagraph, or to authorize the receipt of information  
40 by a staff member under this subparagraph, a practitioner or pharmacist must certify that the re-  
41 quested information is for the purpose of evaluating the need for or providing medical or pharma-  
42 ceutical treatment for a patient to whom the practitioner or pharmacist anticipates providing, is  
43 providing or has provided care.

44        (B) To a medical director or pharmacy director, or, if a medical director or pharmacy director  
45 authorizes the authority to disclose the information to a member of the medical director’s or phar-

1 macy director's staff, to a member of the medical director's or pharmacy director's staff. If a medical  
2 director or pharmacy director authorizes disclosing the information to a member of the medical  
3 director's or pharmacy director's staff under this subparagraph, the medical director or pharmacy  
4 director remains responsible for the use or misuse of the information by the staff member. To receive  
5 information under this subparagraph, or to authorize the receipt of information by a staff member  
6 under this subparagraph, a medical director must certify that the requested information is for the  
7 purposes of overseeing the operations of a hospital, health care clinic or system of hospitals or  
8 health care clinics and ensuring the delivery of quality health care within the hospital, clinic or  
9 system. To receive information under this subparagraph, or to authorize the receipt of information  
10 by a staff member under this subparagraph, a pharmacy director must certify that the requested  
11 information is for the purposes of overseeing the operations of a pharmacy or system of pharmacies  
12 and ensuring the delivery of quality pharmaceutical care within the pharmacy or system.

13 (C) In accordance with subparagraphs (A) and (B) of this paragraph, to an individual described  
14 in subparagraphs (A) and (B) of this paragraph through a health information technology system that  
15 is used by the individual to access information about patients if:

16 (i) The individual is authorized to access the information in the health information technology  
17 system;

18 (ii) The information is not permanently retained in the health information technology system,  
19 except for purposes of conducting audits and maintaining patient records; and

20 (iii) The health information technology system meets any privacy and security requirements and  
21 other criteria, including criteria required by the federal Health Insurance Portability and Account-  
22 ability Act, established by the authority by rule.

23 (D) To a practitioner in a form that catalogs all prescription drugs prescribed by the practi-  
24 tioner according to the number assigned to the practitioner by the Drug Enforcement Adminis-  
25 tration of the United States Department of Justice.

26 (E) To the Chief Medical Examiner or designee of the Chief Medical Examiner, for the purpose  
27 of conducting a medicolegal investigation or autopsy.

28 (F) To designated representatives of the authority or any vendor or contractor with whom the  
29 authority has contracted to establish or maintain the electronic system established under ORS  
30 431A.855.

31 (G) Pursuant to a valid court order based on probable cause and issued at the request of a  
32 federal, state or local law enforcement agency engaged in an authorized drug-related investigation  
33 involving a person to whom the requested information pertains.

34 (H) To a health professional regulatory board that certifies in writing that the requested infor-  
35 mation is necessary for an investigation related to licensure, license renewal or disciplinary action  
36 involving the applicant, licensee or registrant to whom the requested information pertains.

37 (I) Pursuant to an agreement entered into under ORS 431A.869.

38 (b) The authority may disclose information from the prescription monitoring program that does  
39 not identify a patient, practitioner or drug outlet:

40 (A) For educational, research or public health purposes;

41 (B) For the purpose of educating practitioners about the prescribing of opioids and other con-  
42 trolled substances;

43 (C) To a health professional regulatory board;

44 (D) To a local public health authority, as defined in ORS 431.003; or

45 (E) To officials of the authority who are conducting special epidemiologic morbidity and mor-

1 tality studies in accordance with ORS 413.196 and rules adopted under ORS 431.001 to 431.550 and  
2 431.990.

3 **(c) The authority may not disclose, except as provided in paragraph (b) of this subsection:**

4 **(A) Prescription drug monitoring information to the extent that the disclosure fails to**  
5 **comply with applicable provisions of the federal Health Insurance Portability and Account-**  
6 **ability Act of 1996 (P.L. 104-191) and regulations adopted under that law, including 45 C.F.R.**  
7 **parts 160 and 164, federal alcohol and drug treatment confidentiality laws and regulations,**  
8 **including 42 C.F.R. part 2, and state health and mental health confidentiality laws, including**  
9 **ORS 179.505, 192.517 and 192.553 to 192.581.**

10 **(B) The sex of a patient for whom a drug was prescribed.**

11 **(C) The identity of a patient for whom naloxone was prescribed.**

12 [(c)] (d) The authority shall disclose information relating to a patient maintained in the elec-  
13 tronic system established under ORS 431A.855 to that patient at no cost to the patient within 10  
14 business days after the authority receives a request from the patient for the information.

15 [(d)(A)] (e)(A) A patient may request the authority to correct any information related to the  
16 patient that is maintained in the electronic system established under ORS 431A.855 that is errone-  
17 ous. The authority shall grant or deny a request to correct information within 10 business days after  
18 the authority receives the request. If a request to correct information cannot be granted because the  
19 error occurred at the pharmacy where the information was inputted, the authority shall inform the  
20 patient that the information cannot be corrected because the error occurred at the pharmacy.

21 (B) If the authority denies a patient's request to correct information under this paragraph, or  
22 fails to grant a patient's request to correct information under this paragraph within 10 business days  
23 after the authority receives the request, the patient may appeal the denial or failure to grant the  
24 request. Upon receiving notice of an appeal under this subparagraph, the authority shall conduct  
25 a contested case hearing as provided in ORS chapter 183. Notwithstanding ORS 183.450, the au-  
26 thority has the burden in the contested case hearing of establishing that the information is correct.

27 [(e)] (f) The information in the prescription monitoring program may not be used for any com-  
28 mercial purpose.

29 [(f)] (g) In accordance with ORS 192.553 to 192.581 and federal laws and regulations related to  
30 privacy, any person authorized to prescribe or dispense a prescription drug who is entitled to access  
31 a patient's prescription monitoring information may discuss the information with or release the in-  
32 formation to other health care providers involved with the patient's care for the purpose of provid-  
33 ing safe and appropriate care coordination.

34 [(3)(a)] (4)(a) The authority shall maintain records of the information disclosed through the  
35 prescription monitoring program including:

36 (A) The identity of each person who requests or receives information from the program and any  
37 organization the person represents;

38 (B) The information released to each person or organization; and

39 (C) The date and time the information was requested and the date and time the information was  
40 provided.

41 (b) Records maintained as required by this subsection may be reviewed by the Prescription  
42 Monitoring Program Advisory Commission.

43 [(4)] (5) Information in the prescription monitoring program that identifies an individual patient  
44 must be removed no later than three years from the date the information is entered into the pro-  
45 gram.

1        [(5)] (6) The authority shall notify the Attorney General and each individual affected by an im-  
2 proper disclosure of information from the prescription monitoring program of the disclosure.

3        [(6)(a)] (7)(a) If the authority or a person or entity required to report or authorized to receive  
4 or release prescription information under this section violates this section or ORS 431A.860 or  
5 431A.870, a person injured by the violation may bring a civil action against the authority, person  
6 or entity and may recover damages in the amount of \$1,000 or actual damages, whichever is greater.

7        (b) Notwithstanding paragraph (a) of this subsection, the authority and a person or entity re-  
8 quired to report or authorized to receive or release prescription information under this section are  
9 immune from civil liability for violations of this section or ORS 431A.860 or 431A.870 unless the  
10 authority, person or entity acts with malice, criminal intent, gross negligence, recklessness or willful  
11 intent.

12        [(7)] (8) Nothing in ORS 431A.855 to 431A.900 requires a practitioner or pharmacist who pre-  
13 scribes or dispenses a prescription drug to obtain information about a patient from the prescription  
14 monitoring program. A practitioner or pharmacist who prescribes or dispenses a prescription drug  
15 may not be held liable for damages in any civil action on the basis that the practitioner or  
16 pharmacist did or did not request or obtain information from the prescription monitoring program.

17        [(8)] (9) The authority shall, at regular intervals, ensure compliance of a health information  
18 technology system described in subsection [(2)] (3) of this section with the privacy and security re-  
19 quirements and other criteria established by the authority under subsection [(2)] (3) of this section.

20        **SECTION 8.** ORS 689.681 is amended to read:

21        689.681. (1) As used in this section:

22        (a) **“Kit” means a dose of naloxone and the necessary medical supplies to administer the**  
23 **naloxone.**

24        [(a)] (b) “Opiate” means a narcotic drug that contains:

25        (A) Opium;

26        (B) Any chemical derivative of opium; or

27        (C) Any synthetic or semisynthetic drug with opium-like effects.

28        [(b)] (c) “Opiate overdose” means a medical condition that causes depressed consciousness and  
29 mental functioning, decreased movement, depressed respiratory function and the impairment of the  
30 vital functions as a result of ingesting opiates in an amount larger than can be physically tolerated.

31        (2) Notwithstanding any other provision of law, a pharmacy, a health care professional or a  
32 pharmacist with prescription and dispensing privileges or any other person designated by the State  
33 Board of Pharmacy by rule may distribute and administer naloxone and distribute the necessary  
34 medical supplies to administer the naloxone. **The pharmacy, health care professional or**  
35 **pharmacist may also distribute multiple kits to social service agencies under ORS 689.684 or**  
36 **to other persons who work with individuals who have experienced an opiate overdose. The**  
37 **social services agencies or other persons may redistribute the kits to individuals likely to**  
38 **experience an opiate overdose or to family members of the individuals.**

39        (3) A person acting in good faith, if the act does not constitute wanton misconduct, is immune  
40 from civil liability for any act or omission of an act committed during the course of distributing and  
41 administering naloxone and distributing the necessary medical supplies to administer the naloxone  
42 under this section.

43        **SECTION 9.** ORS 689.682 is amended to read:

44        689.682. (1) In accordance with rules adopted by the State Board of Pharmacy under ORS  
45 689.205, a pharmacist may prescribe naloxone and the necessary medical supplies to administer the

1 naloxone.

2 **(2) If a prescription is presented to a pharmacist for dispensing an opiate or opioid in**  
3 **excess of a morphine equivalent dose established by rule by the board, the pharmacist may**  
4 **offer to prescribe and provide, in addition to the prescribed opiate or opioid, a naloxone kit**  
5 **consisting of a dose of naloxone and the necessary medical supplies to administer the**  
6 **naloxone.**

7 **SECTION 10.** ORS 192.355 is amended to read:

8 192.355. The following public records are exempt from disclosure under ORS 192.311 to 192.478:

9 (1) Communications within a public body or between public bodies of an advisory nature to the  
10 extent that they cover other than purely factual materials and are preliminary to any final agency  
11 determination of policy or action. This exemption shall not apply unless the public body shows that  
12 in the particular instance the public interest in encouraging frank communication between officials  
13 and employees of public bodies clearly outweighs the public interest in disclosure.

14 (2)(a) Information of a personal nature such as but not limited to that kept in a personal, med-  
15 ical or similar file, if public disclosure would constitute an unreasonable invasion of privacy, unless  
16 the public interest by clear and convincing evidence requires disclosure in the particular instance.  
17 The party seeking disclosure shall have the burden of showing that public disclosure would not  
18 constitute an unreasonable invasion of privacy.

19 (b) Images of a dead body, or parts of a dead body, that are part of a law enforcement agency  
20 investigation, if public disclosure would create an unreasonable invasion of privacy of the family of  
21 the deceased person, unless the public interest by clear and convincing evidence requires disclosure  
22 in the particular instance. The party seeking disclosure shall have the burden of showing that public  
23 disclosure would not constitute an unreasonable invasion of privacy.

24 (3) Upon compliance with ORS 192.363, public body employee or volunteer residential addresses,  
25 residential telephone numbers, personal cellular telephone numbers, personal electronic mail ad-  
26 dresses, driver license numbers, employer-issued identification card numbers, emergency contact in-  
27 formation, Social Security numbers, dates of birth and other telephone numbers contained in  
28 personnel records maintained by the public body that is the employer or the recipient of volunteer  
29 services. This exemption:

30 (a) Does not apply to the addresses, dates of birth and telephone numbers of employees or vol-  
31 unteers who are elected officials, except that a judge or district attorney subject to election may  
32 seek to exempt the judge's or district attorney's address or telephone number, or both, under the  
33 terms of ORS 192.368;

34 (b) Does not apply to employees or volunteers to the extent that the party seeking disclosure  
35 shows by clear and convincing evidence that the public interest requires disclosure in a particular  
36 instance pursuant to ORS 192.363;

37 (c) Does not apply to a substitute teacher as defined in ORS 342.815 when requested by a pro-  
38 fessional education association of which the substitute teacher may be a member; and

39 (d) Does not relieve a public employer of any duty under ORS 243.650 to 243.782.

40 (4) Information submitted to a public body in confidence and not otherwise required by law to  
41 be submitted, where such information should reasonably be considered confidential, the public body  
42 has obliged itself in good faith not to disclose the information, and when the public interest would  
43 suffer by the disclosure.

44 (5) Information or records of the Department of Corrections, including the State Board of Parole  
45 and Post-Prison Supervision, to the extent that disclosure would interfere with the rehabilitation of



1 a person in custody of the department or substantially prejudice or prevent the carrying out of the  
2 functions of the department, if the public interest in confidentiality clearly outweighs the public in-  
3 terest in disclosure.

4 (6) Records, reports and other information received or compiled by the Director of the Depart-  
5 ment of Consumer and Business Services in the administration of ORS chapters 723 and 725 not  
6 otherwise required by law to be made public, to the extent that the interests of lending institutions,  
7 their officers, employees and customers in preserving the confidentiality of such information out-  
8 weighs the public interest in disclosure.

9 (7) Reports made to or filed with the court under ORS 137.077 or 137.530.

10 (8) Any public records or information the disclosure of which is prohibited by federal law or  
11 regulations.

12 (9)(a) Public records or information the disclosure of which is prohibited or restricted or other-  
13 wise made confidential or privileged under Oregon law.

14 (b) Subject to ORS 192.360, paragraph (a) of this subsection does not apply to factual information  
15 compiled in a public record when:

16 (A) The basis for the claim of exemption is ORS 40.225;

17 (B) The factual information is not prohibited from disclosure under any applicable state or fed-  
18 eral law, regulation or court order and is not otherwise exempt from disclosure under ORS 192.311  
19 to 192.478;

20 (C) The factual information was compiled by or at the direction of an attorney as part of an  
21 investigation on behalf of the public body in response to information of possible wrongdoing by the  
22 public body;

23 (D) The factual information was not compiled in preparation for litigation, arbitration or an  
24 administrative proceeding that was reasonably likely to be initiated or that has been initiated by  
25 or against the public body; and

26 (E) The holder of the privilege under ORS 40.225 has made or authorized a public statement  
27 characterizing or partially disclosing the factual information compiled by or at the attorney's di-  
28 rection.

29 (10) Public records or information described in this section, furnished by the public body ori-  
30 ginally compiling, preparing or receiving them to any other public officer or public body in con-  
31 nection with performance of the duties of the recipient, if the considerations originally giving rise  
32 to the confidential or exempt nature of the public records or information remain applicable.

33 (11) Records of the Energy Facility Siting Council concerning the review or approval of security  
34 programs pursuant to ORS 469.530.

35 (12) Employee and retiree address, telephone number and other nonfinancial membership records  
36 and employee financial records maintained by the Public Employees Retirement System pursuant to  
37 ORS chapters 238 and 238A.

38 (13) Records of or submitted to the State Treasurer, the Oregon Investment Council or the  
39 agents of the treasurer or the council relating to active or proposed publicly traded investments  
40 under ORS chapter 293, including but not limited to records regarding the acquisition, exchange or  
41 liquidation of the investments. For the purposes of this subsection:

42 (a) The exemption does not apply to:

43 (A) Information in investment records solely related to the amount paid directly into an invest-  
44 ment by, or returned from the investment directly to, the treasurer or council; or

45 (B) The identity of the entity to which the amount was paid directly or from which the amount

1 was received directly.

2 (b) An investment in a publicly traded investment is no longer active when acquisition, exchange  
3 or liquidation of the investment has been concluded.

4 (14)(a) Records of or submitted to the State Treasurer, the Oregon Investment Council, the  
5 Oregon Growth Board or the agents of the treasurer, council or board relating to actual or proposed  
6 investments under ORS chapter 293 or 348 in a privately placed investment fund or a private asset  
7 including but not limited to records regarding the solicitation, acquisition, deployment, exchange or  
8 liquidation of the investments including but not limited to:

9 (A) Due diligence materials that are proprietary to an investment fund, to an asset ownership  
10 or to their respective investment vehicles.

11 (B) Financial statements of an investment fund, an asset ownership or their respective invest-  
12 ment vehicles.

13 (C) Meeting materials of an investment fund, an asset ownership or their respective investment  
14 vehicles.

15 (D) Records containing information regarding the portfolio positions in which an investment  
16 fund, an asset ownership or their respective investment vehicles invest.

17 (E) Capital call and distribution notices of an investment fund, an asset ownership or their re-  
18 spective investment vehicles.

19 (F) Investment agreements and related documents.

20 (b) The exemption under this subsection does not apply to:

21 (A) The name, address and vintage year of each privately placed investment fund.

22 (B) The dollar amount of the commitment made to each privately placed investment fund since  
23 inception of the fund.

24 (C) The dollar amount of cash contributions made to each privately placed investment fund since  
25 inception of the fund.

26 (D) The dollar amount, on a fiscal year-end basis, of cash distributions received by the State  
27 Treasurer, the Oregon Investment Council, the Oregon Growth Board or the agents of the treasurer,  
28 council or board from each privately placed investment fund.

29 (E) The dollar amount, on a fiscal year-end basis, of the remaining value of assets in a privately  
30 placed investment fund attributable to an investment by the State Treasurer, the Oregon Investment  
31 Council, the Oregon Growth Board or the agents of the treasurer, council or board.

32 (F) The net internal rate of return of each privately placed investment fund since inception of  
33 the fund.

34 (G) The investment multiple of each privately placed investment fund since inception of the fund.

35 (H) The dollar amount of the total management fees and costs paid on an annual fiscal year-end  
36 basis to each privately placed investment fund.

37 (I) The dollar amount of cash profit received from each privately placed investment fund on a  
38 fiscal year-end basis.

39 (15) The monthly reports prepared and submitted under ORS 293.761 and 293.766 concerning the  
40 Public Employees Retirement Fund and the Industrial Accident Fund may be uniformly treated as  
41 exempt from disclosure for a period of up to 90 days after the end of the calendar quarter.

42 (16) Reports of unclaimed property filed by the holders of such property to the extent permitted  
43 by ORS 98.352.

44 (17)(a) The following records, communications and information submitted to the Oregon Business  
45 Development Commission, the Oregon Business Development Department, the State Department of

1 Agriculture, the Oregon Growth Board, the Port of Portland or other ports as defined in ORS  
2 777.005, or a county or city governing body and any board, department, commission, council or  
3 agency thereof, by applicants for investment funds, grants, loans, services or economic development  
4 moneys, support or assistance including, but not limited to, those described in ORS 285A.224:

5 (A) Personal financial statements.

6 (B) Financial statements of applicants.

7 (C) Customer lists.

8 (D) Information of an applicant pertaining to litigation to which the applicant is a party if the  
9 complaint has been filed, or if the complaint has not been filed, if the applicant shows that such  
10 litigation is reasonably likely to occur; this exemption does not apply to litigation which has been  
11 concluded, and nothing in this subparagraph shall limit any right or opportunity granted by discov-  
12 ery or deposition statutes to a party to litigation or potential litigation.

13 (E) Production, sales and cost data.

14 (F) Marketing strategy information that relates to applicant's plan to address specific markets  
15 and applicant's strategy regarding specific competitors.

16 (b) The following records, communications and information submitted to the State Department  
17 of Energy by applicants for tax credits or for grants awarded under ORS 469B.256:

18 (A) Personal financial statements.

19 (B) Financial statements of applicants.

20 (C) Customer lists.

21 (D) Information of an applicant pertaining to litigation to which the applicant is a party if the  
22 complaint has been filed, or if the complaint has not been filed, if the applicant shows that such  
23 litigation is reasonably likely to occur; this exemption does not apply to litigation which has been  
24 concluded, and nothing in this subparagraph shall limit any right or opportunity granted by discov-  
25 ery or deposition statutes to a party to litigation or potential litigation.

26 (E) Production, sales and cost data.

27 (F) Marketing strategy information that relates to applicant's plan to address specific markets  
28 and applicant's strategy regarding specific competitors.

29 (18) Records, reports or returns submitted by private concerns or enterprises required by law  
30 to be submitted to or inspected by a governmental body to allow it to determine the amount of any  
31 transient lodging tax payable and the amounts of such tax payable or paid, to the extent that such  
32 information is in a form which would permit identification of the individual concern or enterprise.  
33 Nothing in this subsection shall limit the use which can be made of such information for regulatory  
34 purposes or its admissibility in any enforcement proceedings. The public body shall notify the tax-  
35 payer of the delinquency immediately by certified mail. However, in the event that the payment or  
36 delivery of transient lodging taxes otherwise due to a public body is delinquent by over 60 days, the  
37 public body shall disclose, upon the request of any person, the following information:

38 (a) The identity of the individual concern or enterprise that is delinquent over 60 days in the  
39 payment or delivery of the taxes.

40 (b) The period for which the taxes are delinquent.

41 (c) The actual, or estimated, amount of the delinquency.

42 (19) All information supplied by a person under ORS 151.485 for the purpose of requesting ap-  
43 pointed counsel, and all information supplied to the court from whatever source for the purpose of  
44 verifying the financial eligibility of a person pursuant to ORS 151.485.

45 (20) Workers' compensation claim records of the Department of Consumer and Business Services,

1 except in accordance with rules adopted by the Director of the Department of Consumer and Busi-  
2 ness Services, in any of the following circumstances:

3 (a) When necessary for insurers, self-insured employers and third party claim administrators to  
4 process workers' compensation claims.

5 (b) When necessary for the director, other governmental agencies of this state or the United  
6 States to carry out their duties, functions or powers.

7 (c) When the disclosure is made in such a manner that the disclosed information cannot be used  
8 to identify any worker who is the subject of a claim.

9 (d) When a worker or the worker's representative requests review of the worker's claim record.

10 (21) Sensitive business records or financial or commercial information of the Oregon Health and  
11 Science University that is not customarily provided to business competitors.

12 (22) Records of Oregon Health and Science University regarding candidates for the position of  
13 president of the university.

14 (23) The records of a library, including:

15 (a) Circulation records, showing use of specific library material by a named person;

16 (b) The name of a library patron together with the address or telephone number of the patron;  
17 and

18 (c) The electronic mail address of a patron.

19 (24) The following records, communications and information obtained by the Housing and Com-  
20 munity Services Department in connection with the department's monitoring or administration of  
21 financial assistance or of housing or other developments:

22 (a) Personal and corporate financial statements and information, including tax returns.

23 (b) Credit reports.

24 (c) Project appraisals, excluding appraisals obtained in the course of transactions involving an  
25 interest in real estate that is acquired, leased, rented, exchanged, transferred or otherwise disposed  
26 of as part of the project, but only after the transactions have closed and are concluded.

27 (d) Market studies and analyses.

28 (e) Articles of incorporation, partnership agreements and operating agreements.

29 (f) Commitment letters.

30 (g) Project pro forma statements.

31 (h) Project cost certifications and cost data.

32 (i) Audits.

33 (j) Project tenant correspondence.

34 (k) Personal information about a tenant.

35 (L) Housing assistance payments.

36 (25) Raster geographic information system (GIS) digital databases, provided by private forestland  
37 owners or their representatives, voluntarily and in confidence to the State Forestry Department,  
38 that is not otherwise required by law to be submitted.

39 (26) Sensitive business, commercial or financial information furnished to or developed by a  
40 public body engaged in the business of providing electricity or electricity services, if the information  
41 is directly related to a transaction described in ORS 261.348, or if the information is directly related  
42 to a bid, proposal or negotiations for the sale or purchase of electricity or electricity services, and  
43 disclosure of the information would cause a competitive disadvantage for the public body or its re-  
44 tail electricity customers. This subsection does not apply to cost-of-service studies used in the de-  
45 velopment or review of generally applicable rate schedules.

1 (27) Sensitive business, commercial or financial information furnished to or developed by the  
2 City of Klamath Falls, acting solely in connection with the ownership and operation of the Klamath  
3 Cogeneration Project, if the information is directly related to a transaction described in ORS 225.085  
4 and disclosure of the information would cause a competitive disadvantage for the Klamath  
5 Cogeneration Project. This subsection does not apply to cost-of-service studies used in the develop-  
6 ment or review of generally applicable rate schedules.

7 (28) Personally identifiable information about customers of a municipal electric utility or a  
8 people's utility district or the names, dates of birth, driver license numbers, telephone numbers,  
9 electronic mail addresses or Social Security numbers of customers who receive water, sewer or  
10 storm drain services from a public body as defined in ORS 174.109. The utility or district may re-  
11 lease personally identifiable information about a customer, and a public body providing water, sewer  
12 or storm drain services may release the name, date of birth, driver license number, telephone num-  
13 ber, electronic mail address or Social Security number of a customer, if the customer consents in  
14 writing or electronically, if the disclosure is necessary for the utility, district or other public body  
15 to render services to the customer, if the disclosure is required pursuant to a court order or if the  
16 disclosure is otherwise required by federal or state law. The utility, district or other public body  
17 may charge as appropriate for the costs of providing such information. The utility, district or other  
18 public body may make customer records available to third party credit agencies on a regular basis  
19 in connection with the establishment and management of customer accounts or in the event such  
20 accounts are delinquent.

21 (29) A record of the street and number of an employee's address submitted to a special district  
22 to obtain assistance in promoting an alternative to single occupant motor vehicle transportation.

23 (30) Sensitive business records, capital development plans or financial or commercial information  
24 of Oregon Corrections Enterprises that is not customarily provided to business competitors.

25 (31) Documents, materials or other information submitted to the Director of the Department of  
26 Consumer and Business Services in confidence by a state, federal, foreign or international regulatory  
27 or law enforcement agency or by the National Association of Insurance Commissioners, its affiliates  
28 or subsidiaries under ORS 86A.095 to 86A.198, 697.005 to 697.095, 697.602 to 697.842, 705.137, 717.200  
29 to 717.320, 717.900 or 717.905, ORS chapter 59, 723, 725 or 726, the Bank Act or the Insurance Code  
30 when:

31 (a) The document, material or other information is received upon notice or with an under-  
32 standing that it is confidential or privileged under the laws of the jurisdiction that is the source of  
33 the document, material or other information; and

34 (b) The director has obligated the Department of Consumer and Business Services not to dis-  
35 close the document, material or other information.

36 (32) A county elections security plan developed and filed under ORS 254.074.

37 (33) Information about review or approval of programs relating to the security of:

38 (a) Generation, storage or conveyance of:

39 (A) Electricity;

40 (B) Gas in liquefied or gaseous form;

41 (C) Hazardous substances as defined in ORS 453.005 (7)(a), (b) and (d);

42 (D) Petroleum products;

43 (E) Sewage; or

44 (F) Water.

45 (b) Telecommunication systems, including cellular, wireless or radio systems.

1 (c) Data transmissions by whatever means provided.

2 (34) The information specified in ORS 25.020 (8) if the Chief Justice of the Supreme Court des-  
3 ignates the information as confidential by rule under ORS 1.002.

4 (35)(a) Employer account records of the State Accident Insurance Fund Corporation.

5 (b) As used in this subsection, “employer account records” means all records maintained in any  
6 form that are specifically related to the account of any employer insured, previously insured or un-  
7 der consideration to be insured by the State Accident Insurance Fund Corporation and any infor-  
8 mation obtained or developed by the corporation in connection with providing, offering to provide  
9 or declining to provide insurance to a specific employer. “Employer account records” includes, but  
10 is not limited to, an employer’s payroll records, premium payment history, payroll classifications,  
11 employee names and identification information, experience modification factors, loss experience and  
12 dividend payment history.

13 (c) The exemption provided by this subsection may not serve as the basis for opposition to the  
14 discovery documents in litigation pursuant to applicable rules of civil procedure.

15 (36)(a) Claimant files of the State Accident Insurance Fund Corporation.

16 (b) As used in this subsection, “claimant files” includes, but is not limited to, all records held  
17 by the corporation pertaining to a person who has made a claim, as defined in ORS 656.005, and all  
18 records pertaining to such a claim.

19 (c) The exemption provided by this subsection may not serve as the basis for opposition to the  
20 discovery documents in litigation pursuant to applicable rules of civil procedure.

21 (37) Except as authorized by ORS 408.425, records that certify or verify an individual’s discharge  
22 or other separation from military service.

23 (38) Records of or submitted to a domestic violence service or resource center that relate to the  
24 name or personal information of an individual who visits a center for service, including the date of  
25 service, the type of service received, referrals or contact information or personal information of a  
26 family member of the individual. As used in this subsection, “domestic violence service or resource  
27 center” means an entity, the primary purpose of which is to assist persons affected by domestic or  
28 sexual violence by providing referrals, resource information or other assistance specifically of ben-  
29 efit to domestic or sexual violence victims.

30 (39) Information reported to the Oregon Health Authority under ORS 431A.860, except as pro-  
31 vided in ORS [431A.860 (2)(b)] **431A.865 (3)(b)**, information disclosed by the authority under ORS  
32 431A.865 and any information related to disclosures made by the authority under ORS 431A.865,  
33 including information identifying the recipient of the information.

34 (40)(a) Electronic mail addresses in the possession or custody of an agency or subdivision of the  
35 executive department, as defined in ORS 174.112, the legislative department, as defined in ORS  
36 174.114, a local government or local service district, as defined in ORS 174.116, or a special gov-  
37 ernment body, as defined in ORS 174.117.

38 (b) This subsection does not apply to electronic mail addresses assigned by a public body to  
39 public employees for use by the employees in the ordinary course of their employment.

40 (c) This subsection and ORS 244.040 do not prohibit the campaign office of the current  
41 officeholder or current candidates who have filed to run for that elective office from receiving upon  
42 request the electronic mail addresses used by the current officeholder’s legislative office for news-  
43 letter distribution, except that a campaign office that receives electronic mail addresses under this  
44 paragraph may not make a further disclosure of those electronic mail addresses to any other person.

45 (41) Residential addresses, residential telephone numbers, personal cellular telephone numbers,

1 personal electronic mail addresses, driver license numbers, emergency contact information, Social  
2 Security numbers, dates of birth and other telephone numbers of individuals currently or previously  
3 certified or licensed by the Department of Public Safety Standards and Training contained in the  
4 records maintained by the department.

5 (42) Personally identifiable information and contact information of veterans as defined in ORS  
6 408.225 and of persons serving on active duty or as reserve members with the Armed Forces of the  
7 United States, National Guard or other reserve component that was obtained by the Department of  
8 Veterans' Affairs in the course of performing its duties and functions, including but not limited to  
9 names, residential and employment addresses, dates of birth, driver license numbers, telephone  
10 numbers, electronic mail addresses, Social Security numbers, marital status, dependents, the char-  
11 acter of discharge from military service, military rating or rank, that the person is a veteran or has  
12 provided military service, information relating to an application for or receipt of federal or state  
13 benefits, information relating to the basis for receipt or denial of federal or state benefits and in-  
14 formation relating to a home loan or grant application, including but not limited to financial infor-  
15 mation provided in connection with the application.

16 **SECTION 11.** ORS 431A.867 is amended to read:

17 431A.867. (1) The Oregon Health Authority may require a person requesting prescription moni-  
18 toring program information under ORS 431A.865 [(2)(b)] **(3)(b)** to enter into a data use agreement  
19 under which the person:

- 20 (a) Describes the proposed use for the information;
- 21 (b) Agrees to any terms and conditions imposed on transferring the information;
- 22 (c) Agrees to any limitations imposed on using the information;
- 23 (d) Agrees to any terms and conditions imposed on keeping the information; and
- 24 (e) Agrees to destroy the information after completing the proposed use for the information.

25 (2) In determining whether to enter into an agreement under this section, the authority shall:

- 26 (a) Evaluate the merits of the request for information;
- 27 (b) Determine whether the person making the request has the technical competence needed to  
28 meet any terms, conditions or limitations imposed under subsection (1) of this section and the ability  
29 to complete the proposed use for the information;
- 30 (c) If the proposed use for the information involves research, ensure that the proposed use has  
31 been approved by any involved institutional review board; and
- 32 (d) Consider any other factor that the authority determines is relevant.

33 (3) Using the factors described in subsection (2) of this section, the authority shall evaluate any  
34 agreement entered into under this section at least once per year for the purpose of determining  
35 whether to renew the agreement.

36 **SECTION 12.** ORS 431A.869 is amended to read:

37 431A.869. The Oregon Health Authority may enter into agreements governing the sharing and  
38 use of information described in ORS 431A.860 (1) with the authorities of other states that administer  
39 prescription monitoring programs. An agreement entered into under this section must adhere to the  
40 disclosure limitations listed under ORS 431A.865 [(2)] **(3)**. An agreement entered into under this  
41 section may:

42 (1) Provide for the transmission of information between electronic systems, provided that any  
43 electronic system to which the Oregon Health Authority transmits information meets the  
44 confidentiality, security and privacy standards adopted by the authority under ORS 431A.855; or

45 (2) Provide for the transmission of information to practitioners or pharmacists licensed to prac-

1 tice in another state.

2 **SECTION 13. This 2019 Act takes effect on the 91st day after the date on which the 2019**  
3 **regular session of the Eightieth Legislative Assembly adjourns sine die.**

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