

HOUSE AMENDMENTS TO A-ENGROSSED SENATE BILL 910

By COMMITTEE ON HEALTH CARE

May 31

- 1 On page 1 of the printed A-engrossed bill, line 2, after “ORS” insert “192.355,”.
- 2 In line 3, after the comma insert “431A.865, 431A.867, 431A.869,”.
- 3 On page 2, line 34, delete “, or equivalents to naloxone,”.
- 4 On page 3, line 29, after “(1)(a)(A)” insert “and other drugs identified by the authority by
- 5 rule”.
- 6 In line 41, delete “(2)(a)” and insert “(2)”.
- 7 In line 42, delete “(A)” and insert “(a)”.
- 8 In line 43, after the semicolon insert “or”.
- 9 In line 44, delete “(B)” and insert “(b)” and delete “; or” and insert a period.
- 10 Delete line 45.
- 11 On page 4, delete lines 1 and 2.
- 12 After line 10, insert:
- 13 **“SECTION 7.** ORS 431A.865 is amended to read:
- 14 “431A.865. (1)(a) Except as provided under [subsection (2)] **subsections (2) and (3)** of this sec-
- 15 tion, prescription monitoring information submitted under ORS 431A.860 to the prescription moni-
- 16 toring program established in ORS 431A.855:
- 17 “(A) Is protected health information under ORS 192.553 to 192.581.
- 18 “(B) Is confidential and not subject to disclosure under ORS 192.311 to 192.478.
- 19 “(b) Except as provided under subsection [(2)(a)(H)] **(3)(a)(H)** of this section, prescription moni-
- 20 toring information submitted under ORS 431A.860 to the prescription monitoring program may not
- 21 be used to evaluate a practitioner’s professional practice.
- 22 **“(2) The Oregon Health Authority may review the prescription monitoring information**
- 23 **of an individual who dies from a drug overdose.**
- 24 “[*(2)(a)*] **(3)(a)** [*To the extent that the law or regulation is applicable to the prescription monitoring*
- 25 *program, if a disclosure of prescription monitoring information, other than the sex of a patient for*
- 26 *whom a drug was prescribed, complies with the federal Health Insurance Portability and Account-*
- 27 *ability Act of 1996 (P.L. 104-191) and regulations adopted under that law, including 45 C.F.R. parts*
- 28 *160 and 164, federal alcohol and drug treatment confidentiality laws and regulations, including 42*
- 29 *C.F.R. part 2, and state health and mental health confidentiality laws, including ORS 179.505, 192.517*
- 30 *and 192.553 to 192.581,] **Except as provided in paragraph (c) of this subsection,** the Oregon*
- 31 Health Authority shall disclose [*the*] **prescription monitoring information reported to the au-**
- 32 **thority under ORS 431A.860:**
- 33 “(A) To a practitioner or pharmacist, or, if a practitioner or pharmacist authorizes the authority
- 34 to disclose the information to a member of the practitioner’s or pharmacist’s staff, to a member of
- 35 the practitioner’s or pharmacist’s staff. If a practitioner or pharmacist authorizes disclosing the in-

1 formation to a member of the practitioner's or pharmacist's staff under this subparagraph, the
2 practitioner or pharmacist remains responsible for the use or misuse of the information by the staff
3 member. To receive information under this subparagraph, or to authorize the receipt of information
4 by a staff member under this subparagraph, a practitioner or pharmacist must certify that the re-
5 quested information is for the purpose of evaluating the need for or providing medical or pharma-
6 ceutical treatment for a patient to whom the practitioner or pharmacist anticipates providing, is
7 providing or has provided care.

8 “(B) To a medical director or pharmacy director, or, if a medical director or pharmacy director
9 authorizes the authority to disclose the information to a member of the medical director's or phar-
10 macy director's staff, to a member of the medical director's or pharmacy director's staff. If a medical
11 director or pharmacy director authorizes disclosing the information to a member of the medical
12 director's or pharmacy director's staff under this subparagraph, the medical director or pharmacy
13 director remains responsible for the use or misuse of the information by the staff member. To receive
14 information under this subparagraph, or to authorize the receipt of information by a staff member
15 under this subparagraph, a medical director must certify that the requested information is for the
16 purposes of overseeing the operations of a hospital, health care clinic or system of hospitals or
17 health care clinics and ensuring the delivery of quality health care within the hospital, clinic or
18 system. To receive information under this subparagraph, or to authorize the receipt of information
19 by a staff member under this subparagraph, a pharmacy director must certify that the requested
20 information is for the purposes of overseeing the operations of a pharmacy or system of pharmacies
21 and ensuring the delivery of quality pharmaceutical care within the pharmacy or system.

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

25 “(i) The individual is authorized to access the information in the health information technology
26 system;

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

29 “(iii) The health information technology system meets any privacy and security requirements
30 and other criteria, including criteria required by the federal Health Insurance Portability and Ac-
31 countability Act, established by the authority by rule.

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

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

37 “(F) To designated representatives of the authority or any vendor or contractor with whom the
38 authority has contracted to establish or maintain the electronic system established under ORS
39 431A.855.

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

43 “(H) To a health professional regulatory board that certifies in writing that the requested in-
44 formation is necessary for an investigation related to licensure, license renewal or disciplinary
45 action involving the applicant, licensee or registrant to whom the requested information pertains.

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

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

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

5 “(B) For the purpose of educating practitioners about the prescribing of opioids and other con-
6 trolled substances;

7 “(C) To a health professional regulatory board;

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

9 “(E) To officials of the authority who are conducting special epidemiologic morbidity and mor-
10 tality studies in accordance with ORS 413.196 and rules adopted under ORS 431.001 to 431.550 and
11 431.990.

12 **“(c) The authority may not disclose, except as provided in paragraph (b) of this sub-
13 section:**

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

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

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

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

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

31 “(B) If the authority denies a patient’s request to correct information under this paragraph, or
32 fails to grant a patient’s request to correct information under this paragraph within 10 business days
33 after the authority receives the request, the patient may appeal the denial or failure to grant the
34 request. Upon receiving notice of an appeal under this subparagraph, the authority shall conduct
35 a contested case hearing as provided in ORS chapter 183. Notwithstanding ORS 183.450, the au-
36 thority has the burden in the contested case hearing of establishing that the information is correct.

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

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

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

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

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

4 “(C) The date and time the information was requested and the date and time the information
5 was provided.

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

8 “[4] (5) Information in the prescription monitoring program that identifies an individual patient
9 must be removed no later than three years from the date the information is entered into the pro-
10 gram.

11 “[5] (6) The authority shall notify the Attorney General and each individual affected by an
12 improper disclosure of information from the prescription monitoring program of the disclosure.

13 “[6](a) (7)(a) If the authority or a person or entity required to report or authorized to receive
14 or release prescription information under this section violates this section or ORS 431A.860 or
15 431A.870, a person injured by the violation may bring a civil action against the authority, person
16 or entity and may recover damages in the amount of \$1,000 or actual damages, whichever is greater.

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

22 “[7] (8) Nothing in ORS 431A.855 to 431A.900 requires a practitioner or pharmacist who pre-
23 scribes or dispenses a prescription drug to obtain information about a patient from the prescription
24 monitoring program. A practitioner or pharmacist who prescribes or dispenses a prescription drug
25 may not be held liable for damages in any civil action on the basis that the practitioner or
26 pharmacist did or did not request or obtain information from the prescription monitoring program.

27 “[8] (9) The authority shall, at regular intervals, ensure compliance of a health information
28 technology system described in subsection [(2)] (3) of this section with the privacy and security re-
29 quirements and other criteria established by the authority under subsection [(2)] (3) of this
30 section.”.

31 In line 11, delete “7” and insert “8”.

32 In line 34, delete “8” and insert “9”.

33 In line 39, delete “50” and insert “a” and delete “doses per day” and insert “dose established
34 by rule by the board”.

35 After line 41, insert:

36 “**SECTION 10.** ORS 192.355 is amended to read:

37 “192.355. The following public records are exempt from disclosure under ORS 192.311 to 192.478:

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

43 “(2)(a) Information of a personal nature such as but not limited to that kept in a personal,
44 medical or similar file, if public disclosure would constitute an unreasonable invasion of privacy,
45 unless the public interest by clear and convincing evidence requires disclosure in the particular in-

1 stance. The party seeking disclosure shall have the burden of showing that public disclosure would
2 not constitute an unreasonable invasion of privacy.

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

8 “(3) Upon compliance with ORS 192.363, public body employee or volunteer residential ad-
9 dresses, residential telephone numbers, personal cellular telephone numbers, personal electronic
10 mail addresses, driver license numbers, employer-issued identification card numbers, emergency
11 contact information, Social Security numbers, dates of birth and other telephone numbers contained
12 in personnel records maintained by the public body that is the employer or the recipient of volunteer
13 services. This exemption:

14 “(a) Does not apply to the addresses, dates of birth and telephone numbers of employees or
15 volunteers who are elected officials, except that a judge or district attorney subject to election may
16 seek to exempt the judge’s or district attorney’s address or telephone number, or both, under the
17 terms of ORS 192.368;

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

21 “(c) Does not apply to a substitute teacher as defined in ORS 342.815 when requested by a
22 professional education association of which the substitute teacher may be a member; and

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

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

28 “(5) Information or records of the Department of Corrections, including the State Board of
29 Parole and Post-Prison Supervision, to the extent that disclosure would interfere with the rehabili-
30 tation of a person in custody of the department or substantially prejudice or prevent the carrying
31 out of the functions of the department, if the public interest in confidentiality clearly outweighs the
32 public interest in disclosure.

33 “(6) Records, reports and other information received or compiled by the Director of the De-
34 partment of Consumer and Business Services in the administration of ORS chapters 723 and 725 not
35 otherwise required by law to be made public, to the extent that the interests of lending institutions,
36 their officers, employees and customers in preserving the confidentiality of such information out-
37 weighs the public interest in disclosure.

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

39 “(8) Any public records or information the disclosure of which is prohibited by federal law or
40 regulations.

41 “(9)(a) Public records or information the disclosure of which is prohibited or restricted or oth-
42 erwise made confidential or privileged under Oregon law.

43 “(b) Subject to ORS 192.360, paragraph (a) of this subsection does not apply to factual informa-
44 tion compiled in a public record when:

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

1 “(B) The factual information is not prohibited from disclosure under any applicable state or
2 federal law, regulation or court order and is not otherwise exempt from disclosure under ORS
3 192.311 to 192.478;

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

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

10 “(E) The holder of the privilege under ORS 40.225 has made or authorized a public statement
11 characterizing or partially disclosing the factual information compiled by or at the attorney’s di-
12 rection.

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

17 “(11) Records of the Energy Facility Siting Council concerning the review or approval of secu-
18 rity programs pursuant to ORS 469.530.

19 “(12) Employee and retiree address, telephone number and other nonfinancial membership re-
20 cords and employee financial records maintained by the Public Employees Retirement System pur-
21 suant to ORS chapters 238 and 238A.

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

26 “(a) The exemption does not apply to:

27 “(A) Information in investment records solely related to the amount paid directly into an in-
28 vestment by, or returned from the investment directly to, the treasurer or council; or

29 “(B) The identity of the entity to which the amount was paid directly or from which the amount
30 was received directly.

31 “(b) An investment in a publicly traded investment is no longer active when acquisition, ex-
32 change or liquidation of the investment has been concluded.

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

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

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

42 “(C) Meeting materials of an investment fund, an asset ownership or their respective investment
43 vehicles.

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

1 “(E) Capital call and distribution notices of an investment fund, an asset ownership or their
2 respective investment vehicles.

3 “(F) Investment agreements and related documents.

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

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

6 “(B) The dollar amount of the commitment made to each privately placed investment fund since
7 inception of the fund.

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

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

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

16 “(F) The net internal rate of return of each privately placed investment fund since inception of
17 the fund.

18 “(G) The investment multiple of each privately placed investment fund since inception of the
19 fund.

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

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

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

27 “(16) Reports of unclaimed property filed by the holders of such property to the extent permitted
28 by ORS 98.352.

29 “(17)(a) The following records, communications and information submitted to the Oregon Busi-
30 ness Development Commission, the Oregon Business Development Department, the State Department
31 of Agriculture, the Oregon Growth Board, the Port of Portland or other ports as defined in ORS
32 777.005, or a county or city governing body and any board, department, commission, council or
33 agency thereof, by applicants for investment funds, grants, loans, services or economic development
34 moneys, support or assistance including, but not limited to, those described in ORS 285A.224:

35 “(A) Personal financial statements.

36 “(B) Financial statements of applicants.

37 “(C) Customer lists.

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

43 “(E) Production, sales and cost data.

44 “(F) Marketing strategy information that relates to applicant’s plan to address specific markets
45 and applicant’s strategy regarding specific competitors.

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

3 “(A) Personal financial statements.

4 “(B) Financial statements of applicants.

5 “(C) Customer lists.

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

11 “(E) Production, sales and cost data.

12 “(F) Marketing strategy information that relates to applicant’s plan to address specific markets
13 and applicant’s strategy regarding specific competitors.

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

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

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

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

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

30 “(20) Workers’ compensation claim records of the Department of Consumer and Business Ser-
31 vices, except in accordance with rules adopted by the Director of the Department of Consumer and
32 Business Services, in any of the following circumstances:

33 “(a) When necessary for insurers, self-insured employers and third party claim administrators to
34 process workers’ compensation claims.

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

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

39 “(d) When a worker or the worker’s representative requests review of the worker’s claim record.

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

42 “(22) Records of Oregon Health and Science University regarding candidates for the position of
43 president of the university.

44 “(23) The records of a library, including:

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

1 “(b) The name of a library patron together with the address or telephone number of the patron;
2 and
3 “(c) The electronic mail address of a patron.
4 “(24) The following records, communications and information obtained by the Housing and
5 Community Services Department in connection with the department’s monitoring or administration
6 of financial assistance or of housing or other developments:
7 “(a) Personal and corporate financial statements and information, including tax returns.
8 “(b) Credit reports.
9 “(c) Project appraisals, excluding appraisals obtained in the course of transactions involving an
10 interest in real estate that is acquired, leased, rented, exchanged, transferred or otherwise disposed
11 of as part of the project, but only after the transactions have closed and are concluded.
12 “(d) Market studies and analyses.
13 “(e) Articles of incorporation, partnership agreements and operating agreements.
14 “(f) Commitment letters.
15 “(g) Project pro forma statements.
16 “(h) Project cost certifications and cost data.
17 “(i) Audits.
18 “(j) Project tenant correspondence.
19 “(k) Personal information about a tenant.
20 “(L) Housing assistance payments.
21 “(25) Raster geographic information system (GIS) digital databases, provided by private
22 forestland owners or their representatives, voluntarily and in confidence to the State Forestry De-
23 partment, that is not otherwise required by law to be submitted.
24 “(26) Sensitive business, commercial or financial information furnished to or developed by a
25 public body engaged in the business of providing electricity or electricity services, if the information
26 is directly related to a transaction described in ORS 261.348, or if the information is directly related
27 to a bid, proposal or negotiations for the sale or purchase of electricity or electricity services, and
28 disclosure of the information would cause a competitive disadvantage for the public body or its re-
29 tail electricity customers. This subsection does not apply to cost-of-service studies used in the de-
30 velopment or review of generally applicable rate schedules.
31 “(27) Sensitive business, commercial or financial information furnished to or developed by the
32 City of Klamath Falls, acting solely in connection with the ownership and operation of the Klamath
33 Cogeneration Project, if the information is directly related to a transaction described in ORS 225.085
34 and disclosure of the information would cause a competitive disadvantage for the Klamath
35 Cogeneration Project. This subsection does not apply to cost-of-service studies used in the develop-
36 ment or review of generally applicable rate schedules.
37 “(28) Personally identifiable information about customers of a municipal electric utility or a
38 people’s utility district or the names, dates of birth, driver license numbers, telephone numbers,
39 electronic mail addresses or Social Security numbers of customers who receive water, sewer or
40 storm drain services from a public body as defined in ORS 174.109. The utility or district may re-
41 lease personally identifiable information about a customer, and a public body providing water, sewer
42 or storm drain services may release the name, date of birth, driver license number, telephone num-
43 ber, electronic mail address or Social Security number of a customer, if the customer consents in
44 writing or electronically, if the disclosure is necessary for the utility, district or other public body
45 to render services to the customer, if the disclosure is required pursuant to a court order or if the

1 disclosure is otherwise required by federal or state law. The utility, district or other public body
2 may charge as appropriate for the costs of providing such information. The utility, district or other
3 public body may make customer records available to third party credit agencies on a regular basis
4 in connection with the establishment and management of customer accounts or in the event such
5 accounts are delinquent.

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

8 “(30) Sensitive business records, capital development plans or financial or commercial informa-
9 tion of Oregon Corrections Enterprises that is not customarily provided to business competitors.

10 “(31) Documents, materials or other information submitted to the Director of the Department
11 of Consumer and Business Services in confidence by a state, federal, foreign or international regu-
12 latory or law enforcement agency or by the National Association of Insurance Commissioners, its
13 affiliates or subsidiaries under ORS 86A.095 to 86A.198, 697.005 to 697.095, 697.602 to 697.842,
14 705.137, 717.200 to 717.320, 717.900 or 717.905, ORS chapter 59, 723, 725 or 726, the Bank Act or the
15 Insurance Code when:

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

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

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

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

23 “(a) Generation, storage or conveyance of:

24 “(A) Electricity;

25 “(B) Gas in liquefied or gaseous form;

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

27 “(D) Petroleum products;

28 “(E) Sewage; or

29 “(F) Water.

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

31 “(c) Data transmissions by whatever means provided.

32 “(34) The information specified in ORS 25.020 (8) if the Chief Justice of the Supreme Court
33 designates the information as confidential by rule under ORS 1.002.

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

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

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

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

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

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

6 “(37) Except as authorized by ORS 408.425, records that certify or verify an individual’s dis-
7 charge or other separation from military service.

8 “(38) Records of or submitted to a domestic violence service or resource center that relate to
9 the name or personal information of an individual who visits a center for service, including the date
10 of service, the type of service received, referrals or contact information or personal information of
11 a family member of the individual. As used in this subsection, ‘domestic violence service or resource
12 center’ means an entity, the primary purpose of which is to assist persons affected by domestic or
13 sexual violence by providing referrals, resource information or other assistance specifically of ben-
14 efit to domestic or sexual violence victims.

15 “(39) Information reported to the Oregon Health Authority under ORS 431A.860, except as pro-
16 vided in ORS [431A.860 (2)(b)] **431A.865 (3)(b)**, information disclosed by the authority under ORS
17 431A.865 and any information related to disclosures made by the authority under ORS 431A.865,
18 including information identifying the recipient of the information.

19 “(40)(a) Electronic mail addresses in the possession or custody of an agency or subdivision of
20 the executive department, as defined in ORS 174.112, the legislative department, as defined in ORS
21 174.114, a local government or local service district, as defined in ORS 174.116, or a special gov-
22 ernment body, as defined in ORS 174.117.

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

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

30 “(41) Residential addresses, residential telephone numbers, personal cellular telephone numbers,
31 personal electronic mail addresses, driver license numbers, emergency contact information, Social
32 Security numbers, dates of birth and other telephone numbers of individuals currently or previously
33 certified or licensed by the Department of Public Safety Standards and Training contained in the
34 records maintained by the department.

35 “(42) Personally identifiable information and contact information of veterans as defined in ORS
36 408.225 and of persons serving on active duty or as reserve members with the Armed Forces of the
37 United States, National Guard or other reserve component that was obtained by the Department of
38 Veterans’ Affairs in the course of performing its duties and functions, including but not limited to
39 names, residential and employment addresses, dates of birth, driver license numbers, telephone
40 numbers, electronic mail addresses, Social Security numbers, marital status, dependents, the char-
41 acter of discharge from military service, military rating or rank, that the person is a veteran or has
42 provided military service, information relating to an application for or receipt of federal or state
43 benefits, information relating to the basis for receipt or denial of federal or state benefits and in-
44 formation relating to a home loan or grant application, including but not limited to financial infor-
45 mation provided in connection with the application.

1 “**SECTION 11.** ORS 431A.867 is amended to read:
2 “431A.867. (1) The Oregon Health Authority may require a person requesting prescription mon-
3 itoring program information under ORS 431A.865 [(2)(b)] **(3)(b)** to enter into a data use agreement
4 under which the person:
5 “(a) Describes the proposed use for the information;
6 “(b) Agrees to any terms and conditions imposed on transferring the information;
7 “(c) Agrees to any limitations imposed on using the information;
8 “(d) Agrees to any terms and conditions imposed on keeping the information; and
9 “(e) Agrees to destroy the information after completing the proposed use for the information.
10 “(2) In determining whether to enter into an agreement under this section, the authority shall:
11 “(a) Evaluate the merits of the request for information;
12 “(b) Determine whether the person making the request has the technical competence needed to
13 meet any terms, conditions or limitations imposed under subsection (1) of this section and the ability
14 to complete the proposed use for the information;
15 “(c) If the proposed use for the information involves research, ensure that the proposed use has
16 been approved by any involved institutional review board; and
17 “(d) Consider any other factor that the authority determines is relevant.
18 “(3) Using the factors described in subsection (2) of this section, the authority shall evaluate any
19 agreement entered into under this section at least once per year for the purpose of determining
20 whether to renew the agreement.
21 “**SECTION 12.** ORS 431A.869 is amended to read:
22 “431A.869. The Oregon Health Authority may enter into agreements governing the sharing and
23 use of information described in ORS 431A.860 (1) with the authorities of other states that administer
24 prescription monitoring programs. An agreement entered into under this section must adhere to the
25 disclosure limitations listed under ORS 431A.865 [(2)] **(3)**. An agreement entered into under this
26 section may:
27 “(1) Provide for the transmission of information between electronic systems, provided that any
28 electronic system to which the Oregon Health Authority transmits information meets the
29 confidentiality, security and privacy standards adopted by the authority under ORS 431A.855; or
30 “(2) Provide for the transmission of information to practitioners or pharmacists licensed to
31 practice in another state.”.
32 In line 42, delete “9” and insert “13”.
33