

SB 910-A13  
(LC 1766)  
5/29/19 (LHF/ps)

Requested by HOUSE COMMITTEE ON HEALTH CARE (at the request of the Oregon Health Authority)

**PROPOSED AMENDMENTS TO  
A-ENGROSSED SENATE BILL 910**

1 On page 1 of the printed A-engrossed bill, line 2, after “ORS” insert  
2 “192.355.”

3 In line 3, after the comma insert “431A.865, 431A.867, 431A.869.”

4 On page 2, line 34, delete “, or equivalents to naloxone.”

5 On page 3, line 29, after “(1)(a)(A)” insert “and other drugs identified by  
6 the authority by rule”.

7 In line 41, delete “(2)(a)” and insert “(2)”.

8 In line 42, delete “(A)” and insert “(a)”.

9 In line 43, after the semicolon insert “or”.

10 In line 44, delete “(B)” and insert “(b)” and delete “; or” and insert a pe-  
11 riod.

12 Delete line 45.

13 On page 4, delete lines 1 and 2.

14 After line 10, insert:

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

16 “431A.865. (1)(a) Except as provided under [*subsection (2)*] **subsections (2)**  
17 **and (3)** of this section, prescription monitoring information submitted under  
18 ORS 431A.860 to the prescription monitoring program established in ORS  
19 431A.855:

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

21 “(B) Is confidential and not subject to disclosure under ORS 192.311 to

1 192.478.

2 “(b) Except as provided under subsection [(2)(a)(H)] **(3)(a)(H)** of this sec-  
3 tion, prescription monitoring information submitted under ORS 431A.860 to  
4 the prescription monitoring program may not be used to evaluate a  
5 practitioner’s professional practice.

6 “**(2) The Oregon Health Authority may review the prescription**  
7 **monitoring information of an individual who dies from a drug over-**  
8 **dose.**

9 “[2)(a)] **(3)(a)** *[To the extent that the law or regulation is applicable to the*  
10 *prescription monitoring program, if a disclosure of prescription monitoring*  
11 *information, other than the sex of a patient for whom a drug was prescribed,*  
12 *complies with the federal Health Insurance Portability and Accountability Act*  
13 *of 1996 (P.L. 104-191) and regulations adopted under that law, including 45*  
14 *C.F.R. parts 160 and 164, federal alcohol and drug treatment confidentiality*  
15 *laws and regulations, including 42 C.F.R. part 2, and state health and mental*  
16 *health confidentiality laws, including ORS 179.505, 192.517 and 192.553 to*  
17 *192.581,]* **Except as provided in paragraph (c) of this subsection,** the  
18 Oregon Health Authority shall disclose *[the]* **prescription monitoring** in-  
19 **formation reported to the authority under ORS 431A.860:**

20 “(A) To a practitioner or pharmacist, or, if a practitioner or pharmacist  
21 authorizes the authority to disclose the information to a member of the  
22 practitioner’s or pharmacist’s staff, to a member of the practitioner’s or  
23 pharmacist’s staff. If a practitioner or pharmacist authorizes disclosing the  
24 information to a member of the practitioner’s or pharmacist’s staff under this  
25 subparagraph, the practitioner or pharmacist remains responsible for the use  
26 or misuse of the information by the staff member. To receive information  
27 under this subparagraph, or to authorize the receipt of information by a staff  
28 member under this subparagraph, a practitioner or pharmacist must certify  
29 that the requested information is for the purpose of evaluating the need for  
30 or providing medical or pharmaceutical treatment for a patient to whom the

1 practitioner or pharmacist anticipates providing, is providing or has provided  
2 care.

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

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

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

28 “(ii) The information is not permanently retained in the health informa-  
29 tion technology system, except for purposes of conducting audits and main-  
30 taining patient records; and

1       “(iii) The health information technology system meets any privacy and  
2 security requirements and other criteria, including criteria required by the  
3 federal Health Insurance Portability and Accountability Act, established by  
4 the authority by rule.

5       “(D) To a practitioner in a form that catalogs all prescription drugs pre-  
6 scribed by the practitioner according to the number assigned to the practi-  
7 tioner by the Drug Enforcement Administration of the United States  
8 Department of Justice.

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

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

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

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

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

24       “(b) The authority may disclose information from the prescription moni-  
25 toring program that does not identify a patient, practitioner or drug outlet:

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

27       “(B) For the purpose of educating practitioners about the prescribing of  
28 opioids and other controlled substances;

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

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

1       “(E) To officials of the authority who are conducting special  
2 epidemiologic morbidity and mortality studies in accordance with ORS  
3 413.196 and rules adopted under ORS 431.001 to 431.550 and 431.990.

4       **“(c) The authority may not disclose, except as provided in para-  
5 graph (b) of this subsection:**

6       **“(A) Prescription drug monitoring information to the extent that  
7 the disclosure fails to comply with applicable provisions of the federal  
8 Health Insurance Portability and Accountability Act of 1996 (P.L.  
9 104-191) and regulations adopted under that law, including 45 C.F.R.  
10 parts 160 and 164, federal alcohol and drug treatment confidentiality  
11 laws and regulations, including 42 C.F.R. part 2, and state health and  
12 mental health confidentiality laws, including ORS 179.505, 192.517 and  
13 192.553 to 192.581.**

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

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

16       “[(c)] (d) The authority shall disclose information relating to a patient  
17 maintained in the electronic system established under ORS 431A.855 to that  
18 patient at no cost to the patient within 10 business days after the authority  
19 receives a request from the patient for the information.

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

28       “(B) If the authority denies a patient’s request to correct information  
29 under this paragraph, or fails to grant a patient’s request to correct infor-  
30 mation under this paragraph within 10 business days after the authority re-

1 ceives the request, the patient may appeal the denial or failure to grant the  
2 request. Upon receiving notice of an appeal under this subparagraph, the  
3 authority shall conduct a contested case hearing as provided in ORS chapter  
4 183. Notwithstanding ORS 183.450, the authority has the burden in the con-  
5 tested case hearing of establishing that the information is correct.

6 “[~~(e)~~] (f) The information in the prescription monitoring program may not  
7 be used for any commercial purpose.

8 “[~~(f)~~] (g) In accordance with ORS 192.553 to 192.581 and federal laws and  
9 regulations related to privacy, any person authorized to prescribe or dispense  
10 a prescription drug who is entitled to access a patient’s prescription moni-  
11 toring information may discuss the information with or release the informa-  
12 tion to other health care providers involved with the patient’s care for the  
13 purpose of providing safe and appropriate care coordination.

14 “(3)(a) The authority shall maintain records of the information disclosed  
15 through the prescription monitoring program including:

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

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

19 “(C) The date and time the information was requested and the date and  
20 time the information was provided.

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

23 “(4) Information in the prescription monitoring program that identifies  
24 an individual patient must be removed no later than three years from the  
25 date the information is entered into the program.

26 “(5) The authority shall notify the Attorney General and each individual  
27 affected by an improper disclosure of information from the prescription  
28 monitoring program of the disclosure.

29 “(6)(a) If the authority or a person or entity required to report or au-  
30 thorized to receive or release prescription information under this section vi-

1 olates this section or ORS 431A.860 or 431A.870, a person injured by the  
2 violation may bring a civil action against the authority, person or entity and  
3 may recover damages in the amount of \$1,000 or actual damages, whichever  
4 is greater.

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

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

18 “(8) The authority shall, at regular intervals, ensure compliance of a  
19 health information technology system described in subsection [(2)] (3) of this  
20 section with the privacy and security requirements and other criteria estab-  
21 lished by the authority under subsection [(2)] (3) of this section.”.

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

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

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

26 After line 41, insert:

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

28 “192.355. The following public records are exempt from disclosure under  
29 ORS 192.311 to 192.478:

30 “(1) Communications within a public body or between public bodies of an

1 advisory nature to the extent that they cover other than purely factual ma-  
2 terials and are preliminary to any final agency determination of policy or  
3 action. This exemption shall not apply unless the public body shows that in  
4 the particular instance the public interest in encouraging frank communi-  
5 cation between officials and employees of public bodies clearly outweighs the  
6 public interest in disclosure.

7 “(2)(a) Information of a personal nature such as but not limited to that  
8 kept in a personal, medical or similar file, if public disclosure would consti-  
9 tute an unreasonable invasion of privacy, unless the public interest by clear  
10 and convincing evidence requires disclosure in the particular instance. The  
11 party seeking disclosure shall have the burden of showing that public dis-  
12 closure would not constitute an unreasonable invasion of privacy.

13 “(b) Images of a dead body, or parts of a dead body, that are part of a law  
14 enforcement agency investigation, if public disclosure would create an un-  
15 reasonable invasion of privacy of the family of the deceased person, unless  
16 the public interest by clear and convincing evidence requires disclosure in  
17 the particular instance. The party seeking disclosure shall have the burden  
18 of showing that public disclosure would not constitute an unreasonable in-  
19 vasion of privacy.

20 “(3) Upon compliance with ORS 192.363, public body employee or volun-  
21 teer residential addresses, residential telephone numbers, personal cellular  
22 telephone numbers, personal electronic mail addresses, driver license num-  
23 bers, employer-issued identification card numbers, emergency contact infor-  
24 mation, Social Security numbers, dates of birth and other telephone numbers  
25 contained in personnel records maintained by the public body that is the  
26 employer or the recipient of volunteer services. This exemption:

27 “(a) Does not apply to the addresses, dates of birth and telephone numbers  
28 of employees or volunteers who are elected officials, except that a judge or  
29 district attorney subject to election may seek to exempt the judge’s or dis-  
30 trict attorney’s address or telephone number, or both, under the terms of



1 ORS 192.368;

2 “(b) Does not apply to employees or volunteers to the extent that the  
3 party seeking disclosure shows by clear and convincing evidence that the  
4 public interest requires disclosure in a particular instance pursuant to ORS  
5 192.363;

6 “(c) Does not apply to a substitute teacher as defined in ORS 342.815  
7 when requested by a professional education association of which the substi-  
8 tute teacher may be a member; and

9 “(d) Does not relieve a public employer of any duty under ORS 243.650 to  
10 243.782.

11 “(4) Information submitted to a public body in confidence and not other-  
12 wise required by law to be submitted, where such information should rea-  
13 sonably be considered confidential, the public body has obliged itself in good  
14 faith not to disclose the information, and when the public interest would  
15 suffer by the disclosure.

16 “(5) Information or records of the Department of Corrections, including  
17 the State Board of Parole and Post-Prison Supervision, to the extent that  
18 disclosure would interfere with the rehabilitation of a person in custody of  
19 the department or substantially prejudice or prevent the carrying out of the  
20 functions of the department, if the public interest in confidentiality clearly  
21 outweighs the public interest in disclosure.

22 “(6) Records, reports and other information received or compiled by the  
23 Director of the Department of Consumer and Business Services in the ad-  
24 ministration of ORS chapters 723 and 725 not otherwise required by law to  
25 be made public, to the extent that the interests of lending institutions, their  
26 officers, employees and customers in preserving the confidentiality of such  
27 information outweighs the public interest in disclosure.

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

29 “(8) Any public records or information the disclosure of which is prohib-  
30 ited by federal law or regulations.

1 “(9)(a) Public records or information the disclosure of which is prohibited  
2 or restricted or otherwise made confidential or privileged under Oregon law.

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

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

6 “(B) The factual information is not prohibited from disclosure under any  
7 applicable state or federal law, regulation or court order and is not other-  
8 wise exempt from disclosure under ORS 192.311 to 192.478;

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

12 “(D) The factual information was not compiled in preparation for liti-  
13 gation, arbitration or an administrative proceeding that was reasonably  
14 likely to be initiated or that has been initiated by or against the public body;  
15 and

16 “(E) The holder of the privilege under ORS 40.225 has made or authorized  
17 a public statement characterizing or partially disclosing the factual infor-  
18 mation compiled by or at the attorney’s direction.

19 “(10) Public records or information described in this section, furnished  
20 by the public body originally compiling, preparing or receiving them to any  
21 other public officer or public body in connection with performance of the  
22 duties of the recipient, if the considerations originally giving rise to the  
23 confidential or exempt nature of the public records or information remain  
24 applicable.

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

27 “(12) Employee and retiree address, telephone number and other nonfi-  
28 nancial membership records and employee financial records maintained by  
29 the Public Employees Retirement System pursuant to ORS chapters 238 and  
30 238A.

1 “(13) Records of or submitted to the State Treasurer, the Oregon Invest-  
2 ment Council or the agents of the treasurer or the council relating to active  
3 or proposed publicly traded investments under ORS chapter 293, including  
4 but not limited to records regarding the acquisition, exchange or liquidation  
5 of the investments. For the purposes of this subsection:

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

7 “(A) Information in investment records solely related to the amount paid  
8 directly into an investment by, or returned from the investment directly to,  
9 the treasurer or council; or

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

12 “(b) An investment in a publicly traded investment is no longer active  
13 when acquisition, exchange or liquidation of the investment has been con-  
14 cluded.

15 “(14)(a) Records of or submitted to the State Treasurer, the Oregon In-  
16 vestment Council, the Oregon Growth Board or the agents of the treasurer,  
17 council or board relating to actual or proposed investments under ORS  
18 chapter 293 or 348 in a privately placed investment fund or a private asset  
19 including but not limited to records regarding the solicitation, acquisition,  
20 deployment, exchange or liquidation of the investments including but not  
21 limited to:

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

24 “(B) Financial statements of an investment fund, an asset ownership or  
25 their respective investment vehicles.

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

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

1       “(E) Capital call and distribution notices of an investment fund, an asset  
2 ownership or their 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 invest-  
6 ment fund.

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

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

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

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

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

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

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

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

27       “(15) The monthly reports prepared and submitted under ORS 293.761 and  
28 293.766 concerning the Public Employees Retirement Fund and the Industrial  
29 Accident Fund may be uniformly treated as exempt from disclosure for a  
30 period of up to 90 days after the end of the calendar quarter.

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

3       “(17)(a) The following records, communications and information submitted  
4 to the Oregon Business Development Commission, the Oregon Business De-  
5 velopment Department, the State Department of Agriculture, the Oregon  
6 Growth Board, the Port of Portland or other ports as defined in ORS 777.005,  
7 or a county or city governing body and any board, department, commission,  
8 council or agency thereof, by applicants for investment funds, grants, loans,  
9 services or economic development moneys, support or assistance including,  
10 but not limited to, those described in ORS 285A.224:

11       “(A) Personal financial statements.

12       “(B) Financial statements of applicants.

13       “(C) Customer lists.

14       “(D) Information of an applicant pertaining to litigation to which the  
15 applicant is a party if the complaint has been filed, or if the complaint has  
16 not been filed, if the applicant shows that such litigation is reasonably likely  
17 to occur; this exemption does not apply to litigation which has been con-  
18 cluded, and nothing in this subparagraph shall limit any right or opportunity  
19 granted by discovery or deposition statutes to a party to litigation or po-  
20 tential litigation.

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

22       “(F) Marketing strategy information that relates to applicant’s plan to  
23 address specific markets and applicant’s strategy regarding specific compet-  
24 itors.

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

28       “(A) Personal financial statements.

29       “(B) Financial statements of applicants.

30       “(C) Customer lists.

1       “(D) Information of an applicant pertaining to litigation to which the  
2 applicant is a party if the complaint has been filed, or if the complaint has  
3 not been filed, if the applicant shows that such litigation is reasonably likely  
4 to occur; this exemption does not apply to litigation which has been con-  
5 cluded, and nothing in this subparagraph shall limit any right or opportunity  
6 granted by discovery or deposition statutes to a party to litigation or po-  
7 tential litigation.

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

9       “(F) Marketing strategy information that relates to applicant’s plan to  
10 address specific markets and applicant’s strategy regarding specific compet-  
11 itors.

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

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

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

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

28       “(19) All information supplied by a person under ORS 151.485 for the  
29 purpose of requesting appointed counsel, and all information supplied to the  
30 court from whatever source for the purpose of verifying the financial eligi-

1 bility of a person pursuant to ORS 151.485.

2 “(20) Workers’ compensation claim records of the Department of Con-  
3 sumer and Business Services, except in accordance with rules adopted by the  
4 Director of the Department of Consumer and Business Services, in any of the  
5 following circumstances:

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

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

10 “(c) When the disclosure is made in such a manner that the disclosed in-  
11 formation cannot be used to identify any worker who is the subject of a  
12 claim.

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

15 “(21) Sensitive business records or financial or commercial information  
16 of the Oregon Health and Science University that is not customarily pro-  
17 vided to business competitors.

18 “(22) Records of Oregon Health and Science University regarding candi-  
19 dates for the position of president of the university.

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

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

23 “(b) The name of a library patron together with the address or telephone  
24 number of the patron; and

25 “(c) The electronic mail address of a patron.

26 “(24) The following records, communications and information obtained by  
27 the Housing and Community Services Department in connection with the  
28 department’s monitoring or administration of financial assistance or of  
29 housing or other developments:

30 “(a) Personal and corporate financial statements and information, in-

1 cluding tax returns.

2 “(b) Credit reports.

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

7 “(d) Market studies and analyses.

8 “(e) Articles of incorporation, partnership agreements and operating  
9 agreements.

10 “(f) Commitment letters.

11 “(g) Project pro forma statements.

12 “(h) Project cost certifications and cost data.

13 “(i) Audits.

14 “(j) Project tenant correspondence.

15 “(k) Personal information about a tenant.

16 “(L) Housing assistance payments.

17 “(25) Raster geographic information system (GIS) digital databases, pro-  
18 vided by private forestland owners or their representatives, voluntarily and  
19 in confidence to the State Forestry Department, that is not otherwise re-  
20 quired by law to be submitted.

21 “(26) Sensitive business, commercial or financial information furnished to  
22 or developed by a public body engaged in the business of providing electricity  
23 or electricity services, if the information is directly related to a transaction  
24 described in ORS 261.348, or if the information is directly related to a bid,  
25 proposal or negotiations for the sale or purchase of electricity or electricity  
26 services, and disclosure of the information would cause a competitive disad-  
27 vantage for the public body or its retail electricity customers. This sub-  
28 section does not apply to cost-of-service studies used in the development or  
29 review of generally applicable rate schedules.

30 “(27) Sensitive business, commercial or financial information furnished to



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

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

26 “(29) A record of the street and number of an employee’s address submit-  
27 ted to a special district to obtain assistance in promoting an alternative to  
28 single occupant motor vehicle transportation.

29 “(30) Sensitive business records, capital development plans or financial  
30 or commercial information of Oregon Corrections Enterprises that is not

1 customarily provided to business competitors.

2 “(31) Documents, materials or other information submitted to the Director  
3 of the Department of Consumer and Business Services in confidence by a  
4 state, federal, foreign or international regulatory or law enforcement agency  
5 or by the National Association of Insurance Commissioners, its affiliates or  
6 subsidiaries under ORS 86A.095 to 86A.198, 697.005 to 697.095, 697.602 to  
7 697.842, 705.137, 717.200 to 717.320, 717.900 or 717.905, ORS chapter 59, 723,  
8 725 or 726, the Bank Act or the Insurance Code when:

9 “(a) The document, material or other information is received upon notice  
10 or with an understanding that it is confidential or privileged under the laws  
11 of the jurisdiction that is the source of the document, material or other in-  
12 formation; and

13 “(b) The director has obligated the Department of Consumer and Business  
14 Services not to disclose the document, material or other information.

15 “(32) A county elections security plan developed and filed under ORS  
16 254.074.

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

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

20 “(A) Electricity;

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

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

23 “(D) Petroleum products;

24 “(E) Sewage; or

25 “(F) Water.

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

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

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

1 ORS 1.002.

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

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

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

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

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

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

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

27 “(38) Records of or submitted to a domestic violence service or resource  
28 center that relate to the name or personal information of an individual who  
29 visits a center for service, including the date of service, the type of service  
30 received, referrals or contact information or personal information of a family

1 member of the individual. As used in this subsection, ‘domestic violence  
2 service or resource center’ means an entity, the primary purpose of which is  
3 to assist persons affected by domestic or sexual violence by providing refer-  
4 rals, resource information or other assistance specifically of benefit to do-  
5 mestic or sexual violence victims.

6 “(39) Information reported to the Oregon Health Authority under ORS  
7 431A.860, except as provided in ORS [431A.860 (2)(b)] **431A.865 (3)(b)**, infor-  
8 mation disclosed by the authority under ORS 431A.865 and any information  
9 related to disclosures made by the authority under ORS 431A.865, including  
10 information identifying the recipient of the information.

11 “(40)(a) Electronic mail addresses in the possession or custody of an  
12 agency or subdivision of the executive department, as defined in ORS 174.112,  
13 the legislative department, as defined in ORS 174.114, a local government or  
14 local service district, as defined in ORS 174.116, or a special government  
15 body, as defined in ORS 174.117.

16 “(b) This subsection does not apply to electronic mail addresses assigned  
17 by a public body to public employees for use by the employees in the ordi-  
18 nary course of their employment.

19 “(c) This subsection and ORS 244.040 do not prohibit the campaign office  
20 of the current officeholder or current candidates who have filed to run for  
21 that elective office from receiving upon request the electronic mail addresses  
22 used by the current officeholder’s legislative office for newsletter distrib-  
23 ution, except that a campaign office that receives electronic mail addresses  
24 under this paragraph may not make a further disclosure of those electronic  
25 mail addresses to any other person.

26 “(41) Residential addresses, residential telephone numbers, personal cel-  
27 lular telephone numbers, personal electronic mail addresses, driver license  
28 numbers, emergency contact information, Social Security numbers, dates of  
29 birth and other telephone numbers of individuals currently or previously  
30 certified or licensed by the Department of Public Safety Standards and

1 Training contained in the records maintained by the department.

2 “(42) Personally identifiable information and contact information of vet-  
3 erans as defined in ORS 408.225 and of persons serving on active duty or as  
4 reserve members with the Armed Forces of the United States, National  
5 Guard or other reserve component that was obtained by the Department of  
6 Veterans’ Affairs in the course of performing its duties and functions, in-  
7 cluding but not limited to names, residential and employment addresses,  
8 dates of birth, driver license numbers, telephone numbers, electronic mail  
9 addresses, Social Security numbers, marital status, dependents, the character  
10 of discharge from military service, military rating or rank, that the person  
11 is a veteran or has provided military service, information relating to an ap-  
12 plication for or receipt of federal or state benefits, information relating to  
13 the basis for receipt or denial of federal or state benefits and information  
14 relating to a home loan or grant application, including but not limited to  
15 financial information 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 re-  
18 questing prescription monitoring program information under ORS 431A.865  
19 [(2)(b)] **(3)(b)** to enter into a data use agreement 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 in-  
22 formation;

23 “(c) Agrees to any limitations imposed on using the information;

24 “(d) Agrees to any terms and conditions imposed on keeping the infor-  
25 mation; and

26 “(e) Agrees to destroy the information after completing the proposed use  
27 for the information.

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

30 “(a) Evaluate the merits of the request for information;

1 “(b) Determine whether the person making the request has the technical  
2 competence needed to meet any terms, conditions or limitations imposed un-  
3 der subsection (1) of this section and the ability to complete the proposed  
4 use for the information;

5 “(c) If the proposed use for the information involves research, ensure that  
6 the proposed use has been approved by any involved institutional review  
7 board; and

8 “(d) Consider any other factor that the authority determines is relevant.

9 “(3) Using the factors described in subsection (2) of this section, the au-  
10 thority shall evaluate any agreement entered into under this section at least  
11 once per year for the purpose of determining whether to renew the agree-  
12 ment.

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

14 “431A.869. The Oregon Health Authority may enter into agreements gov-  
15 erning the sharing and use of information described in ORS 431A.860 (1) with  
16 the authorities of other states that administer prescription monitoring pro-  
17 grams. An agreement entered into under this section must adhere to the  
18 disclosure limitations listed under ORS 431A.865 [(2)] (3). An agreement en-  
19 tered into under this section may:

20 “(1) Provide for the transmission of information between electronic sys-  
21 tems, provided that any electronic system to which the Oregon Health Au-  
22 thority transmits information meets the confidentiality, security and privacy  
23 standards adopted by the authority under ORS 431A.855; or

24 “(2) Provide for the transmission of information to practitioners or  
25 pharmacists licensed to practice in another state.”.

26 In line 42, delete “9” and insert “13”.

27