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**Exemption Statute and Title: [ORS 40.235](#) Physician-Patient Privilege**

**Summary:** Provides patients with a privilege to refuse to disclose confidential communications made for the purpose of diagnosis or treatment.

**Relevant Text:** [ORS 40.235](#)

(2) A patient has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications in a civil action, suit or proceeding, made for the purposes of diagnosis or treatment of the patient's physical condition, among the patient, the patient's physician or persons who are participating in the diagnosis or treatment under the direction of the physician, including members of the patient's family.

**Key Terms & Definitions:**

"Physician" includes podiatrists, dentists, and certified naturopathic and chiropractic physicians.

**Enumerated Exceptions or Public Interest Balancing Test?**

[ORS 40.235\(4\)](#). The following is a nonexclusive list of limits on the privilege granted by this section:

- (a) If the judge orders an examination of the physical condition of the patient, communications made in the course thereof are not privileged under this section with respect to the particular purpose for which the examination is ordered unless the judge orders otherwise.
- (b) Except as provided in ORCP 44, there is no privilege under this section for communications made in the course of a physical examination performed under ORCP 44.
- (c) There is no privilege under this section with regard to any confidential communication or record of such confidential communication that would otherwise be privileged under this section when the use of the communication or record is specifically allowed under [ORS 426.070](#), [426.074](#), [426.075](#), [426.095](#), [426.120](#) or [426.307](#). This paragraph only applies to the use of the communication or record to the extent and for the purposes set forth in the described statute sections.

**Cited in Court Cases, AG Opinions and/or Public Records Orders?**

[PRO Wright, February 5, 1996](#) (petition denied where daughter of deceased patient of the Oregon State Hospital (OSH) requested all patient records; OSH policy requiring the consent of the personal representative was appropriate).

[PRO Smith, February 7, 1994](#) ("unless the privileges contained in ORS 40.230 and 40.235 are waived by a personal representative, they remain in effect after a patient's death" (citations omitted)).

**Exemption Statute and Title: [ORS 40.240](#) Nurse-Patient Privilege**

**Summary:** Absent consent from a patient, prohibits the examination of a nurse about patient information in a civil action. Compare with [ORS 40.235](#) (physician-patient privilege).

**Relevant Text:** [ORS 40.240](#)

A licensed professional nurse shall not, without the consent of a patient who was cared for by such nurse, be examined in a civil action or proceeding, as to any information acquired in caring for the patient, which was necessary to enable the nurse to care for the patient.

**Enumerated Exceptions or Public Interest Balancing Test?** No.

**Cited in Court Cases, AG Opinions and/or Public Records Orders?** Cited, but not analyzed or applied, in [PRO Wright, February 5, 1996](#); and [PRO Smith, February 7, 1994](#).

**Exemption Statute and Title: [ORS 179.495](#) Disclosure of Inmate Written Accounts**

**Summary:** Except as authorized by enumerated exceptions, generally prohibits the disclosure of an inmate’s health information (e.g., medical records) maintained by Oregon Department of Corrections (ODOC) institutions. The statute substantially overlaps with the prohibitions in [ORS 179.505](#), but it broadens those prohibitions insofar as it is not limited to records maintained by ODOC health care services providers.

**Relevant Text:**

[ORS 179.495\(1\)](#). Written accounts of the inmates of any Department of Corrections institution as defined in ORS 421.005, maintained in the institution by the officers or employees of the institution who are authorized to maintain written accounts within the official scope of their duties, are not subject to disclosure unless the disclosure is permitted or authorized by the Department of Corrections in compliance with ORS 179.505(3), (4), (6), (7), (9), (11), (12), (14), (15), (16) or (17) or 179.508 or upon order of a court of competent jurisdiction. The restriction contained in this section does not apply to disclosure of written accounts made under ORS 179.505(3) with the authorization of the individual or a personal representative of the individual.

**Key Terms, Definitions and References:**

“Written account” means records containing only individually identifiable health information. [ORS 179.505\(1\)\(h\)](#).

“Individually identifiable health information” encompasses “any health information” that is “created or received by a health care services provider” and is “[i]dentifiable to an individual” to the extent that it relates to a person’s “past, present or future physical or mental health or condition” or “the provision of health care to an individual” or the “payment for the provision of health care.” [ORS 179.505\(1\)\(c\)](#).

“Health care services provider” means “medical personnel or other staff employed by or under contract with a public provider” or “units, programs or services designated, operated or maintained by a public provider to provide health care or maintain written accounts \*\*\*.” [ORS 179.505\(1\)\(b\)](#)

“Department of Corrections institutions” means those Corrections facilities used for the incarceration of persons sentenced to the custody of the Department of Corrections, and includes the satellites, camps or branches of those facilities. [ORS 421.005](#)

**Enumerated Exceptions or Public Interest Balancing Test?** Yes. 13 enumerated exceptions in ORS 179.505 that permit disclosure, including, but not limited to: to the individual, upon consent by the individual, in medical emergencies, as necessary for ongoing evaluation and treatment, as part of certain legal proceedings and investigations, information indicates a clear and immediate danger to others, and to the state-appointed custodians of children and disabled.

**Cited in Court Cases, AG Opinions and/or Public Records Orders (PRO)? Yes.**

[PRO Woodworth \(12/20/19\)](#): Notwithstanding the general prohibition on the disclosure of written accounts by ODOC contained in ORS 179.495, the written accounts of inmates maintained by ODOC health service providers are exempt only to the extent they relate to an inmate's "treatment as a patient."

[PRO Lucey \(10/16/1998\)](#): Absent consent from the inmate, portions of an inmate's medical records that related to alleged misconduct by an ODOC employee were exempt from disclosure under ORS 179.495.

**Exemption Statute and Title: [ORS 179.505](#) Disclosure of Written Accounts by Health Care Services Provider**

**Summary:** Except as authorized by enumerated exceptions, generally prohibits the disclosure of personal health information (e.g., medical records) by public health care services providers and those authorized to maintain such information. Narrows the scope of the prohibition with respect to the personal health information of prison inmates. Also see [ORS 179.495](#).

**Relevant Text:**

[ORS 179.505\(2\)](#). Except as provided in subsections (3), (4), (6), (7), (8), (9), (11), (12), (14), (15), (16), (17) and (18) of this section or unless otherwise permitted or required by state or federal law or by order of the court, written accounts of the individuals served by any health care services provider maintained in or by the health care services provider by the officers or employees thereof who are authorized to maintain written accounts within the official scope of their duties are not subject to access and may not be disclosed. This subsection applies to written accounts maintained in or by facilities of the Department of Corrections only to the extent that the written accounts concern the medical, dental or psychiatric treatment as patients of those under the jurisdiction of the Department of Corrections.

**Key Terms, Definitions and References:**

“Written account” means records containing only individually identifiable health information. [ORS 179.505\(1\)\(h\)](#).

“Individually identifiable health information” encompasses “any health information” that is “created or received by a health care services provider” and is “[i]dentifiable to an individual” to the extent that it relates to a person’s “past, present or future physical or mental health or condition” or “the provision of health care to an individual” or the “payment for the provision of health care.” [ORS 179.505\(1\)\(c\)](#).

“Health care services provider” means “medical personnel or other staff employed by or under contract with a public provider” or “units, programs or services designated, operated or maintained by a public provider to provide health care or maintain written accounts \*\*\*.” [ORS 179.505\(1\)\(b\)](#)

**Enumerated Exceptions or Public Interest Balancing Test?** Yes. 13 enumerated exceptions that permit disclosure, including, but not limited to: to the individual, upon consent by the individual, in medical emergencies, as necessary for ongoing evaluation and treatment, as part of certain legal proceedings and investigations, information indicates a clear and immediate danger to others, and to the state-appointed custodians of children and the disabled.

**Cited in Court Cases, AG Opinions and/or Public Records Orders (PRO)? Yes.**

[PRO Woodworth \(12/20/19\)](#): Notwithstanding the general prohibition on the disclosure of written accounts by ODOC contained in ORS 179.495, the written accounts of inmates maintained by Corrections health service providers are exempt only to the extent they relate to an inmate's "treatment as a patient."

[PRO Zaitz & Britton \(3/21/17\)](#): Psychiatric Security Review Board (PSRB) is not a "health care services provider" under ORS 179.505. The prohibition on redisclosure under ORS 179.505(14) does not apply to written accounts received by PSRB because that subsection only applies to persons granted access under the statute, and PSRB's access to such records is not granted by any part of that statute.

[PRO Matteo-Boehm \(9/2/05\)](#): Where DHS was appointed as guardian for a minor, DHS could consent to the disclosure of certain information that was otherwise exempt under ORS 179.505. However, DHS was prohibited from disclosing information contained in the written accounts of other individuals.



**Exemption Statute and Title: [ORS 192.535](#) Informed Consent for Obtaining Genetic Information**

**Summary:** Prohibits any person from obtaining genetic information from an individual or a DNA sample without first obtaining informed consent. Also see [ORS 192.537](#) and [192.539](#).

**Relevant Text:**

[ORS 192.535\(1\)](#) A person may not obtain genetic information from an individual, or from an individual's DNA sample, without first obtaining informed consent of the individual or the individual's representative, except \*\*\*

**Enumerated Exceptions or Public Interest Balancing Test?** Yes. Several enumerated exceptions for disclosures authorized by other rules or statutes, to include law enforcement, for anonymous research, to OHA for the identification of deceased individuals, to OHA for newborn screening procedures, for purposes of establishing parentage, and for the medical diagnosis of blood relatives of a decedent. These exceptions do not permit general disclosure to the public.

**Cited in Court Cases, AG Opinions and/or Public Records Orders?** No.

**Exemption Statute and Title: [ORS 192.537](#) Individual's Rights in Genetic Information**

**Summary:** Creates right to privacy in individual genetic information and requires any person authorized to obtain, retain or use such information to maintain the confidentiality of the information. Also see ORS [192.535](#) and [192.539](#).

**Relevant Text:**

[ORS 192.537\(1\)](#) Subject to the provisions of ORS 192.531 to 192.549, 659A.303 and 746.135, an individual's genetic information and DNA sample are private and must be protected, and an individual has a right to the protection of that privacy. Any person authorized by law or by an individual or an individual's representative to obtain, retain or use an individual's genetic information or any DNA sample must maintain the confidentiality of the information or sample and protect the information or sample from unauthorized disclosure or misuse.

**Enumerated Exceptions or Public Interest Balancing Test?** Limited exceptions for official purposes, but none that permit disclosure to the general public. Also see [ORS 192.535](#) and [192.539](#).

**Cited in Court Cases, AG Opinions and/or Public Records Orders?** No.

**Exemption Statute and Title: [ORS 192.539](#) Disclosure of Genetic Information**

**Summary:** Prohibits the disclosure of the identity or genetic information about an individual, or a blood relative of the individual, upon whom a genetic test has been performed. Also see [ORS 192.535](#) and [192.537](#).

**Relevant Text:**

[ORS 192.539\(1\)](#) Regardless of the manner of receipt or the source of genetic information, including information received from an individual or a blood relative of the individual, a person may not disclose or be compelled, by subpoena or any other means, to disclose the identity of an individual upon whom a genetic test has been performed or the identity of a blood relative of the individual, or to disclose genetic information about the individual or a blood relative of the individual in a manner that permits identification of the individual, unless \*\*\*

**Enumerated Exceptions or Public Interest Balancing Test?** Exceptions enumerated in the statute, but they do not permit general disclosure to the public. Also see [ORS 192.535](#) and [192.537](#).

**Cited in Court Cases, AG Opinions and/or Public Records Orders?** No.

**Exemption Statute and Title: [ORS 192.553](#) to [192.581](#) Protected Health Information**

**Summary:** Generally restricts the disclosure of individually identifiable health information maintained by covered entities without written authorization from the identifiable person. Oregon’s Mini-HIPAA.

**Relevant Text:**

[ORS 192.553\(1\)](#). It is the policy of the State of Oregon that an individual has:

(a) The right to have protected health information of the individual safeguarded from unlawful use or disclosure; and

(b) The right to access and review protected health information of the individual.

(2) In addition to the rights and obligations expressed in [ORS 192.553](#) to [192.581](#), the federal Health Insurance Portability and Accountability Act privacy regulations, 45 C.F.R. parts 160 and 164, establish additional rights and obligations regarding the use and disclosure of protected health information and the rights of individuals regarding the protected health information of the individual.

[ORS 192.558](#). A health care provider or state health plan:

(1) May use or disclose protected health information of an individual in a manner that is consistent with an authorization provided by the individual or a personal representative of the individual.

**Enumerated Exceptions or Public Interest Balancing Test?** Many enumerated exceptions to the individual authorization requirement, but none of them permit disclosure of protected health information to the general public.

**Cited in Court Cases, AG Opinions and/or Public Records Orders?**

[OHSU v. Oregon Publishing Co.](#), 362 Or 68 (2017) (in evaluating the application of the “required by law” exception to HIPAA, the court concluded that the Oregon Public Records Law does not require the disclosure of protected health information because it confidential under ORS 192.553-192.581. Specifically, the court concluded that ORS 192.558(1) prohibits the disclosure of protected health information without a patient’s written authorization)

[PRO D’Amore and Krishnaswami, December 4, 2020](#) (petition denied, in part, with respect to protected health information contained in Oregon Medical Board investigative records)

[PRO Ryan, June 11, 2019](#) (observing that, in the context of a request for conditionally exempt medical examiner records, ORS 192.553-192.581 provides evidence for the strong public interest in the nondisclosure of sensitive medical information)

**Exemption Statute and Title: [ORS 432.108](#) Report of Live Birth for Child of Unknown Parentage**

**Summary:** Prohibits the disclosure of a report of live birth for a child of unknown parentage if the child is later identified and a live birth registration is found or obtained.

**Relevant Text: [ORS 432.108](#)**

(1) A person who assumes the custody of a child of unknown parentage shall report on a form and in a manner prescribed by the State Registrar of the Center for Health Statistics, within five calendar days of assuming custody, to the state registrar the following information:

- (a) The date and the city or county, or both, where the child was found.
- (b) Sex and approximate live birth date of child.
- (c) Name and address of the person or institution with whom the child has been placed for care.
- (d) Name given to the child by the custodian of the child.
- (e) Other data required by the state registrar.

(2) The place where the child was found shall be entered as the place of live birth.

(3) Information submitted under this section shall constitute the report of live birth for the child.

(4) If the child is identified and a live birth registration is found or obtained, the report submitted under this section and the live birth registration resulting from that report shall be voided and placed under seal and shall not be subject to inspection except upon order of a court of competent jurisdiction or as provided by rule of the state registrar.

**Enumerated Exceptions or Public Interest Balancing Test?**

Disclosure is permitted upon order of a court of competent jurisdiction or as provided by rule of the state registrar.

**Cited in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 433.045](#) Notice of HIV Test Required**

**Summary:** Prohibits the disclosure of the identity of anyone who undergoes an HIV test, or the results of such a test in a manner which permits identification of the subject of the test.

**Relevant Text:** [ORS 433.045](#)

\*\*\*

(2) Except as provided in ORS 433.017, 433.055(2) and 433.080, a health care provider or the provider's designee shall, before subjecting an individual to an HIV test:

(a) Notify the individual being tested; and

(b) Allow the individual being tested the opportunity to decline the test.

\*\*\*

(4)(a) Regardless of the manner of receipt or the source of the information, including information received from the tested individual, no person shall disclose or be compelled to disclose the identity of any individual upon whom an HIV-related test is performed, or the results of such a test in a manner which permits identification of the subject of the test, except as required or permitted by federal law, the law of this state or any rule, including any authority rule considered necessary for public health or health care purposes, or as authorized by the individual whose blood is tested.

**Enumerated Exceptions or Public Interest Balancing Test?** As required or permitted by federal law, state law or rule, or as authorized by the individual whose blood is tested.

**Cited in Court Cases, AG Opinions and/or Public Records Orders?** No.

**Exemption Statute and Title: [ORS 682.056](#) Patient Encounter Data Reporting**

**Summary:** Makes patient encounter data and patient outcome data collected and reported by ambulance services confidential and privileged.

**Relevant Text:** [ORS 682.056](#)

(1)(a) Ambulance services shall report patient encounter data to the electronic emergency medical services data system managed by the Oregon Health Authority for each patient care event in accordance with rules adopted by the authority under ORS 682.017.

\*\*\*

(3) Patient outcome data includes:

(a) The health outcomes of the patient who was the subject of the prehospital care event from the emergency department or other intake facility of the hospital, including but not limited to:

(A) Whether the patient was admitted to the hospital; and

(B) If the patient was admitted, to what unit the patient was assigned;

(b) The patient's chief complaint, the diagnosis the patient received in the emergency department or other intake facility and any procedures performed on the patient;

(c) The emergency department or hospital discharge disposition of the patient; and

(d) Demographic or standard health care information as required by the authority by rule.

(4) Data provided pursuant to this section shall be:

(a) Treated as a confidential medical record and not disclosed; and

(b) Considered privileged data under ORS 41.675 and 41.685.

**Enumerated Exceptions or Public Interest Balancing Test?** Limited exceptions for official purposes, but none that permit disclosure to the general public.

**Cited in Court Cases, AG Opinions and/or Public Records Orders?** No.

**Exemption Statute and Title: [ORS 97.977](#) Donor Registry**

**Summary:** Absent consent, prohibits the disclosure of personally identifiable information about a donor on the anatomical donor registry.

**Relevant Text:**

[ORS 97.977\(4\)](#) Personally identifiable information on the donor registry about a donor or prospective donor may not be used or disclosed without the express consent of the donor, prospective donor or person who made the anatomical gift for any purpose other than to determine, at or near death of the donor or prospective donor, whether the donor or prospective donor has made, amended or revoked an anatomical gift.

**Enumerated Exceptions or Public Interest Balancing Test?** No.

**Cited in Court Cases, AG Opinions and/or Public Records Orders?** No.



**Exemption Statute and Title: [ORS 127.678](#) Confidentiality**

**Summary:** Makes confidential all information collected or developed by the Physician Order for Life-Sustaining Treatment (POLST) registry that identifies or could be used to identify a patient, health care provide or facility.

**Relevant Text: [ORS 127.678](#)**

Except as provided in ORS 127.666, all information collected or developed by the POLST registry that identifies or could be used to identify a patient, health care provider or facility is confidential and is not subject to civil or administrative subpoena or to discovery in a civil action, including but not limited to a judicial, administrative, arbitration or mediation proceeding.

**Key Terms, Definitions and References:**

[ORS 127.666\(1\)](#) provides that “The Oregon Health Authority shall establish and operate a statewide registry for the collection and dissemination of physician orders for life-sustaining treatment to help ensure that medical treatment preferences for an individual nearing the end of the individual’s life are honored.”

“POLST” means a physician order for life-sustaining treatment signed by a physician, naturopathic physician, nurse practitioner or physician assistant. [ORS 127.663\(7\)](#)

“POLST registry” means the registry established in ORS 127.666. [ORS 127.663\(8\)](#)

**Enumerated Exceptions or Public Interest Balancing Test?** Limited exceptions for official purposes, but none that permit disclosure to the general public.

**Cited in Court Cases, AG Opinions and/or Public Records Orders?** No.

**Exemption Statute and Title: [ORS 192.355\(39\)](#) Public Records Exempt from Disclosure**

**Summary:** Makes prescription monitoring information submitted to the Oregon Health Authority's prescription monitoring program confidential and exempt from disclosure. Also see [ORS 431A.865](#).

**Relevant Text:**

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

(39) Information reported to the Oregon Health Authority under ORS 431A.860, except as provided in ORS 431A.865(3)(b), information disclosed by the authority under ORS 431A.865 and any information related to disclosures made by the authority under ORS 431A.865, including information identifying the recipient of the information.

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Cited in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 413.175](#) Prohibition on disclosure of information.**

**Summary:** Makes records of the Oregon Health Authority pertaining to public assistance or medical assistance confidential and prohibits disclosure for purposes other than those directly connected with the administration of public assistance and medical assistance programs.

**Relevant Text:**

[ORS 413.175\(1\)](#) For the protection of applicants for and recipients of public assistance and medical assistance, as defined in [ORS 414.025](#), except as otherwise provided in this section, the Oregon Health Authority may not disclose or use the contents of any public assistance or medical assistance records, files, papers or communications for purposes other than those directly connected with the administration of the public assistance and medical assistance programs or necessary to assist public assistance or medical assistance applicants and recipients in accessing and receiving other governmental or private nonprofit services, and these records, files, papers and communications are considered confidential subject to the rules of the authority. In any judicial or administrative proceeding, except proceedings directly connected with the administration of public assistance, medical assistance or child support enforcement, their contents are considered privileged communications.

**Key Terms & Definitions:**

“Medical assistance” includes any care or services for any individual who is a patient in a medical institution or any care or services for any individual who has attained 65 years of age or is under 22 years of age, and who is a patient in a private or public institution for mental diseases. Except as provided in [ORS 411.439](#) and [411.447](#), “medical assistance” does not include care or services for a resident of a nonmedical public institution. [ORS 414.025\(18\)](#)

**Enumerated Exceptions or Public Interest Balancing Test?** No.

**Cited in Court Cases, AG Opinions and/or Public Records Orders?** No.

**Exemption Statute and Title: [ORS 413.196](#) Confidentiality and inadmissibility of information obtained in connection with epidemiologic morbidity and mortality studies.**

**Summary:** Makes information procured by or furnished to the Oregon Health Authority in connection with special epidemiologic morbidity and mortality studies confidential and exempt from disclosure under the public records law.

**Relevant Text:**

[ORS 413.196\(1\)\(a\)](#) All information procured by or furnished to the Oregon Health Authority, any federal public health agency or any nonprofit health agency that is exempt from taxation under the laws of this state or procured by any agency, organization or person acting jointly with or at the request of the authority, in connection with special epidemiologic morbidity and mortality studies, is confidential, nondiscoverable and inadmissible in any proceeding and is exempt from disclosure under [ORS 192.311](#) to [192.478](#). A person communicating information in connection with special epidemiologic morbidity and mortality studies pursuant to this subsection may not be examined about the communication or the information.

**Enumerated Exceptions or Public Interest Balancing Test? Partial exception**

(3) Subsection (1) of this section does not prevent the authority or a health agency from publishing:

(a) Statistical compilations and reports relating to special epidemiologic morbidity and mortality studies, if such compilations and reports do not identify individual cases and sources of information.

(b) General morbidity and mortality studies customarily and continuously conducted by the authority or health agency that do not involve patient identification.

**Cited in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title:** [ORS 414.414](#) Use and Disclosure of Confidential Information

**Summary:** Makes confidential the identity of an individual gathered under the prescription drug monitoring program.

**Relevant Text:** [ORS 414.414\(1\)](#).

Information collected under [ORS 414.351](#) to [414.414](#) that identifies an individual is confidential and may not be disclosed by the Pharmacy and Therapeutics Committee, the retrospective program or the Oregon Health Authority to any person other than a health care provider appearing on a recipient's medication profile.

**Enumerated Exceptions or Public Interest Balancing Test?** No.

**Cited in Court Cases, AG Opinions and/or Public Records Orders?** No.

**Exemption Statute and Title: [ORS 431A.055](#) State Trauma Advisory Board**

**Summary:** Exempts from the public records law any personally identifiable information provided by the State Trauma Advisory Board to members of area trauma advisory boards and trauma care providers. Also see [ORS 431A.090](#).

**Relevant Text: [ORS 431A.055](#)**

(1) The State Trauma Advisory Board is established within the Oregon Health Authority. The board must have at least 18 members. The Director of the Oregon Health Authority shall appoint at least 17 voting members as described in subsection (2) of this section. The chairperson of the State Emergency Medical Service Committee established under [ORS 682.039](#), or the chairperson's designee, shall be a nonvoting member.

\*\*\*

(5)(a) The State Trauma Advisory Board may establish a Quality Assurance Subcommittee for the purposes of providing peer review support to and discussing evidence-based guidelines and protocols with the members of area trauma advisory boards and trauma care providers located in this state.

(b) Notwithstanding [ORS 414.227](#), meetings of the subcommittee are not subject to [ORS 192.610](#) to [192.690](#).

(c) Personally identifiable information provided by the State Trauma Advisory Board to individuals described in paragraph (a) of this subsection is not subject to [ORS 192.311](#) to [192.478](#).

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Cited in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 431A.125](#) Oregon Health Authority Powers**

**Summary:** Makes all data collected by the Oregon Health Authority under the statewide injury and violence prevention program confidential and privileged.

**Relevant Text:**

[ORS 431A.125\(1\)](#). Subject to available funding, including gifts, grants or donations, the Oregon Health Authority shall establish and administer a statewide injury and violence prevention program. In administering the program, the authority may:

(a) Collect and analyze data on injury and violence, including but not limited to data from death certificates, emergency department records, hospitalization records, medical examiner and coroner records and police reports and surveys;

\*\*\*

(3)(a) Except as provided in paragraph (c) of this subsection, all data collected pursuant to this section is:

(A) Confidential and not subject to public disclosure law under [ORS 192.311](#) to [192.478](#); and

(B) Privileged.

\*\*\*

(c) The authority shall adopt rules under which confidential data collected pursuant to this section may be requested by a third party for the purpose of conducting research and studies for the public good. Research and studies conducted using confidential data collected pursuant to this section must be reviewed and approved by a committee established for the protection of human research subjects pursuant to 45 C.F.R. 46.

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Cited in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 431A.530](#) Oregon Health Authority Duties; Database; Confidentiality**

**Summary:** Expressly exempts from disclosure information submitted to the Oregon Health Authority's stroke care database.

**Relevant Text:** [ORS 431A.530](#)

(1) The Oregon Health Authority shall, in accordance with recommendations made by the Stroke Care Committee established under [ORS 431A.525](#), establish and implement a plan for achieving continuous improvement in the quality of stroke care. In implementing the plan, the authority shall:

(a) Require hospitals certified as Comprehensive Stroke Centers or Primary Stroke Centers through the Joint Commission or an equivalent organization, and encourage all other hospitals, to submit stroke care data to a database designated by the authority. A hospital that submits stroke care data under this paragraph must authorize the keeper of the database to permit the authority to access the submitted data.

(b) Designate a statewide or national stroke database to which hospitals described in paragraph (a) of this subsection are required to submit, or may submit, stroke care data for the purpose of obtaining information and statistics on stroke care. \*\*\*

\*\*\*

(3)(a) Information submitted to the designated database and accessed by the authority under this section:

(A) Is confidential and not subject to disclosure under [ORS 192.311](#) to [192.478](#);

(B) May be disclosed only as permitted in paragraph (b) of this subsection and in accordance with rules adopted by the authority under this section;

(C) Is not subject to civil or administrative subpoena; and

(D) Is nondiscoverable and inadmissible in a judicial, administrative, arbitration or mediation proceeding.

(b) Individually identifiable information and information that identifies a hospital described in subsection (1)(a) of this section may not be disclosed by the authority without the approval of the hospital that submitted the information. Only deidentified information may be disclosed by the authority under this section.

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Cited in Court Cases, AG Opinions and/or Public Records Orders? No.**



**Exemption Statute and Title: [ORS 431A.865](#) Disclosure of Information**

**Summary:** Makes prescription monitoring information submitted to the Oregon Health Authority's prescription monitoring program confidential and exempt from disclosure. Also see [ORS 192.355\(39\)](#).

**Relevant Text: [ORS 431A.865](#)**

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

(A) Is protected health information under [ORS 192.553](#) to [192.581](#).

(B) Is confidential and not subject to disclosure under [ORS 192.311](#) to [192.478](#).

**Key Terms & Definitions:**

The statutory purpose and functions of the prescription drug monitoring program are detailed in [ORS 431A.855](#).

**Enumerated Exceptions or Public Interest Balancing Test?** No.

**Cited in Court Cases, AG Opinions and/or Public Records Orders?** No.

**Exemption Statute and Title: [ORS 432.530](#) Confidentiality of Information**

**Summary:** Makes confidential and privileged the patient and provider identifying information contained in certain required reports to the Oregon Health Authority regarding individual cases of cancer or tumors of the brain and central nervous system.

**Relevant Text: [ORS 432.530](#)**

- (1) All identifying information regarding individual patients, health care facilities and practitioners reported pursuant to [ORS 432.520](#) shall be confidential and privileged. Except as required in connection with the administration or enforcement of public health laws or rules, no public health official, employee or agent shall be examined in an administrative or judicial proceeding as to the existence or contents of data collected under the registry system for cancer and benign or borderline tumors of the brain and central nervous system.
- (2) All additional information reported in connection with a special study shall be confidential and privileged and shall be used solely for the purposes of the study, as provided by [ORS 413.196](#). Nothing in this section shall prevent the Oregon Health Authority from publishing statistical compilations relating to morbidity and mortality studies that do not identify individual cases or prevent use of this data by third parties to conduct research as provided by [ORS 432.540\(1\)](#).

**Key Terms & Definitions:** The underlying reporting requirement is contained in ORS 432.520, which provides in relevant part:

[ORS 432.520\(1\)](#). Except as provided in subsection (2) of this section, any health care facility in which patients are diagnosed or provided treatment for cancer or benign or borderline tumors of the brain and central nervous system shall report each case of cancer or benign or borderline tumors of the brain and central nervous system to the Oregon Health Authority or its authorized representative within a time period and in a format prescribed by the authority. \*\*\*

**Enumerated Exceptions or Public Interest Balancing Test?** No.

**Cited in Court Cases, AG Opinions and/or Public Records Orders?** No.

**Exemption Statute and Title: [ORS 433.008](#) Confidentiality of Disclosure**

**Summary:** Makes information obtained by public health officials in the course of an investigation of a reportable disease or disease outbreak confidential.

**Relevant Text:**

[ORS 433.008\(1\)\(a\)](#). Except as provided in subsection (2) of this section, information obtained by the Oregon Health Authority or a local public health administrator in the course of an investigation of a reportable disease or disease outbreak is confidential and is exempt from disclosure under ORS 192.311 to 192.478.

**Enumerated Exceptions or Public Interest Balancing Test?** Limited exceptions.

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

- (a) State, local or federal agencies authorized to receive the information under state or federal law;
- (b) Health care providers if necessary for the evaluation or treatment of a reportable disease;
- (c) Law enforcement officials to the extent necessary to carry out the authority granted to the Public Health Director and local public health administrators under ORS 433.121, 433.128, 433.131, 433.138 and 433.142;
- (d) A person who may have been exposed to a communicable disease;
- (e) A person with information necessary to assist the authority or local public health administrator in identifying an individual who may have been exposed to a communicable disease; and
- (f) The individual who is the subject of the information or the legal representative of that individual.

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

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

**Cited in Court Cases, AG Opinions and/or Public Records Orders? Yes.**

Several Public Records Orders denying requests to order the Oregon Health Authority to disclose various types of data obtained during its investigation of the COVID-19 pandemic:

- [PRO Schmidt, March 4, 2020](#).
- [PRO Carvalho, August 26, 2020](#).
- [PRO Hangartner, December 2, 2020](#).
- [PRO Roberts, April 21, 2021](#).

[PRO Koochmaraie, February 2, 2016](#) (denying petition requesting disclosure of OHA data obtained during its investigation of *E.coli* outbreaks associated with Chipotle Mexican Grill).

[PRO Kramer, November 6, 2015](#) (denying petition seeking the disclosure of documents related to the investigation of a Salmonella outbreak).

[PRO Marler and Cieslak, February 25, 2015](#) (granting petition and ordering disclosure of an otherwise exempt record to an individual who was entitled to the record under one of the exceptions to ORS 433.008).

[PRO Terry, November 14, 2014](#) (denying petition seeking the disclosure of documents related to the investigation of a Salmonella outbreak).

[PRO Lumpkin and Ring, August 24, 2011](#) (denying petition seeking the disclosure of documents related to the investigation of a Salmonella outbreak).

[PRO Chaudary, April 1, 2011](#) (denying petition seeking the disclosure of documents related to the investigation of a Salmonella outbreak).

**Exemption Statute and Title: [ORS 433.098](#) Nonliability For Disclosing or Using Information**

**Summary:** Makes confidential a client’s immunization information contained in an immunization registry that is maintained by OHA or a local health department.

**Relevant Text:**

[ORS 433.098\(2\)](#) Information in an immunization registry regarding a client’s immunization record or tracking and recall record, or derived from the registry or record, is confidential and may not be disclosed to any person who is not specifically authorized to receive information under ORS 433.090 to 433.102.

**Key Terms, Definitions and References:**

“Immunization registry” means a listing of clients and information relating to their immunization status, without regard to whether the registry is maintained in this state or elsewhere. [ORS 433.090\(5\)](#)

“Immunization record” includes but is not limited to records of the following ([ORS 433.090\(4\)](#)):

- (a) Any immunization received;
- (b) Date immunization was received;
- (c) Complication or side effect associated with immunization;
- (d) Date and place of birth of a client;
- (e) Hospital where a client was born;
- (f) Client’s name; and
- (g) Mother’s name.

**Enumerated Exceptions or Public Interest Balancing Test? No**

**Cited in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 433.123](#) Petition for Court Order for Isolation or Quarantine**

**Summary:** Prohibits the public disclosure of otherwise privileged evidence presented at a hearing to consider a petition by public health officials to involuntarily isolate or quarantine a person or group of persons. Also see [ORS 433.137](#).

**Relevant Text: [ORS 433.123](#)**

(1) The Public Health Director or a local public health administrator may petition the circuit court for an order authorizing:

(a) The isolation or quarantine of a person or group of persons; or

(b) The continued isolation or quarantine of a person or group of persons detained under [ORS 433.121](#).

\*\*\*

(6) (a) The court shall hold a hearing on a petition filed under subsection (1) of this section within 72 hours of the filing of the petition, exclusive of Saturdays, Sundays and legal holidays.

\*\*\*

(d) The provisions of [ORS 40.230](#), [40.235](#) and [40.240](#) do not apply to a hearing held under this subsection. Any evidence presented at the hearing that would be privileged and not subject to disclosure except as required by this paragraph shall be disclosed only to the court, the parties and their legal counsel or persons authorized by the court and may not be disclosed to the public.

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Cited in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 433.137](#) Court Records**

**Summary:** Conditionally prohibits the public disclosure of court proceedings related to petitions by public health officials to involuntarily isolate or quarantine a person or group of persons. Also see [ORS 433.123](#).

**Relevant Text: [ORS 433.137](#)**

- (1) The circuit court shall cause to be recorded in the court records:
  - (a) A full account of proceedings at hearings conducted pursuant to [ORS 433.121](#), [433.123](#), [433.133](#) and [433.136](#);
  - (b) The petitions, affidavits, judgments and orders of the court; and
  - (c) A copy of the orders issued.
- (2) Any portion of the account of the proceedings, the transcript of testimony, the petition, any affidavit, judgment, order of the court, recording of the proceeding or any other court record may be disclosed only:
  - (a) Upon request of a person subject to the proceedings or the legal representative or attorney of the person;
  - (b) To the Public Health Director or a local public health administrator; or
  - (c) Pursuant to court order, when the court finds that the petitioner's interest in public disclosure outweighs the privacy interests of the individual who is the subject of the petition.

**Enumerated Exceptions or Public Interest Balancing Test? Yes.**

Public disclosure is permitted, pursuant to court order, if the court determines that the interest in public disclosure outweighs the privacy interests of the subject of the petition.

**Cited in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 433.423](#) Content of Rules**

**Summary:** Requires the Oregon Health Authority to adopt rules that make confidential the identity of persons with infectious diseases and workers exposed to such persons.

**Relevant Text:** [ORS 433.423\(1\)](#).

The Oregon Health Authority shall adopt rules implementing [ORS 433.407](#) to [433.423](#). Such rules shall include, but need not be limited to:

- (a) The development of curriculum dealing with the exposure of workers to infectious diseases;
  - (b) Development and conduct of training programs for local health department personnel to prepare them to train workers about the subject of infectious diseases;
  - (c) Information on the manner in which infectious diseases are transmitted; and
  - (d) Guidelines that can assist workers and their employers in distinguishing between conditions in which such workers are or are not at risk with respect to infectious diseases.
- (2) The rules adopted by the authority shall require that implementation of [ORS 433.407](#) to [433.423](#) be accomplished in such a manner as to protect the confidentiality of persons with infectious diseases and workers exposed to such persons.

**Enumerated Exceptions or Public Interest Balancing Test?** No.

**Cited in Court Cases, AG Opinions and/or Public Records Orders?** No.



**Exemption Statute and Title: [ORS 433.443](#) Authority of Public Health Director during public health emergency.**

**Summary:** Prohibits public health officials from disclosing individually identifiable health information obtained during a public health emergency without the consent of the identified individual.

**Relevant Text:**

[ORS 433.443\(4\)\(a\)](#) During a declared state of public health emergency, the Public Health Director and local public health administrators shall be given immediate access to individually identifiable health information necessary to:

- (A) Determine the causes of an illness related to the public health emergency;
- (B) Identify persons at risk;
- (C) Identify patterns of transmission;
- (D) Provide treatment; and
- (E) Take steps to control the disease.

\*\*\*

(4)(c) Individually identifiable health information obtained by the Public Health Director or local public health administrators under this subsection may not be disclosed without written authorization of the identified individual \*\*\*

(4)(d) Upon expiration of the state of public health emergency, the Public Health Director or local public health administrators may not use or disclose any individually identifiable health information that has been obtained under this section. If a state of emergency that is related to the state of public health emergency has been declared under [ORS 401.165](#), the Public Health Director and local public health administrators may continue to use any individually identifiable information obtained as provided under this section until termination of the state of emergency.

**Key Terms & Definitions:**

[ORS 433.443\(1\)\(d\)](#) “Individually identifiable health information” means any oral or written health information in any form or medium that is:

- (A) Created or received by a covered entity, an employer or a health care provider that is not a covered entity; and
- (B) Identifiable to an individual, including demographic information that identifies the individual, or for which there is a reasonable basis to believe the information can be used to identify an individual, and that relates to:
  - (i) The past, present or future physical or mental health or condition of an individual;
  - (ii) The provision of health care to an individual; or
  - (iii) The past, present or future payment for the provision of health care to an individual.

**Enumerated Exceptions or Public Interest Balancing Test?** Under [ORS 433.443\(4\)\(c\)](#), disclosure is permitted without the consent of the identified individual:

- (A) Directly to the individual who is the subject of the information or to the legal representative of that individual;
- (B) To state, local or federal agencies authorized to receive such information by state or federal law;
- (C) To identify or to determine the cause or manner of death of a deceased individual; or
- (D) Directly to a health care provider for the evaluation or treatment of a condition that is the subject of a declaration of a state of public health emergency issued under [ORS 433.441](#).

**Cited in Court Cases, AG Opinions and/or Public Records Orders?** No.

**Exemption Statute and Title: [ORS 438.310](#) Inspection of Laboratory Premises**

**Summary:** Prohibits the Oregon Health Authority and its employees from disclosing information contained in reports on communicable diseases submitted by licensed clinical laboratories.

**Relevant Text:**

(1) The Oregon Health Authority or its authorized representative may:

(a) At reasonable times enter the premises of a clinical laboratory licensed or subject to being licensed under [ORS 438.010](#) to [438.510](#) to inspect the facilities, methods, procedures, materials, staff, equipment, laboratory results and records of the clinical laboratory.

(b) Require the owner or director to submit reports on the operations and procedures of the laboratory.

(c) Require the owner or director to submit initial laboratory findings indicative of communicable disease as defined by law or by rule. Each report shall include the name of the person from whom the specimen was obtained, if the name was reported to the laboratory, and the name and address of the physician for whom such examination or test was made. Such reports shall not be construed as constituting a diagnosis nor shall any laboratory making such report be held liable under the laws of this state for having violated a trust or confidential relationship.

(2) The Director of the Oregon Health Authority or a designee, the authority, or any employee thereof, shall not disclose information contained in reports on communicable diseases submitted to the authority under subsection (1) of this section except as such information is made available to employees of the authority and to local health officers for purposes of administering the public health laws of this state. However, information contained in such reports may be used in compiling statistical and other data in which persons are not identified by name or otherwise.

**Enumerated Exceptions or Public Interest Balancing Test?** No.

**Cited in Court Cases, AG Opinions and/or Public Records Orders?** No.

**Exemption Statute and Title: [ORS 442.831](#) Powers of Board Relating to Oregon Patient Safety Reporting Program**

**Summary:** Requires officials of the Oregon Patient Safety Commission to maintain the confidentiality of patient safety data reported to the Commission.

**Relevant Text:** [ORS 442.831](#)

(1) Except as otherwise provided in [ORS 442.819](#) to [442.851](#), the Oregon Patient Safety Commission Board of Directors, or officials of the Oregon Patient Safety Commission acting under the authority of the board, shall exercise all the powers of the commission and shall govern the commission. The board shall adopt rules necessary for the implementation of the Oregon Patient Safety Reporting Program \*\*\*

\*\*\*

(3) The board shall maintain the confidentiality of all patient safety data that identifies or could be reasonably used to identify a participant or an individual who is receiving or has received health care from the participant.

**Key Terms & Definitions:**

“Participant” means an entity that reports patient safety data to the Oregon Patient Safety Reporting Program, and any agent, employee, consultant, representative, volunteer or medical staff member of the entity. [ORS 442.819\(1\)](#)

“Patient safety data” means oral communication or written reports, data, records, memoranda, analyses, deliberative work, statements, root cause analyses or action plans that are collected or developed to improve patient safety or health care quality that:

- (a) Are prepared by a participant for the purpose of reporting patient safety data voluntarily to the patient safety reporting program, or that are communicated among two or more participants with the intent of making a disclosure to or preparing a report to be submitted to the patient safety reporting program;
- (b) Are collected or prepared by a patient safety organization certified by the United States Department of Health and Human Services under 42 U.S.C. 299b-24; or
- (c) Are created by or at the direction of the patient safety reporting program, including communication, reports, notes or records created in the course of an investigation undertaken at the direction of the Oregon Patient Safety Commission. [ORS 442.819\(3\)](#)

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Cited in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 444.330](#) Confidentiality of Information**

**Summary:** Makes confidential the identifying information of children reported to the Oregon Health Authority for the childhood diabetes database.

**Relevant Text:** [ORS 444.330](#)

All identifying information regarding individual children that is reported to the Oregon Health Authority pursuant to [ORS 444.300](#) to [444.330](#) shall be confidential and privileged. Except as required in connection with the administration or enforcement of public health laws or rules, no public health official, employee, agent or other person entitled to access or use data under [ORS 444.300](#) to [444.330](#) shall be examined in an administrative or judicial proceeding as to the existence or contents of data in the database established under [ORS 444.300](#) to [444.330](#). Research and studies conducted using confidential data from the statewide database must be reviewed and approved by the body used by the authority as the Committee for the Protection of Human Research Subjects and established in accordance with 45 C.F.R. 46.

**Enumerated Exceptions or Public Interest Balancing Test?** No.

**Cited in Court Cases, AG Opinions and/or Public Records Orders?** No.

**Exemption Statute and Title: [ORS 475B.882](#) Database of Information Related to Cardholders**

**Summary:** Makes confidential the Oregon Health Authority's registry of names of medical marijuana card holders, the names of designated caregiver medical marijuana card holders, and the addresses of medical marijuana grow sites. Also see [ORS 475B.892](#).

**Relevant Text:** [ORS 475B.882\(1\)](#)

- (a) The Oregon Health Authority shall establish and maintain a list of:
  - (A) The names of persons to whom a registry identification card has been issued under ORS 475B.797;
  - (B) The names of persons designated as primary caregivers under ORS 475B.804; and
  - (C) The addresses of marijuana grow sites registered under ORS 475B.810.
  
- (b) Except as provided in subsection (2) of this section, the list is confidential and not subject to public disclosure under ORS 192.311 to 192.478.

**Enumerated Exceptions or Public Interest Balancing Test?** Limited exceptions for official purposes, but none that permit disclosure to the general public. Also see [ORS 475B.797\(2\)](#).

**Cited in Court Cases, AG Opinions and/or Public Records Orders?** No.

**Exemption Statute and Title: [ORS 475B.892](#) Oregon Health Authority Electronic System**

**Summary:** Makes information pertaining to medical marijuana cardholders and growers maintained in the Oregon Health Authority's electronic database confidential and exempt from public disclosure. Also see [ORS 475B.882](#).

**Relevant Text: [ORS 475B.892](#)**

(1) Except as provided in subsection (5) of this section, the Oregon Health Authority shall establish, maintain and operate an electronic system for the keeping of information received by the authority under [ORS 475B.797](#) and [475B.810](#) or information included on a registry identification card issued under [ORS 475B.797](#) or on a marijuana grow site registration card issued under [ORS 475B.810](#).

\*\*\*

(3) Except as provided in subsection (4) of this section, information kept in the electronic system is confidential and not subject to public disclosure under [ORS 192.311](#) to [192.478](#). Except as provided in subsection (4) of this section, the authority may not disclose the information for any reason.

(4) Except as provided in subsection (5) of this section, the authority shall establish the electronic system in a manner that allows the Oregon Liquor Control Commission and the Department of Revenue to remotely access the electronic system. Information disclosed to the commission and the department under this subsection remains confidential and not subject to public disclosure under [ORS 192.311](#) to [192.478](#). The commission and the department may not disclose the information for any reason.

(5) The authority is not required to keep in the database, and the commission and the department may not access, the following types of information:

- (a) Information related to the debilitating condition of a registry identification cardholder; or
- (b) The contact information or address of a registry identification cardholder or a designated primary caregiver, unless the contact information or address are the same as the contact information or address of a marijuana grow site.

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Cited in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 634.550](#) Center Governing Board**

**Summary:** Makes medical information received by the Pesticide Analytical and Response Center confidential in accordance with other confidentiality statutes.

**Relevant Text:** [ORS 634.550](#)

(1) There is created a Pesticide Analytical and Response Center with a governing board consisting of the following members:

\*\*\*

(7) Any medical information received by a member of the board or by a staff member of the center in the course of carrying out the duties of the center or the board shall be held confidential as provided in [ORS 192.553](#) to [192.581](#) and [433.008](#).

**Enumerated Exceptions or Public Interest Balancing Test?** No.

**Cited in Court Cases, AG Opinions and/or Public Records Orders?** No.



**Exemption Statute and Title: [ORS 125.012](#) Petition for Protective Order**

**Summary:** Requires all parties to maintain the confidentiality of all confidential and protected health, mental health, financial, substantiated abuse and legal information disclosed in proceedings for a protective order for a protected person. Also see [ORS 125.240](#).

**Relevant Text: [ORS 125.012](#)**

(2) The Department of Human Services or the Oregon Health Authority, for the purpose of providing protective services, may petition for a protective order under this chapter. When the department or authority, or a petitioning attorney with whom the department or authority has contracted, petitions for a protective order under this section, the department or authority shall disclose to the court or to the petitioning attorney only a minimum amount of information about the person who is the subject of the petition, including protected health, mental health, financial, substantiated abuse and legal information, as is reasonably necessary to prevent or lessen a serious and imminent threat to the health or safety of the person who is the subject of the petition or protective order.

\*\*\*

(4)(a) All confidential and protected health, mental health, financial, substantiated abuse and legal information disclosed by the Department of Human Services, the Oregon Health Authority or an attorney with whom the department or authority has contracted under this section must remain confidential.

(b) Information disclosed under this section must be identified and marked by the entity or person making the disclosure as confidential and protected information that is subject to the requirements of this subsection.

**Key Terms & Definitions:**

“Protected person” means a person for whom a protective order has been entered.  
[ORS 125.005\(7\)](#)

“Protective order” means an order of a court appointing a fiduciary or any other order of the court entered for the purpose of protecting the person or estate of a respondent or protected person. [ORS 125.005\(8\)](#)

**Enumerated Exceptions or Public Interest Balancing Test?**

[ORS 125.012\(c\)](#) \*\*\* Information disclosed under this section is not subject to inspection by members of the public except pursuant to a court order entered after a showing of good cause. Good cause under this paragraph includes the need for inspection of the information by an attorney considering representation of the person who is the subject of the petition or protective order, or of a person who has petitioned for appointment, or who has been appointed, as a fiduciary for a protected person under this chapter.

**Cited in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 125.085](#) Motions After Appointment of a Fiduciary**

**Summary:** Makes confidential any information disclosed by the Long Term Care Ombudsman to the court in a proceeding to remove a fiduciary for a protected person. Also see [ORS 125.012](#) and [ORS 125.240](#).

**Relevant Text: [ORS 125.085](#)**

(1) The court may remove a fiduciary on the motion of any person who is entitled to file an objection to a petition under the provisions of [ORS 125.075](#), on a motion of the Long Term Care Ombudsman or upon the court's own motion.

\*\*\*

(4)(a) When the Long Term Care Ombudsman files a motion under this section, the ombudsman shall disclose to the court only:

(A) Such information as is allowed under [ORS 441.407](#); and

(B) The minimum amount of protected information about the resident who is the subject of the motion that the ombudsman believes in good faith is reasonably necessary to prevent or lessen a serious and imminent threat to the health or safety of a resident of a long term care facility, residential facility or adult foster home.

(b) Any protected information disclosed by the ombudsman under this subsection shall remain confidential and must be identified and marked by the ombudsman as confidential and protected information that is subject to the requirements of this subsection.

(c) Protected information disclosed under this subsection is subject to inspection only by the parties to the proceeding and their attorneys as provided in paragraph (d) of this subsection. Protected information disclosed under this subsection is not subject to inspection by members of the public except pursuant to a court order entered after a showing of good cause.

**Key Terms & Definitions:**

“Fiduciary” means a guardian or conservator appointed under the provisions of this chapter or any other person appointed by a court to assume duties with respect to a protected person under the provisions of this chapter. [ORS 125.005\(2\)](#)

“Protected person” means a person for whom a protective order has been entered. [ORS 125.005\(7\)](#)

“Protective order” means an order of a court appointing a fiduciary or any other order of the court entered for the purpose of protecting the person or estate of a respondent or protected person. [ORS 125.005\(8\)](#)

**Enumerated Exceptions or Public Interest Balancing Test?**

After a showing of good cause, the court may enter an order allowing public inspection of protected information upon the filing of a written request for inspection and the payment of any fees or costs charged to copy the protected information. [ORS 125.085\(4\)\(c\)-\(d\)](#)

**Cited in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 192.517](#) Access to Records of Individual with Disability or Individual with Mental Illness**

**Summary:** Requires Disability Rights Oregon to maintain the confidentiality of records it accesses that contain information about individuals with developmental disabilities, mental illness, or other disabilities.

**Relevant Text:** [ORS 192.517](#)

(1) The system designated to protect and advocate for the rights of individuals shall have access to all records of:

(a) Any individual who is a client of the system if the individual or the legal guardian or other legal representative of the individual has authorized the system to have such access;

(b) Any individual, including an individual who has died or whose whereabouts are unknown:

\*\*\*

(3) The system that obtains access to records under this section shall maintain the confidentiality of the records to the same extent as is required of the provider of the services, except as provided under the Protection and Advocacy for Mentally Ill Individuals Act (42 U.S.C. 10806) as in effect on January 1, 2003.

**Key Terms & Definitions:**

[ORS 192.515\(2\)](#) “Individual” means:

(a) An individual with a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 15002) as in effect on January 1, 2003;

(b) An individual with mental illness as defined in the Protection and Advocacy for Mentally Ill Individuals Act (42 U.S.C. 10802) as in effect on January 1, 2003; or

(c) An individual with disabilities as described in 29 U.S.C. 794e as in effect on January 1, 2006, other than:

(A) An adult in custody in a facility operated by the Department of Corrections whose only disability is drug or alcohol addiction; and

(B) A person confined in a youth correction facility, as that term is defined in [ORS 420.005](#), whose only disability is drug or alcohol addiction.

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Cited in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 410.535](#) Rules**

**Summary:** Directs the Department of Human Services to adopt rules insuring the confidentiality of client information gathered during admission assessments for long term care.

**Relevant Text: [ORS 410.535](#)**

The Department of Human Services shall adopt rules\* to carry out the provisions of [ORS 410.505](#) to [410.545](#), including, but not limited to:

- (1) Granting exceptions to [ORS 410.540](#); and
- (2) Insuring confidentiality of all client information gathered during the admission assessment process.

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Cited in Court Cases, AG Opinions and/or Public Records Orders? No.**

*\*NOTE: The rule implementing this requirement is [OAR 411-071-0027](#), Confidentiality of Assessment Information, which provides:*

- (1) Any records, forms, or information collected during the assessment process that identify an individual by name or address must be confidential and subject to the Department's rules on confidentiality set forth in OAR 411, division 005.
- (2) Certified programs must not release information obtained during the assessment process to any person or entity not authorized by law to receive such information without the written consent of the individual or the individual's legal guardian.

**Exemption Statute and Title: [ORS 441.044](#) Complaints About Standard of Care in Facility**

**Summary:** Requires rules\* relating to the issuance of licenses to operate health care facilities (other than long term care facilities) provide for the confidentiality of the identity of any complainant and investigatory information obtained in relation to complaints about the standard of care.

*\*NOTE: The rules implementing this requirement are contained in OAR Chapter 333.*

**Relevant Text:** [ORS 441.044](#).

(1) Rules adopted pursuant to [ORS 441.025](#) shall include procedures for the filing of complaints as to the standard of care in any health care facility and provide for the confidentiality of the identity of any complainant.

\*\*\*

(7) Information obtained by the department or the authority during an investigation of a complaint or reported violation under this section is confidential and not subject to public disclosure under [ORS 192.311](#) to [192.478](#). Upon the conclusion of the investigation, the department or the authority may publicly release a report of the department's or the authority's findings but may not include information in the report that could be used to identify the complainant or any patient at the health care facility.

**Enumerated Exceptions or Public Interest Balancing Test?** No.

**Cited in Court Cases, AG Opinions and/or Public Records Orders?** No.

**Exemption Statute and Title: [ORS 441.407](#) Procedures to Maintain Confidentiality**

**Summary:** Directs the Long Term Care Ombudsman to establish procedures to maintain the confidentiality of the identities of residents of long term care facilities, as well as the identities of complainants.

**Relevant Text:**

[ORS 441.407](#). The Long Term Care Ombudsman shall establish procedures to maintain the confidentiality of the records and files of residents of long term care facilities. These procedures must meet the following requirements:

- (1) The ombudsman or a designee may not disclose the identity of any resident unless the complainant or the resident, or the legal representative of either, consents in writing to the disclosure and specifies to whom the disclosure may be made.
- (2) The identity of any complainant or resident on whose behalf a complaint is made, or individual providing information on behalf of the complainant or the resident, shall be confidential. If the complaint becomes the subject of judicial proceedings, the investigative information held by the ombudsman or the designee shall be disclosed for the purpose of the proceedings if requested by the court.

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Cited in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 433.769](#) Public Disclosure of Investigatory Information**

**Summary:** Prohibits the Department of Human Services and type B area agencies on aging from disclosing, without written authorization, any identifying, demographic, and health information of a resident of an adult foster home gathered in connection to a complaint against an adult foster home.

**Relevant Text: [ORS 433.769](#)**

(1) When the Department of Human Services or a type B area agency on aging discloses a file, form or report to the public pursuant to [ORS 443.740](#), [443.765](#) or [443.767](#), the department or agency may not disclose information about residents that is protected from disclosure by state or federal law or information that is described in subsection (2) of this section unless the resident has provided a written authorization for disclosure of the information.

(2) This section applies to:

(a) The name of a resident and to demographic or other information that can be used to identify a resident.

(b) Any health information that relates to:

(A) The past, present or future physical or mental health or condition of a resident;

(B) The provision of health care to a resident; or

(C) The past, present or future payment for the provision of health care to a resident.

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Cited in Court Cases, AG Opinions and/or Public Records Orders? No.**



**Exemption Statute and Title: [ORS 192.355\(20\)](#) Public Records Exempt From Disclosure**

**Summary:** Expressly exempts from disclosure information contained in the workers' compensation claims records of the Department of Consumer and Business Services. Also see [ORS 656.360](#).

**Relevant Text:**

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

\*\*\*

(20) Workers' compensation claim records of the Department of Consumer and Business Services, except in accordance with rules adopted by the Director of the Department of Consumer and Business Services, in any of the following circumstances:

- (a) When necessary for insurers, self-insured employers and third party claim administrators to process workers' compensation claims.
- (b) When necessary for the director, other governmental agencies of this state or the United States to carry out their duties, functions or powers.
- (c) When the disclosure is made in such a manner that the disclosed information cannot be used to identify any worker who is the subject of a claim.
- (d) When a worker or the worker's representative requests review of the worker's claim record.

**Enumerated Exceptions or Public Interest Balancing Test?** Exceptions detailed above.

**Cited in Court Cases, AG Opinions and/or Public Records Orders?**

[PRO Mulligan, December 2021](#) and [PRO Jacoby, October 1, 2021](#) (petitions denied for billing and ledger information maintained by a contracted workers' compensation claims adjudicator; such information constituted part of the "workers' compensation record")

[PRO Scheminske, July 9, 1998](#) (petition denied for a request for a list of all workers' compensation cases in which litigation was pending; legislative history demonstrates an intent to protect from disclosure the identity of workers who have filed claims in order to protect them from discrimination)

[PRO Scheminske, June 26, 1998](#) (petition denied for workers' compensation claims records, but noted that under ORS 192.355(20)(c) (then numbered 192.502(19)(c)), the board could release the records if identifying information was redacted)

[PRO Borujerdi, September 9, 1996](#) and [PRO Ferguson, July 15, 1996](#) (petition denied for request for all records relating to workers' compensation claims filed by a named person)

**Exemption Statute and Title: [ORS 192.355\(36\)](#) Public records exempt from disclosure**

**Summary:** Expressly exempts from disclosure claimant files of SAIF.

**Relevant Text:**

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

\*\*\*

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

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

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

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Cited in Court Cases, AG Opinions and/or Public Records Orders?**

[PRO Rose, October 25, 2010](#) (petition denied for request to review claimant files in their original electronic format because there was no way to mask claimants’ identities)

**Exemption Statute and Title: [ORS 344.530](#) Department of Human Services Rehabilitation Duties**

**Summary:** Requires the Department of Human Services to safeguard the confidential character of vocational rehabilitation information and records. Also see [ORS 344.600](#).

**Relevant Text:**

Notwithstanding any other provisions of the law, the Department of Human Services shall perform the following vocational rehabilitation functions:

- (1) Establish and enforce such rules as may be necessary to:
  - (a) Carry out [ORS 344.511](#) to [344.690](#) and [344.710](#) to [344.730](#); and
  - (b) Safeguard the confidential character of vocational rehabilitation information and records.

**Key Terms & Definitions:**

“Vocational rehabilitation” and “vocational rehabilitation services” mean any services necessary to enable an individual with an occupational handicap to engage in a remunerative occupation and include, but are not limited to, medical and vocational diagnoses, vocational guidance, counseling and placement, rehabilitation training, physical restoration, transportation, occupational licenses, occupational tools, equipment and supplies, maintenance and training books, supplies and materials. [ORS 344.511\(13\)](#)

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Cited in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 344.600](#) Unauthorized Use of Official Rehabilitation Data**

**Summary:** Prohibits the disclosure or use of information concerning persons applying for or receiving vocational rehabilitation for other than the performance of official duties. Also see [ORS 344.530](#).

**Relevant Text:** [ORS 344.600](#)

Except for purposes directly connected with the administration of vocational rehabilitation, and in accordance with the rules and regulations of the Department of Human Services, no person shall solicit, disclose, receive, make use of or authorize, knowingly permit, participate in or acquiesce in the use of, any list of or names of, or any information concerning persons applying for or receiving vocational rehabilitation directly or indirectly derived from the records, papers, files or communications of the state or subdivisions or agencies thereof, or acquired in the course of the performance of official duties.

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Cited in Court Cases, AG Opinions and/or Public Records Orders?**

[PRO Zaitz, March 25, 1981](#) (petition denied, in part, with respect to information pertaining to the names of students referred to the Vocational Rehabilitation Division).

**Exemption Statute and Title: [ORS 431A.090](#) Designation of Other Trauma Centers**

**Summary:** Expressly exempts from disclosure information procured by the Oregon Health Authority, the State Trauma Advisory Board or an area trauma advisory board in connection with performing patient care quality assurance functions. Also see [ORS 431A.055](#).

**Relevant Text:** [ORS 431A.090](#)

(1) In addition to and not in lieu of [ORS 431A.050](#) to [431A.075](#), the Oregon Health Authority shall designate trauma centers in areas that are within the jurisdiction of trauma advisory boards other than in the area within the jurisdiction of area trauma advisory board 1.

\*\*\*

(3) All findings and conclusions, interviews, reports, studies, communications and statements procured by or furnished to the authority, the State Trauma Advisory Board or an area trauma advisory board in connection with obtaining the data necessary to perform patient care quality assurance functions shall be confidential pursuant to [ORS 192.338](#), [192.345](#) and [192.355](#).

(4) (a) All data received or compiled by the State Trauma Advisory Board or any area trauma advisory board in conjunction with authority monitoring and assuring quality of trauma patient care shall be confidential and privileged, nondiscoverable and inadmissible in any proceeding. No person serving on or communicating information to the State Trauma Advisory Board or an area trauma advisory board shall be examined as to any such communications or to the findings or recommendations of such board. A person serving on or communicating information to the State Trauma Advisory Board or an area trauma advisory board shall not be subject to an action for civil damages for actions taken or statements made in good faith. Nothing in this section affects the admissibility in evidence of a party's medical records not otherwise confidential or privileged dealing with the party's medical care. The confidentiality provisions of [ORS 41.675](#) and [41.685](#) shall also apply to the monitoring and quality assurance activities of the State Trauma Advisory Board, area trauma advisory boards and the authority.

(b) As used in this section, "data" includes but is not limited to written reports, notes, records and recommendations.

**Enumerated Exceptions or Public Interest Balancing Test?** No.

**Cited in Court Cases, AG Opinions and/or Public Records Orders?**

[PRO Bonanno, May 29, 2003](#) (petition denied for records made confidential and exempt from disclosure under a prior version of the statute, ORS 431.627).

**Exemption Statute and Title: [ORS 656.260](#) Certification Procedure for Managed Health Care Provider**

**Summary:** Makes confidential the data generated by or received by DCBS in connection with certain reviews of the provision of medical services to injured workers.

**Relevant Text:** [ORS 656.260](#)

(1) Any health care provider or group of medical service providers may make written application to the Director of the Department of Consumer and Business Services to become certified to provide managed care to injured workers for injuries and diseases compensable under this chapter. However, nothing in this section authorizes an organization that is formed, owned or operated by an insurer or employer other than a health care provider to become certified to provide managed care.

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(7) Any issue concerning the provision of medical services to injured workers subject to a managed care contract and service utilization review, quality assurance, dispute resolution, contract review and peer review activities as well as authorization of medical services to be provided by other than an attending physician pursuant to [ORS 656.245\(2\)\(b\)](#) shall be subject to review by the director or the director's designated representatives. The decision of the director is subject to review under [ORS 656.704](#). Data generated by or received in connection with these activities, including written reports, notes or records of any such activities, or of any review thereof, shall be confidential, and shall not be disclosed except as considered necessary by the director in the administration of this chapter. The director may report professional misconduct to an appropriate licensing board.

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Cited in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 656.327](#) Review of Medical Treatment of Worker**

**Summary:** Makes privileged the findings of a physician or panel of physicians, a medical arbiter or panel of medical arbiters, as well as the records and all communications to or before a panel or arbiter relating to reviews of the propriety of medical treatment to injured workers.

**Relevant Text:** [ORS 656.327](#)

(1)(a) If an injured worker, an insurer or self-insured employer or the Director of the Department of Consumer and Business Services believes that the medical treatment, not subject to [ORS 656.260](#), that the injured worker has received, is receiving, will receive or is proposed to receive is excessive, inappropriate, ineffectual or in violation of rules regarding the performance of medical services, the injured worker, insurer or self-insured employer must request administrative review of the treatment by the director prior to requesting a hearing on the issue and so notify the parties.

\*\*\*

(4) The physician or the panel of physicians and the medical arbiter or panel of medical arbiters appointed pursuant to [ORS 656.268](#) acting pursuant to the authority of the director are agents of the Department of Consumer and Business Services and are subject to the provisions of [ORS 30.260](#) to [30.300](#). The findings of the physician or panel of physicians, the medical arbiter or panel of medical arbiters, all of the records and all communications to or before a panel or arbiter are privileged and are not discoverable or admissible in any proceeding other than those proceedings under this chapter. No member of a panel or a medical arbiter shall be examined or subject to administrative or civil liability regarding participation in or the findings of the panel or medical arbiter or any matter before the panel or medical arbiter other than in proceedings under this chapter.

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Cited in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 656.360](#) Confidentiality of Worker Medical and Vocational Claim Records**

**Summary:** Subject to enumerated exceptions, worker medical and vocational claim records may not be disclosed to persons other than the worker. Also see [ORS 192.355\(20\)](#).

**Relevant Text:** [ORS 656.360](#)

Insurers and their assigned claims agents shall maintain the confidentiality of worker medical and vocational claim records. Worker medical and vocational claim records may not be disclosed to persons other than the worker unless the disclosure is:

- (1) Made with the consent of the worker or the worker's beneficiary;
- (2) Reasonably necessary for the insurer or its assigned claims agent to manage, defend or adjust claims, suits or actions or to perform any other function required by or arising out of ORS chapter 654, 655 or 656 or the insurance contract;
- (3) To detect or prevent criminal activity, fraud, material misrepresentation or nondisclosure;
- (4) Pursuant to a written agreement that requires the receiving party to maintain the confidentiality of the records; or
- (5) Otherwise required or permitted by law.

**Enumerated Exceptions or Public Interest Balancing Test?** Exceptions detailed above.

**Cited in Court Cases, AG Opinions and/or Public Records Orders?**

[PRO Jacoby, October 1, 2021](#) (declining to evaluate whether requested records were exempt under ORS 656.360 because they were exempt under ORS 192.355(20))



**Exemption Statute and Title: [ORS 659A.133](#) Medical Examinations and Inquiries of Job Applicants**

**Summary:** Makes confidential any information relating to the medical condition or history or a job applicant obtained as part of a pre-employment medical exam.

**Relevant Text:**

ORS 659A.133(3) An employer may require a medical examination after an offer of employment has been made to a job applicant and before the commencement of the employment duties of the applicant, and condition the employment on the results of the examination, if the following conditions are met:

(a) All individuals entering the employ of the employer must be subject to the examination regardless of disability.

(b) Information obtained regarding the medical condition or history of the applicant is collected and maintained on separate forms and in separate medical files and is treated as a confidential medical record, except as follows:

(A) Supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations.

(B) First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment.

(C) Officers and employees of the Bureau of Labor and Industries investigating compliance with ORS 659A.112 to 659A.139 shall be provided relevant information on request.

**Enumerated Exceptions or Public Interest Balancing Test?** Limited exceptions for official purposes, but none that permit disclosure to the general public.

**Cited in Court Cases, AG Opinions and/or Public Records Orders?** No.

**Exemption Statute and Title: [ORS 659A.136](#) Medical Examinations and Inquiries of Employees**

**Summary:** Makes confidential any information relating to the medical condition or history of an employee obtained as part of a voluntary medical exam conducted as part of an employee health program. Incorporates the confidentiality provisions of [ORS 659A.133](#).

**Relevant Text:** [ORS 659A.136](#)

- (1) Except as provided in this section, an employer may not require that an employee submit to a medical examination, may not make inquiries of an employee as to whether the employee has a disability, and may not make inquiries of an employee as to the nature or severity of any disability of the employee, unless the examination or inquiry is shown to be job-related and consistent with business necessity.
- (2) An employer may conduct voluntary medical examinations, including voluntary medical histories, that are part of an employee health program available to employees at that work site. An employer may make inquiries into the ability of an employee to perform job-related functions.
- (3) Information obtained under subsection (2) of this section relating to the medical condition or history of any employee is subject to the same restrictions applicable to information acquired from medical examinations authorized under ORS 659A.133.

**Enumerated Exceptions or Public Interest Balancing Test?** Limited exceptions for official purposes, but none that permit disclosure to the general public.

**Cited in Court Cases, AG Opinions and/or Public Records Orders?** No.

**Exemption Statute and Title: [ORS 135.139](#) Notice of Availability of Testing for HIV and Other Communicable Diseases to Person Charged With Crime**

**Summary:** Generally prohibits the disclosure of the results of an HIV test performed upon a person charged with, or convicted of a crime. Makes unauthorized disclosure a Class C misdemeanor.

**Relevant Text:** [ORS 135.139](#)

(1) When a person has been charged with a crime in which it appears from the nature of the charge that the transmission of body fluids from one person to another may have been involved, the district attorney, upon the request of the victim or the parent or guardian of a minor or incapacitated victim, shall seek the consent of the person charged to submit to a test for HIV and any other communicable disease. In the absence of such consent or failure to submit to the test, the district attorney may petition the court for an order requiring the person charged to submit to a test for HIV and any other communicable disease.

\*\*\*

(3) Notwithstanding the provisions of ORS 433.045, upon conviction of a person for any crime in which the court determines from the facts that the transmission of body fluids from one person to another was involved and if the person has not been tested pursuant to subsection (2) of this section, the court shall seek the consent of the convicted person to submit to a test for HIV and other communicable diseases. In the absence of such consent or failure to submit to the test, the court shall order the convicted person to submit to the test if the victim of the crime, or a parent or guardian of the victim, requests the court to make such order.

\*\*\*

(6) The result of any test ordered under this section is not a public record and shall be available only to:

- (a) The victim.
- (b) The parent or guardian of a minor or incapacitated victim.
- (c) The attending physician who is licensed to practice medicine.
- (d) The Oregon Health Authority.
- (e) The person tested.

\*\*\*

(11) The results of tests or reports, or information therein, obtained under this section shall be confidential and shall not be divulged to any person not authorized by this section to receive the information. Any violation of this subsection is a Class C misdemeanor.

**Enumerated Exceptions or Public Interest Balancing Test?** Limited exceptions permitting disclosure to persons enumerated in the statute, but no exceptions that otherwise permit public disclosure.

**Cited in Court Cases, AG Opinions and/or Public Records Orders?** No.

**Exemption Statute and Title: [ORS 146.184](#) Medical Practitioners to Provide Information About Missing Persons**

**Summary:** Medical and dental information obtained by law enforcement for the identification of missing persons or the identification of unidentified human remains and may not be made available to the public.

**Relevant Text:** [ORS 146.184](#)

(1) A dentist, denturist, physician, naturopathic physician, optometrist or other medical practitioner, upon receipt of a written request from a law enforcement agency for identifying information pursuant to [ORS 146.181](#), shall provide to the agency any information known to the practitioner upon the request forms provided by the agency.

(2) Information obtained under this section is restricted to use for the identification of missing persons or the identification of unidentified human remains and may not be made available to the public.

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Cited in Court Cases, AG Opinions and/or Public Records Orders? No.**

**Exemption Statute and Title: [ORS 146.780](#) Confidentiality Records and Reports**

**Summary:** Makes confidential the information contained in mandatory reports by medical personnel to law enforcement relating to injuries caused by other than accidental means.

**Relevant Text:** [ORS 146.780](#)

Notwithstanding the provisions of [ORS 192.311](#) to [192.478](#) relating to confidentiality and accessibility for public inspection of public records, records and reports made under the provisions of [ORS 146.750](#) are confidential and are not accessible for public inspection.

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Cited in Court Cases, AG Opinions and/or Public Records Orders?**

Mentioned, but not analyzed or applied in:

- [PRO Colby](#), April 17, 2006
- [Colby v. Gunson](#), 224 Or App 666 (2008)
- [Oregonians For Sound Economic Policy, Inc. v. SAIF](#), 187 Or App 621 (2003)

**Exemption Statute and Title: [ORS 181A.155](#) Authority Over Blood and Buccal Samples and Analyses**

**Summary:** Prohibits the Oregon State Police from disclosing or transferring blood or buccal samples, physical evidence, or criminal identification relating to certain offenders maintained for a criminal identification database. Also see [ORS 192.539](#).

**Relevant Text: [181A.155](#)**

(4) The department may not transfer or disclose any sample, physical evidence or criminal identification information obtained, stored or maintained under authority of this section, ORS 137.076, 161.325 or 419C.473 (1) except:

(a) To a law enforcement agency as defined in ORS 181.010, a district attorney or the Criminal Justice Division of the Department of Justice for the purpose of establishing the identity of a person in the course of a criminal investigation or proceeding;

(b) To a party in a criminal prosecution or juvenile proceeding pursuant to ORS 419C.005 if discovery or disclosure is required by a separate statutory or constitutional provision; or

(c) To a court or grand jury in response to a lawful subpoena or court order when the evidence is not otherwise privileged and is necessary for criminal justice purposes.

(5) The department may not transfer or disclose any sample, physical evidence or criminal identification information under subsection (4) of this section unless the public agency or person receiving [it] agrees to destroy [it] if notified by the department that a court has reversed the conviction, judgment or order that created the obligation to provide the blood or buccal sample.

(6) Any public agency that receives a sample, physical evidence or criminal identification information under authority of subsection (4) of this section may not disclose it except as provided in subsection (4) of this section.

(7) Notwithstanding subsections (4) and (6) of this section, any person who is the subject of a record within a criminal identification database maintained under the authority of this section may, upon request, inspect that information at a time and location designated by the department. The department may deny inspection if it determines that there is a reasonable likelihood that such inspection would prejudice a pending criminal investigation \*\*\*

**Enumerated Exceptions or Public Interest Balancing Test?** Various exceptions, detailed above, for certain official purposes. No exceptions in the context of a public records request.

**Cited in Court Cases, AG Opinions and/or Public Records Orders?** Yes.

[PRO Bender, January 13, 2012](#) (petition denied for information covered by the exemption where the requester did not qualify for one of the exceptions to the rule against disclosure contained in ORS 192.539 and ORS 181A.155 (formerly ORS 181.085)).