

CHAPTER 470

AN ACT

SB 910

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

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

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

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

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

SECTION 3. ORS 430.560 is amended to read:

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

- (a) Detoxification;
- (b) Detoxification with acupuncture and counseling; and

(c) The supplying of synthetic opiates to such persons under close supervision and control. However, the supplying of synthetic opiates shall be used only when detoxification or detoxification with acupuncture and counseling has proven ineffective or upon a written request of a physician licensed by the Oregon Medical Board or a naturopathic physician licensed by the Oregon Board of Naturopathic Medicine showing medical need for synthetic opiates [*if the request is approved in writing by the parole and probation officer, if any, of the drug-dependent person. The*]. A copy of the request [*and the approval*] must be included in the client's permanent treatment and releasing authority records.

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

SECTION 4. ORS 430.590 is amended to read:

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

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

(b) Within 1,000 feet of the real property comprising an existing licensed child care facility. As used in this section, "licensed child care facility" means a child care center certified under ORS

329A.280 that is operating under authority of a valid business license.

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

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

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

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

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

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

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

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

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

(B) The electronic system must:

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

(ii) Allow practitioners to register as required under section 7, chapter 45, Oregon Laws 2018, and to apply for access to the electronic system in accordance with rules adopted by the authority under subsection (2) of this section.

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

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

(a) Reporting data;

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

(c) Ensuring accuracy and completeness of data;

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

(e) Ensuring accurate identification of persons or entities requesting information from the database;

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

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

(h) Registering practitioners with the electronic system.

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

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

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

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

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

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

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

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

(f) The quantity of the prescription drug dispensed;

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

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

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

[(A)] **(a)** Require the reporting of prescription drugs administered directly to a patient or dispensed pursuant to ORS 127.800 to 127.897; **or**

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

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

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

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

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

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

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

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

431A.865. (1)(a) Except as provided under [subsection (2)] **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.

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

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

[(2)(a)] **(3)(a)** *[To the extent that the law or regulation is applicable to the prescription monitoring program, if a disclosure of prescription monitoring information, other than the sex of a patient for whom a drug was prescribed, complies with the federal Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191) and regulations adopted under that law, including 45 C.F.R. parts 160 and 164, federal alcohol and drug treatment confidentiality laws and regulations, including 42 C.F.R. part 2, and state health and mental health confidentiality laws, including ORS 179.505, 192.517 and 192.553 to 192.581,]*

Except as provided in paragraph (c) of this subsection, the Oregon Health Authority shall disclose [the] prescription monitoring information reported to the authority under ORS 431A.860:

(A) To a practitioner or pharmacist, or, if a practitioner or pharmacist authorizes the authority to disclose the information to a member of the practitioner's or pharmacist's staff, to a member of the practitioner's or pharmacist's staff. If a practitioner or pharmacist authorizes disclosing the information to a member of the practitioner's or pharmacist's staff under this subparagraph, the practitioner or pharmacist remains responsible for the use or misuse of the information by the staff member. To receive information under this subparagraph, or to authorize the receipt of information by a staff member under this subparagraph, a practitioner or pharmacist must certify that the requested information is for the purpose of evaluating the need for or providing medical or pharmaceutical treatment for a patient to whom the practitioner or pharmacist anticipates providing, is providing or has provided care.

(B) To a medical director or pharmacy director, or, if a medical director or pharmacy director authorizes the authority to disclose the information to a member of the medical director's or pharmacy director's staff, to a member of the medical director's or pharmacy director's staff. If a medical director or pharmacy director authorizes disclosing the information to a member of the medical director's or pharmacy director's staff under this subparagraph, the medical director or pharmacy director remains responsible for the use or misuse of the information by the staff member. To receive information under this subparagraph, or to authorize the receipt of information by a staff member under this subparagraph, a medical director must certify that the requested information is for the purposes of overseeing the operations of a hospital, health care clinic or system of hospitals or health care clinics and ensuring the delivery of quality health care within the hospital, clinic or system. To receive information under this subparagraph, or to authorize the receipt of information by a staff member under this subparagraph, a pharmacy director must certify that the requested information is for the purposes of overseeing the operations of a pharmacy or system of pharmacies and ensuring the delivery of quality pharmaceutical care within the pharmacy or system.

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

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

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

(iii) The health information technology system meets any privacy and security requirements and other criteria, including criteria required by the

federal Health Insurance Portability and Accountability Act, established by the authority by rule.

(D) To a practitioner in a form that catalogs all prescription drugs prescribed by the practitioner according to the number assigned to the practitioner by the Drug Enforcement Administration of the United States Department of Justice.

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

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

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

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

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

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

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

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

(C) To a health professional regulatory board;

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

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

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

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

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

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

[(c)] (d) The authority shall disclose information relating to a patient maintained in the electronic system established under ORS 431A.855 to that patient at no cost to the patient within 10 business

days after the authority receives a request from the patient for the information.

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

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

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

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

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

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

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

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

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

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

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

[(6)(a)] (7)(a) If the authority or a person or entity required to report or authorized to receive or

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

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

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

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

SECTION 8. ORS 689.681 is amended to read:

689.681. (1) As used in this section:

(a) **"Kit" means a dose of naloxone and the necessary medical supplies to administer the naloxone.**

[(a)] (b) "Opiate" means a narcotic drug that contains:

(A) Opium;

(B) Any chemical derivative of opium; or

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

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

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

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

SECTION 9. ORS 689.682 is amended to read:

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

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

SECTION 10. ORS 192.355 is amended to read:

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

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

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

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

(3) Upon compliance with ORS 192.363, public body employee or volunteer residential addresses, residential telephone numbers, personal cellular telephone numbers, personal electronic mail addresses, driver license numbers, employer-issued identification card numbers, emergency contact information, Social Security numbers, dates of birth and other telephone numbers contained in personnel records maintained by the public body that is the

employer or the recipient of volunteer services. This exemption:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) The exemption does not apply to:

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

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

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

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

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

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

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

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

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

(F) Investment agreements and related documents.

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

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

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

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

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

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

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

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

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

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

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

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

(17)(a) The following records, communications and information submitted to the Oregon Business Development Commission, the Oregon Business Development Department, the State Department of Agriculture, the Oregon Growth Board, the Port of Portland or other ports as defined in ORS 777.005, or a county or city governing body and any board,

department, commission, council or agency thereof, by applicants for investment funds, grants, loans, services or economic development moneys, support or assistance including, but not limited to, those described in ORS 285A.224:

- (A) Personal financial statements.
- (B) Financial statements of applicants.
- (C) Customer lists.

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

(E) Production, sales and cost data.

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

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

- (A) Personal financial statements.
- (B) Financial statements of applicants.
- (C) Customer lists.

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

(E) Production, sales and cost data.

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

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

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

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

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

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

(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.

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

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

(23) The records of a library, including:

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

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

(c) The electronic mail address of a patron.

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

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

(b) Credit reports.

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

(d) Market studies and analyses.

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

(f) Commitment letters.

(g) Project pro forma statements.

(h) Project cost certifications and cost data.

(i) Audits.

- (j) Project tenant correspondence.
- (k) Personal information about a tenant.
- (L) Housing assistance payments.

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

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

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

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

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

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

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

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

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

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

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

(a) Generation, storage or conveyance of:

(A) Electricity;

(B) Gas in liquefied or gaseous form;

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

(D) Petroleum products;

(E) Sewage; or

(F) Water.

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

(c) Data transmissions by whatever means provided.

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

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

(b) As used in this subsection, "employer account records" means all records maintained in any form that are specifically related to the account of any employer insured, previously insured or under consideration to be insured by the State Accident Insurance Fund Corporation and any information obtained or developed by the corporation in connection with providing, offering to provide or declining to provide insurance to a specific employer. "Employer account records" includes, but is not limited to, an employer's payroll records, premium payment history, payroll classifications, employee names and identification information, experience modification factors, loss experience and dividend payment history.

(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.

(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.

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

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

(39) Information reported to the Oregon Health Authority under ORS 431A.860, except as provided in ORS [431A.860 (2)(b)] **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.

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

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

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

(41) Residential addresses, residential telephone numbers, personal cellular telephone numbers, personal electronic mail addresses, driver license numbers, emergency contact information, Social Security numbers, dates of birth and other telephone numbers of individuals currently or previously certified or licensed by the Department of Public Safety Standards

and Training contained in the records maintained by the department.

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

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

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

(a) Describes the proposed use for the information;

(b) Agrees to any terms and conditions imposed on transferring the information;

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

(d) Agrees to any terms and conditions imposed on keeping the information; and

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

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

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

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

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

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

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

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

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

(1) Provide for the transmission of information between electronic systems, provided that any electronic system to which the Oregon Health Authority transmits information meets the confidentiality, se-

curity and privacy standards adopted by the authority under ORS 431A.855; or

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

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

Approved by the Governor June 20, 2019
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