

House Bill 3057

Sponsored by Representatives SALINAS, NOBLE, Senator PATTERSON, Representative REYNOLDS; Representatives DEXTER, PRUSAK, SCHOUTEN

SUMMARY

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

Authorizes Oregon Health Authority to disclose individually identifiable information related to COVID-19 to certain persons and under certain circumstances.

Sunsets June 30, 2022.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to the disclosure of information related to COVID-19; creating new provisions; amending
3 ORS 433.008; and declaring an emergency.

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

5 **SECTION 1. (1) As used in this section:**

6 (a) **“COVID-19” means a disease caused by the severe acute respiratory syndrome**
7 **coronavirus 2 (SARS-CoV-2).**

8 (b) **“Health care provider” means:**

9 (A) **An individual licensed or certified by the:**

10 (i) **State Board of Examiners for Speech-Language Pathology and Audiology;**

11 (ii) **State Board of Chiropractic Examiners;**

12 (iii) **State Board of Licensed Social Workers;**

13 (iv) **Oregon Board of Licensed Professional Counselors and Therapists;**

14 (v) **Oregon Board of Dentistry;**

15 (vi) **State Board of Massage Therapists;**

16 (vii) **Oregon Board of Naturopathic Medicine;**

17 (viii) **Oregon State Board of Nursing;**

18 (ix) **Oregon Board of Optometry;**

19 (x) **State Board of Pharmacy;**

20 (xi) **Oregon Medical Board;**

21 (xii) **Occupational Therapy Licensing Board;**

22 (xiii) **Oregon Board of Physical Therapy;**

23 (xiv) **Oregon Board of Psychology; or**

24 (xv) **Board of Medical Imaging;**

25 (B) **An emergency medical services provider licensed by the Oregon Health Authority**
26 **under ORS 682.216;**

27 (C) **A clinical laboratory licensed under ORS 438.110; and**

28 (D) **A health care facility as defined in ORS 442.015.**

29 (2) **The Oregon Health Authority may disclose individually identifiable information related**
30 **to COVID-19 that is reportable under ORS 433.004 and rules adopted by the authority if the**

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

1 authority determines that the disclosure is necessary for the evaluation, treatment or care
 2 coordination of individuals who have been tested for COVID-19 or individuals who have had
 3 a substantial exposure to COVID-19, or is necessary for the state's COVID-19 response and
 4 recovery efforts, to:

5 (a) An American Indian tribe or an agency of an American Indian tribe;

6 (b) A health care provider;

7 (c) An entity providing care coordination services; or

8 (d) An entity that administers or operates a health information technology system that
 9 is used by a person listed in this subsection.

10 (3) The authority may disclose only the minimum amount of information necessary to
 11 carry out the purpose of a disclosure under subsection (2) of this section.

12 (4) A person listed in subsection (2) of this section may submit a request in writing to
 13 the authority requesting COVID-19 information. The authority may require the requester to
 14 describe the purposes for which the requester will use the information.

15 (5) The authority may enter into agreements that condition disclosure of information
 16 under subsection (2) of this section on the recipient of the disclosure agreeing to:

17 (a) Use the information for purposes consistent with the state's COVID-19 response and
 18 recovery efforts.

19 (b) Provide information to the authority regarding the evaluation, treatment or care co-
 20 ordination provided to individuals with COVID-19 or to individuals with a substantial expo-
 21 sure to COVID-19.

22 (c) Provide information to the authority regarding whether and how the disclosure as-
 23 sisted the recipient of the disclosure in providing care coordination services or was necessary
 24 for response and recovery efforts.

25 (d) Enter into a data use agreement that, at a minimum, describes how the data may be
 26 used and whether it can be redisclosed.

27 (e) Report any breaches of confidentiality.

28 (6) Information obtained under subsection (2) of this section that identifies an individual
 29 with COVID-19 or an individual with a substantial exposure to COVID-19, or that contains
 30 information that reasonably could lead to the identification of such an individual, is confi-
 31 dential and exempt from disclosure under ORS 192.311 to 192.478.

32 (7) The authority may adopt rules necessary for the administration of this section.

33 **SECTION 2.** ORS 433.008 is amended to read:

34 433.008. (1)(a) Except as provided in subsection (2) of this section and section 1 of this 2021
 35 Act, information obtained by the Oregon Health Authority or a local public health administrator in
 36 the course of an investigation of a reportable disease or disease outbreak is confidential and is ex-
 37 empt from disclosure under ORS 192.311 to 192.478.

38 (b) Except as required for the administration or enforcement of public health laws or rules, a
 39 state or local public health official or employee may not be examined in an administrative or judicial
 40 proceeding about the existence or contents of a reportable disease report or other information re-
 41 ceived by the authority or local public health administrator in the course of an investigation of a
 42 reportable disease or disease outbreak.

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

45 (a) State, local or federal agencies authorized to receive the information under state or federal

1 law;

2 (b) Health care providers if necessary for the evaluation or treatment of a reportable disease;

3 (c) Law enforcement officials to the extent necessary to carry out the authority granted to the
4 Public Health Director and local public health administrators under ORS 433.121, 433.128, 433.131,
5 433.138 and 433.142;

6 (d) A person who may have been exposed to a communicable disease;

7 (e) A person with information necessary to assist the authority or local public health adminis-
8 trator in identifying an individual who may have been exposed to a communicable disease; and

9 (f) The individual who is the subject of the information or the legal representative of that indi-
10 vidual.

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

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

17 (5) A decision not to disclose information under this subsection, if made in good faith, shall not
18 subject the entity or person withholding the information to any liability.

19 (6) Nothing in this section:

20 (a) Prevents the authority or a local public health administrator from publishing statistical
21 compilations and reports relating to reportable disease investigations if the compilations and reports
22 do not identify individual cases or sources of information;

23 (b) Affects the confidentiality or admissibility into evidence of information not otherwise confi-
24 dential or privileged that is obtained from sources other than the authority; or

25 (c) Prevents dispositions of information pursuant to ORS 192.105.

26 **SECTION 3.** ORS 433.008, as amended by section 2 of this 2021 Act, is amended to read:

27 433.008. (1)(a) Except as provided in subsection (2) of this section [*and section 1 of this 2021*
28 *Act*], information obtained by the Oregon Health Authority or a local public health administrator in
29 the course of an investigation of a reportable disease or disease outbreak is confidential and is ex-
30 empt from disclosure under ORS 192.311 to 192.478.

31 (b) Except as required for the administration or enforcement of public health laws or rules, a
32 state or local public health official or employee may not be examined in an administrative or judicial
33 proceeding about the existence or contents of a reportable disease report or other information re-
34 ceived by the authority or local public health administrator in the course of an investigation of a
35 reportable disease or disease outbreak.

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

38 (a) State, local or federal agencies authorized to receive the information under state or federal
39 law;

40 (b) Health care providers if necessary for the evaluation or treatment of a reportable disease;

41 (c) Law enforcement officials to the extent necessary to carry out the authority granted to the
42 Public Health Director and local public health administrators under ORS 433.121, 433.128, 433.131,
43 433.138 and 433.142;

44 (d) A person who may have been exposed to a communicable disease;

45 (e) A person with information necessary to assist the authority or local public health adminis-

1 trator in identifying an individual who may have been exposed to a communicable disease; and

2 (f) The individual who is the subject of the information or the legal representative of that indi-
3 vidual.

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

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

10 (5) A decision not to disclose information under this subsection, if made in good faith, shall not
11 subject the entity or person withholding the information to any liability.

12 (6) Nothing in this section:

13 (a) Prevents the authority or a local public health administrator from publishing statistical
14 compilations and reports relating to reportable disease investigations if the compilations and reports
15 do not identify individual cases or sources of information;

16 (b) Affects the confidentiality or admissibility into evidence of information not otherwise confi-
17 dential or privileged that is obtained from sources other than the authority; or

18 (c) Prevents dispositions of information pursuant to ORS 192.105.

19 **SECTION 4. (1) Section 1 of this 2021 Act is repealed on June 30, 2022.**

20 **(2) The amendments to ORS 433.008 by section 3 of this 2021 Act become operative on**
21 **June 30, 2022.**

22 **SECTION 5. This 2021 Act being necessary for the immediate preservation of the public**
23 **peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect**
24 **on its passage.**

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