

## A-Engrossed Senate Bill 841

Ordered by the Senate April 11  
Including Senate Amendments dated April 11

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Tina Kotek for Oregon Health Authority)

### 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. The statement includes a measure digest written in compliance with applicable readability standards.

**Digest:** The Act would allow tribes and health centers in the state to enter an agreement with the OHA to take actions related to reportable diseases. The Act would allow tribes and health centers in the state to enter an agreement with the OHA to get and use some health data about tribes in the state. (Flesch Readability Score: 60.5).

Authorizes the Oregon Health Authority to enter into an agreement with a federally recognized Indian tribe in Oregon or a tribal epidemiology center in Oregon to allow the tribe or center to accept reports of reportable diseases and investigate cases of reportable diseases.

Authorizes the authority to enter into an agreement with a federally recognized Indian tribe in Oregon or a tribal epidemiology center in Oregon to allow the tribe or center to access and use tribal data under the prescription monitoring program.

### A BILL FOR AN ACT

Relating to tribal public health data; amending ORS 431A.850, 431A.869, 433.001, 433.004, 433.006 and 433.008.

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

**SECTION 1.** ORS 433.001 is amended to read:

433.001. As used in ORS 433.001 to 433.045 and 433.110 to 433.770 unless the context requires otherwise:

(1) "Communicable disease" has the meaning given that term in ORS 431A.005.

(2) "Control" means a person without a reportable disease about whom information is collected for purposes of comparison to a person or persons with the reportable disease.

(3) "Disease outbreak" has the meaning given that term in ORS 431A.005.

(4) "Epidemic" has the meaning given that term in ORS 431A.005.

(5) "Health care provider" has the meaning given that term in ORS 433.443.

(6) "Individually identifiable health information" has the meaning given that term in ORS 433.443.

(7) "Isolation" means the physical separation and confinement of a person or group of persons who are infected or reasonably believed to be infected with a communicable disease or possibly communicable disease from nonisolated persons to prevent or limit the transmission of the disease to nonisolated persons.

(8) "Local public health administrator" has the meaning given that term in ORS 431.003.

(9) "Property" means animals, inanimate objects, vessels, public conveyances, buildings and all other real or personal property.

**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.

(10) "Public health measure" has the meaning given that term in ORS 431A.005.

(11) "Quarantine" means the physical separation and confinement of a person or group of persons who have been or may have been exposed to a communicable disease or possibly communicable disease and who do not show signs or symptoms of a communicable disease, from persons who have not been exposed to a communicable disease or possibly communicable disease, to prevent or limit the transmission of the disease to other persons.

(12) "Reportable disease" has the meaning given that term in ORS 431A.005.

(13) "Simultaneous electronic transmission" means transmission by television, telephone or any other electronic or digital means if the form of transmission allows:

(a) The court and the person making the appearance to communicate with each other during the proceeding; and

(b) A person who is represented by legal counsel to consult privately with the person's attorney during the proceeding.

(14) "Toxic substance" has the meaning given that term in ORS 431A.005.

**(15) "Tribal epidemiology center" means any tribal epidemiology center in this state operating under 25 U.S.C. 1621m for the benefit of any tribe.**

**(16) "Tribe" means any of the nine federally recognized Indian tribes in this state.**

**SECTION 2.** ORS 433.004 is amended to read:

433.004. (1) The Oregon Health Authority shall by rule:

(a) Specify reportable diseases and when the diseases must be reported under this section;

(b) Identify those categories of persons who must report reportable diseases and the circumstances under which the reports must be made;

(c) Prescribe the procedures and forms for making such reports and transmitting the reports to the authority; and

(d) Prescribe measures and methods for investigating the source and controlling reportable diseases.

(2) Persons required under the rules to report reportable diseases shall report to the authority [or], the local public health administrator, **a tribe or a tribal epidemiology center, upon entering an agreement under subsection (7) of this section**, as specified by the authority by rule. A local public health administrator, **tribe or tribal epidemiology center** that receives a report under this subsection shall transmit the report to the authority as specified by the authority by rule.

(3) The authority [or], local public health administrator, **tribe or tribal epidemiology center, upon entering an agreement under subsection (7) of this section**, may investigate a case of a reportable disease, disease outbreak or epidemic. The investigation may include, but is not limited to:

(a) Interviews of:

(A) The subject of a reportable disease report;

(B) Controls;

(C) Health care providers; or

(D) Employees of a health care facility.

(b) Requiring a health care provider, any public or private entity, or an individual who has information necessary for the investigation to:

(A) Permit inspection of the information by the authority [or], local public health administrator, **tribe or tribal epidemiology center**; and

(B) Release the information to the authority [or], local public health administrator, **tribe or**

1 **tribal epidemiology center.**

2 (c) Inspection, sampling and testing of real or personal property with consent of the owner or  
3 custodian of the property or with an administrative warrant.

4 (4)(a) The authority shall establish by rule the manner in which information may be requested  
5 and obtained under subsection (3) of this section.

6 (b) Information requested may include, but is not limited to, individually identifiable health in-  
7 formation related to:

8 (A) The case;

9 (B) An individual who may be the potential source of exposure or infection;

10 (C) An individual who has been or may have been exposed to or affected by the disease;

11 (D) Policies, practices, systems or structures that may have affected the likelihood of disease  
12 transmission; and

13 (E) Factors that may influence an individual's susceptibility to the disease or likelihood of being  
14 diagnosed with the disease.

15 (5) In addition to other grounds for which a state agency may exercise disciplinary action  
16 against its licensees or certificate holders, the substantial or repeated failure of a licensee or cer-  
17 tificate holder to report when required to do so under subsection (2) or (3) of this section shall be  
18 cause for the exercise of any of the agency's disciplinary powers.

19 (6) Any person making a report or providing information under this section is immune from any  
20 civil or criminal liability that might otherwise be incurred or imposed with respect to the making  
21 of a report or providing information under this section.

22 **(7) The authority may enter into an agreement under ORS 190.110 with a tribe or tribal**  
23 **epidemiology center for the purpose of receiving reports of reportable diseases under sub-**  
24 **section (2) of this section and investigating cases of reportable diseases under subsection (3)**  
25 **of this section. If a tribe or tribal epidemiology center enters into an agreement, the tribe**  
26 **or tribal epidemiology center shall carry out subsections (2) and (3) of this section.**

27 **SECTION 3.** ORS 433.006 is amended to read:

28 433.006. (1) Except as provided in subsection (2) **or** (3) of this section, in response to each report  
29 of a reportable disease, the local public health administrator shall ensure that investigations and  
30 control measures, as prescribed by Oregon Health Authority rule, are conducted.

31 (2) If there has been a transfer of responsibility from a local public health authority to the  
32 Oregon Health Authority under ORS 431.382, the Oregon Health Authority shall ensure that inves-  
33 tigations and control measures are conducted, as funding allows, pursuant to rules adopted by the  
34 Oregon Health Authority.

35 **(3) If the Oregon Health Authority enters into an agreement with a tribe or tribal**  
36 **epidemiology center under ORS 433.004, the tribe or tribal epidemiology center shall ensure**  
37 **that investigations and control measures are conducted pursuant to the agreement.**

38 **SECTION 4.** ORS 433.008 is amended to read:

39 433.008. (1)(a) Except as provided in subsection (2) of this section, information obtained by the  
40 Oregon Health Authority [or], a local public health administrator, **a tribe or a tribal epidemiology**  
41 **center** in the course of an investigation of a reportable disease or disease outbreak is confidential  
42 and is exempt from disclosure under ORS 192.311 to 192.478.

43 (b) Except as required for the administration or enforcement of public health laws or rules, a  
44 state or local public health official or employee **or an official or employee of a tribe or a tribal**  
45 **epidemiology center** may not be examined in an administrative or judicial proceeding about the

existence or contents of a reportable disease report or other information received by the authority [or], a local public health administrator, **a tribe or a tribal epidemiology center** in the course of an investigation of a reportable disease or disease outbreak.

(2) The authority [or], a local public health administrator, **a tribe or a tribal epidemiology center** may release information obtained during an investigation of a reportable disease or disease outbreak to:

(a) State, local [or], federal **or tribal** 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, **a tribe or a tribal epidemiology center** 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, **tribe or tribal epidemiology center** 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, **tribe or tribal epidemiology center** may release only the minimum amount of information necessary to carry out the purpose of the release pursuant to subsection (2) of this section.

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

(6) Nothing in this section:

(a) Prevents the authority [or], a local public health administrator, **a tribe or a tribal epidemiology center** from publishing statistical compilations and reports relating to reportable disease investigations if the compilations and reports do not identify individual cases or sources of information;

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

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

**SECTION 5.** ORS 431A.850, as amended by section 3, chapter 438, Oregon Laws 2023, is amended to read:

431A.850. As used in ORS 431A.855 to 431A.900:

(1) “Dental director” means a dentist, as defined in ORS 679.010, employed by a coordinated care organization, dental clinic or office, or a system of dental clinics or offices, for the purpose of overseeing the operations of the dental clinic or office, or the system of dental clinics or offices, and ensuring the delivery of quality dental care within the clinic, office or system.

(2) “Dispense” and “dispensing” have the meanings given those terms in ORS 689.005.

(3) “Drug outlet” has the meaning given that term in ORS 689.005.

(4) “Health professional regulatory board” means a health professional regulatory board, as de-

1 fined in ORS 676.160, the Long Term Care Administrators Board, the Board of Licensed Dietitians  
2 and the Behavior Analysis Regulatory Board.

3 (5) "Medical director" means a physician employed by a coordinated care organization, hospital,  
4 health care clinic or system of hospitals or health care clinics for the purposes of overseeing the  
5 operations of the coordinated care organization, hospital, clinic or system and ensuring the delivery  
6 of quality health care within the coordinated care organization, hospital, clinic or system.

7 (6) "Patient" means:

8 (a) The individual to whom the prescription drug is prescribed; or

9 (b) If the prescription drug is prescribed by a veterinarian for an animal, the individual to whom  
10 the prescription drug is dispensed on behalf of the animal.

11 (7) "Pharmacist" means:

12 (a) A pharmacist as defined in ORS 689.005; or

13 (b) An individual licensed to practice pharmacy in another state, if the requirements for  
14 licensure are similar, as determined by the Oregon Health Authority, to the requirements for being  
15 licensed as a pharmacist as defined in ORS 689.005.

16 (8) "Pharmacy director" means a pharmacist employed by a coordinated care organization,  
17 pharmacy or system of pharmacies for the purposes of overseeing the operations of the coordinated  
18 care organization, pharmacy or system and ensuring the delivery of quality pharmaceutical care  
19 within the coordinated care organization, pharmacy or system.

20 (9) "Practitioner" means:

21 (a) A practitioner as defined in ORS 689.005; or

22 (b) An individual licensed to practice a profession in another state, if the requirements for  
23 licensure are similar, as determined by the authority, to the requirements for being licensed as a  
24 practitioner as defined in ORS 689.005.

25 (10) "Prescription" has the meaning given that term in ORS 475.005.

26 (11) "Prescription drug" has the meaning given that term in ORS 689.005.

27 **(12) "Tribal epidemiology center" means any tribal epidemiology center in this state op-**  
28 **erating under 25 U.S.C. 1621m for the benefit of any of tribe.**

29 **(13) "Tribe" means any of the nine federally recognized Indian tribes in this state.**

30 [(12)] (14) "Veterinarian" means a person licensed to practice veterinary medicine under ORS  
31 chapter 686.

32 **SECTION 6.** ORS 431A.869 is amended to read:

33 431A.869. (1) The Oregon Health Authority may enter into agreements [governing the sharing  
34 and use of information described in ORS 431A.860 (1)] with the authorities of other states that ad-  
35 minister prescription monitoring programs **to share and use information described in ORS**  
36 **431A.860 (1).** An agreement entered into under this section must adhere to the disclosure limitations  
37 listed under ORS 431A.865 (3). An agreement entered into under this section may:

38 [(1)] (a) Provide for the transmission of information between electronic systems, provided that  
39 any electronic system to which the Oregon Health Authority transmits information meets the  
40 confidentiality, security and privacy standards adopted by the authority under ORS 431A.855; or

41 [(2)] (b) Provide for the transmission of information to practitioners or pharmacists licensed to  
42 practice in another state.

43 **(2) The Oregon Health Authority may enter into an agreement with a tribe or a tribal**  
44 **epidemiology center to share and use information described in ORS 431A.860 (1) for the pur-**  
45 **pose of:**

1       **(a) Aiding the tribe or tribal epidemiology center in identifying patients that are affiliated**  
2 **with the tribe or tribal epidemiology center in the electronic system; or**

3       **(b) Transmitting aggregated data on tribal affiliation of patients to the tribe or the tribal**  
4 **epidemiology center.**

5       **(3) An agreement entered into under subsection (2) of this section:**

6       **(a) Must permit only the minimum transmission of information necessary to fulfill the**  
7 **intended purpose; and**

8       **(b) May apply subsection (1)(a) of this section to the transmission of information between**  
9 **electronic systems.**

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