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September 26, 2024

VIA E-MAIL ONLY: jodee978@yahoo.com

Re: Petition for Public Records Disclosure Order
Oregon Health Authority
DOJ File No.: 443001-GA0093-24

Dear Ms. Conolly:

This letter is the Attorney General's response to your petition seeking disclosure under the Oregon Public Records Law, ORS 192.311 to 192.478. Your petition asks the Attorney General to order the Oregon Health Authority (OHA) to disclose reports describing specific techniques for COVID-19 testing. We respectfully deny your petition for the reasons discussed below.

Your petition stems from a June 14, 2023 request for:

1. All white papers, records, reports of scientific tests or experiments describing the isolation and purification of COVID-19 (aka SARS-CoV 2) virus and any Variant through Koch's Postulates or similar viable process in human beings with 30,000-40,000 base pairs, with pictures and dimensions/measurements, directly taken from a deceased patient where the cause of death was declared by/from COVID-19, where the patient sample was not first combined with any other source of genetic material or tampered with or altered in any way; and

2. All white papers, records, reports of scientific tests, or experiments describing that the polymerase chain reaction test aka PCR Test, can be used to test for the COVID-19 (aka SARS-CoV 2) virus.

OHA responded to your request on June 14, 2023, by providing you with a link to online sites where reports relating to COVID-19 variants and testing are publicly available. OHA's response also stated that any information obtained by OHA in the course of an investigation of a reportable disease or disease outbreak is confidential and exempt from public disclosure under ORS 433.008.

Your petition expresses your belief that OHA withheld responsive records from you without adequately explaining why they are exempt under ORS 433.008. Your petition also

asserts that OHA failed to inform you of your right to seek a review of OHA's determination by the Attorney General. *See* ORS 192.324(4).

We discussed your petition with Jeanne Windham, OHA's Public Records and Internal Litigation Process Coordinator. She explained that OHA is not the custodian of any records meeting the specific criteria of your request, which is why OHA provided links to sites where you could conduct your own research. She noted that although OHA operates the Oregon State Public Health Laboratory, OHA does not conduct the sort or research or prepare the kind of white papers and reports described in your request (i.e., describing the isolation of COVID-19 using Koch's Postulates, or describing how a PCR test can be used to detect COVID-19). Ms. Windham acknowledged that OHA's initial response to you was not clear on this point and understands why you believe OHA withheld responsive records under ORS 433.008. However, she explained, OHA did not deny any aspect of your request and was therefore not required to inform you of your appeal rights.

Under the circumstances, we have no reason to second-guess Ms. Windham's representation that OHA does not possess responsive records. And because we cannot order OHA to disclose records it does not possess, we must respectfully deny your petition.

Sincerely,

Lisa M. Udland

LISA M. UDLAND
Deputy Attorney General

ACF:pjn
c via e-mail only: Jeanne Windham (OHA)