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May 7, 2025

VIA E-MAIL ONLY: ChrisCrawford59860@gmail.com

Christina Crawford
P.O. Box 174
Powers, OR 97466

Re: Petition for Public Records Disclosure Order
Oregon Health Authority
DOJ File No.: 443001-GA0050-25

Dear Ms. Crawford:

This letter is the Attorney General's response to your petition seeking relief under the Oregon Public Records Law, ORS 192.311 to 192.478. Your petition, which we received April 30, 2025, asks the Attorney General to order the Oregon Health Authority (OHA) to disclose certain records regarding the incidence of Creutzfeldt-Jakob Disease (CJD) in Oregon. For the reasons discussed below, we respectfully deny your petition.

The Public Records Law confers the right to inspect public records in Oregon, unless such records are exempt under ORS 192.338, 192.345, or 192.355. ORS 192.314(1). The law is a disclosure law, and exemptions from disclosure must be express. Any person denied the right to receive a copy of a public record of a state agency may petition the Attorney General to determine if it may be withheld. ORS 192.411(1). The state agency carries the burden to sustain its actions. ORS 192.411(1).

Your petition explains that you requested OHA disclose statistical data, epidemiological summaries, investigation memos, diagnostic testing protocols, and other categories of documents pertaining to CJD cases in Oregon. Your petition acknowledges that certain information related to disease investigations is confidential under Oregon law, but you argue that statistical data and general epidemiological summaries are "crucial for public awareness, research, and community safety."

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We contacted Jeanne Windham, OHA's Public Records and Litigation Response Coordinator. She explained that OHA supplied you with a link to OHA's published information related to CJD including disease reporting, investigative guidelines, and statistical data concerning reported deaths in Oregon residents. Ms. Windham indicated that OHA denied the remainder of your request because those records consist of information obtained by OHA in the course an investigation of a reportable disease or disease outbreak, which OHA believes is exempted by ORS 433.008(1). Ms. Windham also indicated that OHA believes that none of the exceptions to the confidentiality rule, found in ORS 433.008(2),[1] require OHA to disclose the confidential data to you.

ORS 433.008(1) provides that "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 the Oregon Public Records Law, ORS 192.311 to 192.478. We have considered the application of ORS 433.008 to similar requests to OHA for information about disease outbreaks.[2] In each case, we concluded that where OHA gathers information in the course of its investigation into the outbreak, ORS 433.008(1) makes the data confidential and expressly exempt from public disclosure. *Id*.

Your petition explains that you are seeking aggregated data and summarized findings and that you are not requesting any information that would compromise the privacy of any patient. We have, however, consistently read the statute to apply expansively to *any* information, regardless of its nature, obtained by OHA in the course of an investigation into a disease outbreak. *See* Public Records Order, Mar 24, 2020, Schmidt (citing Public Records Order, Nov 14, 2014, Terry). Thus, we have concluded that the application of the confidentiality rule does not depend upon whether disclosure will reveal the identities of individuals or sources of information. *Id*.

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[1] ORS 433.008(2) permits OHA to disclose information otherwise made confidential under ORS 433.088(1)(a) to:

1. State, local or federal agencies authorized to receive the information under state or federal law;
2. Health care providers if necessary for the evaluation or treatment of a reportable disease;
3. 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;
4. A person who may have been exposed to a communicable disease;
5. 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
6. The individual who is the subject of the information or the legal representative of that individual.

[2] *See* Public Records Order, Apr 21, 2021, Roberts; Public Records Order, Dec 2, 2020, Hangartner; Public Records Order, Aug 26, 2020, Carvahlo, and Public Records Order, Mar 24, 2020, Schmidt.

Consistent with our previous interpretation of the scope of ORS 433.008, we conclude that OHA was permitted to withhold the requested records from you. Because the information you seek was obtained by OHA in the course of its investigation, we conclude that it is confidential and expressly exempt from disclosure under the Public Records Law. And because none of the exceptions listed in ORS 433.008(2) expressly require OHA to disclose the confidential data to you, we must respectfully deny your petition.

Sincerely,

LISA M. UDLAND
Deputy Attorney General

DEP:pjn
c via e-mail only: Jeanne Windham, Public Records and Internal Litigation Process Coordinator, Oregon Health Authority