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November 19, 2026

VIA E-MAIL ONLY: LMHughes@oregonian.com

Lillian Hughes
The Oregonian
LMHughes@oregonian.com

Re: Petition for Public Records Disclosure Order
Oregon State Police
DOJ File No.: 257001-GA0224-26

Dear Ms. Hughes:

This letter is the Attorney General's response to your petition for disclosure under the Oregon Public Records Law, ORS 192.311 to 192.478. Your petition asks the Attorney General to order the Oregon State Police (OSP) to disclose a recorded interview. For the reasons that follow, we respectfully grant the 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 inspect or to receive a copy of a public record of a state agency may petition the Attorney General to review the record and determine if it may be withheld. ORS 192.411(1). The agency carries the burden to sustain its actions. ORS 192.411(1).

Your petition stems from a request concerning an OSP investigation into the death of an Oregon State Hospital (OSH) patient, Kenneth Hass. Specifically, you seek the recording of an interview of Mr. Hass's psychiatrist, Dr. James Peykanu, conducted by an OSP detective. OSP withheld the requested record citing ORS 192.355(2)(a) (the personal privacy exemption) and ORS 192.355(10) (the transferred records exemption).

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Your petition explains that the requested interview concerns a matter of public interest because it will advance public understanding of the care provided to vulnerable patients at the Oregon State Hospital and of the circumstances surrounding Mr. Hass's death. You note that the privacy interests underlying the asserted exemptions are substantially diminished in this case. Specifically, you contend that significant information regarding Kenneth Hass's medical condition, treatment, and death has already entered the public domain through litigation and public reporting. Mr. Hass's sister, Sierra Hass, who formerly served as his guardian and now serves as the personal representative of his estate, has filed a wrongful-death action discussing many of these matters. She has also voluntarily provided medical records and other information concerning Mr. Hass to *The Oregonian*, which has been publicly reported, and she supports disclosure of the requested interview to *The Oregonian*.

OSP responded by explaining that the record at issue contains highly sensitive medical information and that disclosure of that information would constitute an unreasonable invasion of Mr. Hass's privacy. Therefore, OSP contends that the record contains private information protected by ORS 192.355(2)(a).

OSP also contends that the recording is exempt under ORS 192.355(10) as a transferred record of OSH. ORS 192.355(10) exempts information "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." In support of this exemption, OSP provided correspondence from OSH's Legal Affairs Director requesting that OSP withhold the record because "OSH takes the position the recording of Dr. Peykanu's interview falls under HIPAA as protected information pursuant to federal law and ORS 179.505, making it confidential."[1]

We first address OSP's position that the recording is exempt under ORS 192.355(2)(a), which exempts "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 * * *." We listened to the interview, and it contains information concerning Mr. Hass's symptoms, diagnosis, and course of treatment. Ordinarily, this type of personal medical information is regarded as highly private and protected by the exemption.[2] In this instance, however, much of the information included in the interview has been disclosed in a publicly available legal filing and in published reports. Additionally, the personal privacy exemption is designed to protect the individual, not the agency. In this instance, the personal representative of Mr. Hass has specifically indicated that she would like the recording released to *The Oregonian.* Under these circumstances, we conclude that release of the interview would not constitute an unreasonable invasion of privacy, and the information is therefore not exempt under ORS 192.355(2)(a)

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[1] In its response, OSP also stated that ORS 192.355(4) (information submitted in confidence) may apply. Because OSP has not articulated how the elements of that exemption are met in this instance, we conclude that the agency has not sustained its burden to support the application of the exemption.

[2] *See Attorney General's Public Records and Meetings Manual* at 81 (2024).

We next address OSP's reliance on ORS 192.355(10), which exempts certain records or information furnished by one public body to another "if the considerations originally giving rise to the confidential or exempt nature of the public records or information remain applicable." This exemption does not automatically shield a record from disclosure merely because the originating agency could have withheld it. Rather, the exemption requires the public body to demonstrate that the considerations that originally rendered the information confidential or exempt continue to apply at the time of the records request. As with any claimed exemption, OSP bears the burden of sustaining its denial. ORS 192.411(1). Here, OSP has provided no substantive analysis explaining why the confidentiality interests asserted by OSH remain applicable to the requested interview. Instead, OSP relies primarily on a brief email from OSH asserting that the recording "falls under HIPAA" and is therefore confidential. Although that correspondence identifies why OSH believes the information would be protected in its own possession, it does not explain why the considerations supporting that protection remain applicable under the circumstances presented by this petition.

HIPAA safeguards the confidentiality of a patient's protected health information. Here, however, the personal representative of Mr. Hass's estate has expressly indicated that she supports disclosure of the requested interview to *The Oregonian*.[3] In addition, substantial information concerning Mr. Hass's medical condition, treatment, and death has already been publicly disclosed through litigation and news reporting. Under these unique circumstances, we conclude that the privacy considerations underlying HIPAA do not justify the continued withholding of the requested interview by OSP.

For these reasons, we order OSP to disclose the recorded interview. If OSP elects not to comply with this order, it has seven days to announce its intention to seek judicial review. *See* ORS 192.407(3) and 192.411(2).

Sincerely,

BENJAMIN GUTMAN
Deputy Attorney General

DEP:pjn
c via e-mail only: Laura Heathcock (OSP)

[3] As reported by *The Oregonian,* Ms. Hass stated that "[i]t's really hard and some people believe he wouldn't want his story to be public, but he would want 100% to make a difference."