

**CHAPTER 411  
DIVISION 5**

**PRIVACY OF PROTECTED INFORMATION**

[ED. NOTE: Seniors and People with Disabilities also will adhere to the Privacy of Protected Information Rules in OAR chapter 410, division 014.]

**411-005-0000 Confidential Records**

*(Repealed 7/1/2006)*

**411-005-0005 General Statement on Release of Information**

*(Repealed 7/1/2006)*

**411-005-0010 Disclosure of Information to the Client or Third Party**

*(Amended 7/1/2006)*

This rule applies to programs covered by chapter 411 of the Oregon Administrative Rules.

(1) Except as provided in section (2) of this rule and OAR 410-014-0030:

(a) The Department must make information in a client case record or record of service as defined in 411-320-0070 available to the client or anyone authorized by the client.

(b) Information that was obtained from a third party, becomes part of the case record of the client and is available to the client.

(c) Case record information may be requested by the client and released to the client or third party by telephone. The client must satisfy the local office as to their identity. A verbal authorization from the client is permitted to allow verbal release of case record information specified by the client to third parties. Each authorization is valid for a period of 30 days from the date the authorization is given verbally, unless a shorter time period is given.

(2) The Department may withhold from clients information that was obtained from a confidential informant if all of the following are true:

- (a) The information was submitted to the Department in confidence.
- (b) The information was not required by law to be submitted.
- (c) The information can reasonably be considered confidential.
- (d) The Department has obliged itself not to disclose the information.
- (e) The information is not a part of the case record.
- (f) The public interest would suffer if the information were disclosed.

(3) An employee designated by the Department or local office must be present while the client or the authorized third party has access to the case record. No one except a Department or local office employee is allowed to remove any material from the case record.

(4) Except for HIV information and the provisions in 411-005-0045, client information may be exchanged with other governmental or private, non-profit agencies if necessary to assist the individual in accessing other governmental or private, non-profit services that will benefit or serve the individual. Reasonable efforts must be made to obtain authorization in advance.

(5) Disclosure of individually identifying information concerning clients without their authorization is allowed for purposes outlined in 410-014-0020 and for purposes directly connected with:

- (a) Any investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of an assistance or service program; or
- (b) The administration of any other federal or federally assisted program which provides assistance in cash, in-kind or services directly to individuals on the basis of need.

(6) The Department will disclose only the minimum amount of information necessary for the purpose. The "minimum necessary" standard is described in OAR 410-014-0040.

Stat. Auth: ORS 410.140, 410.150, 411.060

Stats. Implemented: ORS 410.140, 410.150, 411.060, 411.300, & 411.320

**411-005-0015 Release of Information to a Law Enforcement Officer**  
*(Amended 7/1/2006)*

For any program covered by chapter 411 of the Oregon Administrative Rules:

(1) The Department may provide client information only to a law enforcement officer in any of the following situations:

(a) The law enforcement officer is involved in carrying out public assistance laws, or any investigation, criminal or civil proceedings connected with administering the Department's benefit programs.

(b) The disclosure is required or authorized by statute or administrative rule.

(2) The Department may give a client's current address, Social Security number, and photo to a law enforcement officer if the law enforcement officer makes the request in the course of official duty, supplies the client's name, and states that the client --

(a) Is a fugitive felon or is violating parole or probation; or

(b) Has information that is necessary for the officer to conduct official duties of the officer, and the location or apprehension of the client is within the officer's official duties.

(3) The Department will notify the Oregon State Police with the name, address, and other requested identifying information of an client individual who receives services, benefits, or assistance, if the Department is aware of a pending warrant for the arrest of a client.

Stat. Auth: ORS 410.140, 410.150  
Stats. Implemented: ORS 410.140, 410.150, 659A.212

**411-005-0020 Release of Information to a State or Federal Legislative Body or Committee**  
*(Amended 7/1/2006)*

(1) The Department may not disclose any information identifying any client by name or address to any committee, advisory board, legislative body, or individual member of such committee, board, or body without written consent of the client.

(2) The Department may disclose the minimum necessary information about a client to a public official who has been asked by the client to review an action taken by the Department.

Stat. Auth: ORS 183 & ORS 410  
Stats. Implemented: ORS 410.140 & 410.150

**411-005-0025 Release of Information to Providers of Medical Services**  
*(Repealed 7/1/2006)*

**411-005-0030 Unusual Requests for Release of Information**  
*(Repealed 7/1/2006)*

**411-005-0035 Release of Information in Judicial Proceedings**  
*(Amended 7/1/2006)*

(1) Client specific information must not be divulged in any judicial proceeding unless:

(a) The proceeding is directly connected with administration of public assistance or service under chapter 411 of the Oregon Administrative Rules; or

(b) The client has given written authorization for release of specific information at the judicial proceeding; or

(c) A judge orders the release of the information.

(2) Except in the presence of one of these three conditions, no information will be released in any form during any stage of a judicial proceeding either voluntarily or as the result of a subpoena.

(3) When appearing before the court in a judicial proceeding where the proceeding are not directly connected with administering the programs covered by chapter 461 of the Oregon Administrative Rules and there is no written client authorization that permit the release of information, a Department employee provides the presiding judge with copies of the state statutes relating to confidentiality of client records (such as ORS 411.117, 411.320, and 418.130). The employee requests the court's guidance about testifying under the statutes.

Stat. Auth: ORS 183 & ORS 410  
Stats. Implemented: ORS 410.150

**411-005-0040 Release of Information in Non-Judicial Proceedings**  
*(Repealed 7/1/2006)*

**411-005-0045 Release of Alcohol and Drug and Mental Health Reports**  
*(Amended 7/1/2006)*

(1) Unauthorized use, disclosure and redisclosure of alcohol and drug treatment information and mental health information is prohibited.

(2) A client has the right to restrict to what entity or person and for what purpose treatment information may be disclosed.

(3) The client's right to limit use and disclosure of alcohol and drug and mental health information must be communicated to the client.

Stat. Auth: ORS 183 & ORS 410, 42 CFR part 2  
Stats. Implemented: ORS 410.140 & 410.150, 179.505

**411-005-0050 Release of Information Received From Another Agency**  
*(Repealed 7/1/2006)*

**411-005-0055 Service Providers**  
*(Repealed 7/1/2006)*

**411-005-0060 Alleged Elderly Abuse (ORS 410.610 – 410.990)**  
*(Repealed 7/1/2006)*

**411-005-0065 Alleged Abuse in SNFs and ICFs**  
*(Repealed 7/1/2006)*

**411-005-0100 Fees for Public Records**  
*(Adopted 7/1/2006)*

(1) The cost of providing a public record, as defined in ORS 192.410(4), is determined by the following factors:

- (a) Cost of reproducing the record.
- (b) Third-class postage at the prevailing U.S. postal rate.
- (c) A reasonable charge for handling the record.
- (d) Staff time needed to research and reproduce the record.
- (e) Computer systems costs, if necessary, to produce the record.

(2) The cost of furnishing a public record may be waived in whole or in part if charging a fee would be counter to the effective administration of the Department's statutes or if it is determined that the waiver or reduction of fees is in the public interest because making the record available benefits the general public.

(3) Notwithstanding the above--

(a) A client, an authorized representative (as defined at OAR 461-115-0090), or a personal representative (as defined at OAR 410-014-0000(32), including an attorney who represents the client on a matter before the Department) may request a copy of information from the client filecase record at no cost once every 12 months. If the client, authorized representative, or personal representative requests another copy of the same information already provided more frequently than once every 12 months, the local office may impose a reasonable, cost based fee.

(b) If an authorized third party who is not an authorized representative or personal representative requests client records, fees may be assessed for accessing stored records, extracting filed matter, duplication of records, or other costs necessary to releasing requested information.

(c) A local office may establish additional, reasonable fees to cover extraordinary costs of duplicating records, making extensive searches, or preparing written summaries of records.

(d) At the option of the local office, fee assessment may be waived.

Stat. Auth.: ORS 410.140

Stats. Implemented: ORS 192.410