

Confidentiality Statement

*To a judge, before testifying, read the **first and last** paragraph and any of the other paragraphs that apply to the case:*

“Your honor, state and federal law prohibits me from disclosing certain client records and testifying about information contained in those records unless certain conditions are met. Unless the client has provided authorization for release of their information, ORS 410.150 and 411.320 provide that these DHS records are confidential and privileged in any judicial proceeding not directly connected to the administration of public assistance programs, including *[insert local office name]*.”

Note: If the APS records contain or you have personal knowledge that you will disclose on information listed below, then include the relevant paragraph in your reading of the statement.

☐ Medicaid: “In addition, Federal law governing these programs (such as, 42 U.S.C. 1396a(a)(7) and regulations (42 CFR 431.300 to 431.307 applicable to Medicaid) require DHS to keep all information related to client benefits under [insert program] confidential.”

☐ APS records: “In addition, DHS abuse investigation records are confidential under ORS 124.085, 124.090, 430.763, 441.650 and 441.671.”

☐ HIV: “Furthermore, if the records contain any HIV information, that information is confidential under ORS 433.045.”

☐ Drug and Alcohol: “Furthermore, if the records contain information pertaining to drug and alcohol treatment information, that information is confidential under 42 CFR Part 2 and 42 CFR 2.64 requires the court to make certain findings before ordering the records to be disclosed.”

☐ Records restricting re-disclosure: “In addition there are records for which I do not have authority to re-disclose to a third party.”

□ HIPAA: "In addition to these laws, recent federal privacy laws relating to client health information under the Health Insurance Portability and Accountability Act (HIPAA) (45 CFR part 164.512(e)), prohibit the release of a person's protected health information in a judicial proceeding on the basis of a subpoena without the person's authorization for disclosure unless certain procedures are met. These include notification by the person issuing the subpoena to the person whose records are being subpoenaed or entry of a qualified protective order governing the release of the information. Failure to comply with these requirements could result in federal criminal or civil liability. "

Note: if there are other specific federal or state confidentiality statutes that are applicable to the program, please provide that information to the court at this time.

In conclusion, it is the agency's position that compliance with the subpoena at this time would violate both federal and state law. With all due respect, I cannot disclose the requested records or provide testimony concerning the information contained in those records unless the person who is the subject of the records expressly authorizes the disclosure for this purpose, or you order me to do so."

You should then follow the direction of the judge.