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October 15, 1998

Jason Coutts
4360 Shinglehouse St.
Coos Bay, OR 97420

Dear Mr. Coutts:

This letter is the Attorney General's order on your petition for disclosure of records under the Oregon Public Records Law, ORS 192.410 to 192.505. Your petition, which we received on October 9, 1998, asks the Attorney General to direct the Oregon Veterinary Medical Examining Board (OVMEB) to make available to you copies of records pertaining to the investigation by the OVMEB of abuse of animals by euthanasia at the Coos County Animal Shelter by Animal Control Officer Jessica Bentley. Ms. Bentley is a Certified Euthanasia Technician who is subject to the jurisdiction of the OVMEB. ORS 686.510; OAR chapter 875, division 20. As discussed below, we respectfully deny your petition because you did not follow the procedure established by law for petitions relating to health professional regulatory boards.

If a health professional regulatory board denies a request for disclosure of any of its records, the requestor may petition the Attorney General for review of the board's denial. Either on or before the date the petition is filed with the Attorney General, the requestor must also send a copy of the petition to the board. ORS 192.450(4). Within 48 hours, the board must send a copy of the petition to the licensee who is the subject of any record for which disclosure is sought and a notice stating that the licensee has the right to file a written response to the petition to the Attorney General. The licensee then has seven days in which to file a written response. If the licensee files a response, the Attorney General must send a copy of the response to the original petitioner. *Id.*

After this process has been followed, the Attorney General must issue an order granting or denying the petition within 15 days after receipt of the petition. The Attorney General may grant the petition only if the petitioner demonstrates, by clear and convincing evidence, that the public interest in disclosure outweighs other interest in nondisclosure, including but not limited

to the public interest in nondisclosure. ORS 192.450(5).

In your case, the OVMEB has informed us that you did not provide it with a copy of your petition to the Attorney General. Consequently, the licensee has not been notified of the petition or given the opportunity to respond, as required by law. For this reason, we are unable to consider the merits of your petition.

We enclose for your information and convenience copies of ORS 192.450, 676.175 and 686.135.[1/] If you still wish to petition the Attorney General for review of the board's determination, you may do so by following the procedures described in ORS 192.450(4). In order to prevail, you also must demonstrate by clear and convincing evidence that the public interest in disclosing this information outweighs any other interest in nondisclosure. ORS 192.450(5).

Sincerely,

DAVID SCHUMAN
Deputy Attorney General

AGS00864
Enclosures
c: Lori V. Makinen, Executive Officer
Veterinary Medical Examining Board
800 NE Oregon St., Suite 407
Portland, OR 97232

[1/] Health professional regulatory boards, including the OVMEB, generally are prohibited by law from disclosing information they obtain as part of an investigation of any licensee. ORS 676.175(1), 686.135(3). Under certain circumstances, however, disclosure of this information is required. ORS 676.175(2) requires disclosure when two conditions are met: 1) the board votes not to issue a notice of intent to impose a disciplinary sanction; and 2) the person requesting the information "demonstrates by clear and convincing evidence that the public interest in disclosure outweighs other interests in nondisclosure, including but not limited to the public interest in nondisclosure." ORS 676.175(2).