THEODORE R. KULONGOSKI
ATTORNEY GENERAL

THOMAS A. BALMER
DEPUTY ATTORNEY GENERAL

DEPARTMENT OF JUSTICE
1162 Court Street NE
Justice Building
Salem, Oregon 97310
Telephone: (503) 378-4400
TDD: (503) 378-5938

May 10, 1994

Carolyn K. Sampson
5640 NE Sandycrest Terrace #3
Portland, OR 97213

Re: Petition for Public Records Disclosure Order:
Dammasch State Hospital Records

Dear Ms. Sampson:

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 May 3, 1994, asks the Attorney General to direct Dammasch State Hospital (Dammasch) to make available to you your deceased mother's medical records from Dammasch. For the reasons that follow, we respectfully deny your petition.

The Public Records Law confers a right to inspect any public records of public body in Oregon, subject to certain exemptions and limitations. See ORS 192.420. Although medical records of deceased patient may be exempt from disclosure under ORS 192.502(2) (information of a personal nature) and ORS 192.502(8) (physician/patient or psychotherapist/patient privilege), the Public Records Law provides that notwithstanding these exemptions, public records more than 25 years old "shall be available for inspection." ORS 192.495.

Marcia Bell, Medical Records Director at Dammasch, informs us that the records you seek are more than 25 years old[1/] and that Dammasch will make those records available to you. Please contact Ms. Bell at (503) 682-4607 to arrange for disclosure of your mother's records to you.[2/]

Because Dammasch has agreed to make the requested records available to you, we deny your petition as moot.

Sincerely,

Elizabeth S. Harchenko

ELIZABETH S. HARCHENKO
Special Counsel to the Attorney General

ESH:krg:JAA0117E

cc: Marcia Bell
Medical Records Director
Dammasch State Hospital

[1/] In your petition, you state that your understanding of the law is that your mother must be deceased 25 years before the records can be released. That understanding is incorrect. The *records* that are sought must be more than 25 years old.

[2/] The agency may charge you a fee to reimburse it for its actual cost in making the records available. See ORS 192.440(3).