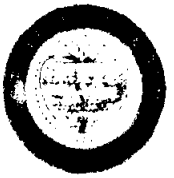
DAVE FROHNMAYER
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DEPARTMENT OF JUSTICE
Justice Building
Salem, Oregon 97310
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March 13, 1990

Steve Baldwin
400 South Park Building
101 East Broadway
Eugene, OR 97401-3114

Re: **Petition for Public Records Disclosure Order; Oregon Health Sciences University Records**

Dear Mr. Baldwin:

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 March 12, 1990, asks the Attorney General to order the Oregon Health Sciences University (OHSU) to disclose various records relating to OHSU requests for proposals concerning home parenteral care in 1986 and 1989. Your petition is on behalf of Home Parenteral Care, Inc. (HPC), the president of which, Richard Reedal, R. Ph., had sought these records through a February 21 request. For the reasons that follow, your petition was premature.

Your petition proceeds on the assumption that OHSU's delay in responding to the public records request amounted to a constructive denial, thus permitting Attorney General review under ORS 192.450(1). The circumstances here do not warrant that assumption. We have learned that, before we received your petition, OHSU had almost completed preparing its response to your client's request. Shortly after your petition was filed, OHSU sent a letter to your client, dated March 12, 1990, stating that it would allow Mr. Reedal access to some requested records but not to others. Thus, OHSU has not in fact denied your client's request through inaction, and we decline to rule that the passage of time alone constituted a constructive denial.

Because there had been no denial at the time your petition was filed, the Attorney General lacks authority to review your petition on the merits. To the extent that OHSU now has actually refused to disclose certain records to your client, you are free to file a new petition.

Sincerely,

PAMELA L. ABERNETHY
Special Counsel to the
Attorney General

PLA:JMM:RDW/5014Y
cc: Anya Averill
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