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Justice Building
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Telephone: (503) 378-4400

May 3, 1991

Patrick Dooris
KGW News
1501 SW Jefferson Street
Portland, OR 97201

Re: **Petition for Public Records Disclosure Order; Oregon State Hospital Records**

Dear Mr. Dooris:

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 April 26, 1991, asks the Attorney General to direct the Mental Health and Developmental Disability Services Division of the Department of Human Resources to make available for inspection records relating to the escape risk of Michael P. McCormack and to the appropriateness of his supervision. For the reasons that follow, we deny your petition.

The Public Records Law confers a right to inspect any public records of a public body in Oregon, subject to certain exemptions and limitations. See ORS 192.420. In this context the relevant provisions are ORS 41.675, 179.505(2) and 192.502(8).

ORS 192.502(8) exempts from disclosure "[p]ublic records or information the disclosure of which is prohibited or restricted or otherwise made confidential or privileged under Oregon law." This exemption thus incorporates into the Public Records Law provisions outside of that law prohibiting disclosure of public records or making such records privileged.

Most of the records covered by your request are medical records addressing the assessment, diagnosis and treatment of Mr. McCormack. ORS 179.505(2) prohibits disclosure of those records. That statute provides in relevant part:

> [C]ase histories, clinical records, X-rays, treatment charts, progress reports and other similar written accounts of the patients of any provider * * * shall not be subject to inspection.

Oregon State Hospital is a "provider" as ORS 179.505(1) defines that term. ORS 179.505(2), therefore, bars the hospital from disclosing those records. ORS 192.502(8) incorporates that prohibition into the Public Records Law.

Oregon State Hospital officials inform us that the only other document fitting your request is a risk management assessment report regarding Mr. McCormack. This report was prepared as a part of the medical staff quality review process. Hospital management uses that report for quality assurance purposes. As quality assurance information, this report is privileged under ORS 41.675(2). Therefore, ORS 192.502(8) exempts that record from disclosure. See Public Records Order, April 22, 1988, Joondeph.

For these reasons, we respectfully deny your petition.

Sincerely,

PAMELA L. ABERNETHY
Special Counsel to the
Attorney General

PLA:RDW:KG
bjs/1057G

c: Richard Lippincott, M.D.
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