DAVE FROHNMAYER
ATTORNEY GENERAL

JACK L. LANDAU
DEPUTY ATTORNEY GENERAL

DEPARTMENT OF JUSTICE
Justice Building
Salem, Oregon 97310
Telephone: (503) 378-4400

RECEIVED
JUN 10 1991
ATTORNEY GENERAL
SALEM, OREGON

June 10, 1991

Marilyn E. Litzenberger
Bullivant, Houser, Bailey,
Pendergrass & Hoffman
1400 Pacwest Center
1211 S.W. Fifth Avenue
Portland, OR 97204-3797

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

Dear Ms. Litzenberger:

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 June 3, 1991, asks the Attorney General to order the Health Division to disclose "documents tracing lots of L-Tryptophan pursuant to an article written by Dr. Fleming and others under the auspices of the Department of Human Resources." For the reasons that follow, we respectfully deny your petition.

When you asked Dr. Fleming for those records, he informed you by letter of May 8, 1991, that the Health Division has no such records in its custody. We have independently spoken with Dr. Fleming, who reconfirmed that fact. Because the Health Division has no records that satisfy your request, there is no basis upon which the Attorney General can order the agency to disclose such records. Accordingly, we must deny your petition.

Sincerely,

Richard D. Wiseman
FOR
PAMELA L. ABERNETHY
Special Counsel to the
Attorney General

PLA:RWK/1709G
c: David W. Fleming, M.D.
Deputy State Epidemiologist
Office of Epidemiology & Health Statistics
1400 S.W. 5th Avenue
Portland, OR 97201