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March 22, 1999

Priscilla M. Taylor
Attorney at Law
4248 Galewood Street
Lake Oswego, Oregon 97035

Dear Ms. Taylor:

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 5, 1999, asks the Attorney General to direct the Board of Medical Examiners (board) to produce copies of information identified in the petition pertaining to John M. Puskas, M.D. (licensee), a physician licensed to practice medicine in the State of Oregon. For the reasons discussed below, we respectfully deny your petition as premature.

We are informed by Vickie Wilson, an investigator for the Board of Medical Examiners, that the records you seek were obtained by the board as part of an investigation of the licensee. According to Ms. Wilson, in the course of a telephone conversation with her in February 1999, you stated that you intended to subpoena from Dr. James Eastman records that the board had provided to Dr. Eastman as he was preparing an assessment of Dr. Puskas' mental status. Ms. Wilson informs us that she did not understand your statement to be a request to the board for its records and that she was not denying, on behalf of the board, a public records request when she expressed to you her opinion that such records are not usually released by the board as they are considered to be investigative information.

Although at the time, Ms. Wilson did not construe your telephone conversation with her as a request for records from the board, she now realizes from your petition to this office that you understood you had made a request to the board for records under the Oregon Public Records Law and she has forwarded this information to the board's records custodian. Kathleen Haley, Executive Director of the board, informs us that she will be responding to your records request as the board's records custodian.

A public body has a "reasonable" time to respond to a records request. *See* ORS 192.430; OREGON ATTORNEY GENERAL'S PUBLIC RECORDS AND MEETINGS MANUAL 6 (1997). Because the board is still in the process of responding to your request for disclosure of records, it is premature for us to consider any statements by Ms. Wilson as a denial of your request. We therefore deny your petition as premature.[1/]

Sincerely,

DAVID SCHUMAN
Deputy Attorney General

AGS01811
cc: Vickie Wilson, Investigator, Board of Medical Examiners
Kathleen Haley, Executive Director, Board of Medical Examiners

[1/] If a health regulatory board does deny a request for disclosure 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, however, the requestor must also send a copy of the petition to the board. ORS 192.450(4).