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March 9, 1988

John M. Wight
Attorney at Law
Suite 1111 Wilcox Building
506 SW Sixth Avenue
Portland, Oregon 97204-1556

Re: Request for Public Records Disclosure Order
Oregon Board of Dentistry

Dear Mr. Wight:

This letter responds to your March 1, 1988 petition for a public records disclosure order of the Attorney General. Your petition asks the Attorney General to order the Oregon Board of Dentistry to make the following records available for inspection:

> "1. Recording of Executive Session on January 22, 1988.
>
> "2. All minutes of Executive Session on January 22, 1988."

Your cover letter, filed with your petition, states that:

> "My client, Dale Grier, and I were present at the Oregon Board of Dentistry meeting on January 22, 1988, and after a hearing involving Dr. Grier, the Board indicated that it would go into Executive Session and asked Dr. Grier and me to leave. I noted that no basis for an

> Executive Session had been announced, and requested that we be allowed to remain. That request was denied. A tape recording of that meeting was made by the Oregon Board of Dentistry, and I am requesting access to that tape recording, plus access to any minutes of that Executive Session." (Emphasis added.)

This office received your petition on March 2, 1988. You allowed this office an extension of time from March 9 to March 11, 1988, in order that I could review a transcript of an audio record of a January 22, 1988 executive session of the Board of Dentistry. I sought the extension when it was reported to me that the transcript could not be compiled until the close of business on March 7, 1988. It now appears that an extension of time is not needed.

In light of your cover letter, I read your petition as seeking compelled disclosure of records of executive session proceedings from which you were excluded. However, the board reports, through its contact lawyer in our office, that the board has no tape recording nor any minutes of an executive session that you were not allowed to attend on January 22, 1988. The board did tape record and has transcribed an executive session, conducted in your presence, on preliminary matters in a contested case hearing involving you and your client, Dr. Grier. The board also recorded and has transcribed an ensuing open session at which the board, in your presence, voted to dismiss a complaint against your client. And board staff has prepared minutes of these preliminary and open session proceedings, although those minutes have not been approved by the board.

I have reviewed the transcripts and minutes furnished to me by the board. At the point where you and you client were excluded from board proceedings, the transcript reads: "EXECUTIVE SESSION NOT RECORDED." The draft written minutes contain no account of board proceedings from which you and your client were excluded, other than the statement: "The Board went into executive session (Tape 2-105)." The board reports, through contact counsel, that there are no minutes of board proceedings from which you were excluded.

In short, the Board of Dentistry does not have records of the kind to which you refer in your petition and cover letter. Your petition therefore is denied. I, however, am releasing to you the enclosed copies of the transcripts and minutes which

the board did prepare with regard to January 22, 1988 matters regarding your client. Also, pursuant to your oral request of March 8, 1988, I asked the board's contact attorney if he had any notes of the proceedings that were closed to you, and he reports that he has no such notes. If you have any further questions, please contact me.

Sincerely,

James E Mountain Jr

JAMES E. MOUNTAIN, JR.
Special Counsel to the
Attorney General

JEM:cm
Enclosures
cc: Jane Edwards, Executive Director, Oregon Board of Dentistry
Frank Mussell, Assistant Attorney General
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