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January 30, 1998

John Praggastis
225 SE 44th Avenue
Portland, OR 97215-1004

Re: *Petition for Public Records Disclosure Order: Health Division Emergency Medical Services Section*

Dear Mr. Praggastis:

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 January 23, 1998, asks the Attorney General to direct the Emergency Medical Services Section of the Oregon Health Division (EMS) to produce certain public records regarding EMS policies, guidelines, procedures and formulas, as well as any current information routinely provided to all Emergency Medical Technician-Paramedics regarding continuing education courses and course content. In addition, you request a certified copy of list(s) used to select audit candidates, including any list used to select you for audit. We respectfully deny your petition as premature.

The Attorney General may order a state agency to disclose records only when the agency has denied a request for the records. *See* ORS 192.450(1). Gregg Lander, Section Manager of EMS, informs us that EMS is processing your request and that you should receive a response from them shortly.

The Public Records Law allows a public body a "reasonable" time to respond to a records request. What is "reasonable" will depend on many factors, including the volume of the records requested, the staff available to respond to the records request and the difficulty in determining whether any of the records are exempt from disclosure. The public records custodian acts reasonably even if the custodian does not comply with timelines imposed by

the requestor. OREGON ATTORNEY GENERAL'S PUBLIC RECORDS AND MEETINGS MANUAL at 6 (1995).

Here, you state that, on January 5, 1998, your request was hand delivered to the Emergency Medical Services Section, along with a certified check in the amount of fifty dollars to cover possible costs. Given the time that has elapsed, we do not find that there has been a constructive denial of your records request.

Absent a denial of a records request by a state agency, the Attorney General has no authority to order disclosure. Because EMS has not denied your request for records, your petition to this office is premature. *See Morse Bros. v. ODED*, 103 Or App 619, 798 P2d 719 (1990) (law clearly contemplates that agencies have the opportunity to review the requested records and to act on the request before the Attorney General can review the matter). Accordingly, we respectfully deny your petition.

Sincerely,

STEPHANIE STRIFFLER
Special Counsel to the
Attorney General

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