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May 25, 1988

Anthony Sowers
Half-Baked Enterprises
P.O. Box 910
Route 1, Box 148A
Halfway, Oregon 97834

Re: Petition for Public Records Disclosure Order
Oregon State Health Division

Dear Mr. Sowers:

This letter is the Attorney General's order on your Public Records Disclosure Law petition. Your petition, dated May 18, 1988, was received by this office on May 23, 1988. You ask the Attorney General to order the Health Division to disclose evaluation forms completed by the division, during its testing of your practical performance, as part of the Emergency Medical Technician (EMT-I) certification process. We respectfully deny your petition.

We have reviewed the records you wish to inspect. We find that the records constitute licensing examination data. We are informed by the Health Division that the examination will be reused by the division. We therefore conclude that records you wish to inspect are conditionally exempt from the public disclosure requirements of the Public Records Law, ORS 192.410 to 192.505.

The Public Records Law provides that the following public records are exempt from disclosure unless the public interest requires disclosure in the particular instance:

> "Test questions, scoring keys, and other data used to administer a licensing examination, employment, academic or other examination or testing procedure before the examination is

> given and if the examination is to be reused again. * * * *" ORS 192.501(4). (Emphasis added.)

ORS 192.501(4) further provides:

> " * * * Records establishing procedures for and instructing persons administering, grading or evaluating an examination or testing procedure are included in this exemption, to the extent that disclosure would create a risk that the result might be affected."

We have previously interpreted this exemption to mean that licensing, employment or other test information " * * * remains confidential for tests which will be reused." 44 Op Atty Gen ___ (1984); Attorney General's Public Records and Meetings Manual, I-5 (1985). Under the terms of ORS 192.501(4) as interpreted by this office, the test records you wish to inspect qualify for exemption from the general rule favoring public disclosure that is stated in ORS 192.420.

Moreover, we find no basis for concluding in this particular instance that the public interest in knowing how the Health Division tested your practical performance outweighs the public interest in protecting the integrity of tests used for licensing purposes. Accordingly, we deny your petition and decline your request to order the Health Division to disclose your examination data.

Respectfully submitted,

James E. Mountain Jr.

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

JEM:cm
cc: Nancy Clarke, Manager, Emergency Medical Services Section of Health Division
Leonard Pearlman, Assistant Attorney General
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