THEODORE R. KULONGOSKI
ATTORNEY GENERAL

THOMAS A. BALMER
DEPUTY ATTORNEY GENERAL

DEPARTMENT OF JUSTICE
1162 Court Street NE
Justice Building
Salem, Oregon 97310
Telephone: (503) 378-4400
TDD: (503) 378-5938

April 14, 1995

RECEIVED
APR 17 1995
GENERAL COUNSEL
DEPT. OF JUSTICE
SALEM, OREGON

Allen Goldman
Attorney at Law
1973 Garden Avenue
Eugene, OR 97403

Re: ***Petition for Public Records Disclosure Order: Driver and Motor Vehicle Services Division***

Dear Mr. Goldman:

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 by facsimile on April 10, 1995, and by mail on April 12, 1995, asks the Attorney General to direct Driver and Motor Vehicles Services (DMV) to make available for inspection and copying an unedited copy of the "Report of Disorders Affecting Consciousness Dated 11/24/94 Received by MVD 11/29/94" concerning your client, Cynthia Ann Adee. We respectfully deny your petition because the information you seek is exempt from disclosure.

The Public Records Law confers a right to inspect any public record of a public body in Oregon, subject to certain exceptions. ORS 192.420. The exception relevant here is ORS 192.502(8), which exempts from disclosure

> [p]ublic records or information the disclosure of which is prohibited or restricted or otherwise made confidential or privileged under Oregon law.

This exemption incorporates confidentiality statutes outside the Public Records Law. Here, we focus on one such confidentiality provision, ORS 807.710.

ORS 807.710(1) requires any person authorized by the state to diagnose and treat nervous system disorders to report immediately to the Health Division every person over age 14 who is diagnosed as having "a disorder characterized by momentary or prolonged lapses of consciousness or control that is, or may become, chronic." Under ORS 807.710(3), the State Health Officer must forward these reports to DMV, and those reports "are confidential."

Therefore, we conclude that DMV may withhold disclosure of the information you seek because it is exempt from disclosure under ORS 192.502(8), which incorporates the confidentiality provisions of ORS 807.710(2). Accordingly, we deny your petition to compel disclosure.

Sincerely,

Elizabeth S. Harchenko

ELIZABETH S. HARCHENKO
Special Counsel to the Attorney General

ESH:PBH:AV:clr/JAA017CA
c: Beth Humphreys
DMV Hearings Case Management Unit
License Control Services
1905 Lana Avenue, NE
Salem, OR 97314