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RECEIVED
APR 21 1995
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SALEM, OREGON

April 20, 1995

Patricia M. Hanley
P.O. Box 773
Pendleton, OR 97801

Re: Petition for Public Records Disclosure Order:
Eastern Oregon Psychiatric Center

Dear Ms. Hanley:

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 April 14, 1995, asks the Attorney General to direct the Eastern Oregon Psychiatric Center (EOTC) to make available the documentation that Linda Murgo, EOTC Personnel Manager, used to make her written decision regarding a complaint of unlawful discrimination at EOTC that you made to the Governor's Affirmative Action Office. For the reasons that follow, we respectfully deny your petition in part because some of the materials are exempt from disclosure as confidential communications from a lawyer to a client and in part because your petition is moot.

The Public Records Law confers a right to inspect any public records of a public body in Oregon, subject to certain exemptions and limitations. *See* ORS 192.420. If a public record contains exempt and nonexempt material, the public body must separate the materials and make the nonexempt material available for examination if it is "reasonably possible" to do so while preserving the confidentiality of the exempt material. ***Turner v. Reed***, 22 Or App 177, 186 n 8, 538 P2d 373 (1975).

1. Privileged Communications

ORS 192.502(8) provides that records that are privileged under Oregon law are exempt from disclosure. ORS 40.225 creates the lawyer-client privilege. This privilege is incorporated into the exemption from disclosure in ORS 192.502(8).

Under ORS 40.225, confidential client communications with a lawyer are privileged, and a client has the right to refuse to disclose certain confidential communications made for the purpose of facilitating the rendition of professional legal services.

The records that you request include notes made by Ms. Murgo of a conversation she had with Assistant Attorney General Josephine Hawthorne regarding Ms. Hawthorne's assessment of whether the investigation contained evidence of unlawful discrimination. The notes of this communication meet the requirements of ORS 40.225 and, therefore, are exempt from disclosure under ORS 192.502(8). Ms. Murgo later made a written memorandum to the file that described the advice of Assistant Attorney General Hawthorne, and this material is likewise exempt. Accordingly, your petition is denied to the extent that it seeks those records.

2. Mootness

With respect to the remainder of the records that you requested, Ms. Murgo informs us that EOTC will provide you with a copy of the records. The documents that contain lawyer-client confidential materials, discussed above, will have that material redacted. *See* ORS 192.505 (duty to separate exempt and nonexempt material). Accordingly, your petition is denied as moot with respect to the remainder of the records because they are being provided to you.

Sincerely,

Elizabeth S. Harchenko

ELIZABETH S. HARCHENKO
Special Counsel to the Attorney General

ESH:GMC:AV:clr/GMC0479.LET
c: Linda Murgo, Personnel Manager, Eastern Oregon Psychiatric Center