BEFORE THE MERIT EMPLOYEE RELATIONS BOARD
OF THE STATE OF DELAWARE

IN THE MATTER OF CHRISTOPHER S. YOUNG, Grievant, v. DEPARTMENT OF HEALTH AND SOCIAL SERVICES, Employer/Agency.	)	**DOCKET NO. 97-05-122** **ORDER ON MOTION TO QUASH SUBPOENA**

BEFORE Katy K. Woo, Chair, Robert Burns, Vice Chair, Dallas Green, Member, John Schmutz, Member, and Walter Bowers, Member, constituting the entire Merit Employee Relations Board (the "Board") pursuant to 29 Del. C. Section 5908(a).

AND NOW, this 18th day of September, 1997, before the Board is a request by the grievant, Christopher S. Young, for an administrative subpoena to compel the Department of Health and Social Services to produce certain documents from its files, and a motion by the Department to quash the subpoena. After hearing oral argument from both parties, the Board makes the following decision:

A. The relevant time period for the production of any documents is from January 16, 1996 until the date of termination of Mr. Young's employment in December 1996.

B. The obligation of the State of produce documents shall be limited by the restrictions under federal law against disclosure of records of patients receiving alcohol treatment, 42 U.S.C. Section 290dd-3.

C. With regard to the numbered paragraphs in Mr. Young's request for production of documents, the State agreed at oral argument to produce the documents responsive to No. 1 and

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No. 7. At oral argument, Mr. Young withdrew his request No. 6. The State also agreed to produce the information asked for in Nos. 2 and 3 in table or chart form.

D. The Board orders the State to produce documents in response to No. 4; to produce the memo from Judge Gebelein identified in No. 5; and to produce the grant application and federal response in No. 8. The remainder of request No. 5 is denied.

E. Request No. 9 is denied, without prejudice to the grievant to ask the Board to issue a subpoena duces tecum for the hearing on the merits in this case requiring the State to produce the Employee Performance Planning and Appraisal (EPPAs) for the following individuals: Amy Brooks, Bernadette Burgess, Karen Eason, John Dowling, Patricia Brooks, and Bonnie Byers.

F. Request No. 10 is denied.

IT IS ORDERED that the request for an administrative subpoena is granted in part and denied in part, subject to the conditions outlined In this order.

Katy K. Woo, Chair

Robert Burns, Vice Chair

Dallas Green, Member

John Schmutz, Member

Walter Bowers, Member

Mailing Date: October 30, 1997

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