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December 6, 2006

Sheri C. Browning
Attorney at Law
Keating, Jones, Hughes P.C
One S.W. Columbia, Suite 800
Portland, Oregon 97258-2095

Re: *Petition for Public Records Disclosure Order*
Oregon Department of Transportation, Driver and Motor Vehicle Services Division (DMV)

Dear Ms. Browning:

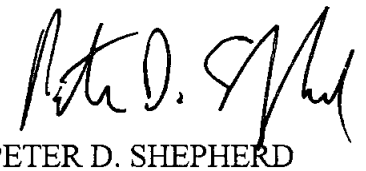
This letter is the Attorney General's order on your petition for disclosure of records under the Oregon Public Records Law, ORS 192.410 to 192.505. We received your petition on November 29, 2006. Your petition asks the Attorney General to direct DMV to provide a copy of a Mandatory Impairment Referral Form submitted to DMV by your client, Dr. Neil Dunitz, regarding Susan L. Kerley. For the following reasons, we respectfully deny your petition as moot.

The Public Records Law confers a right to inspect any public record of a public body in Oregon, subject to certain exemptions and limitations. *See* ORS 192.420. A custodian of public records must provide "proper and reasonable opportunities for inspection and examination." *See* ORS 192.430.

In its denial of your request, DMV relied in part on ORS 192.502(4), which under specified circumstances exempts from disclosure information voluntarily submitted in confidence to a public body. We have spoken to Deb Fraser, DMV Records Manager and she has determined that in denying your request DMV staff erred in viewing the referral form submitted by Dr. Dunitz as a *voluntary* referral rather than a *mandatory* referral under ORS 807.710. DMV has informed us that it will therefore provide a copy of this report to you in your capacity as the legal representative of Dr. Dunitz.

Because DMV has agreed to provide you a copy of the record you requested, we respectfully deny your petition as moot.

Sincerely,



PETER D. SHEPHERD
Deputy Attorney General

cc: Deborah Fraser, DMV Records Manager

AGS18876