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

July 25, 1995

John Henry Hingson III, PC
Attorney at Law
222 Promenade Building
421 High Street
Oregon City, OR 97045

Re: *Petition for Public Records Disclosure Order; Motor Vehicles Division Records*

Dear Mr. Hingson:

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 July 18, asks the Attorney General to direct the "Motor Vehicles Division" (the DMV, which is now the "Driver and Motor Vehicles Services Branch of the Oregon Department of Transportation") to disclose to you "all documents that caused the Motor Vehicles Division to generate a conclusion that my client, Nicholas T. Rome (D.O.B. 9/23/68) suffers from acute alcoholism." For the reasons that follow, we respectfully deny your petition.

In the course of its administration of the motor vehicle laws, DMV may be called upon to determine whether "a person may be ineligible for a license because the person has a history of any physical or mental disease or disability that may impair the person's ability to safely operate a motor vehicle." ORS 807.090(1); *see also* ORS 807.070(4). To help the DMV fulfill its duties in this regard, ORS 807.710 requires that all persons authorized by the State of Oregon to diagnose and treat nervous system disorders must immediately report to the Health Division every person, over the age of 14, diagnosed as having "a disorder characterized by momentary or prolonged lapses of consciousness or control that is, or may become, chronic." That statute goes on to require that a copy of each such report shall be forwarded to the DMV and specifically provides that the "reports are confidential." ORS 807.710(3).

"[P]ublic records or information the disclosure of which is prohibited or restricted or otherwise made confidential or privileged under Oregon Law" are exempt from disclosure under the Oregon Public Records Law. ORS 192.502(8). We have examined the record requested and conclude that in this case it is confidential under Oregon Law (ORS 807.710) and is, thus, exempt from disclosure under ORS 192.502(8).

Accordingly, we respectfully deny your petition.

Sincerely,

THOMAS A. BALMER
Deputy Attorney General

TAB:PBH:cfs/JGG0BFE8
c: Beth Humphreys, Manager
Driver Safety Case Management
Driver and Motor Vehicle Services
1905 Lana Avenue, NE
Salem, OR 97314