

**OPINION
62-152**

February 23, 1962 (OPINION)

MOTOR VEHICLES

RE: Implied Consent Law - Confidential Information

This office acknowledges receipt of your letter of February 19, 1962, in which you ask for our opinion relative to the interpretation of section 39-20-02 of the North Dakota Century Code. You are concerned with the last sentence of this section which reads as follows:

. . . . Upon the request of the person who is tested, full information concerning the test or tests taken at the direction of the law enforcement officer shall be made available to him."

You state that the physicians in Jamestown who administer the test feel that the results of the test are confidential information which are inviolate because of the physician-patient relationship. You further state that the physicians there in the hospitals feel that they may be subject to liability in the event they release the results of the blood alcohol test to the law enforcement officer. You indicate that the medical people take the position that the word "him" refers to the law enforcement officer.

It is our opinion that the word "him" refers to the person tested. Therefore, reading the last sentence in context with rest of the section, we feel that the person tested is entitled to know the result of the test, even though the person tested has been unable or unwilling to obtain the tests provided for in the preceding portions of this section.

It seems obvious to us that the intent of this entire chapter is to lend assistance to the enforcement of laws dealing with the conduct of drivers of vehicles on the highways. It would be contrary to the whole purpose of the entire chapter if law enforcement officers were not able to procure the results of the tests. There would be no point in having a test made.

Therefore, it is the opinion of this office that the sentence above quoted refers to the person who is tested and simply gives him the opportunity to request full information concerning the test and the results of the same. It is to be hoped that the doctors and hospitals will regard this opinion as the law of the state until the courts hold otherwise.

LESLIE R. BURGUM
Attorney General