



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 26, 2019

Ms. April M. Liwanag
Assistant General Counsel
Texas Board of Nursing
333 Guadalupe Street, Suite 3-460
Austin, Texas 78701

OR2019-08306

Dear Ms. Liwanag:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 756174 (BON Ref. No. 19-10).

The Texas Board of Nursing (the "board") received a request for four categories of information pertaining to a named individual. You state you will release some information to the requestor. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses section 301.466(a) of the Occupations Code, which provides as follows:

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

A complaint and investigation concerning a nurse under this subchapter, all information and material compiled by the board in connection with the complaint and investigation, and the information described by Subsection (d) are:

- (1) confidential and not subject to disclosure under [the Act]; and
- (2) not subject to disclosure, discovery, subpoena, or other means of legal compulsion for release to anyone other than the board or a board employee or agent involved in license holder discipline.

Occ. Code § 301.466(a). Section 301.466 only applies to information created or compiled by the board as part of an investigation by the board. The board states it created or compiled the submitted information as part of an investigation. The board also states the information does not fall into any of the categories of information that are subject to disclosure under section 301.466(c). Based on these representations, we agree the submitted information is confidential under section 301.466(a). Further, the requestor is not entitled to receive this information under section 301.466(b) and the information at issue does not fall under section 301.466(c). Accordingly, we conclude the board must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 301.466(a)(1) of the Occupations Code.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Lecelle Clarke
Attorney
Open Records Division

LC/gw

Ref: ID# 756174

Enc. Submitted documents

c: Requestor
(w/o enclosures)