



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 9, 2019

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

OR2019-12445

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# 764585 (BON Ref. No. 19-13).

The Texas Board of Nursing (the "board") received a request for information pertaining 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 information.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 of the Government Code encompasses chapter 411 of the Government Code. Criminal history record information ("CHRI") maintained by the Texas Department of Public Safety ("DPS") is deemed confidential under section 411.083 of the Government Code. *Id.* § 411.083. However, DPS may disseminate this information as provided by chapter 411, subchapter F of the Government Code. *See id.* Section 411.084 governs use of CHRI obtained from DPS and provides, in pertinent part:

- (a) Criminal history record information obtained from [DPS] under this subchapter, including any identification information that could reveal the identity of a person about whom [CHRI] is requested and information that directly or indirectly indicates or implies involvement of a person in the criminal justice system:

- (1) is for the exclusive use of the authorized recipient of the information; and
- (2) may be disclosed or used by the recipient only if, and only to the extent that, disclosure or use is authorized or directed by:

- (A) this subchapter;
- (B) another statute;
- (C) a rule adopted under a statute; or
- (D) an order of a court of competent jurisdiction.

...

(b) Notwithstanding Subsection (a) or any other provision in this subchapter, [CHRI] obtained from the Federal Bureau of Investigation may be released or disclosed only to a governmental entity or as authorized by federal law and regulations, federal executive orders, and federal policy.

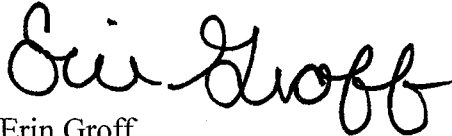
Id. § 411.084. Section 411.125, which is a part of subchapter F of chapter 411, authorizes the board to obtain from DPS CHRI related to an applicant for or holder of a license issued by the board, a person who has requested a determination of eligibility for a license from the board, or the subject of an investigation by the board. *Id.* § 411.125. We note the submitted information was obtained pursuant to section 411.125. The board may only disclose CHRI as authorized or directed by subchapter F of chapter 411, another state or federal statute, a rule adopted under a statute, or federal regulations. *Id.* § 411.084; *see also* Occ. Code § 301.1615 (CHRI the board obtains pursuant to section 411.125 and from the Federal Bureau of Investigation may be used by the board only and may not be disclosed). Based on your representations and our review, we find the board must withhold the submitted information under section 552.101 of the Government Code in conjunction with chapter 411 of the Government Code.¹

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.

¹We note individuals may obtain their own criminal record history information from DPS. *See* Gov't Code § 411.083(b)(3).

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,

A handwritten signature in black ink, appearing to read "Erin Groff". The signature is written in a cursive, flowing style.

Erin Groff
Assistant Attorney General
Open Records Division

EMG/jxd

Ref: ID# 764585

Enc. Submitted documents

c: Requestor
(w/o enclosures)