



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 14, 2022

Ms. Gayna Wilson
Public Information Coordinator
Texas Board of Nursing
333 Guadalupe Street, Suite 3-460
Austin, Texas 78701

OR2022-20453

Dear Ms. Wilson:

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# 958750 (ORR# 22-15).

The Texas Board of Nursing (the "board") received a request for investigatory records of a named nurse pertaining to a specified incident. The board claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception the board claims 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:

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

¹ We 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 that those records contain substantially different types of information than that submitted to this office.

(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. You state Attachment B was created or compiled by the board as part of its investigation of the nurse. Further, you assert 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). Based on these representations, we agree the information at issue is confidential under section 301.466(a). Accordingly, we conclude the board must withhold Attachment B 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Michelle Garza
Assistant Attorney General
Open Records Division

MRG/jm

Ref: ID# 958750

Enc. Submitted documents

c: Requestor
(w/o enclosures)