HARDY MYERS
ATTORNEY GENERAL

PETER D. SHEPHERD
DEPUTY ATTORNEY GENERAL

DEPARTMENT OF JUSTICE

1162 Court Street NE
Justice Building
Salem, Oregon 97301-4096
Telephone: (503) 378-4400
TTY: (503) 378-5938

November 28, 2008

Joe Durkee, Esq.
1207 SW 6th Avenue
Portland, OR 97204

Re: Petition for Public Records Disclosure Order:
Board of Licensed Professional Counselors & Therapists Board Records

Dear Mr. Durkee:

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 November 12, 2008, asks the Attorney General to direct the Board of Licensed Professional Counselors and Therapists (Board) to provide the "name of the [patient][1] involved in the [proceedings] against counselor Cammie Herring [*sic*]" that led to Ms. Hering's agreement to surrender her license as a Professional Counselor. As discussed below, we respectfully deny your petition because the information you seek is confidential.

The Oregon Public Records law allows access to the public records of public bodies such as the Board, subject to certain exemptions and limitations. These exemptions include "public records or information the disclosure of which is prohibited or restricted or otherwise made confidential or privileged under Oregon law," ORS 192.502(9).

The information you seek falls within this exemption. ORS 676.175(1) provides in pertinent part that all health professional regulatory boards, including the Board of Licensed Professional Counselors and Therapists,[2] "shall keep confidential and not disclose to the public any information obtained by the board as part of an investigation of a licensee or applicant." *See*

---

[1] You refer to the person at issue in the Hering matter as a "female patient who was an attorney." Neither the Notice of Proposed License Revocation nor the Final Stipulated Order mentions the patient's gender or occupation. We will not confirm or deny your characterization of "Patient 1" as a "female attorney."

[2] ORS 676.160(4).

also ORS 675.745(5).[3] This general rule of confidentiality is subject to specific exceptions listed in ORS 676.175(5)(a). In addition, ORS 676.175(6) requires that "a final order * * * shall summarize the factual basis for the board's disposition of the matter."

The Board received a complaint about Ms. Hering's conduct as a Licensed Professional Counselor and conducted an investigation into that complaint. That investigation ultimately resulted in a Final Stipulated Order, which is a publicly available document.[4] The final order contains the required summary of the factual basis for the order. We conclude that the Board has made public the information required by ORS 676.175(5)(a) and (6). Additional information gathered as part of the Board's investigation is unconditionally exempt from disclosure by operation of ORS 192.502(9) and ORS 676.175(1). Your petition is respectfully denied.

Sincerely,

for PETER D. SHEPHERD
Deputy Attorney General

DM1150901-v2
c: Becky Eklund, LPCT

[3] "Information that the board obtains as part of an investigation into license or applicant conduct or as part of the contested case proceeding, consent order or stipulated agreement involving licensee or applicant conduct is confidential as provided under ORS 676.175."

[4] The Final Stipulated Order, which incorporated the Notice of Proposed License Revocation, specifically provides that it is a public document – "This document shall be [a] public record."