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November 19, 2024

Emily Atkinson
1516 NE Hancock St, Apt 203
Portland, OR 97212

Re: Petition for Public Records Disclosure Order
Oregon State Bar
DOJ File No.: 993001-GA0115-24

Dear Ms. Atkinson:

This letter is the Attorney General's response to your petition seeking disclosure under the Oregon Public Records Law, ORS 192.311 to 192.478. Your petition asks the Attorney General to order the Oregon State Bar (the "Bar") to disclose the application and denial dates for each person denied membership in the Bar for reasons relating to character and fitness over the last four years.

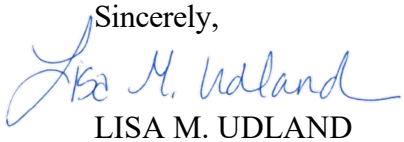
We discussed your petition with Nik Chourey, the Bar's Deputy General Counsel. He explained that the Bar does not maintain or possess a record containing the specific data you seek. Although the Bar could compile something that approximates what you seek from other records, Mr. Chourey explained the Bar's position that the Public Records Law does not require public bodies to analyze, summarize, or create responsive records containing such amalgamated data in order to satisfy a public records request. *See Attorney General's Public Records and Meetings Manual* at 7 (2019). Moreover, he explained, the Bar considers the individual applicant data you seek to be confidential under ORS 9.210(4) and therefore exempt from public disclosure under ORS 192.355(9)(a).[1]

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[1] ORS 192.355(9)(a) exempts "information the disclosure of which is prohibited or restricted or otherwise made confidential or privileged under Oregon law." ORS 9.210(4) is such a law insofar as it provides that "[a]pplications for admission and any other material pertaining to individual applicants are confidential and may be disclosed only as provided in the rules of the Supreme Court." The Supreme Court's rules provide that "[u]nless expressly authorized by the Court or these rules, the [Oregon Board of Bar Examiners] shall not disclose any of its records, work product or proceedings in carrying out its duties." The rule provides several exceptions to the prohibition on the disclosure of individual applicant information, but none of those exceptions appear to apply to your request.

Under the circumstances, we have no reason to second-guess Mr. Chourey's representation that the Bar does not possess a responsive record. And because we cannot order the Bar to disclose records it does not possess or to create records that do not presently exist, we must respectfully deny your petition. *See* ORS 192.411(1) (the Attorney General's authority is generally limited to reviewing whether a record may be withheld from public inspection).

Sincerely,



LISA M. UDLAND
Deputy Attorney General

ACF:pjn
c via e-mail only: Nik Chourey (Oregon State Bar)