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August 3, 2026

VIA E-MAIL ONLY: enniferablin@hotmail.com

Jennifer Jablin
enniferablin@hotmail.com

Re: Petition for Public Records Disclosure Order
Oregon State Board of Nursing
DOJ File No.: 851001-GA0126-26

Dear Ms. Jablin:

This letter is the Attorney General's response to your petition for disclosure under the Oregon Public Records Law, ORS 192.311 to 192.478. Your petition asks the Attorney General to order the Oregon State Board of Nursing (the Board) to disclose certain reports concerning you. For the reasons that follow, we respectfully deny the petition.

The Public Records Law confers the right to inspect public records in Oregon, unless such records are exempt under ORS 192.338, 192.345, or 192.355. ORS 192.314(1). The law is a disclosure law and exemptions from disclosure must be express. If a responsive record contains both exempt and nonexempt material, the agency shall separate and disclose the nonexempt material. ORS 192.338. Any person denied the right to inspect or to receive a copy of a public record of a state agency may petition the Attorney General to review the record and determine if it may be withheld. ORS 192.401 and 192.411(1).

Your petition stems from a request to the Board for quarterly evaluations of performance and practice reports that were completed by your supervisor while you were on a period of disciplinary probation. The Board denied your request by citing the confidentiality provisions of ORS 676.175 and 678.126.

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In response to your petition, we contacted Barbara Holtry, the Board's Communications Manager. She stated that in August of 2022 OSBN placed your nurse practitioner license on probation pursuant to a stipulated order. The order required that a Board-approved supervising licensed practitioner submit periodic written evaluations on Board forms. Ms. Holtry explained that this is a standard term in Board probation agreements, which assists the Board in monitoring whether the licensee remains compliant with the probation order and the Nurse Practice Act for the duration of the probation, as well as whether the licensee is continuing to engage in the conduct that led to the probation. Ms. Holtry stated that failing to comply with a board order is a basis for potential further discipline, as are additional violations of the Nurse Practice Act. The Board considers the ongoing monitoring of individuals on probation to be part of its investigation. Accordingly, the Board considers these written evaluations to be confidential investigatory information subject to ORS 676.175, and ORS 678.126 and exempt from public disclosure under ORS 192.355(9)(a).

ORS 676.175(1) makes confidential "any information obtained by the board as part of an investigation of a licensee or applicant * * *." We have previously concluded that the types of evaluation materials you seek are part of the Board's investigation and therefore fall within the confidentiality provision of ORS 676.175(1).[1] Although licensees can obtain investigative materials to prepare for a contested hearing, there is no provision permitting disclosure after the case is closed.[2] Because these records are made confidential by statute, they are exempt from disclosure under the Public Records Law. *See* ORS 192.355(9)(a). We therefore respectfully deny your petition.

Sincerely,

BENJAMIN GUTMAN
Deputy Attorney General

DEP:pjn
c: Barbara Holtry – Oregon State Board of Nursing

[1] *See* Public Records Order, Apr 27, 2000, Rojas-Burke ("[T]he quarterly reports submitted by the licensee and his employer as required by the terms of probation [constitute] an ongoing investigation of the licensee's conduct [and] are within the prohibition against disclosure in ORS 676.175(1)").
[2] *See* ORS 676.175(3). The Oregon Court of Appeals has concluded that the disclosure requirement found in ORS 676.175(3) applies "to a person who is involved in an ongoing disciplinary proceeding at the time of the records request." 322 Or App 491, 495 (2022). "The disclosure is * * * a limited exception * * * that exists to allow current applicants or licensees to prepare for disciplinary proceedings that affect them." *Id.* at 496.