



THE ATTORNEY GENERAL
OF TEXAS

JIM MATTOX
ATTORNEY GENERAL

November 21, 1989

Mr. Bob E. Bradley
Executive Director
Texas State Board of
Public Accountancy
1033 LaPosanda, Suite 340
Austin, Texas 78752-3892

Dear Mr. Bradley:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 8080; this decision is OR89-395.

Under the Open Records Act, all information held by governmental bodies is open unless the information falls within one of the act's specific exceptions to disclosure. Attorney General Opinion H-436 (1974). The act places on the custodian of records the burden of proving that records are excepted from public disclosure. If a governmental body fails to claim an exception, the exception is ordinarily waived unless the information is deemed confidential under the act. See Attorney General Opinion JM-672 (1987). The act does not require this office to raise and consider exceptions that you have not raised.

The Texas State Board of Public Accountancy (the board) received an open records request for all information possessed by the board concerning a named licensee. You state that the board currently has two complaint files on the licensee which are in "deferred status" pending the outcome of litigation. You have provided this office with a detailed list of the types of records contained in the two files and contend that these records are confidential pursuant to section 25 of article 41a-1, V.T.C.S. This office has previously held that, absent the written authorization of the licensee in question, all information gathered by the board regarding complaints about licensees pursuant to section 22 of article 41a-1 is confidential within the meaning of section 3(a)(1) of the Open Records Act and may not be released to anyone but the licensee prior to a public

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hearing on the matter. See Open Records Decision No. 451 (1986).

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR89-395.

Yours very truly,

Open Government Section
of the Opinion Committee 

Open Government Section
of the Opinion Committee
Approved by Jennifer S. Riggs
Chief, Open Government Section

JSR/RWP/le

Ref.: ID# 8080

cc: S. Bradley Todes
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