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January 15, 1992

Honorable Bill R. Hatley
Chairman
State of Alabama
Board of Examiners of Nursing
Home Administrators
4156 Carmichael Road
Montgomery, AL 36106

Nurses and Nursing - Examiners
of Nursing Home Administrators,
Board of - Public Records -
Public Information

Licensure applications
submitted by nursing home
administrators are public
records.

Dear Mr. Hatley:

This opinion is issued in response to your request for an
opinion from the Attorney General.

QUESTION

Should the Board of Examiners of
Nursing Home Administrators permit a
doctoral candidate to examine files
maintained by the Board which include the
nursing home administrators' licensure
applications?

FACTS AND ANALYSIS

The Board of Examiners of Nursing Home Administrators has
been asked to allow a citizen to examine license applications

submitted to the Board by persons seeking to become licensed as nursing home administrators in Alabama. The licensure applications require an applicant to submit information concerning his education, past employment history, and previous licensure.

A citizen has the right to inspect a "public writing" maintained by a state agency. The Code of Alabama 1975 provides:

**"§ 36-12-40. Rights of citizens to inspect
and copy public writings.**

"Every citizen has a right to inspect and take a copy of any public writing of this state, except as otherwise expressly provided by statute."

The Code also establishes a criminal penalty against a public officer who fails to permit a public inspection of a public writing:

**"36-12-42. Refusal of public officer to
permit examination of records free
of charge.**

"Any public officer having charge of any book or record who shall refuse to allow any person to examine such book or record free of charge shall, on conviction, be fined not less than \$50.00."

Therefore, if an application for licensure as a nursing home administrator is a "public writing," the Board of Examiners of Nursing Home Administrators must allow any citizen who so desires to examine the applications.

The term "public writing" was defined by the Supreme Court of Alabama in Stone v. Consolidated Publishing Company, 404 So.2d 678 (Ala. 1981):

". . . we hold that the 'public writing' spoken of in Code 1975, § 36-12-40, is such a record as is reasonably necessary to record the business and activities required to be done or carried on by a public officer

so that the status and condition of such business and activities can be known by our citizens." (Emphasis supplied.)

Thus, if the licensure applications are records which are reasonably necessary to record the business and activities required to be done or carried on by a public officer so that the status and condition of such activities can be known, they should be provided to the public.

The legislature intended for the "Sunshine Law," as § 36-12-40 is popularly known, to be liberally construed. There is a presumption in favor of the public disclosure of public writings and records. Chambers v. Birmingham News Company, 552 So.2d 854, 856 (Ala. 1989).

In previous opinions, this office has ruled that certain personnel records of state employees and resumes of applicants for the position of county administrator are public records which should be made available to the public. (Opinion to James D. Hughston, dated October 24, 1990, AG No. 91-32; opinion to Chancellor Charles L. Payne, dated December 16, 1987, AG No. 88-00079.)

CONCLUSION

The application for licensure as a nursing home administrator required by the Board of Examiners of Nursing Home Administrators is a public record. Every citizen has a right to inspect any nursing home administrator's licensure application. We note that this opinion is limited to the facts in this request and to the Board of Nursing Home Administrators Law.

I hope this sufficiently answers your question. If our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

JIMMY EVANS
Attorney General
By:



JAMES R. SOLOMON, JR.
Chief, Opinions Division