

FILE

-Subject

State Boards
Nursing
Records
Public

Copy to



STATE OF KANSAS

Office of the Attorney General

State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

VERN MILLER
Attorney General

February 6, 1974

Opinion No. 74- 41

W. J. Fitzpatrick
Attorney at Law
State Board of Nursing
Professional Bldg., Suite 507
Independence, Kansas 67301

Dear Mr. Fitzpatrick:

You request our opinion concerning the application of K.S.A. 45-201 to files of the State Board of Nursing containing test pool examinations and examination results. The results are sought for use in a statistical analysis of a random sampling of graduates, for use in research in the graduate field of adult and occupational education. The researcher proposes to use this data purely for statistical and analytical purposes, with no identification or disclosure of the test results of any individual applicant.

It is the position of the Board, and of yourself, that disclosure of these records is not required under K.S.A. 45-201. We agree. That provision states in pertinent part thus:

"All official public records of the state . . . commissioners, agencies . . . which records by law are required to be kept and maintained . . . shall at all times be open for a personal inspection by any citizen"

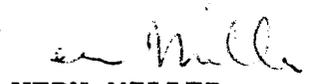
The public records required to be disclosed by this statute limited by its terms to only those records which "are required by law to be kept and maintained"

The purpose of the law is certainly admirable, to assure public access to governmental records. However, the commendable spirit which prompted its enactment does not justify a construction plainly beyond the letter of the statute. In order to require

W. J. Fitzpatrick
February 6, 1974
Page Two

disclosure of a given record, it is necessary to find that the keeping and maintenance of that record is required by law. It does not require public disclosure of any documents whatever which are kept in the ordinary course of the business of an agency, but which are not themselves records required by law to be kept. Under K.S.A. 74-1106(c), as you point out, the Board is required to keep a record of all its proceedings, and a register of professional and practical nurses licensed, which shows the certificates of registration or license granted or revoked. Although other records may be kept by the Board in the conduct of its business, such as records of examination results, these do not fall within the scope of K.S.A. 74-1106, and hence are not subject to the disclosure mandated by K.S.A. 74-201. We agree fully with your opinion.

Yours very truly,


VERN MILLER
Attorney General

VM:JRM:jsm