

§ 90-171.37C. Confidentiality of Board investigative information; Board to keep public records; cooperation with law enforcement; self-reporting requirements; patient protection.

(a) All records, papers, investigative information, and other documents containing information that the Board, its members, or its employees possess, gather, or receive as a result of investigations, inquiries, assessments, or interviews conducted in connection with a licensing complaint, appeal, assessment, potential impairment matter, or disciplinary matter shall not be considered public records under Chapter 132 of the General Statutes, and are privileged, confidential, not subject to discovery, subpoena, or any means of legal compulsion for release to anyone other than the Board, its employees, or consultants involved in the application for license, impairment assessment, or discipline of a licensee, except as provided in subsection (b) of this section. For the purposes of this section, "investigative information" means investigative files and reports, information relating to the identity and report of a physician or other professional performing an expert review for the Board, and any of the Board's deposition transcripts related to a hearing not admitted into evidence.

(b) The Board shall provide the licensee or applicant for a license access to all information in its possession that the Board intends to offer into evidence at the licensee's or applicant's hearing, unless good cause is shown for delay. This information shall be subject to any privilege or restriction set forth by rule, statute, or legal precedent and must be requested in writing from the licensee or applicant who is the subject of the complaint or investigation. The Board shall not be required to produce (i) information subject to attorney-client privilege or (ii) investigative information that the Board will not offer into evidence, and is related to advice, opinions, or recommendations of the Board's staff, consultants, or agents.

(c) Any licensee's notice of statement of charges, notice of hearing, and all information contained in those documents shall be public records under Chapter 132 of the General Statutes.

(d) If the Board, its employees, or its agents possess investigative information indicating a crime may have been committed, the Board may report the information to the appropriate law enforcement agency or district attorney of the district in which the offense was committed. The Board shall cooperate with and assist any law enforcement agency or district attorney conducting a criminal investigation or prosecution of a licensee by providing relevant information. This information shall be confidential under G.S. 132-1.4 and shall remain confidential after disclosure to a law enforcement agency or district attorney.

(e) All licensees shall self-report to the Board any of the following within 30 days of their arrest or indictment:

- (1) Any felony arrest or indictment.
- (2) Any arrest for driving while impaired or driving under the influence.
- (3) Any arrest or indictment for the possession, use, or sale of any controlled substance.

(f) The Board, its members, or its staff may release confidential information concerning the denial, annulment, suspension, or revocation of a license to any other health care licensing board in this State, other state, or country, or authorized Department of Health and Human Services personnel who are charged with the enforcement or investigative responsibilities of licensure.

If the Board releases this confidential information, the Board shall notify and provide a summary of the information to the licensee within 60 days after the information is transmitted. The licensee may make a written request that the Board provide the licensee a copy of all information transmitted within 30 days of receiving notice of the initial transmittance. The Board shall not provide the information if the information relates to an ongoing criminal investigation by any law enforcement agency or authorized Department of Health and Human Services personnel with enforcement or investigative responsibilities.

(g) Notwithstanding the provisions of this section, the Board shall withhold the identity of a patient, including information relating to dates and places of treatment, or any other information that would tend to identify the patient, in any proceeding, record of a hearing, and in the notice of charges against any licensee, unless the patient or the patient's representative expressly consents to the public disclosure. (2019-180, s. 9.)