

**LETTER OPINION**  
**99-L-57**

July 6, 1999

Ms. Carol K. Olson  
Executive Director  
North Dakota Department of Human Services  
600 E Boulevard Ave Dept 325  
Bismarck, ND 58505-0250

Dear Ms. Olson:

Thank you for your letter concerning the applicability of Senate Bill 2076 enacted by the 1999 Legislative Assembly that exempts from public disclosure under the open records law "personal information" regarding a licensee maintained by an "occupational or professional board, association, or commission created by law." This new law will be codified as N.D.C.C. § 44-04-18.1(4).

You point out that the Department of Human Services (Department) licenses various providers of services such as foster care for adults or children. See generally N.D.C.C. ch. 50-11. You also point out that the staff of certain facilities must meet health requirements. See N.D. Admin. Code § 75-03-16-12.3. You advised that medical information secured from individual staff members is used in determining if the provider may be licensed and has customarily been "treated as public information subject to the open records laws."

You specifically ask whether "the department is a 'state occupational or professional board, association, or commission' for purposes of N.D.C.C. § 44-04-18.1" under Senate Bill 2076.

Senate Bill 2076 adds a new subsection to N.D.C.C. § 44-04-18.1. The new subsection provides:

Except as otherwise specifically provided by law, personal information<sup>1</sup> regarding a licensee maintained by an

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<sup>1</sup>"Personal information" is defined as "a person's home address; home telephone number; photograph; medical information; motor vehicle operator's identification number; social security number; payroll deduction information; the name, address, phone number, date of birth, and social security number of any dependent or emergency

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occupational or professional board, association, or commission created by law is exempt. As used in this section, "licensee" means an individual who has applied for, holds, or has held in the past an occupational or professional license, certificate, permit, or registration issued by a state occupational or professional board, association, or commission.

(Emphasis added.)

In my opinion, the Department is not an "occupational or professional board, association, or commission" as used in N.D.C.C. § 44-04-18.1.

If undefined by statute, a term is given its plain and commonly understood meaning. Kim-Go v. J.B. Furlong Enterprises, Inc., 460 N.W.2d 694 (N.D. 1990). An association is an "organized body of people who have some interest, activity, or purpose in common; society; league." The American Heritage Dictionary 135 (2d col. ed. 1991). A board is an "organized body of administrators or investigators: A board-of-trustees." Id. at 192. A commission is a "group of people officially authorized to perform certain duties or functions." Id. at 297.

While the Department is a state agency, Mullins v. Dept. of Human Services, 454 N.W.2d 732, 734 (N.D. 1990), it is not a "board, association, or commission" for purposes of N.D.C.C. § 44-08-18.1.

Examples of "occupational or professional boards, associations, or commissions" under N.D.C.C. § 44-04-18.1 would be those in Title 43, relating to licensed occupations and professions such as the State Electrical Board (ch. 43-09) and the State Board of Medical Examiners (ch. 43-17). Other examples are the State Bar Board (N.D.C.C. § 27-11-22) and the State Bar Association (N.D.C.C. ch. 27-12).

Sincerely,

Heidi Heitkamp  
Attorney General

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contact; any credit, debit, or electronic fund transfer card number; and any account number at a bank or other financial institution." N.D.C.C. § 44-04-18.1(2).

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