



The Attorney General of Texas

May 5, 1983

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Mr. Tom Bond
Commissioner
State Board of Insurance
1110 San Jacinto Boulevard
Austin, Texas 78786

Open Records Decision No. 375

Re: Whether letter relative to termination of licensed insurance agent pursuant to article 21.07-1 of the Insurance Code is excepted from public disclosure

Dear Mr. Bond:

You have requested our decision under the Open Records Act, article 6252-17a, V.T.C.S., as to whether a letter relating to the termination of a licensed insurance agent is available to the public.

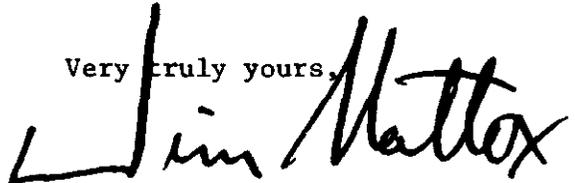
You indicate that, by letter of January 27, 1971, a representative of a legal reserve life insurance company furnished to the State Board of Insurance information concerning the termination of the appointment of an individual licensed by the board. You have received a request for a copy of that letter, and suggest that it is excepted from disclosure under section 3(a)(1) of the Open Records Act, as "information deemed confidential by law," specifically, section 11 of article 21.07-1 of the Insurance Code. That section provides:

Sec. 11. (a) Every legal reserve life insurance company shall, upon termination of the appointment of any life insurance agent, immediately file with the Life Insurance Commissioner a statement of the facts relative to the termination of the appointment and the date and cause thereof. The Commissioner shall thereupon terminate the license of such agent to represent such insurer in this State.

(b) Any information, document, record or statement required to be made or disclosed to the Commissioner pursuant to this Section shall be deemed a privileged communication and shall not be admissible in evidence in any court action or proceeding except pursuant to subpoena of a court of record.

In Open Records Decision No. 290 (1981), this office decided that the term "privileged" as used in section 23 of article 4512c, V.T.C.S., the psychologists' licensing statute, should not be construed to mean "confidential" because such an interpretation "would result in conflicts within section 23 and between section 23 and the other statutes." In the usual instance, however, "privileged" has embraced the connotation of "confidential." Accident reports, for example, deemed "privileged" by section 47 of article 6701d, V.T.C.S., have been held to be excepted from disclosure for such reason. Open Records Decision Nos. 251 (1980); 43 (1974). In addition, the attorney-client "privilege," which this office has recognized to be applicable to public records, Open Records Decision Nos. 304 (1982); 210, 200 (1978), is within the scope of the term "privileged communication." Missouri, Kansas and Texas Railway v. Williams, 96 S.W. 1087, 1089 (Tex. Civ. App. - 1906, no writ). In our opinion, "privileged communication" as used in section 11b of article 21.07-1 of the Insurance Code should be construed to mean "confidential" for purposes of the Open Records Act. Accordingly, it is our decision that a letter relating to the termination of a licensed insurance agent and filed with the Board of Insurance is excepted from disclosure under section 3(a)(1) of the Act, as "information deemed confidential by law," in this case, section 11 of article 21.07-1 of the Insurance Code.

Very truly yours,



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