

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calender years

1961 - 1962

September 18, 1961

To: Alfred Boudreau
State Board of Barbers & Hairdressers
1096 Broadway
South Portland, Maine

Dear Sir:

We have your letter of September 11, 1961, requesting an opinion as to the duties of the executive secretary of the Board of Barbers and Hairdressers. As we understand it, you are requesting an opinion as to whether under the provisions of Chapter 359, Sections 213 and 230A of the Public Laws of 1961, the executive secretary of the Board of Barbers and Hairdressers will be required to make personal inspections of barbers and hairdressers establishments or whether these inspections can be conducted by special inspectors under the direction of said secretary.

As of September 16, 1961, Revised Statutes, Chapter 25, Section 213, is no longer in effect and has been replaced by the above Chapter 359. The old provisions have now been repealed and we will not consider them in answering your question. Paragraph 4 of Section 213 of the new law clearly states that the executive secretary shall make sanitary inspections as directed by the Board. This section also provides for the employment of special inspection personnel. Taking these two provisions together, it is our opinion that if the Board so directs, the executive secretary may turn over all inspection duties to his Board of Inspectors.

As Section 230A of Chapter 359 is substantially identical to Section 213, the same rules of construction would govern.

It is our conclusion, therefore, that the executive secretary need inspect neither hairdressing establishments nor barber shops personally unless so directed by the State Board of Barbers and Hairdressers.

Very truly yours,

THOMAS W. TAVENNER
Assistant Attorney General

September 19, 1961

To: Mrs. Ina G. Bean, R. N.
Board Member
Maine State Board of Nursing
363 Main Street
Lewiston, Maine

Dear Mrs. Bean:

I have your letter of September 15 replying to my letter of August 4. It is rather difficult to draw a definite line as to what records may be considered public records and what records may be considered confidential.

I believe, however, that the first section of the so-called Right to Know Law perhaps gives considerable assistance in framing a definition. This section says:

“The legislature finds and declares that *public proceedings* exist to aid in the conduct of the people’s business. It is the intent of the legislature that their actions be taken openly and that their deliberations be conducted openly.” (Emphasis ours.)

From this and the other provisions of this law it may be said in general that any records made as the result of an action or actions taken by the Maine State Board of Nursing are public records.

These records are to be distinguished from records furnished to the Maine State Board of Nursing by other people. Such records furnished to the Board would not be public records, but would be treated as confidential records.

As applied to the situations outlined in your letter, I would say that under item 1, applications, transcript of high school and school of nursing, and letters of reference, would be confidential. The examination records with achievement grades being records made by the Board, would be public records.

Item 2. These items being matters furnished to the Board would not be public records insofar as the Board is concerned. I might state, of course, that any record of prosecution is a public record in the court where the prosecution took place.

Item 3. Character references would, of course, be confidential as they would be records furnished to the Board.

Item 4. It is difficult to determine the status of reports and surveys of the schools upon which their accreditation status is dependent. Here again, I think it depends on whether the reports and surveys are made by the members of the Board, in which case they would be a public record. If the reports and surveys are furnished to the Board by the schools, then the reports and surveys would be confidential. Of course, any determination of accreditation or non-accreditation made by the Board as a result of the reports and surveys would be public records as they are the result of public proceedings transacted by the Board.

I trust that this will assist you in determining what information may be given out by the Board and what information may be withheld.

Very truly yours,

GEORGE C. WEST
Deputy Attorney General

September 20, 1961

Honorable Welden W. Hanson
House of Representatives
Bradford, Maine
Re: P. & S. Laws of 1961, C. 82

Dear Representative Hanson:

This is in answer to your letter of September 15, 1961, regarding the Bradford School District.

I can well understand your concern with the action of the trustees of the Bradford School District in drilling for water on the school lot, however, the trustees of the district have the authority to manage the affairs of the district