

WES MOORE
GOVERNOR

ARUNA MILLER
LT. GOVERNOR



SAREESH RAWAT, CHAIR
SAMUEL G. ENCARNACION
DEBRA LYNN GARDNER
NIVEK M. JOHNSON
VACANT

STATE OF MARYLAND
PUBLIC INFORMATION ACT COMPLIANCE BOARD

PIACB 26-17
November 10, 2025
Maryland Motor Vehicle Administration, Custodian
Erik Miller, Complainant

In May of 2025, complainant Erik Miller sent a Public Information Act (“PIA”) request to the Maryland Motor Vehicle Administration (“MVA”) for his “Driver Wellness and Safety” records, limited to material dated January 1, 2024, to present. MVA denied inspection of the records, citing § 16-118(d) of the Transportation Article (“TR”) and explaining that Medical Advisory Board records were confidential and could only be disclosed by court order. In this complaint, the complainant alleges that MVA improperly denied inspection of the records he sought in his PIA request, noting that he is a person in interest as to those records and thus has a favored status. Counsel for MVA responds to the complaint and maintains that MVA properly denied inspection of the responsive records. After review of the submissions, we find that the Transportation Article does not preclude disclosure to the complainant and thus MVA improperly denied inspection of the records. We explain below.

Background

To drive a motor vehicle in Maryland, an individual typically must have a driver’s license issued by MVA. TR § 16-101(a). By law, there are certain circumstances under which an individual is disqualified from having a Maryland driver’s license, including when the individual is “unable to exercise reasonable control over a motor vehicle due to disease or a physical disability.” *Id.* § 16-103.1(6). The Maryland Department of Health is charged with defining certain disorders that affect consciousness and “visual acuity,” and physicians and others authorized to diagnose those disorders may report to MVA’s Medical Advisory Board any individuals who have these disorders. *Id.* § 16-119. The Medical Advisory Board, which comprises “qualified physicians and optometrists,” assists MVA in complying with the laws “regarding the physical and mental condition of individuals who seek to drive on highways” in Maryland. *Id.* § 16-118(a). When there is “good cause to believe that the driving of a vehicle by [an individual] would be contrary to public safety and welfare because of an existing or suspected mental or physical disability,” MVA “may refer to the Medical Advisory Board, for an advisory opinion” the case of that individual. *Id.* § 16-118(c)(1). The records of the Medical Advisory Board are generally confidential, and “[m]ay be disclosed only on court order.” *Id.* § 16-118(d)(1).

On May 13, 2025, the complainant sent a PIA request to MVA seeking “[a]ccess to [his] own Driver Wellness and Safety records.”¹ Specifically, the complainant asked for:

All records, reports, correspondence, assessments, and determinations maintained by the Driver Wellness and Safety Division and/or the Medical Advisory Board regarding [his] fitness to drive, medical monitoring status, and re-examination status.

The complainant stated that the request was “[l]imited to materials dated from January 1, 2024 to the present.” On May 22, 2025, MVA sent the complainant a letter in which it denied inspection of the responsive records. MVA stated that, under TR § 16-118(d), “Medical Advisory Board records are confidential, may be disclosed only on court order; and may be used only to determine the qualifications of an individual to drive.”

The complainant disagreed with MVA’s response to his PIA request, so he contacted the Public Access Ombudsman to request dispute resolution assistance.² Through the mediation process, MVA issued a supplemental response to the complainant in which it provided additional information about the responsive records and the review process. MVA noted that no action had been taken against the complainant’s driver’s license and stated that there was no “MVA report or memorandum, only a few sentences within the electronic system with instructions to follow up in the coming months.” MVA’s supplemental response notwithstanding, the Ombudsman, on August 22, 2025, issued a final determination stating that the dispute was not resolved and the complainant then filed this complaint with our Board.

In his complaint, the complainant alleges that MVA has violated the PIA by withholding the records responsive to his request. The complainant first emphasizes that he is a person in interest³ as to his own MVA records, and that a person in interest “enjoys a favored status.” The complainant acknowledges that TR § 16-118(d) makes records of the Medical Advisory Board generally confidential, but cites a 1997 opinion of Maryland’s Attorney General that suggests that a driver is entitled to his or her own MVA records

¹ The “Driver Wellness and Safety Division” of MVA is “responsible for ensuring that drivers are medically and physically fit to safely operate a motor vehicle.” See Maryland Dep’t Transp., Motor Vehicle Admin., Driver Wellness and Safety, <https://mva.maryland.gov/about-mva/Pages/info/26200/safety.aspx> (last visited Nov. 10, 2025).

² The PIA requires that the Ombudsman “make reasonable attempts to resolve disputes between applicants and custodians relating to requests for public records.” Md. Code Ann., Gen. Provisions § 4-1B-04(a). Before submitting a complaint to our Board, a complainant must attempt to resolve a dispute through the Ombudsman and receive a final determination stating that the dispute was not resolved. *Id.* § 4-1A-05(a).

³ See Md. Code Ann., Gen. Provisions § 4-101(g)(1), which defines a “person in interest” as “a person or governmental unit that is the subject of a public record.”

under certain circumstances.⁴ The complainant asserts that he is “entitled to review records concerning [his] own medical fitness to drive, except in the narrow case of confidential sources,” and that no claim of a confidential source has been made. Rather, the complainant contends, “MVA has issued a blanket denial, contrary to long-standing precedent.”

MVA, through counsel, responds to the complaint and states that “the only independent medical information on file is a report that [the complainant] submitted from his treating physician and a few case notes by MVA Medical Advisory Board (MAB) medical personnel commenting on that report.” Counsel for MVA notes that the complainant “was not and is not currently under any driving restriction, nor was any action taken that entitled him to a hearing.” Counsel argues that TR § 16-118(d) “plainly requires confidentiality and prohibits disclosure of MAB records, except upon court order.” Recognizing that the complainant is a person in interest under the PIA, counsel for MVA notes that there are “sections of law that so clearly prohibit disclosure of information, the legislature created plainly worded exceptions allowing the person in interest to receive their own records.” Section § 16-118(d) of the Transportation Article, counsel points out, contains no such “exception or permissive language related to records of the MAB.” Counsel for MVA suggests that there is a “valid public policy rationale for this; the legislature did not want to disincentivize reporting of potential medical issues through the fear that a report may be disclosed to the person in interest.”

Addressing the Maryland Attorney General Opinion cited by the complainant, counsel for MVA argues that the opinion “does not contradict this rationale but highlights a more important due process obligation,” focusing on the phrase in the opinion, “a driver whose fitness to drive is under review because of the driver’s health condition.” Counsel urges that “under review” should be “narrowly tailored and cannot be interpreted as rendering [TR § 16-118(d)] nugatory or of no effect.” Instead, counsel contends, “[b]eing ‘under review’ is synonymous with the driver being entitled to a hearing on an issue related to the qualifications of an individual driver.” Counsel explains that “MVA has adopted the narrower view and permits review of a person’s MAB file by the person in interest if there is a pending action (such as a hearing or trial),” and that here, “there is no hearing or trial pending, and the case is therefore not currently ‘under review,’ thereby obviating the need to review this information.”

In reply, the complainant argues that MVA “misreads” the intent of TR § 16-118(d) and “the controlling Attorney General Opinion,” which the complainant contends “makes clear that the confidentiality provision safeguards the privacy of the driver—not the agency—and does not bar access by the person in interest.” The complainant further contends that the purpose of the provision is to “preserve the dignity and privacy of drivers subject to medical review—not to conceal agency decision-making from those directly

⁴ See 82 Md. Op. Att’y Gen. 111 (1997).

affected by it.” The complainant also argues that MVA misconstrues the term “under review,” maintains that it “refers to the evaluative process undertaken by the Medical Advisory Board—not to the procedural posture of an administrative or judicial proceeding.” Were it to mean the latter, the complainant contends, “a driver could be denied access to the very records used to determine whether a hearing should occur,” which “contradicts the Attorney General’s due process reasoning.” In the complainant’s view, a driver is entitled to access to MAB records “when the MVA or the Medical Advisory Board evaluates the individual’s fitness to drive,” and that right of access “continues thereafter.”

The complainant also takes issue with MVA’s argument that permitting inspection by all persons in interest would “disincentivize” the reporting of medical issues to MVA, noting that the problem is addressed by the Attorney General’s opinion that the identity of confidential sources remains protected. Calling the opinion a “balanced approach,” the complainant argues that MVA’s position “abandons this balance and transforms a confidentiality provision meant to protect drivers into a shield for the agency itself.”

Analysis

The PIA authorizes our Board to review and resolve complaints alleging certain violations of its provisions, including that a custodian improperly denied inspection of public records. § 4-1A-04(a)(1)(i).⁵ After we receive a complaint from a PIA requester, we send it to the relevant custodian for a written response. § 4-1A-06(a). If, after review of the submissions, we find that the alleged violation occurred, we must issue a written decision and order a remedy as provided in the PIA. § 4-1A-04(a)(2) and (3). When we determine that a custodian has wrongfully denied inspection of a public record, we must “order the custodian to . . . produce the record for inspection.” § 4-1A-04(a)(3)(i).

Enacted so that people “have access to information about the affairs of government and the official acts of public officials and employees,” § 4-103(a), Maryland’s Public Information Act “establishes a public policy and a general presumption in favor of disclosure of government or public documents,” *Kirwan v. The Diamondback*, 352 Md. 74, 80 (1998). The PIA’s provisions generally must be “construed in favor of allowing inspection of a public record,” § 4-103(b), though not all public records are subject to disclosure, *Immanuel v. Comptroller*, 449 Md. 76, 88 (2016). Instead, the Legislature created exemptions that either require or permit a custodian to withhold certain types of records or information. *See* §§ 4-301, 4-304, 4-328, 4-343. When an exemption is mandatory, a custodian has no choice but to deny inspection.⁶ *See, e.g.,* § 4-311

⁵ Statutory citations are to the General Provisions Article of Maryland’s Annotated Code unless otherwise indicated.

⁶ In some cases there are exceptions to non-disclosure, often for the person in interest. *See, e.g.,* §§ 4-311, 4-336, 4-333(d); *see also* § 4-333(a) and (b) (generally forbidding disclosure of “information about the licensing of an individual in an occupation or a profession,” but requiring

(individuals' personnel records); § 4-336 (individuals' financial information). When denial is discretionary, a custodian may withhold records or information from inspection only if inspection would be "contrary to the public interest." § 4-343; *see, e.g.*, § 4-351 (discretionary exemption for certain law enforcement records). In all cases, a custodian has the burden of justifying a decision to deny inspection of public records. *Lamson v. Montgomery County*, 460 Md. 349, 367 (2018).

Generally, if a law outside the PIA precludes disclosure of a public record, then the PIA defers to that law. *See* § 4-301(a). Under § 4-301(a)(2)(i), a custodian must deny inspection of "a public record or any part of a public record if . . . the inspection would be contrary to . . . a State statute." *See, e.g.*, PIACB 25-82, at 7-8 (Sept. 5, 2025) (denial required because § 1-202(a) of the Human Services Article forbids disclosure of reports of child abuse or neglect). The same applies for federal statutes and regulations, rules adopted by our State's Supreme Court, and court orders. § 4-301(a)(2)(ii)-(iv); *see, e.g.*, 92 Md. Op. Att'y Gen. 137, 146 (2007) (restrictions in the federal Family Educational and Privacy Rights Act apply via what is now § 4-301(a)(2)(ii) of the PIA). Because State law—specifically § 16-118(d)(1) of the Transportation Article—makes Medical Advisory Board records generally confidential, those records are ordinarily exempt from disclosure under § 4-301(a)(2)(i) of the PIA. However, our State's Attorney General has said that "it is most unlikely that the General Assembly intended the confidentiality command in TR § 16-118(d)(1)(i) to bar access *by the driver*." 82 Md. Op. Att'y Gen. 111, 115 (1997) (emphasis original). Thus, the Attorney General did not "regard this provision as 'other law' to which the driver's presumptive right of access under the PIA must yield." *Id.*

We are, of course, not bound by the opinions of Maryland's Attorney General. However, given that courts "consider the Attorney General's opinions for their persuasive value," *Immanuel*, 449 Md. at 93-94, we do too. Here, we find the Attorney General's interpretation of TR § 16-118(d) persuasive and find that it does not bar disclosure of the records the complainant sought.⁷ First, we note that the Attorney General's conclusion that a person in interest—i.e., the driver—may inspect his or her own MVA Medical Advisory Board records is consistent with the PIA's "broad remedial purpose" and our courts'

disclosure of certain information about licensees, such as their professional qualifications or "orders and findings that result from formal disciplinary actions").

⁷ We also note that "the Legislature is presumed to have known of the Attorney General's statutory interpretation and to have acquiesced in that construction absent change in the statutory language." *State v. Crescent Cities Jaycees Found., Inc.*, 330 Md. 460, 470 (1993). In 2008, the General Assembly enacted amendments concerning the confidentiality of Medical Advisory Board records, specifically by adding language to subsection (d)(2) that permits MVA to "use information in its records for the purpose of driver safety research, provided that personal information is not published or disclosed." 2008 Md. Laws, ch. 424 (codified in TR § 16-118(d)(2)). Nothing in that legislation affected the conclusion that the Attorney General reached in his 1997 opinion.

instruction that its provisions be “liberally construed” to carry out that purpose, which favors inspection of public records. *Glenn v. Maryland Dep’t Health & Mental Hygiene*, 446 Md. 378, 384-85 (2016).

Second, we agree with the complainant that the interpretation MVA advances, that a driver may inspect his or her Medical Advisory Board records only when their fitness to drive is being contested in an administrative hearing or other formal proceeding, is not consistent with the Attorney General’s opinion. The Attorney General concluded that “[a] driver is generally entitled *under the PIA* to obtain MVA records related to a review of the driver’s fitness, including any report of the Medical Advisory Board.” 82 Md. Op. Att’y Gen. at 111 (emphasis added). A “review of the driver’s fitness” is not limited to contested cases. Indeed, it is clear under TR § 16-118(c)(1) that the Medical Advisory Board conducts “reviews” of drivers’ fitness to drive, as that provision allows MVA to refer cases to the Medical Advisory Board for advisory opinions to assist MVA in making licensure determinations. Based on information in the submissions that the complainant’s case is subject to “periodic monitoring” by MVA and that MVA is to “follow up in the coming months,” we think it fair to say that the complainant’s fitness to drive was and continues to be “under review” by MVA. Because TR § 16-118(d) does not bar disclosure to the complainant, § 4-301(a)(1)(i) of the PIA does not apply. We therefore direct MVA to produce the responsive Medical Advisory Board records to the complainant.

Conclusion

After review of the parties’ submissions, we find that the general confidentiality mandate in TR § 16-118(d) does not apply here, where the complainant is the person in interest seeking his own MVA records. Thus, MVA improperly denied inspection of the records responsive to the complainant’s PIA request. We direct MVA to produce those records to the complainant within thirty days of receipt of this decision and order.

Public Information Act Compliance Board

Sareesh Rawat, Chair
Samuel G. Encarnacion
Debra Lynn Gardner
Nivek M. Johnson