ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 7, 2011

Ms. Yvette Yarbrough
Board Attorney
Texas Board of Chiropractic Examiners
333 Guadalupe, Suite 3-825
Austin, Texas 78701-3942

OR2011-09628

Dear Ms. Yarbrough:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 423065.

The Texas Board of Chiropractic Examiners (the "board") received a request for the facility files for twenty-one specified chiropractic clinics. You state the board is releasing some information to the requestor. You state the board has redacted information that has been released and will redact the submitted information pursuant to Open Records Decision No. 684 (2009) and section 552.147 of the Government Code.[1] You claim portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."

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[1]Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver's license numbers under section 552.130 of the Government Code, bank account numbers under section 552.136 of the Government Code, and e-mail addresses of members of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision. Further, section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. *See* Gov't Code § 552.147(b).

Gov't Code § 552.101. This section encompasses information made confidential by other statutes including section 201.206 of the Occupations Code. Section 201.206 provides in part:

> (a) The board's investigation files are confidential, privileged, and not subject to discovery, subpoena, or any other means of legal compulsion for release other than to the board or an employee or agent of the board.
>
> . . .
>
> (d) Notwithstanding Subsection (a), the board may:
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> > (1) disclose a complaint to the affected license holder; and
> >
> > (2) provide to a complainant the license holder's response to the complaint, if providing the response is considered by the board to be necessary to investigate the complaint.

Occ. Code § 201.206(a), (d). Section 201.206 applies to "all investigations pending or opened on or after September 1, 2003." You state the information you have marked was taken from investigative files that were opened after September 1, 2003. This information reflects the investigations pertained to chiropractors licensed by the board. We understand the information you have marked is maintained by the board pursuant to section 201.204 of the Occupations Code. *See id.* § 201.204 (setting forth the board's record keeping requirements with respect to complaints filed with the board). Thus, based upon your arguments and our review, we find the portions of the submitted information you have marked are part of the board's investigation files and section 201.206 governs release of this information. We have no indication the requestor is entitled under section 201.206(d) to any of the information you have marked. Thus, we find the information you have marked must be withheld under section 552.101 of the Government Code in conjunction with section 201.206 of the Occupations Code.

You indicate you will withhold the e-mail addresses you have marked in the remaining information under section 552.137 of the Government Code pursuant to Open Records Decision No. 684. Section 552.137 excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body," unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). Gov't Code § 552.137(a)-(c). We note, however, section 552.137 is not applicable to the general e-mail address of a business. Accordingly, the board may not withhold the e-mail addresses you have marked in the remaining information under section 552.137 of the Government Code.

In summary, the board must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 201.206 of the Occupations Code. The remaining information must be released to the requestor.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll-free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,

Sean Nottingham
Assistant Attorney General
Open Records Division

SN/bs

Ref: ID# 423065

Enc. Submitted documents

c: Requestor
(w/o enclosures)