



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 17, 2016

Ms. Lauren Studdard
Staff Attorney
State Board of Dental Examiners
333 Guadalupe, Tower 3, Suite 800
Austin, Texas 78701-3942

OR2016-03778

Dear Ms. Studdard:

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# 598639.

The State Board of Dental Examiners (the "board") received a request for information pertaining to a named individual. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses information made confidential by other statutes, including section 254.006 of the Occupations Code, which states:

- (a) Except as provided by this section, the investigation files and other records of the board are public records and open to public inspection at reasonable times.

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

(b) Investigation files and other records are confidential, except the board shall inform the license holder of the specific allegations against the license holder. The board may share investigation files and other records with another state regulatory agency or a local, state, or federal law enforcement agency.

(c) The exception from public disclosure of investigation files and records provided by this section does not apply to the disclosure of a disciplinary action of the board, including:

- (1) the revocation or suspension of a license;
- (2) the imposition of a fine on a license holder;
- (3) the placement on probation with conditions of a license holder whose license has been suspended;
- (4) the reprimand of a license holder; or
- (5) the issuance of a warning letter to a license holder.

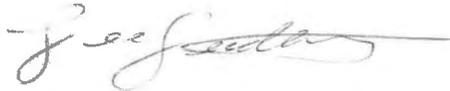
Occ. Code § 254.006. You state some of the submitted information consists of documents contained in the licensing files of the board. You inform us licensing documents are compiled by the board during an investigation of an application for license. Further, you state the remaining information consists of investigation files of the board pertaining to allegations that an individual violated the rules and laws governing the practice of dentistry. You also state section 254.006(c) is not applicable to any of the information at issue. Based on your representations and our review of the information at issue, we find the submitted information is confidential under section 254.006(b) of the Occupations Code. Therefore, the board must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 254.006(b) of the Occupations Code.

You seek a previous determination from this office allowing the board to withhold investigation files and other records under section 552.101 of the Government Code in conjunction with section 254.006 of the Occupations Code without the necessity of requesting a decision from this office. After due consideration, we have decided to grant your request. Therefore, this letter ruling authorizes the board to withhold investigation files and other records under section 552.101 of the Government Code in conjunction with section 254.006(b) of the Occupations Code. However, we note the board must only withhold this type of information when none of the exceptions to confidentiality under section 254.006(c) apply. *See id.* § 254.006(c). We also note, as provided by section 254.006(b), the board must inform the license holder of the specific allegations against the license holder, and the board may share investigation files and other records with another state regulatory agency or a local, state, or federal law enforcement agency. *See id.*

§ 254.006(b). Further, this previous determination is not applicable to information to which the requestor may have a right of access under any other provision of law. So long as the elements of law, fact, and circumstances do not change so as to no longer support the findings set forth above, the board need not ask for a decision from this office again with respect to this type of information. *See* Open Records Decision No. 673 at 7-8 (2001) (listing elements of second type of previous determination under Gov't Code § 552.301(a)).

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Lee Seidlits
Assistant Attorney General
Open Records Division

CLS/som

Ref: ID# 598639

Enc. Submitted documents

c: Requestor
(w/o enclosures)