



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 11, 2008

Ms. Barbara S. Jordan  
State Board of Dental Examiners  
333 Guadalupe Tower 3 Suite 800  
Austin, Texas 78701-3942

OR2008-04890

Dear Ms. Jordan:

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# 307591.

The State Board of Dental Examiners ("the board") received a request for information relating to a named dentist, including records relating to a specified case number. You state that some of the responsive information has been released. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.111, and 552.137 of the Government Code. We have considered the exceptions you claim and have reviewed the submitted information. We also have considered the comments that we received from the requestor. *See* Gov't Code § 552.304 (any person may submit written comments stating why information at issue in request for attorney general decision should or should not be released).

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. This exception encompasses information that other statutes make confidential. You raise section 552.101 in conjunction with section 254.006 of the Occupations Code, which provides as follows:

- (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.
- (b) Investigation files and other records are confidential and shall be divulged only to the persons investigated at the completion of the investigation. 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 indicate that the submitted information consists of investigation files and records of the board. You do not indicate, and the submitted information itself does not reflect, that subsection 254.006(c) is applicable to any of the information at issue. Therefore, based on your representations and our review of the information at issue, we conclude that the submitted information is confidential in its entirety under subsection 254.006(b) of the Occupations Code and must be withheld from the requestor on that basis under section 552.101 of the Government Code. As we are able to make this determination, we need not address the other exceptions you claim.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can challenge that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read 'J.W. Morris, III', with a long horizontal flourish extending to the right.

James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/ma

Ref: ID# 307591

Enc: Submitted documents

c: Ms. Deana Pollard Sacks  
447 North Post Oak Lane  
Houston, Texas 77024  
(w/o enclosures)