ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 3, 2013

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

OR2013-15303

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# 498189.

The Texas Board of Chiropractic Examiners (the "board") received a request for the complete file regarding a named chiropractor. You state the board will release some information to the requestor. You claim the remaining requested information is 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." Gov't Code § 552.101. This section encompasses information made confidential by other statutes including section 201.206 of the Occupations Code which 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.
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> . . .
>
> (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." Act of May 9, 2003, 78th Leg., R.S., ch. 329, § 7(b), 2003 Tex. Gen. Laws 405, 1407. You state the investigative file at issue was opened after September 1, 2003. We understand the investigative file at issue concerns a complaint about a chiropractor licensed by the board and is maintained by the board pursuant to section 201.204. *See* Occ. Code § 201.204 (setting forth the board's record keeping requirements with respect to complaints filed with the board). Thus, based on your representations and our review, we find the information at issue is part of the board's investigation file 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 at issue. Thus, we find the board must withhold information at issue under section 552.101 of the Government Code in conjunction with section 201.206 of the Occupations Code.

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.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,

Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/tch

Ref: ID# 498189

Enc. Submitted documents

c: Requestor
(w/o enclosures)