



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 30, 2014

Mr. Rob Blech
Assistant General Counsel
Texas Medical Board
P.O. Box 2018
Austin, Texas 78768-2018

OR2014-07237

Dear Mr. Blech:

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# 521315.

The Texas Medical Board (the "board") received a request for correspondence between the board and law enforcement agencies involving the potential prosecution of doctors during a specified time period, excluding unlicensed doctors who were the subject of a cease and desist order.¹ You state the board is withholding some information pursuant to a previous determination issued by our office in Open Records Letter No. 2007-03117 (2007).² 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 information. We also have considered comments submitted by a third party. *See Gov't Code* § 552.304 (providing that interested party may submit comments stating why information should or should not be released).

¹You inform us the board sought and received clarification of the information requested. *See Gov't Code* § 552.222 (providing that if request for information is unclear, governmental body may ask requestor to clarify request).

²Open Records Letter No. 2007-03117 authorizes the board to withhold investigative information that is in the possession of or was received or gathered by the board during the investigation of a license holder under section 552.101 of the Government Code in conjunction with section 164.007(c) of the Occupations Code.

Section 552.101 of the Government Code excepts from required public disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” *Id.* § 552.101. This section encompasses information protected by other statutes, such as section 164.007(c) of the Occupations Code, which provides:

Each complaint, adverse report, investigation file, other investigation report, and other investigative information in the possession of or received or gathered by the board or its employees or agents relating to a license holder, an application for license, or a criminal investigation or proceeding is privileged and confidential and is not subject to discovery, subpoena, or other means of legal compulsion for release to anyone other than the board or its employees or agents involved in discipline of a license holder. For purposes of this subsection, investigative information includes information relating to the identity of, and a report made by, a physician performing or supervising compliance monitoring for the board.

Occ. Code § 164.007(c). Section 164.007(c) is applicable to investigatory records compiled by the board during an investigation of a license holder. You explain the information at issue consists of reports filed by the board with law enforcement agencies pursuant to section 164.007(g) and requests from law enforcement agencies for board investigation files, along with the board’s responses, pursuant to section 164.007(h). *See id.* § 164.007(g) (board shall report investigative information indicating crime may have been committed to appropriate law enforcement agency), (h) (information relevant to criminal investigation disclosed by board to investigative agency remains confidential). Based on your representations and our review of the information at issue, we agree the submitted information is confidential under section 164.007(c). *See id.* § 164.007(c) (“Each complaint, adverse report, investigation file, other investigation report, and other investigative information . . . relating to . . . a license holder . . . or a criminal investigation or proceeding is privileged and confidential[.]”). You do not inform us that the board is authorized to release the information in question to this requestor. *See id.* 164.007(d), (f)-(h). Therefore, the board must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 164.007(c) of the Occupations Code.³

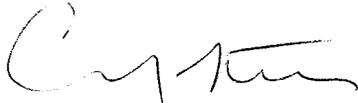
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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/>

³As our ruling is dispositive, we do not address the remaining arguments.

[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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 521315

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. William Schultz
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(w/o enclosures)