



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 12, 2016

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

OR2016-00882

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# 593849.

The State Board of Dental Examiners (the "board") received a request for the licensure files of two named individuals. The board claims the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception the board claims and reviewed the submitted information.

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:

¹We note the board did not comply with section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(b), (e). Nevertheless, because the exception the board claims can provide a compelling reason to overcome the presumption of openness, we will consider the board's claimed exception for the submitted information. *See id.* §§ 552.007, .302, .352.

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

(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. The board states the submitted information consists of information in the licensing files of the board. The board explains the licensing documents were compiled by the board during the investigations of applications for licenses. The board states section 254.006(c) is not applicable to any of the information at issue. Therefore, based on the board's representations and our review of the information at issue, we conclude the submitted information is confidential under section 254.006(b) of the Occupations Code and must be withheld under section 552.101 of the Government Code.

The board also asks this office to issue a previous determination that would permit the board to withhold investigation files under section 552.101 of the Government Code in conjunction with section 254.006(b) of the Occupations Code without the necessity of requesting a decision under section 552.301 of the Government Code. We decline to issue such a previous determination at this time. Accordingly, 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,



David L. Wheelus
Assistant Attorney General
Open Records Division

DLW/bhf

Ref: ID# 593849

Enc. Submitted documents

c: Requestor
(w/o enclosures)