



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 15, 2016

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

OR2016-01241

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# 594406.

The Texas State Board of Dental Examiners (the "board") received a request for information related to a named individual.<sup>1</sup> You indicate the board does not have any information responsive to a portion of the request.<sup>2</sup> 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.

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<sup>1</sup>We note the board sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

<sup>2</sup>The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2(1990), 452 at 3 (1986), 362 at 2 (1983).

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.

(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.

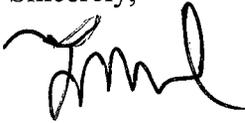
Occ. Code § 254.006. You state the submitted information consists of investigation files of the board pertaining to allegations that an individual violated the rules and laws governing the practice of dentistry. You state section 254.006(c) is not applicable to any of the information at issue. Based 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 information in Exhibit 2 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 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. We decline to issue such a ruling at this time. 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](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,

A handwritten signature in black ink, appearing to read 'Tim Neal', with a stylized flourish at the end.

Tim Neal  
Assistant Attorney General  
Open Records Division

TN/bhf

Ref: ID# 594406

Enc. Submitted documents

c: Requestor  
(w/o enclosures)