



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 30, 2016

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

OR2016-07132

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# 603541.

The Texas State Board of Dental Examiners (the "board") received a request for ten categories of information pertaining to five licensed dentists. You state you do not have information responsive to portions of the request.¹ 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 representative sample of information.²

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

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

²We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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. 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.³

³You ask this office to issue a previous determination permitting the board to withhold investigation files and other records under section 552.101 of the Government Code in conjunction with section 254.006 of the Occupations Code. *See* Gov't Code §552.301(a) (allowing governmental body to withhold information subject to previous determination); Open Records Decision No. 673 (2001). Please note the board may withhold investigation files and other records under section 552.101 of the Government Code in conjunction with section 254.006(b) of the Occupations Code without the necessity of requesting an attorney general decision pursuant to Open Records Letter No. 2016-03778 (2016).

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,

A handwritten signature in black ink, appearing to read 'Cristian Rosas-Grillet', with a long horizontal line extending to the right.

Cristian Rosas-Grillet
Assistant Attorney General
Open Records Division

CRG/bw

Ref: ID# 603541

Enc. Submitted documents

c: Requestor
(w/o enclosures)