



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 17, 2016

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

OR2016-11287

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# 614490.

The State Board of Dental Examiners (the "board") received two requests from different requestors for dates of investigations regarding cases that resulted in patient hospitalization or death.¹ The board claims the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception and reviewed the submitted representative sample of information.²

Initially, we note the board has marked some of the submitted information as being nonresponsive to the request for information. This ruling does not address the public

¹The board sought and received clarification of the information requested. *See* Gov't Code § 552.222 (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) (if governmental entity, acting in good faith, requests clarification of unclear or over-broad request, ten-day period to request attorney general ruling is measured from date request is clarified).

²We assume 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 those records contain substantially different types of information than that submitted to this office.

availability of any information that is not responsive to the request, and the board is not required to release this information in response to this request.

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 section 254.006 of the Occupations Code, which provides as follow:

(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 responsive information consists of “case-specific investigative information” derived from investigation files of the board that were compiled in response to complaints filed against dentists licensed by the board. There is no indication section 254.006(c) is applicable to any of the information at issue. Therefore, we conclude the board must withhold the submitted responsive information under section 552.101 of the Government Code in conjunction with section 254.006(b) 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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/eb

Ref: ID# 614490

Enc. Submitted documents

c: Requestor
(w/o enclosures)