



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 10, 2016

Mr. Bryan D. Snoddy
General Counsel
Texas Board of Chiropractic Examiners
333 Guadalupe Street, Suite 3-825
Austin, Texas 78701-3942

OR2016-18046

Dear Mr. Snoddy:

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# 621929.

The Texas Board of Chiropractic Examiners (the "board") received a request for all information related to a named individual.¹ You state you have released some information to the requestor. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.² We have considered the exception you claim and reviewed the submitted information.

Initially, we note some of the submitted information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2016-03207 (2016). In that ruling we determined the board must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 201.206 of the Occupations Code. We have no indication there has been any change in the law, facts, or

¹We 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).

²Although you do not cite section 552.101 of the Government Code, we understand you to raise this exception based on your argument.

circumstances on which the previous ruling was based. Accordingly, we conclude the board must continue to rely on Open Records Letter No. 2016-03207 as a previous determination and withhold the identical information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). We will address your argument for the information not at issue in the prior ruling.

Section 552.101 of the Government Code excepts from public 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 201.206 of the Occupations Code, which provides, in part, the following:

(a) The board's investigation files are confidential, privileged, and not subject to discovery, subpoena, or any other means of legal compulsion for release other than to the board or an employee or agent of the board.

...

(d) Notwithstanding Subsection (a), the board may:

(1) disclose a complaint to the affected license holder; and

(2) provide to a complainant the license holder's response to the complaint, if providing the response is considered by the board to be necessary to investigate the complaint.

Occ. Code § 201.206(a), (d). Section 201.206 applies to all investigations pending or filed on or after September 1, 2003. *See* Act of May 9, 2003, 78th Leg., R.S., ch. 329, § 7(b), 2003 Tex. Gen. Laws 1405, 1407. The submitted information reveals the investigation files at issue were opened after September 1, 2003. We understand these investigation files concern complaints about a chiropractor licensed by the board and are maintained by the board pursuant to section 201.204. *See* Occ. Code § 201.204 (setting forth the board's record keeping requirements with respect to complaints filed with the board). Thus, we find the remaining information is part of the board's investigation files and section 201.206 governs release of this information. We have no indication the requestor is entitled to any of the information at issue under section 201.206(d). Therefore, the board must withhold the remaining information under section 552.101 of the Government Code in conjunction with section 201.206 of the Occupations Code.

In summary, the board must continue to rely on Open Records Letter No. 2016-03207 as a previous determination and withhold the identical information in accordance with that ruling. The board must withhold the remaining information under section 552.101 of the Government Code in conjunction with section 201.206 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,



Tim Neal
Assistant Attorney General
Open Records Division

TN/bhf

Ref: ID# 621929

Enc. Submitted documents

c: Requestor
(w/o enclosures)