



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

This ruling has been modified by court action.  
The ruling and judgment can be viewed in PDF  
format below.



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 21, 2015

Representative Bill Zedler  
State Representative  
District 96  
Texas House of Representatives  
P.O. Box 2910  
Austin, Texas 78768-2910

**The ruling you have requested has been amended as a result of litigation and has been attached to this document.**

OR2015-14826

Dear Representative Zedler:

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# 570249.

The Office of State Representative Bill Zedler (the "representative's office") received a request for all correspondence between the representative's office and the Texas Medical Board (the "board") during a specified period of time. You state the submitted information is confidential. We have also received and considered comments from the board and the Texas Department of Insurance (the "department"). *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have considered the submitted arguments and reviewed the submitted information.

Initially, the representative's office has submitted a representative sample of the requested information. However, the board informs us the submitted information is not representative of the information to which the requestor seeks access. Please be advised this open records letter ruling applies to only the types of information the representative's office has submitted for our review. This ruling does not authorize the representative's office to withhold any information that is substantially different from the type of information you have submitted to this office for review. *See id.* § 552.302.

Next, you acknowledge the majority of the submitted information is not responsive to the instant request because it pertains to information submitted to the representative's office by the department rather than the board. Upon review, we agree the information we have

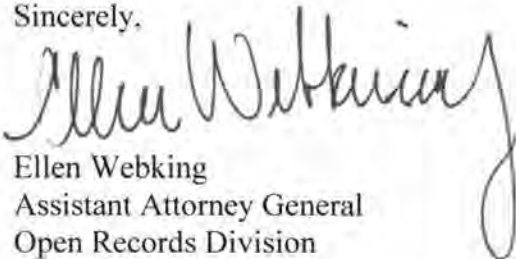
marked is not responsive to the instant request for information. This ruling does not address the public availability of any information that is not responsive to the request and the representative's office is not required to release such information in response to this request.

The board seeks to withhold information the representative's office has not submitted to this office for review. This ruling does not address information that was not submitted by the representative's office and is limited to the information submitted as responsive by the representative's office. *See id.* § 552.301(e)(1)(D) (governmental body requesting decision from Attorney General must submit copy of specific information requested). Thus, as the board does not seek to withhold any portion of the responsive submitted information, we will not address the board's arguments under sections 552.101 and 552.103 of the Government Code. As no arguments are made to withhold the responsive submitted information, it must be released.

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,



Ellen Webking  
Assistant Attorney General  
Open Records Division

EW/som

Ref: ID# 570249

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Bob Davis  
Staff Attorney  
Office of Agency Counsel  
Legal Section  
General Counsel Division  
Texas Department of Insurance  
P.O. Box 149104  
Austin, Texas 78714-9104  
(w/o enclosures)

Mr. Rob Blech, J.D.  
Assistant General Counsel  
Texas Medical Board  
P.O. Box 2018  
Austin, Texas 78768-2018  
(w/o enclosures)

SEP 12 2017

At 1:51 P M.  
Velva L. Price, District Clerk

Cause No. D-1-GN-15-003297

TEXAS MEDICAL BOARD,  
*Plaintiff,*

v.

KEN PAXTON, ATTORNEY GENERAL  
OF TEXAS, AND REPRESENTATIVE  
BILL ZEDLER  
*Defendants*

§  
§  
§  
§  
§  
§  
§  
§  
§

IN THE DISTRICT COURT OF

TRAVIS COUNTY TEXAS

419<sup>TH</sup> JUDICIAL DISTRICT

**AGREED FINAL JUDGMENT**

This cause is an action under the Texas Public Information Act, in which Plaintiff, the Texas Medical Board, sought to protect certain information in the possession of Representative Bill Zedler from public disclosure.

All matters in controversy between the Texas Medical Board ("the Board" or "TMB"), and Defendants, Ken Paxton, Attorney General of Texas ("the Attorney General"), and Representative Bill Zedler ("Representative Zedler"), arising out of this lawsuit have been resolved by a Settlement Agreement, a copy of which is attached hereto as Exhibit "A," and the parties agree to the entry and filing of an Agreed Final Judgment.

Texas Government Code Section 552.324 requires the Court to allow a requestor a reasonable period of time to intervene after notice is attempted by the Attorney General. The Attorney General represents to the Court that, in compliance with this law, the Attorney General sent a certified letter to the requestor, William Pieratt Demond, on July 12, 2017 informing him of the setting of this matter on the uncontested docket on this date. The requestor was informed of the parties' agreement that Representative Zedler must withhold the information described in, and in accordance with, an agreement reflected in a chart circulated among all the parties. The



requestor was also informed of his right to intervene in the suit to contest the withholding, of this information.

The requestor has not filed a motion to intervene.

After considering the agreement of the parties and the law, the Court is of the opinion that entry of an agreed final judgment is appropriate, disposing of all claims between these parties.

**IT IS THEREFORE ADJUDGED, ORDERED AND DECLARED THAT:**

1. The information at issue, as described in the chart reflecting the parties' agreement as referenced in the Settlement Agreement, which consists of information made confidential by Sections 164.007(c) and 164.059 of the Texas Occupations Code, and federal regulation 45 CFR §60.15, is confidential pursuant to Texas Government Code Section 552.101, except where the parties agree the information should be released, or released with specified redactions.
2. Representative Zedler must withhold from the requestor the information described in Paragraph 1 of this judgment.
3. All court costs and attorney fees are taxed against the parties incurring the same.
4. All relief requested by any party and not expressly granted herein is denied; and
5. This Agreed Final Judgment finally disposes of all claims between TMB, Representative Zedler, and the Attorney General, and is a final judgment.

SIGNED the 12<sup>th</sup> day of September, 2017.

  
\_\_\_\_\_  
PRESIDING JUDGE

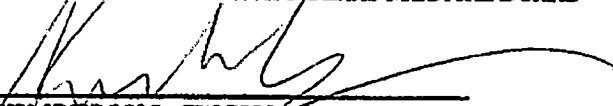
AGREED:



---

**ANN HARTLEY**  
State Bar No. 09157700  
Assistant Attorney General  
Financial Litigation, Tax, and  
Charitable Trusts Division  
P.O. Box 12548  
Austin, Texas 78711-2548  
Telephone: (512) 936-1313  
Facsimile: (512) 477-2348  
[ann.hartley@oag.texas.gov](mailto:ann.hartley@oag.texas.gov)

**ATTORNEY FOR PLAINTIFF TEXAS MEDICAL BOARD**



---

**KIMBERLY L. FUCHS**  
State Bar No. 24044140  
Chief, Open Records Litigation  
Administrative Law Division  
P.O. Box 12548, Capitol Station  
Austin, Texas 78711-2548  
Telephone: (512) 475-4195  
Facsimile: (512) 320-0167  
[kimberly.fuchs@oag.texas.gov](mailto:kimberly.fuchs@oag.texas.gov)

**ATTORNEY FOR DEFENDANT KEN PAXTON,  
ATTORNEY GENERAL OF TEXAS**



---

**H. CARL MYERS**  
State Bar No. 24046502  
Assistant Attorney General  
General Litigation Division  
P.O. Box 12548  
Austin, Texas 78711-2548  
Telephone: (512) 463-2120  
Facsimile: (512) 320-0667  
[marie.l.purveyar@oag.texas.gov](mailto:marie.l.purveyar@oag.texas.gov)

**ATTORNEY FOR DEFENDANT,  
REPRESENTATIVE BILL ZEDLER**

*TMB v. Paxton and Zedler*  
**AGREED FINAL JUDGMENT**

**A**

Cause No. D-1-GN-15-003297

TEXAS MEDICAL BOARD,  
*Plaintiff,*

v.

KEN PAXTON, ATTORNEY GENERAL  
OF TEXAS, AND REPRESENTATIVE  
BILL ZEDLER  
*Defendants*

§  
§  
§  
§  
§  
§  
§  
§

IN THE DISTRICT COURT OF

TRAVIS COUNTY TEXAS

419<sup>TH</sup> JUDICIAL DISTRICT

**SETTLEMENT AGREEMENT**

This Settlement Agreement (Agreement) is made by and between Plaintiff, the Texas Medical Board ("the Board" or "TMB"), and Defendants, Ken Paxton, Attorney General of Texas ("the Attorney General"), and Representative Bill Zedler ("Representative Zedler"). This Agreement is made on the terms set forth below.

**Background**

Representative Zedler received a request for all correspondence between his office and the Board. Representative Zedler requested a ruling from the Attorney General under Texas Government Code Section 552.301 about whether some of the requested information in his possession was protected from disclosure. Representative Zedler had received these documents from the Board pursuant to Government Code Section 552.008(b) (Information for Legislative Purposes), and TMB staff believed that some of the responsive documents were part of the Board's investigative file and confidential by law, including Section 164.007(c) of the Texas Occupations Code. TMB submitted argument to the Attorney General explaining why much of the information sought is protected by disclosure.

In Letter Ruling OR2015-14826, the Attorney General ruled that the information at issue, particularly information sought by the Board to be protected under Texas Occupations Code Section 164.007, should be released.

TMB filed suit challenging Letter Ruling OR2015-14826, seeking a declaratory judgment, pursuant to the Public Information Act ("PIA"), TEX. GOV'T CODE Section 552.325, that certain information collected, maintained, or assembled by the Board is protected from disclosure under the PIA.

The parties entered an Agreed Protective Order on October 21, 2015, under which Representative Zedler produced to counsel for TMB and the Attorney General all documents in his possession responsive to the request. After review and discussion, the parties have reached agreement about which information must be withheld from disclosure and which must be released. A chart showing, for each page, whether information is to be withheld or released, reflects the specific terms of this Settlement Agreement but is confidential because it contains information protected by law.

TEX. GOV'T CODE § 552.325(c) allows the Attorney General to enter into settlement under which some of the information at issue in this lawsuit may be withheld. The parties wish to resolve this matter without further litigation.

#### **Terms**

For good and sufficient consideration, the receipt of which is acknowledged, the parties to this Agreement agree and stipulate that:

1. The information at issue, as described in the chart reflecting the parties' agreement as referenced above, which consists of information made confidential by Sections 164.007(c) and 164.059 of the Texas Occupations Code, and federal regulation 45 CFR §60.15, is confidential pursuant to Texas Government Code Section 552.101,

except where the parties agree the information should be released, or released with specified redactions.

2. TMB, the Attorney General, and Representative Zedler agree, in accordance with the PIA and under the facts presented and agreed upon to entry of an agreed final judgment, the form of which has been approved by each party's attorney.

3. The agreed final judgment will be presented to the court for approval, on the uncontested docket, with at least 15 days prior notice to the requestor.

4. A final judgment entered in this lawsuit after a requestor intervenes prevails over this Agreement to the extent of any conflict.

5. Each party to this Agreement will bear its own costs, including attorney fees relating to this litigation.

6. The terms of this Agreement are contractual and not mere recitals, and the agreements contained herein and the mutual consideration transferred is to compromise disputed claims fully, and nothing in this Agreement shall be construed as an admission of fault or liability, all fault and liability being expressly denied by all parties to this Agreement.

7. The Board warrants that its undersigned representative is duly authorized to execute this Agreement on its behalf and that its representative has read this Agreement and fully understands it to be a compromise and settlement and release of all claims that the Board has against the Attorney General or Representative Zedler arising out of the matters described in this Agreement.

8. The Attorney General warrants that his undersigned representative is duly authorized to execute this Agreement on behalf of the Attorney General and his representative has read this Agreement and fully understands it to be a compromise and

settlement and release of all claims that the Attorney General has against the Board arising out of the matters described in this Agreement.

9. Representative Zedler warrants that his undersigned representative is duly authorized to execute this Agreement on behalf of Representative Zedler and his representative has read this Agreement and fully understands it to be a compromise and settlement and release of all claims that Representative Zedler has against the Board or the Attorney General arising out of the matters described in this Agreement.

10. This Agreement shall become effective, and be deemed to have been executed, on the date on which the last of the undersigned parties sign this Agreement.

TEXAS MEDICAL BOARD

By: 

Name: ANN HARTLEY  
Title: Assistant Attorney General  
Financial Litigation and  
Charitable Trusts Division

KEN PAXTON, ATTORNEY GENERAL  
OF TEXAS

By: 

Name: KIMBERLY L. FUCHS  
Title: Assistant Attorney General  
Administrative Law Division

REPRESENTATIVE BILL ZEDLER

By: 

Name: H. CARL MYERS  
Title: Assistant Attorney General  
General Litigation Division