



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 25, 2017

Ms. Megan G. Holloway  
Staff Attorney  
Texas State Board of Pharmacy  
333 Guadalupe Street, Suite 3-500  
Austin, Texas 78701-3943

OR2017-24330

Dear Ms. Holloway:

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# 681500.

The Texas State Board of Pharmacy (the "board") received a request for information pertaining to a named individual. The board claims the requested information is excepted from disclosure under section 552.101 of the Government Code.<sup>1</sup> We have considered the claimed exception and reviewed the submitted information.

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. This section encompasses section 481.076(a) of the Health and Safety Code, which provides, "[t]he board may not permit any person to have access to information submitted to the board under Section 481.074(q) or 481.075 except" certain enumerated individuals and entities for purposes specified in the statute. Act of May 30, 2017, 85th Leg., R.S., ch. 485, § 4, 2017 Tex. Sess. Law Serv. 1280, 1281-82 (to be codified as an amendment to Health and Safety Code § 481.076(a)); *see* Act of May 30, 2017, 85th Leg., R.S., ch. 485, § 2, 2017 Tex. Sess. Law Serv. 1280, 1280-81 (to be codified as an amendment to Health and Safety Code § 481.074(q)) (requiring dispensing pharmacists to send certain prescription information to board within specified period of time), Act of May

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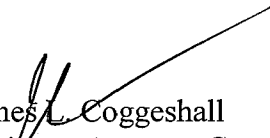
<sup>1</sup>We note the board informs us such information is maintained pursuant to its Texas Prescription Monitoring Program.

30, 2017, 85th Leg., R.S., ch. 485, § 3, 2017 Tex. Sess. Law Serv. 1280, 1281 (to be codified as an amendment to Health and Safety Code § 481.075(i)(3) (same). The board informs us the requested information was submitted to it under section 481.074(q) “and/or” section 481.075. The board also states the requestor is not entitled to access to the information at issue under section 481.076. Based on these representations, we agree the board must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 481.076(a) of the Health and Safety Code.<sup>2</sup>

The board requests a previous determination authorizing it to withhold information under in section 481.076(a) of the Health and Safety Code in conjunction with section 552.101 of the Government Code, when that information was submitted to the board under section 481.074(q) or 481.075 of the Health and Safety Code, without seeking a ruling from this office. We decline to issue such a previous determination at this time. Accordingly, this letter ruling is limited to the particular records 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 records 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,

  
James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/sb

Ref: ID# 681500

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup>As our ruling is dispositive, we do not address the other arguments of the board to withhold this information.