



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 31, 2018

Ms. Wendy A. Pajak  
Assistant General Counsel  
Texas Medical Board  
P.O. Box 2018  
Austin, Texas 78768-2018

OR2018-02094

Dear Ms. Pajak:

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# 693192 (TMB Ref. No. 28332).

The Texas Medical Board (the "board") received a request for the names, addresses, and contact information for all licensed surgical assistants during a specified time period. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.139 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup>

Initially, we note the requestor only seeks the names, addresses, and contact information of licensed surgical assistants. Accordingly, the remaining submitted information is not responsive to the instant request. The board need not release non-responsive information in response to this request, and this ruling will not address that information.

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<sup>1</sup>We 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.

Section 552.101 of the Government Code exempts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This exception encompasses section 206.157 of the Occupations Code, which provides:

A complaint, adverse report, investigation file, or other report, the identity of and reports made by a physician or surgical assistant performing or supervising compliance monitoring for the medical board, or other investigative information in the possession of or received or gathered by the medical board, medical board employee or agent relating to a license holder, a license application, or a criminal investigation or proceeding is privileged and confidential and is not subject to discovery, subpoena, or other means of legal compulsion for release to any person other than the medical board or medical board employee or agent involved in license holder discipline.

Occ. Code § 206.157. You state the responsive information consists of information in the board’s investigation files pertaining to licensed surgical assistants. Based on your representations and our review, we agree the information at issue is confidential under section 206.157. *See id.* We have no indication the disclosure provisions in chapter 206 apply to the requestor. *Id.* §§ 206.155(a), .156, .157, .158. Therefore, the board must withhold the responsive information under section 552.101 of the Government Code in conjunction with section 206.157 of the Occupations Code.<sup>2</sup>

You also ask this office to issue a previous determination permitting the board to withhold investigative information in the possession of or received or gathered by the board under section 552.101 of the Government Code in conjunction with section 206.157 of the Occupations Code, without the necessity of requesting a ruling from this office. *See* Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code). 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

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<sup>2</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure.

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 "Tim Neal". The signature is fluid and cursive, with the first name "Tim" being more prominent than the last name "Neal".

Tim Neal  
Assistant Attorney General  
Open Records Division

TN/tdw

Ref: ID# 693192

Enc. Submitted documents

c: Requestor  
(w/o enclosures)