



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 29, 2019

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

OR2019-30468

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# 793906 (Req. No. P.8.14.19).

The Texas State Board of Pharmacy (the "board") received a request for information related to prescribers of controlled substances. The board claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹

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. Health & Safety Code § 481.076(a); *see id.* §§ 481.074(q) (requiring dispensing pharmacists to send certain prescription information to board within specified period of time), .075(i)(3) (same). The

¹ We 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.

board informs us the requested information was submitted to it under section 481.074(q), 481.075, "and/or" section 481.076. 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.

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink that reads "Megan Hunter". The signature is written in a cursive, flowing style.

Meagan Hunter
Assistant Attorney General
Open Records Division

MH/mo

Ref: ID# 793906

Enc. Submitted documents

c: Requestor
(w/o enclosures)