



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 29, 2022

Mr. Patrick Hyde
General Counsel
Texas Behavioral Health Executive Council
333 Guadalupe Street, Suite 3-900
Austin, Texas 78701

OR2022-09161

Dear Mr. Hyde:

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# 939574.

The Texas Behavioral Health Executive Council (the "council") received a request for information pertaining to a named license professional counselor.¹ The council claims the submitted information is excepted from disclosure under section 552.101 of the Government Code.² Additionally, you provide documentation showing the council notified the named individual of the right to submit comments to this office as to why the submitted information should not be released.³ *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have considered the claimed exception and reviewed the submitted information.

¹ The council states, and provides documentation showing, it 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); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

² Although the council asks this office to issue a previous determination permitting it to withhold information subject to section 507.205(a) of the Occupations Code, we note we granted such a previous determination to the council in Open Records Letter No. 2022-04456 (2022).

³ As of the date of this ruling, our office has not received comments from the named individual.

Section 552.101 of the Government Code exempts from required public disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” *Id.* § 552.101. This section encompasses information made confidential by statutes, such as section 507.205 of the Occupations Code. Section 507.205(a) provides the following:

(a) Except as provided by Subsection (b), a complaint and investigation and all information and materials compiled by the [council] in connection with the complaint and investigation are not subject to:

(1) disclosure under Chapter 552, Government Code[.]

...

(b) A complaint or investigation subject to Subsection (a) and all information and materials compiled by the executive council in connection with the complaint may be disclosed to:

(1) the executive council and executive council employees or agents involved in license holder discipline;

(2) a party to a disciplinary action against the license holder or that party’s designated representative;

(3) the board of the applicable profession;

(4) a law enforcement agency;

(5) a governmental agency, if:

(A) the disclosure is required or permitted by law; and

(B) the agency obtaining the disclosure protects the identify of any patient whose records are examined; or

(6) a person engaged in bona fide research, if all information identifying a specific individual has been deleted.

Occ. Code § 507.205(a)(1), (b). You state the submitted information was compiled by the council in connection with complaints and investigations of the named licensed professional counselor. Based upon these representations and our review, we conclude the submitted information is confidential pursuant to section 507.205(a) of the Occupations Code. Accordingly, the council must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 507.205(a) 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 <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,

Katie Stallcup
Assistant Attorney General
Open Records Division

AKS/be

Ref: ID# 939574

c: Requestor

1 Third Party