



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 27, 2022

Mr. Joseph McLaughlin
Staff Attorney
Texas Board of Chiropractic Examiners
333 Guadalupe, Suite 3-825
Austin, Texas 78701-3942

OR2022-29836

Dear Mr. McLaughlin:

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# 975070.

The Texas Board of Chiropractic Examiners (the "board") received a request for the licensure file pertaining to a named licensee, including certain types of documents. You claim 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 information.

Initially, we note the board has only submitted an investigation file. To the extent information responsive to the remainder of the request existed on the date the board received the request, we assume you have released it. *See* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible). If you have not released any such information, you must do so at this time. *See* Gov't Code §§ 552.301(a), .302.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. This exception encompasses information made confidential by section 201.206 of the Occupations Code, which provides:

- (a) Each complaint, adverse report, investigation file, and other investigation report and all other investigative information in the possession of or received or gathered by the board or the board's employees or agents relating to a

license holder, an application for license, or a criminal investigation or proceeding is privileged and confidential and is not subject to discovery, subpoena, or any other means of legal compulsion for release to anyone other than the board or an employee or agent involved in any disciplinary action relating to a license holder.

...

(d) Notwithstanding Subsection (a), the board may:

(1) disclose a complaint to the affected license holder; and

(2) provide to a complainant the license holder's response to the complaint, if providing the response is considered by the board to be necessary to investigate the complaint.

Occ. Code § 201.206(a), (d). We understand the submitted investigation file concerns complaints about a chiropractor licensed by the board and is maintained by the board pursuant to section 201.204 of the Occupations Code. *See id.* § 201.204 (setting forth the board's record keeping requirements with respect to complaints filed with the board). Thus, we find the submitted information is part of the board's investigation files and section 201.206 governs release of this information. We have no indication the requestor is entitled to any of the information at issue under section 201.206(d). Therefore, the board must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 201.206 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,

Erin Groff
Assistant Attorney General
Open Records Division

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Enc. Submitted documents

c: Requestor
(w/o enclosures)