



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 17, 2022

Mr. Eamon D. Briggs
Assistant General Counsel
Texas State Board of Pharmacy
333 Guadalupe, Suite 3-500
Austin, Texas 78701-3943

OR2022-31813

Dear Mr. Briggs:

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# 978333 (ORR# C.8.5.22).

The Texas State Board of Pharmacy (the "board") received a request for information pertaining to a specified pharmacy. The board claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. 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." *Id.* § 552.101. This section encompasses section 565.055 of the Occupations Code, which provides, in part, as follows:

- (a) The board or the board's authorized representative may investigate and gather evidence concerning any alleged violation of this subtitle or a board rule.
- (b) Information or material compiled by the board in connection with an investigation, including an investigative file of the board, is confidential and not subject to:

(1) disclosure under [the Act]; or

(2) any means of legal compulsion for release, including disclosure, discovery, or subpoena, to anyone other than the board or a board employee or board agent involved in discipline of a license holder.

Occ. Code § 565.055(a)-(b). The board states the submitted information was compiled by the board in connection with an investigation of an alleged violation of the Texas Pharmacy Act or board rule. The board informs us the requestor is not entitled to this information pursuant to section 565.055(c) of the Occupations Code. *See id.* § 565.055(c). 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 565.055(b) of the Occupations Code.¹ *See* Open Records Decision No. 474 at 2-3 (1987) (construing predecessor statute).

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,

James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/jxd

Ref: ID# 978333

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹ As our ruling is dispositive, we do not address the other argument of the board to withhold this information.