



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 8, 2022

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

OR2022-38019

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# 988864 (TSBP Request No. A.9.19.22).

The Texas State Board of Pharmacy (the "board") received a request for information pertaining to complaints or grievances filed with the board during a defined period of time. 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 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. Section 552.101 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.

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 that those records contain substantially different types of information than that submitted to this office.

(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 upon 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.² *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,

Kimbell Kesling
Assistant Attorney General
Open Records Division

KK/mo

Ref: ID# 988864

Enc. Submitted documents

c: Requestor
(w/o enclosures)

² As our ruling is dispositive, we need not address the remaining argument against disclosure of the submitted information.