

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI**

UNITED STATES OF AMERICA,)	
<i>Plaintiff,</i>)	
)	
v.)	No. 08-00026-04-CR-W-FJG
)	
CHRISTOPHER L. ELDER,)	
<i>Defendant.</i>)	

**TEXAS MEDICAL BOARD’S
MOTION TO SEAL DOCUMENTS TENDERED IN CAMERA**

Comes now the Texas Medical Board (the “Board”), a non-party to the above styled and numbered cause, by and through Greg Abbott, Attorney General of Texas, and the undersigned Assistant Attorney General, and files this motion to seal documents subpoenaed by Defendant Elder and tendered to the Court under seal for in camera review. In support of its Motion the Board would respectfully show the Court as follows:

1.

Background

Defendant Christopher Elder subpoenaed documents in the licensing file of Peter C. Okose, M.D., possessed by the Board, a non-party. The Board informed Dr. Elder’s counsel that certain documents are confidential by the Texas Medical Practices Act and withheld disclosure of those documents. Urging the confidentiality provisions of the statute, the Board filed a Motion to Quash and for Protection. On March 4, 2009, this Motion was heard by Magistrate Sarah W. Hayes. The Court indicated that unless the documents were exculpatory

as to Dr. Elder, they would not be relevant. The Board offered to tender potentially responsive but confidential documents to Magistrate Hayes for in camera review; Magistrate Hayes approved and counsel for Dr. Elder agreed with this procedure. During the hearing on the Motion, Magistrate Hayes indicated that she would review the documents to determine whether they are exculpatory as to Dr. Elder. The Court would then issue an order and the documents will be maintained by the Court to allow the parties the opportunity to appeal if necessary.

2.

Relief Requested

In order for the Court to determine whether the Board's claim of confidentiality has merit and whether the documents are exculpatory, it is necessary for the Board to tender documents Bates labeled TMB 0001 - 0047 to the Court for an *in camera* inspection, and to ask the Court to order the documents to be filed under seal until further order of the Court. The tendered documents will be sent under separate cover, via overnight delivery, marked "Confidential: For Judge's Eyes Only." The Board respectfully requests that the tendered documents labeled TMB 0001 - 0047 be kept under seal pending further order of this Court.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was delivered on March 17, 2009, to the CM-ECF system of the United States District Court for the Western District of Missouri for electronic delivery to all counsel of record.

/s/ **John S. Langley**
John S. Langley