



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 17, 2007

Mr. James Thomassen
Assistant General Counsel
Texas Medical Board
P.O. Box 2018 MC-251
Austin, Texas 78768-2018

OR2007-13575

Dear Mr. Thomassen:

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# 292911.

The Texas Medical Board (the "board") received a request for the proposals and score sheets responsive to RFO 503-7-633 for the non-winning bidders. You state you have provided the requestor with some of the requested information. You take no position with respect to the public availability of the remaining requested information. You believe, however, that the remaining information may implicate the proprietary interests of three third parties. Accordingly, you notified Prometric, LaserGrade, and Pan - a TALX Company ("Pan") of this request for information and of their right to submit arguments to this office as to why the remaining information should not be released.¹ We have reviewed the submitted information.

We note that the submitted information pertaining to Pan, Prometric, and LaserGrade was the subject of previous requests for information, in response to which this office issued Open Records Letter Nos. 2007-11805 (2007) and 2007-12916 (2007). With regard to information in the current request that is identical to the information previously requested and ruled upon

¹ See Gov't Code § 552.305(d); Open Records Decision No. 542 (1990) (statutory predecessor to Gov't Code § 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances).

by this office, we conclude that, as we have no indication that the law, facts, and circumstances on which the prior rulings were based have changed, the board must continue to rely on these rulings as previous determinations and withhold or release this information in accordance with Open Records Letter Nos. 2007-11805 and 2007-12916. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

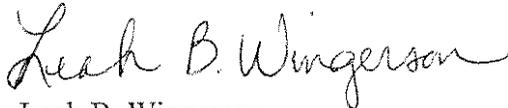
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or

complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/ma

Ref: ID# 292911

Enc. Submitted documents

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