



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 8, 2015

Mr. Rob Blech
Assistant General Counsel
Texas Medical Board
P.O. Box 2018
Austin, Texas 78768-2018

OR2015-11141

Dear Mr. Blech:

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# 566359.

The Texas Medical Board (the "board") received a request for all contact information for all licensed physicians in the State of Texas. You state you will release some of the requested information to the requestor upon payment of costs. You state the board is withholding some information pursuant to a previous determination issued by our office in Open Records Letter No. 2007-03117 (2007).¹ You claim the submitted information is excepted from disclosure under sections 552.101, 552.137, and 552.139 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.²

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. This exception encompasses information that other statutes make confidential. Section 156.006 of the Occupations Code provides, in part:

¹Open Records Letter No. 2007-03117 authorizes the board to withhold investigative information that is in the possession of or was received or gathered by the board during the investigation of a license holder under section 552.101 of the Government Code in conjunction with section 164.007(c) of the Occupations Code.

²We 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.

(a) Each license holder shall submit to the board telephone numbers, fax numbers, and e-mail addresses, if available and as appropriate, that the board may use to contact the license holder in an emergency.

...

(d) The information provided by a license holder under this section is confidential and is not subject to disclosure under [the Act]. The board may not publish, release, or make available information provided by a license holder under this section except as provided by Subsection (e).

Occ. Code § 156.006(a), (d). You state the telephone numbers and e-mail addresses in Exhibits 5 and 7 belong to licensed physicians and were provided to the board pursuant to section 156.006(a). Upon review, we find the board must withhold the telephone numbers and e-mail addresses in Exhibits 5 and 7 under section 552.101 of the Government Code in conjunction with section 156.006(d) of the Occupations Code.

Section 552.139 of the Government Code provides, in part:

(a) Information is excepted from [required public disclosure] if it is information that relates to computer network security, to restricted information under Section 2059.055 [of the Government Code], or to the design, operation, or defense of a computer network.

Id. § 552.139(a). Section 2059.055 of the Government Code provides in part:

(b) Network security information is confidential under this section if the information is:

- (1) related to passwords, personal identification numbers, access codes, encryption, or other components of the security system of a state agency;
- (2) collected, assembled, or maintained by or for a governmental entity to prevent, detect, or investigate criminal activity; or
- (3) related to an assessment, made by or for a governmental entity or maintained by a governmental entity, of the vulnerability of a network to criminal activity.

Id. § 2059.055(b). You state the physician e-mail addresses in Exhibit 8 are “used as unique user codes for physicians to access the [board’s] secure computer systems.” Accordingly, you state these e-mail addresses are part of the board’s computer network security and “safeguard access to sensitive and confidential information held in the secure online systems of the [board].” Based on these representations and our review of the submitted information,

we find the board has demonstrated the information at issue relates to computer network security, restricted information under section 2059.055, or to the design, operation, or defense of the computer network as contemplated in section 552.139(a). Accordingly, the board must withhold the e-mail addresses in Exhibit 8 under section 552.139(a) of the Government Code.

Section 552.137 of the Government Code provides, “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body is confidential and not subject to disclosure under [the Act],” unless the owner of the e-mail address has affirmatively consented to its release or the e-mail address is specifically excluded by subsection (c). Gov’t Code § 552.137(a)–(c). You state the e-mail addresses in Exhibit 9 are not excluded by subsection (c). Thus, the board must withhold the e-mail addresses in Exhibit 9 under section 552.137 of the Government Code, unless their owners affirmatively consent to their public disclosure.

In summary, the board must withhold the information telephone numbers and e-mail addresses in Exhibits 5 and 7 section 552.101 of the Government Code in conjunction with section 156.006(d) of the Occupations Code. The board must withhold the e-mail addresses in Exhibit 8 under section 552.139(a) of the Government Code. The board must withhold the e-mail addresses in Exhibit 9 under section 552.137 of the Government Code, unless their owners affirmatively consent to their public disclosure. The remaining information must be released.

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 http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Joseph Behnke
Assistant Attorney General
Open Records Division

JB/som

Ref: ID# 566359

Enc. Submitted documents

c: Requestor
(w/o enclosures)