



August 15, 2000

Ms. Gay Dodson  
Executive Directory/Secretary  
Texas State Board of Pharmacy  
P. O. Box 21  
Austin, Texas 78701-3942

OR2000-3112

Dear Ms. Dodson:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 138292.

The Texas State Board of Pharmacy (the "board") received a request for dates of birth and social security numbers of named pharmacists, and the Federal Tax ID numbers of pharmacies licensed by the board. You state that this instant request only pertains to the request for the pharmacists' social security numbers. You state that you have released all other portions of the requested information. You claim that the requested social security numbers are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 encompasses confidentiality provisions such as section 51.251 of the Occupations Code. Section 51.251 of the Occupations Code provides that

[t]he social security number of an applicant for or holder of a license, certificate of registration, or other legal authorization issued by a licensing agency to practice in a specified occupation or profession that is provided to the licensing agency is confidential and is not subject to disclosure under the open records law.

Occ. Code § 51.251.

Thus, the social security numbers are confidential under section 51.251. However, in this instance, the request for information submitted to the board is not from a member of the public but from another governmental entity, the Health and Human Services Commission. We ruled in Open Records Decision No. 661 (1999) that whether a governmental entity may release information to another governmental entity is not a question under the Public Information Act (the "Act") as the Act is concerned with the required release of information

to the *public*. Gov't Code §§ 552.001, .002, .021; *see* Attorney General Opinions, H-683 (1975), H-242 (1974), M-713 (1970); Open Records Decision No. 655 (1997). For many years, this office has recognized that it is the public policy of this state that governmental bodies should cooperate with each other in the interest of the efficient and economical administration of statutory duties. *See, e. g.*, Attorney General Opinion H-836 (1976); Open Records Decision No. 655 (1997). *But see* Attorney General Opinions DM-353 at 4 n. 6 (1995) (interagency transfer prohibited where confidentiality statute enumerates specific entities to which release of confidential information is authorized and where receiving agency is not among statute's enumerated entities), JM-590 (1986) (same); Open Records Decision No. 655 at 8 (1997) (same), 650 (1996) (transfer of confidential information to federal agency impermissible unless federal law requires its disclosure). In adherence to this policy, this office has acknowledged that information may be transferred between governmental bodies without violating its confidential character on the basis of a recognized need to maintain an unrestricted flow of information between governmental bodies. *See* Attorney General Opinions H-836 (1976), H-242 (1974), M-713 (1970); Open Records Decision Nos. 655 (1997), 414 (1984).

You assert that this office has been inconsistent with allowing for the interagency transfer of confidential information without destroying the confidentiality of the information or waiving exceptions to disclosure. You state that in Attorney General Opinion JM-590, this office determined that the interagency transfer of confidential documents does not apply to statutes that make information confidential. Attorney General Opinion JM-590 at 5 (1986). However, this opinion was discussing statutes that make information confidential but enumerate those entities to which the information may be disclosed. Where a statute makes information confidential but enumerates those entities to which the information may be disclosed, the interagency transfer of such information to any non-enumerated entity would violate the confidentiality of that information. *See* Attorney General Opinions DM-353 at 4 n. 6 (1995) (interagency transfer prohibited where confidentiality statute enumerates specific entities to which release of confidential information is authorized and where receiving agency is not among statute's enumerated entities), JM-590 (1986) (same); Open Records Decision No. 655 (1997) (same). In this instance, section 51.251 of the Occupations Code does not enumerate any governmental entities to which the information the statute makes confidential may be released. Therefore, section 51.251 does not fall within the purview of statutes contemplated by Attorney General Opinions JM-590 (1986). Consequently, we conclude that the requested social security numbers' confidentiality will not be violated by an interagency transfer of that information. ORD 661 (1999). Therefore, the board at its discretion may transfer the social security numbers to the requesting state agency without violating the confidentiality of the information or waiving exceptions to 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.

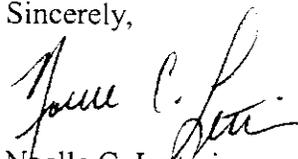
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge 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, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, 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 Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

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,



Noelle C. Letteri  
Assistant Attorney General  
Open Records Division

NCL/pr

Ref: ID# 138292

Encl. Submitted documents

cc: Ms. Aurora LeBrun  
Texas Health and Human Services Comm.  
4900 North Lamar, 4<sup>th</sup> Floor  
Austin, Texas 78751  
(w/o enclosures)