



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 1, 2007

Mr. Fletcher H. Brown
Davis & Wilkerson, P.C.
P.O. Box 2283
Austin, Texas 78768-2283

OR2007-05067

Dear Mr. Brown:

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# 277339.

The Jackson County Hospital District (the "district"), which you represent, received a request for the full name, social security number, license number, date of birth, employer's name, and employer's address of two named registered nurses. You state that the district is withholding the social security numbers under section 552.147 of the Government Code.¹ You claim that a portion of the remaining requested information is excepted from disclosure under sections 552.101 and 552.102 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that the Texas Comptroller of Public Accounts currently has a lawsuit pending against the Office of the Attorney General that pertains, in part, to individuals' dates of birth: *Tex. Comptroller of Public Accounts v. Abbott*, No. 03-07-00102-CV (Tex. App.—Austin, Feb. 13, 2007, n.w.h.). Accordingly, we do not address your arguments under section 552.102 with regard to the birth dates that the district seeks to withhold. We will allow the court of appeals to determine whether that type of information must be released to the public.

¹ We note that section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. Gov't Code § 552.147(b).

Section 552.101 excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This section encompasses information protected by other statutes. You argue that the nursing license numbers are confidential pursuant to section 552.101 of the Government Code in conjunction with section 217.15 of title 22 of the Texas Administrative Code. Section 217.15 provides in pertinent part:

(b) A licensee or permit holder shall only allow his or her license/permit certificate to be copied for the purposes of licensure verification by employers, licensing boards, professional organizations, nursing programs, and third party payors for credentialing and reimbursement purposes. Other persons and/or agencies may contact the board’s office in writing or by phone to verify licensure.

22 T.A.C. § 217.15(b). Section 217.15 applies only to a nursing licensee or permit holder. *See id.* Accordingly, section 217.15 is not applicable to a nursing license in the hands of someone other than the licensee or permit holder. The information at issue is maintained by the district. Therefore, section 217.15 of title 22 of the Texas Administrative Code is not applicable to the submitted information, and it may not be withheld under section 552.101 on that basis. As you raise no further exceptions to disclosure, the requested nursing license numbers must be released.

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,



Melanie J. Villars
Assistant Attorney General
Open Records Division

MJV/sdk

Ref: ID# 277339

Enc. Submitted documents

c: Mr. Woodrow Hernandez
c/o Davis & Wilkerson, P.C.
P.O. Box 2283
Austin, Texas 78768-2283
(w/o enclosures)