



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 5, 2012

Ms. Sarah Tuthill
Assistant General Counsel
Texas Medical Board
P.O. Box 2018
Austin, Texas 78768-2018

OR2012-14008

Dear Ms. Tuthill:

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# 463924 (TMB Reference Number: 22572).

The Texas Medical Board (the "board") received a request for the winning bid for a specified request for proposals.¹ Although the board takes no position with respect to the public availability of the submitted information, you state its release may implicate the proprietary interests of Recovery Trek ("Recovery"). Accordingly, the board notified Recovery of the request and of the company's right to submit arguments to this office explaining why its information should not be released. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); *see also* Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party

¹You state the board sought and received clarification of the request for information. *See* Gov't Code § 552.222(b) (stating that if information requested is unclear to governmental body or if a large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used).

to raise and explain applicability of exception in certain circumstances). We have reviewed the submitted information.

Initially, we note the requestor has expressly excluded social security numbers from her request. Thus, this information is not responsive to the instant request. This ruling does not address the public availability of non-responsive information, and the board is not required to release non-responsive information in response to this request.

An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice to submit its reasons, if any, as to why information relating to that party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this ruling, we have not received comments from Recovery. Thus, we have no basis to conclude Recovery has a protected proprietary interest in any of the responsive information. *See id.* § 552.110(a)-(b); Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish prima facie case that information is trade secret), 542 at 3. Accordingly, the board may not withhold any of the information at issue on the basis of any proprietary interest Recovery may have in the information. As no exceptions to disclosure have been raised, the responsive information must be released to the requestor.

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sarah Casterline', followed by a large, stylized circular flourish or scribble.

Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/som

Ref: ID# 463924

Enc. Submitted documents

c: Requestor
(w/o enclosures)

General Counsel
Recovery Trek, LLC
258 North Blake Road
Norfolk, Virginia 23505
(w/o enclosures)