



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 7, 2014

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

OR2014-17959

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# 539124 (TMB Reference No. 24666).

The Texas Medical Board (the "board") received a request for license numbers and e-mail addresses of physicians and physician assistants, excluding e-mail addresses provided as emergency contact information and e-mail addresses provided as part of certain investigations.¹ You claim some of the submitted information is excepted from disclosure under sections 552.101, 552.137, and 552.139 of the Government Code. We have

¹You state the board sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing that if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

considered the exceptions you claim and reviewed the submitted representative sample of information.²

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.

Gov't Code § 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 submitted physician e-mail addresses are “used as unique user codes to access the [b]oard’s secure online licensure application system, secure online registration system, secure online delegation and supervision registration system, and Single Sign On (SSI) system, which allows access to various secure [b]oard computer systems.” You further state some of the submitted physician assistant e-mail addresses are used as “unique user codes to access the [b]oard’s secure online licensure application system, secure online renewal/registration system, and SSI system.” 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,

²We assume that 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.

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 information at issue under section 552.139(a) of the Government Code.³

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” *Id.* § 552.101. Section 552.101 encompasses information made confidential by section 204.254 of the Occupations Code, which provides as follows:

A complaint, adverse report, investigation file, other report, or other investigative information in the possession of or received or gathered by the physician assistant board or a board employee or agent relating to a license holder, a license application, or a criminal investigation or proceeding is privileged and confidential and is not subject to discovery, subpoena, or other means of legal compulsion for release to any person other than the board or a board employee or agent involved in license holder discipline.

Occ. Code § 204.254. You seek to withhold the remaining physician assistant e-mail addresses on the basis of section 204.254. You state the board maintains that information in its licensure files. You do not indicate section 204.255 of the Occupations Code authorizes the release of the information in question to this requestor. We note section 204.254 is applicable to investigative information held, received, or gathered by the Texas Physician Assistant Board (the “physician assistant board”), which is an advisory board to the medical board. *See id.* §§ 204.002(2), 204.051(a). You state the board provides infrastructure and personnel resources to the physician assistant board, including computer resources. Thus, we understand the board maintains the information at issue on behalf of the physician assistant board. *See id.* 204.102 (medical board shall adopt rules to regulate physician assistants). Accordingly, we find the board must withhold the remaining physician assistant e-mail addresses under section 552.101 of the Government Code in conjunction with section 204.254 of the Occupations Code.

In summary, the board must withhold the physician and physician assistant e-mail addresses that serve as unique user codes under section 552.139(a) of the Government Code. The board must withhold the remaining physician assistant e-mail addresses under section 552.101 of the Government Code in conjunction with section 204.254 of the Occupations Code. As you raise no exceptions against release of the remaining information, consisting of the requested license numbers, this information must be released to the requestor.

³As our ruling is dispositive for this information, we need not address your remaining arguments against its disclosure.

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,



Kristi L. Godden
Assistant Attorney General
Open Records Division

KLK/cbz

Ref: ID# 539124

Enc. Submitted documents

c: Requestor
(w/o enclosures)