



**The Commonwealth of Massachusetts**  
William Francis Galvin, Secretary of the Commonwealth  
Public Records Division

Rebecca S. Murray  
*Supervisor of Records*

June 4, 2019  
**SPR19/993**

Gerard F. Dolan, Esq.  
Assistant General Counsel  
Board of Registration in Medicine  
200 Harvard Mill Square, Suite 330  
Wakefield, MA 01880

Dear Attorney Dolan:

I have received the petition of Sara Berger appealing the response of the Board of Registration in Medicine (Board) to a request for public records. G. L. c. 66, § 10A; see also 950 C.M.R. 32.08(1). Specifically, Ms. Berger requested the address of record for five (5) identified physicians.

In a May 22, 2019 response, the Board states, “[y]ou may find a physician’s business address of record on the physician’s public profile at: <http://profiles.ehs.state.ma.us/Profiles/Pages/FindAPhysician.aspx>. Using this website, you may search for public information, including the business address, of any Massachusetts physician holding a full license to practice medicine.”

As a result of the Board’s response, Ms. Berger petitioned the Supervisor of Records (Supervisor), and this appeal was opened. In her petition, Ms. Berger writes, “I’m appealing the denial of records. Please obtain the public documents.”

***The Public Records Law***

“Public records” is broadly defined to include all documentary materials or data, regardless of physical form or characteristics, made or received by any officer or employee of any town of the Commonwealth, unless falling within a statutory exemption. G. L. c. 4, § 7(26).

It is the burden of the records custodian to demonstrate the application of an exemption in order to withhold a requested record. G. L. c. 66, § 10(b)(iv) (written response must “identify any records, categories of records or portions of records that the agency or municipality intends to withhold, and provide the specific reasons for such withholding, including the specific exemption or exemptions upon which the withholding is based...”); 950 C.M.R. 32.06(3); see

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also Dist. Attorney for the Norfolk Dist. v. Flatley, 419 Mass. 507, 511 (1995) (custodian has the burden of establishing the applicability of an exemption).

***The Board's May 24, 2019 supplemental response***

In your May 24<sup>th</sup> supplemental response, you assert, "...the original responses fully complied with 950 C.M.R. 32.04(5)(e), which requires that a 'records access officer shall...to the extent feasible, furnish the public records by providing reasonable assistance in locating the records on an appropriately indexed and searchable public website.' Further, I would like to note that a physician's 'address of record' is the address appearing on the physician's public profile. The requester may simply click the link provided, type in the physician's name, and obtain the profile showing the address. Contrary to the [requestor's] assertions, there was no 'nonresponse' or 'denial of public records.'"

A review by this office of both Ms. Berger's request and the Board's website link to the public profiles for physician's licensed to practice in the Commonwealth of Massachusetts, reveals that the "Addresses of Record" are listed on the Board's website, and may be printed from the website free of charge.

***Conclusion***

Accordingly, given that the basis for Ms. Berger's petition for an appeal is unclear, this office is unable to opine any further on this matter. Consequently, I will consider this appeal closed. Ms. Berger may petition this office for a new appeal by providing this office with the necessary clarification of the request.

Sincerely,



Rebecca S. Murray  
Supervisor of Records

cc: Sara Berger