



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

Rebecca S. Murray
Supervisor of Records

September 25, 2019
SPR19/1861

Tara Douglas, Esq.
Board of Registration in Medicine
200 Harvard Mill Square
Wakefield, MA 01880

Dear Attorney Douglas:

I have received the petition of EB May appealing the response of the Board of Registration of Medicine (Board) to a request for public records, G. L. c. 66, § 10A; see also 950 C.M.R. 32.08(1) Specifically on September 09, 2019 EB May requested, "all documents in the file pertaining to [an identified individual]." Unsatisfied with the Board's response, the requestor petitioned this office and as a result SPR19/1861 was opened.

The Public Records Law

The Public Records Law strongly favors disclosure by creating a presumption that all governmental records are public records. G. L. c. 66, § 10A(d); 950 C.M.R. 32.03(4). "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); 950 C.M.R. 32.06(3); see 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). To meet the specificity requirement a custodian must not only cite an exemption, but must also state why the exemption applies to the withheld or redacted portion of the responsive record.

Current Appeal

In a letter to this office dated September 9, 2019 the requestor writes, "[t]his medical board employee insists that I submit my foia via the webform. I do not have a phone nor phone number and so cannot submit it by the webform. The webform seems illegal. Please obtain the requested documents."

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In a response dated September 10, 2019 the Board states, “[p]lease submit any and all public records requests through the online form at: <https://www.mass.gov/forms/submit-a-board-of-registration-in-medicine-public-records-request>. Once submitted and received through the BORIM public records request form, the request receipt date will be documented, and the request processed accordingly.”

In a follow up letter the Board notes, “[y]ou may input any ten digits if you do not want to disclose any of your own phone numbers. A phone number is requested in the event that the staff member processing the request has questions, and wishes to contact you via phone to clarify the request... This is to ensure a public records request is not lost or delayed. The Request Form is routed so that several Board staff members see a request made, and the process is streamlined, whereas sending a request directly to myself or another staff individually and directly may get delayed due to staff vacations, unexpected absences, or other circumstances.”

Conclusion

Subsequent to the intervention by a staff member of the Public Record’s Division, I learned that the Board provided EB May records responsive to the request in an email dated September 25, 2019.

In light of the Board’s September 25th response, I will now consider this administrative appeal closed. EB May may appeal the substantive nature of the Board’s response within ninety days. See 950 C.M.R. 32.08(1).

Sincerely,



Rebecca S. Murray
Supervisor of Records

cc: EB May