



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

Rebecca S. Murray
Supervisor of Records

January 24, 2020
SPR20/0077

Robert E. Harvey, Esq.
Board Counsel
Board of Registration in Medicine
200 Harvard Mill Square, Suite 330
Wakefield, MA 01880

Dear Attorney Harvey:

I have received the petition of Roberto Santiago 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, on January 9, 2020, Mr. Santiago requested a complaint file of an identified physician.

Prior appeal and determination

The requested file was the subject of a prior appeal and determination. See SPR20/0059 Determination of the Supervisor of Records (Supervisor). On January 10, 2020 the Board provided a response indicating there are no responsive documents to Mr. Santiago's request. On January 16, 2020, you confirmed by telephone that the Board conducted a second search, informing this office that there are no records responsive to Mr. Santiago's request. Whereas the Board confirmed in its January 10th response and by telephone on January 16th that it has no records responsive to the request, I closed appeal SPR20/0059.

Current appeal

Another appeal relating to this matter was opened after Mr. Santiago emailed this office regarding the same requested records. In his January 10th email, Mr. Santiago contends, "I think all the complaints were not sent to me whether frivolous or not. Please obtain them..." As a result, appeal SPR20/0077 was opened.

In the Board's prior response on January 10th, you informed Mr. Santiago, "[t]his physician does not have a complaint history with [the Board], therefore there are no responsive documents to this request." By telephone on January 23rd you again confirmed

Robert E. Harvey, Esq.
Page 2
January 24, 2020

SPR20/0077

to a Senior Attorney in the Public Records Division that after several diligent searches, the Board has no records responsive to the request pertaining to the identified physician.

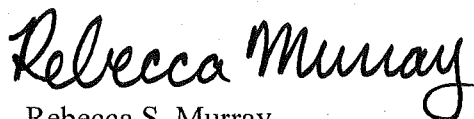
No responsive records

Under the Public Records Law, the Board is not required to create records in response to a public records request. In addition, a public employee is not required to answer questions, or do research, or create documents in response to questions. See G. L. c. 66, § 10(a); 32 Op. Atty. Gen. 157, 165 (May 18, 1977). The duty to comply with requests for information extends only to those records that exist and are in the custody of the custodian of records at the time of the request. See G. L. c. 4, § 7(26).

Conclusion

Accordingly, whereas the Board again confirmed that it has no records responsive to Mr. Santiago's request, I consider this administrative appeal closed.

Sincerely,

A handwritten signature in black ink that reads "Rebecca Murray". The signature is written in a cursive, flowing style.

Rebecca S. Murray
Supervisor of Records

cc: Roberto Santiago