

SUBJECT: Prohibiting licensing board disclosure of physician social security numbers

COMMITTEE: Public Health — favorable, without amendment

VOTE: 9 ayes — Gray, Coleman, Capelo, Delisi, Glaze, Hilderbran, Maxey, McClendon, Uresti
0 nays

WITNESSES: For — Joe Cunningham, Texas Medical Association; Terry Boucher, Texas Osteopathic Medical Association
Against — None

BACKGROUND: The Open Records Act, Government Code, sec. 552.101, excepts from public disclosure “information considered to be confidential by law, either constitutional, statutory or by judicial decision.” Sec. 552.102 also excepts from public disclosure information in a personnel file that would constitute a clearly unwarranted invasion of personal privacy. Sec. 552.117 excepts from disclosure social security numbers and other personal information of employees or officials of governmental bodies.

Historically, attorney generals have ruled in open records opinions that social security numbers collected by government agencies are not protected from public disclosure by the Open Records Act or by a constitutional right to privacy, nor are they protected by the common-law privacy test of being highly intimate and embarrassing information. (See Open Record Decisions 169 (1977), 254 (1980), 373 (1983), and 455 (1987), and *Industrial Foundation v. Texas Industrial Accident Board*, 540 S.W.2d 668 (Tex. 1976).)

In January 1994, Attorney General Dan Morales stated in Open Records Decision 622 that social security numbers are excepted from public disclosure under the Open Records Act only if obtained or maintained by a governmental body pursuant to a law enacted on or after October 1, 1990. The opinion was issued in response to a concern brought by the City of Galveston, which had received a request for information under the Open Records Act for the personnel files of two city employees — a municipal

court judge and a bailiff. The opinion incorporated federal changes to the Social Security Act, which made confidential social security numbers obtained or maintained by federal, state, or local government employees pursuant to any provision of law enacted on or after October 1, 1990.

DIGEST: HB 692 would amend the Medical Practice Act to make confidential and not subject to disclosure under the open records law the social security number of an applicant for or holder of a license to practice medicine. The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house.

SUPPORTERS SAY: HB 692 would protect doctors from fraudulent use of their social security numbers, which in most cases are now available on request from the Board of Medical Examiners (BME). This would give doctors the same protection granted to other public and private individuals under the Open Records Act.

Social security numbers have been called “the gateway to all financial information” because they are widely used for identity verification and personal account numbers in banking, insurance, utility, and other services. Access to this number, when combined with other relevant, easy-to-obtain information such as a person’s name, home and office address, and phone number, can open the door to fraudulent use of a person’s credit card, medical benefits, and government bonds.

Easy access to a doctor’s social security number threatens not only Texas doctors but also the public health. People who pose as doctors may take advantage of seriously ill individuals and also may criminally obtain, use, or sell prescription drugs.

The BME has routinely collected the social security numbers of licensed doctors and applicants to assist in activities related to licensure, investigations, and credentialing, although the law does not specifically direct the board to do so. Consequently, thousands of doctors who had their numbers on file with the board before October 1, 1990, are, under the attorney general’s most recent opinion, vulnerable to the risk of public disclosure. The BME cannot even screen individuals by asking the purpose of their request because the Open Records Act prohibits such screening.

This bill is not intended to prevent the BME's current practice of legitimately using social security numbers as a means of doctor identification for medical boards, hospitals, health benefit plans, and other groups who need to obtain or verify a physician's background or performance. Individual consumers and other entities who need to track a doctor's background or performance may use other identifiers, such as the doctor's sex, specialty, and location, to obtain needed information from the BME.

**OPPONENTS
SAY:**

This bill could prevent news organizations, consumer groups, and other organizations that monitor physicians' activities from obtaining necessary information about a doctor's background or performance. Social security numbers can be a necessary key to tracking down background information on a doctor's past performance.

**OTHER
OPPONENTS
SAY:**

All private individuals should receive specific protection from public disclosure of social security numbers — not just doctors and government officials and employees. The growing availability of information on the Internet has increased exponentially the potential for criminal use of social security numbers. HB 692 should be broadened to amend the Open Records Act rather than just the Medical Practice Act to provide the same protection for all citizens.