

OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

May 4, 2022

Via electronic mail



RE: FOIA Request for Review – 2022 PAC 70898

Dear [REDACTED]:

This determination letter is issued pursuant to section 9.5(c) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(c) (West 2020)). For the reasons set forth below, the Public Access Bureau will take no further action in this matter.

On March 8, 2022, you submitted a FOIA request to the State Universities Retirement System (SURS) seeking "a list of SURS members evaluated by [REDACTED] from January 2018 to present for disability claims showing only the member's race & the approve/deny recommendation of [REDACTED]." ¹ On March 15, 2022, SURS denied your request, asserting that it did not maintain such a list for the provider in question or any other healthcare provider. SURS further explained that the only responsive records in its possession consisted of "the post-examination narrative report for each member prepared and provided by [REDACTED] to SURS[]", but that "[e]ach such narrative report is a medical record[]" exempt from disclosure in their entirety pursuant to section 7(1)(b) of FOIA (5 ILCS 140/7(1)(b) (West 2020), as amended by Public Acts 102-038, effective June 25, 2021; 102-558, effective August 20, 2021). ² On March 30, 2022, you submitted this Request for Review contesting SURS' denial. Specifically, you stated that you are interested only in de-identified copies of the records in question, with all "private information" redacted

¹FOIA request from [REDACTED] to FOIA Officer, SURS (March 8, 2022).

²Letter from Heather V. Kimmons, Associate General Counsel and Freedom of Information Act Officer, to [REDACTED] (March 15, 2022).

May 4, 2022

Page 2


Section 7(1)(b) of FOIA exempts from disclosure "[p]rivate information, unless disclosure is required by another provision of this Act, a State or federal law or a court order." Section 2(c-5) of FOIA (5 ILCS 140/2(c-5) (West 2020)) defines "private information" as:

unique identifiers, including a person's social security number, driver's license number, employee identification number, biometric identifiers, personal financial information, passwords or other access codes, **medical records**, home or personal telephone numbers, and personal email addresses. Private information also includes home address and personal license plates, except as otherwise provided by law or when compiled without possibility of attribution to any person. (Emphasis added.)

The plain language of a statute is the best indication of the legislative intent. *Paris v. Feder*, 179 Ill. 2d 173, 177 (1997). "We will not depart from the plain statutory language by reading into it exceptions, limitations, or conditions that are in conflict with the express legislative intent." *People v. Roberts*, 214 Ill. 2d 106, 116 (2005).

Under the plain language of the definition of "private information" in FOIA, the records comprising a medical patient's healthcare history are exempt from disclosure under section 7(1)(b) of FOIA, and the Public Access Bureau has consistently determined that medical records are exempt from disclosure on that basis. See Ill. Att'y Gen. PAC Req. Rev. Ltr. 23175, issued May 12, 2015, at 3. FOIA does not define the term "medical records," but Black's Law Dictionary defines the term as "[t]he documents that compose a medical patient's healthcare history." Black's Law Dictionary (10th Ed. 2014), *available at* Westlaw BLACKS. As opposed to a driver's license number, personal e-mail address, and certain other forms of "private information" that may be able to be discretely redacted from public records, each "medical record" constitutes the entirety of the public record in and of itself.

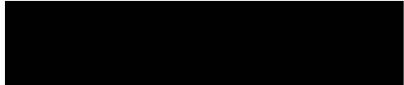
Section 7(1)(b) of FOIA also provides that home addresses and personal license plates may be subject to disclosure "when compiled without possibility of attribution to any person." Although you have requested de-identified copies of the records in question, section 7(1)(b) of FOIA provides no exception for the disclosure of "medical records" without the possibility of attribution to any person as it does with home addresses and personal license plates. Accordingly, this office has concluded that no further action is warranted in this matter.


May 4, 2022

Page 3

This letter closes this file. If you have any questions, please contact me at Christopher.Boggs@ilag.gov.

Very truly yours,


CHRISTOPHER R. BOGGS
Supervising Attorney
Public Access Bureau

70898 f no fi war sa

cc: *Via electronic mail*
Ms. Heather V. Kimmons
Associate General Counsel and FOIA Officer
State Universities Retirement System
1901 Fox Drive
Champaign, Illinois 61820
FOIA_Officers@surs.org