



May 13, 1999

Ms. Judy Ponder  
General Counsel  
General Services Commission  
P.O. Box 13047  
Austin, Texas 78711-3047

OR99-1309

Dear Ms. Ponder:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 126085.

The General Services Commission (the "commission") received a request for a particular patient's chart and transfusion records. You assert that the requested information is confidential under section 552.101 of the Government Code.

Government Code section 552.101 excepts from disclosure information that is made confidential by law, including information made confidential by statute. Section 5.08 of article 4495b of the Texas Civil Statutes, the Medical Practice Act (the "MPA"), provides:

(b) Records of the identity, diagnosis, evaluation, or treatment of a patient by a physician that are created or maintained by a physician are confidential and privileged and may not be disclosed except as provided in this section.

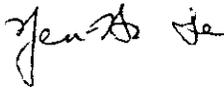
(c) Any person who receives information from confidential communications or records as described in this section other than the persons listed in Subsection (h) of this section who are acting on the patient's behalf may not disclose the information except to the extent that disclosure is consistent with the authorized purposes for which the information was first obtained.

V.T.C.S. art. 4495b, § 5.08. Section 5.08(j)(3) also requires that any subsequent release of medical records be consistent with the purposes for which a governmental body obtained the records. Open Records Decision No. 565 at 7 (1990). Thus, access to medical records is not governed by chapter 552 of the Government Code, but rather the MPA. Open Records

Decision No. 598 (1991). Information that is subject to the MPA includes both medical records and information obtained from those medical records. *See* V.T.C.S. art. 4495b, § 5.08(a), (b), (c), (j); Open Records Decision No. 598 (1991). The requested information is confidential under the MPA, and the commission may release this information only in accordance with the MPA.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Sincerely,

A handwritten signature in cursive script, appearing to read "Yen-Ha Le".

Yen-Ha Le  
Assistant Attorney General  
Open Records Division

YHL/nc

Ref.: ID# 126085

encl.: Submitted documents

cc: Ms. Nancy Marshall, RN  
American Red Cross  
Blood Services, Southwest Region  
10151 East 11t Street  
Tulsa, Oklahoma 74128  
(w/o enclosures)