



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 26, 2005

Ms. Lois A. Wischkaemper
Senior Vice President and General Counsel
UMC Health System
602 Indiana Avenue
Lubbock, Texas 79415

OR2005-07787

Dear Ms. Wischkaemper:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 231347.

The Lubbock County Hospital District (the "district") received three requests for emergency medical services ("EMS") records pertaining to a specified EMS response. You state that some of the requested information has been provided to the requestors, but claim that some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.¹

Initially, we note that you have redacted from the submitted documents a telephone number you seek to withhold. You do not assert, nor does our review of our records indicate, that you have been authorized to withhold any such information without seeking a ruling from this office. *See* Gov't Code § 552.301(a); Open Records Decision 673 (2000). Because we can discern the nature of the information that has been redacted, being deprived of this information does not inhibit our ability to make a ruling in this instance. Nevertheless, be advised that a failure to provide this office with requested information generally deprives us

¹We assume that, to the extent any additional responsive information existed when the district received the request for information, you have released it to the requestor. If not, then you must do so immediately. *See* Gov't Code §§ 552.006, 552.301, 552.302; Open Records Decision No. 664 (2000).

of the ability to determine whether information may be withheld and leaves this office with no alternative other than ordering that the redacted information be released. *See* Gov't Code §§ 552.301(e)(1)(D) (governmental body must provide this office with copy of "specific information requested" or representative sample), 552.302.

You assert that the redacted telephone number must be withheld under 552.101 of the Government code in conjunction with section 772.318 of the Health and Safety Code. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," and encompasses information protected by other statutes. Chapter 772 of the Health and Safety Code relates to local emergency communications districts. Section 772.318 applies to an emergency 9-1-1 district established in accordance with chapter 772, and makes confidential the originating telephone numbers and addresses of 911 callers that are furnished by a service supplier. *See* Open Records Decision No. 649 (1996). The redacted telephone number you seek to withhold was not furnished by a service supplier for purposes of chapter 772; therefore, this number is not confidential under section 772.318, and the district may not withhold it under section 552.101 of the Government Code on that ground.

Section 552.101 also encompasses section 773.091 of the Health and Safety Code, which provides as follows:

(b) Records of the identity, evaluation, or treatment of a patient by emergency medical services personnel or by a physician providing medical supervision that are created by the emergency medical services personnel or physician or maintained by an emergency medical services provider are confidential and privileged and may not be disclosed except as provided by this chapter.

...

(g) The privilege of confidentiality under this section does not extend to information regarding the presence, nature of injury or illness, age, sex, occupation, and city of residence of a patient who is receiving emergency medical services.

Health & Safety Code § 773.091(b), (g). Some of the submitted documents constitute records of the identity, evaluation, or treatment of a patient by emergency medical services ("EMS") personnel. We note that the exceptions to confidentiality listed in section 773.092 do not appear to apply, and you have not informed us that the patient consented to release of these records, which we have marked. *See id.* § 773.093 (listing elements of consent for release of EMS records). Information regarding the presence, nature of injury or illness, age, sex, occupation, and city of residence of the patient receiving emergency medical services is not confidential under section 773.091, and the district may not withhold this information

under section 552.101 on that ground. *See id.* § 773.091(g). However, the remaining information in these documents is confidential under section 773.091, and the district must withhold this information under section 552.101.

To conclude, with the exception of information regarding the presence, nature of injury or illness, age, sex, occupation, and city of residence of the patient receiving emergency medical services, the EMS records we have marked are confidential under section 773.091, and the district must withhold them under section 552.101. The district must release the remaining information, including the redacted telephone number, to the requestor.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

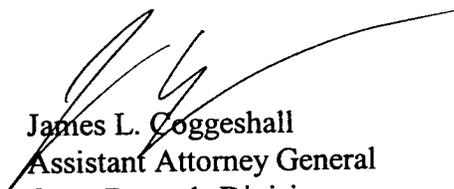
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or

complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/seg

Ref: ID# 231347

Enc. Submitted documents

c: Mr. Benji Snead
News Director
KCBD, NewsChannel 11
5600 Avenue A
Lubbock, Texas 79404
(w/o enclosures)

Mr. Todd Reno
KAMC/KLBK-TV
7403 South University
Lubbock, Texas 79423
(w/o enclosures)

Ms. Kay Boren
Assistant News Director
KJTV Fox 34
9800 University Avenue
Lubbock, Texas 79423
(w/o enclosures)