ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 21, 2007

Mr. Thomas McClure
Assistant General Counsel
Texas Department of State Health Services
1100 West 49th Street
Austin, Texas 78756

OR2007-07874

Dear Mr. McClure:

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# 281525.

The Texas Department of State Health Services (the "department") received two requests for information relating to a named individual who was a patient at the Texas State Lunatic Asylum (now the Austin State Hospital). You claim that the requested 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.

We note that the information submitted by the department is the subject of a previous determination. In Open Records Letter No. 2007-05273 (2007), we issued a previous determination that authorizes the department to withhold records of a mental health facility that identify a deceased patient under section 552.101 of the Government Code in conjunction with section 576.005 of the Health and Safety Code without the necessity of again requesting an attorney general decision with regard to the applicability of this exception. *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001) (delineating elements of second type of previous determination under Gov't Code § 552.301(a)). Thus, the department must withhold the submitted mental health facility record in accordance with Open Records Letter No. 2007-05273.[1]
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

[1]As our ruling is dispositive, we need not address your remaining arguments against disclosure.

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); *Texas 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 Office of the Attorney General 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. 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,

Jaime L. Flores
Assistant Attorney General
Open Records Division

JLF/ma

Ref: ID# 281525

Enc. Submitted documents

c: Mr. Edgar Dohmann
1816 CR 149
Alvin, Texas 77511
(w/o enclosures)