



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 2, 2009

Ms. Michelle T. Rangel
Assistant County Attorney
Fort Bend County
301 Jackson Street, Suite 728
Richmond, Texas 77469-3108

OR2009-12406

Dear Ms. Rangel:

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# 354564.

The Fort Bend County Emergency Medical Service (the "county") received two requests from different requestors for all medical records of a named individual pertaining to a specified claim. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information that other statutes make confidential. You claim that the submitted information is confidential under the Medical Practice Act (the "MPA"), subtitle B of title 3 of the Occupations Code. Section 159.002 of the MPA provides the following:

(b) A record of the identity, diagnosis, evaluation, or treatment of a patient by a physician that is created or maintained by a physician is confidential and privileged and may not be disclosed except as provided by this chapter.

(c) A person who receives information from a confidential communication or record as described by this chapter, other than a person listed in Section 159.004 who is 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.

Occ. Code § 159.002(b), (c). Medical records may be released only as provided under the MPA. Open Records Decision No. 598 (1991). Upon review, we find that you have failed to demonstrate how any portion of the submitted information constitutes a medical record for purposes of the MPA. Therefore, the submitted information is not confidential under the MPA, and no portion of it may be withheld under section 552.101 of the Government Code on this basis.

We note the submitted information consists of emergency medical service ("EMS") records that are confidential under section 773.091 of the Health and Safety Code, which is also encompassed by section 552.101. Section 773.091 provides in relevant part as follows:

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.

Health & Safety Code § 773.091(b). This confidentiality "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." *Id.* § 773.091(g). Upon review, we find that the submitted information constitutes EMS records that are subject to chapter 773 of the Health and Safety Code. Accordingly, the county must withhold the submitted EMS records under section 552.101 of the Government Code in conjunction with section 773.091(b) of the Health and Safety Code, except for information subject to section 773.091(g), which must be released.¹

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and

¹As our ruling for this information is dispositive, we need not address your argument under section 552.147 of the Government Code, except to note section 552.147(b) authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Adam Leiber
Assistant Attorney General
Open Records Division

ACL/rl

Ref: ID# 354564

Enc. Submitted documents

c: Requestor
(w/o enclosures)