



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 5, 2009

Ms. Katie Lentz
Open Records
Williamson County Sheriff's Office
508 South Rock Street
Georgetown, Texas 78626

OR2009-15789

Dear Ms. Lentz:

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# 361261.

The Williamson County Sheriff's Office (the "sheriff") received a request for information related to case number C09-07-8286. You claim that some of the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code.¹ 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. Section 552.101 encompasses information made confidential by statute, such as 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

¹We note that although you raise all the exceptions under the Act, you make no arguments to support the rest of these exceptions. Therefore, we assume you have withdrawn your claims that the rest of these sections apply to the submitted information.

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). Information subject to the MPA includes both medical records and information obtained from those medical records. *See* Open Records Decision No. 598 (1991). We agree that the MPA is applicable to the medical record you have marked. Accordingly, the sheriff may only disclose the marked medical record in accordance with the MPA.

You also contend that the remaining information includes Texas motor vehicle record information excepted from public disclosure under section 552.130 of the Government Code. Section 552.130 excepts from disclosure information that relates to a motor vehicle operator's or driver's license or permit issued by an agency of this state. Gov't Code § 552.130. We note, however, that the requestor is an attorney representing one of the individuals whose Texas driver's license number is contained in the submitted records. Thus, the requestor has a right of access to this individual's Texas driver's license number under section 552.023 of the Government Code, and that information may not be withheld from this requestor under section 552.130. *See* Gov't Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). The sheriff must withhold the remaining Texas motor vehicle record information you have marked under section 552.130 of the Government Code. Additionally, we find that the submitted video recording contains information that is subject to section 552.130. You inform us that the sheriff does not have the technical capability to redact the Texas motor vehicle record information from the video recording. Therefore, we find that the video recording must be withheld in its entirety under section 552.130 of the Government Code.

We note that you have marked a social security number contained in the submitted information. 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. Thus, the sheriff may withhold the social security numbers that appear in the submitted documents under section 552.147(b).

Finally, we note that some of the remaining information is subject to section 552.137 of the Government Code.² Section 552.137 excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body" unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See id.* § 552.137(a), (b). The e-mail addresses at issue are not of a type specifically excluded by section 552.137(c). *See id.* § 552.137(c). You do not inform us that a member of the public has affirmatively

²The Office of the Attorney General will raise a mandatory exception like section 552.137 on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

consented to the release of any e-mail address contained in the submitted documents. We note, however, that section 552.137 protects privacy interests and that the requestor has a right of access to his client's e-mail address. *Id.* § 552.023. Thus, the e-mail address of the requestor's client may not be withheld from this requestor. Accordingly, the sheriff must withhold the remaining marked e-mail addresses under section 552.137, unless the owners of the addresses have affirmatively consented to release. *See id.* § 552.137(b).

In summary, the sheriff may only disclose the medical record you have marked in accordance with the MPA. Except for the information to which the requestor has a special right of access under section 552.023 of the Government Code, the sheriff must withhold the marked Texas motor vehicle record information and the video recording under section 552.130 of the Government Code. The sheriff may withhold social security numbers under section 552.147 of the Government Code. The sheriff must withhold the marked e-mail addresses, with the exception of the e-mail address of the requestor's client, under section 552.137 of the Government Code, unless the owner of the address has affirmatively consented to its release. The remaining information must be released.

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 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, toll free, at (888) 672-6787.

Sincerely,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 361261

Enc. Submitted documents

c: Requestor
(w/o enclosures)