



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 16, 2009

Mr. Dan Meador
Assistant General Counsel
Texas Department of State Health Services
P.O. Box 149347
Austin, Texas 78714-9347

OR2009-17751

Dear Mr. Meador:

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# 364504 (DSHS File No. 016606-N/A-2010).

The Texas Department of State Health Services (the "department") received a request for information relating to disciplinary action taken against a named marriage and family therapist. You state that the department has released some responsive information to the requestor. You claim portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code. You have also marked information under section 552.147 of the Government Code. We have considered the exception 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 confidentiality provisions. You assert that the information at issue is made confidential by section 502.2045(h) of the Occupations Code. Section 502.2045 provides in pertinent part:

(h) All information and materials subpoenaed or compiled by the [Board of Examiners of Marriage and Family Therapists (the "board")] in connection

with a complaint and investigation are confidential and not subject to disclosure under Chapter 552, Government Code, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than the board or its employees or agents involved in discipline of the holder of a license, except that this information may be disclosed to:

- (1) persons involved with the board in a disciplinary action against the holder of a license;
- (2) marriage and family therapist licensing or disciplinary boards in other jurisdictions;
- (3) peer assistance programs approved by the board under Chapter 467, Health and Safety Code;
- (4) law enforcement agencies; and
- (5) persons engaged in bona fide research, if all individual-identifying information has been deleted.

(i) The filing of formal charges by the board against a holder of a license, the nature of those charges, disciplinary proceedings of the board, and final disciplinary actions, including warnings and reprimands, by the board are not confidential and are subject to disclosure in accordance with Chapter 552, Government Code.

Occ. Code § 502.2045(h), (i). You state the submitted information was “gathered and/or created in response to a complaint and an investigation occurred.” You also inform us none of the exceptions to confidentiality under section 502.2045(h) is applicable in this instance. Furthermore, none of the submitted information appears to fall within the scope of section 502.2045(i). We therefore conclude the information you have marked is confidential under section 502.2045(h) of the Occupations Code and must be withheld under section 552.101 of the Government Code.

Section 552.147 of the Government Code provides that “[t]he social security number of a living person is excepted from” required public disclosure under the Act. Gov’t Code § 552.147(a). Accordingly, the department may withhold the social security number you marked under section 552.147 of the Government Code.¹

¹Section 552.147(b) of the Government Code 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. See Gov’t Code § 552.147(b).

In summary, the department must withhold the information you marked under section 552.101 of the Government Code in conjunction with section 502.2045(h) of the Occupations Code. The department may withhold the social security number you marked under section 552.147 of the Government Code. The remaining information must be released.

Finally, you ask this office to issue the department a previous determination regarding the type of information at issue in the instant case. *See id.* § 552.301(a) (allowing governmental body to withhold information subject to previous determination); Open Records Decision No. 673 (2001). We decline to issue a previous determination for this type of information at this time.

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,



Matt Entsminger
Assistant Attorney General
Open Records Division

MRE/dls

Ref: ID# 364504

Enc. Submitted documents

c: Requestor
(w/o enclosures)