



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 20, 2010

Ms. P. Armstrong  
Assistant City Attorney  
Criminal Law and Police Division  
City of Dallas  
1400 South Lamar  
Dallas, Texas 75215

OR2010-07294

Dear Ms. Armstrong:

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# 379896 (ORR 2010-2104).

The Dallas Police Department (the "department") received a request for a specified internal investigation file. You claim that the requested information is exempted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the submitted information consists of only medical records, which you characterize as a "representative sample." See Gov't Code § 552.301(e)(1)(D) (governmental body must submit, in connection with request for attorney general decision, the requested information or representative samples thereof). Please be advised that this open records letter applies to only the type of information you have submitted for our review. Therefore, this opinion does not authorize the withholding of any other requested records to the extent that those records contain substantially different types of information than that submitted to this office. See *id.* § 552.302 (where request for attorney general decision does not comply with requirements of section 552.301, information at issue is presumed to be public). To the extent any additional responsive information not consisting of medical records existed on the date the department received the request for information, we assume the department has released it. If the department has not released any such information, it must do so at this

time. *See id.* §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

Section 552.101 of the Government Code exempts 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 other statutes make confidential. Medical records are confidential under the Medical Practice Act (the "MPA"), subtitle B of title 3 of the Occupations Code. *See* Occ. Code § 151.001. Section 159.002 of the MPA provides, in part:

(a) A communication between a physician and a patient, relative to or in connection with any professional services as a physician to the patient, is confidential and privileged and may not be disclosed except as provided by this chapter.

(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.

*Id.* § 159.002(a)-(c). Information that is subject to the MPA includes both medical records and information obtained from those medical records. *See id.* §§ 159.002, .004; Open Records Decision No. 598 (1991). This office has concluded the protection afforded by section 159.002 extends only to records created by either a physician or someone under the supervision of a physician. *See* Open Records Decision Nos. 487 (1987), 370 (1983), 343 (1982). Any subsequent release of medical records must be consistent with the purposes for which the governmental body obtained the records. *See* Occ. Code § 159.002(c); Open Records Decision No. 565 at 7 (1990). Upon review, we find that the medical records at issue must be withheld from disclosure under section 552.101 of the Government Code in conjunction with section 159.002(b) of the MPA, unless the department receives the required written consent for their release.

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](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,



Christopher D. Sterner  
Assistant Attorney General  
Open Records Division

CDSA/eeg

Ref: ID# 379896

Enc: Submitted documents

c: Requestor  
(w/o enclosures)