



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 4, 2010

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

OR2010-16777

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# 399052.

Fort Bend County Emergency Medical Services Department (the "department") received a request for information pertaining to a specified incident. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. This section encompasses information protected by other statutes. The Emergency Medical Services Act, chapter 773 of the Health and Safety Code, governs access to emergency medical service ("EMS") records. *See* Open Records Decision No. 598 (1991). Section 773.091 of the Emergency Medical Services Act provides in part:

- (b) 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.

(g) The privilege of confidentiality under this section 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.

Health & Safety Code § 773.091(b), (g). We agree a portion of the submitted information constitutes EMS records pursuant to section 773.091. However, we note that records that are confidential under this section may be disclosed to “governmental agencies if the disclosure is required or authorized by law[.]” *See id.* § 773.092(e)(2).

The requestor in this instance is a representative of the Texas Department of State Health Services (“DSHS”). The requestor has informed the department that DSHS seeks the information pursuant to an investigation conducted under chapter 773 of the Health and Safety Code. Subchapter C of chapter 773 pertains to the licensing of emergency medical technicians by DSHS. *See id.* § 773.041 (person may not practice as any type of emergency medical services personnel unless certified by DSHS under chapter 773). Section 773.0612 of the Health and Safety Code provides:

(a) [DSHS] or its representative is entitled to access to records and other documents maintained by a person that are directly related to patient care or to emergency medical services personnel to the extent necessary to enforce this chapter and the rules adopted under this chapter. A person who holds a license or certification . . . is considered to have given consent to a representative of [DSHS] entering and inspecting a vehicle or place of business in accordance with this chapter.

(b) A report, record, or working paper used or developed in an investigation under this section is confidential and may be used only for purposes consistent with the rules adopted by the [Texas Board of Health].

*Id.* § 773.0612. We understand the information at issue pertains to allegations against a certified emergency medical technician. Thus, we find that the submitted documents are directly related to emergency medical services personnel for purposes of section 773.0612(a). DSHS states, and provides information reflecting, that DSHS intends to use the requested information for purposes consistent with chapter 773 of the Health and Safety Code. Therefore, we determine that the requestor has a statutory right of access to the information under section 773.0612(a) of the Health and Safety Code. Thus, the department may not withhold this information from the requestor pursuant to section 552.101 in conjunction with section 773.091 of the Health and Safety Code. *See id.* § 773.092(e)(2) (providing for

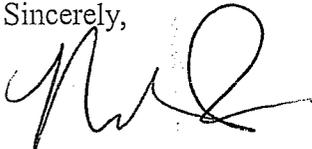
release of confidential EMS records to governmental agencies where disclosure is required or authorized by law).

You also assert the submitted information is excepted from disclosure under section 552.108 of the Government Code. This office has found that specific statutory right of access provisions prevail over general exceptions to disclosure under the Act. *See* Open Records Decision No. 613 at 4 (1993), 451 at 4 (1986). Therefore, the requestor's statutory right of access under section 773.0612 prevails over the general exception to disclosure found in section 552.108 of the Government Code. Accordingly, the department may not withhold any information under section 552.108. Consequently, pursuant to section 773.0612(a), the department must release the submitted information to this requestor.<sup>1</sup>

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,



Nneka Kanu  
Assistant Attorney General  
Open Records Division

NK/em

Ref: ID# 399052

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)

---

<sup>1</sup>We note that information obtained by DSHS pursuant to section 773.0612(a) is confidential in the hands of DSHS. *See* Health and Safety Code § 773.0612(b). We further note that because the requestor has a special right of access to this information in this instance, the department must again seek a decision from this office if it receives another request for the same information from another requestor.