



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 7, 2010

Mr. Ronald J. Bounds
Assistant City Attorney
City of Corpus Christi
P.O. Box 9277
Corpus Christi, Texas 78469-9277

OR2010-18341

Dear Mr. Bounds:

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# 402788.

The City of Corpus Christi (the "city") received a request for medical and billing records pertaining to the requestor's client. You claim that the submitted information is excepted from disclosure under section 552.101 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 section encompasses information protected by other statutes, such as section 773.091 of the Health and Safety Code, which 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 note that a portion of the submitted information, which we have marked, appears to be a city fire department incident report that does not reflect the identity, evaluation or treatment of a patient. Upon review, we find that the information we have marked does not constitute an emergency medical services (“EMS”) record of the identity, evaluation, or treatment of a patient for the purposes of section 773.091. Therefore, the city may not withhold the marked information under section 552.101 of the Government Code in conjunction with section 773.091 of the Health and Safety Code. As you raise no further exception to its disclosure, the marked information must be released.

However, we find that the remaining documents constitute EMS records of the identity, evaluation, or treatment of a patient and are confidential under section 773.091. We note that records that are confidential under section 773.091 may be disclosed to “any person who bears a written consent of the patient or other persons authorized to act on the patient’s behalf for the release of confidential information.” *Id.* §§ 773.092(e)(4), .093. Section 773.093 provides that a consent for release of EMS records must specify (1) the information or records to be covered by the release; (2) the reasons or purpose for the release; and (3) the person to whom the information is to be released. We note that the requestor is the legal representative of the individual whose EMS records are at issue. You state, however, that the city has not received adequate consent for release of this information. Therefore, the city must withhold the remaining information under section 552.101 of the Government Code in conjunction with section 773.091 of the Health and Safety Code, except as specified by section 773.091(g). However, the city must release the submitted EMS records on receipt of proper consent under section 773.093. *See id.* §§ 773.092, .093.

In summary, the information we have marked must be released. The city must withhold the remaining information under section 552.101 of the Government Code in conjunction with section 773.091 of the Health and Safety Code, except as specified by section 773.091(g) of the Health and Safety Code. However, the city must release the submitted EMS records on receipt of proper consent under section 773.093 of the Health and Safety Code.

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,



Laura Ream Lemus
Assistant Attorney General
Open Records Division

LRL/vb

Ref: ID# 402788

Enc. Submitted documents

c: Requestor
(w/o enclosures)