



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

June 29, 2011

Ms. Jenny Gravley  
Counsel for the City of Euless  
Taylor, Olson, Adkins, Sralla, Elam L.L.P.  
6000 Western Place, Suite 200  
Fort Worth, Texas 76107-4654

OR2011-09267

Dear Ms. Graveley:

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# 424212.

The Euless Police Department (the "department"), which you represent, received a request for information pertaining to a specified incident. We understand the department is withholding Texas driver's license numbers under section 552.130 of the Government Code pursuant to Open Records Decision No. 684 (2009) and social security numbers pursuant to section 552.147 of the Government Code.<sup>1</sup> You claim some of 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 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes, including the Medical Practice Act (the "MPA"), subtitle B of title 3 of the Occupations Code. *See* Occ. Code §§ 151.001-165.160. Section 159.002 of the MPA provides in part the following:

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<sup>1</sup>Gov't Code § 552.147(b) (governmental body may redact social security number without necessity of requesting decision from this office under the Act); Open Records Decision No. 684 (2009) (previous determination authorizing any governmental body to withhold ten categories of information, including a Texas driver's license number under section 552.130 of Government Code, without necessity of requesting attorney general opinion).

(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(b), (c). Medical records must be released upon the patient's signed, written consent, provided the consent specifies (1) the information to be covered by the release, (2) reasons or purposes for the release, and (3) the person to whom the information is to be released. *Id.* §§ 159.004, 159.005. Upon review, we find you have not established any of the submitted information consists of a record of the identity, diagnosis, evaluation, or treatment of a patient by a physician that is created or maintained by a physician. *See id.* § 159.002(b). Thus, you have not established any of the submitted information is subject to the MPA and the department may not withhold it from the requestor on that ground.

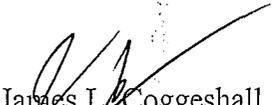
Section 552.101 also encompasses the doctrine of common-law privacy, which protects information that (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The types of information considered intimate or embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. This office has found some kinds of medical information or information indicating disabilities or specific illnesses are excepted from required public disclosure under common-law privacy. *E.g.*, Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). Some of the submitted information is highly intimate or embarrassing and is not of legitimate concern to the public; therefore, the department must withhold this information, which we have marked, under section 552.101 in conjunction with common-law privacy. The department must release the remaining information to the requestor.

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,



James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/eb

Ref: ID# 424212

Enc. Submitted documents

c: Requestor  
(w/o enclosures)