



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 6, 2011

Ms. L. Renee Lowe
Harris County
2525 Holly Hall, Suite 190
Houston, Texas 77054

OR2011-14551

Dear Ms. Lowe:

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# 432257 (C.A. File 11HSP0633).

The Harris County Hospital District (the "district") received a request for information captured by the district's electronic incident reporting system during a specified period of time.¹ You claim the requested information is excepted from disclosure under section 552.101 of the Government Code.² We have considered the exception you claim and reviewed the submitted information.³

Initially, we note some of the submitted information, which we have marked, is not responsive to the instant request for information because it was created outside of the time

¹You state the district sought and received clarification from the requestor. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date the request is clarified or narrowed).

²We note the district did not raise section 552.101 of the Government Code as an exception to disclosure within ten business days of the date the district received the request. *See* Gov't Code §§ 552.301(b), .302. However, because section 552.101 is a mandatory exception that can provide a compelling reason to withhold information from disclosure, we will consider your claim under section 552.101, notwithstanding the district's violation of section 552.301(b) in raising that exception. *See id.* § 552.302.

³We assume that the representative sample of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach and, therefore, 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.

period specified in the request. This ruling does not address the public availability of non-responsive information, and the district need not release non-responsive information in response to this request.

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 241.152 of the Health and Safety Code, which states, in relevant part:

(a) Except as authorized by Section 241.153, a hospital or an agent or employee of a hospital may not disclose health care information about a patient to any person other than the patient or the patient’s legally authorized representative without the written authorization of the patient or the patient’s legally authorized representative.

Health & Safety Code § 241.152(a). Section 241.151(2) of the Health and Safety Code defines “health care information” as “information . . . recorded in any form or medium that identifies a patient and relates to the history, diagnosis, treatment, or prognosis of a patient.” *Id.* § 241.151(2). Upon review, we agree the information at issue consists of health care information that is confidential under section 241.152 of the Health and Safety Code. Accordingly, the district must withhold the responsive information under section 552.101 of the Government Code in conjunction with section 241.152 of the Health and Safety Code. As our ruling is dispositive, we need not address your remaining arguments against disclosure.

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,



Paige Lay
Assistant Attorney General
Open Records Division

PL/ag

Ref: ID# 432257

Enc. Submitted documents

cc: Requestor
(w/o enclosures)