



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 22, 2011

Mr. James D. Parker
Attorney for Bangs Housing Authority
Knight & Partners
223 West Anderson Lane, Suite A-105
Austin, Texas 78752

OR2011-17275

Dear Mr. Parker:

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# 441906.

The Bangs Housing Authority (the "authority"), which you represent, received a request for seventeen categories of documents pertaining to the authority's housing programs, including accommodation requests made by tenants with disabilities. 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.

Initially, we note you have only submitted information pertaining to one of the seventeen categories of the request. To the extent information responsive to the remainder of the request existed on the date the authority received the request, we assume you have released it. *See* 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). If you have not released any such information, you must do so at this time. *See* Gov't Code §§ 552.301(a), .302.

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 the Medical Practice

Act (the “MPA”), subtitle B of title 3 of the Occupations Code, which provides in relevant 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.

Occ. Code § 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 determined that 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). The medical records must be released upon the patient’s signed, written consent, provided that 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. Occ. Code §§ 159.004, .005. Medical records may be released only as provided under the MPA. Open Records Decision No. 598 (1991). In this instance, you state the authority has not received any consent to release the submitted records. Accordingly, we find the submitted information must be withheld under section 552.101 of the Government Code in conjunction with the MPA.¹

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,

¹As our ruling is dispositive, we need not address your remaining argument against disclosure.

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,

A handwritten signature in black ink that reads "Kathryn R. Mattingly". The signature is written in a cursive style with a large, prominent initial 'K'.

Kathryn R. Mattingly
Assistant Attorney General
Open Records Division

KRM/sdk

Ref: ID# 441906

Enc. Submitted documents

c: Requestor
(w/o enclosures)