



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 18, 2012

Ms. Samantha Dyal  
Counsel for the City of Schertz  
Fulbright & Jaworski L.L.P.  
300 Convent Street Suite 2100  
San Antonio, Texas 78205-3792

OR2012-20388

Dear Ms. Dyal:

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# 479167 (No. 12-6155).

The City of Schertz (the "city"), which you represent, received a request for information related to a fatal incident involving a named individual. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the information you submitted.

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 exception encompasses information made confidential by other statutes, including section 773.091 of the Health and Safety Code. Section 773.091 is applicable to records of the provision of emergency medical services ("EMS") and 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.

(c) Any person who receives information from confidential communications or records as described by this chapter, other than a person listed in

Section 773.092 who is acting on the survivor's behalf, may not disclose the information except to the extent that disclosure is consistent with the authorized purposes for which the information was obtained.

...

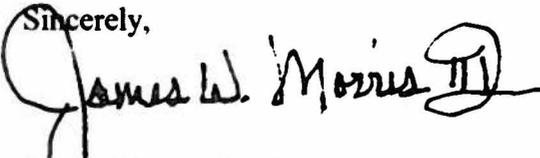
(g) The privilege of confidentiality under this section does not extend to information regarding the presence, nature of injury or illness, age, sex, occupation, and city of residence of a patient who is receiving emergency medical services.

Health & Safety Code § 773.091(b)-(c), (g). You contend the submitted information is confidential under section 773.091. On review, we agree the information at issue consists of EMS records the city must withhold under section 552.101 of the Government Code in conjunction with section 773.091(b) of the Health and Safety Code, except as specified by section 773.091(g).<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,



James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/bhf

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<sup>1</sup>This ruling does not affect an individual's right of access to a patient's medical records from the EMS provider. See Health & Safety Code §§ 773.092, .093; cf. *Abbott v. Tex. State Bd. of Pharmacy*, No. 03-11-00481-CV, 2012 WL 5974080 (Tex. App.—Austin Nov. 21, 2012, no pet.) (Medical Practice Act does not provide patient general right of access to his or her medical records from governmental body responding to request for information under Public Information Act).

Ref: ID# 479167

Enc: Submitted documents

c: Requestor  
(w/o enclosures)