



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 6, 2013

Ms. Monica Hernandez
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283

OR2013-07441

Dear Ms. Hernandez:

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# 486406 (COSA# W013388).

The City of San Antonio (the "city") received a request for all documents concerning a specified dog. You state the city will release some of the requested information. You claim 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. Section 552.101 encompasses information made confidential by statute, such as the Medical Practice Act ("MPA"), subtitle B of title 3 of the Occupations Code, which governs release of medical records. See Occ. Code §§ 151.001-168.202. Section 159.002 of the MPA 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.

Id. § 159.002(a)-(c). Information subject to the MPA includes both medical records and information obtained from those medical records. *See id.* §§ 159.002, .004. This office has concluded 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). Upon review, we agree the information you have marked constitutes records of the identity, diagnosis, evaluation, or treatment of a patient by a physician that were created or are maintained by a physician. Accordingly, the city must withhold the medical records you marked under section 552.101 of the Government Code in conjunction with the MPA.

Section 552.101 of the Government Code also encompasses section 801.353 of the Occupations Code, which provides, in part, the following:

(a) A veterinarian may not violate the confidential relationship between the veterinarian and the veterinarian's client.

...

(f) A veterinarian does not violate this section by providing the name or address of a client, or the rabies vaccination status of a specific client's specific animal, to a public health authority, veterinarian, physician, or other licensed health care professional who requests the identity of the client to obtain information for:

- (1) the verification of a rabies vaccination;
- (2) other treatment involving a life-threatening situation; or
- (3) a public health purpose.

(g) A public health authority that receives information under [s]ubsection (f) shall maintain the confidentiality of the information, may not disclose the information under Chapter 552, Government Code, and may not use the

information for a purpose that does not directly relate to the protection of public health and safety.

Occ. Code § 801.353(a), (f)-(g). Subsection 801.353(g) prohibits the public disclosure of information obtained by a public health authority from a veterinarian pursuant to subsection 801.353(f) for the reasons enumerated in subsection 801.353(f). Subsection 801.353(f) specifically provides the name and address of the client and the rabies vaccination status of the client's animal may be released to the public health authority for the enumerated purposes.

You assert some of the remaining information, which you have marked, is confidential under section 801.353 of the Occupations Code. You explain the city's Animal Care Services Director is the local rabies control authority, and you state the information at issue consists of "veterinary records which were provided by the veterinarian of the animal at issue to the [c]ity's Animal Care Services Department" (the "department"). You state the veterinarian provided the information to the department for rabies control, which you state is a public health purpose. *See id.* § 801.353(f). Upon review, we find the information at issue includes the name of a client that was provided to the department by a veterinarian pursuant to subsection 801.353(f). This information, which we have marked, is confidential pursuant to subsection 801.353(g) of the Occupations Code and must be withheld under section 552.101 of the Government Code. However, you do not explain how any portion of the remaining information at issue, which consists of veterinary examination and treatment records, consists of the name or address of a client or the rabies vaccination status provided to the department pursuant to subsection 801.353(f). Thus, we conclude you have failed to demonstrate the applicability of subsection 801.353(g) to the remaining information at issue. Accordingly, the city may not withhold any of the remaining information at issue under section 552.101 of the Government Code in conjunction with subsection 801.353(g) of the Occupations Code.

Section 552.101 of the Government Code also encompasses section 826.0211 of the Health and Safety Code, which provides in part:

(a) Information contained in a rabies vaccination certificate or in any record compiled from the information contained in one or more certificates that identifies or tends to identify an owner or an address, telephone number, or other personally identifying information of an owner of a vaccinated animal is confidential and not subject to disclosure under Chapter 552, Government Code. The information contained in the certificate or record may not include the social security number or the driver's license number of the owner of the vaccinated animal.

Health & Safety Code § 826.0211(a). We note section 826.0211 is applicable only to information contained in a rabies vaccination certificate or in a record compiled from

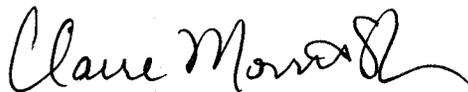
information contained in one or more rabies vaccination certificates. A portion of the remaining information, which you have marked, consists of a rabies certificate. Therefore, the owner's identifying information within the rabies certificate, which we have marked, must be withheld under section 552.101 of the Government Code in conjunction with section 826.0211 of the Health and Safety Code. However, upon review, we find the remaining information at issue is not made confidential by section 826.0211 and may not be withheld under section 552.101 of the Government Code on that basis.

In summary, the city must withhold the information you marked under section 552.101 of the Government Code in conjunction with the MPA, the information we marked under section 552.101 of the Government Code in conjunction with section 801.353 of the Occupations Code, and the information we marked under section 552.101 of the Government Code in conjunction with section 826.0211 of the Health and Safety Code. The city must release the remaining information.

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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

Ref: ID# 486406

Enc. Submitted documents

c: Requestor
(w/o enclosures)