



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 13, 2014

Ms. Lysia H. Bowling
City Attorney
City of San Angelo
72 West College Avenue
San Angelo, Texas 76903

OR2014-02774

Dear Ms. Bowling:

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# 514002.

The San Angelo Police Department (the "department") received a request for information pertaining to a specified investigation. You state you are releasing some of the requested information to the requestor. You claim that 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 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision" and encompasses information that other statutes make confidential. Gov't Code § 552.101. Section 552.101 of the Government Code encompasses the Medical Practice Act (the "MPA"), subtitle B of title 3 of the Occupations Code, which governs release of medical records. 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.

Occ. Code § 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 Exhibits F, G, and H constitute medical records. Accordingly, the department must withhold Exhibits F, G, and H under section 552.101 of the Government Code in conjunction with the MPA.

Section 552.101 of the Government Code also encompasses section 773.091 of the Health and Safety Code, which 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.

...

(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), (g). Except for the information specified in section 773.091(g), emergency medical services ("EMS") records are deemed confidential under section 773.091. *See id.* Exhibits C, D, and E consist of records made and maintained by EMS personnel; thus, we find section 773.091 is applicable to the information at issue. Accordingly, with the exception of the information subject to section 773.091(g), which is not confidential and must be released, the department must withhold Exhibits C, D, and E under section 552.101 in conjunction with section 773.091(b).

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or a

personal identification document issued by an agency of this state or another state or country is excepted from public release.¹ Gov't Code § 552.130. Upon review, we find the department must withhold the information we have marked in the remaining information under section 552.130 of the Government Code.²

In summary, the department must withhold Exhibits F, G, and H under section 552.101 of the Government Code in conjunction with the MPA. With the exception of the information subject to section 773.091(g) of the Health and Safety Code, the department must withhold Exhibits C, D, and E under section 552.101 of the Government Code in conjunction with section 773.091(b) of the Health and Safety Code. The department must also withhold the information we have marked under section 552.130 of the Government Code. The department 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Sarah Casterline
Assistant Attorney General
Open Records Division

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¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

²Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e).

Ref: ID# 514002

Enc. Submitted documents

c: Requestor
(w/o enclosures)