



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 14, 2014

Mr. Hector M. Benavides
Counsel for the Northside Independent School District
Walsh, Anderson, Gallegos, Green and Treviño, P.C.
100 N.E. Loop 410, #900
San Antonio, Texas 78216

OR2014-14294

Dear Mr. Benavides:

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# 534829.

The Northside Independent School District (the "district"), which you represent, received a request for information regarding a district employee. 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 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, the following:

- (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.

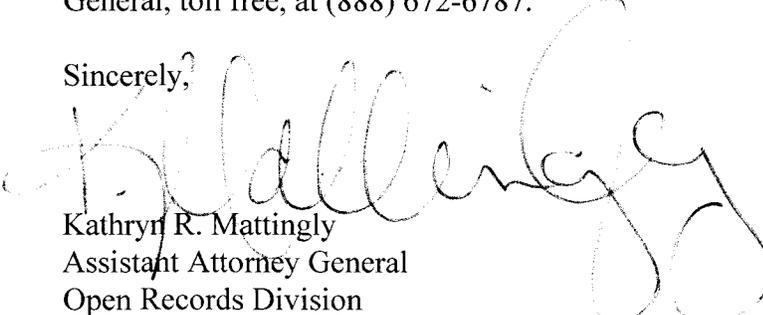
(c) A person who receives information from a confidential communication or record as described by this chapter, other than a person listed in Section 159.004 who is acting on the patient's behalf, may not disclose the information except to the extent that disclosure is consistent with the authorized purposes for which the information was first obtained.

Id. § 159.002(a)-(c). Information that is 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. The information you seek to withhold relates to an alcohol test. Section 159.001 of the MPA defines a "patient" as "a person who, to receive medical care, consults with or is seen by a physician." *Id.* § 159.001(3). Because the individual at issue did not receive medical care in the administration of the alcohol test, this individual is not a patient for purposes of section 159.002. Thus, we find you have not demonstrated any of the information at issue is confidential under the MPA. Therefore, the district may not withhold any of the submitted information under section 552.101 of the Government Code on that basis. As you raise no further exceptions to disclosure, the submitted information must be released.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.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,


Kathryn R. Mattingly
Assistant Attorney General
Open Records Division

KRM/bhf

¹ We note this requestor is an investigator with the Texas Education Agency and has a special right of access to the information being released under section 249.14 of title 19 of the Texas Administrative Code. *See* 19 T.A.C. § 249.14. If the district receives another request for this same information from a different requestor, the district must again seek a ruling from this office.

Ref: ID# 534829

Enc. Submitted documents

c: Requestor
(w/o enclosures)