



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 26, 2017

Mr. Carlos G. Madrid
Assistant County Attorney
County of El Paso
500 East San Antonio, Room 503
El Paso, Texas 79901

OR2017-14194

Dear Mr. Madrid:

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# 670031 (PIR No. 0259-17-PI).

The El Paso County Sheriff's Office (the "sheriff's office") received a request for information pertaining to a specified incident. You state the sheriff's office has released some 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 other statutes make confidential, such as section 773.091 of the Health and Safety Code, which provides in relevant 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 Service (“EMS”) records are deemed confidential under section 773.091 and may only be released in accordance with chapter 773 of the Health and Safety Code. *See id.* §§ 773.091-.094. Upon review, we find the information we have marked consists of EMS records subject to chapter 773. Thus, with the exception of the information subject to section 773.091(g), which must be released, the sheriff’s office must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 773.091 of the Health and Safety Code.¹

Section 552.101 of the Government Code also encompasses information protected by other statutes, such as the Medical Practice Act (the “MPA”), subtitle B of title 3 of the Occupations Code, which provides in pertinent 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.

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. Upon review, we find most of the remaining information constitutes medical records. As such, except for the information we have marked for release, the sheriff’s office must withhold the remaining information under section 552.101 of the Government Code in conjunction with the MPA. However, we find none of the information we have marked for release constitutes confidential medical records for the purposes of the MPA; thus, the sheriff’s office may not withhold any of the information at issue on this basis.

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

In summary, with the exception of the information subject to section 773.091(g), which must be released, the sheriff's office must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 773.091 of the Health and Safety Code. Except for the information we have marked for release, the sheriff's office must withhold the remaining information under section 552.101 of the Government Code in conjunction with the MPA.

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,



Britni Ramirez
Assistant Attorney General
Open Records Division

BR/som

Ref: ID# 670031

Enc. Submitted documents

c: Requestor
(w/o enclosures)