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ATTORNEY GENERAL OF TEXAS

February 28, 2019

Mr. Ken Campbell
Counsel for Travis County Emergency Services District No. 1
Burns Anderson Jury & Brenner, L. L. P.
P. O. Box 26300
Austin, Texas 78755-6300

OR2019-05623

Dear Mr. Campbell:

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# 753432 (Reference No. 019.11087).

The Travis County Emergency Services District No. 1 (the "district"), which you represent, received a request for information pertaining to a specified motor vehicle accident. 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. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (permitting interested third party to submit to attorney general reasons why requested information should or should not be released).

Section 552.101 of the Government Code excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. Section 552.101 of the Government Code encompasses section 773.091 of the Health and Safety Code, which provides, in relevant part:

- (a) A communication between certified emergency medical services personnel or a physician providing medical supervision and a patient that is made in the course of providing emergency medical services to the patient is confidential and privileged and may not be disclosed except as provided by this chapter.

(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(a)-(b), (g). Except for the information specified in section 773.091(g), emergency medical services (“EMS”) records are deemed confidential under section 773.091. Upon review, we find Exhibits B, D, and E constitute records of the identity, evaluation, or treatment of a patient by EMS personnel. Thus, except for the information subject to section 773.091(g), the district must withhold Exhibits B, D, and E under section 552.101 of the Government Code in conjunction with section 773.091(b) of the Health and Safety Code.¹

Section 552.101 of the Government Code also encompasses section 773.095 of the Health and Safety Code, which provides in relevant part:

(a) The proceedings and records of organized committees of hospitals, medical societies, emergency medical services providers, emergency medical services and trauma care systems, or first responder organizations relating to the review, evaluation, or improvement of an emergency medical services provider, a first responder organization, an emergency services and trauma care system, or emergency medical services personnel are confidential and not subject to disclosure by court subpoena or otherwise.

...

(c) This section does not apply to records made or maintained in the regular course of business by an emergency medical services provider, a first responder organization, or emergency medical services personnel.

Health & Safety Code § 773.095(a), (c). You state Exhibit C consists of records of the “organized committee of the [d]istrict responsible for the review, evaluation, or improvement

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

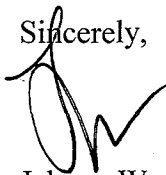
of the [d]istrict's provision of emergency medical services." You indicate the information at issue does not consist of records made or maintained in the regular course of business. Based on your representations and our review, we agree the information at issue constitutes records relating to the review, evaluation, or improvement of a first responder organization or its personnel. Thus, we conclude Exhibit C is confidential under section 773.095 of the Health and Safety Code and must be withheld under section 552.101 of the Government Code on that basis.

In summary, except for the information subject to section 773.091(g), the district must withhold Exhibits B, 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 district must withhold Exhibit C under section 552.101 of the Government Code in conjunction with section 773.095 of the Health and Safety Code.

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,



Jahna Ward
Assistant Attorney General
Open Records Division

JW/jxd

Ref: ID# 753462

Enc. Submitted documents

c: Requestor
(w/o enclosures)