



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 14, 2019

Mr. Jonathan Miles
Open Records Attorney
Texas Health and Human Services Commission
P.O. Box 13247
Austin, Texas 78711-3247

OR2019-07085

Dear Mr. Miles:

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# 760446 (HHSC 17528).

The Texas Health and Human Services Commission (the "commission") received a request for information pertaining to a named individual. You claim the submitted information is exempted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code exempts 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 section 576.005 of the Health and Safety Code, which provides "[r]ecords of a mental health facility that directly or indirectly identify a present, former, or proposed patient are confidential unless disclosure is permitted by other state law." Health & Safety Code § 576.005. You assert the requested information constitutes records of a mental health facility that would directly or indirectly identify a patient of the facility. *See id.* § 571.003(12), (16). Based upon your representation and our

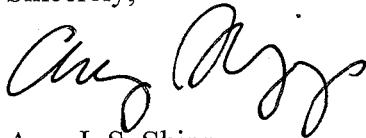
¹We note, and you acknowledge, the commission did not comply with section 552.301 of the Government Code in requesting a ruling from this office. *See* Gov't Code § 552.301(b). Nonetheless, because the exception the commission claims can provide a compelling reason to overcome the presumption of openness, we will consider its applicability to the submitted information. *See id.* §§ 552.007, .302, .352.

review, we find the confidentiality provision of section 576.005 applies to the information at issue. We are unaware of any other state law that would permit disclosure of this information under the present circumstances. Accordingly, the commission must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 576.005 of the Health and Safety Code.

You also ask this office to issue a previous determination that would permit the commission to withhold records of a mental health facility under section 552.101 of the Government Code in conjunction with section 576.005 of the Health and Safety Code without requesting a ruling from this office. See Gov't Code § 552.301(a) (allowing governmental body to withhold information subject to previous determination); Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code). We decline to issue such a ruling at this time. Accordingly, 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,



Amy L.S. Shipp
Assistant Attorney General
Open Records Division

ALS/eb

Ref: ID# 760446

Enc. Submitted documents

c: Requestor
(w/o enclosures)