



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 5, 2019

Ms. ML. Calcote
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2019-09215

Dear Ms. Calcote:

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# 758434 (ORR# 19-0314).

The Texas Department of Public Safety (the "department") received a request for records related to a specified application for employment. The department claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception the department claims and reviewed the submitted information.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."¹ Gov't Code § 552.101. Section 552.101 encompasses information made confidential by other statutes, such as chapter 611 of the Health and Safety Code. Section 611.002 pertains to mental health records and provides, in pertinent part,

(a) Communications between a patient and a professional, and records of the identity, diagnosis, evaluation, or treatment of a patient that are created or maintained by a professional, are confidential.

¹The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions.

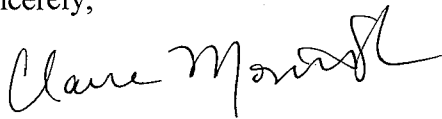
(b) Confidential communications or records may not be disclosed except as provided by Section 611.004 or 611.0045.

Health & Safety Code § 611.002(a)-(b); *see id.* § 611.001 (defining “patient” and “professional”). Section 611.001 defines a “professional” as (1) a person authorized to practice medicine, (2) a person licensed or certified by the state to diagnose, evaluate or treat mental or emotional conditions or disorders, or (3) a person the patient reasonably believes is authorized, licensed, or certified. *See id.* § 611.001(2). Sections 611.004 and 611.0045 provide for access to mental health records only by certain individuals. *See id.* §§ 611.004, .0045; *see also* Open Records Decision No. 565 (1990). Upon review, we find the submitted information consists of mental health records that are subject to chapter 611 of the Health and Safety Code. Accordingly, the department must withhold the submitted mental health records under section 552.101 of the Government Code in conjunction with section 611.002 of the Health and Safety Code.²

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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/mo

²We note this ruling does not affect an individual’s right of access to his or her own mental health records from the professional who provided treatment under chapter 611 of the Health and Safety Code. *See* Health & Safety Code § 611.004(a)(3); *cf. Abbott v. Tex. State Bd of Pharmacy*, 391 S.W.3d 253 (Tex. App.—Austin 2012, no pet.) (MPA does not provide general right of access to medical records from governmental body responding to a request for information under the Public Information Act).

Ref: ID# 785434

Enc. Submitted documents

c: Requestor
(w/o enclosures)