



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 2, 2019

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

OR2019-11702

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# 763217 (HHSC Ref. Nos. 17672 and 17673).

The Texas Health and Human Services Commission (the "commission") received two requests for information pertaining to a specified incident. You state the commission will release 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 representative sample of information.¹

Section 552.101 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 section 577.013(d) of the Health and Safety Code, which provides:

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

(d) All information and materials obtained or compiled by the [Texas Department of State Health Services (the “department”)] in connection with a complaint and investigation concerning a mental hospital licensed under this chapter are confidential and not subject to disclosure, discovery, subpoena or other means of legal compulsion for their release to anyone other than the department or its employees or agents involved in the enforcement action except that this information may be disclosed to:

- (1) persons involved with the department in the enforcement action against the licensed mental hospital;
- (2) the licensed mental hospital that is the subject of the enforcement action, or the licensed mental hospital’s authorized representative;
- (3) appropriate state or federal agencies that are authorized to inspect, survey, or investigate licensed mental hospital services;
- (4) law enforcement agencies; and
- (5) persons engaged in bona fide research, if all individual-identifying information and information identifying the licensed mental hospital has been deleted.

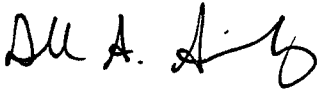
Health & Safety Code § 577.013(d). In addition, subsection (e) of section 577.013 provides that notice of the alleged violation against the licensed mental hospital, pleadings in the administrative hearing, and the final decision or order by the department are subject to disclosure under the Act.

You state the submitted information was obtained or compiled by the commission as a result of a complaint or investigation concerning a mental health hospital licensed under chapter 577 that was made under section 577.013 of the Health and Safety Code. You inform us the program area that possessed the information at issue was formerly part of the department, but has been transferred to the commission. You state the documents at issue do not contain any information that falls within the exceptions listed in subsections (d)(1) through (5) or (e)(1) through (3). Upon review, we find the commission must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 577.013(d) 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,

A handwritten signature in black ink, appearing to read "Gerald A. Arismendez". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Gerald A. Arismendez
Assistant Attorney General
Open Records Division

GAA/jxd

Ref: ID# 763217

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)