



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 23, 2019

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

OR2019-13700

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# 766929 (ORR# 17917).

The Texas Health and Human Services Commission (the "commission") received a request for patient files related to a named individual. The commission claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception the commission claims and reviewed the submitted information.

Section 552.101 of the Government Code protects "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. The commission states the submitted information constitutes a record of a mental health facility that would directly or indirectly identify a patient of the facility. *See id.* § 571.003(12), (16). Based upon these representations and our 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 in this instance. Accordingly, the commission must withhold the submitted information under section 552.101 of the Government Code in conjunction with section

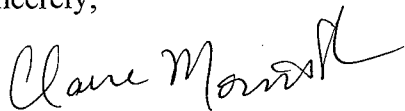
576.005 of the Health and Safety Code. *See* Open Records Decision No. 163 at 2-3 (1977) (statutory predecessor to Health and Safety Code § 576.005 made confidential detailed medical histories of residents, former residents, and deceased residents; correspondence to and from parents of residents; and notes of visits with parents; such information was thus excepted from disclosure under predecessor to Gov't Code § 552.101 as information deemed confidential by statute).

The commission also asks this office to issue a previous determination that would permit it 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. Open Records Decision No. 673 (2001). We decline to issue such a previous determination 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 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/eb

Ref: ID# 766929

Enc. Submitted documents

c: Requestor
(w/o enclosures)