June 11, 2019

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

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# 770127 (ORR# 18051).

The Texas Health and Human Services Commission (the “commission”) received a request for information pertaining to a named individual. The commission claims the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception 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 records of a mental health facility that would directly or indirectly identify a patient of the facility. See id. § 571.003(12), (16). Upon review, we find the submitted information is confidential under section 576.005. We are unaware of any other state law that would permit disclosure of this information. 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).

The commission also asks this office to issue a previous determination authorizing it to withhold records of a mental health facility that directly or indirectly identify a present, former, or proposed patient under section 552.101 of the Government Code in conjunction with section 576.005 of the Health and Safety Code. After due consideration, we have decided to grant this request. Therefore, this letter ruling shall serve as a previous determination under section 552.301(a) that the commission must withhold this type of information under section 552.101 of the Government Code as long as other state law does not permit access to the information. So long as the elements of law, facts, and circumstances do not change so as to no longer support the findings set forth above, the commission need not ask for a decision from this office again with respect to this type of information requested of it. See Open Records Decision No. 673 (2001).

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,

James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/gw

Ref:        ID# 770127

Enc.        Submitted documents

c:          Requestor
            (w/o enclosures)