



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 15, 2019

Ms. Stacie S. White
Counsel for the City of Haltom City
Taylor, Olson, Adkins, Sralla & Elam, L. L. P.
6000 Western Place, Suite 200
Fort Worth, Texas 76107

OR2019-19004

Dear Ms. White:

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# 775246.

The City of Haltom City (the "city"), which you represent, received a request for a specified emergency medical services report. 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 information.

Section 552.101 of the Government Code 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 of the Government Code encompasses information made confidential by section 773.091 of the Health and Safety Code, which provides in part:

(b) Records of the identity, evaluation, or treatment of a patient by emergency medical services personnel or by a physician providing medical supervision that are created by the emergency medical services personnel or physician or maintained by an emergency medical services provider are confidential and privileged and may not be disclosed except as provided by this chapter.

...

(g) The privilege of confidentiality under this section does not extend to information regarding the presence, nature of injury or illness, age, sex, occupation, and city of residence of a patient who is receiving emergency medical services.

Health & Safety Code § 773.091(b), (g). Except for the information specified in section 773.091(g), emergency medical services (“EMS”) records are deemed confidential under section 773.091 and may only be released in accordance with chapter 773 of the Health and Safety Code. *See id.* §§ 773.091-.094. Upon review, we find the submitted information consists of EMS records subject to chapter 773. Thus, with the exception of the information subject to section 773.091(g), which is not confidential and must be released, the submitted information must generally be withheld under section 552.101 of the Government Code in conjunction with section 773.091 of the Health and Safety Code.

However, in this instance, the requestor is a representative of the Texas Adult Protective Services (“APS”) division of the Texas Department of Family and Protective Services (“DFPS”). Section 773.092 of the Health and Safety Code states confidential EMS records may be disclosed to governmental agencies if the disclosure is required or authorized by law. *See* Health & Safety Code § 773.092(e)(2). Under chapter 48 of the Human Resources Code, DFPS’s duties include the investigation of abuse, neglect, or exploitation in the provision of services to an elderly or disabled person. *See* Hum. Res. Code §§ 48.007, .151, .152. Section 48.154 of the Human Resources Code provides in pertinent part:

(a) The [DFPS] or another state agency, as appropriate, shall have access to any records or documents, including client-identifying information and medical and psychological records, necessary to the performance of the [DFPS]’s or state agency’s duties under this chapter. The duties include but are not limited to the investigation of abuse, neglect, or exploitation or the provisions of services to an elderly person or person with a disability. A person or agency that has a record or document that the [DFPS] or state agency needs to perform its duties under this chapter shall, without unnecessary delay, make the record or document available to the [DFPS] or agency that requested the record or document.

Id. § 48.154. Thus, to the extent DFPS is seeking the information to perform its duties under chapter 48 of the Human Resources Code, the requestor has a right of access to the submitted information, and it must be released to this requestor. In that event, the city may not withhold any of the submitted information under section 552.101 in conjunction with section 773.091 of the Health and Safety Code. *See* Health & Safety Code § 773.092(e)(2).

In summary, to the extent DFPS is seeking the submitted information to perform its duties under chapter 48 of the Human Resources Code, the requestor has a right of access to the submitted information, and it must be released to this requestor. Otherwise, with the

exception of the information subject to section 773.091(g) of the Health and Safety Code, which must be released, the city must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 773.091 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,



Kelly McWethy
Assistant Attorney General
Open Records Division

KSM/jxd

Ref: ID# 775246

Enc. Submitted documents

c: Requestor
(w/o enclosures)