



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 14, 2019

Mr. Carey Smith
Senior Counsel
Texas Health & Human Services Commission
P.O. Box 13247
Austin, Texas 78711-3247

OR2019-22556

Dear Mr. Smith:

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# 780403 (OR Ref. No. 18650).

The Texas Health & Human Services Commission (the "commission") received a request for all records related to a named individual. 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 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. You state 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).

Finally, although you ask this office to issue a previous determination permitting the commission to withhold records of a mental health facility, we note that in Open Records Letter No. 2019-15662 (2019) this office already issued a previous determination authorizing the commission 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. *See* Gov't Code § 552.301 (a) (allowing governmental body to withhold information subject to previous determination); Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301 (a) of the Government Code).

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Tim Neal
Assistant Attorney General
Open Records Division

TN/gw

Ref: ID# 780403

Enc. Submitted documents

c: Requestor
(w/o enclosures)