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ATTORNEY GENERAL OF TEXAS

March 25, 2020

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

OR2020-09205

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# 818197 (Ref. No. 20966).

The Texas Health and Human Services Commission (the "commission") received a request for information pertaining to specified investigations involving certain entities.¹ You state the commission has released some information to the requestor. 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.²

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. This section encompasses information made confidential by other laws,

¹ You state, and provide documentation demonstrating, the commission received clarification of the information requested. See Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

² We 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 those records contain substantially different types of information than that submitted to this office.

such as section 260A.008 of the Health and Safety Code. Section 260A.008 provides, in relevant part:

A report, record, or working paper used or developed in an investigation made under [chapter 260A] and the name, address, and phone number of any person making a report under [chapter 260A] are confidential and may be disclosed only for purposes consistent with rules adopted by the executive commissioner.

Health & Safety Code § 260A.008.³ Chapter 260A pertains to reports of abuse, neglect, and exploitation of residents of certain facilities and investigations resulting from such reports. *See id.* §§ 260A.001-.017; *see also id.* §§ 260A.001(1), (6) (defining “abuse” and “neglect” for purposes of chapter 260A), .001(5)(B) (defining “facility” to include “assisted living facility” for purposes of chapter 260A), .007 (concerning department investigation and report). You represent the submitted information consists of the working papers developed in an investigation conducted under chapter 260A of the Health and Safety Code. *See id.* § 260A.008. Based upon your representations and our review, we conclude the commission must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 260A.008 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 <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,

Blake Brennan
Assistant Attorney General
Open Records Division

BBX/jxd

³ Although you do not cite to section 552.101 of the Government Code in conjunction with section 260A.008 of the Health and Safety Code in your brief, we understand you to raise this section based on the substance of your arguments.

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Enc. Submitted documents

c: Requestor
(w/o enclosures)