



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 1, 2020

Ms. Courtney L. Ebeier
Attorney
Texas Health and Human Services Commission
P.O. Box 13247
Austin, Texas 78711-3247

OR2020-16803

Dear Ms. Ebeier:

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# 834533 (Ref. No. 21518).

The Texas Health and Human Services Commission (the "commission") received a request for reports related to unauthorized departures from state psychiatric facilities during a specified date range.¹ You state the commission has released some information to the requestor. You claim some of 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. 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

¹ You state the commission sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the 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.

permitted by other state law.” Health & Safety Code § 576.005. You state the hospitals at issue are mental health facilities as defined by chapter 571 of the Health and Safety Code. *See id.* § 571.003(12). You assert some of the submitted information constitutes records of mental health facilities that would directly or indirectly identify patients of the facilities. Based upon your representation and our review, we find the confidentiality provision of section 576.005 applies to the information you marked and the additional information we marked. We are unaware of any other state law that would permit disclosure of this information under the present circumstances. Accordingly, the commission must withhold the information you marked and we marked under section 552.101 of the Government Code in conjunction with section 576.005 of the Health and Safety Code. The commission must release the remaining information.

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,

Deborah Southerland
Assistant Attorney General
Open Records Division

DS/rm

Ref: ID# 834533

Enc. Submitted documents

c: Requestor
(w/o enclosures)