



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 16, 2020

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

OR2020-17731

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# 835996 (Ref. No. OR-22033).

The Texas Health and Human Services Commission (the "commission") received a request for certain records pertaining to a named individual, including a specified 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 public 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 statutes, such as section 48.101 of the Human Resources Code, which provides, in pertinent part:

- (a) The following information is confidential and not subject to disclosure under [the Act]:
- (1) a report of abuse, neglect, or exploitation made under this chapter;
 - (2) the identity of the person making the report; and
 - (3) except as provided by this section, all files, reports, records, communications, and working papers used or developed in an

investigation made under this chapter or in providing services as a result of an investigation.

(b) Confidential information may be disclosed only for a purpose consistent with this chapter and as provided by the [commission] or investigating state agency rule and applicable federal law.

Hum. Res. Code § 48.101(a), (b). Section 48.051 of the Human Resources Code provides “a person having cause to believe that an elderly person, a person with a disability, or an individual receiving services from a provider as described by Subchapter F [of chapter 48 of the Human Resources Code] is in the state of abuse, neglect, or exploitation” shall report certain prescribed information to the commission or another appropriate state agency. *See id.* § 48.051(a). The only entities authorized to conduct an investigation under chapter 48 of the Human Resources Code are the commission and certain other state agencies, depending on the circumstances surrounding the incident. *See id.* §§ 48.151, .152, .252, .301. You state the submitted information was derived from an investigation of abuse or neglect concerning an Adult Protective Services (“APS”) client conducted by the commission under chapter 48 of the Human Resources Code. Such information must not be released to the public, except for a purpose consistent with chapter 48 and as provided by a commission or investigating state agency rule or federal law. *See id.* § 48.101(b)-(g) (permitting release of confidential information only in certain circumstances). Based on your representations and our review, we agree the information at issue is confidential under section 48.101 of the Human Resources Code. *See id.* § 48.101(b). You inform us the commission has promulgated rules concerning the confidentiality of APS records, and the requestor does not appear to have a right of access to the records at issue. *See* 40 T.A.C. §§ 711.601, .605. Accordingly, the commission must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 48.101 of the Human Resources 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/be

Ref: ID# 835996

Enc. Submitted documents

c: Requestor
(w/o enclosures)