



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 13, 2020

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

OR2020-20284

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# 839678 (Ref. No. OR-22475).

The Texas Health and Human Services Commission (the "commission") received a request for a specified video recording involving 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 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 encompasses section 595.001 of the Health and Safety Code, which provides:

Records of the identity, diagnosis, evaluation, or treatment of a person that are maintained in connection with the performance of a program or activity relating to mental retardation are confidential and may be disclosed only for the purposes and under the circumstances authorized under Sections 595.003 and 595.004 [of the Health and Safety Code].

Health & Safety Code § 595.001. You state the submitted information pertains to the identity and treatment of clients of a state supported living center, which you explain constitutes an intellectual disability program in the State of Texas. Section 595.004 provides for the release of confidential records to the person to whom the records pertain, or a parent of a minor or a guardian of the person. *See id.* § 595.004. Subsection 595.005(d) provides confidential records may be disclosed without the prior written consent required

in subsection 595.003 if disclosure is authorized by a court order granted upon a showing of good cause. *See id.* § 595.005(d).

You state the requestor does not have a right of access to the requested records under any of the provisions of chapter 595 of the Health and Safety Code. Having considered your representations and reviewed the submitted documents, we find the information we indicated is confidential under section 595.001 of the Health and Safety Code. Accordingly, the commission must withhold the information we indicated under section 552.101 of the Government Code in conjunction with section 595.001 of the Health and Safety Code. However, upon review, we find the remaining information is not the type of information that is confidential under section 595.001 of the Health and Safety Code. Therefore, none of the remaining information is confidential under section 595.001 of the Health and Safety Code and the commission may not withhold it under section 552.101 on that basis. The commission must release the remaining information.

Finally, the commission asks this office to issue a previous determination that would permit it to withhold information under Chapter 595 of the Health and Safety Code under section 552.101 of the Government Code without the necessity of requesting a decision from this office. We decline to issue such a previous determination at this time. Accordingly, 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,

Ashley Crutchfield
Assistant Attorney General
Open Records Division

AC/rm

Ref: ID# 839678

Enc. Submitted documents

c: Requestor
(w/o enclosures)