



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

November 23, 2020

Mr. Jonathan Miles  
Open Records Attorney  
Texas Health and Human Services Commission  
Mail Code 1100  
P.O. Box 13247  
Austin, Texas 78711-3247

OR2020-29359

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# 855523 (HHSC# 23510).

The Texas Health and Human Services Commission (the "commission") received a request for information pertaining to a named ward of the State of Texas.<sup>1</sup> You claim the submitted information is excepted from disclosure under sections 552.101 and 552.103 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>2</sup>

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 exception encompasses information protected by other statutes, such as section 161.111(a) of the Human Resources Code, which provides as follows:

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<sup>1</sup> We note 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 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).

<sup>2</sup> 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.

(a) All files, reports, records, communications, or working papers used or developed by the department in the performance of duties relating to the assessment for or the provision of guardianship services to an individual referred for guardianship services under this subchapter are confidential and not subject to disclosure under Chapter 552, Government Code.

Hum. Res. Code § 161.111(a).<sup>3</sup> You state the submitted information consists of files, reports, records, communications, and working papers developed specifically for the commission's assessment of a particular client's guardianship needs. You do not indicate any of the release provisions of section 161.111(b)-(e) of the Human Resources Code apply to the submitted information. *See* Hum. Res. Code §§ 161.111(a)-(e). Based on your representations and our review of the information at issue, we conclude the submitted information is confidential pursuant to section 161.111(a) of the Human Resources Code, and the commission must withhold it under section 552.101 of the Government Code.<sup>4</sup>

You ask this office to issue a previous determination that would permit the commission to withhold information subject to section 161.111(a) of the Human Resources Code without requesting a ruling from this office. *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). 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,

Kelly McWethy  
Assistant Attorney General  
Open Records Division

KM/gw

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<sup>3</sup> The guardianship services provided by the Texas Department of Aging and Disability Services (the "department") have been consolidated into the commission. *See* Gov't Code § 531.0011, 531.02012.

<sup>4</sup> As our ruling is dispositive, we need not address your remaining arguments against disclosure of the submitted information.

Mr. Jonathan Miles - Page 3

Ref: ID# 855523

Enc. Submitted documents

c: Requestor  
(w/o enclosures)