



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 11, 2022

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

OR2022-10538

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# 942042 (HHSC Ref. No. A01182022.0450018).

The Texas Health and Human Services Commission (the "commission") received a request for all information pertaining to a named individual. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ 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 exception encompasses information protected by other statutes, such as section 161.111(a) of the Human Resources Code, which provides as follows:

(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.

¹ We note the commission did not comply with section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(b). Nonetheless, because section 552.101 of the Government Code can provide a compelling reason to overcome the presumption of openness, we will consider its applicability to the submitted information. *See id.* §§ 552.007, .302, .352.

Hum. Res. Code § 161.111(a).² 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.³

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,

Nick Ybarra
Assistant Attorney General
Open Records Division

NY/mo

Ref: ID# 942042

Enc. Submitted documents

c: Requestor
(w/o enclosures)

² 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.

³ As our ruling is dispositive, we need not address your remaining argument against disclosure of the submitted information.