



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 1, 1998

Mr. Saul Pedregon
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
City Hall
Dallas, Texas 75201

OR98-1370

Dear Mr. Pedregon:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 115348.

The Dallas Police Department (the "department") received a request for "a copy of the investigation," concerning the requestor. In response to the request, you submit to this office for review a copy of the records which you assert are at issue. You contend that "[c]ertain medical information contained within the file is protected and [the city is] withholding the requested documents," pursuant to section 552.101 of the Government Code. As you have not raised any other applicable exceptions, we assume other responsive information has been released. We have considered the claimed exception and have reviewed the information submitted.

Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. You contend that the submitted documents are medical records, access to which is governed by the Medical Practice Act (the "MPA"), article 4495b of Vernon's Texas Civil Statutes. Sections 5.08(b) and (c) of the MPA provide:

(b) Records of the identity, diagnosis, evaluation, or treatment of a patient by a physician that are created or maintained by a physician are confidential and privileged and may not be disclosed except as provided in this section.

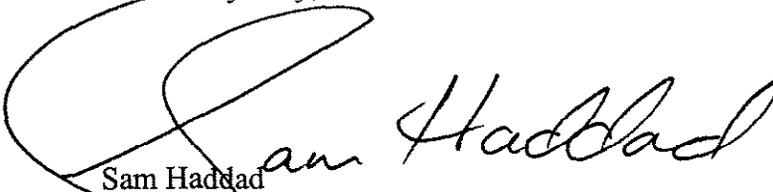
(c) Any person who receives information from confidential communications or records as described in this section other than the persons listed in Subsection (h) of this section who are acting on the patient's behalf may not disclose the information except to the extent that disclosure is consistent with the authorized purposes for which the information was first obtained.

Information that is subject to the MPA includes both medical records and information obtained from those medical records. *See* V.T.C.S. art. 4495b § 5.08(a), (b), (c), (j); Open Records Decision No. 598 (1991).

Section 5.08(j)(1) provides for release of medical records upon the patient's written consent, provided that the consent specifies (1) the information to be covered by the release, (2) reasons or purposes for the release, and (3) the person to whom the information is to be released.¹ *See* V.T.C.S. art. 4495b § 5.08(g)(2), (h)(5), (j)(1), (k) (medical records subject to release to person bearing written consent of patient or personal representative if patient is deceased). Section 5.08(j)(3) also requires that any subsequent release of medical records be consistent with the purposes for which the department obtained the records. Open Records Decision No. 565 (1990) at 7. We agree that the department must withhold the medical records as confidential, with access provided only as outlined under the MPA. Open Records Decision No. 598 (1991). However, we have tagged certain documents that do not appear to be medical records. As you have not raised an applicable exception for this other submitted information, we conclude that the information may not be withheld under the act.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Sam Haddad
Assistant Attorney General
Open Records Division

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¹Access to the submitted medical records is governed by provisions outside the Open Records Act. Open Records Decision No. 598 (1991).

Ref.: ID# 115348

Enclosures: Submitted information

cc: Mr. Rufus Hamilton
901 Cedar Hill Avenue
Dallas, Texas 75208
(w/o enclosures)