



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 1, 2005

Mr. Joseph Perretta  
Public Information Officer  
Center for Health Care Services  
3031 IH-10 West  
San Antonio, Texas 78201

OR2005-00955

Dear Mr. Perretta:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 218133.

The Center for Health Care Services (the "Center") received a request for information related to mental health or mental health related services performed by Telecare, Inc. ("Telecare"). You indicate that the Center is releasing some responsive information to the requestor. You claim, however, that some of the requested information is excepted from disclosure under section 552.101 of the Government Code. You also state, and provide documentation showing, that you notified Telecare of the request. *See Gov't Code § 552.305(d); see also Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under Public Information Act in certain circumstances).* We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>1</sup>

---

<sup>1</sup> We assume that 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 that those records contain substantially different types of information than that submitted to this office.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision” and encompasses information other statutes make confidential. You raise section 576.005 of the Health and Safety Code, which provides that “[r]ecords of a mental health facility that directly or indirectly identify a present, former, or proposed patient are confidential unless disclosure is permitted by other state law.” Health & Safety Code § 576.005. You advise that the Center is a community mental health center established in accordance with subchapter A of chapter 534 of the Health and Safety Code. *Id.* § 534.001-.040. We therefore find that the submitted records are “records of a mental health facility.” Furthermore, as you indicate, the submitted records contain information that directly or indirectly identifies patients. Thus, based on your representations and our review, we determine that the submitted records are confidential pursuant to section 576.005. We therefore conclude the Center must withhold the submitted documents in their entirety pursuant to section 552.101 of the Government Code in conjunction with section 576.005 of the Health and Safety Code. Based on this finding, we do not reach your remaining arguments against disclosure.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within thirty calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within ten calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within ten calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body’s intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within ten calendar days of this ruling, then the requestor should report that failure to the attorney general’s Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within ten calendar days of the date of this ruling.

Sincerely,



David R. Saldivar  
Assistant Attorney General  
Open Records Division

DRS/seg

Ref: ID# 218133

Enc: Submitted documents

c: Mr. Jack McGlinn  
3584 6<sup>th</sup> Avenue  
San Diego, California 92103  
(w/o enclosures)

Mr. David Pan  
Telecare, Inc.  
1616 North Main Avenue  
San Antonio, Texas 78212  
(w/o enclosures)