



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 2, 2009

Ms. Yvette Aguilar
Assistant City Attorney
City of Corpus Christi
P.O. Box 9277
Corpus Christi, Texas 78469-9277

OR2009-01281

Dear Ms. Aguilar:

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# 333709.

The City of Corpus Christi (the "city") received a request for medical records pertaining to two named individuals from a specified time period. You state that some information has been released to the requestor. You claim that the submitted report 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 other statutes, including section 773.091 of the Health and Safety Code, which provides in part:

(b) Records of the identity, evaluation, or treatment of a patient by emergency medical services personnel or by a physician providing medical supervision that are created by the emergency medical services personnel or physician or maintained by an emergency medical services provider are confidential and privileged and may not be disclosed except as provided by this chapter.

...

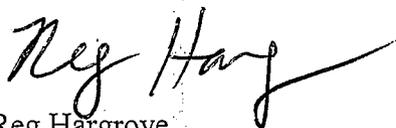
(g) The privilege of confidentiality under this section does not extend to information regarding the presence, nature of injury or illness, age, sex, occupation, and city of residence of a patient who is receiving emergency medical services.

Health & Safety Code § 773.091(b), (g). Thus, except for the information specified in section 773.091(g), emergency medical services (“EMS”) records are deemed confidential under section 773.091 and, therefore, may only be released in accordance with chapter 773 of the Health and Safety Code. *See id.* §§ 773.091-.094. We agree that the submitted report constitutes confidential EMS records pursuant to section 773.091. Based on your markings, you have released information specified in section 773.091(g) to the requestor. We note, and you acknowledge, that the remaining information at issue may be disclosed to “any person who bears a written consent of the patient or other persons authorized to act on the patient’s behalf for the release of confidential information.” *Id.* §§ 773.092(e)(4), .093. Section 773.093 provides that a consent for release of EMS records must specify: (1) the information or records to be covered by the release; (2) the reasons or purpose for the release; and (3) the person to whom the information is to be released. You acknowledge you have been provided consent forms authorizing release of medical records of two named individuals. However, you have determined that the consent form pertaining to one of these individuals does not comply with the requirements of section 773.093 because it is unclear whether this individual is a patient listed in the report. We agree that the governmental body receiving a request for information must determine whether consent for release of EMS records complies with statutory requirements. Thus, based on your determination, we find that those portions of the submitted EMS report pertaining to individuals who have not provided proper consent must be withheld under section 552.101 of the Government Code in conjunction with section 773.091 of the Health and Safety Code. However, the city must release this information upon receipt of proper consent under section 773.093(a). *See id.* §§ 773.092, .093. The remaining information must be released to the requestor.

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 http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Reg Hargrove
Assistant Attorney General
Open Records Division

RJH/eeg

Ref: ID# 333709

Enc. Submitted documents

c: Requestor
(w/o enclosures)