



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 8, 2009

Mr. Dan Meador
Assistant General Counsel
Texas Department of State Health Services
P.O. Box 149347
Austin, Texas 78714-9347

OR2009-12624

Dear Mr. Meador:

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# 355116.

The Texas Department of State Health Services (the "department") received a request for information related to a specified department-licensed therapist. You state that the department has released some responsive information to the requestor. You claim that the submitted information 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. This exception encompasses confidentiality provisions. You assert that the submitted information is made confidential by section 502.2045(h) of the Occupations Code. Section 502.2045 provides in pertinent part:

(h) All information and materials subpoenaed or compiled by the [Board of Examiners of Marriage and Family Therapists (the "board")] in connection with a complaint and investigation are confidential and not subject to disclosure under Chapter 552, Government Code, and not subject to

disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than the board or its employees or agents involved in discipline of the holder of a license, except that this information may be disclosed to:

- (1) persons involved with the board in a disciplinary action against the holder of a license;
 - (2) marriage and family therapist licensing or disciplinary boards in other jurisdictions;
 - (3) peer assistance programs approved by the board under Chapter 467, Health and Safety Code;
 - (4) law enforcement agencies; and
 - (5) persons engaged in bona fide research, if all individual-identifying information has been deleted.
- (i) The filing of formal charges by the board against a holder of a license, the nature of those charges, disciplinary proceedings of the board, and final disciplinary actions, including warnings and reprimands, by the board are not confidential and are subject to disclosure in accordance with Chapter 552, Government Code.

Occ. Code § 502.2045(h), (i). You state that the submitted information was “gathered and/or created in response to a complaint and an investigation occurred.” You also inform us that none of the exceptions to confidentiality under section 502.2045(h) is applicable in this instance. Furthermore, none of the submitted information falls within the scope of section 502.2045(i). We therefore conclude that the submitted information is made confidential in its entirety pursuant to section 502.2045(h) of the Occupations Code, and the department must withhold it pursuant to section 552.101 of the Government Code.

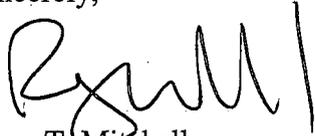
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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

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information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Ryan T. Mitchell". The signature is stylized with a large initial "R" and a vertical line at the end.

Ryan T. Mitchell
Assistant Attorney General
Open Records Division

RTM/rl

Ref: ID# 355116

Enc. Submitted documents

cc: Requestor
(w/o enclosures)