



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 2, 2009

Ms. Eileen McPhee
Carls, McDonald & Dalrymple, L.L.P.
Barton Oaks Plaza 2
901 South Mopac Expressway, Suite 500
Austin, Texas 78746

OR2009-13906

Dear Ms. McPhee:

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# 361863.

The Georgetown Fire Department (the "department"), which you represent, received a request for information related to incident number 9003700. You state the department has released some of the requested information. You claim that the remaining requested 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. Section 552.101 encompasses information made confidential by other statutes. You raise section 552.101 in conjunction with section 773.091 of the Health and Safety Code. Section 773.091 of the Health and Safety Code provides in relevant 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). You explain that the submitted information consists of first responder emergency medical service records that are subject to chapter 773 of the Health and Safety Code. You state that information subject to release pursuant to section 773.091(g) of the Health and Safety Code has been made available to the requestor. We note that this information may be released to "any person who bears a written consent of the patient or other persons authorized to act on the patient's behalf." *Id.* § 773.092(e)(4). The consent must be in writing, signed by the patient, authorized representative, or personal representative, and specify: (1) the information to be covered by the release; (2) the reasons or purposes for the release; and (3) the person to whom the information is to be released. *Id.* § 773.093(a). Thus, the department must withhold the submitted information under section 773.091, except as specified by section 773.091(g), unless the department is provided with written consent that meets the requirements of section 773.093(a). *See id.* §§ 773.092, 093; Open Records Decision No. 632 (1995).

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, toll free, at (888) 672-6787.

Sincerely,



Paige Lay
Assistant Attorney General
Open Records Division

PL/eeg

Ref: ID# 361863

Enc. Submitted documents

cc: Requestor
(w/o enclosures)