



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 12, 2010

Ms. Jennifer C. Cohen
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2010-10267

Dear Ms. Cohen:

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# 386233 (ORA# 10-0934).

The Texas Department of Public Safety (the "department") received a request for information pertaining to the investigation of the death of a named inmate. You state you have released some of the responsive information. You claim portions of the submitted information are 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 statute, such as the Medical Practice Act ("MPA"), subtitle B of title 3 of the Occupations Code, which governs release of medical records. *See* Occ. Code § 151.001. Section 159.002 of the MPA provides, in relevant in part:

(b) A record of the identity, diagnosis, evaluation, or treatment of a patient by a physician that is created or maintained by a physician is confidential and privileged and may not be disclosed except as provided by this chapter.

(c) A person who receives information from a confidential communication or record as described by this chapter, other than a person listed in Section 159.004 who is 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.

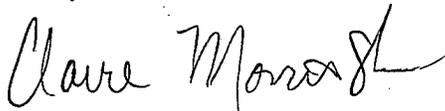
Id. § 159.002(b)-(c). This office has concluded the protection afforded by section 159.002 extends only to records created by either a physician or someone under the supervision of a

physician. See Open Records Decision Nos. 487 (1987), 370 (1983), 343 (1982). Information subject to the MPA includes both medical records and information obtained from those medical records. See Occ. Code § 159.002(a)-(c); see also Open Records Decision No. 598 (1991). You state the submitted investigative report contains information obtained from medical records. Upon review, we find the information we have marked consists of information obtained from a patient's medical records. Accordingly, the marked information must be withheld from disclosure under section 552.101 of the Government Code in conjunction with the MPA, unless the department receives the required written consent for its release.

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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/jb

Ref: ID# 386233

Enc. Submitted documents

c: Requestor
(w/o enclosures)