



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 4, 2013

Ms. Lysia H. Bowling
City Attorney
Office of the City Attorney
City of San Angelo
72 West College Avenue
San Angelo, Texas 76903-5814

OR2013-17306

Dear Ms. Bowling:

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# 501247.

The San Angelo Fire Department (the "department") received a request for a report pertaining to a specified incident. You claim 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. Section 552.101 encompasses information protected by other statutes, such as section 773.091 of the Health and Safety Code, which 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). Except for the information specified in section 773.091(g), emergency medical services (“EMS”) records are deemed confidential under section 773.091 and may only be released in accordance with chapter 773 of the Health and Safety Code. *See id.* §§ 773.091-.094. Upon review, we find the submitted information constitutes an EMS record that is confidential under section 773.091(b) of the Health and Safety Code.

Section 773.092 of the Health and Safety Code states, however, that confidential EMS records may be disclosed to governmental agencies if the disclosure is required or authorized by law. *See id.* § 773.092(e)(2). In this instance, the requestor is with the Adult Protective Services (“APS”) division of the Texas Department of Family and Protective Services (“DFPS”). Under chapter 48 of the Human Resources Code, DFPS’s duties include the investigation of abuse, neglect, or exploitation in the provision of services to an elderly or disabled person. *See* Hum. Res. Code §§ 48.151, .152. Section 48.154 of the Human Resources Code provides, in pertinent part, as follows:

(a) The [DFPS] or another state agency, as appropriate, shall have access to any records or documents, including client-identifying information, financial records, and medical and psychological records, necessary to the performance of the [DFPS]’s or state agency’s duties under this chapter. The duties include but are not limited to the investigation of abuse, neglect, or exploitation or the provisions of services to an elderly or disabled person. A person, agency, or institution that has a record or document that the [DFPS] or state agency needs to perform its duties under this chapter shall, without unnecessary delay, make the record or document available to the [DFPS] or state agency that requested the record or document.

...

(f) Access to a confidential record under this section does not constitute a waiver of confidentiality.

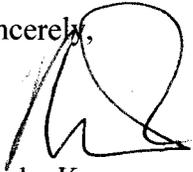
Id. § 48.154(a), (f). The requestor indicates APS is requesting the records at issue in order to perform DFPS’s duties under chapter 48 of the Human Resources Code, which include the investigation of abuse, neglect, or exploitation of a disabled person. *See id.* §§ 48.151, .152. Thus, the requestor has a statutory right of access to the information

pursuant to section 48.154. Therefore, the department may not withhold this information from the requestor pursuant to section 552.101 in conjunction with section 773.091 of the Health and Safety Code. *See* Health & Safety Code § 773.092(e)(2). Consequently, pursuant to section 48.154 of the Human Resources Code, the department must release the submitted record to this requestor.¹

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Nneka Kanu
Assistant Attorney General
Open Records Division

NK/bhf

Ref: ID# 501247

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹We note because the requestor has a special right of access to this information in this instance, the department must again seek a decision from this office if it receives another request for the same information from another requestor.