



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 8, 2016

Ms. Ann-Marie Sheely
Assistant County Attorney
County of Travis
P.O. Box 1748
Austin, Texas 78767

OR2016-07935

Dear Ms. Sheely:

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# 604931.

The Travis County Emergency Medical Services (the "Travis County EMS") received a request for information pertaining to a specified accident. The Travis County EMS claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception the Travis County EMS claims 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 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 service (“EMS”) records are deemed confidential under section 773.091. *See id.* § 773.091. Upon review, we find the submitted information consists of EMS records subject to chapter 773. Thus, with the exception of the information subject to section 773.091(g), which is not confidential under section 773.091, the Travis County EMS must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 773.091(b) of the Health and Safety Code.¹

The Travis County EMS seeks to withhold the information subject to section 773.091(g) of the Health and Safety Code pursuant to section 159.002 of the Occupations Code, which is also encompassed by section 552.101 of the Government Code. Section 159.002 of the Occupations Code provides, in relevant 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.

Occ. Code § 159.002(a)-(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).* The information at issue does not consist of records created by a physician or someone under the supervision of a physician and thus are not subject to section 159.002.

¹As our ruling is dispositive, we need not address the Travis County EMS’ remaining argument against disclosure of this information.

Accordingly, the Travis County EMS may not withhold the information subject to section 773.091(g) under section 552.101 of the Government Code on that basis.

In summary, with the exception of the information subject to section 773.091(g), which must be released, the Travis County EMS must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 773.091(b) of the Health and Safety 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.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,



Rahat Huq
Assistant Attorney General
Open Records Division

RSH/som

Ref: ID# 604931

Enc. Submitted documents

c: Requestor
(w/o enclosures)