



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 8, 2016

Mr. Brett Norbraten  
Open Records Attorney  
Texas Department of Aging and Disability Services  
Mail Code W-615  
P.O. Box 149030  
Austin, Texas 78714-9030

OR2016-17760

Dear Mr. Norbraten:

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# 621615 (DADS #2016SOLEG0084).

The Texas Department of Aging and Disability Services (the "department") received a request for specified reports pertaining to a named entity during a specified time period.<sup>1</sup> You claim some of 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 representative sample of information.<sup>2</sup>

Section 552.101 of the Government Code excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses section 531.854 of the Government Code. Pursuant to section 531.851 of the Government Code, the executive commissioner of the Health and

---

<sup>1</sup>We note the department sought and received clarification of the information requested. See Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); see also *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

<sup>2</sup>We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Human Services Commission 1) must establish an independent mortality review system to review the death of a person with an intellectual or developmental disability who resided in specified facilities or received specified services and 2) contract with an institution of higher education with experience in conducting research-based mortality studies to conduct such mortality reviews. *See id.* § 531.851(a), (c). Further, pursuant to section 531.853 of the Government Code, a contracted organization shall submit to the department a report of the findings of the mortality review. *See id.* § 531.853(1); *see also id.* § 531.8501 (defining “contacted organization”). Section 531.854 of the Government Code states, in part, that:

(b) Information and records acquired by the contracted organization in the exercise of its duties under [subchapter U] are confidential and exempt from disclosure under the [Act], and may be disclosed only as necessary to carry out the contracted organization’s duties.

...

(f) A contracted organization’s report of the findings of the independent mortality review conducted under [subchapter U] and any records developed by the contracted organization relating to the review:

(1) are confidential and privileged[.]

*Id.* § 531.854(b), (f)(1). We understand the Rural and Community Health Institute of the Texas A&M Health Science Center is a contracted organization for purposes of subchapter U of chapter 531. *See id.* § 531.8501. Upon review, we find the information in Exhibit A consists of a contracted organization’s report of the findings of an independent mortality review conducted under subchapter U of chapter 531 of the Government Code and information acquired by the contracted organization in the exercise of its duties under subchapter U. Accordingly, we find the information in Exhibit A is confidential pursuant to section 531.854 of the Government Code. Therefore, the department must withhold the information at issue under section 552.101 of the Government Code in conjunction with subsections 531.854(b) and (f)(1) of the Government Code.

Section 552.101 of the Government Code also encompasses section 595.001 of the Health and Safety Code, which provides:

Records of the identity, diagnosis, evaluation, or treatment of a person that are maintained in connection with the performance of a program or activity relating to an intellectual disability are confidential and may be disclosed only for the purposes and under the circumstances authorized by this chapter, subject to applicable federal and other state law.

Health & Safety Code § 595.001. You assert the information you marked in Exhibit B consists of records of the identity, diagnosis, evaluation, or treatment of a client of a state

supported living center, which we understand constitutes an intellectual disability program in the State of Texas. You further assert the disclosure provisions are inapplicable here. Based on your representations and our review, we agree the information you marked in Exhibit B is confidential under section 595.001 of the Health and Safety Code. Accordingly, the department must withhold the information you marked in Exhibit B under section 552.101 of the Government Code in conjunction with section 595.001 of the Health and Safety Code.

In summary, the department must withhold the information in Exhibit A under section 552.101 of the Government Code in conjunction with subsections 531.854(b) and (f)(1) of the Government Code. The department must withhold the information you marked in Exhibit B under section 552.101 of the Government Code in conjunction with section 595.001 of the Health and Safety Code. The department must release the remaining information.

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](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,



Ashley Crutchfield  
Assistant Attorney General  
Open Records Division

AC/dls

Ref: ID# 621615

Enc. Submitted documents

c: Requestor  
(w/o enclosures)