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26-ORD-070

March 2, 2026

In re: Mason Phillips/Madison County EMS

**Summary:** Madison County EMS (“EMS”) violated the Open Records Act (“the Act”) when it denied access to records without stating the specific exception authorizing the withholding of the record. EMS did not violate the Act when it withheld records that are confidential under KRS 311A.190(5).

***Open Records Decision***

On January 24, 2026, Mason Phillips (“the Appellant”) submitted a request to EMS for “[a]ll EMS logs from the April Berea Walmart Officer Involved Shooting.” EMS denied the request on the grounds that “these records are considered legal medical documentation and are protected under federal HIPAA regulations,”<sup>1</sup> with access limited to “[t]he patient involved in the incident[; a] legally authorized representative of the patient (with appropriate documentation)[; i]ndividuals or agencies with a valid court order, subpoena, or other legal authorization[; or c]ertain healthcare entities involves in the patient’s care, as permitted by law.” This appeal followed.

When a public agency denies a request for a public record, it must “include a statement of the specific exception authorizing the withholding of the record and a brief explanation of how the exception applies to the record withheld.” KRS 61.880(1). Here, EMS stated the requested records were “protected under federal HIPAA regulations,” but did not cite any exception to the Act or explain how it applied. Therefore, EMS violated KRS 61.880(1).

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<sup>1</sup> HIPAA refers to the federal Health Insurance Portability and Accountability Act of 1996.

On appeal, the Appellant explains that he requested “EMS run sheets/reports”<sup>2</sup> and claims those records are not exempt from disclosure under HIPAA. In response, EMS states the records are “Patient Care Reports,” which are medical records that may not be disclosed under 45 C.F.R. § 164.502(a) and 45 C.F.R. § 164.508(a) without written authorization from the patient or his legally authorized representative. EMS further notes that federal regulations are incorporated into the Act under KRS 61.878(1)(k).

To clarify the differences in terminology used by the parties, the ambulance medical records formerly called “run report forms” were redesignated as “patient care records” in the 2019 amendments to KRS 311A.190. *See* 2019 Ky. Acts ch. 100 § 20. Because KRS 311A.190(5) is more directly pertinent to the records at issue than the HIPAA regulations cited by EMS, it is more appropriate to conduct an analysis under that statute. *See, e.g.*, 17-ORD-004; 15-ORD-168; 12-ORD-039.

As an enactment of the General Assembly restricting the disclosure of records, KRS 311A.190(5) is incorporated into the Act by KRS 61.878(1)(l). KRS 311A.190(5) provides as follows:

Ambulance provider, mobile integrated healthcare program and medical first response provider patient care records and the information transmitted electronically to the [Kentucky Board of Emergency Medical Services] shall be confidential and in compliance with HIPAA privacy rules referenced in 45 C.F.R. pt. 164. No person shall make an unauthorized release of information on an ambulance provider, mobile integrated healthcare program, or medical first response provider patient care record. Only the patient or the patient’s parent or legal guardian if the patient is a minor, or the patient’s legal guardian or person with proper power of attorney if the patient is under legal disability as being incompetent or mentally ill, or a court of competent jurisdiction may authorize the release of information on a patient’s care record or the inspection or copying of the patient care record. Any authorization for the release of information or for inspection or copying of a patient care record shall be in writing.

Here, the Appellant does not claim to be the patient or the patient’s legal guardian or representative, nor has the Appellant provided a written authorization for the release of patient care records. Accordingly, EMS did not violate the Act when it denied the Appellant’s request.

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<sup>2</sup> EMS states it provided the Appellant with the Computer Aided Dispatch (“CAD”) reports from Madison County 911 pertaining to the incident. Therefore, those records are not at issue in this appeal.

A party aggrieved by this decision may appeal it by initiating an action in the appropriate circuit court pursuant to KRS 61.880(5) and KRS 61.882 within 30 days from the date of this decision. Pursuant to KRS 61.880(3), the Attorney General shall be notified of any action in circuit court, but shall not be named as a party in that action or in any subsequent proceedings. The Attorney General will accept notice of the complaint emailed to OAGAppeals@ky.gov.

**Russell Coleman**  
Attorney General

/s/ James M. Herrick  
James M. Herrick  
Assistant Attorney General

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Distributed to:

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