



The Attorney General of Texas

July 6, 1981

MARK WHITE
Attorney General

Supreme Court Building
P O Box 12548
Austin, TX. 78711
512/475-2501

1607 Main St., Suite 1400
Dallas, TX. 75201
214/742-8944

4824 Alberta Ave., Suite 160
El Paso, TX. 79905
915/533-3484

1220 Dallas Ave., Suite 202
Houston, TX. 77002
713/650-0666

805 Broadway, Suite 312
Lubbock, TX. 79401
806/747-5238

4309 N. Tenth, Suite B
McAllen, TX. 78501
512/682-4547

200 Main Plaza, Suite 400
San Antonio, TX. 78205
512/225-4191

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Mr. E. J. Voorhis, Commissioner
State Board of Insurance
1110 San Jacinto
Austin, Texas 78786

Open Records Decision No. 275

Re: Whether application for certificate of authority filed by health maintenance organization is open to the public

Dear Mr. Voorhis:

You have requested our decision under the Open Records Act, article 6252-17a, V.T.C.S., as to whether certain information regarding health maintenance organizations is available to the public.

You have received three separate requests. In the first, a competitor asks for copies of certain portions of the application for certificate of authority filed with the State Board of Insurance by Central Texas Health Plan, specifically the actuarial report and the financial plan. In the second request, a competitor seeks disclosure of certain portions of the application for certificate of authority filed by INA Health Plan of Texas, Inc., specifically the schedule of charges and other financial information, as well as the marketing plan and projections. In each instance, you suggest that the information is excepted from disclosure by section 3(a)(4) and section 3(a)(10) of the Open Records Act.

Health maintenance organizations are authorized under chapter 20A of the Texas Insurance Code. Article 20A.03(a) thereof prohibits any "person" from establishing or operating a health maintenance organization "without obtaining a certificate of authority under this Act," and article 20A.03(b) requires every existing health maintenance organization to file an application for certificate of authority. Article 20A.04 describes the procedure for filing an application for certificate of authority.

Article 20A.27 of the Texas Insurance Code provides:

All applications, filings, and reports required under this Act shall be treated as public documents, except that examination reports shall be considered confidential documents which may be released if, in the opinion of the commissioner, it is in the public interest.

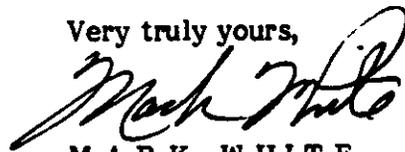
The Open Records Act does not authorize the withholding of any information which is otherwise required to be disclosed. As a result, we believe it is clear that article 20A.27 requires the disclosure of all information contained in the applications for certificate of authority filed by Central Texas Health Plan and by INA Health Plan of Texas, Inc.

In your third request, you state that copies of federal health maintenance organization (HMO) reports are filed with the State Board of Insurance pursuant to the board's rule 059.51.04.003(b). Article 20A.22 authorizes the board to promulgate "such reasonable rules and regulations as are necessary and proper to carry out the provisions of this Act." Since federal HMO reports are required by rule to be filed, and since such a rule is authorized by statute, we believe it may fairly be said that the filing of federal HMO reports is "required under this Act." Accordingly, it is our decision that copies of federal HMO reports filed with the State Board of Insurance by CompCare, Inc., constitute public information and must be disclosed.

S U M M A R Y

Article 20A.27 of the Texas Insurance Code requires the disclosure of all information contained in an application for certificate of authority to operate a health maintenance organization. Copies of federal health maintenance organization reports filed with the State Board of Insurance constitute public information.

Very truly yours,



MARK WHITE
Attorney General of Texas

JOHN W. FAINTER, JR.
First Assistant Attorney General

RICHARD E. GRAY III
Executive Assistant Attorney General

Prepared by Rick Gilpin
Assistant Attorney General

APPROVED:
OPINION COMMITTEE

Susan L. Garrison, Chairman
Jon Bible
Rick Gilpin
Jim Moellinger
Bruce Youngblood
Walter Davis