



THE ATTORNEY GENERAL
OF TEXAS

August 16, 1990

JIM MATTON
ATTORNEY GENERAL

Mr. Michael C. Angel
Assistant City Attorney
City of Texarkana, Texas
P.O. Box 1967
Texarkana, Texas 75504

OR90-377

Dear Mr. Angel:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 9651.

The City of Texarkana, Texas, received a request for a copy of a certain emergency medical services [EMS] patient form. You assert this information is excepted from required disclosure based on section 3(a)(1) of the Open Records Act, which excepts information which is deemed confidential by law, either constitutional, statutory, or by judicial decision. You rely on section 5.08 of the Medical Practices Act, article 4495b, V.T.C.S. and a constitutional right of privacy to bring the requested record within the protection of section 3(a)(1).

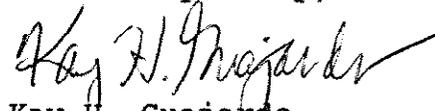
To support your claim that this record is protected by section 5.08 of the Medical Practices Act, you state that "all treatment administered by the city service is pursuant to medical protocols as prescribed by the medical director or pursuant to instructions received from licensed physicians at hospital emergency rooms via radio." After careful examination of the copy of the record you submitted for our inspection, we conclude that this form is not protected from disclosure by section 5.08 of article 4495b, V.T.C.S. The form in question which does not indicate that it was prepared by or under the supervision of a physician, is similar, if not identical, to the form at issue in Open Records Decision No. 370 (1983). There, as here, the last item on the form, the signature of the doctor or registered nurse accepting the patient, is accompanied by a disclaimer that the doctor or nurse does not approve or disapprove the above information.

Furthermore, the fact that EMS personnel may be in contact with a physician by radio does not convert the EMS forms which are completed by EMS personnel into records created by a physician for purposes of section 5.08 of the Medical Practices Act. See Open Records Decision No. 370 (1983).

The EMS form does appear to contain some information that implicates the constitutional privacy rights of the patient. See Open Records Decision Nos. 262 (1980), 370 (1983). We have marked those portions.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR90-377.

Yours very truly,



Kay H. Guajardo
Assistant Attorney General
Opinions Committee

KHG/le

Ref: ID# 9651, 9680

Enclosure: Marked Documents

cc: Ronald T. Bright
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