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ATTORNEY GENERAL

Office of the Attorney General  
State of Texas

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Mr. Dan LaFleur  
Attorney  
Office of General Counsel  
Texas Department of Health  
1100 West 49th Street  
Austin, Texas 78756-3199

OR91-273

Dear Mr. LaFleur:

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# 12010.

We turn first to the information that you seek to withhold from disclosure on the basis of privacy. That information consists of addresses, names of program counselors, telephone numbers, driver license numbers, professional license numbers, social security numbers and certain federal agency numbers. Common-law privacy protects from disclosure only information that contains highly intimate or embarrassing information about a person's private affairs and that is of no legitimate concern to the public. *Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert denied*, 430 U.S. 931 (1977). Neither the addresses, names of people employed as program counselors, nor the various numbers described above are highly intimate or embarrassing. That information is thus not excepted from public disclosure by common-law privacy. Nor does any privacy interest in the addresses, names or the numbers rise to a constitutional level. *Klein Indep. School Dist. v. Mattox*, 830 F.2d 576 (5th Cir. 1987), *cert denied*, 485 U.S. 1008 (1988). Thus, you must disclose those addresses, names and numbers.

We turn next to certain patient initials and identifier numbers as well as various patient medical records. Section 3(a)(1) excepts from required public disclosure information made confidential by statutory law. Pursuant to 42 U.S.C. §290ee-3(a)-(b), such patient information is confidential and may be released only under

circumstances not applicable to the case at hand. Consequently, you may not disclose this information.

You also seek to withhold certain federal documents or forms that you have labeled exhibit 3. These documents and forms were collected by the Department of Health in the administration of its methadone permitting program. Although you suggest, neither you nor the federal agency generating the documents have shown, that the department does not have access to or ownership of the information. Neither does a statement by a federal agency, that the document is sensitive and may not be disclosed pursuant to contractual arrangement with the department, suffice to close up the information. State governmental bodies cannot close information simply by entering into a contract that prohibits disclosure. *See* Open Records Decision No. 514 (1988) (and authorities cited therein); *see also* Open Record Decision No. 583 (1990). Thus, the federal documents constitute public information that must be disclosed.

Finally, you ask whether you must provide actual physical access to the requested information if by so doing you would reveal confidential information. This office has previously answered that question in the negative. You may deny physical access to documents containing confidential information and instead provide copies of such documents with the confidential information deleted. *See* Open Records Decision No. 512 (1988).

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 OR91-273.

Yours very truly,



Celeste A. Baker  
Assistant Attorney General  
Opinion Committee

CAB/lb

Ref.: ID# 12010, 12630

Enclosure: marked documents (2 sets); Open Records Decision Nos. 583, 514, 512

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