



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

November 7, 1991

Ms. Karen J. Cox  
Staff Attorney  
Program Division, Legal Services 110-1C  
State Board of Insurance  
P. O. Box 149104  
Austin, Texas 78714-9104

OR91-560

Dear Ms. Cox:

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# 13291.

The State Board of Insurance has received a request for "copies of all materials available on a complaint filed against a particular insurance company by a particular individual." You assert that the requested information includes the results of a human immunodeficiency virus (HIV) test, disclosure of which is expressly prohibited by section 81.103 of the Health and Safety Code and is consequently excepted from required public disclosure by section 3(a)(1) of the Open Records Act. On the other hand, you maintain that the results of the HIV test have already been publicly disclosed as information included in a petition in a civil lawsuit which has been filed in an Arizona court. You request a decision as to whether or not you may disclose the requested information.

Section 81.103 of the Health and Safety Code provides for the confidentiality of HIV test results and states, in pertinent part:

(a) A test result is confidential. A person that possesses or has knowledge of a test result may not release or disclose the test result or allow the test result to become known except as

provided by this section.

There is no indication that any of the exceptions in section 81.103 which provide for disclosure of HIV test results are applicable here. Accordingly, the requestor may not be granted access to HIV test results on the basis of section 81.103 of the Health and Safety Code.

Likewise, the information may not be released merely because it has already been made public. Open Records Decision No. 166 (1977) held that information excepted by section 3(a)(1) may not be released at the discretion of the custodian. Cf. Open Records Decision No. 144 (1976) (information disclosed by one governmental body may not necessarily be disclosed by another). Accordingly, all information relating to HIV test results must be withheld.

Because prior open records decisions issued by this office 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 OR91-560.

Yours very truly,



Steve Aragon  
Assistant Attorney General  
Opinion Committee

SA/GK/lcd

Ref.: ID#s 13291, 13449

cc: Mr. J. Paul Chilton  
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