



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 28, 1994

Ms. Susan K. Steeg
General Counsel
Texas Department of Health
1100 West 49th Street
Austin, Texas 78756-3199

OR94-115

Dear Ms. Steeg:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code (formerly V.T.C.S. article 6252-17a).¹ Your request was assigned ID# 22880.

The Texas Department of Health (the "department") has received an open records request for information relating to complaints against providers of emergency medical services, and in particular, the requestor seeks a complete copy of a particular emergency medical services provider's license file. The department states that the investigation files are confidential under section 773.0612(b) of the Health and Safety Code and section 552.101 of the act. The department also claims that the informer's privilege and section 552.101 of the act protect from disclosure the complaints and other information identifying the informant.

Section 552.101 of the act protects "information considered to be confidential by law, either constitutional, *statutory*, or by judicial decision." (Emphasis added.) Section 773.0612(b) of the Health and Safety Code provides that:

(b) A report, record, or working paper used or developed in an investigation under this section is confidential and may be used only for purposes consistent with the rules adopted by the board.

¹We note that the Seventy-third Legislature repealed article 6252-17a, V.T.C.S. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

The department states that the complaints are the basis for an investigation of an emergency medical services provider, and the complaints are used in the investigation. You have made the requisite showing for maintaining the confidentiality of the requested documents under section 773.0612(b) of the Health and Safety Code and section 552.101 of the act. Thus, the requested documents must be withheld from disclosure.²

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 contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Government Section

LRD/JCH/KKO/rho

Ref: ID# 22880
ID# 22923
ID# 24369

Enclosures: Submitted documents

cc: Mr. David Hasemyer
The San Diego Union-Tribune
P.O. Box 191
San Diego, California 92112
(w/o enclosures)

²Since section 773.0612(b) of the Health and Safety Code resolves your request, it is not necessary to address your arguments under the informers privilege.