



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

July 18, 1994

Ms. Melissa Winblood  
Assistant City Attorney  
City of El Paso  
2 Civic Center Plaza  
El Paso, Texas 79901-1196

OR94-375

Dear Ms. Winblood:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, Government Code chapter 552.<sup>1</sup> Your request was assigned ID# 22237.

The El Paso Lay Midwifery Commission (the "commission") received a request for an emergency medical services ("EMS") report prepared by EMS personnel. The commission obtained the report with a medical release signed by the father of the patient pursuant to section 773.093(a) of the Health and Safety Code. You claim that the requested information is excepted from disclosure by section 552.101 (former section 3(a)(1)) of the Open Records Act in conjunction with section 773.091 of the Health and Safety Code.

Section 552.101 excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 773.091(b) of the Health and Safety Code provides that

[r]ecords of the identity, evaluation, or treatment of a patient by emergency medical services personnel or by a physician providing medical supervision that are created by the emergency medical

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<sup>1</sup>We note that the Seventy-third Legislature repealed V.T.C.S. article 6252-17a. 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.

services personnel or physician or maintained by an emergency medical services provider are confidential and privileged and may not be disclosed except as provided by this chapter.

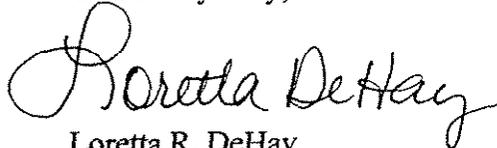
You state that the commission has obtained the records pursuant to a medical release; however, section 773.093(c) of the Health and Safety Code governs further release of the records to the requestor. Section 773.093(c) provides that

[a] person who receives information made confidential by this chapter may disclose the information to others only to the extent consistent with the authorized purposes for which consent to release the information was obtained.

You state that the authorized purpose for which the consent was obtained was to investigate the "circumstances surrounding prenatal care and delivery of the patient." We are unable to determine as a matter of law whether further release to the requestor, the attorney for the midwife that was the subject of the investigation, is "consistent with the authorized purposes for which consent" was obtained.<sup>2</sup> Therefore, because the Open Records Act does not apply to special rights of access granted by other statutes, the commission must ascertain whether release to the requestor is "consistent with the authorized purposes for which consent" was obtained. See Open Records Decision Nos. 598 (1991); 478 (1987).

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.<sup>3</sup> If you have questions about this ruling, please contact this office.

Yours very truly,



Loretta R. DeHay  
Assistant Attorney General  
Open Government Section

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<sup>2</sup>We do not address in this ruling what due process rights, if any, the requestor's client has to the requested information.

<sup>3</sup>We note that the requestor raises several questions concerning the Texas Open Meetings Act, Government Code chapter 551. We are unable to address those questions because the requestor is not included in the list of individuals who may solicit attorney general opinions pursuant to section 402.042 of the Government Code. We only address the availability of public records in rulings issued under section 552.306 of the Government Code. The requestor should contact the local county or district attorney regarding his concerns about alleged violations of the Open Meetings Act.

LRD/rho

Ref.: ID# 22237

Enclosures: Submitted documents

cc: Mr. Michael R. "Mickey" Milligan  
Attorney at Law  
5766 North Mesa  
El Paso, Texas 79912  
(w/o enclosures)