



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 22, 1994

Ms. Alesia L. Sanchez
Legal Assistant
Legal Services, 110-1A
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714-9104

OR94-569

Dear Ms. Sanchez:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 26834.

The Texas Department of Insurance ("the department") received a request for "any and all complaints filed against ANY Charter Hospital doing business in Texas." The department seeks to withhold portions of the requested information based on section 552.101 of the Government Code and the common-law right to privacy.

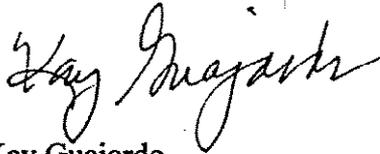
Section 552.101 excepts from required public disclosure information considered to be confidential by law. This exception applies to information when its disclosure would result in a violation of the common-law tort of invasion of privacy through the disclosure of private facts. *See Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). To be within the common-law tort, the information must (1) contain highly intimate or embarrassing facts about a person's private affairs such that its release would be highly objectionable to a reasonable person and (2) be of no legitimate concern to the public. *Id.* at 685.

We agree that the names of patients at a Charter Hospital must be withheld based on common-law privacy. The fact that an individual is a patient at a psychiatric hospital reveals the fact that that individual is suffering from mental illness. Information about a patient's illness that relates to emotional or mental distress is highly intimate or embarrassing information. *See Open Records Decision No. 343 (1982)*. Moreover, the

public has no legitimate interest in knowing the names of the patients who have complained about a Charter Hospital. Accordingly, the department must withhold all information that identifies a patient at a Charter Hospital. The remaining information must be released.

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 this office.

Yours very truly,



Kay Guajardo
Assistant Attorney General
Open Government Section

KHG/SLG/rho

Ref.: ID# 26834

Enclosures: Marked documents

cc: Mr. Henry Nuss
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(w/o enclosures)