



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

April 26, 1996

Ms. Susan E. Tennyson  
Supervising Attorney  
Litigation Section  
Office of General Counsel  
Texas Department of Health  
1100 West 49th Street  
Austin, Texas 78756-3199

OR96-0618

Dear Ms. Tennyson:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 39648.

The Texas Department of Health (the "department") received a request for "the white paper compiled by the Central Texas Health Care System in Temple, TX concerning the oxygen shutdown at the Olin E. Teague Veterans Center." You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claimed and have reviewed the documents at issue.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Section 5705 of Title 38 of the United States Code provides, in part:

(a) Records and documents created by the Department [of Veterans Affairs] as part of a medical quality-assurance program . . . are confidential and privileged and may not be disclosed to any person or entity except as provided in subsection (b) of this section.

(b)(1) Subject to paragraph (2) of this subsection, a record or document described in subsection (a) of this section shall, upon request, be disclosed as follows:

...

(C) To a criminal or civil law enforcement governmental agency or instrumentality charged under applicable law with the protection of the public health or safety . . . .

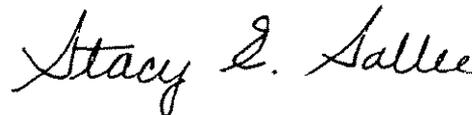
...

(3) No person or entity to whom a record or document has been disclosed under this subsection shall make further disclosure of such record or document except for a purpose provided in this subsection.

Release of the information provided to the department by the Department of Veterans Affairs apparently falls within the provisions of 38 U.S.C. § 5705(b)(1)(C). However, the department is expressly prohibited from releasing that information unless it is for a purpose provided by that subsection. Release of this information to this requestor does not appear to be one of the purposes provided by that subsection. Therefore, the department must withhold the requested information because it is confidential under federal law.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Stacy E. Sallee  
Assistant Attorney General  
Open Records Division

SES/rho

Ref.: ID# 39648

Enclosures: Submitted documents

cc: Ms. Denise Gamino  
Staff Writer  
Austin American-Statesman  
P.O. Box 670  
Austin, Texas 78767-0670  
(w/o enclosures)