



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

July 26, 1996

Mr. John T. Richards  
Assistant General Counsel  
Texas Department of Health  
1100 West 49th Street  
Austin, Texas 78756-3199

OR96-1277

Dear Mr. Richards:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 40477.

The Texas Department of Health (the "department") received a request for information made available to the department concerning the requestor. You contend that the requested information is protected from required public disclosure under section 552.101 of the Government Code.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." You contend that section 12.097 of the Texas Health and Safety Code makes the requested information confidential. Section 12.097 provides:

(a) All records, reports, and testimony relating to the medical condition of an applicant or license holder:

(1) are for the confidential use of the medical advisory board, a panel, or the Department of Public Safety of the State of Texas;

(2) are privileged information; and

(3) may not be disclosed to any person or used as evidence in a trial except as provided by Subsection (b).

(b) In a subsequent proceeding under Subchapter N, Chapter 521, Transportation Code, the medical standards division may provide a copy of the report of the medical advisory board or panel and a medical record or report relating to an applicant or license holder to:

- (1) the Department of Public Safety of the State of Texas;
- (2) the applicant or license holder; or
- (3) the officer who presides at the hearing.

Health and Safety Code § 12.097 (footnote omitted).

As we believe that the information at issue is a report "relating to the medical condition of an applicant," we conclude that section 12.097 of the Health and Safety Code is applicable and, therefore, the requested information is excepted from required public disclosure under section 552.101 of the Government Code and may not be disclosed except in accordance with subsection (b) of section 12.097.<sup>1</sup>

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 may 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,



Todd Reese  
Assistant Attorney General  
Open Records Division

RTR/rho

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<sup>1</sup>Although section 552.023 of the Government Code provides that a requestor has a special right of access to records that relate to him or her which "is protected from public disclosure by laws intended to protect that person's privacy interests," we do not believe that section 12.097 of the Health and Safety Code is solely intended to protect the requestor's privacy interests. Consequently, section 552.023 is inapplicable in this situation and the requestor may only obtain this information as provided by section 12.097(b).

Ref.: ID# 40477

Enclosures: Submitted documents

cc: Mr. John Thomas Daly  
2908 Binkley Avenue #1  
Dallas, Texas 75205  
(w/o enclosures)