



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

November 14, 1996

Mr. Ron M. Pigott  
Assistant General Counsel  
Texas Department of Public Safety  
P.O. Box 4087  
Austin, Texas 78773-0001

OR96-2114

Dear Mr. Pigott:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 102379.

The Texas Department of Public Safety (the "department") received a request for "access to the signed information stating that [the requestor] may be having difficulty with the [safe] operation of a motor vehicle on the public streets and highways." You assert 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 exempts 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 record "relating to the medical condition of an applicant," we conclude that section 12.097 of the Health and Safety Code is applicable. You state that "[a]t this time, there is no suspension action ongoing for [the requestor's] driver's license." Thus, section 12.097(b) does not provide the requestor with access to the requested information. We conclude, therefore, that the requested information is exempted from required public disclosure under section 552.101 of the Government Code.

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

Ref.: ID# 102379

Enclosures: Submitted documents

cc: Mr. Phillip E. Baker  
3502 Woodthrush  
Denton, Texas 76201  
(w/o enclosures)