



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 26, 1996

Ms. Ann Diamond
Assistant District Attorney
Tarrant County
Justice Center
401 West Belknap Street
Fort Worth, Texas 76196-0201

OR96-2241

Dear Ms. Diamond:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 102714.

Tarrant County (the "county") received a request for information concerning its pooled sick leave program. You say the county has released information that is responsive to three categories of requested information. You assert that certain information is excepted from required public disclosure by Government Code section 552.101, which excepts from disclosure information that is deemed confidential by law. You have submitted information marked as exhibit C as a representative sample of the information the county seeks to withhold from disclosure.

The Medical Practice Act (the "MPA"), V.T.C.S. article 4495b, makes confidential two types of information: 1) "communications between" a licensed physician concerning "any professional services as a physician to a patient," and 2) "records of the identity, diagnosis, evaluation, or treatment of a patient by a physician created or maintained by a physician." V.T.C.S. art. 4495b, § 5.08(a), (b). We have marked portions of exhibit C that the MPA covers. The county must release these medical records only in accordance with the MPA. *See id.* § 5.08, Open Records Decision No. 565 (1990).

We have marked portions of exhibit C that contain information that implicate individuals' privacy rights. The county must withhold from public disclosure based on Government Code section 552.101 all information that identifies the individuals. *See Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976),

cert. denied, 430 U.S. 931 (1977) (establishing standard for withholding information pursuant to Gov't Code § 552.101 and common-law right to privacy), *see* Open Records Decision No. 478 (1987).

The remaining portions of exhibit C are not excepted from required public disclosure and must be released. We note that the county did not submit to this office information about the donation of leave. Consequently, we do not rule on the arguments you raise for withholding this information from public disclosure.

We are resolving this matter with this 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,



Kay Guajardo
Assistant Attorney General
Open Records Division

KHG/rho

Ref.: ID# 102714

Enclosures: Marked documents

cc: Mr. James Foster Smith
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(w/o enclosures)