



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 19, 1997

Ms. Christine T. Rodriguez
Texas Department of Insurance
Legal and Compliance Division, MC 110-1A
P.O. Box 149104
Austin, Texas 78714-9104

OR97-1143

Dear Ms. Rodriguez:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 34726.

The Texas Department of Insurance (the "department") received a request for the "actuary tables and inpatient medical cost breakdown for Foundation Health (PCA if information later than June, 1993). You state that you have released some of the requested information to the requestor. You raise no exception to disclosure on behalf of the department. You explain, however, that some of the requested information may be proprietary. Therefore, pursuant to section 552.305, you ask whether the department must release this information

Since the property and privacy rights of a third party may be implicated by the release of the requested information, this office notified Foundation Health Corp. ("Foundation") and PCA Health Plans of Texas, Inc. ("PCA") of the request. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining that statutory predecessor to Gov't Code § 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in Open Records Act in certain circumstances). PCA did not respond to our notification. Foundation responded to our notice by stating that the requested information was Foundation's property and that release would place its company at an unfair competitive disadvantage. We do not believe that Foundation has established that the requested information can be withheld. *See* Open Records Decision Nos. 639 (1996) at 4 (to prevent disclosure of commercial or financial information, party must show by specific factual or evidentiary material, not conclusory or generalized allegations, that it actually faces competition and that substantial competitive injury would likely result from disclosure), 552 (1990) at 5 (party must establish prima facie case that information is trade secret), 542 (1990) at 3. The department must release the requested information.

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,



Don Ballard
Assistant Attorney General
Open Records Division

JDB/ch

Ref: ID# 34726

Enclosures: Submitted documents

cc: Ms. RoseMary Mayes
Provider Relations
Providence Health Alliance
P.O. Box 2589
Waco, Texas 76702-2589
(w/o enclosures)

Mr. Joseph K. Klinger
Vice President and Counsel
Foundation Health Corporation
111 Wild Basin Road, Suite 230
Austin, Texas 78746
(w/submitted documents)

PCA Health Plans of Texas, Inc.
8303 Mopac, Suite 450
Austin, Texas 78759
(w/o enclosures)