



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 20, 1997

Ms. Ann Bright
Section Chief
Agency Counsel Section
Legal and Compliance
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714-9104

OR97-2326

Dear Ms. Bright:

You seek clarification of a portion of Open Records Letter No. 97-1570 (1997). Your request for clarification was assigned ID# 109480.

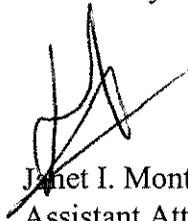
The Texas Department of Insurance (the "department") received a request for all documents relating to an investigation of Alpha Dental Programs, Inc. (the "company"). Open Records Letter No. 97-1570 (1997) considered exceptions under sections 552.101, 552.107, 552.111, and 552.112 of the Government Code. You seek clarification concerning the language "that TDI did not indicate whether the draft documents were ever released or intended for release in final form."

We agree with your analysis of Open Records Decision 559 (1990). This office did not intend to present what appears to be a new standard based on Open Records Decision No. 559 (1990) through the use of the language "that TDI did not indicate whether the draft documents were ever released or intended for release." You may withhold the draft documents in their entirety.¹ Open Records Letter No. 97-1570 (1997) is overruled to the extent it conflicts with Open Records Decision No. 559 (1990).

¹However, we do again observe that this exception does not except from disclosure purely factual information that is severable from the opinion portions of the document. *See id.* In Open Records Decision No. 559 (1990), the attorney general held that the predecessor statute to section 552.111 protects drafts of a document that have been or will be released in final form and any comments or other notations on the drafts because they necessarily represent the advice, opinion, and recommendation of the drafter as to the form and content of the final document.

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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Janet I. Monteros
Assistant Attorney General
Open Records Division

JIM/glg

Ref.: ID# 109480

cc: Mr. Jim Coglein
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Houston, Texas 77074