



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 24, 1997

Ms. Mary Keller
Senior Associate Commissioner
Legal and Compliance Division
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714-9104

OR97-2571

Dear Ms. Keller:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 111435.

The State Fire Marshall received an open records request for records pertaining to Case No. 97-477-08. You state that the only records the State Fire Marshall seeks to withhold from this file are certain EMS medical records, which you contend are excepted from required public disclosure pursuant to section 552.101 of the Government Code.

Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, *statutory*, or by judicial decision." (Emphasis added.) You contend that certain portions of the EMS records are confidential under section 773.091 of the Health and Safety Code, which provides in pertinent part:

(b) Records of the identity, evaluation, or treatment of a patient by emergency medical services personnel or by a physician providing medical supervision that are created by the emergency medical services personnel or physician or maintained by an emergency medical services provider are confidential and privileged and may not be disclosed except as provided by this chapter.

....

(g) The privilege of confidentiality under this section does not extend to information regarding the presence, nature of injury or

illness, age, sex, occupation, and city of residence of a patient who is receiving emergency medical services.

Although section 773.092(e) of the Health and Safety Code lists certain individuals and entities who are authorized to receive copies of EMS medical records, none of the documents you submitted to this office indicate that the current requestor is entitled to the records at issue beyond those categories of information specifically laid out in section 773.091(g). *But see* Health & Safety Code § 773.092(e)(4) (authorizing release to person bearing written consent of patient or other persons authorized to act on patient's behalf). We therefore agree that the State Fire Marshall must release only those portions of the records at issue that you have marked as being excepted from the confidentiality provisions of section 773.091(b). The remaining information contained in these records must be withheld pursuant to 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 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,



Michael A. Pearle
Assistant Attorney General
Open Records Division

MAP/RWP/ch

Ref: ID# 111435

Enclosures: Submitted documents

cc: Mr. Melvin Stahl
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(w/o enclosures)