



March 16, 1999

Ms. Linda Wiegman
Office of General Counsel
Department of Health
1100 West 49th Street
Austin, Texas 78756

OR99-0751

Dear Ms. Wiegman:

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# 122835.

The Texas Department of Health (the “department”) received a request for information concerning Rural Metro of Abilene, an emergency medical services provider licensed by the department. The requested information includes complaints and investigation documents. You assert that the documents which are responsive to the request are confidential in their entirety under section 773.0612(b) of the Health and Safety Code, in conjunction with section 552.101 of the Government Code.

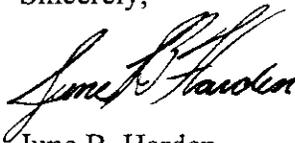
The department states, and we agree, that it has not sought an open records decision from this office within the statutory ten-day deadline. *See* Gov’t Code § 552.301. The department’s delay in this matter results in the presumption that the requested information is public. *See id.* § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App.--Austin 1990, no writ). In order to overcome the presumption that the requested information is public, a governmental body must provide compelling reasons why the information should not be disclosed. *Hancock*, 797 S.W.2d at 381. The applicability of section 552.101 provides such a compelling reason.

Section 552.101 of the Government Code provides that information is protected from disclosure under the Open Records Act if it is confidential by law. Section 773.0612(a) of the Health and Safety Code provides that the department “is entitled to access to records and

other documents maintained by a person that are directly related to patient care or to emergency medical services personnel to the extent necessary to enforce this chapter and the rules adopted under this chapter." Section 773.0612(b) provides that "[a] report, record, or working paper used or developed in an investigation under this section is confidential and may be used only for purposes consistent with the rules adopted by the board." You state that "[a]ll of the enclosed documents relate to records, reports or working papers used or developed in an investigation under this section [773.0612] and are confidential in their entirety." Based on your representation, we conclude that all of the submitted records are confidential under section 773.0612(b) and must be withheld from disclosure.¹

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.

Sincerely,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/ch

Ref.: ID# 122835

Enclosures: Submitted documents

cc: Mr. Steve Mayo Via Facsimile: 409-986-9464
(w/o enclosures)

¹As the records are confidential under section 773.0612, we need not address the department's other arguments against disclosure.