



May 14, 1999

Mr. Don Ballard
Assistant Attorney General
Open Records Coordinator
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR99-1335

Dear Mr. Ballard:

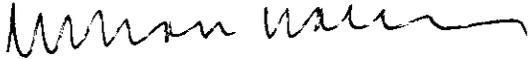
You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 124116.

The Medicaid Fraud Control Unit of the Office of the Attorney General ("MFCU") received a request for investigation reports concerning a particular nursing home and other information related to the Medicaid program. We understand you to seek to withhold only the requested investigation reports. You claim this information is protected by sections 552.101 and 552.108 of the Government Code.

Section 552.101 requires withholding, *inter alia*, information made confidential by statute. You contend that the investigation reports are made confidential by section 242.127 of the Health and Safety Code. That section provides that "[a] report, record, or other working paper used or developed in an investigation under [subchapter E, chapter 242 of the code] is confidential and may be disclosed only for purposes consistent with rules adopted by the Texas Board of Human Services or the "designated agency." *See also id* § 242.126 (investigation of complaint of abuse or neglect by Department of Human Services or designated agency). This office has determined in prior decisions that the confidentiality provision in section 242.127 extends to MFCU's reports, records, or working papers used or developed in an investigation under subchapter E. *See, e.g.*, Open Records Letter No. 95-1415 (1995). We have examined the submitted information and conclude that it is subject to section 242.127. Since you have not advised of any rules permitting disclosure of the information at issue, we conclude that it is confidential under section 242.127 and must be withheld in its entirety. Having disposed of this request under section 242.127 we need not address your section 552.108 claim.

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.

Sincerely,



William Walker
Assistant Attorney General
Open Records Division

WMW/eaf

Ref: ID# 124116

encl. Submitted documents

cc: Mr. Yale G. Phillips, Jr.
Attorney at Law
112 East Pecan Street, Suite 1100
San Antonio, Texas 78204
(w/o enclosures)