



May 19, 1999

Mr. Eric Magee
Staff Attorney
Legal and Compliance Division
Texas Department of Insurance
MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104

OR99-1392

Dear Mr. Magee:

You ask whether certain information is subject to required public disclosure under the Texas Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 124292.

The Texas Department of Insurance (the “department”) received an open records request for all records pertaining to a particular complaint filed with the department regarding a disputed insurance claim. You state that most of the requested information has previously been released to the requestor. You seek to withhold, however, certain financial and medical information pursuant to the common-law right of privacy as incorporated into 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,” including information coming within the common-law right to privacy. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Common-law privacy protects information if it is highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, *and* it is of no legitimate concern to the public. *Id.* at 683-85.

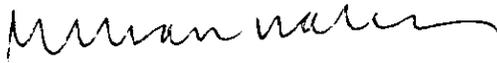
In *Industrial Foundation*, the Texas Supreme Court deemed as “intimate and embarrassing” certain medical information that relates to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. 540 S.W.2d at 683. This office has also determined that common-law privacy protects the following information: the kinds of prescription drugs a person is taking, Open Records Decision No. 455 (1987); the results of mandatory urine testing, *id.*; illnesses, operations, and physical handicaps of applicants, *id.*;

the fact that a person attempted suicide, Open Records Decision No. 422 (1984); the names of parents of victims of sudden infant death syndrome, Attorney General Opinion JM-81; and information regarding drug overdoses, acute alcohol intoxication, obstetrical/gynecological illnesses, convulsions/seizures, or emotional/mental distress. Open Records Decision No. 343 (1982). This office has also recognized that certain types of personal financial information is protected from public disclosure under common-law privacy. *See, e.g.*, Open Records Decision Nos. 600 (1992), 373 (1983).

Upon review of the information at issue, we conclude that none of the information the department previously withheld may properly be characterized as "highly intimate or embarrassing." The department therefore must release the information you have marked to the requestor.

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/RWP/eaf

Ref.: ID# 124292

encl. Submitted documents

cc: Mr. James G. Bennett
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(w/o enclosures)