



October 11, 1999

Ms. Linda Wiegman
Supervising Attorney
Texas Department of Health
1100 West 49th Street
Austin, Texas 78756-3199

OR99-2894

Dear Ms. Wiegman:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 128792.

The Texas Department of Health (the “department”) received a written request for information pertaining to a former licensed professional counselor and marriage and family therapist. You state that most of the requested information has been released to the requestor. You seek to withhold, however, some of the information contained in the released documents to protect the privacy interests of certain third parties pursuant to section 552.101 of the Government Code.¹

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 considered intimate and embarrassing information that relates to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide,

¹We note that although you did not request a decision from this office within the requisite ten business days following the department’s receipt of the open records request, the fact that information is protected by privacy interests overcomes the resulting presumption of openness. See Gov’t Code § 552.301(b); Open Records Decision No. 150 (1977).

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).

The information you seek to withhold pertains to former clients of the former therapist. After reviewing the documents at issue, we conclude these individuals' interests are implicated here. However, we believe that the privacy interests of the former clients will be adequately protected by the redaction of those individuals' names only. *See Star-Telegram v. Doe*, 915 S.W.2d 471 (Tex. 1995). The remaining information contained in the records at issue must be released.

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,



Kay Hastings
Assistant Attorney General
Open Records Division

KHH/RWP/nc

Ref.: ID# 128792

cc: Ms. Charlene Cagle
113 Galahad
Borger, Texas 79007
(w/o enclosures)