



October 22, 1999

Ms. Myrna Reingold
Galveston County
Legal Department
123 Rosenberg, Suite 4127
Galveston, Texas 77550-1454

OR99-2986

Dear Ms. Reingold:

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# 129317.

The Galveston County Health District (the "district") received a written request for all records pertaining to the district's investigation of an alleged occurrence of food poisoning from eating raw oysters. You contend that the requested information is made confidential under section 81.046 of the Health and Safety Code and therefore must be withheld from disclosure pursuant to section 552.101 of the Government Code.¹

Chapter 81 of the Health and Safety Code, of which section 81.046 is a part, is commonly referred to as the Communicable Disease Prevention and Control Act. Under section 81.042, various individuals, including health professionals, school and child care administrators, and owners and managers of food handling or processing establishments, are required to make reports to the "local health authority" of instances of suspected cases of "reportable diseases," including communicable diseases, and "health conditions." Section 81.046 of the Health and Safety Code provides in pertinent part:

(a) Reports, records, and information furnished to a health authority . . . that relate to cases or suspected cases of diseases or health conditions are confidential and may be used only for the purposes of this chapter.

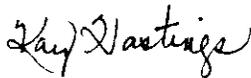
¹Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."

(b) Reports, records, and information relating to cases or suspected cases of diseases or health conditions are not public information under [the Public Information Act] and may not be released or made public on subpoena or otherwise except as provided by Subsections (c) and (d).

In Open Records Decision No. 577 (1990), this office concluded that any information acquired or created during an investigation under chapter 81 is confidential and may not be released unless an exception set out in the statute applies. Assuming that all of the information you have submitted to this office as responsive to the open records request was gathered or created by the district pursuant to the provisions of chapter 81, we agree that section 81.046(b) governs the release of this information.² We conclude, therefore, that the district must withhold the documents you submitted to this office in their entirety 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.

Sincerely,



Kay Hastings
Assistant Attorney General
Open Records Division

KHH/RWP/nc

Ref.: ID# 129317

cc: Mr. Roger Gordon
Fireman's Fund Insurance Company
P.O. Box 650604
Dallas, Texas 75266-0604
(w/o enclosures)

²None of the conditions laid out in subsections (c) or (d) appear to be present in this instance.