



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 4, 2004

Ms. Barbara H. Owens
Assistant General Counsel
Texas Workers' Compensation Commission
4000 South IH-35, MS-4D
Austin, Texas 78704

OR2004-8420

Dear Ms. Owens:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 210200.

The Texas Workers' Compensation Commission (the "commission") received a request for a list of patients for which the requestor is listed as the treating doctor, as well as information pertaining to the services and treatments rendered and insurance companies billed for such services. You state that some information has been released to the requestor. However, you claim that the requested patient list is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision" and encompasses information protected by other statutes. Section 402.083 of the Labor Code provides that "[i]nformation in or derived from a claim file regarding an employee is confidential and may not be disclosed by the commission except as provided by this subtitle." Labor Code § 402.083(a). This office has interpreted section 402.083 to protect only that "information in or derived from a claim file that explicitly or implicitly discloses the identities of employees who file workers' compensation claims." Open Records Decision No. 619 at 10 (1993). Prior decisions of this office have found that information revealing the date of injury, as well as an injured employee's name, beneficiary name, commission claim number, social security number, home telephone number, home address, and date of

birth implicitly or explicitly identifies claimants and is therefore excepted from disclosure under section 552.101 in conjunction with section 402.083 of the Labor Code. You inform us that the patient list “identifies certain injured employees and this information is derived from a claim file related to each of those employees[.]” Furthermore, you state that the requestor is not identified as one who can receive this information under section 402.084 or section 402.085 of the Labor Code. You also inform us that section 402.083(b) is not applicable to any of the listed patients. Thus, we agree that the submitted patient list constitutes claim file information that must be withheld under section 552.101 in conjunction with section 402.083 of the Labor Code.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body’s intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general’s Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep’t of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Debbie K. Lee
Assistant Attorney General
Open Records Division

DKL/seg

Ref: ID# 210200

Enc. Submitted documents

c: Ms. Nichole J. Snyder, D.C.
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(w/o enclosures)