



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 26, 2007

Ms. Sara Shiplet Waitt
Texas Department of Insurance
Senior Associate Commissioner
Legal and Compliance Division
P.O. Box 149104
Austin, Texas 78714-9104

OR2007-09485

Dear Ms. Waitt:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 285052.

The Texas Department of Insurance (the "department") received a request for all approved Exhibits 19 and 20 of all certified workers' compensation networks. You believe that the requested information may contain the proprietary information of third parties. Although you take no position on the proprietary nature of the information, you have notified the interested third parties of the requests and of their right to submit comments to this office as to why the requested information should not be released.¹ See Gov't Code § 552.305(d); see also Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain the applicability of exception to disclose under the Act in certain circumstances). We have reviewed the submitted information.

Initially, we note that an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. See Gov't Code § 552.305(d)(2)(B). As of the date of this decision, none of the interested third parties have submitted to this office any reasons explaining why their information

¹The interested third parties are as follows: National ChoiceCare, NCC; First Health/St. Paul Travelers; Memorial Hermann Health Network; First Health/AIG Claim Services; CorVel Healthcare Corporation; Liberty Mutual Managed Care, Inc.; Intracorp; First Health TX HCN; Concentra HCN; CompKey; GENEX Services, Inc.; Zurich Services Corp.; IMO Med-Select Network; Aetna Workers' Comp. Access; North Texas Innovative Healthcare Network; Bunch & Associates, Inc., TX HCN; Hartford WC HealthCare Network (FH); FirstCare; Physicians Cooperative of Texas; Zenith Healthcare Network; Texas Star Network; International Rehabilitation Associates, Inc.; CMI Barron Risk Management, Inc..

should not be released. Therefore, these third parties have not provided us with any basis to conclude that they have protected proprietary interests in any of the submitted information. *See, e.g., id.* § 552.110(b) (to prevent disclosure of commercial or financial information, party must show by specific factual or evidentiary material, not conclusory or generalized allegations, that it actually faces competition and that substantial competitive injury would likely result from disclosure); Open Records Decision Nos. 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, we conclude that the department may not withhold any of the submitted information on the basis of any proprietary interest the interested third parties may have in the information.

We note that a portion of the submitted information is subject to section 552.137 of the Government Code.² Section 552.137 excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See* Gov’t Code § 552.137(a)-(c). The e-mail addresses we have marked are not of a type specifically excluded by section 552.137(c). Therefore, the department must withhold these e-mail addresses in accordance with section 552.137 unless the department receives consent for their release. As no further exceptions to disclosure are raised, the remaining submitted information must be released to the requestor.

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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

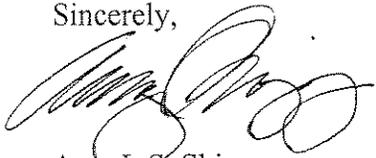
Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor 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 Office of the Attorney General 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. 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,



Amy L.S. Shipp
Assistant Attorney General
Open Records Division

ALS/mcf

Ref: ID# 285052

Enc. Submitted documents

c: Mr. Eddie McKibbin
President/CEO
Optimum Health Care
1809 Raydon Drive
Arlington, Texas 76013
(w/o enclosures)

C.E. Wiggins, III
Secretary
North Texas
Innovative Healthcare Network
729 Bedford Eules Road West, Suite 108
Hurst, Texas 76053
(w/o enclosures)

Ms. Melissa West
Project Manager
National ChoiceCare, NCC
P.O. Box 691205
San Antonio, Texas 78269
(w/o enclosures)

Mr. Creg Parks
CEO
PCTexas Partners, L.P.
6937 North IH-35, Suite 500
Austin, Texas 78752
(w/o enclosures)

Ms. Kathleen McCabe
Manager, Specialty &
Regulatory Compliance
Liberty Mutual Managed Care, Inc.
Liberty Mutual 100 Liberty Way
Dover, New Hampshire 03820
(w/o enclosures)

Ms. Donna Lucas
Network Manager
Aetna Workers'
Compensation Access
980 Jolly Road, UIIN
Blue Bell, Pennsylvania 19422
(w/o enclosures)

Ms. Kathleen Gallagher
Regulatory Compliance Director
Zurich Service
Corporation Healthcare Network
HCN
1400 American Lane, Tower 2-6th
Schaumburg, Illinois 60196-1056
(w/o enclosures)

Ms. Susan McDonough
Plan Administrator
Intracorp/Lockheed Martin Aero
Employee Select Network
11095 Viking Drive
Eden Prarie, Minnesota 55344
(w/o enclosures)

Ms. Karen Weitendorf
Manager
Regulatory Compliance
First Health/St. Paul Travelers HCN
3200 Highland Avenue
Downers Grove, Illinois 60515
(w/o enclosures)

Ms. Claire Onks
CompKey/First Health
7600 Chevy Chase, Suite 400
Austin, Texas 78752
(w/o enclosures)

Ms. Karen Weitendorf
Manager
Regulatory Compliance
First Health/TX HCN
3200 Highland Avenue
Downers Grove, Illinois 60515
(w/o enclosures)

Ms. Catherine Benavidez
President
IMO Med-Select Network
4100 Midway Road, Suite 1145
Carrollton, Texas 75007
(w/o enclosures)

Mr. Bruce Singleton
Vice President
Product Development & Management
Concentra HCN
5080 Spectrum Drive, Suite 1200 West
Addison, Texas 75001
(w/o enclosures)

Ms. Suda Erwin
Manager
Partner Relations
Bunch & Associates, Inc., TX HCN
2717 South Arlington Road
Akron, Ohio 44312
(w/o enclosures)

Mr. Donald McCormies
Account Manager
Zenith Healthcare Network
4972 Lake Shore Court
Fall Brook, California 92028
(w/o enclosures)

Ms. Danielle Barrera
Director, Memorial Hermann
Health Network
9301 Southwest Freeway
Suite 5000
Houston, Texas 77074
(w/o enclosures)

Ms. Susan McDonough
Plan Administrator
International Rehabilitation
Associates, Inc.
11095 Viking Drive
Eden Prairie, Minnesota 55344
(w/o enclosures)

J.A. McCollum
Health Law Specialist
Hartford WC
HealthCare Network (FH)
690 Asylum Avenue, T9-106
Hartford, Connecticut 06105
(w/o enclosures)

Mr. Brian G. Harms
Assistant Vice President & Counsel
Law Department
Hartford Fire Insurance Company
690 Asylum Avenue
Hartford, Connecticut 06105
(w/o enclosures)

Mr. James Loughlin
Stone, Loughlin & Swanson
P.O. Box 30111
Austin, Texas 78755
(w/o enclosures)

Ms. Paige Alvarado
Government Programs
SHA, L.L.C./First Care
1901 West Loop 289, Suite 9
Lubbock, Texas 79407
(w/o enclosures)

Ms. Sally Lopez
Director of Operations
CMI Barron Risk Management, Inc.
613 Northwest Loop 410, Suite 800
San Antonio, Texas 78216
(w/o enclosures)

Mr. Bruce Singleton
Vice President
Product Development & Management
Texas Star Network
5080 Spectrum Drive, Suite 1200 West
Addison, Texas 75001
(w/o enclosures)

Ms. Kathleen Gallagher
Regulatory Compliance Director
Zurich Service Corporation
Healthcare Network
Healthcare Network Corvel
1400 American Lane, Tower 2-6th
Schaumburg, Illinois 60196-1056
(w/o enclosures)

Ms. Laurel Coover
Supervisor Utilization Review
CorVel Healthcare Corporation
15303 Dallas Parkway, Suite 300
Addison, Texas 75001
(w/o enclosures)

Mr. Tab Urbanke
Hunton & Williams
Energy Plaza, 30th Floor
1601 Bryan Street
Dallas, Texas 75201-3402
(w/o enclosures)

Ms. Kelly Weigand
Managing Attorney, First Health
4141 North Scottsdale Road
Scottsdale, Arizona 85251
(w/o enclosures)

Ms. Polly McGraw
MCO Admin & Compliance
GENEX Services, Inc.
440 East Swedes Road, Suite 1000
Wayne, Pennsylvania 19087
(w/o enclosures)

Ms. Karen Weitendorf
Manager
First Health/AIGCS TX HCN
3200 Highland Avenue
Downers Grove, Illinois 60515
(w/o enclosures)

Mr. Milton G. Plomarity
Director, Network
Development/Administration
Quality Rehabilitation
Services, Inc.
9101 LBJ Freeway, Suite 600
Dallas, Texas 75243
(w/o enclosures)