



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 15, 2009

Ms. Cynthia Villarreal-Reyna
Section Chief, Agency Counsel
Legal and Regulatory Services Division
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714-9104

OR2009-06612

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# 343304 (TDI # 88690).

The Texas Department of Insurance (the "department") received a request for information related to a specified complaint against Blue Cross Blue Shield of Texas ("Blue Cross"). You state that you have released some of the requested information to the requestor. You state that you will redact information that identifies enrollees in health plans under section 552.101 in conjunction with common-law privacy pursuant to the previous determination issued in Open Records Letter No. 2001-4777 (2001).¹ See Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001) (listing elements of second type of previous determination under section 552.301(a)). You explain that the remaining submitted information may contain proprietary information subject to exception under the

¹In Open Records Letter No. 2001-4777 (2001), we authorized the department to withhold, under section 552.101 of the Government Code in conjunction with common-law privacy, information that identifies an enrollee in a health plan, including the enrollee's name, address, telephone number, birth date, social security number, and claim number.

Act. Accordingly, you state, and provide documentation showing, that the department notified Blue Cross of this request for information and of its right to submit arguments to this office as to why the information should not be released. *See* Gov't Code § 552.305(d); Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). We have received comments from a representative of Blue Cross stating that it does not object to the release of the submitted information. We have reviewed the submitted information.

We note that portions of the submitted information contain insurance policy numbers.² Section 552.136 of the Government Code states that “[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” Gov't Code § 552.136. The department must withhold the insurance policy numbers we have marked under section 552.136. The remaining information must be released.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Tamara Wilcox
Assistant Attorney General
Open Records Division

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

Ref: ID# 343304

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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