



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 8, 2010

Ms. Cynthia Villarreal-Reyna
Section Chief, Agency Counsel
Legal & Regulatory Affairs, MC 110-1A
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714-9104

OR2010-10104

Dear Ms. Villarreal-Reyna:

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# 385896 (TDI# 103446).

The Texas Department of Insurance (the "department") received a request for (1) information that provides an overview of doctors recommended for sanction or removal by the Workers' Compensation system since September 2005; (2) estimates of staff and personnel costs in the Office of the Medical Advisor at the department's Workers' Compensation Division (the "division"); and (3) documents pertaining to a specified grant.¹ You state the department has provided some of the requested information to the requestor. You inform us the department is withholding some of the remaining requested information under section 552.101 of the Government Code in conjunction with section 402.092 of the Labor Code pursuant to the previous determination issued in Open Records Letter Ruling No. 2005-01938 (2005).² You claim portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

¹We note the department received clarification regarding this request. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information).

²Open Records Letter No. 2005-01938 authorizes the department to withhold under section 552.101 of the Government Code in conjunction with section 402.092 of the Labor Code, without the necessity of requesting a decision under the Act, information in a Texas Workers' Compensation Commission investigative file maintained under section 413.002, section 413.0511, or section 413.0512 of the Labor Code, unless the information either is subject to the release provisions of section 402.092, section 413.0511, section 413.0513, or section 413.0514 of the Labor Code, or is claim file information subject to subsection 402.092(c) of the Labor Code. *See* Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code).

Section 552.101 exempts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This section encompasses information protected by other statutes. Section 402.092 of the Labor Code provides confidentiality and exceptions to confidentiality for the investigation files of the division. Section 402.092 provides in relevant part:

(a) In this section, “investigation file” means any information compiled or maintained by the division with respect to a division investigation authorized under this subtitle or other workers’ compensation law.[]

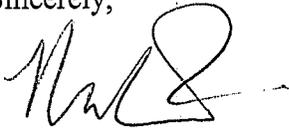
(b) Information maintained in the investigation files of the division is confidential and may not be disclosed except [in five specified situations].

Labor Code § 402.092(a)-(b). You state the bracketed information in the submitted spreadsheets consists of information compiled and maintained by the division with respect to a division investigation authorized under the Texas Workers’ Compensation Act. You state that none of the release provisions of section 402.092 apply. *See id.* § 402.092. Accordingly, based on your representations and our review, we find that the information you have bracketed must be withheld under section 552.101 of the Government Code in conjunction with section 402.092 of the Labor Code. 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, toll free, at (888) 672-6787.

Sincerely,



Nneka Kanu
Assistant Attorney General
Open Records Division

NK/jb

Ref: ID# 385896

Enc. Submitted documents

cc: Requestor
(w/o enclosures)