



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 25, 2010

Mr. Donald Jansky  
Assistant General Counsel  
Office of General Counsel  
Texas Department of State Health Services  
P.O. Box 149347  
Austin, Texas 78714-9347

OR2010-16129

Dear Mr. Jansky:

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# 398042 (DSHS File No. 17795-2010).

The Texas Department of State Health Services (the "department") received a request for information pertaining to a named police officer's referral of a named individual to the medical advisory board and the review and findings made by the medical advisory board. You state that the department has released or will release some of the requested information. You claim that the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

We note the submitted information is subject to a previous determination. This office recently issued Open Records Letter No. 2010-15346 (2010), a previous determination authorizing the department to withhold all records, reports, and testimony held by the department relating to the medical condition of a driver's license or concealed handgun license applicant or license holder based on section 12.097(a) of the Health and Safety Code in conjunction with section 552.101 of the Government Code, unless section 12.097(b) of the Health and Safety Code applies. *See* Health & Safety Code § 12.097. You state section 12.097(b) does not apply in this instance. Therefore, pursuant to Open Records Letter No. 2010-15346, the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 12.097(a) of the Health

and Safety Code. *See* Open Records Decision No. 673 (2001) (governmental body may rely on previous determination when elements of law, fact, and circumstances have not changed, decision concludes specific, clearly delineated category of information is excepted, and governmental body is explicitly informed it need not seek a decision from this office to withhold information in response to future requests).

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](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,



Sarah Casterline  
Assistant Attorney General  
Open Records Division

SEC/em

Ref: ID# 398042

Enc. Submitted documents

c: Requestor  
(w/o enclosures)