



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 21, 2016

Ms. Barbara L. Klein
Deputy General Counsel
Texas Department of State Health Services
P. O. Box 149347
Austin, Texas 78714-9347

OR2016-23681

Dear Ms. Klein:

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# 631668 (DSHS OR File No. 26307/2016).

The Texas Department of State Health Services (the "department") received a request for the registration of birth of the requestor's client, hearings held about requestor's client, and refusals to issue a copy of birth record to requestor's client. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.115 of the Government Code. You also state you notified the Health and Human Services Commission's Office of the Inspector General (the "OIG") of the request for information. *See* Gov't Code § 552.304 (interested third party may submit comments stating why information should or should not be released). We have not received comments from the OIG. We have considered the exceptions 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." *Id.* § 552.101. This section encompasses information protected by other statutes, including section 531.1021 of the Government Code, which provides, in relevant part:

(g) All information and materials subpoenaed or compiled by the [OIG]¹ in connection with an audit or investigation or by the office of the attorney general in connection with a Medicaid fraud investigation are confidential

¹We note the Health and Human Services Commission directly oversees the department.

and not subject to disclosure under [the Act], and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than the [OIG] or the attorney general or their employees or agents involved in the audit or investigation conducted by the [OIG] or the attorney general, except that this information may be disclosed to the state auditor's office, law enforcement agencies, and other entities as permitted by other law.

(h) A person who receives information under Subsection (g) may disclose the information only in accordance with Subsection (g) and in a manner that is consistent with the authorized purpose for which the person first received the information.

Id. § 531.1021(g), (h). You assert the submitted information was compiled by the OIG in connection with an investigation concerning alleged vital statistics fraud. Based on your representation and our review, we find the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 531.1021(g) of the Government Code.²

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Kelly McWethy
Assistant Attorney General
Open Records Division

KSM/eb

²As our ruling is dispositive, we need not address the department's remaining arguments against disclosure

Ref: ID# 631668

Enc. Submitted documents

c: Requestor
(w/o enclosures)