



Office of the Attorney General  
State of Texas

October 26, 1992

DAN MORALES  
ATTORNEY GENERAL

David R. Smith, M.D.  
Commissioner  
Texas Department of Health  
1100 West 49th Street  
Austin, Texas 78756-3199

OR92-620

Dear Dr. Smith:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 17300.

The Texas Department of Health (the "department") has received a request for information relating to allegations of safety violations in 1988 which caused department employees to contract tuberculosis. Specifically, the requestor seeks "a copy of all documents, notes, reports, investigative procedure, and/or any other type of physical evidence surrounding . . . case (No. 06-92-093)." In addition, the requestor seeks all "letters of request concerning this case, from the Texas Workers Compensation Commission and any and all Divisions of the Attorney Generals Office and/or anyone else involved in this case, whether it be documents concerning requests or documents used in answering these requests." You advise us that all correspondence between the department and the Texas Workers' Compensation Commission has been made available to the requestor. You have submitted to us for review, however, the remaining information, which you claim is excepted from required public disclosure by section 3(a)(1) of the Open Records Act in conjunction with section 81.046 of the Health and Safety Code.

Section 3(a)(1) of the Open Records Act excepts from required public disclosure "information deemed confidential by law, either Constitutional, statutory, or by judicial decision." Section 81.046 of the Health and Safety Code provides, in pertinent part:

- (a) Reports, records, and information furnished to a health authority or the department that relate to cases or

suspected cases of diseases or health conditions are confidential and may be used only for the purposes of this chapter.

- (b) Reports, records, and information relating to cases or suspected cases of diseases or health conditions are not public information . . . and may not be released or made public on subpoena or otherwise except as provided by Subsections (c) and (d).

*See also* Open Records Decision No. 577 (1990) (copy enclosed). Subsections (c) and (d) of section 81.046 provide for the limited release of medical and epidemiological information to certain persons or entities or in certain circumstances, none of which we understand to apply here.

We have examined the information submitted to us for review. We agree that it constitutes "information relating to cases or suspected cases of diseases or health conditions" within the meaning of section 81.046(b) of the Health and Safety Code. As we understand none of the exceptions to confidentiality to apply here, we conclude that the requested information must be withheld from required public disclosure under section 3(a)(1) of the Open Records Act.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-620.

Yours very truly,



Celeste A. Baker  
Assistant Attorney General  
Opinion Committee

CAB/GCK/lmm

Enclosure: Open Records Decision No. 577

Ref.: ID# 17300  
ID# 17426

cc: Mr. Ray Grady  
211 West Elliott Street  
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