



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 24, 1994

Mr. Thomas M. Pollan
Bickerstaff, Heath & Smiley
98 San Jacinto Boulevard
Austin, Texas 78701-4039

OR94-490

Dear Mr. Pollan:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, Government Code chapter 552. We assigned your request ID# 25641.

The Burleson County Hospital District (the "hospital district"), which you represent, has received a request for two categories of information in the possession of Burleson Memorial Hospital. Specifically, the requestor seeks:

1. Copy of the 1992-93 Audit Report
2. Copy of actual log of patients seen per month as of 1992-1993 at the Somerville Clinic: Show as:
 - a. Private Pay
 - b. Medicare
 - c. Medicaid
 - [d]. Indigent or Write-offs
 - [e]. Patients accepted as Medicare assignment compensation only.

You advise us that the hospital district will make the requested audit report available to the requestor. You object, however, to release of some the remaining information, a representative sample of which you have submitted to us for review. You claim that section 552.101 of the Government Code exempts this information from required public disclosure.

Section 552.101 excepts from required public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 protects information if its release would cause an invasion of privacy under the test articulated by the Texas Supreme Court in *Industrial Foundation v. Texas Industrial Accident Board*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Under the *Industrial Foundation* case, information may be withheld on common-law privacy grounds only if it is highly intimate or embarrassing and is of no legitimate concern to the public.

An applicant's personal financial information may be excepted from required public disclosure under common-law privacy. In Open Records Decision No. 373 (1983) at 3, this office addressed the availability of personal financial information submitted to a city by an applicant for a housing rehabilitation grant. In that decision, this office concluded as follows:

all financial information relating to an individual -- including sources of income, salary, mortgage payments, assets, medical and utility bills, social security and veterans benefits, retirement and state assistance benefits, and credit history -- ordinarily satisfies the first requirement of common law privacy, in that it constitutes highly intimate or embarrassing facts about the individual, such that its public disclosure would be highly objectionable to a person of ordinary sensibilities.

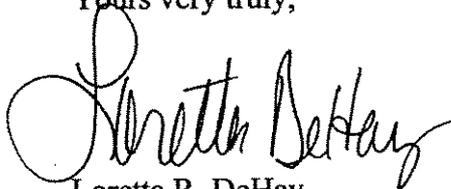
Open Records Decision No. 373 at 3. Whether the public has a legitimate interest in such information, however, must be determined on a case-by-case basis. *Id.* at 4; *see also* Open Records Decision Nos. 600 (1992); 545 (1990). In Open Records Decision No. 545, this office applied a similar presumption to personal financial information of public employees and held that, absent "special circumstances," information concerning a public employee's participation in a deferred compensation plan is protected from disclosure by common-law privacy. Open Records Decision No. 545 at 4-5. This office, however, has distinguished between background financial information and information regarding a particular transaction between the individual and a public body. *See* Open Records Decision No. 373. For example, this office has held that the amount of a debt to a public hospital, together with the names of debtors and dates of delinquency, is not excepted by common-law privacy. Open Records Decision Nos. 525 (1989); 385 (1983); *see also* .022(3) Gov't Code § 552.022(3) (specifically making public "information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body").

You have submitted to us for review a document titled "Day Sheet (Daily Business Summary)." It contains, *inter alia*, the following information about hospital-patient transactions: the patient's name; the transaction date; the charge; credits; current balance; and previous balance. You do not object to release of the "Day Sheet," provided that the names of patients are redacted. You advise that releasing unredacted copies of

the "Day Sheets" would reveal who was treated, which patients were insured, and which patients received assistance through the Medicaid program. We conclude that the submitted information is intimate and embarrassing. Such information, however, does not reveal background financial information about any of the hospital's patients. Rather, it merely discloses basic facts regarding particular financial transactions between individual patients and the hospital. Such information is of legitimate concern to the public and is not protected by common-law privacy. Accordingly, the hospital district must release the requested information in its entirety.¹

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 contact this office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Government Section

LRD/GCK/rho

Ref.: ID# 25641

Enclosures: Submitted documents

cc: Mr. Joe L. LeCour, Jr.
Route 1, Box 263
Somerville, Texas 77879
(w/o enclosures)

¹We note, however, that you are required to release only the information that the requestor actually requested. In a letter to this office, the requestor stated as follows:

Patient identities and nature of complaints are of no benefit to me in understanding the decisionmaking processes of the Special Hospital District's Board of Directors. I requested nothing other than updates on numerical data the hospital administrator, Dr. James Alexander, had published in his Burleson County Hospital and in his Somerville Clinic Pro Formas in 1991 for the fiscal year 1992-93