



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 8, 1995

Ms. Michele L. Gilmour Shackelford
Gibson, Ochsner & Adkins
500 Boatmen's First National Bank Building
Eighth and Taylor
Amarillo, Texas 79101

OR95-368

Dear Ms. Shackelford:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 31387.

The Northwest Texas Healthcare System (the "system"), which is owned by the Amarillo Hospital District and which you represent, received an open records request for the "daily condition reports" on one of the system's patients. You explain that it is the system's policy to release to the public, including members of the media, certain medical information about its patients unless the patient or a responsible party specifies otherwise. You further advise us that the patient or the responsible party who decides whether to make this information available to the public may elect to change the status of the medical information as public or non-public at any time. In this instance the party responsible for the patient in question elected, after initially authorizing the release of the condition reports, to close this information.

You have informed this office in a telephone conversation that the requested "daily condition reports" do not consist of any actual documents, but rather are merely oral pronouncements pertaining to the patients and their medical condition. The Open Records Act applies only to tangible items such as documents and other "developed materials." See Gov't Code § 552.002; Attorney General Opinion JM-640 (1987). Furthermore, it is well-established that the act does not require a governmental body to prepare new information in response to an open records request, Open Records Decision No. 342 (1982), or to answer factual questions. Open Records Decision No. 347 (1982). Because the current open records request does not seek access to or copies of "records," it does not represent a valid request under the Open Records Act. Accordingly, the system need not comply with the request, and we therefore need not address the applicability of the confidentiality provisions you have raised.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Government Section

LRD/RWP/rho

Ref.: ID# 31387

cc: Mr. Matt Curry
Assistant City Editor
Amarillo Globe-Times
P.O. Box 2091
Amarillo, Texas 79166