



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 14, 1995

Mr. David Lloyd
Assistant City Attorney
City of Austin
Legal Department
P.O. Box 1088
Austin, Texas 78767-8828

OR95-383

Dear Mr. Lloyd:

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# 32442.

The City of Austin received a request for a list of all ambulance fee accounts which remain past due since January 1, 1990, including the name, address, total number of accounts per person, date of service for accounts, total amount remaining past due, and any other available information. You claim that much of the information is confidential by law pursuant to section 552.101 of the Government Code in conjunction with section 773.091(b) of the Health and Safety Code. You have submitted a representative sample of the requested information and have marked the information you believe is confidential.

You assert that the marked information is excepted from disclosure by chapter 773 of the Texas Health and Safety Code. Section 773.091(b) provides that

Records of the *identity*, evaluation, or treatment of a patient by emergency medical services personnel or by a physician providing medical supervision that are created by the emergency medical services personnel or physician or maintained by an emergency medical services provider are confidential and privileged and may not be disclosed except as provided by this chapter. [Emphasis added.]

Sections 773.091 and 773.092 identify under what circumstances records affected by this statute may be released. Therefore, you may release the marked information only if release is made pursuant to these sections.¹

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.² If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Government Section

LRD/LMM/rho

Ref.: ID# 32442

Enclosures: Submitted documents

¹We note that in Open Records Decision Nos. 578 (1990) and 598 (1991) this office interpreted that emergency medical service reports created under the delegated authority of a physician are records within the confidentiality and disclosure provisions of section 5.08 of the Medical Practice Act, article 4495b, V.T.C.S. However, subchapter D, section 773.091(b) of the Health and Safety Code now makes confidential records of the identity, evaluation, or treatment of a patient by emergency medical services personnel without a requirement that the emergency medical services personnel be supervised by a physician as outlined in Open Records Decision No. 578 (1990). Thus, even though the information at issue may not have been created under the supervision of a physician, it is information created and maintained by an emergency medical services provider. Thus, absent the special circumstances defined in sections 773.091 and 773.092, the information is confidential.

²In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988) (where requested documents are numerous and repetitive, governmental body should submit representative sample; but if each record contains substantially different information, all must be submitted). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

cc: Mr. Brian Collister
Reporter
KTBC-TV
119 East 10th Street
Austin, Texas 78701
(w/o enclosures)