



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 26, 1995

Ms. Alesia L. Sanchez
Legal Assistant
Legal and Compliance, MC110-1A
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714-9104

OR95-490

Dear Ms. Sanchez:

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# 32292.

The Texas Department of Insurance (the "department") received a request for various information concerning its Bulletin #B-0002-95. You say the department released the final version of the requested bulletin to the requestor by letter dated March 13, 1995. You also say that the department has no information that is responsive to the request for "[a]ll correspondence between the [d]epartment and members or representatives of the HMO industry regarding the statutory interpretation contained in the bulletin."

You assert that preliminary drafts of the bulletin, intraagency memoranda, and the agenda for an executive staff meeting are excepted from required public disclosure based on section 552.111 of the Government Code. You enclosed one document as a representative sample of the information the department seeks to withhold from required public disclosure. This document is a copy of the agenda of an executive staff meeting conducted on February 21, 1995.

Section 552.111 of the Government Code excepts from required public disclosure:

An interagency or intraagency memorandum or letter that would

This exception applies to a governmental body's internal communications consisting of advice, recommendations, or opinions reflecting the policymaking process of the governmental body at issue. *See* Open Records Decision No. 615 (1993). This exception does not except from disclosure purely factual information that is severable from the opinion portions of the communication. *See id.*

The agenda you enclosed lists the topics for discussion at the committee meeting conducted on February 21, 1995. We do not believe this agenda contains any advice, recommendations, or opinions reflecting the department's policymaking process. The information in the agenda is strictly factual in nature. Thus, the department may not withhold the agenda from required public disclosure based on section 552.111 of the Government Code.

You also make the following assertions about agendas in general:

The agendas also often contain items that have statutory protection such as fraud investigations, attorney-client privileges, and financial examination and conservation matters. Finally, the release of the agendas could also reveal items of a sensitive nature such as personnel matters and the strategies for enforcement actions and anticipated litigation.

You fail to explain how these numerous assertions apply to the particular information in the agenda you enclosed. We, therefore, do not consider whether the information in the agenda at issue is subject to "statutory protection."¹

This office permits a governmental body to submit representative samples of requested information where requested documents are numerous and repetitive. However, if each record contains substantially different information, all must be submitted. *See* Open Records Decision Nos. 499 (1988), 497 (1988). As you failed to submit the preliminary drafts of the bulletin and the intraagency memoranda, this office cannot address your section 552.111 claims in regard to those documents.

We are resolving this matter with this 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 may not be relied upon as a previous determination under section 552.301 regarding any other records.

¹Moreover, apparently the requestor seeks the agenda for only one particular meeting, since he asks for "the executive staff meeting at which the statutory interpretation contained in the bulletin was considered."

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

Yours very truly,



Kay Guajardo
Assistant Attorney General
Open Government Section

KHG/rho

Ref.: ID#32292

Enclosures: Submitted document

cc: Mr. Jim Boyle
Law Offices of Jim Boyle
1005 Congress, Suite 550
Austin, Texas 78701
(w/o enclosures)