



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 28, 1995

Mr. Miles K. Risley
Assistant City Attorney
Legal Department
City of Victoria
P.O. Box 1758
Victoria, Texas 77902-1758

OR95-889

Dear Mr. Risley:

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# 34717.

The City of Victoria (the "city") received an open records request for all information related to the death of a particular individual. You state that you have released most of the related documents. You contend that one document must be withheld pursuant to section 552.101 of the Government Code since it contains information that is confidential pursuant to article 4495b section 5.08(c) of the revised civil statutes. You have submitted for our review copies of the released and unreleased documents.

Access to a portion of the unreleased document is governed by the Medical Practice Act ("MPA"), rather than by chapter 552 of the Government Code. Open Records Decision No. 598 (1991) at 1. Article 4495b, section 5.08(b) provides that records of the identity, diagnosis, evaluation, or treatment, of a patient by a physician that are created or maintained by a physician are confidential and privileged. Article 4495b, section 5.08(c) provides that any person who receives information from confidential communications from a physician to a patient or from records may not disclose the information except to the extent the disclosure is consistent with the authorized purposes for which the information is obtained. Consequently, you may release the marked portion of the unreleased record only as provided under the MPA. The remainder of the document must be released.¹

¹We note that, pursuant to section 5.08(h) of article 4495b, someone bearing a proper written consent under section 5.08(j) for the release of confidential information would be authorized to receive the information.

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

Yours very truly,

A handwritten signature in black ink that reads "Kathryn P. Baffes". The signature is written in a cursive style with a large initial 'K' and a long horizontal stroke at the end.

Kathryn P. Baffes
Assistant Attorney General
Open Government Section

KPB/RHS/rho

Ref: ID# 34717

Enclosures: Marked documents

cc: Ms. Tisha Lynn Green
1909 E. Coletoville Road
Victoria, Texas 77901
(w/o enclosures)