



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 20, 1995

Mr. Rick Perry
Commissioner
Texas Department of Agriculture
P.O. Box 12847
Austin, Texas 78711

OR95-1108

Dear Mr. Perry:

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# 36335.

The Texas Department of Agriculture (the "department") has received a request for information concerning Incident No. 03-94-0024. You contend that the medical records and any references thereto are excepted from required public disclosure under section 552.101 of the Government Code. You state that you have provided the requested information with any medical records redacted.

Section 552.101 excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 5.08 of the Medical Practice Act, V.T.C.S. article 4495b, provides:

(a) Communications between one licensed to practice medicine, relative to or in connection with any professional services as a physician to a patient, is confidential and privileged and may not be disclosed except as provided in this section.

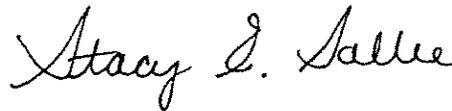
(b) Records of the identity, diagnosis, evaluation, or treatment of a patient by a physician that are created or maintained by a physician are confidential and privileged and may not be disclosed except as provided in this section.

In addition, section 5.08(j)(3) provides for further release of confidential medical records obtained with a valid consent for release only if the disclosure "is consistent with the authorized purposes for which consent to release the information was obtained." *See also* V.T.C.S. art. 4495b, § 5.08(c).

We have reviewed the information submitted to this office.¹ We agree that the medical records and the information you have highlighted are within subsections (a) and (b) of section 5.08. Access to records within V.T.C.S. article 4495b, section 5.08 is governed by the provisions of that statute. *See id.* § 5.08(h), (j)(3); Open Records Decision No. 598 (1991).

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,



Stacy E. Sallee
Assistant Attorney General
Open Records Division

SES/LBC/rho

Ref: ID# 36335

Enclosures: Marked documents

cc: Mr. Wiley Doran
Mitchell & Doran
Wortham Tower, Suite 1630
2727 Allen Parkway
Houston, Texas 77019
(w/o enclosures)

¹We note that the requestor is the legal representative of the subject of the medical records.