



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 14, 1995

Ms. Beth Taylor
Director, Medicaid Fraud Control Unit
Office of the Attorney General
P.O. Box 12548
Capitol Station
Austin, Texas 78711

OR95-1415

Dear Ms. Taylor:

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# 33566.

The Medicaid Fraud Control Unit received a request for information relating to an investigation of a certain nursing home. You contend that the requested information is excepted from required public disclosure under sections 552.101, 552.108, and 552.111 of the Government Code.

Section 552.101 excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 242.127 of the Health and Safety Code provides:

A report, record, or working paper used or developed in an investigation made under this subchapter is confidential and may be disclosed only for purposes consistent with the rules adopted by the board or the designated agency.

Section 242.127 is part of subchapter E of the Health and Safety Code which governs reports of abuse and neglect of convalescent and nursing homes and related institutions.

You state that the investigation was based upon a complaint referral from the Texas Department of Human Services. You further state that the duties and responsibilities of investigating abuse and neglect which had been housed in the Texas Department of Health are now administered by the Texas Department of Human Services.

See 40 T.A.C. § 90.215. This office had previously determined that due to the close relationship between the Texas Department of Health and the Office of the Attorney General in an investigation of abuse and neglect conducted under subchapter E of the Health and Safety Code that section 242.127 affords the same confidentiality to the Medicaid Fraud Control Unit's reports, records, or working papers used or developed in such an investigation. *See* Open Records Letter Nos. 92-456 (1992), 92-479 (1992), 92-481 (1992). As the duties previously held by the Texas Department of Health under subchapter E are now administered by the Texas Department of Human Services, we conclude that the requested information is made confidential by section 242.127.¹

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

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Records Division

LRD/LBC/rho

Ref: ID# 33566

Enclosures: Open Records Letter No. 94-392 (1994)
Submitted documents

cc: Mr. O. Paul Dunagan
Cantey & Hanger, L.L.P.
300 Crescent Court, Suite 500
Dallas, Texas 75201
(w/o submitted documents)

¹We note, however, that a completed written investigation report used by the Texas Department of Human Services may be available after deidentification. 40 T.A.C. § 90.216; *see also* Open Records Letter No. 94-392 (1994) (copy enclosed).