



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 16, 1998

The Honorable Carter Casteel
County Judge
150 N. Seguin, Suite 301
New Braunfels, Texas 78130-5163

OR98-0716

Dear Judge Casteel:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 113645.

Comal County (the "county") received a request for the "identities of any and all child care establishments where cases of hepatitis A have been confirmed."¹ You ask whether this information is excepted from disclosure under section 552.101 of the Government Code in conjunction with section 81.046 of the Health and Safety Code. We have considered the exception you claim and have reviewed the documents at issue.²

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses confidentiality statutes such as section 81.046 of the Health and Safety Code. Section 81.046 provides in pertinent part:

(a) Reports, records, and information furnished to a health authority or the department that relate to cases or suspected cases of diseases or

¹We note that the requestor has also asked for "records . . . specifying the public school that health officials plan to enter to administer [the] hepatitis A vaccine to students." You have not asked us for a ruling as to whether this information must be released.

²We 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). 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.

health conditions are confidential and may be used only for the purposes of this chapter.

(b) Reports, records, and information relating to cases or suspected cases of diseases or health conditions are not public information under Chapter 552, Government Code, and may not be released or made public on subpoena or otherwise except as provided by Subsections (c) and (d).

(c) Medical or epidemiological information may be released:

(1) for statistical purposes if released in a manner that prevents the identification of any person;

(2) with the consent of each person identified in the information;

(3) to medical personnel, appropriate state agencies, or county and district courts to comply with the chapter and related rules relating to the control and treatment of communicable diseases and health conditions;

(4) to appropriate federal agencies, such as the Centers for Disease Control of the United States Public Health Service . . . ;
or

(5) to medical personnel to the extent necessary in a medical emergency to protect the health and life of the person identified in the information.

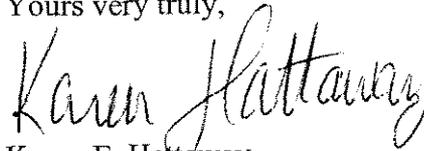
Health & Safety Code § 81.046(a)-(c).

Section 81.046 is a broad confidentiality provision applicable to information relating to reportable diseases in the possession of a county health department, whether received as reports from health professionals or prepared in connection with the department's investigation of a disease or health condition. Open Records Decision No. 577 (1990) at 5. The submitted records are deemed confidential by section 81.046(b). Subsection (c) of section 81.046 is not applicable to these records. Thus, we conclude that the records are excepted from disclosure under section 552.101 of the Government Code in conjunction with Health and Safety Code section 81.046(b).

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 regarding any other records. If you have any questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref: ID# 113645

Enclosures: Submitted documents

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