



Office of the Attorney General

State of Texas

November 23, 1998

DAN MORALES

ATTORNEY GENERAL

Mr. Monty Waters
Attorney
Texas Department of Health
1100 West 49th Street
Austin, Texas 78756-3199

OR98-2803

Dear Mr. Waters:

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# 119801.

The Department of Health (the "department") received a request for information regarding a complaint by a named individual or her family involving a particular restaurant. The requestor noted that the request was made "in connection with [a] lawsuit in which it is alleged that [the restaurant served raw oysters to [the individual] which led to her death." You claim that the requested information is made confidential by section 552.101 of the Government Code in conjunction with section 81.046 of the Health and Safety Code.

Section 552.101 requires withholding information made confidential by statute. Section 81.046 of the Health and Safety Code provides in part:

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

None of the exceptions to confidentiality under section 81.046 apply to the request here. We have examined the information you submitted as responsive to the request and conclude that you must withhold the information in its entirety under section 552.101 of the Government Code in conjunction with section 81.046 of the Health and Safety Code.

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 questions about this ruling, please contact our office.

Yours very truly,



William Walker
Assistant Attorney General
Open Records Division

WMW/ch

Ref.:ID # 119801

cc: Mr. Todd Allen
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(w/o enclosures)