



March 9, 1999

Ms. Tina Plummer
Open Records Coordinator
Texas Department of Mental Health & Mental Retardation
P.O. Box 12668
Austin, Texas 78711-2668

OR99-0662

Dear Ms. Plummer:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 122570.

The Department of Mental Health and Mental Retardation ("MHMR") received several requests for information regarding John C. Womble, M.D. You have supplied the responsive information for our review, contending that it is excepted from disclosure by sections 552.101 and 552.103 of the Government Code. We have considered the exceptions you claim and have reviewed the documents at issue.

We note that, although the requests are all date-stamped by MHMR Quality Oversight Department as received "DEC 8 1998," they bear various dates of request, indications of to whom they were addressed, and assigned request numbers. Apparently these requests were made to various employees of MHMR and subsequently routed to the Open Records Coordinator. Request number 111098a is dated "11/10/98" while request number 111098b is dated "12/5/98." In the absence of representations to the contrary, we assume that request number 111098 consists of parts a and b and that this request was completed and received December 5, 1998. If this assumption is in error, and request number 111098a was received and complete on November 11, 1998, MHMR's request for opinion vis-a-vis this request was not timely. *See* Gov't Code §§ 552.301, 552.302. As none of the information responsive to that request is confidential by law, if the request for opinion was not timely made, MHMR must release all information in its possession that is responsive to request number 111098a.

We now turn to your argument raised under section 552.103(a), the "litigation exception." This statute excepts from disclosure information relating to litigation to which the state or a political subdivision is or may be a party. The governmental body has the burden of providing relevant facts and documents to show that the section 552.103(a) exception is applicable in a particular situation. The test for meeting this burden is a showing that (1)

Ref: ID# 122570

Enclosures: Submitted documents

cc: Mr. John Womble
P.O. Box 1669
Big Spring, Texas 79721
(w/o enclosures)