



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 15, 2006

Mr. Marc Allen Connelly
Assistant General Counsel
Texas Department of State Health Services
1100 West 49th St
Austin, Texas 78756

OR2006-14780

Dear Mr. Connelly:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 267013.

The Texas Department of State Health Services (the "department") received a request for sentinel events reports, best practices reports, annual occurrence reports, and root cause analysis and action plans submitted by Christus Santa Rosa Rehabilitation Hospital ("the hospital") from April 2005 to the present. You claim that the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," and encompasses information protected by other statutes. Gov't Code § 552.101. Section 241.204 of the Health and Safety Code provides in part as follows:

- (a) Except as provided by section 241.205 and 241.206, all information and materials obtained or compiled by the department under this subchapter or compiled by a hospital under this subchapter, including the root cause analysis, annual hospital report, action plan, best practices report, department summary, and all related information and materials, are confidential and:

(1) are not subject to disclosure under chapter 552, Government Code, or discovery, subpoena, or other means of legal compulsion for release to any person, subject to section 241.203(c)[.]

Health & Safety Code § 241.204(a)(1). You inform us that the hospital is licensed by the department and that the submitted documents were compiled by the hospital and obtained by the department. Furthermore, we understand that the exemptions in section 241.004 of the Health and Safety Code do not apply. *See* Health & Safety Code § 241.004. Based on your representations and our review, we find that the submitted information constitutes records obtained or compiled by the department or a hospital under subchapter H of chapter 241 of the Health and Safety Code. We therefore conclude that the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 241.204 of the Health and Safety Code.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Jaime L. Flores
Assistant Attorney General
Open Records Division

JLF/eb

Ref: ID# 267013

Enc. Submitted documents

c: Ms. Rachel Salinas
615 N. W. Loop 410, Suite 200
San Antonio, Texas 78216
(w/o enclosures)