



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 9, 2009

Ms. Sara Shiplet Waitt  
Texas Department of Insurance  
Senior Associate Commissioner  
Legal and Compliance Division, MC 110-1A  
P.O. Box 149104  
Austin, Texas 78714-9104

OR2009-04752

Dear Ms. Waitt:

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# 339461 (TDI #86721).

The Texas Department of Insurance (the "department") received a request for documentation from a specified complaint pertaining to improper denials as well as the rationale for enforcement of a specified violation.<sup>1</sup> You state that you have released some of the requested information to the requestor, including a redacted version of the Medical Dispute Resolution ("MDR") decision for the investigation at issue. 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 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Section 402.092 of the Labor Code provides confidentiality and exceptions to confidentiality for the investigation files of the Division of Workers' Compensation of the department (the "division"). Section 402.092 provides in relevant part:

- (a) In this section, "investigation file" means any information compiled or maintained by the division with respect to a division investigation under this subtitle or other workers' compensation law.[]

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<sup>1</sup>We note that the department asked for and received clarification regarding this request. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information); *see also* Open Records Decision No. 663 (1999) (discussing tolling of deadlines during period in which governmental body is awaiting clarification).

(b) Information maintained in the investigation files of the division is confidential and may not be disclosed except [in five specified situations].

Labor Code § 402.092(a)-(b). You inform us that the division is required to maintain an investigation unit to conduct investigations under section 414.005 of the Labor Code, and that the Notice of Possible Administrative Violations, the unredacted MDR decision, and MDR cover sheets are maintained in the investigation file of the division.<sup>2</sup> Labor Code § 414.005. Accordingly, the department must withhold the Notice of Possible Administrative Violations, the unredacted MDR decision, and the MDR cover sheets under section 552.101 of the Government Code in conjunction with section 402.092 of the Labor Code.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Adam Leiber  
Assistant Attorney General  
Open Records Division

ACL/jb

Ref: ID# 339461

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup>We note that the redacted version of the MDR decision was released pursuant to section 413.031(c) of the Labor Code.