



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 22, 2009

Ms. Kristina Laurel Hale  
Assistant City Attorney  
City of Laredo  
P.O. Box 579  
Laredo, Texas 78042-0579

OR2009-10186

Dear Ms. Hale:

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# 349688.

The City of Laredo (the "city") received a request for records and communications pertaining to the H1N1 Influenza strain. You claim that the requested 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.

Initially, we note that the requestor has agreed to the redaction of patient names, and you have redacted such information from the submitted documents. Therefore, the redacted patient names are not responsive to the request for information. This ruling does not address the public availability of any information that is not responsive to the request, and the city is not required to release this information in response to this request. However, you have also redacted other patient identifying information from the submitted documents. You do not assert, nor does our review of our records indicate, that you have been authorized to withhold any of the redacted information without seeking a ruling from this office. *See Gov't Code § 552.301(a); Open Records Decision 673 (2000).* Because we can discern the nature of the information that has been redacted, being deprived of this information does not inhibit our ability to make a ruling in this instance. Nevertheless, be advised that a failure to provide this office with requested information generally deprives us of the ability to determine whether information may be withheld and leaves this office with no alternative

other than ordering that the redacted information be released. See Gov't Code §§ 552.301(e)(1)(D) (governmental body must provide this office with copy of "specific information requested" or representative sample), .302.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. This exception encompasses information that other statutes make confidential. You raise section 552.101 in conjunction with section 81.046 of the Health and Safety Code. This section is part of the Communicable Disease Prevention and Control Act, chapter 81 of the Health and Safety Code. See Health & Safety Code § 81.001. Section 81.046 provides in part:

(a) Reports, records, and information received from any source, including from a federal agency or from another state, furnished to a public health district, a health authority, a local health department, or the [Texas Department of State Health Services] 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 [the Act], and may not be released or made public on subpoena or otherwise except as provided by Subsections (c), (d), and (f).

Act of May 1, 1995, 74<sup>th</sup> Leg., R.S., ch. 76, § 5.95(90), 1995 Tex. Gen. Laws 458, 553, amended by Act of May 31, 2009, 81<sup>st</sup> Leg., R.S., S.B. 1171, § 1 (to be codified as an amendment of TEX. HEALTH & SAFETY CODE § 81.046(a)). In Open Records Decision No. 577 (1990), this office concluded that any information acquired or created during an investigation under chapter 81 of the Health and Safety Code is confidential and may not be released unless an exception set out in the statute applies. You state that the submitted information was gathered or created by the city's health department pursuant to the provisions of chapter 81; thus, we agree that section 81.046(b) governs the release of this information. It does not appear that any of the release provisions of section 81.046 are applicable in this instance. Based upon your representations and our review of the submitted information, we agree that the submitted information falls within the purview of section 81.046. Accordingly, the city must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 81.046 of the Health and Safety Code.<sup>1</sup>

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure.

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,



Paige Savoie  
Assistant Attorney General  
Open Records Division

PS/eeg

Ref: ID# 349688

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)