



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 25, 2010

Mr. David M. Swope
Assistant County Attorney
Harris County
1019 Congress, 15th Floor
Houston, Texas 77002

OR2010-01084

Dear Mr. Swope:

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# 368039 (C.A. File No. 09GEN2207).

The Harris County Public Health and Environmental Services Department ("HCPHES") received a request for the following information concerning H1N1 deaths in Harris County: the hospital the person was in when he or she died (if hospitalized), and the city or area of Harris County in which the person lived. You claim the submitted document 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." Gov't Code § 552.101. Section 552.101 encompasses information made confidential by other statutes, such as section 81.046 of the Health and Safety Code, which 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).

Health & Safety Code § 81.046(a), (b). 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 the submitted document was created, collected, and maintained by HCPHES as part of communicable disease reporting required by sections 81.041 and 81.042 of the Health and Safety Code and communicable disease investigations conducted pursuant to sections 81.061 through 81.068 of the Health and Safety Code. You state the Executive Director of HCPHES is the Harris County Health Authority authorized to collect this type of information and conduct these investigations, along with HCPHES employees. You do not indicate any of the release provisions of section 81.046 are applicable in this instance. Accordingly, based upon your representations and our review of the submitted document, we agree HCPHES must withhold the submitted document under section 552.101 of the Government Code in conjunction with section 81.046 of the Health and Safety 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, 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, toll free, at (888) 672-6787.

Sincerely,



Jessica Eales
Assistant Attorney General
Open Records Division

JCE/eeg

Ref: ID# 368039

Enc. Submitted documents

c: Requestor
(w/o enclosures)