



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 31, 2016

Mr. Stanton Strickland  
Deputy Commissioner  
Legal Division  
Texas Department of Insurance  
P.O. Box 149104  
Austin, Texas 78714-9104

OR2016-12301

Dear Mr. Strickland:

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# 612718 (TDI# 170959).

The Texas Department of Insurance (the "department") received a request for the approved form and rate filings for specified health plans.<sup>1</sup> We understand the department will release some information to the requestor. Although you take no position as to whether the submitted information is excepted from disclosure under the Act, you state release of the submitted information may implicate the proprietary interests of Molina Healthcare of Texas, Inc. ("Molina"). Accordingly, you state, and provide documentation showing, you notified Molina of the request for information and of the company's right to submit arguments to this office as to why the submitted information should not be released. *See Gov't Code* § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); *Open Records Decision No. 542 (1990)* (determining statutory predecessor to section 552.305 permits governmental body to rely on

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<sup>1</sup>We note the department sought and received clarification of the information requested. *See Gov't Code* § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

interested third party to raise and explain applicability of exception in certain circumstances). We have reviewed the submitted information.

Initially, we note the requestor only seeks the approved form and rate filings. Accordingly, any other information is not responsive to the request for information. This ruling does not address the public availability of non-responsive information, and the department need not release non-responsive information to the requestor.

An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) of the Government Code to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from Molina explaining why the responsive information should not be released. Therefore, we have no basis to conclude Molina has a protected proprietary interest in the responsive information. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, the department may not withhold the responsive information on the basis of any proprietary interest Molina may have in the information. As no exceptions to disclosure have been raised, the department must release the responsive information.

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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Tim Neal  
Assistant Attorney General  
Open Records Division

TN/bw

Ref: ID# 612718

Enc. Submitted documents

c: Requestor  
(w/o enclosures)