



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 28, 2017

Ms. Barbara L. Klein  
Deputy General Counsel  
Texas Department of State Health Services  
1100 West 49<sup>th</sup> Street, M-525  
Austin, Texas 78756-3199

OR2017-09166

Dear Mr. Harrison:

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# 655308 (DSHS File Nos. 26897 & 26964).

The Texas Department of State Health Services (the "department") received two requests for case reports of maternal death reviewed by the Maternal Mortality and Morbidity Task Force (the "task force").<sup>1</sup> You claim the submitted information is excepted from disclosure under

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<sup>1</sup>We note the department sought and received clarifications 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 over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

section 552.101 of the Government Code.<sup>2</sup> We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>3</sup>

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 34.009 of the Health and Safety Code, which makes confidential information relating to pregnancy-related deaths or severe maternal morbidity. Section 34.009 provides, in relevant part, as follows:

(a) Any information pertaining to a pregnancy-related death or severe maternal morbidity is confidential for purposes of this chapter.

(b) Confidential information that is acquired by the department and that includes identifying information of an individual or health care provider is privileged and may not be disclosed to any person. Information that may not be disclosed under this subsection includes:

(1) the name and address of a patient or a member of the patient’s family;

(2) any service received by the patient or a member of the patient’s family;

(3) the social and economic condition of the patient or a member of the patient’s family;

(4) medical, dental, and mental health care information related to the patient or a member of the patient’s family, including diagnoses, conditions, diseases, or disability; and

(5) the identity of a health care provider that provided any services to the patient or a member of the patient’s family.

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<sup>2</sup>Although the department failed to comply with the requirements of section 552.301 of the Government Code in asking this office for a ruling, we note section 552.101 of the Government Code can provide a compelling reason for not disclosing information to the public. *See* Gov’t Code §§ 552.007, .301, .302. Thus, we will address the applicability of this exception, notwithstanding the department’s violation of section 552.301 in requesting this decision.

<sup>3</sup>We assume the representative sample of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

(c) Task force work product or information obtained by the department under this chapter, including information contained in an electronic database established and maintained under Section 34.012, or any other document or record, is confidential. This subsection does not prevent the task force or department from releasing information described by Subsection (d) or (e) or from submitting the report required by Section 34.015.

...

(g) Information that is confidential under this section is excepted from disclosure under Chapter 552, Government Code, as provided by Section 552.101 of that chapter.

Health & Safety Code § 34.009(a), (b), (c), (g). You state the submitted information consists of case reports, case assessment forms, and medical records pertaining to pregnancy-related deaths and cases of severe maternal morbidity obtained by the department and reviewed by the task force under chapter 34 of the Health and Safety Code. You further state the information at issue is not subject to any of the exceptions to confidentiality provided in section 34.009. *See id.* § 34.009(d), (e). Based on your representations and our review, we conclude the information at issue is confidential under section 34.009. Accordingly, the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 34.009 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.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,



Sidney M. Pounds  
Assistant Attorney General  
Open Records Division

SMP/sdk

Ref: ID# 655308

Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)