



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 31, 2017

Mr. Adam Mata
Staff Attorney
Texas Department of Insurance
Division of Workers' Compensation Counsel
7551 Metro Center Drive, Suite 100
Austin, Texas 78744-1645

OR2017-17085

Dear Mr. Mata:

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# 668906 (TDI# 184143).

The Texas Department of Insurance, Division of Workers' Compensation (the "division") received a request for the identity of a specified anonymous complainant. You claim 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.

Initially, we note the requestor has asked the division to answer a question. The Act does not require a governmental body to answer factual questions, conduct legal research, or create new information in responding to a request. *See* Open Records Decision Nos. 563 at 8 (1990), 555 at 1-2 (1990). However, a governmental body must make a good faith effort to relate a request to information held by the governmental body. *See* Open Records Decision No. 561 at 8 (1990). We assume the division has made a good faith effort to do so.

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 section 402.092 of the Labor Code, which provides confidentiality and exceptions to confidentiality for the investigation files of the division. Section 402.092 provides, in relevant part:

(b) Information maintained in the investigation files of the division is confidential and may not be disclosed except:

(1) in a criminal proceeding;

(2) in a hearing conducted by the division;

(3) on a judicial determination of good cause;

(4) to a governmental agency, political subdivision, or regulatory body if the disclosure is necessary or proper for the enforcement of the laws of this or another state or of the United States; or

(5) to an insurance carrier if the investigation file relates directly to a felony regarding workers' compensation or to a claim in which restitution is required to be paid to the insurance carrier.

(c) Division investigation files are not open records for purposes of [the Act].

(d) Information in an investigation file that is information in or derived from a claim file, or an employer injury report or occupational disease report, is governed by the confidentiality provisions relating to that information.

Labor Code § 402.092(b)–(d). For purposes of section 402.092, an investigation file is “any information compiled or maintained by the division with respect to a division investigation authorized under this subtitle or other workers’ compensation law [but] does not include information or material acquired by the division that is relevant to an investigation by the insurance fraud unit and subject to Section 701.151, Insurance Code.” *Id.* § 402.092(a).

You state the requested information is related to an investigation of a workplace safety violation report. You state the division investigates reports from workers who believe a violation of workplace safety laws has occurred. You explain the division investigates these reports pursuant to its authority under the Texas Workers’ Compensation Act. Based on these representations and our review, we conclude the division must withhold the requested information 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.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,

A handwritten signature in black ink, appearing to read "Ramsey Abarca", with a long horizontal flourish extending to the right.

Ramsey Abarca
Assistant Attorney General
Open Records Division

RAA/bw

Ref: ID# 668906

Enc. Submitted documents

c: Requestor
(w/o enclosures)