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ATTORNEY GENERAL OF TEXAS

September 22, 2017

Mr. Sharbel Sfeir
Assistant General Counsel
Office of the General Counsel
Texas Department of Criminal Justice
P. O. Box 4004
Huntsville, Texas 77342-4004

OR2017-21788

Dear Mr. Sfeir:

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# 677257 (TDCJ# AL0056).

The Texas Department of Criminal Justice (the "department") received a request for policies, procedures, and information pertaining to a named employee. You state you have released some of the requested information. 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.

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 of the Government Code encompasses section 412.0128 of the Labor Code, which provides "[i]nformation in or derived from a workers' compensation claim file regarding an employee . . . is confidential and is exempt from disclosure under Chapter 552, Government Code, and may not be disclosed by the [State Office of Risk Management (the "SORM")] except as provided by Subsection (b), other provisions of this subchapter, or other law." Labor Code § 412.0128. We note the relevant language of section 412.0128 is substantially similar to section 402.083 of the Labor Code, which provides that "[i]nformation in or derived from a claim file regarding an employee is confidential and may not be disclosed by the [Division of Workers' Compensation of the Texas Department of Insurance (the "division")] except as provided by this subtitle or other law." *Id.* § 402.083(a). In Open Records Decision No. 533 (1989), this office construed the predecessor to section 402.083(a) to apply only to information the governmental body obtained from the Industrial Accident Board, subsequently the Texas Workers'

Compensation Commission, and now the division. *See* Open Records Decision No. 533 at 3-6; *see also* Labor Code § 402.086 (transferring confidentiality conferred by section 402.083(a) of the Labor Code to information other parties obtain from division files). Accordingly, for purposes of section 402.083(a), information that was not obtained from the division may not be withheld on that basis. Further, this office has interpreted section 402.083 to protect only that “information in or derived from a claim file that explicitly or implicitly discloses the identity of employees who file workers’ compensation claims.” Open Records Decision No. 619 at 10 (1993). However, we also have stated “[w]hether specific information implicitly discloses the identity of a particular employee must be determined on a case-by-case basis.” *Id.* We will apply the same analysis in applying section 412.0128 to the information at issue.

The department states, and the documentation reflects, the submitted information was obtained from the SORM. Therefore, we conclude any information that explicitly or implicitly identifies a workers’ compensation claimant must be withheld from disclosure under section 552.101 of the Government Code in conjunction with section 412.0128 of the Labor Code. *Cf.* Labor Code § 402.083; ORD 619 at 10. In this instance, because the requestor seeks information pertaining to a named individual’s compensation file, the release of any information obtained from the SORM would disclose the identity of a workers’ compensation claimant. As a result, the information at issue is confidential under section 412.0128. Accordingly, the department must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with section 412.0128 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,



Melanie J. Villars
Assistant Attorney General
Open Records Division

AML/eb

Ref: ID# 677257

Enc. Submitted documents

c: Requestor
(w/o enclosures)