



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 14, 2019

Ms. Jennifer Nguyen
Assistant General Counsel
Division of Workers' Compensation
Texas Department of Insurance
7551 Metro Center Drive, Suite 100
Austin, Texas 78744-1645

OR2019-12863

Dear Ms. Nguyen:

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# 765408 (TDI #R003567).

The Texas Department of Insurance ("TDI") received a request for five particular categories of research data from a specified period of time. TDI claims the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception and reviewed the submitted representative sample of information.¹ We have also received and considered comments submitted by the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit written comments regarding why information should or should not be released).

¹We assume that 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.

Initially, we note some of the submitted information is not responsive to the present request because it does not pertain to any of the categories of data requested by the requestor. This ruling does not address the public availability of the non-responsive information, and TDI need not release it in response to this request.²

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” *Id.* § 552.101. This section encompasses section 405.004(e) of the Labor Code, which reads as follows:

A working paper, including all documentary or other information, prepared or maintained by the [worker’s compensation research and evaluation group (the “group”)] in performing the group’s duties under this chapter or other law to conduct an evaluation and prepare a report is excepted from the public disclosure requirements of Section 552.021, Government Code.”

Labor Code § 405.004(e). TDI states the responsive information is part of a working paper prepared and maintained by the group to conduct an evaluation of workers’ compensation claims and prepare the report at issue. TDI also states the group performed these duties under the statutory authority of chapter 405 of the Labor Code. Based on these representations, we agree TDI must withhold the responsive information under section 552.101 of the Government Code in conjunction with section 405.004(e) of the Labor Code.³

Finally, you request that this office issue a “previous determination” that would permit TDI in the future to withhold from disclosure information pertaining to working papers by the group without the need of requesting a ruling from us about whether such information can be withheld from disclosure. We decline to issue such a previous determination at this time. Accordingly, 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

²As we are able to make this determination, we need not address the arguments against disclosure of this information.

³As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

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 "Erin Groff". The signature is fluid and cursive, with the first name "Erin" written in a larger, more prominent script than the last name "Groff".

Erin Groff
Assistant Attorney General
Open Records Division

EMG/jxd

Ref: ID# 765408

Enc. Submitted documents

c: Requestor
(w/o enclosures)