



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 6, 2019

Mr. Jonathan Miles  
Open Records Attorney  
Department of State Health Services  
P.O. Box 13247  
Austin, Texas 78711-3247

OR2019-15015

Dear Mr. Miles:

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# 769513 (DSHS Ref. No. 8850).

The Department of State Health Services (the "department") received a request for documents submitted to the department by a specified third party for two specified hospitals. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. In addition, you state the release of the submitted information may implicate the proprietary interests of Methodist Health System ("Methodist"). Accordingly, you state, and provide documentation showing, the department notified Methodist of the request for information and of its right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have received comments from Methodist. We have reviewed the submitted arguments and the submitted information.

Initially, we note some of the submitted information, which we have marked, is not responsive to the instant request for information because it does not pertain to the specified hospitals. This ruling does not address the public availability of any information that is not responsive to the request and the department is not required to release such information in response to this request.

Section 552.101 of the Government Code excepts from public disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This section encompasses information protected by other statutes, including chapter 241 of the Health and Safety Code, which governs the licensing of hospitals. Section 241.183 of the Health and Safety Code requires hospitals with neonatal and maternal level of care designations to provide certain information to the department as required or requested. *See* Health & Safety Code § 241.183(d). In addition, section 241.184 provides, in pertinent part:

(a) All information and materials submitted by a hospital to the department under Section 241.183(d) are confidential and:

(1) are not subject to disclosure under [the Act], or discovery, subpoena, or other means of legal compulsion for release to any person[.]

*Id.* § 241.184(a). You state the submitted responsive information was provided to the department pursuant to section 241.183 of the Health and Safety Code. Based on your representation and our review, we conclude the submitted responsive information is confidential and must be withheld under section 552.101 of the Government Code in conjunction with section 241.184(a) of the Health and Safety Code.<sup>1</sup>

In addition, you ask this office to issue a previous determination permitting the department to withhold information submitted to the department pursuant to section 241.183(d) of the Health and Safety Code under section 552.101 of the Government Code in conjunction with section 241.184(a) of the Health and Safety Code without the necessity of requesting a decision from this office. *See* Gov’t Code § 552.301(a) (allowing governmental body to withhold information subject to previous determination); Open Records Decision No. 673 (2001). 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.

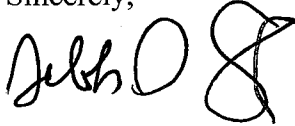
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

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<sup>1</sup>As our ruling is dispositive, we need not address the remaining arguments against disclosure of the submitted 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 'Deborah Southerland', with a stylized flourish at the end.

Deborah Southerland  
Attorney  
Open Records Division

DS/mo

Ref: ID# 769513

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Third Party  
(w/o enclosures)