



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 12, 2019

Ms. Ana Vieira Ayala
Assistant General Counsel
The University of Texas System
210 West 7th Street
Austin, Texas 78701

OR2019-15702

Dear Ms. Ayala:

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# 769301 (OGC# 189749).

The University of Texas Medical Branch at Galveston (the "university") received a request for information pertaining to a specified chicken pox outbreak and communications including specified key words sent between the university and specified entities during a certain time period. You state the university has redacted information pursuant to Open Records Letter No. 2016-13184A (2016).¹ You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. You also state you notified interested third parties, including the United States Department of Justice and El Paso County, of the request and their right to submit arguments to this office.² *See Gov't Code*

¹Open Records Letter No. 2016-13184A is a previous determination issued to the university authorizing it to withhold individuals' protected health information under section 181.006 of the Health and Safety Code without seeking a ruling from this office. *See* Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301 (a) of the Government Code).

²As of the date of this ruling, we have not received comments from El Paso County.

§ 552.304 (providing that interested party may submit written comments regarding why information should or should not be released). We have received comments from the United States Marshals Service of the United States Department of Justice. We have considered the submitted arguments and reviewed the submitted representative sample of information.³

Section 552.101 of the Government Code exempts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” *Id.* § 552.101. Section 552.101 encompasses information other statutes make confidential, such as section 81.046(b) of the Health and Safety Code, which provides as follows:

(b) Reports, records, and information relating to cases or suspected cases of diseases or health conditions are not public information under [the Act], and may not be released or made public on subpoena or otherwise except as provided by Subsections (c), (d), and (f).

Health & Safety Code § 81.046(b). In Open Records Decision No. 577 (1990), this office concluded any information acquired or created during an investigation under chapter 81 of the Health & Safety Code is confidential and may not be released unless an exception set out in the statute applies. *See* ORD 577; Health & Safety Code § 81.046(b)-(d), (f). You state the submitted information relates to a case or suspected case of a contagious disease; thus, section 81.046 governs the release of the information at issue. You state none of the release provisions of section 81.046 are applicable. Accordingly, the university must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 81.046(b) of the Health & Safety Code.⁴

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

³We 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.

⁴As our ruling is dispositive, we need not address the remaining arguments against disclosure.

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 that reads "Emily Kunst". The signature is written in a cursive, flowing style.

Emily Kunst
Assistant Attorney General
Open Records Division

EK/be

Ref: ID# 769301

Enc. Submitted documents

c: Requestor
(w/o enclosures)