



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 17, 2004

Ms. Carol Longoria
Public Information Coordinator
The University of Texas System
210 West Seventh Street
Austin, Texas 78701

OR2004-10716

Dear Ms. Longoria:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 215159.

The University of Texas Health Science Center at Houston (the "university") received a request for "a copy of the records showing the privilege(s) and scope of privileges granted" to a named individual. You claim that the requested information may be 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" and encompasses information made confidential by other statutes. Section 261.051 of the Occupations Code provides in relevant part:

(a) Except as otherwise provided by this chapter:

- (1) a dental peer review committee's proceedings and records are confidential; and
- (2) communications made to a dental peer review committee are privileged.

Occ. Code § 261.051(a). Section 261.001(2) defines a “dental peer review committee” as “a review, judicial, or grievance committee of a dental association authorized to evaluate the quality of dental services or the competence of dentists.” You state that the requested records are maintained by “the University’s Dental Branch Credentialing Committee (“DBCC”) which is a dental peer review committee as defined by section 261.001(2)[.]” Furthermore, you inform us that the “purpose of the University’s DBCC is to review documents submitted by practitioners requesting clinical privileges and to confirm that the requesting individual has supplied evidence of appropriate formal training.” Thus, we find that the DBCC is a dental peer review committee as defined under section 261.001(2). You do not advise us, and we are not aware, of any other provision of chapter 261 under which the records in question are subject to disclosure. Accordingly, the submitted information in Tab 5 must be withheld under section 552.101 in conjunction with section 261.051 of the Occupations Code.¹

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body’s intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general’s Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

¹ As our ruling is dispositive, we do not address your other arguments.

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Debbie K. Lee
Assistant Attorney General
Open Records Division

DKL/seg

Ref: ID# 215159

Enc. Submitted documents

c: Mr. Jackson Leeds
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Baldwin, New York 11510
(w/o enclosures)