



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 6, 2009

Ms. Lois A. Wischkaemper
Senior Vice President and General Counsel
UMC Health System
602 Indiana Avenue
Lubbock, Texas 79415

OR2009-02947

Dear Ms. Wischkaemper:

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# 337329.

The Lubbock County Hospital District d/b/a UMC Health System (the "district") received a request for "the current agreement for orthopedic trauma implants and implant systems." You take no position with respect to the public availability of the requested information, but believe that the request may implicate the proprietary interests of Synthes. Accordingly, you notified Synthes of this request for information and of its right to submit arguments to this office as to why the 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 reviewed the submitted information.

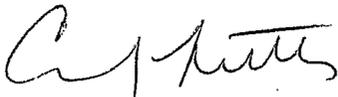
An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this decision, Synthes has not submitted to this office any reasons explaining why its submitted information should not be released. Therefore, Synthes has failed to provide us with any basis to conclude that it has a protected proprietary interest in any of the submitted information. *See* Open Records Decision Nos. 661 at 5-6

(1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, we conclude that the district may not withhold any portion of the submitted information on the basis of any proprietary interest Synthes may have in the information. As you raise no exceptions to disclosure of the requested information, the information must be released to the requestor.

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/jb

Ref: ID# 337329

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Ms. Joan Vagnoni
Synthes
1301 Goshen Parkway
West Chester, Pennsylvania 19380
(w/o enclosures)