



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 10, 2010

Mr. James Downes
Assistant County Attorney
Harris County
2525 Holly Hall, Suite 190
Houston, Texas 77054

OR2010-08473

Dear Mr. Downes:

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# 382376 (CA File No. 10HSP0201).

The Harris County Hospital District (the "district") received a request for documents pertaining to the following subjects during a specified time period: 1) the district's policies and procedures for Baylor College of Medicine ("BCM") physicians working in district facilities to obtain credentialing and/or re-credentialing for such work; 2) communication between the district and BCM regarding the credentialing and/or re-credentialing of Dr. Esther Perez; 3) communication between the district and Dr. Esther Perez regarding her credentialing and/or re-credentialing; and 4) communications transmitted or received from Dr. Zishan Samiuddin regarding Dr. Esther Perez. You state you have released some information to the requestor. You claim the submitted documents are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted documents.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses information protected by other statutes, including section 160.007 of the Occupations Code, which provides in part:

(a) Except as otherwise provided by this subtitle, each proceeding or record of a medical peer review committee is confidential, and any communication made to a medical peer review committee is privileged.

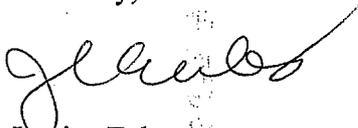
Occ. Code § 160.007(a). "Medical peer review" is defined by the Medical Practice Act, found at subtitle B of title 3 of the Occupations Code, as "the evaluation of medical and health care services, including evaluation of the qualifications and professional conduct of professional health care practitioners and of patient care provided by those practitioners." *Id.* § 151.002(a)(7). "Medical peer review" involves, among other things, the process known as "credentialing," which is the granting or retention of a doctor's hospital privileges. *See St. Luke's Episcopal Hosp. v. Agbor*, 952 S.W.2d 503, 505 (Tex. 1997). A medical peer review committee is "a committee of a health care entity . . . or the medical staff of a health care entity, that operates under written bylaws approved by the policy-making body or the governing board of the health care entity and is authorized to evaluate the quality of medical and health care services or the competence of physicians[.]" *Id.* § 151.002(a)(8).

You state the submitted documents were obtained by the district's credentials committee, which you state is a committee of the medical staff of the district that is authorized to evaluate the competence of physicians. You assert, and we agree, this committee meets the definition of a medical peer review committee under section 151.002(8) of the Occupations Code. You indicate the information at issue was submitted to the credentials committee for the purpose of credentialing or re-credentialing Dr. Perez. Based on your representations and our review, we agree the submitted documents are confidential records of a medical peer review committee under section 160.007 of the Occupations Code and must be withheld under section 552.101 of the Government Code.

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, toll free, at (888) 672-6787.

Sincerely,



Jessica Eales
Assistant Attorney General
Open Records Division

JCE/eeg

Ref: ID# 382376

Enc. Submitted documents

c: Requestor
(w/o enclosures)