



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 1, 2010

Ms. Nneka C. Egbuniwe
Deputy General Counsel
Parkland Health and Hospital System
5123 Harry Hines Boulevard
Dallas, Texas 75235

OR2010-09725

Dear Ms. Egbuniwe:

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#384998.

The Dallas County Hospital District d/b/a Parkland Health and Hospital System (the "district") received a request for the district's Medical Staff Directory and for the titles, positions, and rank of six named district employees. You claim that the requested information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted information. We have also received and considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

We note, and you acknowledge, that the submitted Medical Staff Directory was previously released to the requestor. The Act does not permit selective disclosure of information to the public. *See id.* §§ 552.007(b), .021; Open Records Decision No. 463 at 1-2 (1987). Information that has been voluntarily released to a member of the public may not subsequently be withheld from another member of the public, unless public disclosure of the information is expressly prohibited by law or the information is confidential under law. *See* Gov't Code § 552.007(a); Open Records Decision Nos. 518 at 3 (1989), 490 at 2 (1988); *but see* Open Records Decision Nos. 579 (1990) (exchange of information among litigants in "informal" discovery is not "voluntary" release of information for purposes of statutory predecessor to Gov't Code § 552.007), 454 at 2 (1986) (governmental body that disclosed information because it reasonably concluded that it had constitutional obligation to do so could still invoke statutory predecessor to Gov't Code § 552.108). Although you seek to withhold the submitted Medical Staff Directory under section 552.103 of the Government Code, that section is a discretionary exception to disclosure that protects a governmental

body's interests and may be waived. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive Gov't Code § 552.103); Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions). As such, section 552.103 neither expressly prohibits the release of information to the public nor makes information confidential under law. Therefore, because the district has previously voluntarily released the submitted Medical Staff Directory, the district may not now withhold this information from the requestor under section 552.103 of the Government Code. Accordingly, as you raise no exception that makes public disclosure of the Medical Staff Directory expressly prohibited by law or confidential, it must be released to the requestor. *But see* Gov't Code § 552.232 (prescribing procedures for response to repetitious or redundant requests for information).

We note that the remaining information at issue was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2010-09585 (2010). As we have no indication that the law, facts, and circumstances on which the prior ruling was based have changed, the district must continue to rely on the ruling as a previous determination. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

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,



Vanessa Burgess
Assistant Attorney General
Open Records Division

VB/dls

Ref: ID#384998

Enc. Submitted documents

c: Requestor
(w/o enclosures)