



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 6, 2011

Ms. Neera Chatterjee
Public Information Coordinator
The University of Texas System
201 West Seventh Street
Austin, Texas 78701-2902

OR2011-06299

Dear Ms. Chatterjee:

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# 416607 (UT OGC# 135449).

The University of Texas Medical Branch at Galveston (the "university") received a request for information relating to a named individual's application to the university. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.111 of the Government Code. We have considered the exceptions 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." Gov't Code § 552.101. This section encompasses information protected by other statutes, such as section 161.032 of the Health and Safety Code, which provides, in relevant part:

(a) The records and proceedings of a medical committee are confidential and are not subject to court subpoena.

...

(c) Records, information, or reports of a medical committee, medical peer review committee, or compliance officer and records, information, or reports

provided by a medical committee, medical peer review committee, or compliance officer to the governing body of a public hospital, hospital district, or hospital authority are not subject to disclosure under [the Act].

Health & Safety Code § 161.032(a), (c). For purposes of this confidentiality provision, a medical committee “includes any committee, including a joint committee, of . . . a hospital [or] a medical organization [or] a university medical school or health science center [or] a hospital district[.]” *Id.* § 161.031(a). Section 161.0315 provides that “[t]he governing body of a hospital, medical organization, university medical school or health science center, . . . [or] hospital district . . . may form . . . a medical committee, as defined by [s]ection 161.031, to evaluate medical and health care services[.]” *Id.* § 161.0315(a).

The precise scope of the “medical committee” provision has been the subject of a number of judicial decisions. *See, e.g., Mem’l Hosp.—The Woodlands v. McCown*, 927 S.W.2d 1 (Tex. 1996); *Barnes v. Whittington*, 751 S.W.2d 493 (Tex. 1988); *Jordan v. Fourth Supreme Judicial Dist.*, 701 S.W.2d 644 (Tex. 1986). These cases establish “documents generated by the committee in order to conduct open and thorough review” are confidential. *Mem’l Hosp.*, 927 S.W.2d at 10; *Jordan*, 701 S.W.2d at 647-48; *Doctor’s Hosp. v. West*, 765 S.W.2d 812, 814 (Tex. App.—Houston [1st Dist.] 1988). This protection extends “to documents that have been prepared by or at the direction of the committee for committee purposes.” *Jordan*, 701 S.W. 2d at 647-48. Protection does not extend to documents “gratuitously submitted to a committee” or “created without committee impetus and purpose.” *Id.*; *see also* Open Records Decision No. 591 (1991) (construing statutory predecessor to Health & Safety Code § 161.032). Additionally, we note section 161.032 does not make confidential “records made or maintained in the regular course of business by a hospital[.]” Health & Safety Code § 161.032(f); *see also Mem’l Hosp.*, 927 S.W.2d at 10 (stating reference to statutory predecessor to section 160.007 of the Occupations Code in section 161.032 is clear signal records should be accorded same treatment under both statutes in determining if they were made in ordinary course of business). The phrase “records made or maintained in the regular course of business” has been construed to mean records that are neither created nor obtained in connection with a medical committee’s deliberative proceedings. *See Mem’l Hosp.*, 927 S.W.2d at 10 (discussing *Barnes*, 751 S.W.2d 493, and *Jordan*, 701 S.W.2d 644).

You explain the university’s school of medicine admissions committee (the “committee”) reviews submitted applications in order to determine which applicants to interview and, ultimately, make offers to join the incoming medical school class. You state the committee’s review is conducted to “uphold[] the [u]niversity’s mission of providing the best healthcare possible and improving health by educating future physicians and preparing graduates for providing primary patient services.” Thus, we agree the committee constitutes a medical committee for the purposes of section 161.032 of the Health and Safety Code. You further explain the submitted information constitutes documents created by and/or for the committee’s review process, and we understand the committee utilizes this information in making its decisions. Upon our review, we determine the submitted information constitutes

confidential records of a medical committee under section 161.032 of the Health and Safety Code and must be withheld from disclosure under section 552.101 of the Government Code.¹

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_or1.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,



Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/em

Ref: ID# 416607

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹As our ruling is dispositive, we need not address your remaining argument for this information.