



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 8, 2015

Ms. Melanie J. Rodney
Assistant County Attorney
Harris County Hospital District
252 Holly Hall, Suite 190
Houston, Texas 77054

OR2015-06676

Dear Ms. Rodney:

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# 559138 (CAO File No. 15HSP0043).

The Harris County Hospital District d/b/a Harris Health System (the "system") received two requests from different requestors for a specific report.¹ The system states it has released some information. The system claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. Additionally, the system states release of this information may implicate the interests of the American College of Surgeons and Baylor College of Medicine. Accordingly, the system states, and provides documentation showing, it notified these third parties of the requests for information and of their right to submit arguments to this office as to why the information at issue should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor

¹We note the system sought and received clarification of the requests. *See* Gov't Code § 552.222(b) (providing that if request for information is unclear, governmental body may ask requestor to clarify the request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

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 received comments from the American College of Surgeons and Baylor College of Medicine. We have considered the submitted arguments 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. Section 552.101 encompasses 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].

...

(f) This section and Subchapter A, Chapter 160, Occupations Code, do not apply to records made or maintained in the regular course of business by a hospital, health maintenance organization, medical organization, university medical center or health science center, hospital district, hospital authority, or extended care facility.

Health & Safety Code § 161.032(a), (c), (f). 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 in relevant part 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 section 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., Memorial 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 that “documents generated by the committee in order to conduct open and thorough review” are confidential. 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.* at 648; *see also* Open Records Decision No. 591 (1991) (construing, among other statutes, statutory predecessor to section 161.032).

The system states its Trauma Program/Performance Improvement and Patient Safety Committee (“Trauma Program PIC”) is a medical committee whose purpose is to ensure the provision of quality care to the trauma patient that meets or exceeds the standards established by, among other groups, the American College of Surgeons. The system explains that in “monitoring and evaluating trauma care and all activities across the care continuum that relate to the trauma patient,” the Trauma Program PIC “collects data from various sources for review by Trauma Program PIC key members, “utiliz[ing] indicators and audit filters” to then analyze this data. Based on these representations, we agree the Trauma Program PIC is a “medical committee” for purposes of section 161.031. Further, the system explains the report at issue was compiled and created by the American College of Surgeons for the Trauma Program PIC in furtherance of committee services. Therefore, we conclude the system must withhold the submitted information under section 552.101 in conjunction with section 161.032 of the Health and Safety Code.²

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Rahat Huq
Assistant Attorney General
Open Records Division

RSH/dls

²As our ruling is dispositive, we need not address the remaining arguments against disclosure.

Ref: ID# 559138

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)

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