



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 13, 2015

Ms. Cynthia G. Tynan  
Attorney and Public Information Coordinator  
Office of the General Counsel  
The University of Texas System  
201 West Seventh Street  
Austin, Texas 78701-2902

OR2015-16751

Dear Ms. Tynan:

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# 575295 (OGC# 162073).

The University of Texas Medical Branch at Galveston (the "university") received a request for specified survey reports sent by the Liaison Committee on Medical Education (the "LCME"). You state you will redact some information pursuant to the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g.<sup>1</sup> You claim the remaining information is excepted from disclosure under section 552.101 of the Government Code. You also state, and provide documentation showing, you notified the LCME of the request for information and of its right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in certain circumstances). You state, and provide correspondence from an attorney for the LCME showing, the LCME will not object to the release of the information at issue. We have received and considered comments submitted

---

<sup>1</sup>The United States Department of Education Family Policy Compliance Office (the "DOE") has informed this office FERPA does not permit state and local educational authorities to disclose to this office, without parental consent, unredacted, personally identifiable information contained in education records for the purpose of our review in the open records ruling process under the Act. The DOE has determined FERPA determinations must be made by the educational authority in possession of the education records. We have posted a copy of the letter from the DOE to this office on the Attorney General's website: <http://www.oag.state.tx.us/open/20060725usdoe.pdf>.

by the requestor. See Gov't Code § 552.304 (providing that interested party may submit written comments regarding why information should or should not be released). We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code exempts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. Section 552.101 encompasses information protected by other statutes, such as section 161.032 of the Health and Safety Code, which provides in 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 . . . and records, information, or reports provided by a medical committee . . . to the governing body of a public hospital . . . are not subject to disclosure under Chapter 552, Government Code.

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 medical organization[.]" *Id.* § 161.031(a)(2). Section 161.0315 provides in relevant part that "[t]he governing body of a . . . medical organization . . . 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).

You explain the LCME is a national organization responsible for accrediting medical education programs. You state the submitted information was created by the LCME for committee purposes upon the LCME's most recent evaluation of the university's medical education program. You inform us the LCME develops and sets the standards for medical school education programs and monitors these programs for compliance. You also state the LCME makes regular evaluations of existing medical programs to determine whether the programs are in compliance with established standards. The requestor argues the LCME is not a medical committee for the purposes of section 161.032. Based on your arguments and

after careful consideration of the requestor's comments, we find the LCME is a medical committee for purposes of subchapter D of chapter 161 of the Health and Safety Code. *See* Health & Safety Code § 161.031(c); *see also Humana Hosp. Corp. v. Spears-Petersen*, 867 S.W.2d 858 (Tex. App.—San Antonio 1993, no pet.) (finding Joint Commission on Accreditation of Healthcare Organizations is medical committee under section 161.031(a)(2) and its accreditation report of hospital is confidential under section 161.032). Therefore, the submitted information is confidential under section 161.032 of the Health and Safety 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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](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,



Mili Gosar  
Assistant Attorney General  
Open Records Division

MG/akg

Ref: ID# 575295

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Ms. Barbara Barzansky  
Liaison Committee on Medical Education  
330 North Wabash Avenue, Suite 39300  
Chicago, Illinois 60611-5885  
(w/o enclosures)