



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 21, 2015

Ms. Ana Viera Ayala
Senior Attorney & Public Information Coordinator
Office of General Counsel
University of Texas System
201 West Seventh Street
Austin, Texas 78701-2902

OR2015-19689

Dear Ms. Ayala:

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# 579879 (OGC# 162867).

The University of Texas at Austin (the "university") received a request for all records concerning the deficiencies or weaknesses cited by the Liaison Committee on Medical Education ("LCME") concerning the preliminary accreditation of the Dell Medical School. You claim the submitted information is excepted from disclosure under sections 552.101, 552.107, and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

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, such as section 161.032 of the Health and Safety Code, which provides in part:

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

(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 responsive information pertains to three separate medical committees: the LCME; the Undergraduate Medical Education Executive Committee (the “UME EC”); and an *ad hoc* committee comprised of university, University of Texas System (the “system”), and Seton Healthcare (“Seton”) employees and officials. You state the LCME is a national organization responsible for accrediting medical education programs. You state some of 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 state the UME EC approves and manages all aspects of medical school curriculum, makes recommendations on areas of education philosophy and policy, monitors the quality of educational programs, and ensures fulfillment of educational objectives. Finally, you state the *ad hoc* committee was formed to address the initial LCME preliminary accreditation by revising portions of the Affiliation Agreement between the university, the system, and Seton. You inform us the Affiliation Agreement outlines how faculty members, residents, and students of the Dell Medical School will work, train, and learn at Seton facilities.

Based on your arguments, we find the LCME, the UME EC, and the *ad hoc* committee are medical committees 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.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,



Abigail T. Adams
Assistant Attorney General
Open Records Division

ATA/akg

Ref: ID# 579879

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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