



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 30, 2015

Ms. Taylor Cooper
Assistant County Attorney
Harris County
2525 Holly Hall, Suite 190
Houston, Texas 77054

OR2015-20525

Dear Ms. Cooper:

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# 583799 (CA File No. 15HSP0557).

The Harris County Hospital District d/b/a Harris Health System (the "system") received a request for (1) any evidence used to support a disciplinary action against the requestor; (2) all of the requestor's performance evaluations and appraisals; and (3) any witness statements used to support a pending disciplinary action against the requestor. You state the system has released some responsive information. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception 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. Section 552.101 encompasses section 161.032 of the Health and Safety Code, which provides, in part:

(c) Records, information, or reports of a . . . compliance officer and records, information, or reports provided by a . . . compliance officer to the governing body of a public hospital, hospital district, or hospital authority are not subject to disclosure under [the Act].

...

(e) The records, information, and reports received or maintained by a compliance officer retain the protection provided by this section only if the

records, information, or reports are received, created, or maintained in the exercise of a proper function of the compliance officer as provided by the Office of Inspector General of the United States Department of Health and Human Services.

(f) This section . . . do[es] not apply to records made or maintained in the regular course of business by a hospital, [or] hospital district[.]

Health & Safety Code § 161.032(c), (e)–(f). The system states the submitted information consists of records, information, and reports received, created, or maintained by the system's corporate compliance officer through the system's Fraud, Abuse, and Wrongdoing hotline. The system states the information at issue is promptly relayed to the system's corporate compliance department for investigation of the reported incidents pursuant to the system's compliance program. The system explains the submitted information was created for and is part of the compliance file for the complaint at issue and is not maintained in the regular course of business. *Cf. Texarkana Mem'l Hosp., Inc. v. Jones*, 551 S.W.2d 33, 35 (Tex. 1977) (defining records made or maintained in regular course of business). Based on the system's representations and our review, we conclude the submitted information consists of records, information, or reports of a compliance officer acting under subchapter D of chapter 161 of the Health and Safety Code. Therefore, the system must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 161.032 of the Health and Safety 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, 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,



Brian E. Berger
Assistant Attorney General
Open Records Division

BB/akg

Ref: ID# 583799

Enc. Submitted documents

c: Requestor
(w/o enclosures)