



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 13, 2015

Mr. Michael R. Crowe
Counsel for CommUnityCare
Husch Blackwell
111 Congress Avenue, Suite 1400
Austin, Texas 78701

OR2015-23893

Dear Mr. Crowe:

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# 587213.

Central Texas Community Health Centers d/b/a CommUnityCare ("CommUnityCare"), which you represent, received a request for (1) the requestor's medical records; and (2) all other information pertaining to the requestor. You state you have released the requested medical records. You argue CommUnityCare is not a governmental body subject to the Act. In the alternative, you claim the submitted information is excepted from disclosure under section 552.152 of the Government Code. We have considered your arguments and reviewed the submitted information.¹ We have also received and considered comments submitted by

¹We note we asked CommUnityCare to provide additional information pursuant to section 552.303 of the Government Code. *See* Gov't Code § 552.303(c)-(d) (if attorney general determines that information in addition to that required by section 552.301 is necessary to render decision, written notice of that fact shall be given to governmental body and requestor, and governmental body shall submit necessary additional information to attorney general not later than seventh calendar day after date of receipt of notice). We have received and considered the correspondence sent by CommUnityCare pursuant to that request.

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).

You assert CommUnityCare is not a governmental body subject to the Act. The Act defines "governmental body" in pertinent part as

the part, section, or portion of an organization, corporation, commission, committee, institution, or agency that spends or that is supported in whole or in part by public funds[.]

Id. § 552.003(1)(A)(xii). "Public funds" means "funds of the state or of a governmental subdivision of the state." *Id.* § 552.003(5). The Texas Supreme Court has defined "'supported in whole or part by public funds' to include only those private entities or their sub-parts sustained, at least in part, by public funds, meaning they could not perform the same or similar services without the public funds." *Greater Houston P'ship v. Paxton*, No. 468 S.W.3d 51, 63 (Tex. 2015). Thus, section 552.003(1)(A)(xii) encompasses only those private entities that are dependent on public funds to operate as a going concern, *see id.* at 61, and only those entities acting as the functional equivalent of the government, *see id.* at 62.

CommUnityCare informs us it is a nonprofit corporation and healthcare provider. CommUnityCare states approximately 55% of its funding is from non-public funds. CommUnityCare represents it does not depend on public dollars to operate and states it has a budget from other sources of revenue that is sufficient to maintain operations. Thus, CommUnityCare asserts without the federal and state grants, it would continue to operate as a going concern. Upon review of your representations, we find CommUnityCare is not sustained by public funds. *See id.* at 63. Therefore, we conclude CommUnityCare is not supported in whole or part by public funds and does not fall within the definition of a "governmental body" under section 552.003(1)(A)(xii) of the Government Code' thus, CommUnityCare is not subject to the Act. Accordingly, CommUnityCare need not respond to the request for information.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/>

²As we are able to make this determination, we do not address your remaining argument.

[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,

A handwritten signature in black ink that reads "Mili Gosar". The signature is written in a cursive, flowing style.

Mili Gosar
Assistant Attorney General
Open Records Division

MG/akg

Ref: ID# 587213

Enc. Submitted documents

c: Requestor
(w/o enclosures)