



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 31, 2016

Ms. Ana Vieira Ayala  
Office of General Counsel  
The University of Texas System  
201 West Seventh Street, Suite 600  
Austin, Texas 78701-2901

OR2016-12354

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# 612113 (OGC# 168273).

The University of Texas Health Science Center at Houston (the "university") received two requests for information pertaining to faculty membership and the chairpersons of specified departments, all fees billed and work "RVUs" generated by a named individual, and the principal investigators and awards for all grants issued by the Texas Department State Health Services during a specified time period. You state you will release some information. You also state you do not have some of the requested information.<sup>1</sup> 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. This section encompasses information protected by other statutes, such as section 161.032 of the Health and Safety Code, which provides, in relevant part:

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<sup>1</sup>The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

(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].

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 university medical school or health science center.” *Id.* § 161.031(a)(3). Section 161.0315 provides in relevant part that “[t]he governing body of a . . . university medical school or health science center . . . 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., Mem’l 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 “documents generated by the committee in order to conduct open and thorough review” are confidential. *Mem’l Hosp.*, 927 S.W.2d at 10; *Jordan*, 701 S.W.2d at 647-48; *Doctor’s Hosp. v. West*, 765 S.W.2d 812, 814 (Tex. App—Houston [1st Dist.] 1988, no writ). 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.*; *see also* Open Records Decision No. 591 (1991) (construing statutory predecessor to Health & Safety Code § 161.032).

You state the submitted information consists of information prepared by two medical committees, the university’s Pediatric Billing Compliance Committee (the “PBCC”) and the university’s Pediatric Faculty Promotions Committee (the “PFPC”). You state the PBCC reviews the outcomes of audits of faculty billing practices and addresses any issues pertaining to billing practices of individual faculty members. You also inform us the PFPC “review[s] the qualifications and credentials of faculty being proposed for promotions to determine whether they meet the qualifications for promotions.” Based on your arguments and our review, we find the PBCC and the PFPC are medical committees for purposes of subchapter D of chapter 161 of the Health and Safety Code. *See* Health & Safety Code § 161.031(c). Thus, the information at issue consists of records of medical committees. Accordingly, the submitted information is confidential under section 161.032 of the Health and Safety Code and the university must withhold it 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,

A handwritten signature in black ink that reads "Cole Hutchison". The signature is written in a cursive style with a large, prominent "C" at the beginning.

Cole Hutchison  
Assistant Attorney General  
Open Records Division

CH/eb

Ref: ID# 612113

Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)