



THE ATTORNEY GENERAL
OF TEXAS

JIM MATTON
ATTORNEY GENERAL

February 9, 1990

Mr. Ken Quin
Chairman, Board of Directors
Edinburg Hospital
333 W. Freddy Gonzalez Drive
P.O. Box 2000
Edinburg, Texas 78539

Dear Mr. Quin:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 6104; this decision is OR90-061.

Edinburg Hospital received a request for the identities of physicians admitted to staff privileges at the hospital, the amounts of liability insurance carried by each physician, and the names of the physicians' insurance providers.

The hospital requires such proof of insurance from every physician seeking staff privileges at the hospital. Under the bylaws of the Edinburg Hospital Authority, an applicant for staff privileges submits a written application to the administrator of the hospital, who in turn submits it to the Hospital Medical Staff for review and recommendation. The Credentials Committee of the Medical Staff investigates the qualifications of the applicant and makes a recommendation to the Executive Committee to accept, defer, or reject the application. The Executive Committee then refers the application to the Hospital Medical Staff with its recommendation. The bylaws of the Medical and Dental Staff require, as a condition of granting and continuing clinical privileges, that each physician submit documentary proof of medical professional liability insurance either in the form of a "Certificate of Insurance" provided to the practitioner by their insurance carrier or by the completion and notarization of a "Medical and Dental Staff Evidence of Insurance Agreement." It is the information on the certificate of insurance or the evidence of insurance agreement that is sought by the requestor.

The hospital, though willing to provide the names of physicians who have been granted clinical privileges, argues that the specific information concerning the amounts of liability insurance carried by individual physicians and the names of their insurance carriers are excepted from disclosure under section 3(a)(1) of the Open Records Act as information deemed confidential by statutory law, specifically the Medical Practice Act and article 4447d, V.T.C.S. See V.T.C.S. art. 4495b, § 506(g), (j); id. 4447d, § 3.

Section 3(a)(1) of the Open Records Act excepts from disclosure

information deemed confidential by law, either Constitutional, statutory, or by judicial decision.

The hospital claims that the physicians' proof of liability insurance is deemed confidential by section 506(g) and (j) of article 4495b, V.T.C.S., because these sections deem confidential the proceedings and records of a medical review committee and make privileged all communications made to a medical peer review committee.

Section 506(g) states that

all proceedings and records of a medical peer review committee are confidential, and all communications made to a medical peer review committee are privileged.

Section 506(j) states that

Unless disclosure is required or authorized by law, records or determinations of or communications to a medical peer review committee are not subject to subpoena or discovery and are not admissible as evidence in any civil judicial or administrative proceeding without waiver of the privilege of confidentiality executed in writing by the committee.

The hospital claims that the information is part of the records or proceedings of a peer review committee, and thus deemed confidential by this statute.

Section 1.03(9) of article 4495b defines "medical peer review" to include "the evaluation of medical and

health-care services, including evaluation of the qualifications of professional health care practitioners." As part of the evaluative material considered by the peer review committee in making a determination of a physician's right to practice at the hospital, the certificate of insurance and the evidence of insurance agreement are clearly within the ambit of the confidentiality provision of section 5.06 (g) and (j). They need not be disclosed. As we resolve this issue under article 4495b, we do not address your claim that the information at issue is also deemed confidential by article 4447d.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR90-061.

Yours very truly,



David A. Newton
Assistant Attorney General
Opinion Committee

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Ref.: ID# 6104

Enclosures: Documents Sent