



THE ATTORNEY GENERAL  
OF TEXAS

JIM MATTOX  
ATTORNEY GENERAL

July 5, 1990

Mr. J. Kirk Brown  
General Counsel  
Texas Department of Criminal Justice  
P.O. Box 99  
Huntsville, Texas 77342-0099

OR90-275

Dear Mr. Brown:

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# 8523.

You received a request from an inmate for numerous items of information about the medical staff and provision of medical services at the Texas Department of Criminal Justice. He requested a list of 15 items of information and you state that you are concerned about the information described in paragraphs 6, 7, 8, 9, 10, and 15. We assume you have no objection to the release of the other items and you are making them available to the requestor. You claim that the information may be excepted from release pursuant to sections 3(a)(1), 3(a)(11), and 3(a)(17).

We have not received the records in question; however, some of the requested items are confidential by statute and we do not need to examine the records to make that determination.

Item 6 requests the name, title, resident address, and home phone number of the person or persons designated by the Texas State Board of Medical Examiners as responsible for physician and physician assistant professional performance. The home address and telephone number may be withheld pursuant to section 3(a)(17), while the individual's name is open to the public. See V.T.C.S. art. 6252-17a, § 6(2).

Items 8 and 9 ask for attendance records, agenda topics, dates, and recommendations of meetings of the Physician Peer Review Committee and the Psychiatrist Peer Review Committee. Section 5.06(g) of article 4495b, V.T.C.S., the Medical Practices Act, provides in part:

Except as otherwise provided by this Act, all proceedings and records of a medical peer review committee are confidential, and all communications made to a medical peer review committee are privileged.

Thus, the agenda topics and recommendations of the peer review committees are confidential. The attendance records and dates of the meetings are available to the requestor. See generally Open Records Decision No. 336 (1982).

Item 7 requests all reports of incidents under article 6203c-10, V.T.C.S., now recodified as section 500.053 of the Government Code. If the department receives an allegation that a physician employed by or under contract with the department has engaged in conduct constituting a ground for revocation of his license under the Medical Practice Act, the department is required by section 500.053 to report that information to the Texas State Board of Medical Examiners "in the manner provided by Section 4.02 of that Act." Section 4.02 of article 4495b, V.T.C.S., provides that charges against a licensee may be instituted by any person, and that they must be in writing, and on sworn affidavit detailing the nature of the charges.

You have not advised us as to the content of these reports, but they may contain private information protected from disclosure by section 3(a)(1) of the Open Records Act. See, e.g., V.T.C.S. art. 4495b, § 5.08 (physician patient communication). They may also contain information protected by section 3(a)(11) of the Open Records Act. We cannot make this determination unless we see the reports. Accordingly, we request you to send us copies of reports made under section 500.053 of the Government Code, or representative samples, so we can determine how the Open Records Act applies to them. However, if a report or portion of a report were prepared by a peer review committee, it would be confidential under section 5.06(g) of article 4495b, V.T.C.S., and it would not be necessary for us to examine it. Thus, you need not send any section 500.053 reports prepared by a peer review committee. See also V.T.C.S. art. 4995b, § 5.06(c).

Item 10 requests a written description of the duties and powers invested in the the Physician Peer Review Committee, including the name and title of the person the committee submits its recommendations to. We see no basis for withholding this information from disclosure, and we note that you do not object to the release of virtually

identical information described in item 11. See Open Records Decision No. 557 (1990).

Item 15 asks for dates of meetings, attendance records, name and title of members, agenda topics, and minutes of the Infection Control Committee meetings. The names and titles of the members, their attendance records, and dates of the meetings are open to the public. We are unable to determine whether the agenda topics or minutes are excepted from disclosure by section 3(a)(1) or 3(a)(11) of the Open Records Act without examining the records.

Please send the records described by item 7, except for those that were prepared by a peer review committee, and the agenda topics and minutes of the Infection Control Committee meetings described in item 15. If the records are voluminous, you may send representative samples. In addition, state how sections 3(a)(1) and 3(a)(11) of the Open Records Act apply to these records and mark or otherwise identify the records to which these exceptions apply.

Because statutes and prior published open records decisions resolve your request in part, we are dealing with those items with this informal letter ruling rather than with a published open records decision. We will deal with the remaining items in a subsequent ruling. If you have questions about this ruling, please refer to OR90-275.

Yours very truly,



Susan Garrison  
Assistant Attorney General  
Opinion Committee

SG/le

Ref.: ID# 8523

Enclosure: Open Records Decision No. 557; 336

cc: Mike Hodge, Enforcement  
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