



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

June 24, 1996

Mr. Arthur Piacenti  
Assistant County Attorney  
El Paso County Courthouse  
500 E. San Antonio, Room 203  
El Paso, Texas 79901

OR96-1005

Dear Ms. Piacenti:

You have asked this office to reconsider its decision in Open Records Letter No. 95-658 (1995). We have assigned your request ID# 40173.

The R.E. Thomason General Hospital (the "hospital") received two separate open records requests from one requestor. You asked this office for a decision regarding those open records requests, which were combined as ID #33487. However, you did not submit to this office for review records responsive to either request.

Upon our receipt of your first request for a decision, dated May 5, 1995, we asked you to submit copies of the records at issue. Those records were not submitted. When this office received your second request for a decision, dated June 7, 1995, we combined your second request with the first request, and then designated the combined requests as ID #33487.

Based upon your failure to supply this office with copies of the records at issue to review, we informed you that pursuant to section 552.302 of the Government Code, the records at issue were presumed public.<sup>1</sup> We also informed you that this presumption

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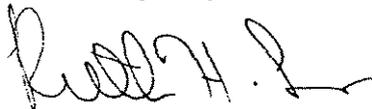
<sup>1</sup>We note that the open records laws were substantially amended by the Seventy-fourth Legislature. Act of May 29, 1995, 74th Leg., R.S., ch. 1035, 1995 Tex. Sess. Law Serv. 5127 (Vernon) (codified as amendments to Gov't Code ch. 552). The amendments to chapter 552 "affecting the availability of information, the inspection of information, or the copying of information, including the costs for copying information, apply only to a request for information that is received by a governmental body on or after September 1, 1995." *Id.* § 26(a), 1995 Tex. Sess. Law Serv. at 5142 (Vernon). A request for information that is received by a governmental body prior to September 1, 1995, is governed by the

could be overcome by a showing that the information at issue is made confidential by law. You have submitted to this office as responsive to the second open records request a report from a consultation review team. You contend that the report at issue is made confidential by law.

We have reviewed the report and agree that it is confidential pursuant to section 161.032(a) of the Health and Safety Code, in conjunction with section 552.101 of the Government Code. Section 552.101 of the Government Code excepts from required public disclosure information considered to be confidential by law. Section 161.032(a) of the Health and Safety Code provides that the records and proceedings of a medical committee are confidential." The consultation review team is a "medical committee" as defined in section 161.031 of the Health & Safety Code, and the report at issue is a record made confidential by section 161.032(a).<sup>2</sup> See *Humana Hosp. Corp., Inc. v. Spears-Petersen*, 867 S.W.2d 858 (Tex. Civ. App. - San Antonio 1993, no writ). As the report is confidential, it may not be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

RHS/ch

Ref.: ID# 40173

Enclosures: Submitted document

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(Footnote continued)

law in effect at the time the request is made. *Id.* The requests at issue were received by the hospital prior to September 1, 1995.

<sup>2</sup>Because we agree that the report at issue is confidential by law, we need not consider your other arguments against disclosure.

cc: Mr. David Crowder  
Reporter  
El Paso Times  
P.O. Box 20  
El Paso, Texas 79999  
(w/o enclosures)