



Office of the Attorney General  
State of Texas

September 17, 1996

DAN MORALES  
ATTORNEY GENERAL

Mr. R. Carlton Presley  
Office of General Counsel  
The University of Texas System  
201 West Seventh Street  
Austin, Texas 78701-2981

OR96-1688

Dear Mr. Presley:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 100610.

The University of Texas at Austin Student Health Center received a request for "any and all documents involving the University of Texas Health Center's investigation into the death of Jennifer Sparrgrove." The requestor states that she understands that medical records cannot be released, but requests the documents related to the investigation. You contend that the responsive document, a committee report, is excepted from required public disclosure by section 552.101 of the Government Code. We have considered the exception you claimed and have reviewed the document at issue.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. You state that the requested document is a record of the Student Health Center's Ad Hoc Peer Review Committee. You claim that the record falls within the scope of section 161.032 of the Health and Safety Code, which makes the "records and proceedings of a medical committee" confidential. Under section 161.031(a) of the Health and Safety Code, a "medical committee" includes any committee of a hospital, medical organization, university medical school or health science center, health maintenance organization, or extended care facility. It includes an ad hoc committee appointed to conduct a specific investigation as well a committee established under the bylaws or rules of the organization. Health & Safety Code § 161.031(b). The records and proceedings of a medical committee are confidential, *id.* § 161.032(a), but the confidentiality does not extend to "records made or maintained in the regular course of business by a hospital." *Id.* § 161.032(c); Open Records Decision No. 591 (1991).

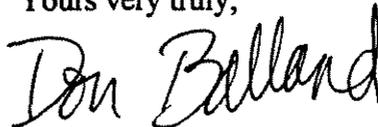
The precise scope of the "medical committee" provision has been the subject of a number of judicial decisions. *Memorial Hospital-The Woodlands v. McCown*, 39 Tex.

Sup. Ct. J. 1021, WL 391189 (July 12, 1996)(orig. proceeding); *Barnes v. Whittington*, 751 S.W.2d 493 (Tex. 1988)(orig. proceeding); *Jordan v. Fourth Supreme Judicial Dist.*, 701 S.W.2d 644 (Tex. 1986)(orig. proceeding); *Hood v. Phillips*, 554 S.W.2d 160 (Tex.1977); *Texarkana Memorial Hosp., Inc. v. Jones*, 551 S.W.2d 33 (Tex. 1977)(orig. proceeding); *McAllen Methodist Hosp. v. Ramirez*, 855 S.W.2d 195 (Tex.App.--Corpus Christi 1993, orig. proceeding), *overruled on other grounds by*, *Memorial Hospital-The Woodlands v. McCown*, 39 Tex. Sup. Ct. J. 1021, WL 391189 (July 12, 1996)(orig. proceeding); *Doctor's Hosp. v. West*, 765 S.W.2d 812 (Tex.App.--Houston [1st Dist.] 1988, orig. proceeding); *Goodspeed v. Street*, 747 S.W.2d 526 (Tex.App.--Fort Worth 1988, orig. proceeding). These cases establish that "documents generated by the committee in order to conduct open and thorough review" are confidential. 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.* at 648.

The Student Health Center's Ad Hoc Peer Review Committee appears to be a "committee of a medical organization," as provided by the statute. And, although it is not identified as such, we presume that the requested document was prepared by or at the direction of the committee for committee purposes. As such, we conclude that the requested document is within the scope of the confidentiality provision. Health & Safety Code § 161.031(a)(2). The Student Health Center must, therefore, withhold the committee report.<sup>1</sup> *Memorial Hosp.*, 39 Tex. Sup. Ct. J. at 1021; Open Records Decision No. 591 (1991). *See also Humana Hosp. Corp. v. Spears-Petersen*, 867 S.W.2d 858, 862 (Tex.App.--San Antonio 1993, orig. proceeding) ("medical committee" status is determined by whether group is organized for purposes contemplated by statute and case law).

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,



Don Ballard  
Assistant Attorney General  
Open Records Division

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<sup>1</sup>ve make a determination under section 161.032 of the Health and Safety Code, we do ment under article 4495b of V.T.C.S.

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Enclosures: Submitted documents

cc: Ms. Heather Janse  
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(w/o enclosures)