



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 19, 1997

Mr. J. Robert Giddings
Office of General Counsel
The University of Texas System
201 West Seventh Street
Austin, Texas 78701-2981

OR97-1860

Dear Mr. Giddings:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 107886.

The University of Texas Medical Branch at Galveston ("UTMBG") received a request for detailed written summaries or correspondence of the institutional Appointment, Promotion and Tenure Committee setting forth the rationale for their negative tenure decision in the requestor's case. You assert that the requested information is excepted from required public disclosure under sections 552.101 and 552.111 of the Government Code. We have considered your arguments and have reviewed the information submitted.

Government Code section 552.101 excepts from public disclosure information that is made confidential by law, including information made confidential by statute. You raise two confidentiality statutes: section 161.032(a) of the Health and Safety Code and section 5.06 of V.T.C.S. article 4495b, the Medical Practice Act. You assert that the submitted information is part of the "records and proceedings of a medical committee" that are made confidential by section 161.032 of the Health and Safety Code.

Health and Safety Code section 161.032 reads as follows:

(a) The records and proceedings of a medical committee are confidential and are not subject to court subpoena.

(b) The records and proceedings may be used by the committee and the committee members only in the exercise of proper committee functions.

(c) This section and Section 5.06, Medical Practices Act (Article 4495b, Vernon's Texas Civil Statutes), do not apply to records made or maintained in the regular course of business by a hospital, health maintenance organization, medical organization, university medical center or health science center, or extended care facility.

Medical committee "records and proceedings" made confidential by section 161.032(a) include documents generated by the committee in order to conduct open and thorough review, as well as documents that have been prepared by or at the direction of the committee for committee purposes. *Memorial Hospital-The Woodlands v. McCown*, 927 S.W.2d 1, 10 (Tex. 1996.). A "medical committee" includes, among other things, any committee, including a joint committee, of a university medical school or health science center. See Health and Safety Code § 161.031(a)(3).

As the documents at issue appears to have been "generated by" and "prepared by or at the direction of" the UTMBG Appointment, Promotion and Tenure Committee as part of its deliberative process, we conclude that the statute applies to these documents. Accordingly, we conclude that UTMBG must withhold the requested information from the requestor based on Government Code section 552.101 in conjunction with Health and Safety Code section 161.032(a).¹

We are resolving this matter with this 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 may 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,



Michael A. Pearle
Assistant Attorney General
Open Records Division

MAP/ch

Ref.: ID# 107886

Enclosures: Submitted documents

cc.: Dr. Brian T. Miller
301 University Blvd.
Galveston, Texas 77555-1043
(w/o enclosures)

¹As we resolve your request under section 552.101, we need not address your claimed exception under section 552.111 at this time.