



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 7, 2006

Ms. Carol Longoria
Office of General Counsel
The University of Texas System
201 West Seventh Street
Austin, Texas 78701-2902

OR2006-05968

Dear Ms. Longoria:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 251045.

The University of Texas Medical Branch at Galveston (the "university") received a request for the minutes of all meetings of the university's Institutional Biosafety Committee since May 1, 2003. You state the you have released a portion of the requested information. You claim that the remaining requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision" and encompasses information that another statute makes confidential. Gov't Code § 552.101. You argue that the submitted information is made confidential under section 161.032 of the Health and Safety Code and is therefore excepted from disclosure under section 552.101. Section 161.032 of the Health and Safety Code provides in part:

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

...

(f) This section . . . do[es] not apply to records made or maintained in the regular course of business by a . . . university medical center or health science center

Health & Safety Code § 161.032(a), (f). For purposes of this confidentiality provision, a “medical committee” includes any committee, including a joint committee, of . . . a university medical school or health science center” Health & Safety Code § 161.031(a). The term “medical committee” also includes “a committee, including a joint committee, of one or more of the entities listed in Subsection (a).” *Id.* § 161.031(c). Section 161.0315 provides in relevant part that “[t]he governing body of a hospital, medical organization, university medical school or health science center, . . . may form . . . a medical committee, as defined by section 161.031, to evaluate medical and health care services” Health & Safety Code § 161.0315(a).

You state that the submitted information contains the minutes of the university’s Biological Safety Committee (“BSC”), a hospital medical committee. Based on your arguments and our review of the information, we find that the BSC is a medical committee for purposes of subchapter D of chapter 161 of the Health and Safety Code. *See* Health & Safety Code § 161.031(a). Therefore, the submitted information is confidential under section 161.032 of the Health and Safety Code and must be withheld under section 552.101 of the Government Code. *See Jordan v. Court of Appeals*, 701 S.W.2d 644, 648 (Tex. 1985) (court found privilege extends to minutes of committee meetings, correspondence between members relating to deliberation process, and any final committee product).

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the

Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Matthew T. McLain
Assistant Attorney General
Open Records Division

MM/eb

Ref: ID# 251045

Enc. Submitted documents

c: Mr. Edward Hammond
The Sunshine Project
P. O. Box 41987
Austin, Texas 78704
(w/o enclosures)