



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 29, 2010

Ms. Nneka C. Egbuniwe  
Deputy General Counsel  
Parkland Health and Hospital System  
5201 Harry Hines Boulevard  
Dallas, Texas 75235

OR2010-09585

Dear Ms. Egbuniwe:

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# 384779.

The Dallas County Hospital District d/b/a Parkland Health and Hospital System (the "district") received a request for (1) the names, ranks, positions, and titles of each medical staff member in the district's Physical Medicine and Rehabilitation Department ("PM&R") and (2) employment or affiliation contracts with eight named individuals. You claim the submitted information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>1</sup> We have also considered comments submitted by the requestor. *See Gov't Code* § 552.304 (providing that interested party may submit comments stating why information should or should not be released).

You first contend that the instant request for information is redundant of other recent requests made to the district by this requestor. Section 552.232 of the Government Code, "Responding to Repetitious or Redundant Requests," provides in part:

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<sup>1</sup>We assume that the representative sample of records submitted to this office is truly representative of the requested records as a whole. *See Open Records Decision* Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

(a) A governmental body that determines that a requestor has made a request for information for which the governmental body has previously furnished copies to the requestor or made copies available to the requestor on payment of applicable charges under Subchapter F, shall respond to the request, in relation to the information for which copies have been already furnished or made available, in accordance with this section[.]

(b) The governmental body shall certify to the requestor that copies of all or part of the requested information, as applicable, were previously furnished to the requestor or made available to the requestor on payment of applicable charges under Subchapter F. The certification must include:

(1) a description of the information for which copies have been previously furnished or made available to the requestor;

(2) the date that the governmental body received the requestor's original request for that information;

(3) the date that the governmental body previously furnished copies of or made available copies of the information to the requestor;

(4) a certification that no subsequent additions, deletions, or corrections have been made to that information; and

(5) the name, title, and signature of the officer for public information or the officer's agent making the certification.

*Id.* § 552.232(a)-(b). You contend that parts of the instant request are repetitious and redundant of previous requests received by the district from this requestor. You state that the district has released its medical staff directory to the requestor in response to a previous request for information. Based on information provided to us by the requestor, we understand that the previously released medical staff directory contains all of the information included in the submitted PM&R roster, with the exception of the PM&R staff members' titles. Therefore, we conclude that upon provision to the requestor of the certification required by section 552.232 of the Government Code, the requestor need not again be provided with any information that the district made available to him in response to his previous requests.<sup>2</sup>

Next, we note that the submitted employment agreement was the subject of a previous request for information, as a result of which this office issued Open Records Letter

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<sup>2</sup>As we are able to make this determination, we need not address your arguments against disclosure of the previously released portions of the submitted PM&R roster.

No. 2010-09346 (2010). In that decision, we ruled that the district must withhold a portion of the employment agreement under section 552.117 of the Government Code and release the remaining information in the agreement. As we have no indication that the law, facts, or circumstances on which the prior ruling was based have changed, the district must continue to rely on Open Records Letter No. 2010-09346 as a previous determination and withhold or release the same information in accordance with the previous determination.<sup>3</sup> See Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

We note the remaining information is subject to section 552.022 of the Government Code, which provides in relevant part as follows:

(a) Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:

....  
(2) the name, sex, ethnicity, salary, title, and dates of employment of each employee and officer of a governmental body[.]

Gov't Code § 552.022(a)(2). In this instance, the remaining information consists of titles of PM&R employees. That information, which we have marked, is subject to subsection 552.022(a)(2) of the Government Code. The district may only withhold the information subject to subsection 552.022(a)(2) if it is confidential under other law. Although you raise section 552.103 of the Government Code for this information, section 552.103 is a discretionary exception to disclosure that protects a governmental body's interests and may be waived. See *id.* § 552.007; *Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions). As such, section 552.103 is not "other law" that makes information confidential for the purposes of section 552.022. Therefore, the district may not withhold any of the remaining information under section 552.103 of the Government Code. As you claim no further exceptions to disclosure of the remaining information, that information must be released to the requestor.

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<sup>3</sup>As we are able to make this determination, we need not address your arguments against disclosure of the submitted employment agreement.

In summary, the district must continue to rely on Open Records Letter No. 2010-09346 as a previous determination and withhold or release the same information in accordance with the previous determination. The district must release the remaining information to the requestor; however, upon provision to the requestor of the certification required by section 552.232 of the Government Code, the requestor need not again be provided with any information that the district made available to him in response to his previous requests for information.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Christopher D. Sterner  
Assistant Attorney General  
Open Records Division

CDSA/eeg

Ref: ID# 384779

Enc. Submitted documents

c: Requestor  
(w/o enclosures)