



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 22, 2010

Ms. Neera Chatterjee  
Public Information Coordinator  
Office of General Counsel  
The University of Texas System  
201 West Seventh Street  
Austin, Texas 78701

OR2010-14370

Dear Ms. Chatterjee:

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# 394520 (UT OGC # 131404).

The University of Texas Southwestern Medical Center at Dallas (the "university") received a request for the following three categories of information: (1) a copy of the Accreditation Council for Graduate Medical Education (the "ACGME") site visitation report for the university's Physical Medicine & Rehabilitation residency program to be sent to the university; (2) all communications in response to actions proposed by the ACGME in that report, including those that will be sent to the ACGME; and (3) all previous ACGME reports and decisions sent to the university regarding site visits from residency departments, certain university communications related to those visits during a specified period, and any proposed changes taken in response to adverse decisions by the ACGME. You claim the submitted information is excepted from disclosure under section 552.101 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 received and considered comments submitted by the

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<sup>1</sup>We assume 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.

requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Initially, the university states it did not have information responsive to categories one and two of the request at the time the request was received. It is implicit in several provisions of the Act that the Act applies only to information already in existence. *Id.* §§ 552.002, .021, .227, .351. Consequently, a governmental body is not required to comply with a standing request to supply information on a periodic basis as such information is prepared in the future. *See* Attorney General Opinion JM-48 at 2 (1983); *see also* Open Records Decision Nos. 476 at 1 (1987), 465 at 1 (1987). Thus, the only information encompassed by this request consists of documents that the university maintained or had a right of access to as of the date that it received the request.

Section 552.101 of the Government Code exempts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes. Section 161.032 of the Health and Safety Code provides in relevant part:

(c) Records, information, or reports of a medical committee [or] medical peer review committee, . . . and records, information, or reports provided by a medical committee [or] medical peer review committee, . . . to the governing body of a public hospital . . . are not subject to disclosure under Chapter 552, Government Code.

...

(f) This section and Subchapter A, Chapter 160, Occupations Code, 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, hospital district, hospital authority, or extended care facility.

Health and Safety Code § 161.032(c), (f). Section 161.031(a) defines a "medical committee" for purposes of subchapter D of chapter 161 to include "any committee . . . of (3) a university medical school or health science center[.]" Health and Safety Code § 161.031(a)(3). Further, section 161.0315 provides that "[t]he governing body of a hospital [or] university medical school or health science center . . . may form a medical peer review committee, as defined by Section 151.002, Occupations Code, or a medical committee, as defined by Section 161.031, to evaluate medical and health care services[.]" *Id.* § 161.0315(a).

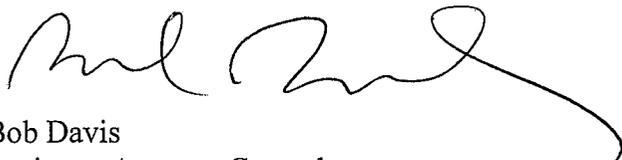
You explain the university has a committee called the "Graduate Medical Education Committee" (the "GMEC"), which assists the residency and fellowship training programs with training issues and reviews all communications submitted to and received from the ACGME regarding accreditation issues. Thus, pursuant to section 161.031(a)(3), the GMEC

is a "medical committee" for purposes of subchapter D. You represent that all the submitted documents are maintained by the GMEC in its function to ensure the university's compliance with ACGME standards. Based on this representation and our review of the information at issue, we find the submitted information consists entirely of the records of a medical committee. You indicate the documents at issue are not made or maintained in the regular course of business. *Cf. Texarkana Mem'l Hosp., Inc. v. Jones*, 551 S.W.2d 33, 35 (Tex. 1977) (defining records made or maintained in regular course of business). Accordingly, the university must withhold the submitted documents under section 552.101 of the Government Code in conjunction with section 161.032 of the Health and Safety Code.

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,



Bob Davis  
Assistant Attorney General  
Open Records Division

RSD/tp

Ref: ID# 394520

Enc. Submitted documents

c: Requestor  
(w/o enclosures)