



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 30, 2010

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

OR2010-19507

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# 404453.

Dallas County Hospital District d/b/a Parkland Health and Hospital System (the "district") received two requests for information related to specified meetings of the Strategic Planning Committee and the Quality and Risk Management Committee. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.¹

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses information protected by other statutes, such

¹We 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.

as Section 161.032 of the Health and Safety Code. Section 161.032 provides, in part, as follows:

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

...

(c) Records, information, or reports of a medical committee, medical peer review committee, or compliance officer and records, information, or reports provided by a medical committee, medical peer review committee, or compliance officer to the governing body of a public hospital, hospital district, or hospital authority are not subject to disclosure under [the Act].

...

(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 & Safety Code § 161.032(a), (c), (f). For purposes of this confidentiality provision, a “medical committee” includes any committee, including a joint committee, of . . . a hospital [or] a medical organization [or] a hospital district[.]” *Id.* § 161.031(a). Section 161.0315 provides in relevant part that “[t]he governing body of a hospital, medical organization [,or] hospital district . . . may form . . . a medical committee, as defined by section 161.031, to evaluate medical and health care services[.]” *Id.* § 161.0315(a).

The precise scope of the “medical committee” provision has been the subject of a number of judicial decisions. *See, e.g., Memorial Hosp.—The Woodlands v. McCown*, 927 S.W.2d 1 (Tex. 1996); *Barnes v. Whittington*, 751 S.W.2d 493 (Tex. 1988); *Jordan v. Fourth Supreme Judicial Dist.*, 701 S.W.2d 644 (Tex. 1986). 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; *see also* Open Records Decision No. 591 (1991) (construing, among other statutes, statutory predecessor to section 161.032).

You argue the submitted information constitutes confidential records of medical committees. You inform us the district’s Board of Managers (the “board”) is appointed by the Dallas County Commissioners Court with the responsibility of managing, controlling, and

administering the district. You state one of the board's responsibilities is "[t]o establish, support, and oversee a system-wide performance improvement program." You inform us that, in furtherance of this duty, the board has established multiple standing committees to make recommendations to the board. Two of these committees are the Quality and Risk Management Committee (the "QRMC") and the Strategic Planning Committee (the "SPC"). You explain the bylaws of the QRMC require it to provide to the board "quarterly reports on performance improvement and quality and risk management activities" and that "these reports will address such issues as clinical safety, compliance, regulatory and accreditation activities." You also explain the bylaws of the SPC require it to "provide oversight in the development of a regional strategy, long range plans, a space and service plan, and a marketing strategy." You have provided these bylaws for our review. Based on your representations and our review of the submitted documents, we find the QRMC and SPC are medical committees for the purposes of section 161.032 of the Health and Safety Code.

You state the submitted information was developed in accordance with the directives of and presented to the QRMC and SPC in executive sessions. You explain the information pertaining to the QRMC consists of presentations required by the board's bylaws regarding quality improvement activities carried out throughout the district pursuant to the district's Performance Improvement Plan. You state the information pertaining to the SPC consists of information presented to the SPC pertaining to physician staffing, the district's goals for achieving consistent quality patient care, and recommendations for the SPC and the full board. You represent the submitted information was created at the direction of the board to assist it in its statutory duties relating to managing and administering the district and was not developed or maintained in the ordinary course of business. Based upon your representations and our review of the submitted information, we agree the information at issue consists of confidential records of medical committees under section 161.032 of the Health and Safety Code. We therefore conclude the district must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 161.032 of the Health and Safety Code.²

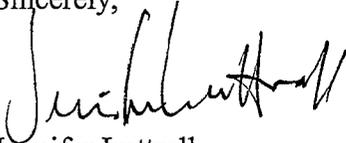
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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, 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

²As our ruling is dispositive, we need not address your remaining argument against disclosure.

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,

A handwritten signature in black ink, appearing to read "Jennifer Luttrall". The signature is fluid and cursive, with the first name being the most prominent.

Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/dls

Ref: ID# 404453

Enc. Submitted documents

c: Requestor
(w/o enclosures)