



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

This ruling has been modified by court action.
The ruling and judgment can be viewed in PDF
format below.



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 24, 2011.

Mr. Ryan S. Henry
Denton, Navarro, Rocha & Bernal
2517 North Main Avenue
San Antonio, Texas 78212

The ruling you have requested has been amended as a result of litigation and has been attached to this document.

OR2011-02766

Dear Mr. Henry:

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# 408573.

The Dallas County Hospital District d/b/a Parkland Health and Hospital System ("Parkland"), which you represent, received a request for documents since 2004 related to twenty-nine categories of information regarding Medicare and Medicaid, billing, resident training and supervision, and several named persons.¹ You state that some information will be released to the requestor upon the requestor's response to a cost estimate. You also state you have no responsive information with respect to certain clarified portions of the request. We note that the Act does not require a governmental body to release information that did not exist when a request for information was received, create responsive information, or obtain information that is not held by or on behalf of the governmental body. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dism'd); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990). You claim that the remaining requested information is excepted

¹You state, and provide documentation showing, that Parkland sought and received clarification of the request. *See* Gov't Code § 552.222(b) (stating that if information requested is unclear or if large amount has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed)..

from disclosure under sections 552.101, 552.103, 552.107, 552.108, and 552.111 of the Government Code. We have considered the claimed exceptions and reviewed the submitted representative sample of information.² We have also received comments from the United States Department of Justice (the "DOJ"). See Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

We first note that portions of the information in Exhibit H6 are not responsive. This exhibit relates to category seven of the request, which requests only Parkland's financial statements and any drafts thereof. Furthermore, you state that because the requestor has excluded patients' identifying information, certain attorney-client privileged information, and certain attorney work product from his request, portions of the submitted information are no longer responsive. This decision does not address the public availability of information that is not responsive to the request, and Parkland need not release such information in responding to this request. See *Bustamante*, 562 S.W.2d 266.

Next, you inform us that portions of the requested information are the subject of litigation pending against the Office of the Attorney General. See *Dallas County Hospital District d/b/a Parkland Health and Hospital System v. Greg Abbott, Texas Attorney General*, No. D-1-GN-10-003759 (126th Dist. Ct., Travis County, Tex.). You state that this information is in Exhibits H9, H11-H12, H18-H19, H21-H22, and I. We note that Exhibits H4, H10, and the majority of Exhibit H20 consist of duplicate documents. Accordingly, we will allow the trial court to resolve the issue of whether the information at issue in the pending litigation must be released to the public.

We next note that Exhibits H1, H5, H8, and H13-H17 contain information that is subject to section 552.022(a), which provides that the following items "are public information and not excepted from required disclosure under [the Act] unless they are expressly confidential under other law"

(1) a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by Section 552.108;

....

(3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body;

²We 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.

...

(18) a settlement agreement to which a governmental body is a party.

Gov't Code § 552.022(a)(1), (3), (18). Exhibits H1, H5, and H14-H17 contain a completed Office of the Inspector General ("OIG") report titled "Review of Oxaliplatin Billing at Parkland Health & Hospital System for the Period January 1 Through December 31, 2005." Exhibit H5 contains (1) a completed report from Physician Compliance Management, (2) completed reports and audits from Parkland's Care Management, Corporate Compliance, and Internal Audit Services committees, (3) a completed Centers for Medicaid and Medicare Services audit titled "Hospital Statement of Reimbursable Cost," and (4) Electronically Filed Cost Reports completed by Parkland. These documents constitute reports and audits "made of, for, or by a governmental body," and are expressly public, unless they are confidential under section 552.108 or "other law[.]" *Id.* § 552.022(a)(1).

Exhibits H1, H5, and H13-H17 contain a signed contract between Parkland and GroupOne Services. Exhibits H1, H5, H8, and H14-H17 contain invoices reflecting the receipt or expenditure of public funds. Exhibit H5 contains checks. These documents constitute "information in an account, voucher, or contract related to the receipt or expenditure of public or other funds by a governmental body," and are expressly public, unless they are confidential under "other law[.]" *Id.* § 552.022(a)(3).

Exhibits H5 and H15 contain a signed "Settlement Agreement" between Parkland and the OIG. This agreement is expressly public under section 552.022(a)(18), unless it is confidential under "other law[.]"

Although you raise sections 552.103, 552.107, and 552.111 of the Government Code for this information, these are discretionary exceptions to disclosure that protect only 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. 676 at 10-11 (2002) (attorney-client privilege under section 552.107(1) may be waived), 665 at 2 n.5 (2000) (discretionary exceptions generally), 470 at 7 (1987) (statutory predecessor to section 552.111 subject to waiver). As such, sections 552.103, 552.107, and 552.111 are not "other law" that make information confidential for the purposes of section 552.022(a), and Parkland may not withhold any information subject to section 552.022(a) under those sections. However, because information subject to section 552.022(a)(1) may be excepted under section 552.108, we will consider the DOJ's arguments under that exception. You also raise section 552.101, and we note that some of the information at issue is subject to section 552.136. Sections 552.101 and 552.136 constitute "other law" for purposes of section 552.022(a). Accordingly, we will consider the applicability of these exceptions. In addition, the Texas Supreme Court has held that the Texas Rules of Evidence and the Texas Rules of Civil Procedure are "other law" within the meaning of section 552.022(a). *See In*

re City of Georgetown, 53 S.W.3d 328, 336 (Tex. 2001). Accordingly, we will consider your assertion of the attorney-client privilege under Texas Rule of Evidence 503 and the attorney work product privilege under Texas Rule of Civil Procedure 192.5.

Section 552.108(a)(1) of the Government Code provides, in relevant part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure] if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]

Gov't Code § 552.108(a)(1). A governmental body must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). Section 552.108 applies to information held by a "law enforcement agency[.]" However, section 552.108 may be invoked by the proper custodian of information relating to a pending investigation or prosecution of criminal conduct. *See Open Records Decision No. 474 at 4-5 (1987)*. Thus, when a non-law enforcement agency has custody of information that would otherwise qualify for exception under section 552.108 as information relating to the pending case of a law enforcement agency, the custodian of the records may withhold the information if it provides this office with a demonstration that the information relates to the pending case and a representation from the law enforcement agency that it wishes to have the information withheld.

The DOJ states that information responsive to categories fifteen through twenty-two, twenty-eight, and twenty-nine of the request relates to ongoing investigations of Parkland by the DOJ, the OIG, and the U.S. Department of Health and Human Services. You inform us this information is in Exhibits H13-H17, and portions of Exhibit H1. The DOJ informs us that it objects to disclosure of this information because release would interfere with the pending investigations. Based on the DOJ's representations, we conclude that, with the exception of information subject to sections 552.022(a)(3) and 552.022(a)(18), Parkland may withhold the information in Exhibits H13-H17, and the duplicate information in Exhibit H1, under section 552.108(a)(1) of the Government Code.³ *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (specifying law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

Section 552.103 of the Government Code provides, in relevant part:

³Because our ruling is dispositive with respect to this information, we need not address your remaining arguments against its disclosure.

(a) Information is excepted from [required public disclosure] if it is information relating to litigation of a civil or criminal nature to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party.

...

(c) Information relating to litigation involving a governmental body or an officer or employee of a governmental body is excepted from disclosure under Subsection (a) only if the litigation is pending or reasonably anticipated on the date that the requestor applies to the officer for public information for access to or duplication of the information.

Gov't Code § 552.103(a), (c). The purpose of section 552.103 is to enable a governmental body to protect its position in litigation by forcing parties to obtain information relating to litigation through discovery procedures. *See* Open Records Decision No. 551 at 4-5 (1990). A governmental body has the burden of providing relevant facts and documents to show that the section 552.103(a) exception applies in a particular situation. The test for meeting this burden is a showing that (1) litigation was pending or reasonably anticipated on the date the governmental body received the request for information, and (2) the requested information is related to that litigation. *See Univ. of Tex. Law Sch. v. Tex. Legal Found.*, 958 S.W.2d 479, 481 (Tex. App.—Austin 1997, no pet.); *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.—Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 at 4 (1990). The governmental body must meet both parts of this test for information to be excepted under section 552.103(a). *See* ORD 551 at 4.

You inform us that pursuant to a Master Services Agreement between Parkland and the University of Texas Southwestern Medical Center ("UTSMC"), UTSMC contracts its employed faculty physicians to provide medical services to Parkland's patients, supervise resident physicians, and provide medical directorship and other administrative services for the various clinical departments at Parkland facilities. We understand that as a result of this contractual relationship, Parkland is currently a party to several pending lawsuits filed by the requestor and his client, including: (1) *Larry M. Gentilello, MD v. The University of Texas Southwestern Health Systems a/k/a UT Southwestern Health Systems*, Civil Action No. 3-08-CV-1528-N, filed in the United States District Court for the Northern District of Texas, Dallas Division; (2) *Larry M. Gentilello, MD v. Robert V. Rege, MD and Alfred G. Gilman, MD, PhD*, Civil Action No. 3:07-CV-1564-L, filed in the United States District Court for the Northern District of Texas, Dallas Division; and (3) *Larry M. Gentilello, MD v. The University of Texas Southwestern Health Systems a/k/a UT Southwestern Health Systems and The University of Texas Southwestern Medical Center at Dallas*, Cause No. 07-05675, filed in the 162nd District Court for Dallas County. You state the requestor's client is a former physician with UTSMC who, pursuant to the Master Services Agreement between the two

entities, provided medical services to Parkland. You further state that the various lawsuits concern resident supervision, quality of care, and Medicare/Medicaid billing issues at Parkland, which are the subjects of the instant request. Based on your representations and our review, we find that you have demonstrated that the remaining information not subject to section 552.022 relates to pending litigation that Parkland was involved in at the time it received this request for information. We therefore conclude that Parkland may withhold the remaining information not subject to section 552.022 in Exhibits H1-H3, H5-H8, and H20 under section 552.103.⁴

We note once the information at issue has been obtained by all parties to the litigation through discovery or otherwise, no section 552.103(a) interest exists as to that information. *See* Open Records Decision Nos. 349 (1982), 320 (1982). Thus, information that has either been obtained from or provided to all other parties in the litigation is not excepted from disclosure under section 552.103(a), and it must be disclosed. The applicability of section 552.103(a) also ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

We next address your arguments against disclosure of the remaining information subject to section 552.022(a). Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information that other statutes make confidential. Section 160.007 of the Occupations Code provides, in relevant part:

(a) Except as otherwise provided by this subtitle, each proceeding or record of a medical peer review committee is confidential, and any communication made to a medical peer review committee is privileged.

Occ. Code § 160.007(a). "Medical peer review" is defined by the Medical Practice Act, subtitle B of title 3 of the Occupations Code, to mean "the evaluation of medical and health care services, including evaluation of the qualifications and professional conduct of professional health care practitioners and of patient care provided by those practitioners." *Id.* § 151.002(a)(7). A medical peer review committee is "a committee of a health care entity . . . or the medical staff of a health care entity, that operates under written bylaws approved by the policy-making body or the governing board of the health care entity and is authorized to evaluate the quality of medical and health care services[.]" *Id.* § 151.002(a)(8). Section 161.032 of the Health and Safety Code further provides, in relevant part:

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

⁴Because our ruling is dispositive with respect to this information, we need not address your remaining arguments against its disclosure.

...

(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 university medical school or health science center [or] a hospital district [.]” *Id.* § 161.031(a). Section 161.0315 provides that “[t]he governing body of a hospital, medical organization, university medical school or health science center [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., Mem’l 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).

Exhibit H5 contains a completed report from Physician Compliance Management, and completed Internal Audit, Care Management, and Corporate Compliance audits and reports, otherwise subject to section 552.022(a)(1), that were issued by Parkland’s Audit and Compliance Committees. You state that the Audit & Compliance Committee and the Human Resources, Quality, and Risk Management Committee evaluate Parkland’s departments and systems as part of Parkland’s continuous evaluation of quality control and the medical review process. Based on this representation, we agree that these committees constitute medical committees of a hospital district for the purposes of section 161.032 of the Health and Safety

Code. You further state that the information at issue deals with specific evaluations, some system-wide and others targeted for specific departments or systems. Accordingly, based on your representations and our review, we conclude that the audits and reports at issue constitute confidential records of a medical peer review committee under section 161.032 of the Health & Safety Code. Accordingly, Parkland must withhold them under section 552.101 of the Government Code. However, we find that you have not explained how any of the remaining information at issue constitutes “[r]ecords, information, or reports” of a medical committee. Thus, no portion of the remaining information may be withheld on that basis.

Texas Rule of Evidence 503 enacts the attorney-client privilege, and provides:

A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of facilitating the rendition of professional legal services to the client:

(A) between the client or a representative of the client and the client’s lawyer or a representative of the lawyer;

(B) between the lawyer and the lawyer’s representative;

(C) by the client or a representative of the client, or the client’s lawyer or a representative of the lawyer, to a lawyer or a representative of a lawyer representing another party in a pending action and concerning a matter of common interest therein;

(D) between representatives of the client or between the client and a representative of the client; or

(E) among lawyers and their representatives representing the same client.

TEX. R. EVID. 503(b)(1). A communication is “confidential” if it is not intended to be disclosed to third persons other than those to whom disclosure is made in furtherance of the rendition of professional legal services to the client or those reasonably necessary for the transmission of the communication. *Id.* 503(a)(5).

Thus, in order to withhold attorney-client privileged information from disclosure under rule 503, a governmental body must: (1) show the document is a communication transmitted between privileged parties or reveals a confidential communication; (2) identify the parties involved in the communication; and (3) show the communication is confidential by

explaining it was not intended to be disclosed to third persons and it was made in furtherance of the rendition of professional legal services to the client. Upon a demonstration of all three factors, the information is privileged and confidential under rule 503, provided the client has not waived the privilege or the document does not fall within the purview of the exceptions to the privilege enumerated in rule 503(d). *See Pittsburgh Corning Corp. v. Caldwell*, 861 S.W.2d 423, 427 (Tex. App.—Houston [14th Dist.] 1993, no writ).

You state that the remaining information contains privileged communications you wish to withhold under rule 503. Upon review, however, we find that the remaining information subject to section 552.022(a) does not constitute attorney-client communications for purposes of rule 503. Accordingly, we find you have failed to demonstrate how any of the information at issue falls within the scope of the attorney-client privilege. We therefore conclude that Parkland may not withhold any of the remaining information subject to section 552.022(a) on the basis of rule 503 of the Texas Rules of Evidence.

Rule 192.5 of the Texas Rules of Civil Procedure encompasses the attorney work product privilege. For purposes of section 552.022(a) of the Government Code, information may be withheld under rule 192.5 only to the extent that the information implicates the core work product aspect of the work product privilege. *See Open Records Decision No. 677 at 9-10 (2002)*. Rule 192.5 defines core work product as the work product of an attorney or an attorney's representative, developed in anticipation of litigation or for trial, that contains the mental impressions, opinions, conclusions, or legal theories of the attorney or the attorney's representative. *See TEX. R. CIV. P. 192.5(a), (b)(1)*. Accordingly, in order to withhold attorney core work product from disclosure under rule 192.5, a governmental body must demonstrate that the material was (1) created for trial or in anticipation of litigation and (2) consists of the mental impressions, opinions, conclusions, or legal theories of an attorney or an attorney's representative. *Id.*

The first prong of the work product test, which requires a governmental body to show that the information at issue was created in anticipation of litigation, has two parts. A governmental body must demonstrate that (1) a reasonable person would have concluded from the totality of the circumstances surrounding the investigation that there was a substantial chance that litigation would ensue, and (2) the party resisting discovery believed in good faith that there was a substantial chance that litigation would ensue and conducted the investigation for the purpose of preparing for such litigation. *See Nat'l Tank v. Brotherton*, 851 S.W.2d 193, 207 (Tex. 1993). A "substantial chance" of litigation does not mean a statistical probability, but rather "that litigation is more than merely an abstract possibility or unwarranted fear." *Id.* at 204. The second part of the work product test requires the governmental body to show that the materials at issue contain the mental impressions, opinions, conclusions, or legal theories of an attorney or an attorney's representative. *See TEX. R. CIV. P. 192.5(b)(1)*. A document containing core work product information that meets both parts of the work product test is confidential under rule 192.5, provided that the information does not fall within the scope of the exceptions to the privilege enumerated in

rule 192.5(c). *See Pittsburgh Corning*, 861 S.W.2d at 427.

You assert that the remaining information contains attorney work product that is protected by rule 192.5. Having considered your arguments and reviewed the information at issue, we conclude you have not demonstrated that any of the remaining information subject to section 552.022(a) consists of mental impressions, opinions, conclusions, or legal theories of an attorney or an attorney's representative that were created for trial or in anticipation of litigation. Therefore, Parkland may not withhold any of the remaining information subject to section 552.022(a) under Texas Rule of Civil Procedure 192.5.

Finally, we note that some of the remaining information subject to section 552.022(a) contains information protected by section 552.136 of the Government Code.⁵ This section provides that "[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." Gov't Code § 552.136(b). An access device number is one that may be used to "(1) obtain money, goods, services, or another thing of value; or (2) initiate a transfer of funds other than a transfer originated solely by paper instrument," and includes an account number. *Id.* § 552.136(a). Accordingly, to the extent the remaining information contains bank account numbers and bank routing numbers, this information must be withheld under section 552.136.⁶

In summary, we will allow the trial court to resolve the issue of whether the information that is the subject of pending litigation must be released to the public. With the exception of information subject to sections 552.022(a)(3) and 552.022(a)(18), Parkland may withhold the information in Exhibits H13-H17, and the duplicate information in Exhibit H1, under section 552.108(a)(1). With the exception of information subject to section 552.022, Parkland may withhold the remaining information in Exhibits H1-H3, H5-H8, and H20 under section 552.103. Parkland must withhold the completed Physician Compliance Management Report and the completed Internal Audit, Care Management, and Corporate Compliance reports and audits in Exhibit H5 under section 552.101 in conjunction with section 161.032 of the Health and Safety Code. Parkland must withhold any bank account numbers and bank routing numbers in the remaining information under section 552.136. The remaining information must be released.

This letter ruling is limited to the particular information at issue in this request and limited

⁵The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

⁶We note that Open Records Decision No. 684 (2009) is a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including bank account numbers and bank routing numbers under section 552.136, without the necessity of requesting an attorney general decision.

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 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,



Misty Haberer Barham
Assistant Attorney General
Open Records Division

MHB/eeg

Ref: ID # 408573

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Filed in The District Court
of Travis County, Texas

AUG 26 2015

At 1420 M.
Velva L. Price, District Clerk

CAUSE NO. D-1-GV-11-000270

DALLAS COUNTY HOSPITAL
DISTRICT d/b/a PARKLAND HEALTH
AND HOSPITAL SYSTEM,
Plaintiff

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IN THE DISTRICT COURT OF

v.

TRAVIS COUNTY, TEXAS

GREG ABBOTT, ATTORNEY
GENERAL OF TEXAS,
Defendant

419TH JUDICIAL DISTRICT

AGREED ORDER OF DISMISSAL

This cause is an action under the Public Information Act (PIA), Texas Government Code Chapter 552. Plaintiff Dallas County Hospital District, d/b/a Parkland Health and Hospital System ("DCHD"), Defendant Ken Paxton, Attorney General of Texas¹ (Attorney General) agree that this matter should be dismissed pursuant to PIA § 552.327 on the grounds that the requestor has abandoned his request for information.

A court may dismiss a PIA suit under § 552.327 when all parties agree to dismissal and the Attorney General determines and represents to the Court that the requestor has voluntarily withdrawn the request for information in writing or has abandoned the request. See Tex. Gov't Code § 552.327. The Attorney General represents to the Court that the requestor, Jeffrey Rasansky has abandoned his request for information. Further, Letter Ruling OR2011-02766 will not be considered as previous determination by the Office of the Attorney General under Tex. Gov't Code § 552.301(a), (f); and, if precisely the same information is requested again, the Defendant may ask for a decision from the Attorney General under Tex. Gov't Code § 552.301(g). Accordingly, the

¹ Greg Abbott was sued in his official capacity as the Attorney General of the State of Texas. Ken Paxton is his successor in office and the proper defendant in this lawsuit.



Defendant is not required to release the requested information subjected to release by Letter Ruling OR2011-02766. The parties request that the Court enter this Agreed Order of Dismissal.

The Court is of the opinion that entry of an agreed dismissal order is appropriate.

It is THEREFORE, ORDERED, ADJUDGED and DECREED that this cause is DISMISSED in all respects;

All court costs and attorney fees are taxed to the party incurring same;

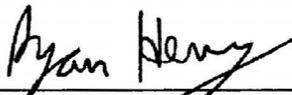
All other requested relief not expressly granted herein is denied;

This order disposes of all claims between the parties and is final.

Signed this 26 day of AUGUST, 2015.


 JUDGE PRESIDING

AGREED:


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