



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 28, 2011

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

OR2011-04166

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# 412682 (OGC# 134865).

The University of Texas Southwestern Medical Center at Dallas (the "university") received a request for (1) specified information pertaining to cost savings and residents delivering patient care without direct supervision; (2) references to "sentinel" events in mandatory employee safety training over a specified period of time; and (3) specified records pertaining to the billing of physician services under Medicare Part B. You state the university does not have any information responsive to category one of the request.¹ You state the university has released information responsive to category two of the request. You claim portions of the requested medical billing records are not subject to the Act. You also claim the requested medical billing records are excepted from disclosure under sections 552.101 and 552.103 of the Government Code. We have considered your arguments and reviewed the submitted representative sample of information.²

¹The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

²We 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 those records contain substantially different types of information than that submitted to this office.

You inform us the submitted information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2011-04115 (2011). In that ruling, we concluded that the medical billing records at issue are subject to the Act, and the university must withhold the submitted records under section 552.101 of the Government Code in conjunction with section 161.032 of the Health and Safety Code. As we have no indication the law, facts, and circumstances on which the prior ruling was based have changed, the university must continue to rely on Open Records Letter No. 2011-04115 as a previous determination and withhold the submitted information in accordance with that ruling. *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). As we are able to make this determination, we need not address your arguments against disclosure.

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 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,



Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/dls

Ref: ID# 412682

Enc. Submitted documents

c: Requestor
(w/o enclosures)