



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 3, 2011

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

OR2011-05992

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# 416835 (OGC# 135473).

The University of Texas Medical Branch at Galveston (the "university") received a request for the requestor's complete application file to the university's medical school. You claim the submitted 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.

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. Section 552.101 encompasses section 161.032 of the Health and Safety Code, which provides in part:

- (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 . . . and records, information, or reports provided by a medical committee . . . to the governing body of a public hospital . . . are not subject to disclosure under Chapter 552, Government Code.

Health & Safety Code § 161.032(a), (c). For purposes of this confidentiality provision, “medical committee” includes “any committee, including a joint committee, of . . . a university medical school or health science center[.]” *Id.* § 161.031(a)(3). Additionally, section 161.0315 authorizes the governing body of a university medical school or health science center to form a medical committee, as defined by section 161.031, in order 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 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, and the “privilege 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 things, statutory predecessor to section 161.032).

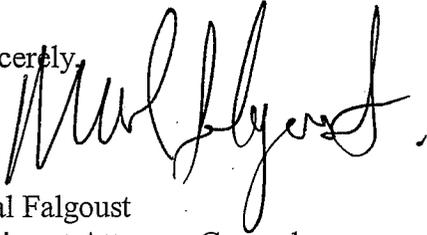
You state the submitted information was created for or considered by the university’s school of medicine admissions committee (the “committee”) for the purpose of evaluating an applicant to the university’s medical school. You state the committee consists of physician faculty members and is charged with reviewing and evaluating medical school admissions applications, which are submitted through the Texas Medical & Dental Schools Application Service. You further state the committee is responsible for upholding the university’s mission of providing quality healthcare by educating future physicians and preparing graduates for providing primary patient services. Based on these representations, we find the committee is a “medical committee” for purposes of subchapter D of chapter 161 of the Health and Safety Code. *See* Health & Safety Code § 161.031(c); *see also Humana Hosp. Corp. v. Spears-Petersen*, 867 S.W.2d 858 (Tex. App.—San Antonio 1993, no pet.) (finding that Joint Commission on Accreditation of Healthcare Organizations is medical committee under section 161.031(a)(2)). Accordingly, the submitted information is confidential under section 161.032 of the Health and Safety Code, and the university must withhold it under section 552.101 of the Government Code.¹

¹As our ruling is dispositive, we do not address your remaining 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,

A handwritten signature in black ink, appearing to read "Neal Falgoust", written over the word "Sincerely,".

Neal Falgoust
Assistant Attorney General
Open Records Division

NF/dls

Ref: ID# 416835

Enc. Submitted documents

c: Requestor
(w/o enclosures)