



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

June 15, 2011

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

OR2011-08514

Dear Ms. Chatterjee and Ms. Angadicheril:

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# 420695 (OGC# 136643).

The University of Texas Southwestern Medical Center at Dallas (the "university") received a request for information related to a named individual's trip to India during a specified time period. You indicate some responsive information has been released to the requestor. You state you will redact e-mail addresses under section 552.137 of the Government Code pursuant to Open Records Decision No. 684 (2009).¹ You claim the submitted information is excepted from disclosure under sections 552.101, 552.104, and 552.111 of the Government Code. You also state that the request may implicate the proprietary interests of third parties.² Accordingly, you notified the third parties of this request for information and of their right to submit arguments to this office as to why the information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990)

¹Open Records Decision No. 684 is a previous determination issued by this office to all governmental bodies authorizing them to withhold ten categories of information, including an e-mail address of a member of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

²The third parties notified pursuant to section 552.305 are the following: All India Institute of Medical Sciences; CRISIL Limited, CRISIL House; KPMG-Dallas; and Mr. Sarinder Chhabra.

(statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have considered the exceptions you claim and reviewed the submitted information. We have also considered comments submitted by an attorney for the requestor.³ *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released).

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 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.

...

(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

³We note that the submitted documents do not include expense vouchers, receipts for travel expenses, or itineraries related to the individual's trip to India.

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).

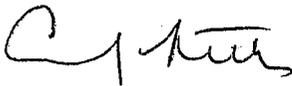
The university asserts the submitted information, which includes correspondence, syllabuses, presentations, and research, was submitted to and obtained by a medical committee for the purposes of improving world-wide health care and developing international training and research opportunities. You explain that the Global Health Oversight Committee (the “committee”) was established to “interact with consultants, gather data, and investigate other information that will let the [u]niversity make an informed decision” regarding meeting the objectives of the university and the Office of Global Health (the “OGH”). You state the OGH was established by the university to direct and develop training and research initiatives with partners around the world. You further state the committee’s members consist of university administrators, officials, and employees. Upon review, we agree the committee is a committee established by the university and constitutes a medical committee as defined by section 161.031. *See generally, Mem’l Hosp.—The Woodlands*, 927 S.W.2d at 8 (term “medical committee” is broadly defined). Further, we agree the submitted information relates to this committee and is confidential under section 161.032 of the Health and Safety Code as records of a medical committee. Therefore, the university 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.⁴

⁴As our ruling is dispositive, we need not address your remaining arguments.

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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 420695

Enc. Submitted documents

c: Requestor
(w/o enclosures)

KPMG-Dallas
Suite 3100
717 North Harwood Street
Dallas, Texas 75201
(w/o enclosures)

CRISIL Limited
CRISIL House
Central Avenue
Hiranandani Business Park
Powai
Mumbai - 4000763
India
(w/o enclosures)

Mr. Sarinder Chhabra
c/o Ms. Neera Chatterjee & Ms. Zeena Angadicheril
Office of General Counsel
The University of Texas System
201 West Seventh Street
Austin, Texas 78701-2902
(w/o enclosures)

All India Institute of Medical Sciences
Ansari Nagar
New Delhi - 110029
India
(w/o enclosures)