



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 28, 2011

Mr. Ryan S. Henry
Ms. Jennafer G. Tallant
Denton, Navarro, Rocha & Bernal, P.C.
2517 North Main Avenue
San Antonio, Texas 78212-4685

OR2011-17379

Dear Mr. Henry and Ms. Tallant:

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# 438074.

The Dallas County Hospital District d/b/a Parkland Health & Hospital System ("Parkland"), which you represent, received a request for the names, home and work addresses, telephone numbers, and personal and work e-mail addresses of all registered nurses employed by Parkland.¹ You state Parkland does not collect personal e-mail addresses of its employees.² You state you will release some information to the requestor and, pursuant to the requestor's clarification, redact information for nurses whose information this office has previously

¹You provide documentation showing Parkland sought and received clarification from the requestor regarding certain categories of the request. See Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information 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).

²We note the Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

determined is excepted from disclosure under section 552.150 of the Government Code.³ You claim the submitted information is excepted from disclosure under sections 552.117 and 552.150 of the Government Code.⁴ We have considered the exceptions you claim and reviewed the submitted information.

Section 552.117(a)(1) of the Government Code excepts from disclosure the home addresses and telephone numbers, emergency contact information, social security numbers, and family member information of current or former officials or employees of a governmental body who request that this information be kept confidential under section 552.024. Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 2 (to be codified as an amendment to Gov't Code § 552.117(a)). Whether a particular piece of information is protected by section 552.117 must be determined at the time the request for it is made. *See* Open Records Decision No. 530 at 5 (1989). Therefore, Parkland may only withhold information under section 552.117 on behalf of current or former employees who made a request for confidentiality under section 552.024 prior to the date on which the request for this information was made. You state some of the employees, whom you have indicated, have timely elected to withhold their personal information. For those employees who timely elected to keep their personal information confidential, Parkland must withhold the information you marked under section 552.117 of the Government Code. Parkland may not withhold this information under section 552.117 for an employee who did not make a timely election to keep the information confidential.

Section 552.150 of the Government Code provides as follows:

(a) Information in the custody of a hospital district that relates to an employee or officer of the hospital district is excepted from the requirements of Section 552.021 if:

³We note you have indicated on the submitted information that some of the requested information was the subject of previous requests for information, as a result of which this office issued Open Records Letter Nos. 2010-02881 (2010) and 2010-16352 (2010). In those decisions, we ruled Parkland must withhold portions of the information at issue under section 552.150 of the Government Code and other portions of the information because the question of the required disclosure of the information is before the court in litigation which Parkland brought against this office. *See Dallas County Hosp. Dist. v. Abbott*, No. D-1-GN-10-000812 (353rd Dist. Ct., Travis County, Tex.). As we have no indication the law, facts, and circumstances on which the prior rulings were based have changed, Parkland must continue to rely on these rulings as previous determinations and withhold or release the information in accordance with Open Records Letter Nos. 2010-02881 and 2010-16352. *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 a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

⁴Although you also raise section 552.124 of the Government Code as an exception to disclosure, you have provided no arguments regarding the applicability of this section. We therefore assume you have withdrawn it. *See* Gov't Code §§ 552.301(b), (e), .302.

(1) it is information that, if disclosed under the specific circumstances pertaining to the individual, could reasonably be expected to compromise the safety of the individual, such as information that describes or depicts the likeness of the individual, information stating the times that the individual arrives at or departs from work, a description of the individual's automobile, or the location where the individual works or parks; and

(2) the employee or officer applies in writing to the hospital district's officer for public information to have the information withheld from public disclosure under this section and includes in the application:

(A) a description of the information; and

(B) the specific circumstances pertaining to the individual that demonstrate why disclosure of the information could reasonably be expected to compromise the safety of the individual.

(b) On receiving a written request for information described in an application submitted under Subsection (a)(2), the officer for public information shall:

(1) request a decision from the attorney general in accordance with Section 552.301 regarding withholding the information; and

(2) include a copy of the application submitted under Subsection (a)(2) with the request for the decision.

Gov't Code § 552.150. Section 552.150 provides that information held by a hospital district relating to a hospital district employee or officer is excepted from public disclosure provided (1) it is information that, if disclosed under the specific circumstances pertaining to the individual, could reasonably be expected to compromise the safety of the individual; and (2) the employee or officer makes a written application in accordance with section 552.150(a)(2) to the hospital district's officer for public information to have the information withheld from public disclosure under this section. *Id.* The individual's application must include a description of the information at issue and the specific circumstances pertaining to the individual that demonstrate why disclosure of the information could reasonably be expected to compromise his or her safety. *Id.*

You state Parkland has provided the nurses in its employ whose information is at issue notice of this request and of their ability to claim a section 552.150 exception. You further state that should an employee fail to respond to the notice, Parkland will promptly release this information to the requestor. Upon review and consideration of the applications provided to Parkland by each employee who sought the protection of information, we determine some of the employees whose information was not subject to Open Records Letter

Nos. 2010-02881 and 2010-16352 have described specific circumstances pertaining to the individual establishing that release of their names could “reasonably be expected to compromise the safety of the individual.” *See id.* § 552.150(a)(1). Therefore, Parkland must withhold the names and e-mail addresses of these employees we have indicated under section 552.150 of the Government Code. However, we find neither Parkland nor the remaining employees have established that release of their information could “reasonably be expected to compromise the safety of the individual.” *See id.* Therefore, Parkland may not withhold any of the remaining information at issue under section 552.150 of the Government Code.

In summary, to the extent an employee timely elected to keep his or her personal information confidential, Parkland must withhold that information under section 552.117 of the Government Code. Parkland must withhold the names and e-mail addresses of the employees we have indicated under section 552.150 of the Government Code. Parkland must release the remaining information.

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,



Mack T. Harrison
Assistant Attorney General
Open Records Division

MTH/em

Ref: ID# 438074

Enc. Submitted documents

c: Requestor
(w/o enclosures)