



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

December 30, 2011

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

Ms. Erin A. Higginbotham
For Dallas County Hospital District
Denton, Navarro, Rocha & Bernal, P.C.
2500 West William Cannon, Suite 609
Austin, Texas 78745

OR2011-19240

Dear Ms. Higginbotham:

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# 441204.

The Dallas County Hospital District d/b/a Parkland Health and Hospital System (the "district") received a request for any record, including e-mails, personnel file reports, and police reports that relate to a specified "patient-choking incident." Additionally, the requestor requests a description of (1) a specified district employee's actions during the specified incident; (2) any disciplinary action taken against the specified employee; and (3) any thoughts or concerns another specified district employee may have about the specified incident. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.102, 552.107, 552.108 and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information. We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit comments to this office stating why the information at issue should or should not be released).

Section 552.107(1) protects information that comes within the attorney-client privilege. When asserting the attorney-client privilege, a governmental body has the burden of providing the necessary facts to demonstrate the elements of the privilege in order to withhold the information at issue. *See* Open Records Decision No. 676 at 6-7 (2002). First, a governmental body must demonstrate the information constitutes or documents a communication. *Id.* at 7. Second, the communication must have been made "for the purpose of facilitating the rendition of professional legal services" to the client governmental body. *See* TEX. R. EVID. 503(b)(1). The privilege does not apply when an attorney or representative is involved in some capacity other than that of providing or facilitating professional legal services to the client governmental body. *See In re Tex. Farmers Ins. Exch.*, 990

S.W.2d 337, 340 (Tex. App.—Texarkana 1999, orig. proceeding) (attorney-client privilege does not apply if attorney acting in capacity other than that of attorney). Governmental attorneys often act in capacities other than that of professional legal counsel, such as administrators, investigators, or managers. Thus, the mere fact that a communication involves an attorney for the government does not demonstrate this element. Third, the privilege applies only to communications between or among clients, client representatives, lawyers, lawyer representatives, and a lawyer representing another party in a pending action and concerning a matter of common interest therein. See TEX. R. EVID. 503(b)(1). Thus, a governmental body must inform this office of the identities and capacities of the individuals to whom each communication at issue has been made. Lastly, the attorney-client privilege applies only to a confidential communication, *id.*, meaning it was “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). Whether a communication meets this definition depends on the intent of the parties involved at the time the information was communicated. See *Osborne v. Johnson*, 954 S.W.2d 180, 184 (Tex. App.—Waco 1997, no pet.). Moreover, because the client may elect to waive the privilege at any time, a governmental body must explain the confidentiality of a communication has been maintained. Section 552.107(1) generally excepts an entire communication that is demonstrated to be protected by the attorney-client privilege unless otherwise waived by the governmental body. See *Huie v. DeShazo*, 922 S.W.2d 920, 923 (Tex. 1996) (privilege extends to entire communication, including facts contained therein).

You state portions of the information consists of communications between the district and its legal department. You state these communications were made by the district’s legal department “pertaining to an investigation into the subject matter.” You also state these communications were made in confidence. Based on your representations and our review, we find you have demonstrated the applicability of the attorney-client privilege to the information we have marked. Accordingly, the district may withhold the information we have marked under section 552.107(1) of the Government Code.¹

You claim portions of the remaining information is protected by section 552.111 of the Government Code. Section 552.111 excepts from disclosure “an interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency.” Gov’t Code § 552.111. Section 552.111 encompasses the attorney work product privilege found in rule 192.5 of the Texas Rules of Civil Procedure. *City of Garland v. Dallas Morning News*, 22 S.W.3d 351, 360 (Tex. 2000); Open Records Decision No. 677 at 4-8 (2002). Rule 192.5 defines work product as:

(1) [M]aterial prepared or mental impressions developed in anticipation of litigation or for trial by or for a party or a party’s representatives, including

¹As our ruling on this information is dispositive, we need not address your remaining arguments against its disclosure.

the party's attorneys, consultants, sureties, indemnitors, insurers, employees, or agents; or

(2) a communication made in anticipation of litigation or for trial between a party and the party's representatives or among a party's representatives, including the party's attorneys, consultants, sureties, indemnitors, insurers, employees or agents.

TEX. R. CIV. P. 192.5(a). A governmental body seeking to withhold information under this exception bears the burden of demonstrating the information was created or developed for trial or in anticipation of litigation by or for a party or a party's representative. *Id.*; ORD 677 at 6-8. In order for this office to conclude that the information was made or developed in anticipation of litigation, we must be satisfied that

a) 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 b) the party resisting discovery believed in good faith that there was a substantial chance that litigation would ensue and [created or obtained the information] for the purpose of preparing for such litigation.

Nat'l Tank Co. 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; ORD 677 at 7.

You claim the information at issue consists of attorney work product that should be withheld under section 552.111. Upon review, we find you have demonstrated the information we have marked consists of material prepared, mental impressions developed, or communications made in anticipation of litigation or for trial. *See* Tex. R. Civ. P. 192.5. Accordingly, the information we have marked is protected by the attorney work-product privilege, and the district may withhold it under section 552.111 of the Government Code.²

Section 552.108(a)(1) of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). A governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the information you have marked relates to a pending criminal investigation and potential criminal prosecution by the Dallas County District Attorney's Office. However, we note that

²As our ruling on this information is dispositive, we need not address your remaining arguments against its disclosure.

the requestor's attorney has submitted copies of the information at issue to this office that he indicates were released by the district, with only portions of the information for which you claim 552.108 redacted. Accordingly, based on our review of the information submitted by you as well as the requestor's attorney, we conclude that release of only a portion of the submitted information you seek to withhold under section 552.108 would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. *See Houston Chronicle*, 531 S.W.2d at 186-88; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Basic information includes, but is not limited to, an identification of the complainant; the vehicles, property and premises involved; the location of the crime; and a detailed description of the offense. Open Records Decision No. 127 at 4-5 (1976). Thus, the district must generally release basic information, even if this information does not literally appear on the front page of an offense or arrest report. Accordingly, we conclude you may withhold the information we have marked under section 552.108(a)(1) of the Government Code.³

With regard to the identity of the complainant, which is basic information that may not be withheld under section 552.108, we note that section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 also encompasses the doctrine of common law privacy. Common law privacy protects information if (1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). The type of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. 540 S.W.2d at 683. You argue that certain information within the submitted documents contains highly intimate and embarrassing information about district patients. In this case, we note that the listed complainant in the police records at issue was a patient of the district. Ordinarily, common-law privacy would protect the details of incidents that implicate common law privacy. *See Open Records Decision No. 422 at 2* (1984). In this case, however, the requestor already is aware that the requested information relates to an individual who was being seen in the district's psychiatric emergency room.

³As our ruling on this information is dispositive, we need not address your remaining arguments against its disclosure.

Thus, withholding certain details of this incident would not adequately protect the victim's privacy interests. Therefore, under these specific circumstances, we conclude that the information that would tend to identify the complainant in the submitted documents must be withheld from disclosure under section 552.101 in conjunction with common law privacy.⁴ We have marked this information.⁵

Section 552.101 also encompasses information protected by other statutes, including 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, 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] hospital district[.]” *Id.* § 161.031(a)(1), (2), (6). Section 161.0315 provides, in relevant part, that “[t]he governing body of a hospital, medical organization, [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., 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*

⁴We note the requestor's attorney, in his brief to this office, states that “[the requestor] concedes that the patient identifying information should be redacted from the responsive information prior to its release” on the basis of common law privacy.

⁵As our ruling on this information is dispositive, we need not address your remaining arguments against its disclosure.

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). We note section 161.032 does not make confidential “records made or maintained in the regular course of business by a hospital[.]” Health & Safety Code § 161.032(f); *see Memorial Hosp.–The Woodlands*, 927 S.W.2d at 10 (stating that reference to statutory predecessor to section 160.007 in section 161.032 is clear signal that records should be accorded same treatment under both statutes in determining if they were made in ordinary course of business).

You assert the information you have marked constitutes confidential records of a medical committee. You inform us the district’s board of managers (the “board”) is appointed by the Dallas County Commissioners Court with the responsibility of managing, controlling, and administering the district. You state one of the board’s responsibilities is “[t]o establish, support, and oversee a system-wide performance improvement program.” You inform us that, in furtherance of this duty, the board is responsible for the implementation and maintenance of the Performance Improvement Plan (“PIP”). Further, you state under the PIP, the board provides authority to medical staff to establish and support medical committees to carry out quality and performance improvement activities system-wide.

You explain one such committee is the Patient Safety & Risk Department (the “department”). You state the purpose of the department is to improve the quality of care to all district patients. You inform us the department collects and maintains “incident reports and supporting information, such as notes, e-mails, patient medical records and other documentation of review and analysis activities.” You further inform us the department’s findings and records are forwarded to the board for review. Based on your representations, we agree the department is a medical committee as defined by section 161.031 of the Health and Safety Code.

You state the information at issue is prepared and collected by the department in carrying out its duties under the PIP. You state the information at issue was not created in the ordinary course of business. Based on your representations and our review, we find the district has established the information we have marked consists of confidential records of a medical committee under section 161.032 of the Health and Safety Code. Therefore, the district must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 161.032 of the Health and Safety Code.⁶ However, we note one of the documents you seek to withhold under section 161.032 was developed in the ordinary

⁶As our ruling on this information is dispositive, we need not address your remaining arguments against its disclosure.

course of business, and therefore, is not subject to this statute. We will address your other arguments against release of this information, as well as the remaining information.

Section 552.101 also encompasses the Medical Practice Act (the “MPA”), subtitle B of title 3 of the Occupations Code, which governs the public availability of medical records. *See* Occ. Code §§ 151.001-165.160. Section 159.002 of the MPA provides in part:

(b) A record of the identity, diagnosis, evaluation, or treatment of a patient by a physician that is created or maintained by a physician is confidential and privileged and may not be disclosed except as provided by this chapter.

(c) A person who receives information from a confidential communication or record as described by this chapter, other than a person listed in Section 159.004 who is acting on the patient’s behalf, may not disclose the information except to the extent that disclosure is consistent with the authorized purposes for which the information was first obtained.

Id. § 159.002(b), (c). This office has concluded that the protection afforded by section 159.002 extends only to records created by either a physician or someone under the supervision of a physician. *See* Open Records Decision Nos. 487 (1987), 370 (1983), 343 (1982). We have also found that when a file is created as the result of a hospital stay, all the documents in the file relating to diagnosis and treatment constitute physician-patient communications or “[r]ecords of the identity, diagnosis, evaluation, or treatment of a patient by a physician that are created or maintained by a physician.” Open Records Decision No. 546 (1990). Upon review, the information we have marked consists of medical records subject to the MPA. Accordingly, we conclude the information we have marked may only be released in accordance with the MPA.⁷ Upon review, however, we find that you have failed to demonstrate how any of the remaining information constitutes a medical record for purposes of the MPA. Therefore, none of the remaining information is confidential under the MPA, and no portion of it may be withheld under section 552.101 of the Government Code on this basis.

Finally, section 181.006 states that: “[f]or a covered entity that is a governmental unit, an individual’s protected health information:

- (1) includes any information that reflects that an individual received health care from the covered entity; and
- (2) is not public information and is not subject to disclosure under [the Act].

⁷As our ruling on this information is dispositive, we need not address your remaining arguments against its disclosure.

Health & Safety Code § 181.006. Section 181.001(b)(2) defines “[c]overed entity,” in part, as “any person who:

(A) for commercial, financial, or professional gain, monetary fees, or dues, or on a cooperative, nonprofit, or pro bono basis, engages, in whole or in part, and with real or constructive knowledge, in the practice of assembling, collecting, analyzing, using, evaluating, storing, or transmitting protected health information. The term includes a business associate, health care payer, governmental unit, information or computer management entity, school, health researcher, health care facility, clinic, health care provider, or person who maintains an Internet site[.]”

Id. § 181.001(b)(2). You inform us the district operates a hospital that maintains health information for the individuals it serves, including information showing that individuals received medical care from the district. You assert the information collected, used, and stored by the district consists of protected health information. Thus, you claim the district is a covered entity for the purposes of section 181.006 of the Health and Safety Code.

In order to determine whether the district is a covered entity for the purposes of section 181.006 of the Health and Safety Code, we must address whether the district engages in the practice of collecting, analyzing, using, evaluating, storing or transmitting protected health information. Section 181.001 states that, “[u]nless otherwise defined in this chapter, each term that is used in this chapter has the meaning assigned by the Health Insurance Portability and Accountability Act and Privacy Standards [“HIPAA”].” *Id.* § 181.001(a). Accordingly, as chapter 181 does not define “protected health information,” we turn to HIPAA’s definition of the term. HIPAA defines “protected health information” as individually identifiable health information that is transmitted or maintained in electronic media or any other form or medium. *See* 45 C.F.R. § 160.103. HIPAA defines “individually identifiable health information” as information that is a subset of health information, including demographic information collected from an individual, and:

(1) Is created or received by a health care provider, health plan, employer, or health care clearinghouse; and

(2) Relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and

(i) That identifies the individual; or

(ii) With respect to which there is a reasonable basis to believe the information can be used to identify the individual[.]

Id. Further, “health care” is defined as “care, services, or supplies related to the health of an individual.” *Id.* You explain the information you have marked relates to the patient safety measures taken and the health care services received. Upon review, we find none of the remaining information contains individually identifiable health information for purposes of section 160.103 of title 45 of the Code of Federal Regulations, and thus, the remaining information is not protected health information and may not be withheld under section 552.101 of the Government Code on the basis of section 181.006.

In summary, the district may withhold the information we have marked under sections 552.107(1), 552.108(a)(1) and 552.111 of the Government Code. The district must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common law privacy and section 161.032 of the Health and Safety Code. The medical records we have marked are subject to the MPA and may only be released in accordance with the MPA. The remaining information must be released.

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,



Sean Opperman
Assistant Attorney General
Open Records Division

SO/dls

Ref: ID# 441204

Enc. Submitted documents

c: Requestor
(w/o enclosures)

OCT 18 2016

MR

At 8:37 A.M.
Velva L. Price, District Clerk

CAUSE NO. D-1-GN-12-000225

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

§
§
§
§
§
§
§
§
§
§

IN THE DISTRICT COURT OF

v.

353rd JUDICIAL DISTRICT

GREG ABBOTT, ATTORNEY GENERAL
OF TEXAS,
Defendant.

TRAVIS COUNTY, TEXAS

AGREED FINAL JUDGMENT

This is an open records lawsuit brought under the Public Information Act (PIA), Tex. Gov't Code Ch. 552, in which Plaintiff Dallas County Hospital District d/b/a Parkland Health and Hospital System (Parkland) challenged Attorney General Open Records Letter Rulings OR2011-19073, OR2011-19154, OR2011-19163, OR2011-19210, OR2011-19240, OR2012-00173, OR2012-00707, and OR2012-00803. All matters in controversy arising out of this lawsuit have been resolved, and the Parties agree to the entry and filing of this Agreed Final Judgment.

Texas Government Code § 552.325(d) requires the Court to allow the requestor of information a reasonable period of time to intervene after receiving notice of the proposed settlement. The Attorney General represents to the Court that, in compliance with Tex. Gov't Code § 552.325(c), the Attorney General sent notice to the requestors on 9/26/16, providing reasonable notice of this setting. The requestors were informed of the Parties' agreement that Parkland must withhold portions of the information at issue in this suit, as agreed upon between the Parties. The requestors were also informed of the right to intervene in the suit to contest the withholding of the



information. None of the requestors has informed the Parties of an intention to intervene, nor has a plea in intervention been filed.

After considering the agreement of the Parties and the law, the Court is of the opinion that entry of an Agreed Final Judgment is appropriate, disposing of all claims between these Parties in this suit.

IT IS THEREFORE ADJUDGED, ORDERED AND DECLARED THAT:

1. Parkland and the Attorney General have agreed that, in accordance with the PIA and under the facts presented, the portions of the information at issue consisting of Group One consumer reports and information directly derived from such reports are excepted from disclosure pursuant to section 552.101 of the Government Code in conjunction with the federal Fair Credit Reporting Act (hereinafter, the Excepted Information);

2. Parkland must withhold the Excepted Information described in Paragraph 1 of this order, as well as those portions of the information at issue found to be excepted from disclosure by Open Records Letter Rulings OR2011-19073, OR2011-19154, OR2011-19163, OR2011-19210, OR2011-19240, OR2012-00173, OR2012-00707, and OR2012-00803, and must release the remaining information at issue to the requestor;

3. All court costs and attorney fees are taxed against the Parties incurring the same;

4. All relief not expressly granted is denied; and

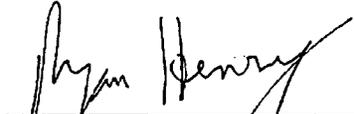
5. This Agreed Final Judgment finally disposes of all claims between Parkland and the Attorney General in this cause and is a final judgment.

SIGNED this 18 day of October, 2016.



JUDGE PRESIDING

AGREED:



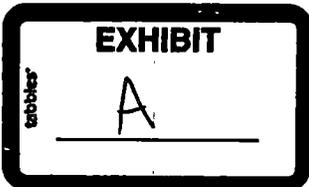
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HOSPITAL DISTRICT D/B/A PARKLAND
HEALTH AND HOSPITAL SYSTEM



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ATTORNEY FOR DEFENDANT KEN PAXTON,
ATTORNEY GENERAL OF TEXAS



CAUSE NO. D-1-GN-12-000225

DALLAS COUNTY HOSPITAL	§	IN THE DISTRICT COURT OF
DISTRICT d/b/a PARKLAND HEALTH	§	
AND HOSPITAL SYSTEM	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	353rd JUDICIAL DISTRICT
	§	
GREG ABBOTT, ATTORNEY	§	
GENERAL OF TEXAS,	§	
<i>Defendant.</i>	§	TRAVIS COUNTY, TEXAS

SETTLEMENT AGREEMENT

This Settlement Agreement (Agreement) is made by and between Plaintiff Dallas County Hospital District d/b/a Parkland Health and Hospital System (Parkland) and Defendant Ken Paxton, Attorney General of Texas¹ (the Attorney General). This Agreement is made on the terms set forth below.

BACKGROUND

Parkland received eight related requests under the Public Information Act (the PIA) for numerous categories of information pertaining to several named Parkland employees and information relating to a specified incident. In each instance Parkland requested an open records ruling from the Attorney General pursuant to the PIA, Tex. Gov't Code § 552.301, asserting portions of the requested information were excepted from required public disclosure. The Attorney General issued eight open records letter rulings in response to Parkland's requests, numbered: OR2011-19073, OR2011-19154, OR2011-19163, OR2011-19210, OR2011-19240, OR2012-00173, OR2012-00707, and OR2012-00803. The rulings found portions of the information Parkland sought to withhold were

¹ Greg Abbott was named defendant in the cause in his official capacity as Texas Attorney General. Ken Paxton became Texas Attorney General on January 5, 2015, and is now the appropriate defendant in this cause.

excepted from disclosure, but concluded that the remaining requested information was not excepted from required disclosure and must be released.

Parkland disputed the rulings and filed a single lawsuit, styled Cause No. D-1-GN-12-000225, *Dallas County Hospital District d/b/a Parkland Health and Hospital System v. Greg Abbott, Attorney General of Texas*, In the 53rd District Court of Travis County, Texas (this lawsuit), to preserve its rights under the PIA. Those portions of the requested information that Parkland sought to withhold from public disclosure but that the Attorney General determined must be released comprise the “information at issue” in this lawsuit (information at issue). Parkland provided notice of this lawsuit to the requestors as required by Tex. Gov’t Code § 552.325(b). Tex. Gov’t Code § 552.325(c) allows the Parties to enter into a settlement under which portions of the information at issue may be withheld. The Parties wish to resolve this matter without further litigation.

TERMS

For good and sufficient consideration, the receipt of which is acknowledged, the Parties to this Agreement agree and stipulate that:

1. The portion of the information at issue consisting of Group One consumer reports and information directly derived from such reports is excepted from disclosure pursuant to section 552.101 of the Government Code in conjunction with the federal Fair Credit Reporting Act (the Excepted Information).

2. Parkland must withhold the Excepted Information as described in Paragraph 1 of this Agreement, as well as the information found to be excepted from disclosure by Open Records Letter Rulings OR2011-19073, OR2011-19154, OR2011-19163, OR2011-19210, OR2011-19240, OR2012-00173, OR2012-00707, and OR2012-00803.

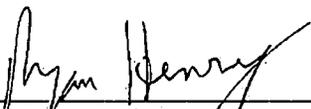
3. The remaining information must be released to the requestor.
4. Parkland and the Attorney General agree to the entry of an Agreed Final Judgment, the form of which has been approved by each Party's attorney. The Agreed Final Judgment will be presented to the Court for approval, on the uncontested docket, with at least 21 days' prior notice to the requestors.
5. Pursuant to Tex. Gov't Code § 552.325(c), the Attorney General agrees to notify the requestors of the proposed settlement and of each requestor's right to intervene in this lawsuit to contest the withholding of the Excepted Information, as described in Paragraph 1 of this Agreement.
6. Should the requestor intervene in this lawsuit, a final judgment entered in this lawsuit will prevail over this Agreement, to the extent of any conflict.
7. Each Party to this Agreement will bear its own costs, including attorneys' fees, relating to this litigation.
8. The terms of this Agreement are contractual and not mere recitals, and the agreements contained herein and the mutual consideration transferred is to compromise disputed claims fully, and nothing in this Agreement shall be construed as an admission of fault or liability, all fault and liability being expressly denied by all Parties to this Agreement.
9. Parkland warrants that its undersigned representative is duly authorized to execute this Agreement on its behalf and that its representative has read this Agreement and fully understands it to be a compromise and settlement and release of all claims the Parties have against each other arising out of the matters described in this Agreement.
10. The Attorney General warrants that his undersigned representative is duly authorized to execute this Agreement on behalf of the Attorney General and his

representative has read this Agreement and fully understands it to be a compromise and settlement and release of all claims the Parties have against each other arising out of the matters described in this Agreement.

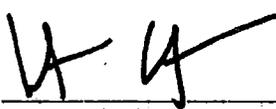
11. This Agreement shall become effective, and be deemed to have been executed, on the date upon which the last of the undersigned Parties signs this Agreement.

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

KEN PAXTON, ATTORNEY GENERAL
OF TEXAS



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