



**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

January 17, 2012

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

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

OR2012-00803

Dear 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# 441210.

The Dallas County Hospital District d/b/a Parkland Health and Hospital System (the “district”), which you represent, received a request for twenty-one categories of information related to a named nurse. You state Parkland does not possess information responsive to several categories of the request.<sup>1</sup> You also state you will redact some of the submitted information pursuant to Open Records Decision No. 684 (2009).<sup>2</sup> You claim the remaining submitted information is excepted from disclosure under sections 552.101, 552.102, and 552.107 of the Government Code.<sup>3</sup> You also believe release of the information may implicate the interests of the named individual. Accordingly, you state you have notified the named individual of the request and the individual’s right to submit arguments to this office. See Gov’t Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have considered the exception you claim and

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<sup>1</sup>We note the Act does not require a governmental body to disclose information that did not exist at the time the request was received. *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex.Civ.App.—San Antonio 1978, writ dismissed); Open Records Decision No. 452 at 3 (1986).

<sup>2</sup>Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including W-4 forms, I-9 forms, and direct deposit authorizations, without the necessity of requesting an attorney general decision.

<sup>3</sup>Although you initially also raised section 552.111 of the Government Code as an exception to disclosure of the information at issue, you have provided no arguments regarding the applicability of this section. Therefore, we assume you no longer assert section 552.111. See Gov’t Code §§ 552.301(b), (e), .302.

reviewed the submitted representative sample of information.<sup>4</sup> We have also received and considered comments from a representative of the requestor. *See id.*

Initially, we note you have marked a form labeled “Statement Concerning Your Employment in a Job Not Covered by Social Security” as being withheld under Open Records Decision No. 684. This form is beyond the ten categories of information authorized by Open Records Decision No. 684. Therefore, the district may not withhold this form pursuant to Open Records Decision No. 684.

Section 552.101 of the Government Code 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 information protected by other statutes, such as section 301.466 of the Occupations Code, which provides:

(a) A complaint and investigation concerning a nurse under this subchapter and all information and material compiled by the [Texas Board of Nursing (the “board of nursing”)] in connection with the complaint and investigation are:

(1) confidential and not subject to disclosure under Chapter 552, Government Code; and

(2) not subject to disclosure, discovery, subpoena, or other means of legal compulsion for release to anyone other than the [board of nursing] or [board of nursing] employee or agent involved in license holder discipline.

(b) Notwithstanding Subsection (a), information regarding a complaint and an investigation may be disclosed to:

(1) a person involved with the [board of nursing] in a disciplinary action against the nurse;

(2) a nursing licensing or disciplinary board in another jurisdiction;

(3) a peer assistance program approved by the [board of nursing] under Chapter 467, Health and Safety Code;

(4) a law enforcement agency; or

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<sup>4</sup>We 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.

(5) a person engaged in bona fide research, if all information identifying a specific individual has been deleted.

(c) The filing of formal charges against a nurse by the [board of nursing], the nature of those charges, disciplinary proceedings of the [board of nursing], and final disciplinary actions, including warnings and reprimands, by the [board of nursing] are not confidential and are subject to disclosure in accordance with Chapter 552, Government Code.

Occ. Code § 301.466. Section 301.466 only applies to information created or compiled by the board of nursing as part of an investigation by the board of nursing. You contend that the submitted information is subject to section 301.466. However, we note the present request was received by the district, and not the board of nursing. Therefore, we find section 301.466 of the Occupations Code is not applicable to the information at issue, and none of it may be withheld under section 552.101 on that basis.

Section 552.101 also 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, 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). 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 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 . . . university medical center or health science center[.]” Health & Safety Code § 161.032(f); *see McCown*, 927 S.W.2d at 10 (stating that reference to statutory predecessor to Occ. Code § 160.007 in Health and Safety Code § 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). The phrase “records made or maintained in the regular course of business” has been construed to mean records that are neither created nor obtained in connection with a medical committee’s deliberative proceedings. *See McCown*, 927 S.W.2d at 9-10 (discussing *Barnes*, 751 S.W.2d 493, and *Jordan*, 701 S.W.2d 644).

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 in furtherance of this duty, the board maintains overall responsibility for the implementation and maintenance of the Performance Improvement Plan (the “PIP”). Further you state that, 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 state the Quality Improvement Committee (“QIC”) was organized under this structure and carries out the functions of this part of the board’s duties. Upon review, we agree the QIC is a medical committee for the purposes of section 161.032 of the Health and Safety Code.

You state the submitted information contains Patient Safety Net reports (“PSNs”) that are gathered and analyzed by the psychiatric ER department charge nurse as part of a Quality Improvement Plan and such information is reported to the QIC. You state the documents at issue are PSNs involving an adverse occurrence in the district’s psychiatric department and that specific adverse events are investigated by the QIC, improvement plans considered, and resolutions attempted. You also state that “[a]t all times, the incident reports are composed, processed, reviewed and acted upon in a sequence of activity wholly within the purview of duly established medical committees[.]” You also state “[t]hese reports are not prepared in the regular course of business, but reflect the deliberative process of identifying incidents involving patient care, evaluating their causes and severity, and making recommendations on how to remedy the situation and reduce the likelihood of recurrence.” Based on your representations and our review of the information at issue, we conclude the district must

withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 161.032 of the Health and Safety Code.<sup>5</sup>

Section 552.101 also encompasses chapter 611 of the Health and Safety Code. Section 611.002 provides in pertinent part:

(a) Communications between a patient and a professional, and records of the identity, diagnosis, evaluation, or treatment of a patient that are created or maintained by a professional, are confidential.

(b) Confidential communications or records may not be disclosed except as provided by Section 611.004 or 611.0045.

Health & Safety Code § 611.002(a)-(b); *see id.* § 611.001 (defining “patient” and “professional”). Section 611.001 defines a “professional” as (1) a person authorized to practice medicine, (2) a person licensed or certified by the state to diagnose, evaluate or treat mental or emotional conditions or disorders, or (3) a person the patient reasonably believes is authorized, licensed, or certified. *See id.* § 611.001(2). Upon review, we find you have not demonstrated how any portion of the information at issue consists of a mental health record for purposes of chapter 611 of the Health and Safety Code. Accordingly, the district may not withhold any portion of the information at issue under section 552.101 of the Government Code on that basis.

You also argue some of the remaining information is made confidential by section 576.005 of the Health and Safety Code. Section 552.101 of the Government Code also encompasses section 576.005, which provides, “[r]ecords of a mental health facility that directly or indirectly identify a present, former, or proposed patient are confidential unless disclosure is permitted by other state law.” *Id.* § 576.005. Upon review, we find you have failed to demonstrate how any portion of the information at issue is subject to section 576.005 of the Health and Safety Code. Therefore, none of the information at issue may be withheld under section 552.101 of the Government Code on that basis.

Section 552.101 also encompasses the common-law right of privacy, which protects information if it (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be established. *Id.* at 681-82. The type of information considered intimate or 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.

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<sup>5</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

*Id.* at 683. This office has found that some kinds of medical information or information indicating disabilities or specific illnesses are excepted from required public disclosure under common-law privacy. *See* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). This office has also found that personal financial information not relating to a financial transaction between an individual and a governmental body is generally intimate or embarrassing. *See generally* Open Records Decision Nos. 600 at 9-10 (1992) (employee's designation of retirement beneficiary, choice of insurance carrier, election of optional coverages, direct deposit authorization, forms allowing employee to allocate pretax compensation to group insurance, health care or dependent care), 545 (1990) (deferred compensation information, participation in voluntary investment program, election of optional insurance coverage, mortgage payments, assets, bills, and credit history), 373 (sources of income not related to financial transaction between individual and governmental body protected under common-law privacy). However, there is a legitimate public interest in the essential facts about a financial transaction between an individual and a governmental body. *See* ORD Nos. 600 at 9 (information revealing that employee participates in group insurance plan funded partly or wholly by governmental body is not excepted from disclosure), 545 (financial information pertaining to receipt of funds from governmental body or debts owed to governmental body not protected by common-law privacy). Additionally, an individual's criminal history when compiled by a governmental body may be protected under common-law privacy. *Cf. United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989). Furthermore, this office has determined the public has a legitimate interest in information relating to employees of governmental bodies and their employment qualifications and job performances. *See* Open Records Decision Nos. 542 at 5 (1990), 470 at 4 (public has legitimate interest in job qualifications and performance of public employees); *see also* Open Records Decision No. 423 at 2 (1984) (scope of public employee privacy is narrow).

Upon review, we find that the information we have marked is highly intimate or embarrassing and not of legitimate public concern. Therefore, the district must withhold the information we have marked pursuant to section 552.101 of the Government Code in conjunction with common-law privacy. However, we find you have failed to demonstrate that any of the remaining information you seek to withhold is highly intimate or embarrassing and not of legitimate public concern. Therefore, the district may not withhold any of the remaining information under section 552.101 of the Government Code on this basis.

Section 552.101 of the Government Code also encompasses section 418.182 of the Texas Homeland Security Act (the "HSA"), chapter 418 of the Government Code. Section 418.182 provides:

- (a) Except as provided by Subsections (b) and (c), information, including access codes and passwords, in the possession of a governmental entity that relates to the specifications, operating procedures, or location of a security

system used to protect public or private property from an act of terrorism or related criminal activity is confidential.

*Id.* § 418.182. The fact that information may be related to a governmental body's security concerns does not make such information *per se* confidential under the HSA. *See* Open Records Decision No. 649 at 3 (1996) (language of confidentiality provision controls scope of its protection). Furthermore, the mere recitation by a governmental body of a statute's key terms is not sufficient to demonstrate the applicability of a claimed provision. As with any exception to disclosure, a governmental body asserting one of the confidentiality provisions of the HSA must adequately explain how the responsive records fall within the scope of the claimed provision. *See* Gov't Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies). We note that section 418.182 pertains to security systems used to protect public or private property from terrorism. You have made no arguments explaining how the submitted information relates to the specifications, operating procedures, or location of a security system used to protect public or private property from terrorism. Accordingly, you have failed to demonstrate the applicability of section 418.182 to the submitted information. Therefore, the district may not withhold any of remaining information under section 552.101 of the Government Code

Section 552.102(a) of the Government Code excepts from disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." *Id.* § 552.102(a). The Texas Supreme Court recently held section 552.102(a) excepts from disclosure the dates of birth of state employees in the payroll database of the Texas Comptroller of Public Accounts. *Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex.*, No. 08-0172, 2010 WL 4910163 (Tex. Dec. 3, 2010). Having carefully reviewed the information at issue, we conclude you must withhold the information we marked under section 552.102(a) of the Government Code. The remaining information is not excepted under section 552.102(a) and may not be withheld on that basis.

Section 552.107(1) of the Government Code 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* ORD 676 at 6-7. 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 is 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 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,

and lawyer representatives. *See* TEX. R. EVID. 503(b)(1)(A)-(E). 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.* 503(b)(1), 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 that 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).

The district claims some of the remaining information is excepted from disclosure under section 552.107(1). However, we note the information you have marked consists of communications with representatives of the board of nursing. As the district has not demonstrated the board of nursing representatives are privileged parties, the district may not withhold any of the remaining information under section 552.107(1) of the Government Code.

You state the district will redact the information you have marked under section 552.117 of the Government Code pursuant to section 552.024 of the Government Code.<sup>6</sup> We note that the remaining documents contain additional information that may be subject to section 552.117. Section 552.117 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 of the Government Code. Gov’t Code § 552.117(a). Section 552.117 is also applicable to personal pager and cellular telephone numbers, provided the cellular telephone service or pager service is not paid for by a governmental body. *See* Open Records Decision No. 506 at 5-6 (1988) (statutory predecessor to section 552.117 of the Government Code not applicable to cellular telephone numbers provided and paid for by governmental body and intended for official use). Whether a particular piece of information is protected by section 552.117(a)(1) must be determined at the time the request for it is made. *See* Open Records Decision No. 530 at 5 (1989). Therefore, a governmental body must withhold information under section 552.117 on behalf of current or former officials or employees only if these individuals made a request for confidentiality under section 552.024 prior to the date on which the request for this

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<sup>6</sup>Section 552.024(c) of the Government Code authorizes a governmental body to redact information protected by section 552.117(a)(1) of the Government Code without the necessity of requesting a decision under the Act if the current or former employee to whom the information pertains timely chooses not to allow public access to the information. *See* Gov’t Code § 552.024(c)(2), .117(a).

information was made. You state the named nurse has elected to keep such information confidential under section 552.024. Thus, the district must withhold the information we have marked belonging to this employee under section 552.117. However, we have also marked a pager number belonging to another employee. To the extent this employee made a timely election under section 552.024 and the pager service is paid for with personal funds, the district must withhold the pager number we marked under section 552.117(a)(1) of the Government Code. If the individual at issue did not make a timely election under section 552.024 or the pager service was not paid for with personal funds, the district may not withhold the pager number we marked under section 552.117(a)(1) of the Government Code.

We note some of the remaining information is subject to sections 552.130 and 552.137 of the Government Code.<sup>7</sup> Section 552.130 of the Government Code excepts from disclosure information that relates to a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country. Gov't Code § 552.130(a)(1). Upon review, we find the district must withhold the information we have marked under section 552.130 of the Government Code.

Section 552.137 excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body" unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). Gov't Code § 552.137(a)-(c). The e-mail addresses at issue are not excluded by subsection (c). Therefore, the district must withhold the personal e-mail addresses we have marked under section 552.137 of the Government Code, unless the owner affirmatively consents to their public disclosure.

In summary, the district must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 161.032 of the Health and Safety Code. The district must withhold the information we have marked pursuant to section 552.101 of the Government Code in conjunction with common-law privacy. The district must withhold the dates of birth we marked under section 552.102(a) of the Government Code. The district must withhold the information we have marked belonging to the named nurse under section 552.117 of the Government Code. To the extent the additional employee made a timely election under section 552.024 and the pager number is paid for with personal funds, the district must withhold the information we marked under section 552.117(a)(1) of the Government Code. If this individual did not make a timely election under section 552.024 or the pager service was not paid for with personal funds, the district may not withhold the information we marked under section 552.117(a)(1) of the Government Code. The district must withhold the information we have marked under section 552.130 of the Government Code. The district must withhold the personal e-mail

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<sup>7</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

addresses we have marked under section 552.137 of the Government Code, unless the owner affirmatively consents to their public disclosure. 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](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 cursive script, appearing to read "Jennifer Burnett", with a horizontal line extending to the right.

Jennifer Burnett  
Assistant Attorney General  
Open Records Division

JB/bs

Ref: ID# 441210

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,*

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§

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);

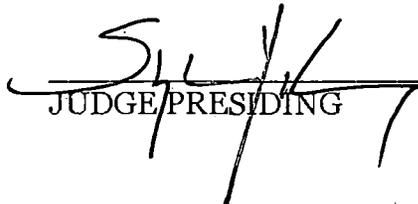
2. Parkland must withhold the Excepted Information described in Paragraph 1 of this order, as well as those portions of the information at issue found to be excepted from disclosure by Open Records Letter Rulings OR2011-19073, OR2011-19154, OR2011-19163, OR2011-19210, OR2011-19240, OR2012-00173, OR2012-00707,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

  
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JUDGE PRESIDING

AGREED:

  
\_\_\_\_\_

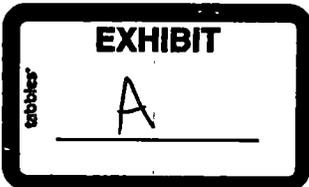
RYAN S. HENRY  
State Bar No. 24007347  
Law Office of Ryan Henry, PLLC  
1380 Pantheon Way, Suite 110  
San Antonio, Texas 78232  
Telephone: (210) 257-6357  
Facsimile: (210) 569-6494  
ryan.henry@rshlawfirm.com

ATTORNEY FOR PLAINTIFF DALLAS COUNTY  
HOSPITAL DISTRICT D/B/A PARKLAND  
HEALTH AND HOSPITAL SYSTEM

  
\_\_\_\_\_

MATTHEW R. ENTSMINGER  
State Bar No. 24059723  
Section Chief, Open Records Litigation  
Administrative Law Division  
P.O. Box 12548, Capitol Station  
Austin, Texas 78711-2548  
Telephone: (512) 475-4151  
Facsimile: (512) 457-4686  
matthew.entsminger@texasattorneygeneral.gov

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 Texas<sup>1</sup> (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

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<sup>1</sup> 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.

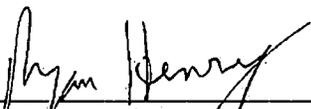
3. The remaining information must be released to the requestor.
4. Parkland and the Attorney General agree to the entry of an Agreed Final Judgment, the form of which has been approved by each Party's attorney. The Agreed Final Judgment will be presented to the Court for approval, on the uncontested 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

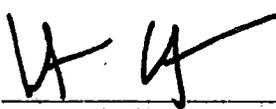
representative has read this Agreement and fully understands it to be a compromise and settlement and release of all claims the Parties have against each other arising out of the matters described in this Agreement.

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

  
\_\_\_\_\_  
RYAN S. HENRY  
State Bar No. 24007347  
Law Office of Ryan Henry, PLLC  
1380 Pantheon Way, Suite 110  
San Antonio, Texas 78232  
Telephone: (210) 257-6357  
Facsimile: (210) 569-6494  
ryan.henry@rshlawfirm.com

  
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MATTHEW R. ENTSMINGER  
State Bar No. 24059723  
Section Chief, Open Records Litigation  
Administrative Law Division  
P.O. Box 12548, Capitol Station  
Austin, Texas 78711-2548  
Telephone: (512) 475-4151  
Facsimile: (512) 457-4686  
matthew.entsminger@texasattorneygeneral.gov

Date: September 21, 2016

Date: September 22, 2016