



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 9, 2012

Mr. R. Brooks Moore
Assistant General Counsel
The Texas A&M University System
301 Tarrow Street, 6th Floor
College Station, Texas 77840

OR2012-06850

Dear Mr. Moore:

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# 456169.

The Texas A&M Health Science Center ("TAMHSC") received a request for the requestor's application to TAMHSC College of Medicine for the entering class of 2011-2012. You claim the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This exception encompasses information other statutes make confidential, including section 161.032 of the Health and Safety Code, which provides in part the following:

(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 section 161.032, 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. *Mem’l Hosp.*, 927 S.W.2d at 10 (quoting *Jordan*, 701 S.W.2d at 647-48); *Doctor’s Hosp. v. West*, 765 S.W.2d 812, 814 (Tex. App.—Houston [1st Dist.] 1988) (same). This confidentiality 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, but does not extend to documents “gratuitously submitted to a committee” or “created without committee impetus and purpose.” *Id.*; *see also* Open Records Decision No. 591 (1991) (construing statutory predecessor to Health & Safety Code § 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 also Mem’l Hosp.*, 927 S.W.2d at 10 (stating reference in Health and Safety Code § 161.032 to statutory predecessor to Occ. Code § 160.007 is clear signal 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 id.* (discussing *Barnes*, 751 S.W.2d 493, and *Jordan*, 701 S.W.2d 644).

You state the submitted information consists of records created or considered by the TAMHSC College of Medicine’s admissions committee. You explain the admissions

committee is composed of faculty members of TAMHSC's school of medicine and reviews the applications of prospective medical students. You state the committee "upholds the TAMHSC's mission of providing the best healthcare possible by educating future physicians and preparing graduates for providing primary patient services." You contend the submitted information consists of records, information, or reports of a medical committee for purposes of sections 161.031 and 161.032 of the Health and Safety Code. Based on your representations, we agree the TAMHSC College of Medicine's admissions committee constitutes a medical committee for purposes of section 161.032 of the Health and Safety Code. *See generally Mem'l Hosp.*, 927 S.W.2d at 8 (term "medical committee" is broadly defined). We also agree the information at issue consists of records of a medical committee. We therefore conclude TAMHSC 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.

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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/ag

Ref: ID# 456169

Enc. Submitted documents

c: Requestor
(w/o enclosures)