



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 1, 2013

Ms. Thao La
Senior Attorney
Legal Affairs
Parkland Health & Hospital System
5201 Harry Hines Boulevard
Dallas, Texas 75235

OR2013-05167

Dear Ms. Thao La:

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# 482669 (DCHD# 13-09).

The Dallas County Hospital District d/b/a Parkland Health and Hospital System (the "system") received a request for a spreadsheet of the following information regarding all system employees: last name, first name, middle name, employee ID number, job title, pay rate, gender, race or ethnicity, work telephone number, and start date. You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.150 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, you state some of the submitted information was the subject of a previous request for information. This office has issued Open Records Letter Nos. 2010-02881 (2010), 2010-16352 (2010), 2011-03032 (2011), 2011-17379 (2011), and 2011-18041 (2011) in response to similar requests for information regarding the system's employees and nurses. In those decisions, we ruled, among other things, the system must withhold portions of the information at issue under section 552.150 of the Government Code and must withhold other portions of the information because the question of the required disclosure of the information is before the court in litigation the system 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, the system must continue to rely on Open

Records Letter Nos. 2010-02881, 2010-16352, 2011-03032, 2011-17379, and 2011-18041 as previous determinations and withhold the information we ruled is subject to section 552.150 in accordance with those rulings. *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). For the information which is not subject to Open Records Letter Nos. 2010-02881, 2010-16352, 2011-03032, 2011-17379, and 2011-18041, we will consider your arguments against disclosure.

You raise section 552.101 of the Government Code. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. However, the system has not directed our attention to any law, nor are we aware of any law, under which any of the submitted information is considered to be confidential for purposes of section 552.101 of the Government Code. *See* Open Records Decision Nos. 611 at 1 (1992) (common-law privacy), 600 at 4 (1992) (constitutional privacy), 478 at 2 (1987) (statutory confidentiality). Accordingly, the system may not withhold any of the submitted information under section 552.101.

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:

(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 the system has provided all employees notice of this request and of their ability to claim a section 552.150 exception. You have provided this office with copies of written applications sent to the system from, or on behalf of, certain employees, including an application by the program manager of the system's Victim Intervention Program / Rape Crisis Center (the "center") seeking protection pursuant to section 552.150 on behalf of all center staff members. In these applications, the employees, or their representatives, describe the information at issue, explain their specific circumstances and concerns, and ask that their information not be publicly disclosed. Upon review and consideration of these applications, we determine some of the employees whose information was not subject to Open Records Letter Nos. 2010-02881, 2010-16352, 2011-03032, 2011-17379, and 2011-18041 have described specific circumstances establishing that release of their names could "reasonably be expected to compromise the safety of the individual." *See id.* § 552.150(a)(1). Therefore, the system must withhold the names, employee IDs and work telephone numbers belonging to the individuals we have indicated under section 552.150 of the Government Code, including those of all center staff members. In addition, to the extent the job title reveals the identity of an individual whose application we have marked, as, for example, when there is only one individual with that title, the system must also withhold the individual's job title under section 552.150. However, we find none of the individuals to whom the remaining information at issue pertains has established that release of the remaining information could "reasonably be expected to compromise the safety of the individual." *See id.*; *see also id.* § 552.022(a)(2) ("[The] name, sex, ethnicity, salary, title, and dates of employment of each employee and officer" of governmental body are public information under the Act unless "expressly confidential under other law."). Thus, we find neither the system nor its employees and officers have demonstrated that section 552.150 is applicable to any of the remaining information at issue. Therefore, the system may not withhold any of the remaining information at issue under section 552.150 of the Government Code.

In summary, the system must continue to rely on Open Records Letter Nos. 2010-02881, 2010-16352, 2011-03032, 2011-17379, and 2011-18041 as previous determinations and withhold the information we ruled is subject to section 552.150 in accordance with those rulings. The system must withhold the names, employee IDs and work telephone numbers belonging to the individuals we have indicated under section 552.150 of the Government Code. To the extent the job title reveals the identity of an individual whose application we have marked, the system must also withhold the individual's job title under section 552.150 of the Government Code. 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,



Kathryn R. Mattingly
Assistant Attorney General
Open Records Division

KRM/bhf

Ref: ID# 482669

Enc. Submitted documents

c: Requestor
(w/o enclosures)