



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 7, 2013

Ms. Melanie J. Rodney  
Assistant County Attorney  
Harris County Hospital District  
2525 Holly Hall, Suite 190  
Houston, Texas 77054

OR2013-19423

Dear Ms. Rodney:

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# 504969 (CAO File No. 13HSP0764).

The Harris County Hospital District d/b/a Harris Health System (the "system") received a request for copies of all reports the requestor has made to the Global Compliance hotline. You claim the requested information is excepted from disclosure under section 552.101 of the Government Code. Additionally, you state release of the requested information may implicate the proprietary interests of a third party, NAVEX Global. You inform us, and provide documentation showing, that pursuant to section 552.305 of the Government Code, the system notified NAVEX Global of the request and of its right to submit arguments to this office explaining why its information should not be released. *See Gov't Code* § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); *see also* Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in certain circumstances). We have considered the exception you claim and reviewed the submitted information.

Initially, we note a portion of the submitted information, which we have marked, is not responsive to the instant request because it was created after the date the request was

received. The system need not release non responsive information in response to this request, and this ruling will not address that 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.” Gov’t Code § 552.101. Section 552.101 encompasses section 161.032 of the Health and Safety Code which provides in part:

(c) Records, information, or reports of a . . . compliance officer and records, information, or reports provided by a . . . compliance officer to the governing body of a public hospital, hospital district, or hospital authority are not subject to disclosure under [the Act].

. . .

(e) The records, information, and reports received or maintained by a compliance officer retain the protection provided by this section only if the records, information, or reports are received, created, or maintained in the exercise of a proper function of the compliance officer as provided by the Office of Inspector General of the United States Department of Health and Human Services.

(f) This section . . . do[es] not apply to records made or maintained in the regular course of business by a hospital, [or] hospital district[.]

Health & Safety Code § 161.032(c), (e)–(f). You state the responsive information consists of records, information, and reports received, created, or maintained by the system’s corporate compliance officer through the system’s Fraud, Abuse, and Wrongdoing hotline. You state the information at issue is promptly relayed to the system’s corporate compliance department for investigation of the reported incidents pursuant to the system’s compliance program. You explain the responsive information was created for and is part of the compliance files for the complaints at issue and is not maintained in the regular course of business. *Cf. Texarkana Mem’l Hosp., Inc. v. Jones*, 551 S.W.2d 33, 35 (Tex. 1977) (defining records made or maintained in regular course of business). Based on your representations and our review, we conclude the responsive information consists of records, information, or reports of a compliance officer acting under subchapter D of chapter 161 of the Health and Safety Code. Therefore, the system must withhold the responsive 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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Paige Lay  
Assistant Attorney General  
Open Records Division

PL/bhf

Ref: ID# 504969

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)