



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 19, 2019

Ms. Rena Marie Nguyen
Assistant County Attorney
Harris County Hospital District
2525 Holly Hall, Suite 190
Houston, Texas 77054

OR2019-22979

Dear Ms. Nguyen:

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# 781080 (19HSP0497).

The Harris County Hospital District d/b/a Harris Health System (the "system") received a request for the employment file of the requestor, and any information which served as the basis for the termination of the requestor's employment. You state you released some information. You claim the submitted 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." *Id.* § 552.101. Section 552.101 of the Government Code also encompasses section 161.032 of the Health and Safety Code. Section 161.032 addresses a broad category of medical committees and provides, in relevant 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). A “medical committee” is any committee, including a joint committee of a hospital, medical organization, university medical school or health science center, health maintenance organization, extended care facility, a hospital district, or a hospital authority. *See id.* § 161.031(a). The term also encompasses “a committee appointed *ad hoc* to conduct a specific investigation or established under state or federal law or rule or under the bylaws or rules of the organization or institution.” *Id.* § 161.031(b) (emphasis added).

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 “documents generated by the committee in order to conduct open and thorough review” are confidential. *Mem’l Hosp.*, 927 S.W.2d at 10; *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, no writ). 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.*; *see also* Open Records Decision No. 591 (1991) (construing statutory predecessor to Health & Safety Code § 161.032). Additionally, 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 to statutory predecessor to section 160.007 of the Occupations Code in section 161.032 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 Mem’l Hosp.*, 927 S.W.2d at 10 (discussing *Barnes*, 751 S.W.2d 493, and *Jordan*, 701 S.W.2d 644).

The system informs us the Harris Health Quality Governance Council (the "QGC"), which operates as a medical committee, "provides executive oversight for Harris Health's Quality Management System with the purpose of supporting and facilitating the continual improvement of quality health care." The system further states "All Harris Health Risk Management Program (the "program") activities are performed pursuant to the committee purposes of the QGC." The system states the information at issue was compiled and created as part of an investigation within the purview of the program conducted at the direction of the QGC. Based on the system's representations and our review, we agree the information at issue consists of confidential records of a medical committee under section 161.032. Therefore, we conclude the system 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.¹

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, 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,



Sean McCormick
Attorney
Open Records Division

SMC/eb

Ref: ID# 781080

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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