



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 22, 2019

Mr. Andrew Devine
Senior Associate Attorney
Parkland Health & Hospital System
5200 Harry Hines Boulevard
Dallas, Texas 75235

OR2019-33139

Dear Mr. Devine:

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# 798006 (DCHD# 19-50).

The Dallas County Hospital District d/b/a Parkland Health & Hospital System (the "system") received a request for a list of all current job codes with salary ranges, including certain information pertaining to current system employees. You claim the submitted information is excepted from disclosure under section 552.150 of the Government Code. We have considered the claimed exception and reviewed the submitted information.

Initially, you state, and we note, some of the requested information was the subject of previous requests for information regarding the system's employees, as a result of which this office issued Open Records Letter Nos. 2015-02856 (2015), 2015-00780 (2015), 2014-15069A (2014), 2014-07070 (2014), 2013-05167 (2013), 2011-18041 (2011), 2011-17379 (2011), 2011-08377 (2011), 2011-03032 (2011), 2010-16352 (2010), and 2010-02881 (2010). We note the information at issue in Open Records Letter No. 2010-02881 was the subject of litigation between the system and the Office of the Attorney General (the "OAG") in *Dallas County Hosp. Dist. v. Abbott*, No. D-1-GN-10-000812 (353rd Dist. Ct., Travis County, Tex.). As a result of this litigation, the trial court entered an agreed order of dismissal on the grounds that the requestor has withdrawn his request for information and ruled that Open Records Letter No. 2010-02881 will not be considered a previous determination by the OAG. Therefore, based on the trial court's ruling, the system may not rely on Open Records Letter No. 2010-02881 as a previous determination for the information at issue. However, in

Open Records Letter Nos. 2015-02856, 2015-00780, 2014-15069A, 2014-07070, 2013-05167, 2011-18041, 2011-17379, 2011-08377, 2011-03032, and 2010-16352, we ruled, among other things, the system must withhold portions of the information at issue under section 552.150 of the Government Code. We note the system now seeks to withhold some of the information at issue which was previously ordered released in the previous rulings under section 552.150 of the Government Code. Section 552.007 of the Government Code provides that, if a governmental body voluntarily releases information to any member of the public, the governmental body may not withhold such information from further disclosure unless its public release is expressly prohibited by law or the information is confidential under law. *See Gov't Code § 552.007; Open Records Decision No. 518 at 3 (1989); see also Open Records Decision No. 400 (1983) (governmental body may waive right to claim permissive exceptions to disclosure under the Act, but it may not disclose information made confidential by law).* Therefore, pursuant to section 552.007, the system may not now withhold any previously released information unless its release is expressly prohibited by law or the information is confidential under law. However, because section 552.150 is a confidentiality provision designed to protect third party interests, we will address the system's arguments under section 552.150 for the information that was previously released. Nevertheless, there is no indication the law, facts, and circumstances on which the prior rulings were based have changed. Accordingly, upon review, we find the system must continue to rely on Open Records Letter Nos. 2015-02856, 2015-00780, 2014-15069A, 2014-07070, 2013-05167, 2011-18041, 2011-17379, 2011-08377, 2011-03032, and 2010-16352 as previous determinations and withhold the information pertaining to current employees for whom we have previously found section 552.150 of the Government Code applies. *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).* However, we will address your argument against disclosure of remaining information, as well as the information pertaining to individuals whose information was not at issue in the previous rulings.

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.*

We understand 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 certain employees seeking protection pursuant to section 552.150. In these applications, the employees describe the information at issue, explain their specific circumstances and concerns, and ask that their information not be publicly disclosed. We note section 552.150 does not apply to a former employee. Upon review and consideration of these applications, we determine some employees 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 under section 552.150 the names belonging to individuals we have indicated who were current employees at the time of the present request for information. However, we find none of the individuals to whom the remaining information at issue pertains have established release of the remaining information could "reasonably be expected to compromise the safety of the individual" or the employees at issue are former employees. *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 have demonstrated that section 552.150 is applicable to any of the remaining information. 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. 2015-02856, 2015-00780, 2014-15069A, 2014-07070, 2013-05167, 2011-18041, 2011-17379, 2011-08377, 2011-03032, and 2010-16352 as previous determinations and withhold the information pertaining to current employees for whom we have previously found section 552.150 of the Government Code applies. The system must withhold the names belonging to the individuals we have indicated who were current employees at the time of the request 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



James M. Graham
Assistant Attorney General
Open Records Division

JMG/gw

Ref: ID# 798006

Enc. Submitted documents

c: Requestor
(w/o enclosures)