



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 10, 2022

Ms. Jennifer B. Claymon
Counsel for the Clay County Memorial Hospital
Reed, Claymon, Meeker & Hargett, P.L.L.C.
5608 Parkcrest Drive, Suite 200
Austin, Texas 78731-4999

OR2022-35164

Dear Ms. Claymon:

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# 979837.

The Clay County Memorial Hospital (the "hospital"), which you represent, received a request for all meeting minutes during a specified time period, specified contracts, and specified budgets. Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of Concord Medical Group of Texas ("Concord") and North Texas Acute Care Physicians, LLC ("NTACP"). Accordingly, you state, and provide documentation showing, you notified these third parties of the request for information and of their right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have received comments from NTACP. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note you have not submitted the requested meeting minutes or budgets. To the extent this information existed on the date the hospital received the request, we assume you have released it. If you have not released any such information, you must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

Next, we note an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from Concord explaining why the submitted information should not be released. Accordingly, we have no basis to conclude Concord has a protected proprietary interest in the submitted information, and the hospital may not withhold any portion of it on that basis. *See, e.g., id.* § 552.110 (requiring the provision of specific factual evidence demonstrating the applicability of the exception).

Section 552.110(c) of the Government Code states, in part, "commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained is excepted from [required disclosure]." *Id.* § 552.110(c). NTACP argues some of its information consists of commercial or financial information subject to section 552.110(c). Upon review, we find NTACP has demonstrated the information at issue constitutes commercial or financial information, the release of which would cause substantial competitive harm. Accordingly, the hospital must withhold the information we have marked under section 552.110(c) of the Government Code. As no further exceptions to disclosure have been raised, the hospital must release the remaining information.

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,

Tim Neal
Assistant Attorney General
Open Records Division

TN/jxd

Ref: ID# 979837

Enc. Submitted documents

c: Requestor
(w/o enclosures)

2 Third Parties
(w/o enclosures)