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March 23, 2010

Via Hand Delivery

Office of the Attorney General
Open Records Division
209 W. 14th Street, 6th Floor
Austin, Texas 78701

RE: Request for Attorney General's Decision Regarding Application of Exemption from Disclosure under the Texas Public Information Act

Dear Sir or Madam:

This law firm represents the Somervell County Health Care Authority d/b/a Glen Rose Medical Center ("GRMC"). This letter is to request an Attorney General decision regarding whether or not certain information is confidential and privileged and may be withheld by GRMC pursuant to the TEXAS PUBLIC INFORMATION ACT ("Act").

On March 10, 2010, [REDACTED] submitted a request under the Act to GRMC for electronic copies of the following:

1. "I would like a report listing of all bank account numbers, style (name) of each account, including the name of the bank and the current balance per the bank as of this date, as well as an explanation of the purpose of each account;" and
2. "I would like a listing of yearly salaries/wages for all employees that are paid through either Somervell County or the Somervell County Hospital Authority dba Glen Rose Medical Center. In this listing, I would like the name of the person, his or her title and the yearly salary amount. If the doctors in the 501a corporation, Glen Rose Healthcare Inc received any funding from Somervell County in the months of January or February 2010, I would like those amounts included, along with the name of the doctor and date."

A copy of [REDACTED] request is attached hereto as **Exhibit A**.

In regards to [REDACTED] first request for "a listing of all bank account numbers" and [REDACTED] second request for "a listing of yearly salaries/wages for all employees," it is GRMC's position that the documents may be withheld based on one or more of the exceptions under

Subchapter C of the Act. Specifically, it is GRMC's position that the documents may be withheld under sections 552.104 and 552.136 of the TEXAS GOVERNMENT CODE. Due to the fact that [REDACTED] has requested a voluminous amount of information, GRMC has attached representative samples of the information pursuant to section 552.301(e)(1)(D) of the GOVERNMENT CODE, which is attached hereto as **Exhibits B and C**. The information contained in **Exhibit B** is a representative sample of "a listing of all bank account numbers." The information contained in **Exhibit C** is a representative sample of "a listing of yearly salaries/wages for all employees."

The bank account information, attached hereto as **Exhibit B**, as well as the salary information, attached hereto as **Exhibit C**, are excepted from disclosure under section 552.104 of the GOVERNMENT CODE and must be withheld in accordance with the Act. Section 552.104 excepts information from disclosure if a governmental body demonstrates that the release of the information would cause potential specific harm to its interests in a particular competitive situation. *See* Open Records Decision Nos. 593 at 2 (1991), 463 (1987), 453 at 3 (1986). Section 552.104 specifically protects the interests of governmental bodies. *See* Open Records Decision No. 592 (1991).

GRMC is located just southwest of the Dallas-Ft. Worth region. GRMC regularly competes with numerous healthcare providers not only for patients, but also for skilled physicians and trained employees. In an effort to stay competitive in the marketplace, millions of dollars of renovations and state-of-the-art technology have been added to GRMC since 1990.

Approximately three years ago, a competing hospital located just 15 miles from GRMC successfully recruited a primary care physician from the GRMC Medical Staff. The physician's practice, which was previously located on the GRMC campus, was relocated by the competing hospital directly across the street from GRMC. Since that time, the competing hospital's CEO has continued to aggressively recruit the physicians on the GRMC Medical Staff. Approximately three months ago, the CEO offered an employment agreement to another primary care physician on the GRMC Medical Staff.

In addition to the recruitment of GRMC physicians, the competing hospital has placed a billboard within 200 yards of the GRMC campus which continually promotes the physicians associated with the competing hospital

Furthermore, the CEO of the competing hospital, along with an executive from operator of the competing hospital, has met twice with the GRMC CEO to express their interest in partnering with GRMC. The CEO of the competing hospital has also met several times with the County Judge and the County Commissioners to express the competing hospital's interest in affiliating with GRMC.

In January of 2010, the governance of GRMC was transferred to the Somervell County Health Care Authority Board. GRMC is now governed by a seven-member board of committed

community volunteers which oversees the work of our experienced administrative staff, makes recommendations for improvements and approves all budgeted items. As such, GRMC board meetings are now open to the public with a posted agenda. At a recent board meeting with an agenda item to discuss an organizational audit by an outside firm, the CEO of the competing hospital attended the meeting and during the public comments section of the meeting, presented a proposal for a subsidiary of the competing hospital's operator to provide the organizational audit at no cost to GRMC. Immediately following his presentation to the board, the CEO attempted to recruit a physician on the GRMC Medical Staff.

As outlined above, GRMC is currently engaged in a very aggressive competition with a competing hospital, as well as other area healthcare providers. The release of the bank account information, attached hereto as **Exhibit B**, and salary information, attached hereto as **Exhibit C**, would no doubt substantially harm GRMC. Specifically, it is already very difficult to recruit skilled employees to a rural area, and the release of the salary information would enable competing hospitals to recruit GRMC employees with specific technical skills away from GRMC. Further, the information related to GRMC's nonprofit health organization, which employs physician members of the GRMC Medical Staff, would enable competing hospitals to recruit physicians away from GRMC. Accordingly, the release of the information attached as **Exhibit B** and **Exhibit C** would result in substantial competitive injury to the company and the information must be withheld by GRMC.

The bank account information, attached hereto as **Exhibit B**, is also excepted from disclosure under section 552.136 of the GOVERNMENT CODE and must be withheld in accordance with the Act. Section 552.136 provides:

- (a) In this section, "access device" means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to:
 - (1) obtain money, goods, services, or another thing of value; or
 - (2) initiate a transfer of funds other than a transfer originated solely by paper instrument.
- (b) Notwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.

In Open Records Letter Ruling 2334 (2005), your office held that bank account information for the City of Houston must be withheld. Accordingly, it is GRMC's position that its bank account information in **Exhibit B** must be withheld under section 552.136.

Office of the Attorney General

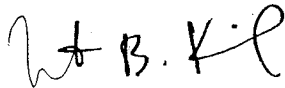
March 23, 2010

Page 4

In compliance with the Act, a copy of this letter request is being provided to [REDACTED] contemporaneously with this letter.

Thank you in advance for your attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Trent B. Krienke". The signature is fluid and cursive, with the first letters of each name being capitalized and prominent.

Trent B. Krienke

Encl.

cc: [REDACTED] without enclosures (*Via CM/RRR*)