

2008-004

STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

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ATTORNEY GENERAL

October 2, 2007

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Honorable Mary F. Gunter, Attorney
Henry County Health Care Authority, Inc.
104 West Court Square
Abbeville, Alabama 36310

THIS OPINION IS CONSISTENT WITH
TENNESSEE VALLEY PRINTING CO.,
INC. V. HEALTH CARE AUTHORITY
OF LAUDERDALE COUNTY, 61 So. 3d
1027 (Ala. 2010).

Health Care Authorities - Health Care
Facilities - Public Records - Salaries

The Henry County Health Care Authority,
Inc., is required to disclose the annual
salaries of top-level management
executives to the public because such
information is a matter of public record
pursuant to section 36-12-40 of the Code
of Alabama.

Dear Ms. Gunter:

This opinion of the Attorney General is issued in response to your request
on behalf of the Henry County Health Care Authority.

QUESTION

Does the Henry County Health Care Authority,
Inc., ("Authority") have to disclose to the public the
annual salaries of top-level management executives
who are hired by the Authority and its subsidiaries,
without advertisement, based upon the degrees and pro-
fessional experience these professionals possess?

FACTS AND ANALYSIS

In your letter of request, you informed this Office that recently a Henry
County Commissioner requested that the Henry County Health Care Authority
disclose the salaries of top-level management personnel within the Authority.
The Authority was reincorporated in December 1994 as a health care authority
pursuant to section 22-21-310, *et seq.*, of the Code of Alabama. The predeces-
sor for the Authority was the Henry County Hospital Board. At this time, the

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Authority owns and operates the Henry County Health and Rehabilitation Facility and two assisted living facilities. The Authority is composed of nine members-five members are appointed by the county commission with the remaining four members being selected by the Authority. Further, the Authority receives a portion of the county's ad valorem tax revenues.

You stated you are particularly concerned with regard to disclosing the salaries of these top-level management personnel. Specifically, it is stated that the Authority "believes that to disclose such salaries to the public would compromise both the Authority's ability to remain competitive in its top-level management recruiting and hiring, as well as in its retention of such employees by violating their expectations that their salaries remain private." Henry County Health Care Authority Resolution (March 26, 2007). Moreover, the Authority perceives itself as an entity that is neither fully private nor fully governmental. Accordingly, your particular question contemplates whether a public corporation is subject to the Open Records Law.

The Authority and the original hospital board are public corporations. *See, generally*, opinion to Honorable Douglas S. Hamlin, Judge of Probate, dated December 4, 1989, A.G. No. 90-00058. Pursuant to section 22-21-318(c)(2), the Authority is specifically designated as an "instrumentality of its authorizing subdivisions." ALA. CODE § 22-21-318(c)(2) (2006).

Further, as noted above, a majority of the board of directors of the Authority are appointed or elected by the governing body as required pursuant to section 22-21-316(a). Thus, in accordance with the provisions in section 36-12-40 and the holding of the Alabama Supreme Court in *Water Works & Sewer Board of City of Talladega v. Consolidated Publ'g, Inc*, 892 So. 2d 859 (Ala. 2004), the business records of the Authority are public records, and the salaries paid to top-level management executives employed by the Authority are a matter of public record. *See, generally*, the following opinions:

- Honorable William A. Meehan, President and Secretary Board of Trustees, Jacksonville State University, dated April 3, 2007, A.G. No. 2007-067 (determining that the contracts of coaches at a state university are public records and salary, race, and sex are among information that must be disclosed);
- Honorable Roy Smith, Member, House of Representatives, dated June 11, 1992, A.G. No. 92-00307 (determining that information concerning the names, titles, and compensation of county employees is a matter of public record to be made available to the public).

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CONCLUSION

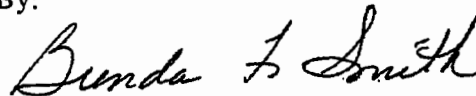
The Henry County Health Care Authority, Inc., is required to disclose the annual salaries of top-level management executives to the public because such information is a matter of public record pursuant to section 36-12-40 of the Code of Alabama.

I hope this opinion answers your question. If this Office can be of further assistance, please contact Monet Gaines of my staff.

Sincerely,

TROY KING
Attorney General

By:

A handwritten signature in cursive script that reads "Brenda F. Smith".

BRENDA F. SMITH
Chief, Opinions Division

TK/MMG
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