



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 6, 2016

Ms. Loris Jones
Public Information Officer
Texas Board of Veterinary Medical Examiners
333 Guadalupe Street, Suite 3-810
Austin, Texas 78701-3942

OR2016-22488

Dear Ms. Jones:

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# 629291.

The Texas Board of Veterinary Medical Examiners (the "board") received a request for the investigation file related to a specified complaint the requestor filed. You state you have released some information to the requestor. 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." Gov't Code § 552.101. This exception encompasses information made confidential by other statutes, such as section 801.207 of the Occupations Code. Section 801.207(b) provides, "[a]n investigation record of the board, including a record relating to a complaint that is found to be groundless, is confidential." Occ. Code § 801.207(b). You state under the board's procedures, an investigation file is opened upon receipt of a complaint, and any matters related to that complaint and subsequent investigation become part of the investigation record. You inform us the information at issue relates to a complaint filed with the board and this information is contained within an investigation file. Therefore, based on

your representations and our review, we conclude the submitted information is confidential under section 801.207(b) of the Occupations Code.

The board asserts it need not release the complaint to the requestor who is the complainant, but is not a licensee under the Veterinary Licensing Act. *See* Occ. Code § 801.002 (defining professions licensed under the Veterinary Licensing Act); *see also* 22 T.A.C. § 575.1 (incorporating the definitions contained in the Veterinary Licensing Act). In Open Records Decision No. 683, this office held that although section 801.207(b) makes the board's investigation records confidential as to the general public, this statute does not prohibit the board from releasing "the complaint to the licensee during the complaint investigation process." Open Records Decision No. 683 at 4 (2009). You state Board Rule 575.28(6) allows a licensee to review the complaint unless doing so would jeopardize an active investigation. We note the board rules under the Texas Administrative Code expressly limit access to the complaint to a licensee under the Veterinary Licensing Act. 22 T.A.C. § 575.28(6) (Complaints-Investigations); *see also* Open Records Decision No. 649 at 3 (1996) (language of confidentiality provision controls scope of its protection). Thus, because the requestor is the complainant, and not a licensee under the Veterinary Licensing Act, the requestor does not have access to the complaint under board rules. Accordingly, we conclude the board must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 801.207(b) of the Occupations Code.

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,



Erin Groff
Assistant Attorney General
Open Records Division

EMG/som

Ref: ID# 629291

Enc. Submitted documents

c: Requestor
(w/o enclosures)