



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

November 6, 2017

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

OR2017-25298

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# 683403 (Ref. No. 2018-0001).

The Texas Board of Veterinary Medical Examiners (the "board") received a request for a copy of a specified complaint. 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. Section 552.101 encompasses information made confidential by former section 801.207 of the Occupations Code. Former 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." Act of May 17, 1999, 76th Leg., R.S., ch. 388, § 1, 1999 Tex. Gen. Laws 1431, 2112 (amended 2017) (current version at Occ. Code § 801.207(b)). We note the information at issue was created prior to September 1, 2017. Although section 801.207(b) of the Occupations Code was amended in 2017 by the 85th Legislature, investigation records created prior to September 1, 2017, are subject to the former version of section 801.207, which was continued in effect for that purpose. *See* Act of May 29, 2017, 85th Leg., R.S., ch. 536, § 27, Tex. Sess. Law. Serv. 1501, 1508 (Vernon). 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 submitted information consists of 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 552.101 of the Government Code in conjunction with former section 801.207(b) of the Occupations Code.

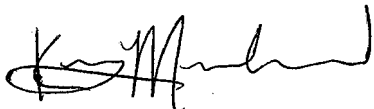
In Open Records Decision No. 683, this office held that although former section 801.207(b) makes the board's investigation records confidential as to the general public, this statute does not prohibit the board from releasing "the complaint to the licensee during the complaint investigation process." 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. *Id.*; see also Open Records Decision No. 649 at 3 (1996) (language of confidentiality provision controls scope of its protection).

You note the requestor is the licensee who is the subject of the complaint in the investigation. However, you represent release of the complaint in this instance could interfere with an active investigation. The board has the discretion to provide the requestor, as the licensee, a copy of the complaint. Otherwise, the board must withhold the submitted information under section 552.101 of the Government Code in conjunction with former 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](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,



Kenny Moreland  
Assistant Attorney General  
Open Records Division

KJM/tdw

Ref: ID# 683403

Enc. Submitted documents

c: Requestor  
(w/o enclosures)