



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 9, 2020

Ms. Valerie Mitchell
Legal Secretary
Texas Board of Veterinary Medical Examiners
333 Guadalupe Street, Suite 3-810
Austin, Texas 78701-3942

OR2020-00945

Dear Ms. Mitchell:

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# 805422.

The Texas Board of Veterinary Medical Examiners (the "board") received a request for documents related to all complaints filed against the requestor's client. 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 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 (amended 2017) (current version at Occ. Code § 801.207(b)). A portion of the submitted information 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. The board states, under its 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. Upon review, we find the investigation records created prior to September 1, 2017, are confidential under former section 801.207(b), and the board must withhold that information under section 552.101 of the Government Code on that basis.

Section 552.101 of the Government Code also encompasses information made confidential by the current section 801.207 of the Occupations Code, which provides,

(b) Each complaint, investigation file and record, and other investigation report and all other investigative information in the possession of or received or gathered by the board or the board's employees or agents relating to a license holder, an application for license, or a criminal investigation or proceeding is privileged and confidential and is not subject to discovery, subpoena, or other means of legal compulsion for release to anyone other than the board or the board's employees or agents involved in discipline of a license holder.

Occ. Code § 801.207(b). The remaining information pertains to a complaint filed with the board after September 1, 2017. As noted above, the board states, under its 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. The board informs us the remaining information relates to a complaint filed with the board after September 1, 2017, and this information is contained within investigation files. The board does not indicate section 801.207(d) applies. Therefore, based on your representations and our review, we conclude the remaining information is confidential under current section 801.207(b) of the Occupations Code, and the board must withhold it under section 552.101 of the Government Code on that basis.

In summary, the board must withhold the investigation records created prior to September 1, 2017, under section 552.101 of the Government Code in conjunction with former section 801.207(b) of the Occupations Code. The board must withhold the remaining information under section 552.101 of the Government Code in conjunction with current 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 <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,



Sean McCormick
Attorney
Open Records Division

SMC/eb

Ref: ID# 805422

Enc. Submitted documents

c: Requestor
(w/o enclosures)