



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 8, 2020

Ms. Brittany Sharkey
General Counsel
Texas Board of Veterinary Medical Examiners
333 Guadalupe, Suite 3-810
Austin, Texas 78701

OR2020-15617

Dear Ms. Sharkey:

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# 831056.

The Texas Board of Veterinary Medical Examiners (the "board") received a request for information pertaining to a specified complaint against a named individual.¹ You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.² 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." *See Gov't Code* § 552.101. Section 552.101 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

¹ As you have not submitted a copy of the request for information, we take our description from your brief.

² We note the board did not comply with section 552.301 of the Government Code in requesting a ruling from this office. *See Gov't Code* § 552.301(b), (e). Nonetheless, because section 552.101 of the Government Code can provide a compelling reason to overcome the presumption of openness, we will consider its applicability to the submitted information. *See id.* §§ 552.007, .302, .352.

than the board or the board's employees or agents involved in discipline of a license holder.

Occ. Code § 801.207(b). 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 information at issue relates to a complaint filed with the board after September 1, 2017, and this information is contained within investigation files. The board states section 801.207(d) of the Occupations Code does not apply to the information at issue. Therefore, based on the board's representations and our review, we conclude the submitted information is confidential under the 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.

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,

Pearlie Gault
Attorney
Open Records Division

PG/rm

Ref: ID# 831056

Enc. Submitted documents

c: Requestor