



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 13, 2022

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

OR2022-10886

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# 941159.

The Texas Board of Veterinary Medical Examiners (the "board") received two requests from the same requestor for information related to two specified investigations.¹ The board claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception the board claims 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, which provides, in part:

(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

¹ We note the board sought and received clarification of the request for information. See Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

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.

Act of May 29, 2017, 85th Leg., R.S., S.B. 319, §§ 11, 27 (change to section 801.207(b) applies to a complaint filed with the board on or after September 1, 2017); Act of May 26, 2021, 87th Leg., R.S., H.B. 3442, § 2 (a complaint filed with the board before September 1, 2021, is governed by the law in effect on the date the complaint was filed and former section 801.207(b) is continued in effect for that purpose). The board informs us 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 states the submitted information relates to complaints filed with the board after September 1, 2017, and this information is contained within the investigation files. Further, the board states section 801.207(d) of the Occupations Code does not apply to the information at issue. *See* Occ. Code § 801.207(d) (establishing circumstances in which the board shall provide the license holder with access to information). Based on these representations and our review, we find 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 <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,

Erin Groff
Assistant Attorney General
Open Records Division

EMG/mo

Ref: ID# 941159

Enc. Submitted documents

c: Requestor
(w/o enclosures)