



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 4, 2022

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

OR2022-12661

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# 945670.

The Texas Board of Veterinary Medical Examiners (the "board") received a request for information pertaining to specified complaints.¹ You state the board has released some information. 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 representative sample of information.²

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(b) of the Occupations Code, which provides:

¹ You state the board sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

² We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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.

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 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. Further, the board informs us the submitted information relates to a complaint filed with the board after September 1, 2017, and this information is contained within the investigation file. The board informs us section 801.207(d) does not apply. *See* Occ. Code § 801.207(d) (establishing circumstances in which the board shall provide the license holder with access to information). Therefore, based upon these representations and our review, we conclude the submitted information is confidential under former 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,

Michelle Garza
Assistant Attorney General
Open Records Division

MRG/jm

Ref: ID# 945670

c: Requestor