



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 21, 2022

Mr. John Hargis
General Counsel
Texas State Board of Veterinary Medical Examiners
333 Guadalupe Street, Suite 3-810
Austin, Texas 78701

OR2022-17630

Dear Mr. Hargis:

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# 952457 (ORR# 22-010).

The Texas State Board of Veterinary Medical Examiners (the "board") received a request for all compliance inspection forms during a specified time period. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.118 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. This section encompasses section 481.076(a) of the Health and Safety Code, which provides, "[t]he board may not permit any person to have access to information submitted to the board under Section 481.074(q) or 481.075 except" certain enumerated individuals and entities for purposes specified in the statute. Health & Safety Code § 481.076(a); *see id.* §§ 481.074(q) (requiring dispensing pharmacists to send certain prescription information to board within specified period of time), .075(i)(3) (same). However, upon review, we find you have failed to demonstrate the applicability of section 481.076(a) to the submitted information. Accordingly, the board may not withhold any

portion of the submitted information under section 481.076(a) of the Health and Safety Code in conjunction with section 552.101 of the Government Code.

Section 552.118 of the Government Code reads as follows:

Information is excepted from the requirements of Section 552.021 if it is:

- (1) information on or derived from an official prescription form filed with the Texas State Board of Pharmacy under Section 481.0755, Health and Safety Code, or an electronic prescription record filed with the Texas State Board of Pharmacy under Section 481.075, Health and Safety Code; or
- (2) other information collected under Section 481.075 or 481.0755 of that code.

Gov't Code § 552.118. Upon review, we find the board has failed to demonstrate any of the submitted information was filed with the Texas State Board of Pharmacy or collected under section 481.075 or 481.0755 of the Health and Safety Code. Therefore, the board may not withhold any of the submitted information under section 552.118 of the Government Code.

Section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c).¹ *Id.* § 552.137(a)-(c). The e-mail address at issue is not a type specifically excluded by section 552.137(c) of the Government Code. Accordingly, the board must withhold the e-mail address we have marked under section 552.137 of the Government Code, unless the owner of the e-mail address affirmatively consents to its disclosure. As no further exceptions to disclosure have been raised, the board must release the remaining information.

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

¹ The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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,

Joseph Hoggatt
Assistant Attorney General
Open Records Division

JWH/be

Ref: ID# 952457

Enc. Submitted documents

c: Requestor
(w/o enclosures)