



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 27, 2022

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

OR2022-18330

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# 956162 (ORR# 22-025).

The Texas Board of Veterinary Medical Examiners (the "board") received a request for all information related to a specified complaint, a named individual, or either of two entities. 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 representative sample of information.¹

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information made confidential by former section 801.207(b) of the Occupations Code, which provides:

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

¹ 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 those records contain substantially different types of information than that submitted to this office.

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). You state, under the board's 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, you inform 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. You also inform 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). Accordingly, 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,

Kelly McWethy
Assistant Attorney General
Open Records Division

KM/jm

Ref: ID# 956162

Enc. Submitted documents

c: Requestor
(w/o enclosures)