



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 10, 2009

Ms. Loris Jones  
Public Information Officer  
Texas Board of Veterinary Medical Examiners  
333 Guadalupe, Suite 3-810  
Austin, Texas 78701-3942

OR2009-12836

Dear Ms. Jones:

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# 354876.

The Texas Board of Veterinary Medical Examiners (the "board"), received a request for opinions submitted by veterinarians in a specified case, including opinions submitted by three named veterinarians. 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 information. We have also considered comments submitted by the requestor. *See Gov't Code § 552.304* (providing that a person may submit comments stating why information should or should not be released).

Initially, we address the requestor's contention that the information at issue has been disclosed to the complainant in this case. We note that if a governmental body voluntarily releases information to a member of the public, such information may not later be withheld, unless its disclosure is expressly prohibited by law. *See Gov't Code § 552.007*. However, because section 552.101 of the Government Code protects information that is confidential by law, we will address your argument under this exception for the submitted information.

Section 552.101 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 that another statute makes confidential. You contend the submitted information is confidential under section 801.207 of the Occupations Code. Section 801.207(b) provides that “[a]n investigation record of the board, including a record relating to a complaint that is found to be groundless, is confidential.” Occ. Code § 801.207(b); *see also* 22 T.A.C. §§ 575.27 (complaints – receipt, investigation, and disposition). We understand the requestor to contend that the requested opinion letters are not investigation records. However, we note that the board’s rule 575.28(7) provides that during the investigation, “[o]ther persons, such as second opinion or consulting veterinarians, may be contacted,” and that “[t]he investigator may request additional medical opinions, supporting documents, and interviews with other witnesses.” *See* 22 TAC 575.28(7). Based on the board’s rule, we conclude that the submitted opinion letters are within the scope of section 801.207.

You state that pursuant to the board’s procedures, an “investigation file is opened upon receipt of a complaint[.]” You state the submitted information is contained within the board’s investigation file. Based on your representation and our review of the information at issue, we conclude that the submitted information is confidential under section 801.207 of the Occupations Code and must be withheld from disclosure under section 552.101 of the Government Code.

However, the requestor contends that to the extent one of the purposes of section 801.207 is to protect the privacy interests of the veterinarian under investigation, release to the veterinarian would not violate those privacy rights. *See* Gov’t Code § 552.023. Section 552.023 provides in pertinent part:

(a) A person or a person’s authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person’s privacy interests.

(b) A governmental body may not deny access to information to the person, or the person’s representative, to whom the information relates on the grounds that the information is considered confidential by privacy principles under this chapter but may assert as grounds for denial of access other provisions of this chapter or other law that are not intended to protect the person’s privacy interests.

*Id.* § 552.023. We note that an individual’s right of access to private information under section 552.023 does not override exceptions to disclosure in the Public Information Act protecting some interest other than that individual’s privacy. *See* Gov’t Code § 552.023(b); Open Records Decision Nos. 587 (1991). The requestor acknowledges that the purpose of section 801.207 is not only to protect the privacy interests of veterinarians under investigation but also the investigatory interests of the board and the privacy interests of third

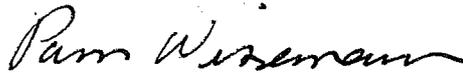
parties. However, the requestor further contends that it would not compromise the interests of the board to release the information at issue because the board has declared the investigation of his client "closed due to no violation." We note, however, that the plain language of section 801.207(b) is not limited to pending investigations, but includes "a record relating to a complaint that is found to be groundless." *Id.* Thus, we conclude the requestor does not have a right of access to information excepted from public disclosure under section 801.207.

In summary, the board must withhold the information at issue under section 552.101 of the Government Code in conjunction with section 801.207 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 [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Pamela Wissemann  
Assistant Attorney General  
Open Records Division

PFW/jb

Ref: ID# 354876

Enc. Submitted documents

c: Requestor  
(w/o enclosures)