



August 2, 2000

Mr. Ron Allen  
Executive Director  
Texas State Board of Veterinary Medical Examiners  
333 Guadalupe, Suite 2-330  
Austin, Texas 78701-3998

OR2000-2924

Dear Ms. Allen:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 137846.

The Texas State Board of Veterinary Medical Examiners (the "board") received a written request for all records relating to two named veterinarians, including all records concerning the board's investigation of two complaints. In this instance, the requestor is an attorney representing the two veterinarians under investigation. You contend that these records are excepted from required public disclosure by section 552.101 of the Government Code in conjunction with section 801.207 of the Occupations Code.

Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 801.207 of the Occupations Code provides:

(a) Except as provided by Subsection (b), a board record is a public record and is available for public inspection during normal business hours.

(b) *An investigation record of the board, including a record relating to a complaint that is found to be groundless, is confidential.*

Occ. Code § 801.207 (emphasis added). The statute is clear: any information the board gathers or creates during the course of its investigations is confidential and thus must be withheld from disclosure under section 552.101. We note, however, that section 801.204(b) of the Occupations Code provides that:

If a written complaint is filed with the board that the board has authority to resolve, the board, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

Occ. Code § 801.204(b).<sup>1</sup> Thus, we do not believe that section 801.207 makes the status reports confidential as to the parties to the complaint or their representatives. Consequently, these status reports must be released to this requestor.

The requestor contends that because he is acting on behalf of the two veterinarians who are the subjects of the investigations, the requestor has a special right of access to the requested investigation files. 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.

The requestor contends that the purpose of section 801.207 is to protect the privacy interests of veterinarians under investigation by the board and, consequently, that the records at issue therefore should be released to him in his capacity as his clients' authorized representative. Although we agree that one of the purposes of section 801.207 is to protect veterinarians' privacy interests, we also agree with the board's argument that this section also protects certain investigatory interests of the board, as well as the privacy interests of other interested parties. 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* Open Records Decision Nos. 587 (1991), 556 (1990). We conclude, therefore, that the requestor does not have a special right of access to information excepted from public disclosure under section 801.207, despite the fact that he is acting as his clients' authorized representative.

Accordingly, we conclude that, with the exception of any status report, which must be released to the requestor, the board must withhold all records contained in the investigative file pursuant to section 801.207 of the Occupations Code in conjunction with section 552.101 of the Government Code.

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<sup>1</sup>Because the board did not conduct an undercover investigation in this instance, this exception is inapplicable here.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Carla Gay Dickson  
Assistant Attorney General  
Open Records Division

CGD/RWP/ljp

Ref: ID# 137846

Encl. Submitted documents

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