



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

February 4, 2009

Mr. Dewey E. Helmcamp, III  
Executive Director  
Texas Board of Veterinary Medical Examiners  
333 Guadalupe, Suite 3-810  
Austin, Texas 78701-3942

OR2009-01465

Dear Mr. Helmcamp:

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# 334799.

The Texas Board of Veterinary Medical Examiners (the "board") received a request for information related to two specific complaints.<sup>1</sup> You claim that 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.<sup>2</sup>

Initially, we must address the board's procedural obligations under the Act. Pursuant to section 552.301(b), a governmental body that receives a request for information that it wishes

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<sup>1</sup> You state the board sought clarification from the requestor regarding the request. *See* Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used).

<sup>2</sup> We assume that 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.

to withhold must ask for the attorney general's decision and state the exceptions that apply not later than the tenth business day after receiving the request. Gov't Code § 552.301(a), (b). You state the board received the request for information on November 12, 2008. However, you did not request a ruling from this office until December 2, 2008. Consequently, you failed to comply with the procedural requirements of section 552.301 in requesting this decision.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with section 552.301 results in the legal presumption that the requested information is public. Information that is presumed public must be released unless a governmental body demonstrates a compelling reason to withhold the information from disclosure. *See Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); Open Records Decision No. 319 (1982). Generally, a governmental body may demonstrate a compelling reason to withhold information by a showing that the information is made confidential by another source of law or affects third party interests. *See* Open Records Decision No. 630 (1994). Because section 552.101 of the Government Code can provide a compelling reason to overcome the presumption of openness, we will address your argument under this section.

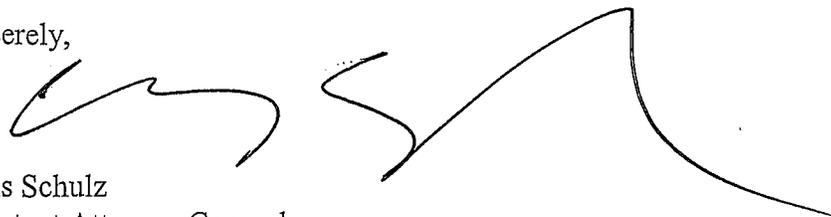
Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information that another statute makes confidential. You assert that the requested information is confidential 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). You state that pursuant to the board's procedures, an "investigation file is opened up on receipt of a complaint[.]" You state the submitted information is maintained within the board's investigation files. Based on your representation and our review, we conclude that the submitted information is confidential under section 801.207 of the Occupations Code and must be withheld from disclosure pursuant to section 552.101 of the Government 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 at (512) 475-2497.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chris Schulz', written in a cursive style.

Chris Schulz  
Assistant Attorney General  
Open Records Division

CS/cc

Ref: ID# 334799

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)