



**THE ATTORNEY GENERAL
OF TEXAS**

**JIM MATTOX
ATTORNEY GENERAL**

December 28, 1990

Mr. Donald B. Wilson
Executive Director
Texas State Board of
Veterinary Medical Examiners
1946 South IH 35
Austin, Texas 78704

LO-90-109

Dear Mr. Wilson:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 11100.

You state that you have received a series of repetitive open records requests from an individual who filed complaints against two veterinarians. You responded to these requests by providing the information he requested, except for your investigative files. You claim that these files are excepted from disclosure under the Open Records Act by section 9(d) of article 8890, V.T.C.S., in conjunction with section 3(a)(1) of the Open Records Act. Section 9 provides in part:

(c) Except as provided by Subsection (d) of this section, all of the records of the Board are public records and are available for public inspection during normal business hours.

(d) The investigation files and records of the Board are confidential.

V.T.C.S. art. 8890, § 9(c), 9(d). The board is authorized to investigate complaints about its licensees. See V.T.C.S. art. 8890, §§ 18A, 18B. The records and files of such investigations are confidential under section 9 of article 8890, and you may not disclose them under the Open Records Act.

You have also raised section 3(a)(3), the litigation exception with respect to all of the information requested

by this individual. You forward a copy of an advertisement that he placed in the newspaper announcing the preparation of a class action lawsuit against the board concerning its handling of complaints against veterinarians. However, we need not reach this exception, since you inform us that you have made everything available, except the investigation files and records excepted by section 9(a) of article 8890, V.T.C.S.

You also ask the following question:

When an individual seeks access to original records and the individual is confrontational and uncooperative while reviewing the information, may the Board deny physical access by providing, at its own expense, certified copies of the original records?

We believe you should address this problem by exercising the rule-making power granted by section 13 of the Open Records Act, which authorizes you to "promulgate reasonable rules of procedure by which public records may be inspected efficiently, safely, and without delay." Instead of addressing the specific solution you propose, we will advise you of the other provisions of the act and of open records decisions relevant to the conditions under which individuals may exercise their rights of access.

Section 4 of the Open Records Act makes information available "for inspection or duplication, or both, in the offices of the governmental body." V.T.C.S. art. 6252-17a, § 4. See Open Records Decision No. 38 (1974). The officer for public records shall "extend to the person requesting public records all reasonable comfort and facility for the full exercise of the right granted by this Act." *Id.* § 5. Members of the public are, however, not entitled to exercise the right to inspect and copy public records in a way that would be unreasonably disruptive of working conditions in the office. Attorney General Opinion JM-757 (1987). Nor is it always possible to permit a member of the public to have access to original records, for example, where confidential information is included in the original records. *Id.* See also Open Records Decision No. 571 (1990) (Open Records Act does not entitle individuals to inspect records by computer screen rather than receiving printout). The officer for public records also has a duty to protect records from damage, loss, or unlawful removal. V.T.C.S. art. 6252-17a, § 5(a). We believe you may promulgate rules designed to protect the safety of public records and to prevent disruption of working conditions in your office, and where

necessary to achieve these purposes, the rules may provide for the provision of copies instead of access to original records.

Yours very truly,



Susan Garrison
Assistant Attorney General
Opinion Committee

APPROVED: Sarah Woelk, Chief
Letter Opinion Section

SG/SW/le

Ref.: ID# 11100, 11245

Enclosure: Open Records Decision Nos. 38, 571;
Attorney General Opinion JM-757

cc: Jennifer Riggs
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