



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 1, 1992

Mr. Christopher Maczka
Assistant Attorney General
General Litigation Division
Office of the Attorney General
P. O. Box 12548
Austin, Texas 78711-2548

OR92-284

Dear Mr. Maczka:

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# 1567A.

15617

The Texas State Board of Veterinary Medical Examiners (the board), which you represent, received an open records request for a letter dated March 14, 1991, concerning "Case #90-057 David E. Faulkner, D.V.M.' from Matthew Wendel, Investigator" and copies of "any and all written complaints which formed the basis of the complaint hearing in Case #90-057." You contend that section 3(a)(1)¹ of the Open Records Act exempts these documents from required public disclosure.

Under the Open Records Act, all information held by governmental bodies is open unless the information falls within one of the act's specific exceptions to required public disclosure. Section 3(a)(1) of the act exempts "information deemed confidential by law, either Constitutional, *statutory*, or by judicial decision." (Emphasis added.) Section 9 of the Veterinary Licensing Act, article 8890, V.T.C.S., provides in part, that:

(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.

¹Although you originally contended that section 3(a)(3) of the Open Records Act also protects the requested documents, you have since informed a member of our staff that you no longer assert the applicability of this exception.

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

V.T.C.S. art. 8890, § 9(c),(d).

The statute is clear: any information the board gathers that reasonably falls within the scope of an investigation of an alleged violation of article 8890 is confidential by law. The board therefore must withhold the requested complaint letters pursuant to section 9(d).

You should note, however, that section 18A provides in part:

(b) The Board shall maintain an information file about each complaint filed with the Board relating to a licensee.

(c) If a written complaint is filed with the Board relating to a licensee, the Board, at least as frequently as 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.

Id., § 18(a).

The requested letter dated March 14, 1991, constitutes a notification to a "party" to a complaint of the final disposition of that particular complaint as required by section 18A(c). The letter does not reveal information gathered during the course of the investigation of the complaint and is clearly a part of the "information file" contemplated by section 18A(c), not the confidential "investigation file" created under section 9. Although you informed this office that the board in fact maintains only one "file" on each complaint it receives, it is apparent that the requested letter is not made confidential by article 8890 and thus may not be withheld pursuant to section 3(a)(1) of the Open Records Act. Consequently, the department must release the letter.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a

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published open records decision. If you have questions about this ruling, please refer to OR92-284.

Yours very truly,



Rick Gilpin
Assistant Attorney General
Opinion Committee

RG/RWP/lmm

Ref.: ID# 15617
ID# 15662

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