



Office of the Attorney General  
State of Texas

June 28, 1993

DAN MORALES  
ATTORNEY GENERAL

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

OR93-364

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# 20628.

The Texas State Board of Veterinary Medical Examiners (the "board") has received a request for information regarding the board's investigative file concerning a veterinarian who allegedly violated the Veterinary Licensing Act. The request is from the veterinarian's attorney for "[a]ny written or recorded statement(s) or correspondence stating, detailing or describing complaints made by John Chelkowski, Natalie Chelkowski, Debbie Judd, or Cynthia Warren, against Dr. Epperson at any time." The board claims the requested information is excepted under sections 3(a)(1) and 3(a)(3) of the Open Records Act.

Section 3(a)(3) excepts

information relating to litigation of a criminal or civil nature and settlement negotiations, to which the state or political subdivision is, or may be, a party, or to which an officer or employee of the state or political subdivision, as a consequence of his office or employment, is or may be a party, that the attorney general or the respective attorneys of the various political subdivisions has determined should be withheld from public inspection.

Information must relate to litigation that is pending or reasonably anticipated to be excepted under section 3(a)(3). *Heard v. Houston Post Co.*, 684 S.W.2d 210 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 (1990) at 4.

You state that the board is currently involved in litigation involving a complaint against the veterinarian. Although the litigation involves a more recent complaint, you assert that issues involving the earlier complaints and subsequent order have been raised in the litigation. Because you have shown that the requested information relates to pending litigation, you may withhold the requested information under section 3(a)(3).<sup>1</sup>

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 published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



Mary R. Crouter  
Assistant Attorney General  
Opinion Committee

MRC/LBC/jmn

Ref.: ID# 20628

cc: Ms. Susan Hendricks  
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Suite D - 210  
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<sup>1</sup>We note that the applicability of section 3(a)(3) ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982). Because we have resolved this matter under section 3(a)(3), we do not reach your section 3(a)(1) claim.