



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 12, 2008

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

OR2008-10987

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# 318631.

The Board of Veterinary Medical Examiners (the "board") received a request for "the complaint log kept by the board for the period of January 2008 through May 30, 2008." You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information. You also inform this office that you have notified the individuals whose information is contained within the requested information of the request and their right to submit comments to this office. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under the Act in certain circumstances). We have also considered comments submitted by the requestor and one of these individuals. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. This exception encompasses information that another statute makes confidential. You claim 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). The submitted information consists of the names and addresses of individuals who have requested a complaint form from the board. You do not inform our office which of these individuals have actually filed a complaint, or whether any of the filed complaints have become part of investigative files. Accordingly, we must rule conditionally. To the extent that the individuals whose names and addresses are at issue have filed complaints with the board that resulted in investigations, their information is subject to section 801.207 of the Occupations Code and must be withheld from disclosure under section 552.101 of the Government Code. However, to the extent these individuals have not filed complaints with the board, or have filed complaints that did not result in investigations, their information is not subject to section 801.207 of the Occupations Code and may not be withheld on that basis.

We now turn to your remaining argument for the information that is not subject to section 801.207. Section 552.101 also encompasses the doctrine of common-law privacy, which protects information if (1) the information contains highly intimate and embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The type of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683; *see also* *Hubert v. Harte-Hanks Tex. Newspapers, Inc.*, 652 S.W.2d 546, 551 (Tex. App.—Austin 1983, *writ ref'd n.r.e.*). Upon review, we find that none of the submitted information constitutes highly intimate or embarrassing information that is of no legitimate concern to the public. Therefore, the board may not withhold any of the information that is not subject to section 801.207 under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, to the extent that the individuals whose names and addresses are at issue have filed complaints with the board that resulted in investigations, their information is subject to section 801.207 of the Occupations Code and must be withheld from disclosure under section 552.101 of the Government Code. To the extent these individuals have not filed complaints with the board, or have filed complaints that did not result in investigations, their information must be released.

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 file suit in

Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3). If the governmental body does not file suit over 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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 challenge that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

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,



Bill Dobie  
Assistant Attorney General  
Open Records Division

WJD/jh

Ref: ID# 318631

Enc. Submitted documents

c: Mr. Greg Munson  
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(w/o enclosures)