



Office of the Attorney General
State of Texas

June 28, 1993

DAN MORALES
ATTORNEY GENERAL

Mr. Buddy Matthijetz
Executive Director
Texas State Board of Veterinary Medical Examiners
1946 South IH 35, Suite 306
Austin, Texas 78704-3644

OR93-369

Dear Mr. Matthijetz:

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# 19338.

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 requestor, the veterinarian's wife, seeks the written response to the Chelkowski complaint filed with the board. 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)(1) excepts "information deemed confidential by law, either Constitutional, statutory, or by judicial decision." Article 8890, section 9, 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.

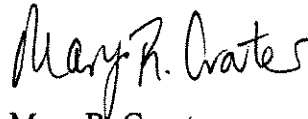
(d) The investigation files and records of the Board are confidential.

The statute is unambiguous. Information the board gathers that reasonably falls within the scope of an investigation of an alleged violation of the Veterinary Licensing Act, V.T.C.S. art. 8890, is confidential by law.

Section 3B of the Open Records Act provides that the person to whom confidential information relates or his or her authorized representative has a special right of access to such confidential information. *See* V.T.C.S. art. 6252-17a, § 3B(a). Section 3B does not override confidentiality laws protecting some interest other than privacy. Open Records Decision No. 556 (1990). We need not reach the issue whether article 8890, section 9(d), protects interests other than the licensee's privacy, however. "Consent for the release of information excepted from disclosure to the general public but available to a specific person under [section 3B(a)] must be in writing and signed by the specific person or the person's authorized representative." *Id.* § 3B(b). The request is from the licensee's spouse. There is no indication she is her husband's legal representative. *See* Open Records Decision No. 481 (1987) (a governmental body should deny access to confidential record to subject's spouse). Accordingly, the board must withhold the information under section 3(a)(1) of the Open Records Act in conjunction with V.T.C.S. article 8890, section 9(d).

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# 19338
ID# 19705
ID# 19723

cc: Mr. Christopher Maczka
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