Minnesota Board of Animal Health
625 Robert Street North
St. Paul, Minnesota 55155
651-296-2942
animalhealth@state.mn.us
www.mn.gov/bah

Data Access Policy

(Pursuant to Minnesota Statutes, Section 13.025)
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Minnesota Government Data Practices Act

The Minnesota Government Data Practices Act (MGDPA), Chapter 13 of Minnesota statutes, is a state law that controls how government data are collected, created, stored (maintained), used, and released (disseminated). The MGDPA sets out certain requirements relating to the right of the public to access government data and the rights of individuals who are the subjects of government data. The MGDPA applies to all data collected, created, received, maintained, or disseminated by any government entity. The MGDPA defines "government entity" as "a state agency, statewide system, or political subdivision.

The MGDPA presumes that all the data the Minnesota Board of Animal Health ("Board"), as a state government agency, has is public (can be seen by anybody) unless there is a state or federal law that classifies the data as not public. The Board has both public and not public data. Our not public data is classified as private or nonpublic which under the MGDPA, the Board has a duty to responsibly manage and safeguard. *See, e.g.,* Minnesota Statutes, Section 13.643, subdivision 6(a), (b).

Data Request Response Procedure

The Board reviews and responds to a data request as follows:

- The data request (preferably submitted electronically via the "Data Request Form" available on the Board's website at this link: https://www.bah.state.mn.us/data-request/) must be in writing, and be clear and concise. This form is automatically submitted to the Board's Responsible Authority and her designee, and to the Board's Data Practices Compliance Official (the Board's "Data Practices department"). The Board's Responsible Authority for data practices is Dr. Beth Thompson, Executive Director of the Board; her designee and the Board's Data Practices Compliance Official is Annie Balghiti.

- Whenever practical, any changes/additions made by the requestor to a data request must be in writing. Verbal changes/additions made by the requestor to a data request will be written on the data request with the name and date of Board staff receiving the verbal changes/additions.

- When a requester submits an electronic "Data Request Form," the Board's Data Practices department will follow up with the appropriate program manager for review and processing. You, as the requestor, will also automatically receive an email acknowledging the Board's receipt of your request.

- In the request, tell us as clearly as you can what information you are seeking. If we are not sure exactly what information you are requesting, we will ask you for clarification, but you do not have to tell us who you are

or explain why you are asking for the data unless you are seeking an exception to obtain information classified as nonpublic or private.

- Data collected and maintained by the Board under Minn. Stat. Sections 347.57-347.64 are classified as private or nonpublic, except for a list of licensees in good standing. Requests for this private or nonpublic data must be denied subject to Minnesota Statute Section 13.643.
- If the request is specific to data related to registration and identification of premises and animals collected under Chapter 35 (names and addresses, the location of the premises where animals are kept, or the identification number of the premises or the animal), per Minn. Stat. Section 13.643, the data requested is private or nonpublic and may be redacted or denied (depending on what is being requested).
- When requests for private or nonpublic data are denied per Minnesota law, the Board will provide an explanation and identification of the law preventing Board staff from providing the data.
  - An exception to the denial of or redaction of private or nonpublic data may be made pursuant to Minnesota Statutes, Section 13.643, subdivision 6(c), at the discretion of the Board. The exception must be approved by Board staff.
  - All requests for an exception will be reviewed and determined on a case-by-case basis, regardless of the entity or individual requesting the exception.
    - In such instances, so that the Board may determine whether the exception should apply, the Board will seek clarification as to the specific and articulable details supporting why, in the particular case at issue, disclosure of the data would either aid in the law enforcement process or protect public or animal health or safety.
- If the request is general and nonspecific (e.g., "all CVIs for dogs in the year 2016"), the request must be fulfilled, but all private/non-public information must be redacted, and the request must also be considered in conjunction with Minn. Statutes, Section 13.02, subdivision 19, "Summary Data."

- After review of Minn. Stat. Section 13.643 to determine accessibility to data, the Board will also review Minnesota Statutes, Sections 13.37 and 13.41.
- The Data Practices Act does not require us to create or collect new data in response to a data request, or to provide data in a specific form or arrangement if we do not keep the data in that form or arrangement. If we agree to create data in response to your request, we will work with you on the details of your request, including cost and response time.
- Data requests from researchers, including historians and other scholars, shall be reviewed and considered in accordance with Minnesota Statutes, Section 13.03, subdivision 2.
- The Board will respond to a data request timely and responses will be narrowly tailored to specific data requested.
- For data requests requiring a longer period of time (such as summary data requests), so long as Board staff have initially responded to a data request in a timely manner, and have notified the data requestor that their specific request will take additional time, Board staff may produce portions of large requests over time, to allow sufficient time for proper review and redaction.
- For data requests from individuals seeking access to data about them (i.e., the requestor is the subject of the data), the Board will respond within 10 business days. Such requests must be in writing, signed by the requestor or their designee (such as a licensed attorney or a parent or legally appointed guardian), and

accompanied by proof the data requestor is the subject of the data (such as a notarized signature). If proof of identity is not provided, the Board will not respond to the request.

- The data request and Board response will be stored by the Board according to its data retention schedule.
- We have the right to charge you a reasonable fee for providing copies of data. The Board will charge fees to provide data in response to data requests as follows:
    - We cannot charge for separating public data from not public data.
    - If hard copies or electronic transmittal of data is requested, we may require the data requestor to pay the actual costs of searching for and retrieving the requested data, including the cost of employee time, and for making, certifying, copying, and/or electronically transmitting the copies of the data, as follows:
        - Hourly salary and fringe benefits costs of the person copying and preparing the data requested, with charges based on quarters of hours.
    - Other Data Costs:
        - Photocopies:
            - If 100 pages or less of black and white, letter, or legal size paper copies are requested, then $0.25 per page copying costs ($0.50 for double-sided pages).
            - If more than 100 pages are requested, or color copies or nonstandard size paper copies are requested, then we may charge for the actual cost of making copies.
        - Shipping and Postage costs.
        - We do not charge for only viewing data.

Relevant statutes and subdivisions

Minnesota Statutes, Section 13.643

Subdivision 6. **Animal premises data.**
(a) The following data collected and maintained by the Board of Animal Health related to registration and identification of premises and animals under chapter 35, are classified as private or nonpublic:
(1) the names and addresses;
(2) the location of the premises where animals are kept; and
(3) the identification number of the premises or the animal.

(b) Except as provided in section 347.58, subdivision 5, data collected and maintained by the Board of Animal Health under sections 347.57 to 347.64 are classified as private or nonpublic.

The Board of Animal Health may disclose data collected under paragraph (a) or (b) to any person, agency, or to the public if the board determines that the access will aid in the law enforcement process or the protection of public or animal health or safety.

Minnesota Statutes, Section 13.37

Subdivision 1. **Definitions.**
As used in this section, the following terms have the meanings given them.
(a) "Security information" means government data the disclosure of which the responsible authority determines would be likely to substantially jeopardize the security of information, possessions, individuals or property against theft, tampering, improper use, attempted escape, illegal disclosure, trespass, or physical injury. "Security

information" includes checking account numbers, crime prevention block maps and lists of volunteers who participate in community crime prevention programs and their home and mailing addresses, telephone numbers, e-mail or other digital addresses, Internet communication services accounts information or similar accounts information, and global positioning system locations.

Subdivision 2. **Classification**
(a) The following government data is classified as nonpublic data with regard to data not on individuals, pursuant to section 13.02, subdivision 9, and as private data with regard to data on individuals, pursuant to section 13.02, subdivision 12: Security information; trade secret information; sealed absentee ballots prior to opening by an election judge; sealed bids, including the number of bids received, prior to the opening of the bids; parking space leasing data; and labor relations information, provided that specific labor relations information which relates to a specific labor organization is classified as protected nonpublic data pursuant to section 13.02, subdivision 13.
(b) If a government entity denies a data request based on a determination that the data are security information, upon request, the government entity must provide a short description explaining the necessity for the classification.

Subdivision 3. **Data dissemination**
(b) The responsible authority of a government entity in consultation with the appropriate chief law enforcement officer, emergency manager, or public health official, may make security information accessible to any person, entity, or the public if the government entity determines that the access will aid public health, promote public safety, or assist law enforcement.

Minnesota Statutes, Section 13.41 LICENSING DATA

Subdivision 1. **Definition.**
As used in this section "licensing agency" means any board, department or agency of this state which is given the statutory authority to issue professional or other types of licenses, except the various agencies primarily administered by the commissioner of human services. Data pertaining to persons or agencies licensed or registered under authority of the commissioner of human services shall be administered pursuant to section 13.46.

Subdivision 2. **Private data; designated addresses and telephone numbers**
(a) The following data collected, created or maintained by any licensing agency are classified as private, pursuant to section 13.02, subdivision 12: data, other than their names and designated addresses, submitted by applicants for licenses; the identity of complainants who have made reports concerning licensees or applicants which appear in inactive complaint data unless the complainant consents to the disclosure; the nature or content of unsubstantiated complaints when the information is not maintained in anticipation of legal action; the identity of patients whose medical records are received by any health licensing agency for purposes of review or in anticipation of a contested matter; inactive investigative data relating to violations of statutes or rules; and the record of any disciplinary proceeding except as limited by subdivision 5.

(b) An applicant for a license shall designate on the application a residence or business address and telephone number at which the applicant can be contacted in connection with the license application. A licensee shall designate a residence or business address and telephone number at which the licensee can be contacted in connection with the license. By designating an address under this paragraph other than a residence address, the applicant or licensee consents to accept personal service of process by service on the licensing agency for legal or administrative proceedings. The licensing agency shall mail a copy of the documents to the applicant or licensee at the last known residence address.

Subdivision 4. **Confidential data.**
The following data collected, created or maintained by any licensing agency are classified as confidential, pursuant to section 13.02, subdivision 3: active investigative data relating to the investigation of complaints against any

licensee. *Confidential data on individuals. "Confidential data on individuals" are data made not public by statute or federal law applicable to the data and are inaccessible to the individual subject of those data.*

Subdivision 5. **Public data.**
Licensing agency minutes, application data on licensees except nondesignated addresses, orders for hearing, findings of fact, conclusions of law and specification of the final disciplinary action contained in the record of the disciplinary action are classified as public, pursuant to section 13.02, subdivision 15. The entire record concerning the disciplinary proceeding is public data pursuant to section 13.02, subdivision 15, in those instances where there is a public hearing concerning the disciplinary action. If the licensee and the licensing agency agree to resolve a complaint without a hearing, the agreement and the specific reasons for the agreement are public data. The license numbers, the license status, and continuing education records issued or maintained by the Board of Peace Officer Standards and Training are classified as public data, pursuant to section 13.02, subdivision 15.

Minnesota Statutes, Section 13.03 ACCESS TO GOVERNMENT DATA

Subdivision 1. **Public data.**
All government data collected, created, received, maintained or disseminated by a government entity shall be public unless classified by statute, or temporary classification pursuant to section 13.06, or federal law, as nonpublic or protected nonpublic, or with respect to data on individuals, as private or confidential. The responsible authority in every government entity shall keep records containing government data in such an arrangement and condition as to make them easily accessible for convenient use. Photographic, photostatic, microphotographic, or microfilmed records shall be considered as accessible for convenient use regardless of the size of such records.

Subdivision 2. **Procedures.**
(a) The responsible authority in every government entity shall establish procedures, consistent with this chapter, to insure that requests for government data are received and complied with in an appropriate and prompt manner.

(b) Full convenience and comprehensive accessibility shall be allowed to researchers including historians, genealogists and other scholars to carry out extensive research and complete copying of all records containing government data except as otherwise expressly provided by law.

A responsible authority may designate one or more designees.

Subdivision 3. **Request for access to data.**
(a) Upon request to a responsible authority or designee, a person shall be permitted to inspect and copy public government data at reasonable times and places, and, upon request, shall be informed of the data's meaning. If a person requests access for the purpose of inspection, the responsible authority may not assess a charge or require the requesting person to pay a fee to inspect data.

(b) For purposes of this section, "inspection" includes, but is not limited to, the visual inspection of paper and similar types of government data. Inspection does not include printing copies by the government entity, unless printing a copy is the only method to provide for inspection of the data. In the case of data stored in electronic form and made available in electronic form on a remote access basis to the public by the government entity, inspection includes remote access to the data by the public and the ability to print copies of or download the data on the public's own computer equipment. Nothing in this section prohibits a government entity from charging a reasonable fee for remote access to data under a specific statutory grant of authority. A government entity may charge a fee for remote access to data where either the data or the access is enhanced at the request of the person seeking access.

(c) The responsible authority or designee shall provide copies of public data upon request. If a person requests copies or electronic transmittal of the data to the person, the responsible authority may require the requesting person to pay the actual costs of searching for and retrieving government data, including the cost of employee time, and for making, certifying, and electronically transmitting the copies of the data or the data, but may not charge for

separating public from not public data. However, if 100 or fewer pages of black and white, letter or legal size paper copies are requested, actual costs shall not be used, and instead, the responsible authority may charge no more than 25 cents for each page copied. If the responsible authority or designee is not able to provide copies at the time a request is made, copies shall be supplied as soon as reasonably possible.

(d) When a request under this subdivision involves any person's receipt of copies of public government data that has commercial value and is a substantial and discrete portion of or an entire formula, pattern, compilation, program, device, method, technique, process, database, or system developed with a significant expenditure of public funds by the government entity, the responsible authority may charge a reasonable fee for the information in addition to the costs of making and certifying the copies. Any fee charged must be clearly demonstrated by the government entity to relate to the actual development costs of the information. The responsible authority, upon the request of any person, shall provide sufficient documentation to explain and justify the fee being charged.

(e) The responsible authority of a government entity that maintains public government data in a computer storage medium shall provide to any person making a request under this section a copy of any public data contained in that medium, in electronic form, if the government entity can reasonably make the copy or have a copy made. This does not require a government entity to provide the data in an electronic format or program that is different from the format or program in which the data are maintained by the government entity. The entity may require the requesting person to pay the actual cost of providing the copy.

(f) If the responsible authority or designee determines that the requested data is classified so as to deny the requesting person access, the responsible authority or designee shall inform the requesting person of the determination either orally at the time of the request, or in writing as soon after that time as possible, and shall cite the specific statutory section, temporary classification, or specific provision of federal law on which the determination is based. Upon the request of any person denied access to data, the responsible authority or designee shall certify in writing that the request has been denied and cite the specific statutory section, temporary classification, or specific provision of federal law upon which the denial was based.

Subdivision 4. **Change in classification of data; effect of dissemination among agencies.**
(a) The classification of a government entity's data shall change if it is required to do so to comply with either judicial or administrative rules pertaining to the conduct of legal actions or with a specific statute applicable to the data in the possession of the disseminating or receiving entity.

(b) If data on individuals are classified as both private and confidential by this chapter, or any other statute or federal law, the data are private.

(c) To the extent that government data are disseminated to a government entity by another government entity, the data disseminated shall have the same classification at the entity receiving them as they had at the entity providing them.

(d) If a government entity disseminates data to another government entity, a classification provided for by law at the entity receiving the data does not affect the classification of the data at the entity that disseminates the data.

(e) To the extent that judicial branch data are disseminated to government entities by the judicial branch, the data disseminated shall have the same level of accessibility at the government entity receiving them as they had at the judicial branch entity providing them. If the data have a specific classification in state statute or federal law, the government entity must maintain the data according to the specific classification.

Subdivision 5. **Copyright or patent of government data.**
A government entity may enforce a copyright or acquire a patent for a computer software program or components of a program created by that government entity without statutory authority. In the event that a government entity acquires a patent to a computer software program or component of a program, the data shall be treated as trade secret information pursuant to section 13.37.

Subdivision 6. **Discoverability of not public data.**
If a government entity opposes discovery of government data or release of data pursuant to court order on the grounds that the data are classified as not public, the party that seeks access to the data may bring before the appropriate presiding judicial officer, arbitrator, or administrative law judge an action to compel discovery or an action in the nature of an action to compel discovery.

The presiding officer shall first decide whether the data are discoverable or releasable pursuant to the rules of evidence and of criminal, civil, or administrative procedure appropriate to the action.

If the data are discoverable the presiding officer shall decide whether the benefit to the party seeking access to the data outweighs any harm to the confidentiality interests of the entity maintaining the data, or of any person who has provided the data or who is the subject of the data, or to the privacy interest of an individual identified in the data. In making the decision, the presiding officer shall consider whether notice to the subject of the data is warranted and, if warranted, what type of notice must be given. The presiding officer may fashion and issue any protective orders necessary to assure proper handling of the data by the parties. If the data are a videotape of a child victim or alleged victim alleging, explaining, denying, or describing an act of physical or sexual abuse, the presiding officer shall consider the provisions of section 611A.90, subdivision 2, paragraph (b). If the data are data subject to the protections under chapter 5B or section 13.045, the presiding officer shall consider the provisions of section 5B.11.

Subdivision 7. **Data transferred to archives.**
When government data that is classified as not public by this chapter or any other statute, including private data on decedents and confidential data on decedents, is physically transferred to the state archives, the data shall no longer be classified as not public and access to and use of the data shall be governed by section 138.17.

Subdivision 8. **Change to classification of data not on individuals.**
Except for security information, nonpublic and protected nonpublic data shall become public either ten years after the creation of the data by the government entity or ten years after the data was received or collected by any governmental entity unless the responsible authority for the originating or custodial entity for the data reasonably determines that, if the data were made available to the public or to the data subject, the harm to the public or to a data subject would outweigh the benefit to the public or to the data subject. If the responsible authority denies access to the data, the person denied access may challenge the denial by bringing an action in district court seeking release of the data. The action shall be brought in the district court located in the county where the data are being maintained, or, in the case of data maintained by a state agency, in any county. The data in dispute shall be examined by the court in camera. In deciding whether or not to release the data, the court shall consider the benefits and harms in the same manner as set forth above. The court shall make a written statement of findings in support of its decision.

Subdivision 9. **Effect of changes in classification of data.**
Unless otherwise expressly provided by a particular statute, the classification of data is determined by the law applicable to the data at the time a request for access to the data is made, regardless of the data's classification at the time it was collected, created, or received.

Subdivision 10. **Costs for providing copies of data.**
Money may be collected by a responsible authority in a state agency for the actual cost to the agency of providing copies or electronic transmittal of government data. When money collected for purposes of this section is of a magnitude sufficient to warrant a separate account in the state treasury, that money must be deposited in a fund other than the general fund and is appropriated to the agency.

Subdivision 11. **Treatment of data classified as not public; public meetings.**
Not public data may be discussed at a meeting open to the public to the extent provided in section 13D.05.

Subdivision 12. **Pleadings.**
Pleadings, as defined by court rule, served by or on a government entity, are public data to the same extent that the data would be public if filed with the court.

Minnesota Statutes, Section 13.02 DEFINITIONS.

Subdivision 1. **Applicability.** As used in this chapter, the terms defined in this section have the meanings given them.

Subdivision 2. **Commissioner.** "Commissioner" means the commissioner of the Department of Administration.

Subdivision 3. **Confidential data on individuals.** "Confidential data on individuals" are data made not public by statute or federal law applicable to the data and are inaccessible to the individual subject of those data.

Subdivision 3a. **Criminal justice agencies.** "Criminal justice agencies" means all state and local prosecution authorities, all state and local law enforcement agencies, the Sentencing Guidelines Commission, the Bureau of Criminal Apprehension, the Department of Corrections, and all probation officers who are not part of the judiciary.

Subdivision 4. **Data not on individuals.** "Data not on individuals" are all government data that are not data on individuals.