

NEW UPDATES IN OPEN MEETINGS, CLOSED SESSIONS AND PUBLIC INFORMATION

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OPEN MEETINGS

MEETING DEFINITION

No meeting can be held without posting notice and allowing public to attend; Meetings generally must involve a quorum.

Meeting is defined under the Act as:

A deliberation (verbal or written exchange) involving discussion or consideration of public business or formal action taken by the board;

or, a gathering called and controlled by the board involving receipt of information from, or exchange with, a third person about the board's public business



OPEN MEETINGS

MEETINGS

- * Less than a quorum can generally meet and discuss public business without posting or opening to public because not a “meeting”; but be careful about “walking quorums” (discussed later)
- * Committees - less than a quorum of board members
- * A quorum gathering at social events unrelated to public business, at regional, state, national conferences, etc, is not a meeting if “formal action is not taken and any discussion of public business is incidental to the social function...”
- * Meeting location



OPEN MEETINGS

Agenda Posting and Wording/Minutes

- * Notice/Agenda must be posted 72 hours in advance (1 hour in emergency) at hospital and on website or with county clerk (Who sets the agenda??)
- * The notice must list time, date, location and topics to be discussed/voted on and must be sufficient to apprise the general public of the subjects to be considered during the meeting.
- * Generalized terms such as “old business,” “new business,” and “other business” are not proper terms to give notice because they do not inform the public of its subject matter (but “Public Comment” is OK).



OPEN MEETINGS

Agenda Posting and Wording/Minutes

- * Minutes or a recording must be made of each meeting
- * Additional posting requirements
- * Does the Board need to approve the medical staff committee report, the check register, finance report, CEO report, etc..



OPEN MEETINGS

Attendance by video/telephone

- * Board members **CANNOT** attend meetings by telephone. Attending by video conference is possible in limited circumstances but a quorum must still be present in the location where the meeting is open to public, and other requirements must be met.
- * Governor Abbott suspended these rules for a period of time during the COVID-19 pandemic, but the suspension is no longer in effect.
- * Does failure to attend subject Board member to dismissal?



OPEN MEETINGS

Criminal provisions (“knowingly”)

- Disclosing certified agenda/recording of closed meeting
- Closed mtg. w/out agenda/recording
- Improper closed meeting
- Mtg. in small groups (walking quorum)



OPEN MEETINGS

Walking Quorums

- * Board members cannot communicate among themselves in multiple small groups before a meeting to reach a conclusion.

- * “series of communications that each occur outside of a meeting... concern[ing] an issue within the jurisdiction of the [board] in which the members engaging in the individual communications constitute fewer than a quorum but the members engaging in the series of communications constitute a quorum; and knew at the time the member engaged in the communication that the series of communications: (A) involved or would involve a quorum; and (B) would constitute a deliberation once a quorum of members engaged in the series of communications.”

- * Can't be done in person, or by phone, email, text, video, social media



OPEN MEETINGS

➤ **Executive Session (“closed meeting”)**

- "Closed meeting" means a meeting to which the public does not have access
- Open session
- Presiding officer
- Minutes
- Final action



OPEN MEETINGS

- **Executive Session (“closed meeting”)**
 - Attorney Consultation
 - Real Estate - “purchase, exchange, lease, or value”; “detrimental effect on the position of the governmental body in negotiations”
 - Personnel - public hearing; opportunity to object



OPEN MEETINGS

- **Executive Session (“closed meeting”)**
 - Gifts
 - Security Devices/Personnel
 - New product line
 - Economic development



OPEN MEETINGS

- **Executive Session (“closed meeting”)**
 - Quality
 - Compliance
 - Peer review



OPEN MEETINGS

- **Executive Session Frequent Questions:**
 - Discuss a contract (physician, vendor or employee?)
 - New Board Member
 - Complaint from community, employee, etc.
 - Meet with community members?



OPEN MEETINGS

PUBLIC COMMENT

- Gov't Board now required to allow public comment during or prior to agenda item (Board member comments?)
- Reasonable limits allowed; can't discriminate
- Limited response allowed if topic not on agenda
- Not a public forum



OPEN RECORDS

- Proper requests
- AG opinion process
- Fees



REQUIRED ONLINE TRAINING

- One time online open government training required for new board members within 90 days:
- <https://www.texasattorneygeneral.gov/open-government/governmental-bodies>

