

TITLE 25 HEALTH SERVICES
PART 1 DEPARTMENT OF STATE HEALTH SERVICES
CHAPTER 289 RADIATION CONTROL
SUBCHAPTER C TEXAS REGULATIONS FOR CONTROL OF RADIATION

§289.130. Radiation Advisory Board.

(a) Statutory authority. The Radiation Advisory Board (board) is established under Texas Health and Safety Code §401.015 and is subject to Texas Government Code Chapter 2110, concerning State Agency Advisory Committees. ~~[The board. A Radiation Advisory Board shall be appointed under and governed by this section.]~~

~~[(1) The name of the board shall be the Radiation Advisory Board (board).]~~

~~[(2) The board is required to be established by Health and Safety Code, §401.015.]~~

~~[(b) Applicable law. The board is subject to the Government Code, Chapter 2110, concerning state agency advisory committees.]~~

(b)~~[(c)]~~ Purpose. The board advises ~~[The purpose of the board is to provide advice to]~~ the Executive Commissioner ~~[of the Texas Health and Human Services Commission (Executive Commissioner)],~~ the Texas Department of State Health Services (DSHS), the Railroad Commission of Texas (RRC), ~~[Services' (department) radiation program,]~~ the Texas Commission on Environmental Quality (TCEQ), ~~[the Railroad Commission of Texas,]~~ and other state agencies concerning entities in the area of state radiation policies and programs.

(c)~~[(d)]~~ Tasks. The board: ~~[shall advise the Executive Commissioner in accordance with Health and Safety Code, §401.019.]~~

(1) reviews and evaluates state radiation policies and programs;

(2) makes recommendations and furnishes technical advice to DSHS, RRC, TCEQ, and other state agencies relating to development, use, and regulation of radiation sources;

(3) reviews proposed rules and guidelines of any state agency related to the regulation of sources of radiation and recommends changes in proposed or existing rules and guidelines relating to those matters;

(4) develops and implements policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board; and

(5) adopts bylaws to guide its operation.

(d) Reporting Requirements. By December 31 of each year, the board files an annual written report with the Executive Commissioner covering the meetings and activities in the preceding fiscal year. The report includes:

(1) a list of the meeting dates;

(2) the members' attendance records;

(3) a brief description of actions taken by the board;

(4) a description of how the board accomplished its tasks;

(5) a description of activities the board anticipates undertaking in the next fiscal year;

(6) recommended amendments to this section; and

(7) the costs related to the board, including the cost of DSHS staff time spent supporting the board's activities and the source of funds used to support the board's activities.

(e) Meetings.

(1) Open meetings. The board is not a "governmental body" as defined in the Open Meetings Act. However, to promote public participation, each board meeting is announced and conducted per the Open Meetings Act, Texas Government Code Chapter 551, except provisions allowing executive sessions.

(2) Frequency. The board meets quarterly on dates set by the board.

(A) A special meeting may be called by the chairperson or at least five members.

(B) Meetings are arranged and supported by DSHS staff.

(C) Members of the board will be given timely notice of each board meeting.

(3) Quorum. A simple majority of all members constitutes a quorum to transact official business. The board is authorized to transact official business only when in a legally constituted meeting with a quorum present.

(4) Public comment. The agenda for each board meeting includes an item titled Public Comment, under which any person will be allowed to address the board on matters relating to board business. The chairperson may establish procedures for public comment, including a time limit on each comment.

(5) Documentation. A record must be kept of each board meeting.

(f) Membership.

(1) The board includes 19 members appointed by the Governor:

(A) one representative from industry who is trained in nuclear physics, science, or nuclear engineering;

(B) one representative from labor;

(C) one representative from agriculture;

(D) one representative from the insurance industry;

(E) one individual who is engaged in the use and application of nuclear physics in medicine and is certified by the American Board of Radiology or licensed by the Texas Medical Board under Chapter 602, Texas Occupations Code;

(F) one hospital administrator;

(G) one individual licensed by the Texas Medical Board who specializes in nuclear medicine;

(H) one individual licensed by the Texas Medical Board who specializes in pathology;

(I) one individual licensed by the Texas Medical Board who specializes in radiology;

(J) one representative from the nuclear utility industry;

(K) one representative from the radioactive waste industry;

(L) one representative from the petroleum industry;

(M) one health physicist certified by the American Board of Health Physics;

(N) one individual licensed by the State Board of Dental Examiners;

(O) one representative from the uranium mining industry;

(P) one individual licensed by the State Board of Veterinary Medical Examiners; and

(Q) three representatives of the public.

~~[(e) Composition. The board shall be composed of 18 members appointed by the governor. The composition of the board shall include representatives from those areas as delineated in Health and Safety Code, §401.015.]~~

~~[(f) Terms of office. The term of office of each member shall be six years. Members shall serve after expiration of their term until a replacement is appointed.]~~

(2)[(1)] Members are shall be appointed for staggered terms so [that] the terms of an equal or almost equal ~~[a substantial equivalent]~~ number of members will expire at the end ~~[discretion]~~ of each term. Regardless of the term limit, a member serves until a replacement has been appointed. This ensures sufficient, appropriate representation ~~[the governor]~~.

(A)[(2)] If a vacancy occurs, the Governor will appoint an individual ~~[a person shall be appointed by the governor]~~ to serve the unexpired portion of the [that] term.

(B) The term of each member is six years, except the term may be less than six years as necessary to stagger terms. A member may apply to serve one

additional term.

(C) An individual is not eligible to be appointed as a representative of the public on the advisory board if that individual or individual's spouse is:

(i) engaged in an occupation in the health care field; or

(ii) employed by, participates in the management of, or has a financial interest, other than as a consumer, in part of the nuclear utility industry or in a business entity or other organization that is licensed under Subchapter F or Subchapter G.

(g) Officers. The Governor designates a member of the board as the chairperson to serve at the will of the Governor. The board elects from its members a vice-chairperson and secretary. [The board shall elect a chairman, vice-chairman and secretary at its first meeting after August 31st of each year.]

(1) The chairperson serves until the first quarterly meeting of the fiscal year of each even-numbered year. The vice-chairperson serves until the first quarterly meeting of the fiscal year of each odd-numbered year.

(2) A member serves no more than two consecutive terms as chairperson or vice-chairperson.

~~[(1) Each officer shall serve until the next regular election of officers.]~~

(3)[(2)] The chairperson presides over [chairman shall preside at] all board meetings [at which he or she is in attendance], calls [call] meetings as specified in [accordance with] this section, appoints [appoint] subcommittees of the board as necessary, and ensures accurate [cause proper] reports are [to be] made to the board. The chairperson [chairman] may serve as an ex-officio member of any subcommittee of the board.

(4) The vice-chairperson performs the duties of the chairperson in the event of an absence or the disability of the chairperson. If the position of the chairperson becomes vacant, the vice-chairperson will serve until a successor is appointed to complete the unexpired portion of the chairperson's term.

~~[(3) The vice-chairman shall perform the duties of the chairman in case of the absence or disability of the chairman. In case the office of chairman becomes vacant, the vice-chairman will serve until a successor is elected to complete the unexpired portion of the term of the office of chairman.]~~

(5)[(4)] A vacancy [which occurs] in the office [offices] of vice-chairperson [chairman, vice-chairman] or secretary is [may be] filled at the next board meeting.

~~[(h) Meetings. The board shall meet quarterly on dates set by the board to conduct board business.]~~

~~[(1) A special meeting may be called by the chairman or at least five members-~~

of the board.]

~~[(2) Meeting arrangements shall be made by department staff.]~~

~~[(3) The advisory board is not a "governmental body" as defined in the Open Meetings Act. However, in order to promote public participation, each meeting of the board shall be announced and conducted in accordance with the Open Meetings Act, Texas Government Code, Chapter 551, with the exception that the provisions allowing executive sessions shall not apply.]~~

~~[(4) Each member of the board shall be informed of a board meeting in a timely manner.]~~

~~[(5) A simple majority of the members of the board shall constitute a quorum for the purpose of transacting official business.]~~

~~[(6) The board is authorized to transact official business only when in a legally constituted meeting with quorum present.]~~

~~[(7) The agenda for each board meeting shall include an item entitled public comment under which any person will be allowed to address the board on matters relating to board business. The chairman may establish procedures for public comment, including a time limit on each comment.]~~

~~(h)[(i)] Attendance. Members must ~~[shall]~~ attend board meetings as scheduled. Members must ~~[shall]~~ attend and participate in meetings of subcommittees to which the members are ~~[member is]~~ assigned.~~

~~(1) A member must ~~[shall]~~ notify the chairperson ~~[chairman]~~ or appropriate DSHS ~~[department]~~ staff if the member ~~[he or she]~~ is unable to attend a scheduled meeting.~~

~~(2) A member may be removed from the board ~~[It is grounds for removal from the board]~~ if the ~~[a]~~ member cannot discharge ~~[the member's]~~ duties for a substantial part of the appointed ~~[the]~~ term ~~[for which the member is appointed]~~ because of illness or disability~~[7]~~ or if ~~[is]~~ absent from more than half of the board meetings during a calendar year without an excuse approved by a majority vote of the ~~[advisory]~~ board.~~

~~(3) The validity of a board ~~[an]~~ action ~~[of the board]~~ is not affected by the fact that it is taken when grounds ~~[a ground]~~ for removal of a member exist ~~[exists]~~.~~

~~[(j) Staff. Staff support for the board shall be provided by the department.]~~

~~(i)[(k)] Procedures. Robert's ~~[Roberts]~~ Rules of Order, Newly Revised, is ~~[shall be]~~ the basis of parliamentary decisions except where otherwise provided by law or rule.~~

~~(1) Any action taken by the board must be approved by a majority vote of the members present once a quorum is established.~~

(2) Each member may vote once during any call for votes [~~shall have one vote~~].

(3) A member may not authorize another individual to represent the member by proxy.

(4) The board makes [~~shall make~~] decisions in discharging [~~the discharge of its~~] duties without discrimination based on any individual's [~~person's~~] race, creed, sex [~~gender~~], religion, national origin, age, physical condition, or economic status.

(5) Minutes of each board meeting will [~~shall~~] be taken by DSHS [~~department~~] staff. A summary of the meeting is provided to each board member before the next meeting.

~~[(A) A summary of the meeting shall be provided to each member of the board within 30 days of each meeting.]~~

~~[(B) After approval by the board, the minutes shall be signed by the secretary.]~~

~~(j)~~ [(H)] Subcommittees. The board may establish subcommittees [~~as necessary~~] to assist the board in carrying out its duties.

(1) The chairperson may [~~chairman shall~~] appoint members [~~of the board~~] to serve on subcommittees and to act as subcommittee chairpersons. The chairperson [~~chairman~~] may also appoint nonmembers of the board to serve on subcommittees as the need for additional expertise arises.

(2) Subcommittees must [~~shall~~] meet when called by the subcommittee chairperson or when [~~so~~] directed by the board.

(3) The [A] subcommittee chairperson makes [~~shall make~~] regular reports to the board at each board meeting or in interim written reports, as needed. The reports [~~shall~~] include an executive summary or minutes of each subcommittee meeting.

~~(k)~~ [(m)] Statement by members.

(1) The Executive Commissioner, DSHS [~~the department~~], and the board are not [~~shall not be~~] bound in any way by any statement or action on the part of any [~~board~~] member except when a statement or action is in pursuit of specific instructions from the Executive Commissioner, DSHS [~~department~~], or board.

(2) The board and its members may [~~not~~] participate in legislative activity in the name of the Executive Commissioner or DSHS [~~the department except~~] with approval through the DSHS [~~department's~~] legislative process. Members may represent [~~Board members are not prohibited from representing~~] the board's decisions, themselves, or other entities in the legislative process.

(3) A [~~board~~] member must [~~should~~] not accept or solicit any benefit that might reasonably [~~tend to~~] influence the member in the discharge of the member's official duties.

(4) A [board] member must ~~[should]~~ not disclose confidential information acquired through ~~[his or her]~~ board membership.

(5) A [board] member should not knowingly solicit, accept, or agree to accept any benefit for exercising ~~[having exercised]~~ the member's official powers or duties in favor of another person.

(6) A [board] member with ~~[who has]~~ a personal or private interest in a matter pending before the board must ~~[shall]~~ publicly disclose the fact in a board meeting and may not vote or otherwise participate in the matter. The phrase "personal or private interest" means the [board] member has a direct financial ~~[pecuniary]~~ interest in the matter but does not include the [board] member's engagement in a profession, trade, or occupation when the member's interest is the same as all others similarly engaged in the profession, trade, or occupation.

~~[(n) Reports to the department. The board shall file an annual written report with the Commissioner of the department or his designee.]~~

~~(l)[(o)] Reimbursement for expenses. A [In accordance with the requirements set forth in the Government Code, Chapter 2110, a board] member may receive reimbursement for the member's expenses incurred for each day the member engages in official board business as specified in Texas Government Code Chapter 2110.~~

(1) Compensatory per diem is not ~~[No compensatory per diem shall be]~~ paid to [board] members unless required by law, but members are ~~[shall be]~~ reimbursed for travel, meals, lodging, and incidental expenses to the extent permitted by the current General Appropriations Act. A member may be reimbursed for their travel to and from meetings if funds are appropriated and available and in accordance with the DSHS Travel Policy. ~~[in accordance with the General Appropriations Act.]~~

(2) A [board] member who is an employee of a state agency, other than DSHS ~~[the department]~~, may not receive reimbursement for expenses from DSHS ~~[the department]~~ if the member ~~[he or she]~~ is reimbursed by that state agency.

(3) A nonmember of the board who is appointed to serve on a subcommittee may not receive reimbursement for expenses from DSHS ~~[the department]~~.

(4) Each member ~~[who is]~~ to be reimbursed for expenses must ~~[shall]~~ submit to staff the member's receipts for expenses and any required official forms within ~~[no later than]~~ 14 days after each board meeting.

(5) Requests for reimbursement of expenses must ~~[shall]~~ be made on official state travel vouchers prepared by DSHS ~~[department]~~ staff.