



TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS

Board Meeting Agenda

1106 Clayton Lane, Suite 125E

Austin, Texas 78723

January 17, 2023

9:00am

The Texas Board of Veterinary Medical Examiners will consider and act, if necessary, on matters within the jurisdiction of the Board which are listed on this agenda. The Board may meet from time-to-time in executive session with respect to the agenda items as authorized by the Texas Open Meetings Act, Chapter 551 of the Government Code.

1. Full Board call to order, roll call, vote on absences. (*Mr. Pardue and Dr. Mixon*) **(TAB 1)**
2. Consideration and Approval of October 18, 2022 meeting minutes (*Dr. Mixon*) **(TAB 2)**
3. Executive Director's and Staff Reports (*Ms. Sharkey*) **(TAB 3)**
 - a. *Licensing Report – Ms. Wanda Bennett*
 - b. *Enforcement Report – Mr. Mike Tacker*
 - c. *Legal Report – Mr. John Hargis*
 - d. *Compliance Report -Mr. Jerod Honrath*
 - e. *Finance Report – Ms. Arlethia Middleton*
4. Standing Board Committee Reports
5. Discussion, recommendation and possible action regarding proposed rule changes to be published in the Texas Register. (*Dr. Mixon*) **(TAB 4)**
 - a. *§575.29 - Informal Conferences*
 - b. *§575.26 - Deferred Dismissal*
 - c. *Executive Committee Selection*
 - d. *Discussion of any future proposed rules for review*
6. Discussion, recommendation and possible action regarding the proposed creation of an Outreach Committee (*Mrs. Whitehead*)
7. Discussion, recommendation and possible action regarding the appointment of committees for 2023 (*Mr. Pardue*)
8. Discussion, recommendation and possible action regarding Board policies and procedures (*Dr. Mixon*) **(TAB 5)**
9. Discussion, recommendation and possible action regarding staff general manual (*Mrs. Whitehead*) **(TAB 6)**

10. Consideration and approval of Agreed Orders. (Mr. Hargis) (TAB 7)

<u>Docket #</u>	<u>Case #</u>	<u>Name</u>	<u>License #</u>	<u>Practice City</u>
DK2020-039	CP18-187	[REDACTED]	[REDACTED]	[REDACTED]
CP19-170	CP19-170	[REDACTED]	[REDACTED]	[REDACTED]
CP19-287	CP19-287	[REDACTED]	[REDACTED]	[REDACTED]
CP19-312	CP19-312	[REDACTED]	[REDACTED]	[REDACTED]
CP20-021	CP20-021	[REDACTED]	[REDACTED]	[REDACTED]
CP20-062	CP20-062	[REDACTED]	[REDACTED]	[REDACTED]
CP20-116	CP20-116	[REDACTED]	[REDACTED]	[REDACTED]
CP20-166	CP20-166	[REDACTED]	[REDACTED]	[REDACTED]
CP20-177	CP20-177	[REDACTED]	[REDACTED]	[REDACTED]
CP20-273	CP20-273	[REDACTED]	[REDACTED]	[REDACTED]
CP20-304	CP20-304	[REDACTED]	[REDACTED]	[REDACTED]
CP20-318	CP20-318	[REDACTED]	[REDACTED]	[REDACTED]
CP20-356	CP20-356	[REDACTED]	[REDACTED]	[REDACTED]
CP20-372	CP20-372	[REDACTED]	[REDACTED]	[REDACTED]
CP20-391	CP20-391	[REDACTED]	[REDACTED]	[REDACTED]
CP20-399	CP20-399	[REDACTED]	[REDACTED]	[REDACTED]
CP21-011	CP21-011	[REDACTED]	[REDACTED]	[REDACTED]
CP21-033	CP21-033	[REDACTED]	[REDACTED]	[REDACTED]
CP21-052	CP21-052	[REDACTED]	[REDACTED]	[REDACTED]
CP21-093	CP21-093	[REDACTED]	[REDACTED]	[REDACTED]
CP21-154	CP21-154	[REDACTED]	[REDACTED]	[REDACTED]
CP21-155	CP21-155	[REDACTED]	[REDACTED]	[REDACTED]
CP21-180	CP21-180	[REDACTED]	[REDACTED]	[REDACTED]
CP21-190	CP21-190	[REDACTED]	[REDACTED]	[REDACTED]
CP21-214	CP21-214	[REDACTED]	[REDACTED]	[REDACTED]
CP21-267	CP21-267	[REDACTED]	[REDACTED]	[REDACTED]
CP21-289	CP21-289	[REDACTED]	[REDACTED]	[REDACTED]
CP21-290	CP21-290	[REDACTED]	[REDACTED]	[REDACTED]
CP21-330	CP21-330	[REDACTED]	[REDACTED]	[REDACTED]
CP21-362	CP21-362	[REDACTED]	[REDACTED]	[REDACTED]
CP21-409	CP21-409	[REDACTED]	[REDACTED]	[REDACTED]
CP22-045	CP22-045	[REDACTED]	[REDACTED]	[REDACTED]
CP22-284	CP22-284	[REDACTED]	[REDACTED]	[REDACTED]
N/A	N/A	[REDACTED]	[REDACTED]	[REDACTED]
CP19-270	CP19-270	[REDACTED]	[REDACTED]	[REDACTED]
CP21-357	CP21-357	[REDACTED]	[REDACTED]	[REDACTED]
CP22-001	CP22-001	[REDACTED]	[REDACTED]	[REDACTED]
CP22-019	CP22-019	[REDACTED]	[REDACTED]	[REDACTED]

11. Consideration and approval of cases recommended for dismissal from Informal Conference (*Mr. Hargis*) (TAB 8)

<u>Case #</u>	<u>Name</u>	<u>License #</u>	<u>Practice City</u>
CP18-179	[REDACTED]	[REDACTED]	[REDACTED]
CP20-077	[REDACTED]	[REDACTED]	[REDACTED]
CP20-199	[REDACTED]	[REDACTED]	[REDACTED]
CP20-205	[REDACTED]	[REDACTED]	[REDACTED]
CP20-214	[REDACTED]	[REDACTED]	[REDACTED]
CP20-248	[REDACTED]	[REDACTED]	[REDACTED]
CP20-324	[REDACTED]	[REDACTED]	[REDACTED]
CP20-334	[REDACTED]	[REDACTED]	[REDACTED]
CP20-377	[REDACTED]	[REDACTED]	[REDACTED]
CP20-379	[REDACTED]	[REDACTED]	[REDACTED]
CP20-383	[REDACTED]	[REDACTED]	[REDACTED]
CP20-385	[REDACTED]	[REDACTED]	[REDACTED]
CP21-009	[REDACTED]	[REDACTED]	[REDACTED]
CP21-010	[REDACTED]	[REDACTED]	[REDACTED]
CP21-020	[REDACTED]	[REDACTED]	[REDACTED]
CP21-021	[REDACTED]	[REDACTED]	[REDACTED]
CP21-025	[REDACTED]	[REDACTED]	[REDACTED]
CP21-037	[REDACTED]	[REDACTED]	[REDACTED]
CP21-065	[REDACTED]	[REDACTED]	[REDACTED]
CP21-099	[REDACTED]	[REDACTED]	[REDACTED]
CP21-137	[REDACTED]	[REDACTED]	[REDACTED]
CP21-183	[REDACTED]	[REDACTED]	[REDACTED]
CP21-215	[REDACTED]	[REDACTED]	[REDACTED]
CP21-234	[REDACTED]	[REDACTED]	[REDACTED]
CP21-236	[REDACTED]	[REDACTED]	[REDACTED]
CP21-287	[REDACTED]	[REDACTED]	[REDACTED]
CP21-291	[REDACTED]	[REDACTED]	[REDACTED]
CP21-303	[REDACTED]	[REDACTED]	[REDACTED]
CP21-332	[REDACTED]	[REDACTED]	[REDACTED]
CP21-403	[REDACTED]	[REDACTED]	[REDACTED]
CP21-421	[REDACTED]	[REDACTED]	[REDACTED]
CP21-436	[REDACTED]	[REDACTED]	[REDACTED]
CP21-451	[REDACTED]	[REDACTED]	[REDACTED]

12. Consideration and approval of cases recommended for dismissal from Staff Conference (*Mr. Hargis*) (TAB 9)

<u>Case #</u>	<u>Name</u>	<u>License #</u>	<u>Practice City</u>
CP20-017	[REDACTED]	[REDACTED]	[REDACTED]

CP20-061			
CP20-136			
CP20-146			
CP20-182			
CP20-200			
CP20-224/CP21-041			
CP20-226			
CP20-307			
CP20-340			
CP21-008			
CP21-023			
CP21-027			
CP21-097			
CP21-171			
CP21-204			
CP21-246			
CP21-250			
CP21-254			
CP21-256			
CP21-396			
CP21-407			
CP22-026			
CP22-109			
CP22-110			
CP22-122			
CP22-123			

13. Consideration and approval of cases recommended for dismissal from Medical Review (*Mr. Hargis*) (TAB 10)

Case #	Name	License #	Practice City
CP21-131			
CP21-132			
CP21-257			
CP21-281			
CP21-305			
CP21-307			
CP21-309			
CP21-312			
CP21-316			
CP21-317			
CP21-430			
CP22-014			
CP22-058			
CP22-084			
CP22-121			
CP22-131			

CP22-142					
CP22-146					
CP22-153					
CP22-184					
CP22-199					
CP22-200					
CP22-208					
CP22-209					
CP22-213					
CP22-241					
CP22-243					
CP22-244					

14. Citizen Comments (*Mr. Pardue*) (TAB 11)

15. Discussion of possible agenda items for future Board meetings. (*Mr. Pardue*)

16. Executive Session to discuss pending and contemplated litigation. (*Mr. Pardue*)

17. Return from Executive Session to report or discuss further actions to be taken following Executive Session.
Possible action on items discussed in Executive Session.

18. Adjourn.

Persons requiring special accommodations, including the use of an interpreter, due to a disability should contact the Board office at least five working days prior to the Board meeting.

Las personas que necesiten servicios especiales, incluyendo los de un intérprete, debido a un impedimento físico, llamen la oficina de la Junta por lo menos cinco días antes de la reunión de la Junta.

Board Members:

- Keith Pardue, President
- Sandra “Lynn” Criner, DVM, Vice President
- Samantha Mixon, DVM, Secretary
- Michael White, DVM
- Randy Skaggs, DVM
- Steven Golla, DVM
- Sue Allen, LVT
- Victoria Whitehead, Esq.
- Raquel Olivier, CPA

AGENDA ITEM 1

TAB 1

CALL TO ORDER, ROLL CALL AND VOTE ON ABSENCES

This meeting of the Texas Board of Veterinary Medical Examiners is now called to order, the time is _____.

May I have a roll call please...

MEMBER NAME

ATTENDANCE NOTATION*

Keith Pardue, DVM, President	_____
Sandra "Lynn" Criner, DVM, Vice President	_____
Samantha Mixon, DVM, Secretary	_____
Randall Skaggs, DVM, Member	_____
Michael White, DVM, Member	_____
Steven Golla, DVM, Member	_____
Sue Allen, LVT, Member	_____
Victoria Whitehead, Member	_____
Raquel Olivier, Member	_____

If there are any absences...

- Do I have a motion to approve or deny the absences?
 - o I move that we approve the absence(s) of _____.
 - o I move that we deny the absence(s) of _____.
- Is there a second?
- Is there any discussion?

*

✓ = In Attendance

X = Absent (Please indicate if Not Excused)

AGENDA ITEM 2

TAB 2

CONSIDERATION AND APPROVAL OF THE October 18, 2022 MINUTES.

The minutes of the October 18, 2022, board meeting were sent to you for review.

- Do I have a motion to approve the minutes?
 - o I move that we approve the minutes as presented.
 - o I move that we approve the minutes with corrections as discussed.
- Is there a second?
- Is there any discussion?
- All in favor, say aye.

All opposed, say nay.

**Texas Board of Veterinary Medical Examiners
October 18, 2022
Meeting Minutes**

At 9:10 a.m., Board President, Keith Pardue called the board meeting to order.

Dr. Mixon took a roll call. Ms. Olivier was absent. Dr. Criner moved to approve the absence and Dr. Mixon seconded the motion.

Dr. Criner moved to approve the meeting minutes for July 12, 2022, and Dr. White seconded the motion. The Board unanimously approved the minutes from the July 12, 2022, meeting.

Dr. Criner made a notation of a change to the September 6, 2022, meeting minutes to have Dr. Mixon named as the person taking roll call. Dr. Criner moved to approve the minutes with the change. Dr. Mixon seconded the motion. The Board unanimously approved the minutes as corrected.

Mr. Pardue called for citizen comments. Judy Santerre, Trent Hightower, Jordan Glynn, LVT, Sandra Sledge, LVT and Dr. Tamara Walthall provided public comments in person. Jodi Ware provided a public comment via Zoom.

Mr. Pardue called for the next agenda item, the Executive Director's report. Ms. Wanda Bennett, Licensing Program Supervisor, started by providing an update regarding the licensing department.

Mr. Mike Tacker, Director of Enforcement provided an update regarding the Enforcement Department and advised that there are currently nine FY2021 cases open, 138 FY2022 cases and 28 FY2023 cases.

Mr. John Hargis, General Counsel, provided an update regarding the legal department. After the Board meeting, 284 cases will be open in legal.

Mr. Jerod Honrath, Director of Licensing and Compliance provided an update regarding compliance, including fingerprints and continuing education.

Ms. Arlethia Middleton, Chief Financial Officer, provided an update regarding the agency's finances.

Mr. John Hargis discussed the next agenda item regarding proposed rule changes. Dr. Mixon stated Rule 571.18 would be withdrawn due to statutory reasons. Dr. Mixon stated the term "Veterinary Technician" is not a protected term in Texas. Dr. Mixon stated they do not need to create a rule just to re-state a statute. Dr. Mixon stated she would like the public to know if the veterinary technician is credentialed or not. Dr. Mixon stated it is a struggle to find educated technicians. Dr. Mixon stated unless there is a legislative change, they cannot propose a rule stating the same as what is stated in the statute.

Dr. Mixon made a motion to pull the proposed rule 571.18. Dr. Criner seconded the motion. None opposed.

Dr. Mixon made a motion to keep rule 573.27, Honesty, Integrity, and Fair Dealing, as written with no changes. Dr. Criner seconded the motion. None opposed.

Dr. Mixon made a motion to pull the proposed rule 575.29 for additional review by the rules committee for changes. Mrs. Whitehead seconded the motion. None opposed.

Dr. Criner discussed the next agenda item and provided an update regarding the AAVSB conference that herself, Dr. Mixon, and Executive Director, Brittany Sharkey, attended. Dr. Criner stated the conference is once a year, but there are smaller meetings and committee meetings that occur more frequently.

Dr. Criner discussed the next agenda item regarding the Board's continuing education rules. Dr. Criner believes that a couple of the rules are bothersome to most veterinarians. Dr. Criner stated licensees in Texas are required to sign into a CE conference, which is not in policy or rule, so she is unsure why it is being required.

Dr. Mixon stated a new rule proposal, 575.26, will be presented to the rules committee for review. Dr. Mixon stated the rule will be a deferred dismissal program for minor violations that would offer licensees an opportunity to complete continuing education and then have the case dismissed to avoid creating permanent records for minor infractions.

Mr. John Hargis noted that agenda item 6 had not yet been discussed. Dr. Criner discussed agenda item 6 regarding current rules committee procedures. Dr. Criner wanted to thank all of the board members for their input.

Dr. Criner presented agenda item 8 and proposed that an education committee consisting of three (3) people be formed to review continuing education submitted to the board for approval. Dr. Randall Skaggs made a notation that he agreed with the proposal. Dr. Golla stated he also agreed with the proposal. Dr. Criner made a motion to form an Ad Hoc committee for continuing education. Dr. Mixon seconded the motion. None opposed. Dr. Criner stated she would like to be a part of the committee with the addition of Dr. Skaggs and Sue Allen, LVT.

Dr. Criner stated she would like TVMA to form a rules committee to present concerns regarding rule changes to the Board.

Dr. Mixon discussed agenda item 10 regarding the use of xylazine in equine medicine. Dr. Mixon stated DEA collects data on all reports of overdose deaths.

The following cases were pulled from Agenda Item 11 for discussion in executive session: CP20-124 and CP20-134. Mrs. Whitehead moved to approve the other agreed orders as presented. Dr. Criner seconded,

The following cases were pulled for discussion in executive session from agenda item 12: CP18-122, CP20-259, CP21-080, CP21-15 and CP21-393. Mrs. Whitehead moved to approve the other cases recommended for dismissal from informal conference. Dr. Criner seconded the motion. None opposed.

The following cases were pulled for discussion in executive session from agenda item 13: CP0-107, CP22092 and CP22-099. Mrs. Whitehead moved to approve the other cases recommended for dismissal from medical review. Criner seconded the motion. None opposed.

Mrs. Whitehead moved to approve the cases recommended for dismissal from staff conference. Mrs. Allen seconded the motion. None opposed.

Mrs. Whitehead moved to approve the cases recommended for dismissal by staff. Dr. Skaggs seconded the motion. None opposed.

Mr. Pardue addressed Agenda Item 17 - Future Board Meeting Dates. It was stated that January 17, 2023, was already a scheduled Board Meeting date. April 4, 2023, is discussed as a potential future board meeting date to be formally decided on during the January meeting.

Ms. Whitehead made a motion to go into executive session. Dr. Steven Golla seconded the motion.

At 11:59 a.m., The board returned from executive session and reported that no action was taken in executive session.

For cases pulled from agenda item 11, Dr. Criner moved to approve all agreed orders and Dr. Skaggs seconded. None opposed.

For cases pulled from agenda item 12, Dr. White moved to approve the dismissals and Dr. Criner seconded. None opposed. None opposed

Dr. Skaggs moved to send CP20-107 originally recommended for dismissal from medical review to informal conference and Dr. Mixon seconded the motion. None opposed

Dr. Criner moved to approve dismissal of the other cases pulled from medical review and Dr. Mixon seconded the motion. None opposed

Dr. Criner made a motion to adjourn the meeting at 12:06 p.m., Dr. Mixon seconded the motion. None opposed. Meeting adjourned.

AGENDA ITEM 3

TAB 3

EXECUTIVE DIRECTOR'S REPORT

(Ms. Brittany Sharkey)

Additional Reports will be verbally provided by the following:

- Licensing Report – Ms. Wanda Bennett
- Enforcement Report – Mr. Mike Tacker
- Legal Report – Mr. John Hargis
- Compliance Report – Mr. Jerod Honrath
- Finance Report – Ms. Arlethia Middleton

This item is informational only, no vote needed.



TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS

Executive Director's Report

January 17, 2023

Dear Members of the Board and Public,

Happy new year! We've had a productive quarter as an agency and are excited to share our progress with you. Each department will share their individual updates, but by all measures, the agency is getting more efficient by the day. I most excited about the progress made on cases pending informal settlement conference, the compliance inspections and the amount of cases filed with the State Office of Administrative Hearings.

88th Legislature Update:

The 88th Session of the Texas Legislature gaveled in on Tuesday, January 10th. On January 11th, the Sunset Advisory Commission held a hearing on their proposed recommendations for the next steps for our agency. The Commission and staff recommended that TBVME be attached to the Texas Department of Licensing and Regulation for a period of four years and then undergo a new Sunset review at that time. I was disappointed with the report. I felt it did not reflect the work the staff, the Board and the new administration have done to turn this agency around in just a few short months. The report reflected the agency that existed over a year ago and not the agency of today. We will continue to educate the legislators about what we do here and the incredible progress the agency has made. This is a recommendation and still has to become a bill that gets drafted, filed, passed in both legislative chambers and signed by the Governor.

Staff Updates:

Since the last Board meeting, we have added two staff members to the team. Mark Lee joined us as a staff attorney. Mark comes to us with an impressive resume, most recently he served as a staff attorney for the Appraisal Board of the Texas Real Estate Commission. His command of administrative procedure and keen intellect have already made him an invaluable part of the team. Gloria Muniz joined us a legal assistant. Gloria came from the Texas Department of Agriculture and continues to settle into her role with a great attitude and work ethic.

At our holiday celebration in December, I handed out annual awards to members of the team who had gone above and beyond in service to the agency this year. The recipients are:

TBVME Award of Excellence Winners:

Wanda Bennett, Licensing Supervisor – for continuing to successfully meet key performance measures, despite the challenge of our current software platform.



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Juan Dockens, Investigator – for his assistance in training new investigators while still maintaining very high performance in investigating his own cases

TBVME Gold Star Award

Perry Goggins, Enforcement Specialist – for his assistance in creating and updating the inventory, being a leader amongst the staff and willingness to go above and beyond for the agency

Kandace Van Vlerah, Executive Assistant – for learning and taking on new roles and responsibilities with great skill and great attitude, Kandace has become an indispensable member of the team over the last eight months

Lily Lopez of the licensing division retired from the agency on November 30, 2022. Lily had been with the agency for almost nine years and the State of Texas for over 17. A small lunch celebration was held in the office for Lily and a flag was flown over the state capitol in her honor. Linda Lewis, our former receptionist, had the opportunity to shadow and train with Lily in her last few weeks in the office and has seamlessly transitioned to the licensing division. We currently have an opening posted on the Texas Workforce Commission website to fill our current receptionist vacancy.

Department Statistics:

Finally, to round out the report, I wish to provide you with the data from the various departments around the agency. Each director or supervisor will speak directly to their numbers and provide additional updates during the meeting.

Licensing:

New Licenses Issued in 1st Quarter FY23: 232

Total Licensing Count as of January 10, 2023:

License Type	DVM	LVT	EDP	DVM Special	DVM Temp.	Total
	10,600	2,560	65	53	2	13,280

Enforcement:

1st Quarter FY2023:

Complaints Received - 91

Inspections Performed – 6

Investigations Completed – 102

Open Investigations – 171

Medical Reviews Pending - 89



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Legal:

Total Open Cases: 359

Cases Awaiting Board Disposition: 127

Pending Board IC: 96

Staff Dismissals: 20

Pending Staff Conference: 22

Proposed Orders Pending Signature: 36

Pending SOAH Filing: 23

Cases on hold, pending legal review or criminal or civil action: 23

Cease and Desist Letters: 4

Filed at SOAH: 8

Cases Open in Legal after Board Meeting: 212

Compliance:

Total Cases Under Compliance: 23

Finance:

Total Appropriations: \$1,324,791

Total Expenditures: \$329,362

Total Funds Remaining: \$995,429

Percentage of the Year Elapsed: 25%

Percentage of the Budget Spent: 24.4%

Variance: +0.6%

AGENDA ITEM 4

TAB 4

**DISCUSSION, RECOMMENDATION AND POSSIBLE ACTION REGARDING
PROPOSED RULE CHANGES TO BE PUBLISHED IN THE TEXAS REGISTER.**

(Mr. Hargis)

RULE §575.29 INFORMAL CONFERENCES
PROPOSED RULE AMENDMENT

(a) Informal conferences requiring medical expertise, shall be conducted to provide the opportunity to both complainant and respondent to be heard by a panel of two veterinarians and one public member of the TBVME, and may be represented by counsel. Informal conferences that do not require medical expertise will be conducted by one veterinarian, one member of the legal staff and one member of the staff or public member designated by the executive director.

(b) Respondent has until 7 days from the date of receipt of medical review to submit any additional evidence for review by the TBVME.

(c) The complainant and respondent and any legal counsel, will receive all information regarding potential outcomes of an informal conference prior to the informal conference.

RULE 575.26 Deferred Dismissal

PROPOSED

(a) For Class C Violations, the Board may offer respondents deferred dismissal in lieu of disciplinary action. If the respondent successfully completes the terms of the deferred dismissal within 60 days, the complaint will be recommended for dismissal at a subsequent public Board meeting.

(b) This is an option for Board and Staff only and not an available disciplinary option for an Administrative Law Judge in a State Office of Administrative Hearings proceeding.

AGENDA ITEM 5

**DISCUSSION, RECOMMENDATION, AND POSSIBLE ACTION REGARDING
PROPOSED CREATION OF AN OUTREACH COMMITTEE**

(Ms. Whitehead)

AGENDA ITEM 6

**DISCUSSION, RECOMMENDATION, AND POSSIBLE ACTION REGARDING THE
APPOINTMENT OF COMMITTEES FOR 2023**

(Mr. Pardue)

AGENDA ITEM 7

TAB 5

**DISCUSSION, RECOMMENDATION, AND POSSIBLE ACTION REGARDING BOARD
POLICIES AND PROCEDURES**

(Dr. Mixon)

TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS



BOARD POLICIES AND PROCEDURES

FISCAL YEAR 2023

I. Board Operations Overview

a. Mission, Philosophy, and Goals

Our Mission

The mission of the Texas State Board of Veterinary Medical Examiners is to establish and enforce policies to ensure the best possible quality of veterinary and equine dental provider services for the people of Texas.

Our Philosophy

The Board and its staff will act in accordance with the highest standards of ethics, accountability, efficiency and openness. We affirm that protection from less than quality veterinary and equine dental provider services is a public and private trust. We approach our activities with a deep sense of purpose and responsibility. The public and regulated community alike can be assured of a balanced and sensible approach to regulation.

Our Goals

The Board and its staff will ensure that Texans are effectively and efficiently served by quality veterinary professionals by setting clear standards for professional conduct, by assuring compliance with the rules of professional conduct and the community standard of care, and seeking solutions to issues that strengthen the profession and protect the public.

b. Board Composition

The Board is composed of nine members who serve staggered six-year terms. Five of these members are licensed Texas veterinarians, including one veterinarian member who is associated with an animal shelter and one veterinarian member who has at least three years of experience practicing in Texas on horses, livestock, or other large animals. Three of the Board's members are public members, who must be generally unaffiliated with the veterinary profession. The final Board member is a licensed veterinary technician. Additional eligibility requirements for all Board members are found in Sections 801.052 and 801.053, Occupations Code.

A Board member may be removed from the Board if the member is absent from more than half the Board's regularly scheduled meetings in a calendar year, without an excuse approved by a majority vote of the Board. A Board member may also be removed from the Board if that member ceases to meet the eligibility requirements found in Sections 801.052 and 801.053, Occupations Code.

c. Agency Departments and Staff

The Board employs an Executive Director to oversee day-to-day operations of the agency, administer the agency's finances, and manage agency staff. Agency functions are generally divided among four departments: licensing, finance, enforcement, and legal. The agency is authorized to employ 21 full-time employees. The Executive Director will make themselves reasonably available to the Board for any questions or concerns about the agency. Because of the magnitude of the responsibility of the Executive Director, they will not be permitted to hold any outside employment. Finally, the Executive Director must provide as soon as possible any report or data upon request of a Board Member or provide sufficient explanation why it is not available.

In the event of a vacancy in the Executive Director role, the Presiding Officer will coordinate the posting of the job with the human resources officer and coordinate interviews of all applicants. The Board

Executive Committee will conduct the interviews and make a recommendation on a finalist candidate. The finalist candidate will be approved by the full Board in a public meeting, either regularly scheduled or specially called.

The Licensing Department receives and processes licensure applications and renewals for veterinarians, licensed veterinary technicians, and equine dental providers. The Licensing Department also oversees the approval process for licensee continuing education courses.

The Finance Department oversees the receipt and expenditure of agency funds, manages agency contracts with vendors and service providers, and processes payroll for agency staff.

The Enforcement Department receives and investigates complaints about veterinarians, licensed veterinary technicians, and equine dental providers, as well as the unlicensed practice of veterinary medicine and equine dentistry. The Enforcement Department also conducts inspections of licensees to ensure compliance with laws and rules within the Board's jurisdiction.

The Legal Department provides legal guidance to Board members and staff regarding all Board functions. The Legal Department also manages the agency's contested cases and assists the Office of the Attorney General in defending litigation against the agency. The Legal Department additionally manages and responds to all Public Information Act requests received by the agency.

Board members may reasonably contact staff with any pertinent questions regarding issues within that staff member's department. Board members are advised to be cognizant of regular working hours and state holiday office closures.

II. Governing Statutes and Board Rules

a. Overview

There are two primary types of laws governing the Board's operations: statutes and rules. Statutes are enacted by the legislature, and rules are enacted by the Board. Statutes are the controlling form of law, and generally dictate the duties and authority of the Board. The Board generally enacts rules to address substantive and procedural matters within its authority that may be too specific or specialized for the legislature to address directly. The Board may not enact rules or take other action that exceeds the authority granted by statute.

b. Veterinary Licensing Act

An enabling statute is a particular type of statute that creates an agency and sets forth the agency's powers and duties. The Board's enabling statute is the Veterinary Licensing Act ("the Act"), found in Chapter 801 of the Occupations Code. The Act contains both procedural and substantive requirements for Board operations.

The Act gives the Board authority to license, regulate, and discipline veterinarians, licensed veterinary technicians, and equine dental providers in this state. The Act also gives the Board authority to take enforcement actions against individuals found to be practicing veterinary medicine or equine dentistry without a license. The Act authorizes the Board to make rules as necessary to carry out its duties and responsibilities.

The Act contains a list of topics over which the Board does not have jurisdiction. Board members should be familiar with these exceptions to the Act's application and consult with legal counsel when these exceptions are implicated.

c. Administrative Procedure Act

There are numerous other statutes that govern the Board's activities and operations, many of which are found in the Government Code. The Administrative Procedure Act ("APA"), found in Chapter 2001 of the Government Code, provides generally applicable practices and procedures for adjudicative and rulemaking actions by state agencies. The Board uses the procedures established by the APA when conducting a contested case or engaging in rulemaking.

d. Board Rules

The Board's Rules are currently divided into four general chapters within Title 22, Part 24 of the Texas Administrative Code. Chapter 571 contains rules related to Licensing eligibility and procedures. Chapter 573 contains the Board's Rules of Professional Conduct, which determine certain mandatory and prohibited actions by licensees. Disciplinary actions against licensees are commonly the result of violations of the Rules of Professional Conduct. Chapter 575 contains rules related to the Board's practices and procedures when conducting enforcement and disciplinary actions. Chapter 577 contains rules relating to the Board's general administrative duties, including rules regarding Board meetings and committees and agency staff.

III. Duties and Responsibilities of the Board

a. Meetings

Board members are expected to regularly attend and participate in Board meetings. Generally, Board meetings will be held quarterly unless additional meetings are necessary.

Roberts Rules of Order

The Board President is responsible for ensuring that Board meetings proceed with appropriate order and decorum in accordance with Robert's Rules of Order, pursuant to Board Rule 577.2. The Board President, in consultation with the Executive Director and General Counsel, shall resolve any questions relating to parliamentary procedures.

Travel and Per Diem

Board members are entitled to reimbursement for certain travel expenses, including meals and lodging. Certain expenses, such as tips and alcohol, are not reimbursable. Board members are required to submit expense forms and receipts within 30 days documenting all expenses for which reimbursement is sought. Valet parking expenses are only reimbursable if no other parking options are available, and Board members must provide documentation showing that other options were unavailable.

Board members are entitled to per diem payments of \$30 per day for official Board business, such as attending Board meetings and informal conferences. Board members are required to submit documentation to be eligible for the per diem payment.

b. Committees

The Board has several committees that advise and assist in carrying out Board functions. Board members have a responsibility to serve on committees as appointed by the Board president. All committee appointments will be made by the Presiding Officer at the first meeting of each calendar year.

The Board has five permanent standing committees composed of Board members: the Executive Committee, the Enforcement Committee, the Licensing Committee, the Rules Committee, and the Finance Committee.

The Executive Committee, which is composed of the Board president, vice president, and secretary, provides general leadership and direction for the Board. Additionally, the Executive Committee drafts and approves the agenda for Board meetings and considers counter offers for proposed Agreed Orders. The Executive Committee constitutes the panel that hears petitions for temporary emergency license suspension.

The Enforcement Committee is primarily tasked with sitting on Informal Settlement Conference Panels. The Enforcement panel reviews the case file, gives both the complainant and respondent opportunities to answer questions and then makes recommendations for disciplinary sanctions.

The Rules Committee reviews and evaluates rules based on the suggestion of the Board or members of the public, The Rules Committee conducts research into other jurisdictions for proposed language. The committee works with agency staff to draft and post rules to present to the full Board for consideration.

The Finance Committee provides oversight of the agency's finances. They additionally approve any non-staffing expenditure made by the agency or contract valued over \$5,000 and report those purchases to the full Board.

The Board also has two advisory committees. The Equine Dental Provider Advisory Committee is established in part by the Veterinary Licensing Act. The Licensed Veterinary Technician Advisory Committee is established by Board Rule. These advisory committees provide advice and assistance to the Board in matters concerning their respective licensee populations.

The Board may also establish ad hoc committees to address a specific subject or accomplish a specific task. Ad hoc committees expire once the specific task has been accomplished or one year after their creation, if the Board does not vote to continue the committee.

c. Rulemaking

Notice and Comment Rulemaking

Establishing procedural and substantive rules for applicants and licensees is one of the Board's primary responsibilities. The adoption of rules or amendment of rules is known as "rulemaking." Rulemaking is governed by the Administrative Procedure Act (APA). The Board is required to follow certain legal requirements to adopt and amend rules within its jurisdiction and authority.

Notice of every proposed rulemaking must be published in the *Texas Register*, a publication issued by the Texas Secretary of State. Along with the text of the proposed rule, the notice must include a brief

explanation of the rule and several items analyzing the rule's anticipated impact. The notice must also invite interested persons to submit comments on the proposed rule.

The Board may hold one or more public hearings regarding a proposed rule. A public hearing must be held if requested by a governmental subdivision or agency, by 25 or more persons, or by an association with at least 25 members. It is within the agency's discretion to determine the type, number, duration and location of public hearings. The Board must fully consider all written and oral comments concerning a proposed rule. The Board may choose to revise a rule in response to comments received. If the revisions substantially modify the nature and scope of the rule, the Board may be required to re-publish the proposed rule for additional public comment and consideration.

The Board must give at least 30 days' notice before it may vote to adopt a proposed rule. Proposed rules are automatically withdrawn if the Board does not take further action within six months of publication. An order by the Board adopting a rule must include a reasoned justification for the rule, a statement of the authority under which the rule is adopted, and a legal certification. A rule takes effect 20 days from the date the adopted rule is filed with the *Texas Register*.

Emergency Rulemaking

The Board may adopt emergency rules without first publishing proposed rules, but only in the presence of an imminent peril to the public health, safety, or welfare, or in response to a requirement of state or federal law. An emergency rule may be effective for 120 days and may be renewed once for an additional 60 days. An emergency rule and the reasons for its adoption must still be published in the *Texas Register*.

d. Disciplinary Actions

Enforcement Proceedings

The agency is responsible for receiving, investigating, and resolving complaints regarding violations of statutes and rules within the Board's jurisdiction. The Board has the duty to act as the decision-maker in contested cases arising from these complaints. Certain Board members may also be responsible for reviewing cases during informal settlement conference proceedings.

Ex Parte Communications

An ex parte communication is a direct or indirect communication between a decision-maker in a contested case and any other person without giving all parties to the contested case notice and an opportunity to participate in the communication. The law provides a general prohibition on ex parte communication.

The policy behind the prohibition on ex parte communication arises from the parties' rights to an unbiased decision-making process. Ex parte communications deprive the parties of a contemporaneous opportunity to communicate with the decision-maker. The ex parte prohibition reflects the requirement that decisions be based only on evidence in the administrative hearing record by limiting communications with decision-makers outside that record. It is imperative, therefore, that no person, including the licensee or agency staff, contact Board members who will be making the decision in a contested case. Board members should decline to receive ex parte communications, and should notify the agency's General Counsel if a party attempts to make such communications.

e. Budget and Finance

Pursuant to the Veterinary Licensing Act, the agency's Executive Director is responsible for the safekeeping of money collected by the agency and the proper disbursement of agency funds. The Board is responsible for setting policies and overseeing the Executive Director in executing these duties. The Board has the authority to set fees for license applications, renewals, and related items. Fees are established in Board Rule. The Board Finance Committee is responsible for approving contracts for the purchase of goods or services that have a value exceeding \$5,000 per fiscal year and reporting those approvals to the full Board. For more information, please refer to the State of Texas Procurement and Contract Management Guide.

f. Board Member Liability and Antitrust Considerations

Board Member Liability

Board members can be sued in two distinct capacities. First, a Board member may be sued in an individual capacity. Board members enjoy certain protections from personal liability in lawsuits, including the doctrine of official immunity. Board members are generally entitled to immunity from suits that arise from the performance of their discretionary duties in good faith as long as they are acting within the scope of their authority. Reliance on advice of counsel helps establish good faith. Second, a Board member may be sued in an official capacity. In such a case, the state pays any adverse judgment. When a Board member is sued in their official capacity, it is as though the offices they hold have been sued. The attorney general represents Board members in civil lawsuits. Board members have the right to be co-represented by a private attorney of their choice, at their own expense. State defendants who choose to retain private co-counsel should inform the Office of the Attorney General of this decision as soon as possible.

Antitrust Considerations

Federal antitrust law prohibits conspiracies in restraint of trade. Generally, states acting in their sovereign capacities are entitled to antitrust immunity. However, in a significant 2015 ruling, the United States Supreme Court held that the North Carolina State Board of Dental Examiners (NCSBDE) was not entitled to antitrust immunity. The NCSBDE, which was comprised primarily of market participants, sent cease and desist letters to unlicensed tooth whitening providers asserting that whitening was the unlicensed practice of dentistry and was potentially criminal activity. The Supreme Court found that the NCSBDE could not satisfy both parts of a two-prong test requiring both a clearly articulated state policy in favor of the anti-competitive activity and active oversight by the state. Based on this precedent, it appears that the members of this Board may also not be entitled to antitrust immunity. Thus, the Board must carefully consider antitrust issues before taking any actions that may impact market competition.

Actions that impact market competition include rulemaking, legal interpretations, and enforcement actions that define the scope of practice, restrict advertising, affect the price of goods or services, or restrict participation in the professions regulated by the Board. The Board should carefully assess the pro-competitive and anti-competitive effects of any such actions to avoid any unreasonable restraint on trade. In particular, when engaging in activities that may impact market competition, the Board should consider the benefit to the public and whether any less restrictive alternatives are available. Certain activities, such as price fixing and customer or territory allocations, are per se violations that provide no economic benefit or public benefit. The Board should not engage in these activities. It should also be noted that the Veterinary Licensing Act generally prohibits the Board from adopting rules restricting advertising or competitive bidding. Activities that protect the public from fraudulent or deceptive practices and actions compelled by clear state law are unlikely to raise antitrust concerns.

IV. Planning and Assessing Board Performance

a. Strategic Plan and Legislative Appropriations Request

Texas agencies are required to develop a strategic plan every even-numbered year that covers the following five years. The primary purpose of this document is to outline the agency's strategic vision, goals, and to identify action items to achieve those goals.

The strategic plan also identifies the agency's resources and provides an estimate of additional resources that may be necessary to meet future needs. Additionally, the agency may use the strategic plan to identify barriers that make the agency less efficient or prevent the agency from fully achieving its goals. Copies of the agency's strategic plan are provided to the Governor, Legislature, Legislative Budget Board, Sunset Commission, state auditor, and other government institutions as necessary.

After the strategic plan is drafted, the agency then must draft and submit a Legislative Appropriations Request or LAR. The LAR outlines the agency's performance on key indicators as well as contains request for funding for items outside of the base budget, called Exceptional Items. The LAR is due to the Legislative Budget Board in the summer of odd numbered years. The Executive Committee of the Board will approve the proposed LAR and present it to the full Board for their information.

b. Sunset Review

The Sunset Review process is the regular assessment of the continuing need for a state agency or program to exist. The Sunset Commission is made up of five Senators, five Representatives, and two members of the public, appointed by the Lieutenant Governor and the Speaker of the House. The Sunset Commission appoints a director who employs staff to carry out the commission's responsibilities.

The Sunset Review process works by setting a date on which an agency is abolished unless the Legislature passes a bill to continue it. Staff from the Sunset Commission evaluate the agency and issues a report to the Sunset Commission. Sunset staff then issues recommendations for management actions and statutory changes. The Commission considers the recommendations, hears public testimony, and decides on a package of changes to bring to the full Legislature.

Generally, the Board is subject to Sunset Review every 12 years. However, because of the serious nature of the concerns identified during the 2017 Legislative Session, the Legislature continued the State Board of Veterinary Medical Examiners for only four years. The Board was up for a re-review during the 2021 legislative session and due to ongoing database issues, the agency was continued until 2029 but subject to a re-review ahead of the 2023 legislative session.

V. Legal and Ethical Considerations

a. Open Meetings Act

Overview

The Board and its meetings are subject to the Open Meetings Act (OMA). The OMA was adopted to promote government transparency and provide the public access to the governmental decision-making process. The law requires meetings of governmental bodies to be open to the public, except for expressly authorized closed sessions (also called "executive sessions").

"Meetings" and "Quorum" Defined

The Board must give the public proper notice of the time, place, and subject matter of all meetings. The OMA defines a meeting as a deliberation between a quorum of the Board in which they discuss, consider, or take formal action on business within their supervision or control. In general, the Board may not exercise its powers except in a meeting of a quorum of its members. A quorum of the Board is five of its nine members, a majority of the number of members fixed by statute. If the Board loses a quorum of its members during a meeting, the meeting cannot proceed until five members are present again.

Board members should be mindful that any communications among a quorum may be subject to the OMA. This includes informal settings, such as social occasions, and communications by telephone or email. The OMA specifically states that Board members may not circumvent the law by holding multiple meetings in numbers less than a quorum to deliberate matters in secret. Board members may also not circumvent the OMA by communicating with a quorum through a third party.

Notice of Meetings

Notice of a Board meeting must generally be posted through the Texas Secretary of State at least 7 days before the meeting. The notice must include the time, place, and subject matter to be deliberated. The notice must be sufficiently specific to alert the public to the business that will be conducted. The notice provided by the Board is used as the agenda during the meeting. Topics not included in the agenda should not be taken up for discussion or deliberation.

Closed or “Executive” Sessions

Under limited circumstances, the Board may go into closed session (also called “executive session”) to hold certain discussions out of public hearing. There are several situations in which an agency is authorized to hold a closed meeting. The most frequent justifications for executive session include:

- Deliberation of the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or to hear a complaint or charge against an officer or employee;
- Seeking the advice of counsel about pending or contemplated litigation; a settlement offer; or discussions of a matter in which the attorney’s duty to the agency conflicts with discussion of the matter in a public meeting;
- Deliberation relating to a disciplinary action; and
- Deliberation regarding a test item or information related to a test item.

The Board must follow certain procedures when holding a closed session. First, the Board may not conduct a closed session unless a quorum of the Board first convenes in an open meeting. Additionally, prior to entering a closed session, the Board president must publicly announce that a closed session will be held and identify the section or sections of the OMA under which the closed meeting is held. The Board may not take a vote or conduct polling in closed session. The final action, decision, or vote on a matter deliberated in a closed session must occur in an open meeting. The Board is required to keep a certified agenda of matters discussed during a closed session.

Violations and Penalties

The OMA allows civil and criminal penalties for violations. Any interested person, including a member of the news media, can file suit to prevent or reverse actions taken by the Board in violation of the OMA. The Board may be assessed costs of litigation and attorney fees. A Board member who knowingly commits

certain violations of the OMA commits a misdemeanor, punishable by a fine of up to \$500 and confinement in county jail for up to six months. In addition to these penalties, actions that violate or appear to violate the OMA erode the public's trust in the Board. Board members and staff should strive to uphold the goals and public policy behind the law.

a. Public Information Act

The Board and all its records are subject to the Public Information Act (PIA). The PIA was adopted to promote government transparency and provide the public access to governmental documents and information. The law requires the Board to make all records available to the public upon request, with certain exceptions. The PIA defines records broadly to include paper documents, recordings, digital files, email, photographs, and many other forms of information. Records are presumed to be public unless the law contains an exception. In general, when the agency receives a request for public information, it must either provide the requestor with the information or seek a decision from the Attorney General as to whether the requested material may be withheld.

Board members should be mindful that, in general, all communications regarding Board business are subject to the PIA. This includes communications sent from personal email addresses. All Board members will be provided with an official Board email address to avoid subjecting personal communications to searches for public information.

b. Conflicts of Interest

As a public servant, a Board member owes a responsibility to the people of Texas in the performance of official duties. This guide sets out laws that govern conduct as a public servant. Board members should be mindful that ethical conduct involves more than merely following these laws. A Board member should act fairly and honestly and should avoid creating even the appearance of impropriety.

Standards of Conduct

The legislature has adopted the following standards of conduct for state officers and employees. A state officer or employee should not:

1. Accept or solicit any gift, favor, or service that might reasonably tend to influence the officer or employee in the discharge of official duties or that the officer or employee knows or should know is being offered with the intent to influence the officer's or employee's official conduct;
2. Accept other employment or engage in a business or professional activity that the officer or employee might reasonably expect would require or induce the officer or employee to disclose confidential information acquired by reason of the official position;
3. Accept other employment or compensation that could reasonably be expected to impair the officer's or employee's independence of judgment in the performance of the officer's or employee's official duties;
4. Make personal investments that could reasonably be expected to create a substantial conflict between the officer's or employee's private interest and the public interest; or
5. Intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised the officer's or employee's official powers or performed the officer's or employee's official duties in favor of another.

Recusal from a Matter

Pursuant to the Government Code, if a Board member has a private or personal interest in a measure, proposal, or decision pending before the Board, the Board member must disclose that fact to the rest of the Board in an open meeting and must refrain from voting or otherwise participating in the matter. This is known as “recusal.”

Even though a Board member may not have a personal interest in a matter, he or she may need to recuse themselves from participating in a matter before the Board because they may have a bias or prejudice. Bias and prejudice could occur in consideration of disciplinary matters wherein a Board member knows the Respondent or a complainant or has some other connection to the case. A member should recuse him or herself if he or she has strong feelings about the specific facts of a case which will influence an opinion regardless of the evidence.

Even if a Board member believes he or she has no actual bias or prejudice about specific facts of a case, he or she should consider recusal if participation in the matter would give the public the appearance of a conflict. Once a member disqualifies him or herself, that member cannot participate in either the discussion or vote regarding that case. Board members with questions about recusal from a matter should discuss the issue with the Executive Director or General Counsel.

c. Gifts and other Benefits

Chapter 36 of the Penal Code prohibits public servants from accepting certain gifts or benefits. Violations of the laws in this chapter may carry criminal penalties. Even if the acceptance of a gift or benefit is legally permissible, Board members should consider whether the gift or benefit raises the appearance of impropriety.

Bribery and Honoraria

A Board member commits the offense of bribery if he or she solicits, offers, or accepts a “benefit” in exchange for his or her decision, opinion, recommendation, vote, or other exercise of official discretion.

Board members may not solicit, agree to accept, or accept an honorarium in consideration for services he or she would not have been asked to provide if he or she did not hold an official position. For example, a Board member may not take a speaker’s fee for speaking if the Board member’s position with the state is one of the reasons he or she was asked to speak. The honorarium law does not, however, prohibit acceptance of food, transportation, and lodging in connection with a speech that is more than merely perfunctory. If a Board member accepts food, transportation, or lodging under these circumstances, the Board member must report it on Part XIII of the annual personal financial statement.

Prohibitions on Gifts

Board members are subject to certain prohibitions on the acceptance of “benefits” from persons subject to their jurisdiction. A Board member may not accept a benefit from a person the Board member knows to be subject to regulation, inspection, or investigation by the agency. Similarly, a Board may not accept a benefit from a person the Board member knows is interested in or likely to become interested in contracts, purchases, payments, claims, or other pecuniary transactions of the agency. These prohibitions apply regardless of whether the donor is asking for something in return. The statutory definition of “benefit” is “anything reasonably regarded as pecuniary gain or pecuniary advantage.” In advisory opinions, the Ethics Commission has stated that the following gifts are benefits: a \$50 clock, a hotel room, a hunting trip, football tickets, a \$160 rifle, and a \$60 restaurant meal.

Exceptions to Gift Prohibitions

There are exceptions to the above-reference prohibitions on acceptance of “benefits.” The full list of exceptions can be found in Section 36.10 of the Penal Code. The following exceptions are most likely to be relevant to Board members:

- Board members may accept non-cash items of less than \$50 in value.
- Board members may accept benefits in the form of food, lodging, transportation, or entertainment in any amount if they are accepted as a “guest” and the Board member reports them if there is an applicable reporting requirement. The donor must be present for this exception to apply.
- Board members are required to report on the personal financial statement the acceptance of gifts worth more than \$250, except for gifts from a member of the Board member’s immediate family or from a lobbyist required to report the gift.
- Board members may accept a benefit from a person such as a friend, relative, or business associate with whom he or she has a relationship independent of his or her official status if the benefit is given on account of that relationship and not the official status.
- Board members may accept a payment for which he or she gives legitimate consideration in a capacity other than as a public servant. The use of the term “legitimate consideration” means that the payment received must reflect the actual value of the services or goods provided in exchange for the payment.

d. Personal Financial Statements

Board members are required to electronically file a personal financial statement with the Texas Ethics Commission on or before April 30 each year if they served at any time beginning on January 1 and continuing through April 30 of that year. Board members are entitled to a one-time 60-day filing extension upon request if the request is submitted by April 30. Board members may call the Ethics Commission legal staff at (512) 463-5800 for assistance completing the form. Board members should visit the Ethics Commission website at www.ethics.state.tx.us for information regarding the filing application and instructions.

Board members should note that the Ethics Commission imposes a civil penalty of \$500 for late filings. The Commission has the authority to raise this penalty. There are criminal penalties for failing to file at all. If a Board member’s term is ending or if the Board member plans to resign, he or she should be aware of the “holdover” provision of the Texas Constitution. Under this provision, a state officer “holds over” in office until replaced. A person who no longer attends meetings may nonetheless “holdover” as a board member. Thus, if a Board member resigns or his or her term expires before January 1 of a given year, the Board member will still be required to file a financial statement for that year if a successor was not appointed before January 1. However, a Board member is not required to file a personal financial statement if the following criteria are met before January 1 of the year the statement is due:

1. The Board member’s term expired, the Board member resigned, the agency was abolished, or the agency functions were transferred to another agency; and
2. The Board member ceased to participate in the agency’s functions.

A Board member whose term expired or who resigned is required to provide written notice of his or her intent to not participate in the agency's functions to the Office of the Governor and to the Texas Ethics Commission.

VI. Board Procedures

a. Board Meeting Agenda and Materials

- Approximately six weeks prior to a scheduled Board meeting, the Executive Director will request potential agenda items from all Board members. All agenda item requests should be submitted within one week of this request.
- Approximately one month prior to a scheduled Board meeting, the Executive Committee will meet to review the requests. They will ensure there are no duplicative requests or requests that are better handled by agency staff. The executive committee will approve the agenda.
- Three weeks before the meeting is the deadline for submission of all cases for that Board meeting. Any cases received after this deadline will be included in the next Board meeting agenda.
- Two weeks before the Board meeting, the Board meeting materials will be distributed. The materials are comprised of the Board meeting book and the Board meeting case files. The Board meeting book will contain an agenda, staff reports, financial updates, proposed rule language, public comments, agreed orders and reports or memos on all cases to be voted on by the Board. Additionally, the Board will also be sent links to the full case files of all cases coming up for a vote before the Board should you have any additional questions not included in the memo or report.
- One week before the meeting, the agenda will be publicly posted to the Texas Register in accordance with the Open Meetings Act. The agenda cannot be changed after this time.
- One week before the Board meeting, the General Counsel will ask the Board for any recusals on cases (excluding medical review recusals) and for any cases individual Board members wish to pull and discuss in Executive Session. We ask that all recusals and requests to pull cases be submitted at least 48 hours prior to the Board meeting.

b. Meetings

In order to ensure that meetings are conducted in a uniform manner, all meetings should follow the process outlined below:

- Unless state law or Board rules require otherwise, all meetings shall be conducted according to Robert's Rules of Order
- The Board shall take up all items on the agenda in the order of the posted agenda
- During the first Board meeting of each calendar year, the Presiding Officer will read the Board's mission statement.
- The Presiding Officer will call the meeting to order. If the Presiding Officer is not in attendance, the Vice President will call the meeting to order and preside over the meeting.

- The Board secretary will call the roll. All absences must be approved and voted on.
- The Executive Director will then present their report, followed by the reports of the directors of other departments.
- Any Board committee wishing to make a report will then make their report.
- Any proposed rules or rule for adoption will then be discussed and voted on.
- The next agenda items will be discussions and votes requested by Board members.
- The presiding officer shall recognize any Board member who wishes to speak on an agenda item but
- Next, the cases for consideration will be discussed in the following order: Agreed Orders, Dismissal from Informal Conference, Dismissal from Staff Conference and Dismissal from Medical Review.
- The Board will then be advised of complaints dismissed by Staff.
- After consideration of cases, the Board shall take up any public comment.
- The Board will then go into Executive Session to discuss any litigation or personnel matters.
- The Board will come back from Executive Session and the Presiding Officer will advise if any action was taken in Executive Session.
- The Presiding Officer will then solicit possible dates and agenda items for future meetings.
- The Presiding Officer will ask if there is any other business to come before the Board and if there is not, they will move to adjourn the meeting.

VII. Acknowledgment of Receipt

The Board's Executive Director is required to distribute a copy of this Board Member Policies and Procedures annually to each Board member. Upon receipt, Board members must complete the statement below and return this form to the Executive Director.

I hereby acknowledge that I have received a copy of the Texas Board of Veterinary Medical Examiner's Board Member Policies and Procedures, provided to me by the Board's Executive Director pursuant to Section 801.051(d) of the Veterinary Licensing Act.

Printed Name: _____

Signature: _____

Date: _____

AGENDA ITEM 8

TAB 6

**DISCUSSION, RECOMMENDATION, AND POSSIBLE ACTION REGARDING THE
STAFF GENERAL MANUAL**

(Ms. Whitehead)



GENERAL MANUAL

September 2018

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Chapter 1 — Administration

The mission of the Texas State Board of Veterinary Medical Examiners is to establish and enforce policies to ensure the best possible quality of veterinary services for the people of Texas.

1.02 Agency Organization and Administration

1.02.02 Statutory Authority

As stated in Texas Occupations Code § 801.151 the Board is authorized to:

- (a) The board may adopt rules as necessary to administer this chapter.
- (b) The board may adopt rules of professional conduct appropriate to establish and maintain a high standard of integrity, skills, and practice in the veterinary medicine profession.
- (c) The board shall adopt rules to:
 - (1) protect the public;
 - (2) ensure that alternate therapies, including ultrasound diagnosis and therapy, magnetic field therapy, holistic medicine, homeopathy, chiropractic treatment, acupuncture, and laser therapy, are performed only by a veterinarian or under the supervision of a veterinarian;
 - (3) ensure that equine dentistry is performed only by a veterinarian who is active and in good standing or by a licensed equine dental provider who is active and in good standing under the appropriate level of supervision of a veterinarian who is active and in good standing and who has established a veterinarian-client-patient relationship with the owner or other caretaker of an animal in accordance with Section 801.351; and
 - (4) provide for the licensing and regulation of licensed veterinary technicians.
- (d) The board may adopt rules regarding the work of a person who works under the supervision of a veterinarian.
- (e) The board shall adopt rules to implement a jurisprudence examination for licensed equine dental providers and licensed veterinary technicians, including rules relating to the development and administration of the examination, examination fees, guidelines for reexamination, examination grading, and provision of notice of examination results.

(f) The board may not adopt rules that unreasonably restrict the selection by the owner or other caretaker of an animal of a licensed equine dental provider who is in good standing to provide equine dental services.

Occupations Code §801.101 authorizes the board to employ an executive director. The board shall develop and implement policies that clearly separate the policymaking responsibilities of the board and the management responsibilities of the executive director and the staff of the board.

The executive director is statutorily responsible for:

- (1) safekeeping the money collected under this chapter; and
- (2) properly disbursing the veterinary fund account established by this chapter.

1.02.04 Agency History

The Texas State Board of Veterinary Medical Examiners operates under the authority of Chapter 801, Texas Occupations Code. The Veterinary Licensing Act, that created the Board, was enacted in 1911. The purpose of the Board is to protect the public by ensuring that persons entering the profession meet minimum academic and examination requirements.

The Board also establishes and enforces policies to ensure the best possible quality of veterinary services for the citizens of Texas. The Board may adopt and amend rules of professional conduct as appropriate to establish and maintain a high standard of integrity, skills and practice in the professions of veterinary medicine and equine dentistry.

Examinations are administered by the Board to qualified applicants, and successful completion is a prerequisite to issuance of any license. The Board has authority to refuse applicants for examination, revoke or suspend licenses, issue administrative penalties, administer oaths and subpoenas, and compel witnesses to attend hearings concerning alleged violations of the Veterinary Licensing Act.

1.02.06 Agency Organization

The TBVME is comprised of several divisions based on function. Due to the nature of the work, it is sometimes necessary for personnel to take on several different functions. The following policies and procedures are intended to assist all personnel in understanding their roles.

1.02.08 Executive Staff Command Protocol

In the absence of the executive director, the command protocol is set out as follows.

1. Director, Agency Operations
2. General Counsel
3. Chief Financial Officer
4. Senior Director
5. Senior Manager
6. Senior Supervisor
7. Senior Employee

In emergency or exceptional situations, executive staff will be contacted whether on duty or off duty.

Personnel report to their immediate supervisors in normal day-to-day agency operations.

Personnel assigned to a special project report continue to report to their supervisor unless specifically instructed otherwise.

1.02.10 Strategic Plan

In accordance with Texas Government Code §2056.002, the TBVME maintains a five-year strategic plan and conducts biennial updates.

Utilizing guidelines developed by the State Auditor's Office, a strategic staffing analysis and a workforce plan, as required by Government Code §2056.0021 and included in the strategic plan, addresses critical staffing and training needs of the agency, including the need for experienced employees to impart knowledge to their potential successors.

Goals and objectives are evaluated based on performance targets identified Legislative Budget Board.

1.02.12 Business Continuity Plan

The TBVME has developed a Business Continuity Plan for use in the case of emergency or disaster. The plan is designed to be dynamic in that it will be periodically reviewed and updated to assure that its content reflects timeliness and accurate information.

The document is designed to be used by each employee of the agency and is written in a format that is precise, simple to read, and easy follow.

Although comprehensive, this plan is a dynamic working document and is not designed to contain all answers nor address all potential emergency situations. It is a guideline to be followed in responding to a disruption of agency operations.

1.02.16 General Manual

The general manual is the compilation of the written directives, policies, and procedures that guide employees working for the TBVME. All personnel are expected to comply with the provisions of this general manual and other regulation as a continuing condition of employment. The executive director has the final authority to approve, issue, modify, rescind or suspend any written directives that are contained in this general manual.

1.02.18 Agency Forms

The TBVME may create forms to aide in the operations of the agency. Other forms are products of grants, contracts, and other mandated sources. The current versions of these forms and reports must be used.

These forms are reviewed and revised as needed.

1.04 Format of the General Manual

The general manual is the compilation of the written directives, policies, procedures, rules, and plans that guide employees working for the TBVME.

TBVME employees are provided electronic access to this general manual to assist them in completing their assignments. Nothing in the manual should be construed as an employment contract, as all employees are employed at-will. **It is the responsibility of the employee** to ensure that they familiarize themselves with any updates or changes to the general manual.

Written Directives — A general term that encompasses many types of documents, these include but are not limited to:

1. Texas state laws;
2. Texas state guidelines;
3. policies, rules and procedures adopted by the Board;
4. policies, rules and procedures adopted by the executive director;
5. policies, rules and procedures of other agencies with which the Board has a contractual obligation or agreement; and

6. work plans implemented by the TBVME.

Policies — Policies identify the desired result. They tell what should be accomplished when the specific activity is performed, or situation is encountered.

Procedures — Procedures tell how a policy can be accomplished under normal circumstances.

It is recognized that some unanticipated situations may arise in which the prescribed procedures would not accomplish the desired result. For this reason, discretion is allowed to resolve these situations.

Rules — Rules are the most restrictive of directives and are written to closely regulate personnel behavior and performance.

Plans — Plans are developed in anticipation of a future event or an ongoing special project or function.

1.04.02 Numbering of Chapters, Policies, and Procedures

In this general manual, all chapters, policies and procedures are numbered to allow quick location and access. The numbering system used allows for the addition of new chapters and written directives as it becomes necessary. This allows for addition of new chapters, policies, and procedures without a complete re-numbering of directives already in place.

1.04.04 Approval of Directives

Directives are in effect at the time of issue unless otherwise noted. They remain in effect until they are rescinded or reach an expiration date. Any written directive that will expire has an expiration date clearly noted on the directive.

Supervisors may issue directives to employees in their work groups. These directives cover day-to-day situations such as notification of changes in work schedules, travel itineraries, and special assignments. Any directive affecting functions within a different division need to be approved by a director or executive director.

1.04.06 Compliance

All personnel are expected to comply with the provisions of this general manual and other regulation as a continuing condition of employment. Employees obey and abide by the lawful and legitimate orders and instructions of supervisors, including orders relayed by another employee. If conflicts in instructions arise, the employee informs the supervisor and attempts to resolve the conflict. If the conflict cannot be resolved, the employee follows the instructions of the higher-ranking supervisor. In the event the

supervisors are of equal rank, the senior supervisor's instructions prevail. If an employee receives instructions that are illegal or unethical, they should refuse to comply and immediately report to the next higher level of supervision.

1.04.08 General Manual Revisions

The Executive Director or designee ensures that the general manual is reviewed on an annual basis.

Employees are responsible for reviewing sections of the general manual that directly relate to their respective positions. The following points are taken into consideration during the review process:

1. Is the written directive clear and concise, and does it answer all pertinent questions on the topic?
2. Does the written directive present any conflict with other written directives?
3. Does the written directive comply or conflict with any applicable accreditation standards?
4. Is the written directive consistent with a moral, ethical, and legal approach to completing the job?

Recommendations are made to the executive director. Upon approval, an e-mail describing the changes is sent to all personnel. To ensure that employees review the changes, supervisors are responsible for verifying and documenting receipt from employees.

1.04.10 Historical File

The Special Services Division maintains a hard-copy historical file of all general orders and revisions that have been issued. They also maintain a computerized historical file of all revisions along with dates.

1.04.11 Additional Policy and Procedures

Additional policy and procedure's affecting specific areas may be issued that do not conflict with this manual.

1.04.13 Definitions

The following terms have the associated meaning:

“Supervisor” includes program supervisors, managers, directors, the executive director

“Chain of Command” means the sequence of supervisors in the agency who have direct authority and primary responsibility for accomplishing the assigned mission while caring for personnel and property in their charge.

“Employee” means a person employed or contracted on a temporary basis, and does not include vendors.

1.06 General Management

To foster quality communications and cooperation, meetings are held periodically with employees to pass along information, answer questions, and solicit suggestions for improvement in the work products. Project groups meet as required to pass along information and provide updates. Information on topics of general interest may also be disseminated by memorandum or e-mail to all personnel.

1.06.01 Fit for Duty

Supervisory personnel are responsible for determining that all employees can safely and/or effectively perform their essential job functions. The executive director is obligated to determine all employees can safely and/or effectively perform their essential job functions and may require a fit for duty review upon identifying factors that indicate an employee may no longer be able to perform those job-related functions safely and/or effectively. These factors should be based on objective evidence and a reasonable basis that the cause may be attributable to a medical and/or psychological condition or impairment.

1.06.02 Allocation and Distribution of Personnel

Positions budgeted by the Texas Legislature are allocated within TBVME’s organizational structure as determined by the executive director.

The personnel officer maintains a list of all position classifications and whether the position has been filled.

1.06.03 Appointed Positions

The executive director may appoint or designate an employee to serve in a position that is required by law or for the betterment of the agency. These positions are considered an additional responsibility or duty. The duration of an appointment or designation may be for a specific period of time or until replaced. Examples of these positions include:

1. Information Resource Manager
2. Public Information Officer
3. Employee Assistance Liaisons
4. Personnel Officer
5. Risk Manager

6. Safety Officer
7. Key Coordinator
8. TFC Access Badge Designator
9. Capitol Access Designator
10. Fire Warden and Deputy Wardens

Additional positions may be created at the discretion of the executive director.

1.06.04 Temporary Assignments

When required by workload or unusual circumstances, personnel may be assigned to temporary duties. When the need for a temporary assignment arises, the following procedure is followed:

1. the supervisor identifies projects which need additional personnel, establishes qualifications for the assignments, and establishes a time frame for the assignment;
2. the supervisor needing the assistance selects and meets with the employee's supervisor for approval of the temporary assignment.

1.06.06 Employee Authority and Responsibility

All employees have many work assignments within the TBVME, and are encouraged to seek better methods for completing tasks. Although some of these assignments may cross established lines of divisions, employees are accountable to only one supervisor regarding a specific assignment.

As part of the work assignments, each supervisor and subordinate have specific responsibilities.

The authority and discretion to accomplish the assignments accompany these responsibilities. Each employee is accountable for the use of delegated authority which should be consistent with the mission of the TBVME.

Supervisors are accountable for the activities of employees under their immediate control, and are responsible for ensuring that all employees have the necessary training and resources to successfully complete their assignments.

1.06.08 Ethical Considerations

To maintain the faith and confidence of the people of Texas, all employees sign and comply with Government Code §572.051 (Standards of Conduct) and §2113.014 (Employee Standards of Conduct).

An employee may not solicit, accept, or agree to accept any benefit from a person they know to be subject to regulation, inspection, or investigation by the agency [Texas Penal Code §36.08(a)].

No employee of the TBVME may derive a financial benefit from individuals, educational institutions, or firms regulated by the TBVME.

In accordance with Government Code §572.054(b), a former employee may not represent any person or receive compensation for services rendered on behalf of any person regarding a matter in which they participated in during their employment.

In accordance with Government Code §572.054(a), a former executive director may not make any communication to or appearance before an officer or employee of the agency before the second anniversary of the date they ceased to be the executive director. This prohibition is specifically for:

1. the intent to influence; and
2. on behalf of any person relating to any matter on which the person seeks official action.

1.06.10 TBVME Code of Conduct

All TBVME employees follow a Code of Conduct that provides for reasonable and acceptable levels of performance and establishes an orderly workplace.

Employees:

1. treat fellow workers and TBVME clients with dignity and respect and expect and deserve the same in return;
2. are punctual and devote their time and attention to work-related matters during duty time;
3. properly maintain all TBVME equipment and resources;
4. comply with TBVME policies, procedures, and rules;
5. are expected to take instruction and follow directions received from supervisory personnel;
6. treat the official business of the agency as confidential, to be disseminated only to those whom it is intended, in accordance with established agency procedures;
7. make proper use of their authority with the objective of furthering the mission of the TBVME;

8. are competent in their duties and show loyalty, integrity, and dedication to each other, the TBVME, and law enforcement;
9. show good moral character;
10. refrain from activities that are prejudicial to good order or would bring about discredit to the TBVME
11. refrain from the use of illegal substances and do not drink intoxicants on duty;
12. refrain from gathering of information for negative purposes or future use;
13. refrain from starting or continuing rumors or talking about others within the agency; and
14. may not use official authority or influence to affect the outcome of any election or to achieve any political purpose.
15. may not act in a retaliatory manner to anyone.

1.06.12 Fraudulent Activities

In addition to behavioral guidelines outlined in this general manual, employees do not participate in fraudulent activities. Fraudulent activities may include, but are not limited to:

1. records fabrication,
2. forgery, destruction, concealment, and/or alteration of any document or equipment belonging to the TBVME,
3. misappropriation of assets or equipment,
4. unauthorized use of TBVME records, property or equipment,
5. any claim for reimbursement of expenses not actually incurred, and
6. intentionally reporting false or misleading information about fraudulent activities.

If an employee becomes aware of fraudulent activities, they report the situation through supervisory personnel.

Retaliation against any employee for filing a fraudulent activities complaint or for assisting, testifying, or participating in the investigation of a complaint is prohibited. Retaliation is a serious form of employee misconduct in and of itself, and is considered a separate violation of this policy. Any form of retaliation could result in disciplinary action up to and including termination.

Monitoring to ensure that fraudulent activities and retaliation do not occur is the responsibility of supervisors, directors, and the executive director.

Supervisors and directors periodically review procedures to reduce the risk of fraudulent activities.

Fraudulent activities investigations follow the formal complaint procedures outlined by this manual.

1.06.14 Dual Employment with Separate State Agency

The TBVME recognizes the common practice by employees to hold more than one employment or position due to needs, interest or development. However, dual employment, interests and activities, including external development and marketing of intellectual property must not interfere or conflict with the employee's position with the TBVME. Also, employees who have dual employment within the TBVME or who are employed with another State agency or institution are subject to the provisions of the State.

Prior administrative approval from the Executive Director is required. Dual employment and other activities should be reported in writing. Should it be determined that a conflict exists, the staff member may not accept or continue the other employment or position.

1.06.15 Dual Employment outside of a State Agency

Employees desiring to work at another place of employment, in addition to this agency, must be approved by their supervisor and provide information on:

1. nature of employment,
2. approximate number of hours to be worked per week, and
3. length of employment (if not permanent).

Dual employment will only be approved if it will not interfere with the employee's daily activities or the integrity of the TBVME.

Prior administrative approval from the Executive Director is required. Dual employment and other activities should be reported in writing. Should it be determined that a conflict exists, the staff member may not accept or continue the other employment or position.

1.06.16 Contact with Elected/Appointed Officials

To maintain a consistent message, TBVME employees report all contacts with legislative offices media or other officials to their immediate supervisor.

The Executive Director, or designee shall review all policy materials or official statements prior to dissemination to legislative or inter-governmental contacts.

1.06.18 Client Assistance

Providing accurate and timely assistance and information is essential to the TBVME's integrity and credibility.

During the normal course of business, staff receives inquiries from licensees, and others about rule compliance and other matters. They provide information, answer questions and help as needed.

Visitors to the office are directed to the appropriate staff as soon as possible. If the person is unable to meet with them, the visitor is then directed to a supervisor.

Every effort is made to resolve matters as quickly and efficiently as possible. Staff should inform callers desiring a written response that these requests must be in writing before a written response can be made.

1.06.20 Dress Code

Supervisors determine whether their staff will wear a uniform, business casual, or business attire.

Employees may, with supervisor approval, observe a modified dress code when participating in special tasks such as moving or setting up furniture and equipment.

TBVME employees may follow a more relaxed dress code on Fridays, so long as the clothing would be appropriate to meet with the public. In the event an employee works on a skeleton-crew state holiday that falls on a day other than Friday, the standard dress code policy applies.

Because the TBVME seeks to maintain a professional environment, employees should refrain from wearing revealing, tight-fitting, or any unprofessional attire that would reduce the credibility of this agency.

Business attire is required if attending quarterly TBVME meetings, court appearances, or meeting with public officials and/or their staff.

Examples of business casual dress include:

Men: Tucked-in collared shirts, including knit or polo shirts, without a tie; casual slacks

Women: An informal dress with a skirt that is at least knee length; pants that end at least mid-calf; dress shirt, blouse, polo, or sweater

Examples of business dress include:

Men: Business suit, or sport coat with dress pants; collared shirt with a tie

Women: Business suit, dress with sleeves, or a blazer with pants or a skirt that is at least knee length

1.06.22 TBVME Identification Credentials and Access Cards

Credentials for identification and access purposes are provided to employees and board members.

The following types of credentials and access cards may be issued to employees and board members:

1. business cards (which follow a standard format);
2. an agency photo ID card; and
3. Access badges issued by Texas Facilities Commission;

1.06.26 Responsibility for Credentials and Access Cards

Each employee is responsible for the care and proper use of TBVME credentials and access cards. Employees ensure professional presentation and safeguard credentials from loss or damage. Any loss or theft of credentials is immediately reported to the employee's supervisor and memo created outlining the circumstances.

1.06.28 Cellular Phones

Agency-issued cellular phones are provided to supervisory personnel as well as certain essential personnel as identified by supervisory personnel. Employees are issued phones to support the mission of the TBVME.

1.08 Media Relations and Open Records

1.08.02 Public Information Coordinator

The TBVME, along with all state agencies, follows Government Code Chapter 552 (Texas Public Information Act), which gives the public the right to request access to government information. The agency public information coordinator is responsible for the TBVME's responses to open records requests under the Public Information Act, working with the appropriate division(s) to gather information as applicable.

All TBVME staff are required to provide all responsive information to a request in a timely manner when requested by the public information coordinator.

Government Code §552.028 relieves a governmental body from accepting or complying with a request from an individual who is imprisoned or confined in a correctional facility.

Media requests for information at the scene of an arrest or other incident involving TBVME personnel are referred to the PIO at the Austin offices. Supervisors will notify

the Director of Operations who will coordinate the release of information with the PIO and Executive Director.

The PIO will notify the Director of Operations of contact with a person or media outlet who is inquiring into a case.

1.08.04 Press Releases

If a press release is necessary, it is prepared, and then approved by the executive director or designee. Press Releases are coordinated with partner agencies to ensure a unified message.

Press releases contain the following information:

1. information which is approved for release;
2. date of release;
3. contact information for PIO or another designated individual.

1.08.06 Press Conferences

Press conferences may be called by the executive director or scheduled in response to a media request. The executive director provides instructions to the PIO regarding locations, times, individuals involved, and other circumstances on a case-by-case basis.

1.08.08 Public Information Record Keeping

The public information coordinator maintains a report filed with the Attorney General's Office summarizing the Open Records Requests made during each month and the state fiscal year.

1.08.10 Internal Notification

In the event of a death, injury, or emergency involving a TBVME employee, or a major disruption of the TBVME's facilities, the PIO acts as the collection and dissemination point for public information.

1.10 Records

The TBVME strives to maintain an accurate, complete, and secure records function. This is important in the delivery of services to Texas law enforcement. In addition, it is a vital part in the management, operation and administration of this agency.

In accordance with Government Code § 441.184, the executive director will appoint a records management officer (RMO).

1.10.04 Records Retention

All official TBVME records, documents, and correspondence are maintained in accordance with Government Code §441.185.

Inactive files are moved to the Texas State Library for storage in accordance with Government Code §441.186.

1.10.06 Records Security

TBVME files and records are accessed during the business day for official business only. Personnel with access to records are responsible for the proper use, security, and storage of all files and records.

Prior to communicating any information to the public or licensed individuals, all staff is responsible for redacting records to ensure that the following information is not displayed:

1. date of birth;
2. personal information;
3. social security number
4. personal telephone number
5. personal email addresses
6. photographs
7. home address.

Any communication received from the public or licensed individuals containing any of the above information shall not be forwarded or kept in a non-secure location.

1.10.08 Criminal Justice Information Systems

Authorized TBVME personnel, who have a current CJIS awareness course, have access to various criminal justice information on licensees. Authorized personnel may access:

1. Texas Crime Information Center (TCIC);
2. DPS' Computerized Criminal History System (CCH);
3. DPS' Driver License System (DLS);
4. National Crime Information Center (NCIC).

Information available from these systems include:

1. criminal histories,

Use of Criminal Justice information is limited to official business. Information obtained is restricted to personnel who are authorized to receive the information and others as described by Government Code §552.101. Any information printed out will be locked in the shred bin or stored securely. Any misuse or abuse will result in removal of the employee's access and disciplinary action including termination.

Chapter 3 — Personnel

In accordance with Texas Labor Code §451.452, it is the policy of the TBVME to provide equal employment opportunity (EEO) in all aspects of the employment process. The TBVME does not discriminate because of race, color, disability, religion, sex, national origin, or age.

3.02 Equal Employment Opportunity

Equal employment opportunity applies to all aspects of the employment process including, but not limited to, recruiting, interviewing, testing, ranking, selection, compensation, promotion, transfer, performance appraisals, training, discipline, layoff, or discharge. The TBVME will exercise good faith efforts to provide opportunities for members of target groups, including minorities, women and veterans. We strive to have a workforce which reflects the statewide workforce. All employees shall receive initial EEO training within their first 30 days and a refresher training every two years as required by Labor Code §21.010.

3.04 Workplace Accommodations

The TBVME makes reasonable workplace accommodation for any employee who has sincerely-held religious beliefs, pregnancy, or having a known physical or mental impairment as defined under the Rehabilitation Act of 1973, the Americans with Disabilities Act as amended (ADA), or the Texas TBVME on Human Rights Act, that does not constitute an undue hardship to the agency.

3.04.02 Definitions

Disability: is any individual having a known mental or physical impairment that substantially limits at least one or more life activities of that individual; a record of such an impairment; or being regarded as having such an impairment.

Qualified Individual with a Disability: a qualified individual with a disability is an individual who meets all the skills, experience, knowledge, educational, and other job requirements for the position. In addition, the individual can perform the essential functions of the position with or without reasonable accommodation.

Reasonable Accommodation: modifications or adjustments to the work environment, or to the manner or circumstances under which the position is customarily performed, so that employees with disabilities can enjoy the "benefits and privileges of employment" equal to those enjoyed by similarly-situated employees without disabilities.

Undue Hardship: is defined by the ADA as an action that is "excessively costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature and operation of the business."

3.04.04 Requesting Reasonable Workplace Accommodation

Any employee requiring an accommodation notifies their supervisor as soon as is practical of the nature of the disability. This notification includes a medical statement of what major life activity is substantially limited because of the disability. The medical statement also contains a diagnosis, prognosis, and an evaluation as to the effect the impairment will have on the employee's ability to perform the essential duties associated with the employee's position.

Any supervisor notified of a disability immediately reports, in writing, to the personnel officer. The confidential interoffice memorandum shall state the name of the employee, the disability, and date reported. A copy is provided to the employee.

The executive director evaluates the request and meets with the employee to ascertain the employee's requirements and input on a reasonable accommodation.

Based on the relevant information provided, and input from the supervisors, the executive director determines what, if any, reasonable accommodation will be made and shall convey it in writing to the employee.

If a reasonable workplace accommodation is implemented, the personnel officer meets with the employee to review any revisions of the original medical statement about ability to perform the essential duties of the position.

3.04.06 Confidentiality and Records Keeping

The TBVME maintains the confidentiality of all medical and ADA information concerning employees. Records are kept separate from personnel files and are accessible only to authorized personnel. Medical records are kept separate from personnel files.

3.06 Recruitment and Selection

The TBVME is dedicated to identifying and selecting the most qualified applicants available, not merely eliminating the least qualified.

Recruitment and selection decisions are made only on lawful, job-related and nondiscriminatory criteria.

The TBVME works toward an employee representation that reflects the available workforce.

3.06.02 Duties Relating to Personnel

The personnel officer and is responsible for:

1. posting and receiving applications for all positions;

2. generating various reports on the recruitment and selection process when needed,
3. maintenance of records and files

3.06.06 Job Notices for all Positions

Job notices are posted when a position becomes available. These notices are posted in accordance with Government Code §656.024.

They contain information regarding the available positions and include:

1. job title and responsibilities;
2. opening and closing dates;
3. salary;
4. minimum requirements including educational, certification, and experience levels;
5. skills, knowledge, and abilities required;
6. application and selection procedures; and
7. a statement identifying the TBVME as an equal employment opportunity employer.
8. If a resume is required, it is noted clearly on the job announcement. The job announcement may contain specific information that may be required for the position such as college transcripts.

The recruitment of qualified applicants, both internally and externally, is an important process for the TBVME. Employees meeting the qualifications of the posted position are encouraged to apply. In accordance with Government Code §656.025, all employees are encouraged to recruit qualified applicants when vacancies occur.

3.06.08 Application Process

The application/reapplication process begins with a current State of Texas Application for Employment. Internal applicants will submit a letter of interest in lieu of the State Application.

The personnel officer receives external applications, logs in the application, and forwards the application to the supervisor who has the open position.

3.06.12 Application Review and Processing

The selection process begins with the initial application. After the application is received by the personnel officer, it is given to the supervisor responsible for hiring. The hiring supervisor schedules and conducts all screenings and interviews.

The Executive Director determines the process used to fill positions defined as “executive staff” under Government Code §659.026.

Applicants who are not selected after an interview are notified in writing that they are no longer under consideration by the hiring supervisor.

Interviews are scheduled with the applicants in a timely manner. Interviews may be held as applications are received.

The personnel officer will notify the hiring supervisor if any applicant has requested special accommodations. The personnel officer retains the applications as required by Government Code §441.185 (Records Retention Schedules). Documentation for those individuals who accept employment is retained in their personnel file.

3.06.14 Interviews

The hiring supervisor may conduct initial interviews via phone or video conference to supplement the in-person interviews. In-person interviews are conducted by selecting two additional employees to serve on the interview board based on their job knowledge, objectiveness, and willingness to participate.

In each type of interview, all applicants are asked the same base questions with a potential for follow-up or clarification on a response. Interview questions must cover objective, job related criteria and provide information on the applicants’ knowledge and competencies to perform the job. In accordance with Title VII of the Civil Rights Act of 1964 (Title VII), interview questions may not be asked for the purpose of discriminating on the basis of race, color, national origin, religion, sex, age or disability. Interview questions are developed before interviews commence and are review by the General Counsel’s Office for EEO compliance.

All elements of the selection process are administered, evaluated, and interpreted in a uniform manner.

Interviewers determine if the applicant has demonstrated the qualities as described above, and must reach agreement that the applicant has passed or failed the interview.

The interview panel ranks the passing applicants according to their potential for success in the position. The hiring supervisor presents a list of passing applicants to the executive director who has the final decision to hire an individual.

As authorized in Chapter 657 of the Texas Government Code, an individual who qualifies for a veteran's preference is entitled to a preference in State employment over other applicants for the same position who do not have greater qualifications.

The hiring supervisor is responsible for notifying applicants, who interviewed, of their outcome on the board. Applicants selected are then reviewed by the General Counsel's Office for EEO compliance and sent for approval to ~~approved by~~ the executive director. Once approved, they will receive a conditional job offer pending a background investigation.

3.06.18 Background Investigations

Background investigations may be conducted on all applicants selected for employment. While each background investigation is conducted based on the individual circumstances; all investigations include, at a minimum, the following:

1. verification of minimum requirements as contained in the job announcement; and
2. Information contained in a background questionnaire.

The investigator completes the investigation utilizing the most efficient method available. Telephone or mail requests for certain types of information such as employment verification is permitted.

Background investigations are completed within ten business days. If an investigation cannot reasonably be completed within this time, the investigator informs the hiring supervisor and provides an estimated date of completion.

As background investigations are completed, they are submitted to the hiring supervisor. The hiring supervisor then approves or disapproves the applicant and forwards the background information to the executive director for final action.

3.06.20 Job Offers

Applicants who have been selected for employment and have passed the background investigation are approved for employment. The individual may be provided with a written job offer by the hiring supervisor. An agreement is reached on a start date, salary, and other employment details.

All employees will have a probationary time of six months as a condition to the job offer.

3.06.22 At-Will Employment

All state employees are employed "at will," and there is no implied contract of employment. Employees serve at will and at the discretion of the executive director.

3.08 Compensation and Benefits

The TBVME, staying within state guidelines, strives to provide employees with a compensation and benefits package that is fair and competitive.

3.08.02 Classification and Salary

Employee classifications and salaries conform to the laws, guidelines, and schedules established by Government Code Chapter 654.

The classification salary schedules are found in the most recent General Appropriations Act adopted by the Texas Legislature.

General job descriptions are maintained by the State of Texas Auditor's Office with specific job descriptions generated by the TBVME and retained by the personnel officer. These job descriptions are available to all employees.

In accordance with Government Code §654.0155, positions are reviewed annually by the supervisors to ensure proper classification.

The Executive Director may authorize equity adjustments for employees under the same classification performing the same duties as required by the General Appropriations Act. To determine if an adjustment is required, the following things may be considered:

1. satisfactory job performance;
2. criticality of job;
3. turnover rates;
4. education, skills, related work experience; and
5. overall service time with TBVME (must have at least six months service time).

The General Appropriations Act limits an employee to no more than one adjustment per fiscal year.

3.08.04 Merit Increases

Merit increases may be authorized based on consistent, exceptional performance. Increases are recommended by a supervisor and approved through the chain of command by the executive director.

The Executive Director may award merit increases at his discretion.

Employees may receive merit-increases as authorized by Government Code §659.255(e)(4).

3.08.06 Work Schedules and Timesheets

Public office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding holidays and other official closures. Supervisory personnel may adjust work schedules to benefit the TBVME. Supervisors ensure that enough employees are scheduled to conduct business and provide proper service at all times during business hours.

A supervisor may adjust the work schedule of an employee permanently or for specific time.

A timesheet is maintained by each employee and submitted to their supervisor for approval. Employees submit their timesheets within five business days after the end of the month.

3.08.08 Employee Breaks

Employees are authorized a 15-minute morning break before lunch and a 15-minute afternoon break after lunch, plus at least a 30-minute lunch break. Break periods are scheduled so that regular business can be conducted throughout the workday, and enough employees are available.

3.08.10 Overtime and Compensatory Time

In accordance with The Fair Labor Standards Act of 1938 and Title 29, United States Code (USC), Section 201, personnel who work more than a standard 40-hour week are compensated with overtime or compensatory time. At any time, the executive director may restrict the ability of employees to earn overtime. In accordance with U.S. Supreme Court ruling, May 1, 2000 (*Christensen v. Harris County*, 529 U.S. 576); and State Auditor's Technical Update 01-01, nonexempt employees who have requested leave may be required to exhaust their overtime balances before using annual leave. Employees classified as executive director, director, or manager is considered exempt employees and receive compensatory time on a one-for-one basis. All other employees receive compensatory time or overtime at the rate of 1.5 hours for each hour worked as approved.

In accordance with Government Code §659.016 (c) and (i), compensatory time must be taken within 12 months of the date it is earned, or it is lost.

Overtime and compensatory time must be preapproved by a supervisor prior to working.

3.08.12 Leave of Absence with Pay

A leave of absence with pay is granted to personnel meeting the requirements under Government Code §661.

The executive director approves emergency leave without loss of pay for employees in the event of the death of a family member. Family members are defined as spouse,

children, parents, spouse's parents, siblings, grandparents and grandchildren. In accordance with Government Code §661.902, the executive director may approve other emergency leave on a case-by-case basis.

3.08.14 Leave of Absence without Pay

In accordance with Government Code §661.909, personnel may take a leave of absence without pay after all accumulated paid leave has been exhausted. Employees receive approval from the executive director if this need arises and all conditions are met.

3.08.16 Vacation Leave

Vacation leave is provided based on the rate of accrual set by Government Code §661.152 (d). Vacation requests are submitted to a supervisor for approval. A vacation schedule is maintained by each work group's supervisor to ensure that enough personnel are on duty to meet work needs.

In accordance with Government Code §661.152 (f), an employee new to state employment is not eligible to take vacation for six months from the date of employment. In accordance with Government Code §661.153, new employees who transfer to the TBVME from another state agency without a break in service can have any previous vacation time balances transferred, and are eligible to take vacation time immediately with prior approval.

3.08.18 Holiday Leave

In accordance with Government Code §§662.003 and 662.013, state offices are closed in observance of certain recognized holidays. Some additional holidays are observed, although state offices remain open with adequate personnel on duty to conduct business in accordance with Government Code §662.004. Holiday schedules are published by the state based on the fiscal year.

In accordance with Government Code §662.007, employees who work on a holiday can use the accrued holiday time later. Earned holidays are taken at the earliest opportunity within a twelve-month period. Supervisors ensure adequate staffing during these holidays. Holiday time must be taken within 12 months or it is lost.

3.08.20 Military Leave

In accordance with Government Code Chapter 661, employees are eligible for leave to accommodate authorized training or duty for any members of a reserve branch of the U.S. Armed Forces or the State's Military Forces.

3.08.22 Retirement and Insurance Benefits

Full-time employees may choose to be enrolled in insurance coverage (medical, dental, death, and disability) for themselves and their families.

Information describing these benefits is developed by the Employees Retirement System. Employees who have specific questions or who have trouble in receiving benefits contact the personnel officer for assistance.

In accordance with Government Code Chapter 609, full-time employees are also eligible to participate in the state employee retirement system.

New employees and transferring employees with a break in service are subject to a 60-day health coverage waiting period.

3.08.22 Telecommuting

The TBVME recognizes that employees in certain positions may be able to perform their duties from home or a remote location on a temporary or ad-hoc basis. Not every position is suitable to telecommuting. Thus, this option will not be available to all employees. Telecommuting is not a right or entitlement.

3.08.22.1 Responsibilities of Employees

Telecommuting employees must complete their work in accordance with the same performance standards that apply at their regular work location. TBVME policies must be followed, including confidentiality.

Unless otherwise approved, employees must designate a specific work site and work hours and must be available by phone and email during the designated work hours.

Telecommuting is not a substitute for dependent care. Employees must arrange for dependent care while telecommuting.

Employees are responsible for all equipment, utilities, and related expenses involved in telecommuting. Any injury while telecommuting must be reported pursuant to the General Manual.

Abuse of telecommuting or any violation of this policy may lead to disciplinary action, up to and including termination.

3.08.22.2 Responsibilities of Management

In deciding whether to allow an employee to telecommute, the respective manager shall consider factors such as whether:

the employee has a position that can be successfully performed from a remote location;

the employee has demonstrated reliability and self-initiative to complete assigned tasks without immediate supervision;

the employee's absence may result in an increased or inequitable workload for other employees; and

the employee will have access to technological resources to perform the job adequately from a remote location.

Management shall monitor productivity and performance of all telecommuting employees.

3.08.22.3 Regular Telecommuting

Employees in particular positions may be allowed to work remotely on a regular basis. A regular telecommuting arrangement may involve working remotely up to five days per work week, depending on the circumstances.

Such an arrangement is subject to management discretion, can be valid for no more than one year and may be terminated at any time. Requests to renew telecommuting arrangements must be submitted at least twenty business days before the expiration of an existing agreement.

The employee must: identify the hours that the employee will be telecommuting; identify the work that will be performed; confirm access to a computer, the internet, the agency's remote access, and a phone; and have sufficient internet signal strength and bandwidth to support remote access.

To request a regular telecommuting arrangement, an employee must submit a written request to their supervisor at least twenty business days prior to the requested telecommuting start date. If approved, the signed form shall be sent to the appropriate director. If approved, the form shall be submitted to the Executive Director for review and approval. The original of all approved requests shall be maintained in the requesting employee's master personnel file.

An employee who telecommutes on a regular basis may be required to report to his/her normal work location or another location for special matters (e.g., meetings, hearings). When a telecommuting arrangement ends, the employee must return all agency and/or state property kept at the telecommuting work location.

3.08.22.4 Ad-Hoc Telecommuting

Management may allow certain employees to telecommute on an occasional or ad-hoc basis. Ad-hoc telecommuting is appropriate for projects with short deadlines or work that requires time away from typical workplace distractions.

An employee requesting ad-hoc telecommuting shall submit an email request with relevant information to division management. Approved ad-hoc telecommuting requests shall be retained at the division level.

3.08.22.5 Telecommuting as an Accommodation

An employee requesting to telecommute as a medical accommodation must comply with this policy and the Accommodations policy before telecommuting. The employee must complete a Telecommuting Request and an Accommodation Request. The employee may also be required to submit a medical release. Because the essential functions of many positions at TBVME cannot be performed remotely or because telecommuting may lead to a hardship to the agency, telecommuting may not always amount to a reasonable accommodation.

3.08.24 Weather Related Closures

In the event of severe weather or any other emergency that would prevent employees from being able to safely travel to and from the offices, the executive director or a designee may close the TBVME offices. Supervisors are responsible for notifying their employees of such closures.

In the event of ice or flooding, the office **will delay opening** if Austin ISD schools are delayed or closed. The decision to close, after a delay, will be made not later than 2 hours before the delayed opening time.

3.10 Employee Educational Benefits and Services

Personnel who desire to further their formal education are encouraged and supported by the TBVME. Supervisors attempt to accommodate employees while maintaining sufficient employees available to respond to customer needs.

3.10.02 Obtaining College Benefits

Tuition reimbursement is contingent on the availability of funds and is limited to an amount of up to 50% per semester hour. If the executive director determines that an individual class has direct benefit to the agency the class may be reimbursed up to \$350 per semester.

This benefit is processed as follows:

1. The employee submits a request through their supervisor. The request includes information about the course(s), costs, and class schedule.

2. The request must also have a written explanation of how the class will benefit the employee and the agency.
3. Requests are reviewed by the executive director, and the employee is notified of approval or rejection.
4. The Executive Director has sole discretion to approve or reject the request. Factors they may lead to a rejection include; performance, number of employees currently receiving reimbursement, or other factors. The decision of the executive director is final.
5. If approved the request is coordinated through the CFO.
6. If approved, the employee is eligible for reimbursement upon successful completion of the course(s).
7. Prior to the distribution of funds, the employee may be asked to sign a written agreement. The agreement details specific requirements of the employee and may include reimbursement of tuition, salary, research projects, commitment to the agency, and other factors based on a case-by-case basis.

3.10.04 Other Training Benefits

Employees who request training that is to be provided in a means other than a traditional academic forum or not provided by a college or university meet the same requirements as described in 3.10.02. This training includes, but is not limited to:

1. computer and other technical training;
2. leadership and management training; and
3. customer service, records management or legal training.

Employees who receive these benefits may be required to agree in writing to work for the TBVME for an agreed period for each reimbursement. Any reimbursements that are required are not pro-rated.

3.12 General Employee Assistance

The executive director designates people to serve as the employee assistance liaisons (EAL). An EAL provides assistance to employees who have problems with insurance, retirement, or other benefits. An EAL may also offer assistance to employees with persistent problems that could jeopardize the employee's psychological and/or physical wellbeing.

Employees request an EAL for employee assistance services in person or in writing. All requests for employee assistance are confidential.

An EAL is authorized to contact other agencies or resources depending on the need.

An EAL receives training on available referral services and how those services are accessed.

When a supervisor notices an employee that may need assistance, they refer the employee to an EAL. The EAL assists the employee in identifying the appropriate referral service.

Participation in employee assistance services may be required by the executive director.

3.12.02 Injury or Death

An EAL may assist in the event of an employee's death, death of a family member, catastrophic injury or illness, or other emergency situations.

In the event of an on duty serious bodily injury or death of a TBVME employee, the executive director or designee:

1. contacts the family in person to make notification;
2. instructs an EAL to coordinate benefits, seek outside financial resources for the family, respond to requests from the family for assistance, and remains in contact with the family;
3. assigns an executive staff member to assist the family in making arrangements for medical treatment, funeral arrangements and travel arrangements; and
4. assigns a staff member to assist the family in making arrangements for child care, food preparation and other day-to-day necessities. As the situation stabilizes, a staff member is assigned to the family for long-term support. This includes obtaining benefits, arranging counseling services, providing assistance during criminal proceedings, and any other needs arising from the event.

3.12.04 Employee Right to Express Breast Milk

The TBVME supports the right of employees to express breast milk during the work day, and will make all reasonable accommodations for the needs of employees who express breast milk.

Supervisors will provide a reasonable amount of break time each time the employee has need to express the milk, and a designated location will be made available for this purpose.

3.14 Liability Protections

The Texas Workers' Compensation Law and Labor Code Chapter 501 cover employees who are injured on the job.

Employees may elect to retain their common law right to recover damages for personal injury if, no later than five days after beginning employment, they notify in writing the State Employees Worker's Compensation Division of the State Office of Risk Management that they wish to do so.

The State of Texas is self-insuring, and has made budgetary provisions for liability issues. Any legal action involving the TBVME or its employees is referred to the Assistant Attorney General assigned to the TBVME (Texas Civil Practice & Remedies Code Chapter 104).

3.16 Injury and Illness

The prompt and accurate reporting of illness and injury is vital to the proper care and treatment of employees.

3.16.02 Sick Leave

In accordance with Government Code §661.202 (c), sick leave is earned by employees at the rate of 8 hours per month.

The use of sick time for non-emergency appointments must be scheduled at least 24 hours in advance.

In accordance with Government Code §661.002, the TBVME allows employees to voluntarily transfer sick leave to a sick leave pool. An employee, with supporting documentation from a medical practitioner, may draw from the pool with approval from the Executive Director.

In accordance with Government Code §661.202 (d), personnel use sick leave when they are unable to report to work due to their illness or illness of an immediate family member who cannot care for themselves. If all available sick leave has been exhausted, personnel will use vacation time or compensatory time if they are ill and cannot report to work.

In accordance with Government Code §661.202 (f), personnel who are unable to report due to illness will contact the TBVME offices as soon as possible. Preferably, contact is made with their immediate supervisor. Upon returning to work, employees make the proper entries on their time sheet and leave form.

In accordance with Government Code §661.202 (g), an absence of more than three consecutive workdays requires the employee to provide the immediate supervisor with a doctor's certification or a written statement of the facts surrounding the absence and the nature of the illness.

3.16.04 Leave Provisions

Employees with workers' compensatory injuries and illnesses are not required to take sick leave or vacation prior to paid leave. If they choose to use sick leave, they must exhaust all such leave before they are entitled to workers' compensation temporary income benefits in accordance with Labor Code §501.044.

If an employee is injured off the job, the employee uses all available accrued leave before taking unpaid leave.

3.16.06 Notification

An employee who sustains an injury or illness either on or off the job that requires an extended absence notifies their supervisor who notifies chain of command. Notification must be made as soon as possible, preferably within 24 hours. To receive workers' compensation benefits for an on-duty injury, an employee gives notice in writing to their immediate supervisor within 30 days after the injury or illness. Upon receiving notification, the supervisor will forward the notification up the chain of command. The personnel officer provides the employee with information concerning worker's compensation, the return-to-work program, and current leave entitlements.

3.16.08 Certification by Health Care Provider

Employees who are unable to report for duty due to a workers' compensation injury or serious health condition provide certification from a health care provider to their supervisor. The EAL provides position descriptions for presentation to the health care provider to assist in determining if the employee can perform essential job functions. If the employee is disabled as defined by the Americans with Disabilities Act (ADA), the certification relates to the requirements of their job. It does not contain information relating to the nature or severity of the injury or illness.

Employees who have been off the job on a work-related injury, an extended illness, or an injury not related to the job will provide a release from an authorized health care provider to their supervisor when they return to work. The supervisor will forward a copy to the personnel officer.

3.16.10 Status Reports

If an employee is certified by a health care provider to be off work, the employee reports their status and intention to return to work to his or her supervisor following each

scheduled visit with the health care provider. This status report is due no later than the close of business on the first business day following treatment.

If an employee has returned to work in a temporary or modified duty assignment, and follow-up health care provider appointments are necessary, the employee schedules appointments to minimize time away from work.

The finance division submits reports and documentation concerning workers' compensation claims to the State Office of Risk Management and/or the Texas Workers' Compensation TBVME in accordance with the requirements of the Texas Workers' Compensation Act.

3.16.12 Family and Medical Leave

The Family and Medical Leave Act (FMLA) allows eligible TBVME employees to take up to twelve weeks of unpaid leave each year for:

1. the birth of a child,
2. the placement of a child for adoption or foster care,
3. caring for an immediate family member (spouse, child, or parent) with a serious medical condition,
4. a situation in which the employee is unable to work due to a serious medical condition, or
5. military family leave entitlement.

To be eligible, the employee will have worked for the TBVME for at least 12 months and has worked 1,250 hours over the previous twelve months to comply with 29 USC Section 2601 (FMLA) and Government Code §661.912.

In accordance with Government Code §661.912 (b), employees use all accrued paid vacation and sick leave before taking leave under these provisions.

If possible, employees provide the finance division with 30 days' notice of the need to take FMLA leave. Employees provide documentation supporting the need for leave and periodic reports on status and intent to return.

3.18 Performance Evaluations

The TBVME complies with the performance evaluation provisions of Occupations Code §801.106. Evaluations are based on lawful, job-related and non-discriminatory criteria. These evaluations are conducted for mobility and advancement for employees within the agency. In accordance with Texas Labor Code §§21.051 and 21.452, the agency

prohibits discrimination against an individual in connection with the terms, conditions or privileges of employment as well as review of performance evaluations in regard to race, color, national origin, religion, sex, age or disability. Performance Evaluations require the General Counsel's Office to review for EEO compliance.

3.18.02 Performance Evaluation Forms

The executive director evaluates forms and guidelines as needed. The executive director briefs supervisors on any changes or revisions.

Each evaluation, regardless of the employee's position, contains the following:

1. measurement definitions,
2. specific criteria used relative to the employee's position,
3. the specific period covered by the evaluation,
4. comments supporting the evaluation scores,
5. a statement of career development activities, and
6. signatures of **all** supervisors completing the evaluation or involved in the review process.

3.18.04 Responsibility for Evaluations

The employee's immediate supervisor conducts evaluations.

The supervisor is responsible for completing evaluations accurately, thoroughly, and on time.

3.18.06 Evaluation Periods

Supervisors schedule performance evaluation sessions at least annually.

3.18.08 Conducting Evaluations

Employees who are not meeting expectations are notified when appropriate.

Supervisors do not wait until an evaluation to notify employees that they are not meeting expectations.

Supervisors review the specific job descriptions for those employees they supervise. These job descriptions are kept on file with the personnel officer.

Evaluations are prepared in advance, and a meeting is scheduled with the employee. Ample time is scheduled to allow for a beneficial exchange regarding performance, strengths, training needs, and areas that need improvement.

Supervisors may raise, or lower evaluation scores based on the meeting. The supervisor discusses the level of performance expected in the future, rating criteria, and goals for the next evaluation period.

Supervisors counsel employees regarding advancement, specialization, and training appropriate for the employee's position.

During the evaluation meeting, a discussion of career development activities is conducted. The employee's desires and interests are noted along with the supervisor's recommendations.

The evaluation form is signed and dated by the supervisor and the employee. The employee is provided with a copy of the report after the meeting.

Employees may make written comments regarding the evaluation within three business days of the evaluation meeting. The employee provides these comments to the supervisor and the supervisor attaches these to the original evaluation.

Completed evaluations are forwarded through the chain of command for review and signatures.

Should a reviewing supervisor not agree with the evaluation, they schedule a meeting with the affected employees and work to reach agreement.

After review, evaluations become part of the employee's permanent personnel file.

3.18.10 Appeals

Employees and supervisors attempt to reach a consensus during the evaluation meeting. In the event a consensus is not reached, they request a meeting with the next level of supervision. This meeting is requested within three days. This process is continued until a consensus is reached or the executive director meets with the employee and approves the evaluation.

3.20 Promotion

The TBVME strives to provide a challenging, rewarding, and progressive work environment. Employees are encouraged to seek greater challenges and responsibilities.

3.20.02 Promotion Procedures

Promotions are made based on position availability and the best interests of the TBVME. Promotions are based on identifying the best individual for the job.

The executive director is responsible for promotional standards for each position.

A director may appoint a person to a supervisor position.

The following may be used in the promotional process:

1. interviews;
2. performance evaluations;
3. supervisor recommendations;
4. review of work in current position;
5. the knowledge, skills, and abilities of the individual; and
6. education and training.

All promotional materials used are secured by the personnel officer.

Once the completed files are turned over to the personnel officer, only supervisors may review the files. Applicants may review their file in the presence of a supervisor or the personnel officer. Participants in the selection process maintain confidentiality regarding the performance of those seeking promotion.

3.20.04 Application

Employees interested in the position follow the application process designated on the announcement. The employee includes any required documentation or information that is indicated in the announcement.

3.22 Training and Career Development

The TBVME is dedicated to enabling employees to reach their full potential by providing training and career development opportunities. The TBVME benefits by retaining satisfied, quality employees.

3.22.04 Training and Orientation for New, Transferred, or Promoted Employees

As a part of orientation, new employees are provided training and information on:

1. the TBVME's role, purpose, goals, policies, and procedures;
2. working conditions and regulations; and
3. the responsibilities and rights of employees.

All new, transferred, and recently promoted employees receive training prior to assuming their duties when possible. This may be formal classroom training or on-the-job training with an experienced employee. Training for transferred or promoted

employees that cannot be completed prior to transfer or promotion is completed within one year.

3.22.06 Specialized Training

Employees, as applicable to assignment, may receive training in the following areas:

1. TBVME rules;
2. issuance of licenses;
3. maintenance of licensee records;
4. continuing education requirements for licensees;
5. curriculum and test development;
6. test administration;
7. leadership and administration;
8. state accounting procedures;
9. investigation of rules violations; and
10. processing disciplinary actions
11. other job-related training

While some of this training is accomplished in a classroom setting, the majority takes place on the job under the supervision of employees skilled in the tasks. The training is monitored by a supervisor who provides direction and access to other functions within the TBVME.

Supervisors may require additional on-the-job training, classroom instruction or other appropriate instruction as necessary.

Biennially all employees receive training on ethics.

3.22.08 Supervisory Initiated Training

Supervisors are alert to the knowledge, skills and abilities needed by their employees to successfully do their jobs.

Within budget limitations, employees are assigned to attend training classes, conduct research, or perform other activities necessary to improve the work product and enhance the employee's job satisfaction.

Supervisors monitor their employee's work performance to identify the need for remedial training. Remedial training is used to improve the quality of the work product and is conducted as soon as practical after the deficiency is observed. Employees are required to attend remedial training as instructed. The need for remedial training can also be determined during internal audits, staff inspections, or concerns expressed by other employees or clients.

3.22.10 Employee Initiated Training

Employees are encouraged to request training in areas that would benefit themselves and the TBVME. Requests are made in writing to their supervisor. The training request contains as much of the following information as possible:

1. type of training requested,
2. dates and times of training,
3. costs, and
4. information as to how the training is beneficial.

Supervisors review and approve training requests based on the needs of the agency and the availability of funds, with the constraints of minimum staffing taken into consideration. Employees are notified of the approval, or the reason the training request was denied.

3.22.12 Training Providers

In addition to internal training, the TBVME also uses external training providers when training cannot be conducted internally due to the topics or costs involved. Employees who are assigned to TBVME approved training meet the attendance requirements of the training provider as well as all rules and regulations.

Unauthorized absence from training is viewed the same as unauthorized absence from normal work duties.

Employees attending training sponsored in whole or in part by the TBVME may have additional responsibilities regarding instruction, providing equipment, supplies, facilities or other assistance.

The TBVME may pay the cost of this training. Other reimbursement may be authorized for travel and other expenses. This is governed by the travel policy and procedures.

At the completion of training, the employee provides proof of completion to the approving supervisor. The supervisor provides a copy of the completion to the personnel officer who updates the employee's personnel file.

The employee also informs their supervisor of the quality and value of the training. Supervisors use these evaluations in making future decisions about the training providers.

Employees who do not successfully complete a training class or fail to attend are required to meet with their supervisor. The supervisor determines a course of action that may include:

1. re-scheduling the employee for the training;
2. requiring reimbursement for the expenditures; or
3. disciplinary action.

3.24 Employee Awards and Recognition

TBVME supervisors seek out opportunities to acknowledge and reward exceptional performance.

3.24.02 Personal Acknowledgement

During the normal course of duties, supervisors acknowledge the performance of employees and offer support, advice, and encouragement. They also thank and compliment employees for work that has a positive impact upon office goals and productivity. Supervisors are especially alert to new employees and acknowledge improvements in performance. This acknowledgement reinforces desired behaviors and assists in building confidence.

3.24.04 Letters of Commendation

Employees who exhibit performance that is clearly beyond the expected are acknowledged in writing. This recognition may be for a single event, series of events, creative solution to a difficult problem, or sustained high performance over a period.

3.24.06 Administrative Leave for Outstanding Performance

In accordance with Government Code §661.911, the Executive Director may grant administrative leave as a reward for outstanding performance.

3.24.08 Executive Director's Gold Star Award

The Executive Director's Gold Star award may be presented to employees who have clearly distinguished themselves through outstanding performance in situations that required determination, creativity, and perseverance. The Gold Star award is presented in recognition of actions that bring credit to the individual and to the TBVME.

Supervisors are encouraged to identify and recommend those persons, who by their actions deserve this recognition.

3.24.10 TBVME's Award of Excellence

The TBVME's Award of Excellence may be presented by the Executive Director to persons who have been employed by the TBVME for at least two years and consistently demonstrate personal and professional characteristics including but not limited to:

1. Integrity — strictly practicing a strong moral and ethical code of conduct;
2. Dedication — to the profession, position, and mission of the agency;
3. Service — unselfish assistance to clients, public, other employees, agency, and state;
4. Loyalty — in actions and words to the agency goals, mission, and vision; and
5. Leadership — directly and indirectly assists in successfully meeting and completing assignments and tasks both within the agency and community.

Supervisors are encouraged to identify and recommend those persons, who by their actions deserve this recognition.

3.26 Grievances

Employees are to be treated fairly in all respects and should have an opportunity to present complaints or grievances through an established procedure.

A grievance is defined as complaints about duties or working conditions. They may also be dissatisfaction about the interpretation or application of a work-related policy. A grievance normally involves the employee's immediate supervisor but may involve other supervisors or employees.

Supervisors honor confidentiality as much as possible.

3.26.02 Procedures for Filing and Resolving a Grievance

Employees who believe they have a grievance are encouraged to meet informally with their supervisor to resolve the problem. If this is not successful, the employee must follow these steps:

1. The employee prepares a written statement of facts upon which the grievance is based. It should include, dates, times, specific wrongful acts, and the employee's efforts to resolve the grievance prior to the written statement. The statement should also include what remedies or adjustments are sought.
2. The employee submits the grievance to the personnel officer. The personnel officer provides written confirmation to the employee that the grievance has been received. This is done in memorandum form with a copy attached to the file. The

grievance is then assigned to the appropriate supervisor for investigation or resolution.

3. The supervisor meets with the employee in a formal meeting and attempts to resolve the grievance. If a resolution is reached, the supervisor documents the meeting and its outcome. This report is forwarded up the chain of command. Each reviewing supervisor initials the report and may add comments if appropriate. Once the Executive Director receives and reviews the report, it is forwarded to the personnel officer for secured filing.
4. If the supervisor does not resolve the grievance, they document the meeting and forward it to the next level of supervision. The process in Subsection 3 will be repeated.
5. If, after review through the chain of command, the grievance is not resolved, the Executive Director makes a final disposition. This may include meeting with any or all the employees involved. The Executive Director's decision is final, except in cases where an individual is disciplined or terminated. In these two instances employees contact the Texas Workforce Commission. Any activity through the Workforce Commission is subject to its procedures and regulations.

This procedure is designed to resolve conflicts. It is not used in place of the disciplinary process or to resolve violations of written directives.

3.26.04 Time Limitations

For a resolution procedure to be effective, it is completed in a timely manner. The following time limits are followed:

1. Grievances are filed within ten business days of the perceived act unless unusual circumstances exist.
2. The personnel officer assigns the grievance within three business days of receipt.
3. Any supervisory review requires a meeting with the employee followed by a written response within five business days of receipt.

3. 26.06 Employee Support

Employees represent themselves in internal grievance procedures; however, employees may request that an employee of their choice be present during formal or informal meetings. Any employee may be requested except those who may be in the resolution, investigation, or review process.

3.28 Complaints

Informal complaints are those in which the policies, rules, or general operating methods of the TBVME are questioned. These complaints are referred to the proper supervisor.

Supervisors document both resolved and unresolved informal complaints. All complaints will be forwarded to the office of the executive director for review.

Formal complaints involve failure of TBVME employees to adequately and professionally perform their duties, serious violations of policies or rules which adversely affect the TBVME's ability to complete its mission or create a loss of public trust, or alleged criminal acts committed by TBVME employees.

All formal complaints will be in writing documenting the violations in detail and signed by the complainant.

The complaint must include WHO the complaint is about, WHAT the person policy or law the person violated, WHEN this took place, WHY you feel this is a violation, and HOW you would the complaint to be resolved.

3.28.04 Accepting Complaints

Upon initial receipt, informal complaints are referred to the proper supervisor. Formal complaints are immediately forwarded to the appropriate executive staff or executive director for review. If a Director feels there is sufficient cause for and investigation an internal investigation will be initiated.

3.30 Early Warning System

To maintain a positive work environment, the TBVME tracks and reviews incidents of risks to employees and the agency, and intervenes when appropriate. Situations of this type may involve employee-related personal information that requires supervisors to maintain confidentiality.

3.30.02 Administrative Responsibility

The personnel officer serves as the collection point for performance evaluations, attendance records, injury reports, and other relevant information. The personnel officer submits an annual summary report of all incidents to the executive director for evaluation.

3.30.04 Supervisory Responsibility

Supervisors remain alert to the daily activities of their employees and are specifically watchful for:

1. changes in performance levels such as decreased productivity or increased error rates
2. changes in attitudes toward their duties or fellow workers;
3. increased use of sick leave or other unexplained absences;
4. injuries or a decline in health;
5. tardiness or a decrease in dependability;
6. decrease in personal hygiene levels or increased fatigue;
7. personnel complaints filed by TBVME clients;
8. repeated violations of work rules or supervisor disciplinary action; and
9. other factors that the supervisor deems out of character for the individual.

Supervisors who observe any of the above characteristics monitor the employee for other indications that a problem exists or may be developing. The supervisor alerts the next level of supervision, reviews the employee's personnel file, and notifies the personnel officer to track the employee's attendance records or other pertinent data.

The supervisor may also interview the employee or co-workers if appropriate.

Based on each individual case, the supervisor meets with the next higher level of supervision to formulate a plan of action.

This plan of action includes a review of all collected information, steps to remedy the situation, a timetable for completing the plan, and projected outcomes.

The supervisors meet with the employee to express their concerns, discuss the plan of action, and offer support to the employee. The implementation of the plan is dependent on the employee's response to the action. Employees are allowed input into the decision-making process and may be provided with:

1. additional training;
2. leave time;
3. EAL assistance;
4. referral to outside support groups or organizations;
5. temporary re-assignment; or
6. a combination of the above.

The supervisor documents the action plan and provides a copy to the employee. A copy signed by all parties is placed in the employee's personnel file. The supervisor monitors the employee and provides status reports as described in the action plan.

The supervisor documents when progress is made, and improvements occur. Remedial steps are also taken if the action plan is not followed or timetables are not met. Adjustments in the action plan are permitted based on the individual circumstances of each case. Remedial action may include additional training, counseling, or disciplinary action.

While no formal peer counseling system is in place, supervisors make every attempt to provide guidance and direction to employees. Employees are referred to outside service organizations as needed.

At the employee's request, a fellow employee may accompany them during interviews and counseling sessions.

3.32 Employee Safety and Security (Violence in the Workplace)

The safety and security of all TBVME employees, as well as citizens visiting our office, is of immense concern. To achieve the highest level of protection from violence in the workplace, violent acts, intimidation, threats, harassment, and abusive or aggressive behavior will not be tolerated.

1. No employee will engage in veiled threats, overt threatening behavior, or acts of violence against anyone in the workplace. Violations of this policy will be cause for possible disciplinary action up to and including termination and/or criminal prosecution when warranted.
2. Employees are responsible for notifying their supervisor of any threats that they have witnessed, received, or have been told that another person has witnessed or received.
 - a. Supervisors are responsible for making appropriate and timely referrals for assistance to employees who threaten or engage in violence or other abusive, aggressive, or disruptive behavior, or to those who are threatened or victimized.
 - b. Supervisors will notify the executive director or designee as soon as they receive a report of any threat from an employee. Supervisors will also ensure that any employee who may be the target of workplace violence, along with any involved or endangered co-workers, is promptly notified of the potential hazard; and will institute any actions which may be required to ensure the safety of those involved.

3. The executive director or designee may require a report be completed prior to initiating any investigation.
4. If an investigation reveals that an incident of workplace violence did occur, and an employee was in violation of the workplace violence policy, appropriate disciplinary action shall be taken.
5. If an investigation reveals that an incident of workplace violence did occur and that a person other than a TBVME employee was the perpetrator, the investigation will be turned over to the appropriate authority.
6. If at any time an employee observes a situation which appears to be an immediate threat to life or property, the employee will immediately notify any supervisor.

3.34 Harassment and Discrimination

All employees have the right to work in an environment free of harassment and discrimination. The TBVME does not tolerate, condone, or allow harassment or discrimination of any employees. This prohibition extends to those who visit the TBVME.

The TBVME views harassment and discrimination as serious misconduct that is subject to investigation and disciplinary action. Complaints receive immediate and direct action. TBVME will protect the confidentiality of individuals bringing harassment complaints to the extent possible.

Harassment and discrimination as described in this policy is illegal under Title VII, the Age Discrimination Act of 1967, the Americans with Disabilities Act of 1990, and the Texas TBVME on Human Rights Act of 1983. In some cases, violations are subject to criminal prosecution.

In accordance with Labor Code §21.010, all employees receive training on employment discrimination, to include sexual harassment. Employees also attend supplemental training every two years.

3.34.02 Prohibited Activities

The following are prohibited activities for employees:

1. to ridicule, mock, degrade, or belittle any person;
2. to engage in sexual harassment; and
3. to engage in discrimination.

3.34.04 Sexual Harassment

Sexual harassment, a form of sex discrimination, is defined as unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when:

1. submission to such conduct is made either explicitly or implicitly a term or condition of employment; or
2. submission to or rejection of such conduct by an employee is used as the basis for employment decision affecting the employee; or
3. such conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile, or offensive work environment.

3.34.06 Discrimination

Discrimination is defined as actions, offensive or derogatory comments, or employment activities based on race, color, religion, sex, national origin, disability, or age.

3.34.08 Supervisor Responsibilities

Supervisors are responsible for monitoring the work environment for any signs that harassment or discrimination may be occurring. They inform employees of activity that is prohibited and procedures for filing formal complaints. Supervisors stop any prohibited activity that they observe or become aware of regardless of whether the employee is in their line of supervision and assist as needed in the complaint process. Supervisors are responsible for monitoring of circumstances surrounding a complaint to ensure the situation has been remedied.

3.34.10 Complaint Procedure

While employees have no duty to attempt to resolve the harassment or discrimination prior to filing a formal complaint, they are encouraged to inform the person that the actions are unwelcome and offensive. Employees document any attempts to resolve the discrimination or harassment.

Employees file a formal complaint with the personnel officer and provide any documentation they have which would assist in the investigation. This might include logs of dates and times of the alleged violations or attempts to inform the person the complaint is against that the actions are unwelcome.

The personnel officer presents the complaint to the executive director or designee. They meet with the IO and initiate the investigation.

If an employee is uncomfortable in presenting the complaint to the personnel officer, they may present it directly to any supervisor, director, or the executive director and may ask any other employee to accompany them when they report the harassment to whomever they feel comfortable speaking with.

Any employee receiving a complaint from another employee is directed to accompany that employee to a supervisor who will initiate the reporting to the executive director.

Once the investigation is completed, it is provided to the executive director for resolution. Actions taken by the executive director are within the provisions of the disciplinary policy.

3.34.12 Retaliation

Retaliation against any employee will not be tolerated.

Retaliation for filing a complaint or for assisting, testifying or participating in the investigation of a complaint, is prohibited by the TBVME and by federal statutes.

Retaliation is a serious form of employee misconduct in and of itself, and is considered a separate violation of this policy. Any form of retaliation could result in disciplinary action up to and including termination.

Monitoring to ensure that retaliation does not occur is the responsibility of supervisors, directors, and the executive director.

3.36 Discipline

The primary objective of this disciplinary policy to provide for a stable and consistent workplace by incorporating the most effective type of discipline: self-discipline. The process is balanced with a system of rewards, counseling, and direction with provisions for punitive actions.

3.36.02 When Action is Taken

When undesirable behavior or performance is detected, counseling and discipline are provided to correct the behavior or performance. The need for action may be based on: a complaint (informal or formal), observation of supervisors, or reports from other employees. Regardless of how the violations are discovered, action is taken in a progressive manner. Based on the severity of the conduct disciplinary action may begin higher on the disciplinary scale.

3.36.04 Initiating Action

Supervisors immediately act to remedy problems and to correct undesirable behavior. While it is normally the employee's immediate supervisor, any supervisor is authorized to initiate corrective action until the appropriate supervisor is aware of the

circumstances or becomes involved. Supervisors who fail to act are subject to disciplinary action themselves.

Supervisors address the following points when taking corrective action:

1. informing the employee in person or in writing of the reasons for the proposed action,
2. stating the facts of the case to the employee,
3. revealing the names of persons making statements and the context of those statements,
4. giving the employee access to evidence, and
5. allowing the employee an opportunity to respond to charges orally or in writing within a reasonable period, and subsequently including any such responses to charges with the disposition for filing.

All ~~written~~ actions initiated by a supervisor are recorded in Guardian Tracking placed in the employee's personnel file along with the disposition. Disciplinary actions require the General Counsel's Office to review for EEO compliance.

3.36.06 Types of Action

The first response to undesirable behavior is training, which may also include counseling. Discipline continues in a progressive manner from #1 to #6.

1. Training - Training is used in minor violation situations or where the violation was unintended or mistaken. This action is used to help the employee understand the need for correcting behavior. Supervisors may seek training opportunities for employees who need additional understanding of their jobs or additional skills. Training includes assignment to other employees for on the job training or formal classes on site or off site. Training is documented in the employee's personnel file and the relationship to the discipline is noted. To ensure that the desired result is achieved, the supervisor monitors employees who have received training to correct deficiencies.
2. Counseling/Coaching – Counseling/Coaching may be used to enhance or modify behavior and create a system in which employee performance may be more closely monitored and improved. As it relates to discipline, counseling is documented with the purpose clearly stated and an acceptable level of improvement is defined. Generally, a follow-up and review date is included at which time another counseling session is held to review progress and decide about continued monitoring. Corrective action establishes penalties which

increase in severity each time discipline is necessary. While this is a preferred order, each individual violation is viewed on its own merits and dealt with accordingly.

3. Verbal Reprimands - Verbal reprimands are a more formal form of discipline for situations in which the employee has not responded to training or counseling. It is also used to address violations that are intentional or careless. These actions are documented and may include specific instructions on behavior that is required or prohibited. They also include a course of administrative action if improvements are not made or if the behavior occurs again.
4. Written Reprimands - Supervisors may issue written reprimands, which are a more formal and serious method of correcting behavior, and in some cases, are a prelude to more serious disciplinary action. Written reprimands are documented and contain a specific admonishment of the employee for the behavior. Future administrative action is described for additional violations. The reprimand is detailed in writing with two copies prepared. One copy is presented to the employee. The second copy is signed by the employee and placed in their personnel file.
5. Suspensions Without Pay - Suspensions without pay are used for serious or repeat violations when other methods have been ineffective. Directors and managers take these actions in a formal, documented meeting with the employee and the employee's supervisor. The suspension is detailed in writing with two copies prepared. One copy is presented to the employee. The second copy is signed by the employee and placed in their personnel file.
6. Termination — Termination is used when the violations are serious breaches of policy, illegal, or unethical. The executive director takes this action. The terminated employee is provided with a written statement citing the reason for termination and includes the official date of termination.
7. Criminal Charges — Based on the violation, the executive director may seek criminal charges through the appropriate means. The filing of criminal charges by the TBVME is normally associated with violations because of the employee's association with the TBVME. Employees who are the subject of criminal charges for acts not associated with the performance of TBVME duties may be subject to disciplinary action.
8. Civil Remedies — Depending on the individual circumstances, civil action may be taken. Civil remedies are sought based on recommendations of the assistant attorney general assigned to the TBVME.

3.36.08 Appeals

Employees who receive disciplinary action from a supervisor may appeal to the next higher level of supervision within the employee's chain of command. This appeal process is limited to action taken regarding:

1. training,
2. counseling,
3. verbal reprimands,
4. written reprimands, and
5. suspension without pay.

The appeal is made in writing within five business days of the action. The supervisor responds to the appeal within five business days. If the supervisor denies the appeal, modifies the disciplinary action, or reverses the original supervisor, the employee is notified in person with a written confirmation provided. The original supervisor is also notified, and a copy of all documentation is forwarded to the appropriate director.

The decision of the executive director is final. Disciplined or terminated employees who disagree with the final decision are encouraged to contact the Texas Workforce Commission Civil Rights Division.

3.38 Internal Investigations

A credible and reliable internal investigation function is vital for the maintenance of professional conduct in any agency. The executive director or his designee appoints the IO. These duties are in addition to other duties that may be assigned. Due to the nature of these investigations the IO reports directly to the executive director in these matters and is responsible for investigating formal complaints in a fair and impartial manner.

3.38.02 Internal Investigation Function

The IO gathers and reports facts. It is not involved in disciplinary action decision making. While it is recognized that some complaints are without merit, others are valid, and all must be dealt with appropriately.

3.38.04 Complainant Notification

The IO notifies the complainant in writing that the complaint has been received and that an investigation has begun.

The complainant is notified of the progress and final disposition of the formal complaint.

Copies of all correspondence are maintained in the investigation files.

3.38.06 Employee Notification of Complaints

The IO notifies employees who are the subject of an investigation as soon as the investigation is begun or at an appropriate time based on the circumstances. This notification includes:

1. a copy of the written complaint (if any) or a statement prepared by the IO detailing the allegations;

In all investigations, criminal and administrative, all rights of an employee will be acknowledged and observed. All employees need to understand that their rights differ in criminal investigations versus an administrative investigation.

Nothing in this section requires the IO to notify the employee if such notification would compromise the investigation.

3.38.08 Employees Relieved from Duty

After beginning an internal investigation, an employee may be relieved from duty. This may be done by the executive director, with or without pay, or by a supervisor with pay pending review by the executive director.

If the executive director relieves any employee without pay, written notification is provided to the employee with a copy placed in the investigation file. The written notification includes the allegations and a time estimate for completing the investigation. The employee signs a copy of this notification to acknowledge receipt.

Employees relieved with pay are instructed to remain available during regular business hours. The employee provides a phone number at which they can be contacted for interviews or information. This is documented as above.

In either event, the executive director may restrict the employee from coming to the TBVME offices unless specifically requested or authorized.

3.38.10 Maintaining Internal Investigation Records

Internal affairs investigations are assigned a unique case number beginning with the initials "IA" and based on fiscal years. Example: IA-2004-01. In this example "IA" indicates an internal Investigation case. The year the case was initiated is fiscal year 2004. The last two digits correspond to the number of IA cases opened for the year, beginning with "01."

At the end of each fiscal year, the IO provides a summary of all internal Investigation cases for the year. This summary is posted on the TBVME website.

This summary does not include individuals' names, but does include:

1. the number of cases opened;
2. the nature of each allegation and the related conclusion of facts; and
3. the disciplinary actions taken.

Completed internal Investigation files are maintained by the IO. They are considered confidential files and are secured.

Access is granted by the executive director, based on individual need.

Internal Investigation files will include a copy of any disciplinary action taken. Personnel files contain only the disciplinary action and do not contain any of the investigative information other than that in the disciplinary memoranda.

3.38.12 Progress Reports

Under normal circumstances, investigations are completed within ten business days. If the investigation cannot be completed within this time, the IO provides the executive director with a progress report and requests an extension.

Extensions are valid for an additional ten days. This process is repeated as needed. Copies of progress reports and extensions are maintained in the investigation file.

3.38.14 Investigative Tools

If the need for positive identification of the employee arises, the IO may request:

1. a photograph of the employee be made;
2. that the employee participates in a lineup; and/or
3. a copy of the employee's fingerprints.

If the employee refuses to comply with these requests, the IO informs the executive director. The executive director may order the employee to comply with the IO's request.

3.38.16 Special Circumstances

Based on the circumstances of the investigation, the IO may wish to consult with the assistant attorney general assigned to the TBVME. This consultation is typically for investigations that requests for medical or laboratory examinations or the financial disclosure statements.

Additionally, any time that the IO anticipates or considers an arrest for a criminal offense, the attorney general's office is consulted, and notification is made to the executive director.

The employee is notified in writing of any requests under these circumstances, and a copy of the notification is placed in the investigation file, except when such notification would compromise the integrity of the investigation. In such an instance, IO documents the circumstances and includes the documentation in the file.

3.38.18 Internal Investigation Findings

Once the investigation is completed, the IO prepares a written report. This report contains a summary of the investigation and a conclusion of fact for each alleged violation. This conclusion of fact is a finding of one of the following:

1. The employee is exonerated. The facts and evidence show that the alleged violation did not occur.
2. The allegation is unfounded. The facts and evidence show that the employee engaged in the activity alleged, but that the action was not a violation of policy.
3. The allegation is not sustained. There is no clear-cut evidence to prove or disprove the allegation.
4. The allegation is sustained. Facts and evidence show the allegations are true and a violation occurred.
5. Policy failure has occurred. Facts and evidence show that the allegations are true, but that the activity was permitted by a flawed policy, or that no policy was in place that addressed the act.

3.38.20 Disposition of Internal Investigation

Once the report is completed the IO forwards it to the executive director for a final disposition.

Final dispositions are:

1. No disciplinary action or corrective action warranted.
2. Disciplinary or corrective action warranted.

When no disciplinary action or corrective action is warranted, the executive director will notify the employee(s).

When disciplinary action or corrective action is warranted, the executive director may forward the completed investigation report to the director(s) of the employee(s) for recommendations regarding disciplinary action.

3.40 Reduction in Force

The executive director may find it necessary to reduce the number of employees due to budgetary constraints or to meet shifting operational needs. When restructuring (mergers, layoffs, recalls, and/or transfers) is implemented, functions are prioritized based on the effect that reduction or elimination will have on the mission and goals of the TBVME. The executive director identifies specific organizational divisions, and job classifications to be downsized, consolidated, or deleted in accordance with the TBVME's reorganization plan.

3.40.02 Procedure for Reduction in Force

The executive director determines when a formal reduction in force (RIF) is needed. When such a determination has been made, the following steps are taken to implement the decision:

1. Careful analysis is conducted to determine which areas, activities, programs, or organizations are to be affected.
2. Within the affected areas, the jobs that will need to be performed after the reductions are identified.
3. Present employees are evaluated as to their qualifications and ability to perform the jobs. Additionally, evaluations may take the following into consideration:
 - a. ability to adjust to the necessary changes in the TBVME's operation and to contribute to ongoing programs;
 - b. effectiveness on the job, including performance and past achievement;
 - c. versatility (whether the individual can move into another area of operations);
 - d. special skills that are necessary to a function;
 - e. motivation and initiative;
 - f. potential; and,
 - g. years of service with the TBVME.

3.40.04 Placement Efforts

Employees designated for dismissal are given reasonable time off to interview for other jobs prior to the date of dismissal. Every reasonable effort is made by fiscal and staff services to place dismissed employees in comparable positions for which they are qualified. An employee who refuses to accept a comparable job may forfeit certain rights to unemployment compensation benefits.

3.40.06 Recall Rights

If a vacancy occurs within the competitive area which is in the same state class title as the position the employee held prior to the reduction in force, the TBVME may recall employees in the inverse order of the reduction in force. The TBVME notifies the employee in writing of the job offer and recall rights. If the employee does not accept the job offer within ten days, the employee's recall rights are waived.

3.40.08 Reinstatement Rights

Subject to existing state law and procedure, an employee affected by a reduction in force may apply for any state job for which they meet the minimum training and experience requirements. If the employee accepts a job offer to a state position which receives benefits, the employee may be entitled to the restoration of employee benefits, including the employee's accumulated sick leave. If the employee accepts a position in a lower pay band than the one from which they were separated, the employee still retains recall rights to a position in the same state class in the competitive area.

3.40.10 Grievance Rights

A covered employee who is affected by a reduction in force has the right to file a grievance to the TBVME and an appeal to the Texas Workforce TBVME only if the grievance or appeal is based on improper or inconsistent application of a reduction in force policy or plan.

Chapter 5 — Fiscal Services and Risk Management

It is the policy of the TBVME to utilize the guidelines established by the statutes of the State of Texas to manage fiscal resources and reduce risks.

5.02 Fiscal Services

Accounting procedures are controlled by regulations of the State of Texas as well as procedures developed by the TBVME.

Agency financial policies outline the accounting system to include approval and maintenance of accounts (i.e. monthly balances, expenditures and encumbrances).

The executive director is identified by statute as having the authority and responsibility for the fiscal management of the TBVME.

In accordance with Government Code §2101.011, the TBVME conducts an annual financial report. The report is produced under contract with an accounting company.

5.02.02 Budget Preparation Procedures

In accordance with Government Code §322.007, the executive director and chief financial officer prepare the biennial Legislative Appropriations Request in the format required by the Legislative Budget Board (LBB) and the Comptroller of Public Accounts (Comptroller). The formats, timetables, and other specific instructions for budget preparation are found in written directives issued by the LBB at the beginning of each budget cycle.

5.02.04 Purchasing Procedures

Employees who need to make a purchase complete a Purchase Request Form and provide it their supervisor for approval. As required by the Comptroller under Government Code §403.011, the request includes the purpose of the request, description of items to be purchased and the Program Cost Account (PCA) number(s) if known.

5.02.06 Purchase Approval

Completed purchase request forms are presented to a supervisor for approval. After approval, the request is forwarded to the purchaser for assignment of a purchase order number and processing.

5.02.08 Computer Related Purchases

In accordance with Government Code §2054.1015, computer-related purchases are part of the TBVME Planned Procurement Schedule that has been approved by the Department of Information Resources. The Information Resources Manager (IRM) makes purchases with the approval of the executive director.

5.02.10 Capital Outlay Purchases

Capital outlay purchases require the approval of the executive director or designee.

5.02.12 Final Approval of Purchase Vouchers

The executive director normally approves all purchase vouchers. The Operations Director, General Counsel, or Chief Financial Officer may approve purchase vouchers. Purchase vouchers are not approved by the person making the original purchase request.

The Chief Financial Officer is primarily responsible for releasing payments in USAS.

5.02.14 Limitations on Approval of Purchase Vouchers

The executive director approves purchase vouchers exceeding \$10,000.00 unless an existing document or purchase request signed by or on behalf of the executive director exists that provides prior approval.

An example of prior approval is something based on an established contract.

5.02.16 Bidding Procedures

The State of Texas Procurement Manual from the Comptroller of Public Accounts outlines the bidding procedures for state agencies (to include procedures, selection of vendors, and emergency purchases).

5.02.18 Historically Underutilized Businesses (HUBs)

The TBVME makes a good faith effort to utilize HUBs in contracts for commodities and service purchases pursuant to Government Code Chapter 2161. Utilization of HUBs is part of the TBVME's Strategic Plan and/or Legislative Appropriations Request. The TBVME complies with Good Faith Effort in accordance with Chapter 34 Texas Administrative Code (TAC), Section 20.13(d).

5.02.20 Receipt of Purchases

As items are received, receipt is verified and acknowledged by the purchaser. The individual who ordered the item is notified and the item delivered.

5.02. 22 Contract Management

From time to time, the TBVME enters into contracts for goods or services. These contracts are managed to ensure compliance with existing laws, policies, and procedures established by the state. Contract management conforms and complies with laws and guidelines established by the State of Texas. The State of Texas Contract Management Guide published by the Comptroller is used as the resource guide for contract management.

5.02.24 Travel Reimbursements

TBVME employees who travel on official business receive reimbursement according to state travel guidelines. The General Services Administration (GSA)'s federal travel rates are used to determine the maximum meals and lodging reimbursement rates for both in-state and out-of-state travel. The Google Maps website is used as the mileage guide for travel. Requests for reimbursement are made on the forms provided. Requests for reimbursement are expected to be thorough, accurate, submitted in a timely manner, and approved by a supervisor prior to processing for payment. Receipts for lodging, rental cars, and related expenses must be included with the requests (tips or gratuities are non-reimbursable expenses). In accordance with Government Code §660.112, reimbursements may not exceed the amount of incidental expenses incurred by the employee. If travel expenses are anticipated to exceed state guidelines, prior written approval from the executive director is required. Advance travel funds are available if the travel would cause a financial hardship. Prior approval by two supervisors is required for an advance travel payment. When a travel advance is obtained, the employee must complete a travel voucher within 10 days of return from travel. Employees use the Travel Rental vs. Personal form prior to their departure to determine whether it is more cost-effective to use a rental car or use their personal car for business-related travel. A supervisor may waive the requirement of this form for their employees.

TBVME may exercise the authority given by the Government Code §. 660.007 to set a reimbursement rate that is less than the maximum. TBVME employees whose job descriptions require either extensive travel, or are assigned regions to conduct state business have separate requirements. When these employees travel using a rental car from a state contracted company, the reimbursement will follow the rules in the Government Code §660.092. When these employees travel using a personal vehicle, the reimbursement will be the current state contracted rental rate for a full-size vehicle. These employees are required to submit a detailed Itinerary for every trip including the agencies visited, city, and state business purpose. These employees will be reimbursed for the fuel purchases made while conducting state business regardless of the vehicle used. These employees are exempted from submitting the Travel Rental vs. Personal form and Google Maps. These employees will be reimbursed for meals, lodging, parking and other incidentals according to the State Travel Rules that apply.

5.02.26 Third-Party Travel Reimbursement

On occasion, TBVME employees are reimbursed directly by third parties for travel and related expenses. Recovered costs in these cases do not exceed the state's travel guidelines or actual expenses.

When an employee is reimbursed directly by the third party, they prepare a travel voucher containing documentation for remaining unreimbursed expenses in the format required by travel guidelines as well as documentation of payments received. This information is submitted to their supervisor no later than 10 days of return from travel. These vouchers are forwarded to the Finance Division no later than two days after receipt. The Finance Division reviews the voucher for accuracy, proper documentation, and compliance with travel guidelines. If third-party reimbursement is sent directly to the TBVME, the employee submits a completed and approved travel voucher before payment is released.

5.02.28 Supply Room

Office supplies and other frequently purchased items are maintained in the supply room. Employees obtain these items as needed. If the supply is running low, employees notify the Finance Division. The purchaser monitors the supply as well. Requests for specialized or large amounts of supplies that are not normally maintained are processed as regular purchases.

5.02.30 Property Manager

In accordance with Government Code §403.273, the executive director appoints a property manager to maintain the records required and be the custodian of all property possessed by the agency. In accordance with the TBVME Property Management Manual, the property manager will conduct an annual physical inventory of all property possessed by the agency.

5.02.32 TBVME Issued Equipment

Based on their job assignments, employees may be issued various types of equipment. Portable computers, telephones, or other items issued by the TBVME remain the property of the TBVME. In accordance with Government Code §403.275, personnel are responsible for the maintenance, safety, and security of these items.

Supervisors document and maintain a list of items issued to employees. When an employee leaves employment with the TBVME, their items are returned to the issuing authority. The equipment is inspected prior to re-issue. Employees may request receipts for the returned items.

5.04 Risk Management

The TBVME's Risk Management function is guided by the requirements of the State Office of Risk Management (SORM).

5.04.02 Risk Manager

As recommended by the SORM, the executive director appoints an agency risk manager. The risk manager attempts to identify significant risks to the TBVME and acts to minimize exposure and reduce loss. The executive director also appoints safety inspectors. These employees perform random safety inspections, utilizing the current safety checklist, to spotlight unsafe working conditions, equipment, or unsafe behavior and make recommendations of needed safeguards and procedures. After 30 days, uncorrected deficiencies will be reported to the executive director.

5.04.04 Annual Risk Assessment

In accordance with Government Code §2102.013, the TBVME conducts an annual risk assessment and submits the results to the State Auditor's Office (SAO).

5.06 Health, Fitness, and Safety

The TBVME complies with all applicable safety and health laws, rules, regulations, and standards. The health, fitness, and safety of the employees are vital to the completion of the TBVME's goals.

In accordance with Government Code §664.053(d), the executive director appoints a wellness liaison to the statewide wellness coordinator.

5.06.02 Healthy Lifestyle

Supervisors provide their new employees with safety, health, and fitness training as a part of their orientation.

Included in this orientation are procedures for reporting unsafe working conditions, reporting accidents, reviewing of fire and emergency evacuation plans, and the drug and-alcohol free workplace policy.

In accordance with Texas Health and Safety Code §85.111, the Department of Health's brochure about HIV and the workplace is provided during orientation and annually thereafter. In accordance with Health and Safety Code §85.112 HSC, workplace guidelines have also been developed.

Periodic training sessions relating to health, safety, and fitness issues are conducted and attendance is documented and maintained by the Risk Manager or designee.

Personnel maintain a health and fitness level that allows them to perform their duties. Significant impairments in this area are reported to their supervisor immediately. Training is scheduled annually to assist personnel in the development of healthy lifestyle decisions and a fitness program.

5.06.04 Drug and Alcohol-Free Workplace Policy

Employees are required to report any alcohol or drug related arrest or conviction to their supervisor.

Unlawful drug-related conduct is prohibited in TBVME facilities. This conduct includes the manufacture, distribution, dispensing, possession, or use of illegal substances.

Employees are prohibited from:

1. consuming alcohol on TBVME property;
2. consuming alcohol during lunch breaks when the employee is expected to return to duty;
3. being intoxicated or under the influence of controlled substances while on duty;
4. misuse of prescription or over-the-counter-substances; and
5. taking prescription medication not intended for the employee.

Employees are required to inform their supervisor if they are taking prescribed medication that might inhibit or impair their work performance.

5.06.06 Fire Alarms

For emergency situations, employees call 9-1-1 or other appropriate emergency services.

In the event of a fire alarm or an actual fire, employees secure their workstations and proceed to the nearest exit. Employees exit the building using the stairways and gather at a safe location an adequate distance from the building.

The fire warden and deputy wardens monitor the evacuation and make certain that all employees and visitors have exited the building.

5.06.08 Bomb Threats

The safety of employees and visitors is the main priority in any threatening situation.

Employees remain alert to suspicious items, packages, letters, or other items. Suspicious items are reported to a supervisor or on-scene police personnel.

If an employee receives a telephone call indicating the existence of a bomb or other dangerous device, the employee immediately notifies a supervisor. The supervisor notifies the Austin Police Department and gathers as much information as possible. The police department will determine whether to evacuate. If the decision is made to evacuate the building, employees secure their workstations, take personal property, and

calmly exit the building. Employees gather at a designated location a safe distance from the building to receive instructions. The Director for Agency Operations (or designee) coordinates activities with the police department. Other supervisors remain with the employees. The decision to close the agency or return to the offices will be based on the information available and the time of day.

5.06.12 Vehicle Operation

Employees shall comply with all traffic laws, rules, and accepted safety standards, including the use of occupant safety restraints, while on official state business in a state-provided or personal vehicle.

Additional requirements for employees that drive on official state business include:

1. a valid Texas driver's license and appropriate insurance;
2. an annual driving history check conducted at the direction of the Risk Manager, the initial check being for the previous three years.
3. If an employee's driving record falls within one of the categories outlined below, the employee will be suspended from driving. If the employee meets the job qualifications for a non-driving position and such a position is available, the employee may be reassigned. If the employee cannot be reassigned, they will be terminated.
 - a. conviction of Driving While Intoxicated (DWI);
 - b. conviction of leaving the scene of an accident;
 - c. a combination of three or more at-fault wrecks or moving violation convictions during the last three consecutive years; or
 - d. suspension of driving privilege by lawful authority.
4. An employee's driving privilege may be suspended by the executive director if the employee's driving record, health, any other condition, or combination of these issues causes them to be considered dangerous to either persons or property.

Chapter 7 — Information Technology

It is the intent of the TBVME to provide technological resources and assistance to internal users and the public.

7.02 Information Resources

In accordance with the state Division of Information Resources (DIR) guidelines, the executive director will appoint an information resources manager (IRM).

7.02.02 User Activity

All user activity on the TBVME's network is subject to review.

Users must report any perceived weaknesses in TBVME computer security, any incidents of possible misuse or violation of this agreement to the proper authorities by contacting the appropriate management.

Users must not attempt to access any data or programs contained on TBVME systems for which they do not have authorization or explicit consent.

Access to the Internet from a TBVME-owned home-based computer must adhere to the same policies that apply to use from within TBVME facilities. Employees must not allow family members or other non-employees to access that TBVME computer, information systems and records.

Users must not purposely engage in activity that may:

1. harass, threaten or abuse others;
2. degrade the performance of Information Resources;
3. deprive an authorized TBVME user access to a TBVME resource;
4. obtain extra resources beyond those allocated; or
5. circumvent TBVME computer security measures.

Users must not otherwise engage in acts against the aims and purposes of TBVME as specified in its governing documents or in rules, regulations and procedures.

Incidental personal use of electronic mail, internet access, fax machines, printers, copiers, and other equipment, is restricted to TBVME-approved users; it does not extend to family members or other acquaintances.

Storage of personal e-mail messages, voice messages, files and documents within TBVME information resources systems is discouraged, but not prohibited. Storage of these documents must be nominal.

Documents that might reasonably cause adverse legal action or embarrassment to TBVME should not be sent or received.

All messages, files and documents (including personal messages, files and documents) located on TBVME Information Resources are owned by TBVME, may be subject to open records requests.

7.02.04 Access to TBVME Network

Accessing TBVME networks from local workstations is limited to normal duty hours and approved overtime. Access during other times is limited and approved by a supervisor. The IRM or executive director approves access to the network from outside the local network and reports any unauthorized means of access or unusual network activity.

7.02.06 Vendor Access to Information Resources

Vendors play an important role in the support of hardware and software management, and operations for customers. Vendors can remotely view, copy, and modify data and audit logs, they correct software and operating systems problems, they can monitor and fine-tune system performance, they can monitor hardware performance and errors; they can modify environmental systems, and reset alarm thresholds. Setting limits and controls on what can be seen, copied, modified, and controlled by vendors will eliminate or reduce the risk of loss of revenue, liability, loss of trust, and embarrassment to the TBVME. Vendors must comply with all applicable TBVME policies, practice standards and agreements, including, but not limited to safety, privacy, security auditing, software licensing, and acceptable use.

7.02.08 Vendor Agreements and Contracts

Vendor agreements and contracts must specify TBVME information the vendor should have access to how TBVME information is to be protected, acceptable methods for the return of the information, and destruction or disposal of TBVME information

7.02.10 Program Management

The TBVME will provide an Information Security (IS) point of contact for the vendor. The point of contact will work with the Vendor to make certain the Vendor provides notice to the TBVME of all employees working on the contract, when and how they will access that information and all termination of said employees in a timely manner.

The IS point of contact will ensure the Vendor is

1. aware of reporting procedures for security incidents,
2. identifying vendor employees
3. able to access TBVME Information acceptable work hours and times

4. aware of procedures for authorizing or reporting changes to those work hours or times,
5. conforming with Chapter 9 of the General Manual,
6. returning or destroying upon termination of contract or at the request of the TBVME, all the TBVME information and provide written certification of that return or destruction within 24 hours, and
7. complying with all state and TBVME auditing requirements, including the auditing of the vendor's work.

Violation of this policy may result in disciplinary action.

7.02.12 Information Resources Assistance

Internal users request assistance from an available information resource specialist for assistance with information resources equipment or software. Information resources specialists respond to these requests as soon as possible based on priority. Internal users request assistance from an available IR specialist for problems with IR equipment or software. IR specialists respond to these requests as soon as possible based on priority.

7.02.14 User Coordination

The IRM develops a formal system for acquiring routine information and coordination with supervisors, plus internal and external users as needed. This system includes periodic meetings, telephone conferences, and Internet conferences. These meetings and conferences are intended to:

1. resolve problems and discuss solutions;
2. update supervisors and employees on new equipment and software; and
3. evaluate information needs.

The IRM prepares an agenda concerning new programs, user problems, and major projects. The agenda helps to maximize time usage and set priorities.

7.02.16 Project Requests, Approval, and Assignment

Supervisors approve staff requests for projects requiring programming or new software and forward to the IRM in writing. The request details:

1. the desired outcome,
2. the problems to be solved,
3. the opportunity to be realized,

4. the number of persons affected by the project, and,
5. any other relevant information.

All requests are reviewed and those approved are assigned a priority. Requests for projects that are not approved are returned with an explanation provided.

7.04 Computer System Integrity

The security and integrity of the computer systems are vital to the efficient operation of the TBVME. It is everyone's responsibility to report security issues or concerns.

In accordance with DIR guidelines, the executive director will appoint an information security officer (ISO).

7.04.02 Reporting Mechanisms and Monitoring Tools

The ISO will establish automated tools to provide real time notification of detected wrongdoing and vulnerability exploitation. Where possible a security baseline will be developed, and the tools will report exceptions. These tools, among others, will be deployed to monitor:

1. Internet traffic
2. Electronic mail traffic
3. LAN traffic, protocols, and device inventory
4. Operating system security parameters

Monitoring tools will include the review of the following logs for signs of wrongdoing and vulnerability exploitation at a frequency determined by risk:

1. Automated intrusion detection system logs
2. Firewall logs
3. User account logs
4. Network scanning logs
5. System error logs
6. Application logs
7. Data backup and recovery logs
8. Network printer and fax logs

7.04.04 Annual Security Audit

In accordance with state DIR guidelines, the ISO will ensure that an annual security audit is conducted, and report is issued with recommendations. The audit will include the following checks:

1. Password strength
2. Unauthorized network devices
3. Unauthorized personal web servers
4. Unsecured sharing of devices
5. Unauthorized modem use
6. Operating System and Software Licenses

7.04.06 Software Installation

The IRM approves any installation of executable programs. IR staff members load software that has been properly purchased and licensed. Employees needing new software make a purchase or other written request through the IRM.

7.04.08 Passwords

Employees with authorized access to TBVME computer systems designate their own passwords. These passwords remain confidential, are changed on a regular basis, and conform to formatting guidelines provided by the IRM. Password security policies are evaluated during the annual security audit.

Users must not share information or devices used for identification and/or authorization purposes (i.e., their TBVME account(s), passwords, personal Identification numbers (PIN), security tokens (i.e. Smartcard). Users must not download, install, or run security programs or utilities that reveal or exploit weaknesses in the security of a system. For example, users must not run password-cracking programs, packet sniffers, or port scanners on TBVME IR equipment.

7.04.10 Backup Tapes and Documentation

Employees maintain data files on the network server to facilitate back-up of all information. The network server is backed up daily. These daily tapes are maintained in the designated fire safe. A weekly back-up of all data files, programming files, and documentation files is sent to the State Library for storage. A complete system back-up is done monthly and maintained at the State Library.

7.04.12 Program Documentation

The programmers maintain documentation files and materials. Copies are placed in the State Library, and additional copies are provided to the IRM to be secured in a separate designated fire safe. The documentation files are updated when major programming changes are made or at least quarterly.

7.06 TBVME Website

In accordance with Government Code Chapter 2054, the TBVME maintains a website to allow interested parties access to TBVME forms and other information. Publication of material under the TBVME's website is coordinated through the designated Webmaster.

7.06.02 Posting Items on the TBVME Website

All requests for posting items must be approved by the executive director or a division supervisor. Only items that are ready to be posted should be submitted, staff will double check documents to ensure they are "web ready" (reviewed for content and clarity, including spell-check). Items must be sent as a Microsoft Word attachment via e-mail. Items should include an approximate posting date.

7.08 Internet Usage

The Internet path record is the property of the agency and therefore the taxpayers of the State of Texas. Such information is subject to the Texas Public Information Act and the laws applicable to State records retention.

TBVME staff uses the Internet for legitimate state business (i.e., to research projects associated with the agency's mission).

Employees have no right to privacy regarding Internet use. Management has the ability and right to view employees' usage patterns and act to assure that agency Internet resources are devoted to legitimate state business.

This policy applies to all forms of use of the Internet, and does not supersede any state or federal laws, or any other agency policies regarding confidentiality, information dissemination, or standards of conduct.

7.08.02 Personal Usage

Personal use of the Internet is a privilege, not a right. As such, use should be limited to incidental amounts so as not to impede agency productivity (for example, personal use could be allowed on a limited basis during lunch or other breaks, and during limited periods before and after the employee's regularly scheduled working hours). The privilege may be revoked at any time and for any reason. Abuse of the privilege may result in disciplinary action.

Brief and occasional personal use (i.e., surfing, browsing) is acceptable if the following conditions are met:

1. Permission is obtained from supervisors to use the Internet for professional activities and/or career development.
2. Employees using the Internet identify themselves honestly, accurately, and completely when providing information.
3. Only those employees or officials who are expressly authorized to speak to the media or the public on behalf of the agency represent the agency within any news group or chat room. Other employees may participate in news groups or chat rooms in the course of business when relevant to their duties, but they do so as individuals speaking for themselves and include a disclaimer in their comments like the following: "This contains the thoughts and opinions of (employee name) and does not represent TBVME policy."
4. Accessing, posting, or sharing any racist, sexist, threatening, obscene, or otherwise objectionable material (i.e., visual, textual, or auditory entity) is prohibited.
5. The Internet is not used for any personal monetary interests or gain.
6. Employees do not subscribe to mailing lists or mail services strictly for personal use and do not participate in electronic discussion groups (i.e., Listserve, Usenet, news groups, chat rooms) for personal purposes.

7.08.04 External Internet Services

The executive director, upon identifying a need, may approve the expenditure of funds to establish and maintain external internet services. The extent of the service costs to be incurred by the agency is determined on a case-by-case basis by the executive director. The employee arranges for the installation and billing service. The employee makes requests for reimbursement to the Finance Division on a purchase request form.

7.10 Electronic Mail (e-mail)

The TBVME follows the policy recommendations of the Texas State Library and Archives TBVME for Electronic Mail. These guidelines require compliance with Chapter 13 TAC, Sections 6.91-6.97. These sections apply to any e-mail messages created, received, used, or disposed of using the TBVME's electronic mail system.

Employees need to keep in mind that all e-mail can be recorded and stored along with the source and destination.

Employees have no right to privacy regarding e-mail. Management has the ability and right to view employees' e-mail.

Recorded e-mail messages are the property of the agency and therefore the taxpayers of the State of Texas. Thus, they are subject to the requirements of the Texas Public Information Act and the laws applicable to state records retention.

This policy applies to e-mail used within the agency and e-mail used conjointly with the Internet, and does not supersede any state or federal laws, or any other agency policies regarding confidentiality, information dissemination, or standards of conduct.

7.10.02 Definitions

1. E-mail message - A record created or received on an electronic mail system including brief notes, more formal or substantive narrative documents, and any attachments that may be transmitted with the message.
2. E-mail receipt data - Information in electronic mail systems regarding the date and time of receipt of a message, and/or acknowledgment of receipt or access by addressee(s).
3. E-mail system - A computer application used to create, receive, retain, and transmit messages and other records. Excluded from this definition are file transfer utilities.
4. E-mail transmission data - Information in electronic mail systems regarding the identities of sender and addressee(s), and the date and time messages were sent.
5. Electronic media - All media capable of being read by a computer including computer hard disks, magnetic tapes, optical disks, or similar machine-readable media.
6. Electronic record - The information that is maintained in electronic format in a computer for computer processing and the product of computer processing of that information that satisfies the definition of a state record in Government Code §441.180.
7. Electronic records system - Any information system that produces, manipulates, and stores state records by using a computer.
8. Mailing list service - An electronic mailing list hosting service (e.g., List serve) used for discussions and announcements within a specified group of individuals. Subscribers to the service participate by sending information to and receiving information from the list using electronic mail messages.

9. Records management officer - The person who administers the records management program established in each state agency under the Government Code §441.183.
10. State Record - Any written, photographic, machine-readable, or other recorded information created or received by or on behalf of a state agency or an elected state official that documents activities in the conduct of state business or use of public resources. The term does not include:
 - a. library or museum material made or acquired and maintained solely for reference or exhibition purposes;
 - b. an extra copy of recorded information maintained only for reference; or
 - c. a stock of publications or blank forms.

7.10.04 User Responsibilities

It is the responsibility of the user of the e-mail system, with guidance and training from the Records Management Officer, to manage the e-mail messages according to the agency's retention schedule. It is the responsibility of the sender of e-mail messages within the agency's e-mail system to retain the record copy. Recipients of messages from outside the agency retain the messages for the proper retention period. Except for transitory information, e-mail is placed into an electronic file or folder with the record series name and date as the file/folder name. File or folder names are consistent and able to be correlated with the appropriate paper filing system, if there is one. This will enable staff to delete messages that have met their retention period. Names of sender, recipient, date/time of the message, as well as any attachments are retained with the message. Acknowledgments or receipts of messages sent may be treated as transitory information. Except for list-serve mailing services, distribution lists can identify the sender and recipient of the message.

7.10.06 General Guidelines for Personal e-mail

Personal use of e-mail is a privilege, not a right. As such, use should be limited to incidental amounts so as not to impede agency productivity (for example, personal use could be allowed on a limited basis during lunch or other breaks, and during limited periods before and after the employee's regularly scheduled working hours). The privilege may be revoked at any time and for any reason. Abuse of the privilege may result in disciplinary action.

Employees should be aware that when sending an e-mail of a personal nature, there is always the danger of the employees' words being interpreted as official agency policy or opinion. Therefore, when an employee sends a personal e-mail, especially if the content of the e-mail could be interpreted as an official agency statement, the employee should

use the following disclaimer at the end of the message: "This e-mail contains the thoughts and opinions of (employee name) and does not represent official (agency name) policy."

Brief and occasional personal e-mail messages may be sent and received if the following conditions are met:

1. Racist, sexist, threatening, or otherwise objectionable language is strictly prohibited.
2. E-mail should not be used for any personal monetary interests or gain.
3. Employees do not subscribe to mailing lists or mail services using their agency address strictly for personal use.
4. Personal e-mail does not cause the state to incur a direct cost in addition to the general overhead of e-mail. Consequently, employees, upon receiving personal email, read it and delete it. No storage of personal e-mail is permitted.
5. Personnel are encouraged to use commercial e-mail sites, such as, Yahoo, Hotmail, etc. for their personal e-mail where possible.

7.10.08 Maintenance of E-Mail

Records created using an e-mail system will be saved for their proper retention period within the Microsoft Exchange and Outlook system used by TBVME. The network administrator will conduct daily backups to ensure email retention schedules built by the email user can be restored in the event of a disaster. Effective September 1, 2010.

7.10.10 Disposition of E-Mail

Document e-mail disposition using a disposition log or its equivalent. Transitory messages with a retention period of After Closed (AC) have limited value, may be deleted immediately, and do not have to be documented.

7.10.12 Retention Requirements

The retention schedule lists the record series and the retention period for each series. It is the content and function of an e-mail message that determines the retention period for that message. All e-mail sent or received by an agency is considered a state record. Therefore, all e-mail messages must be retained or disposed of according to the agency's retention schedule.

According to the retention schedule, e-mail generally falls into several common record series categories. These are:

1. Administrative Correspondence (1.1.007) - Incoming/outgoing and internal correspondence, in any format, pertaining to the formulation, planning, implementation, interpretation, modification, or redefinition of the programs, services, or projects of an agency and the administrative regulations, policies and procedures that govern them. Retention: 3 years.
2. General Correspondence (1.1.008) - Non-administrative incoming/outgoing and internal correspondence, in any media, pertaining to or arising from the routine operations of the policies, programs, services, or projects of an agency. Retention: 1 year
3. Transitory Information (1.1.057) - Records of temporary usefulness that are not an integral part of a records series of an agency, that are not regularly filed within an agency's record keeping system, and that are required only for a limited period of time for the completion of an action by an official or employee of the agency or in the preparation of an on-going records series. Retention: AC (after purpose of record has been fulfilled).

AGENDA ITEM 9

TAB 7

CONSIDERATION AND APPROVAL OF AGREED ORDERS

(Mr. Hargis)

AGENDA ITEM 10

TAB 8

**CONSIDERATION AND APPROVAL OF CASES RECOMMENDED FOR DIMISSAL
FROM INFORMAL CONFERENCE**

(Mr. Hargis)

AGENDA ITEM 11

TAB 9

**CONSIDERATION AND APPROVAL OF CASES RECOMMENDED FOR DIMISSAL
FROM STAFF CONFERENCE**

(Mr. Hargis)

AGENDA ITEM 12

TAB 10

**CONSIDERATION AND APPROVAL OF CASES RECOMMENDED FOR DIMISSAL
FROM MEDICAL REVIEW**

(Mr. Hargis)

AGENDA ITEM 13

CITIZEN COMMENTS

(Mr. Pardue)

If there is anyone in the audience who wishes to address the Board and has not completed one of the Witness Cards, please do so at this time.

Individuals wishing to comment on the rules to be adopted will be recognized during the time the rules are addressed.

The Board will now recognize _____, please limit your comments to **3** minutes.

AGENDA ITEM 14

**DISCUSSION OF DATES AND POSSIBLE AGENDA ITEMS FOR FUTURE BOARD
MEETINGS**

(Mr. Pardue)

AGENDA ITEM 15

EXECUTIVE SESSION TO DISCUSS PENDING AND CONTEMPLATED LITIGATION AS WELL AS ANY PULLED AGREED ORDERS OR CASE DISMISSALS (IF ANY) FOR DISCUSSION

(Mr. Pardue)

I move that we go into Executive Session for private consultation and advice of counsel concerning pending or contemplated litigation, including administrative proceedings, or settlement offer and/or possible disciplinary actions under the authority of the Texas Open Meetings Act, Chapter 551 of the Government Code.

AGENDA ITEM 16

RETURN FROM EXECUTIVE SESSION

(Mr. Pardue)

RETURN TO OPEN SESSION STATEMENT:

There was no final action, decision, or vote with regard to any matter considered or discussed in executive session. The executive session ended at (____) on (____). A certified agenda of the executive session was made.

Motion to approve all orders:

I move that we approve all Agreed Orders as presented.

Motion regarding orders that were pulled and not approved as a group:

*I move that we do not approve Agreed Order(s) _____
and direct staff to _____.*

AGENDA ITEM 17

MEETING ADJURN

(Mr. Pardue)