



# TEXAS OPEN MEETINGS ACT AND PUBLIC INFORMATION ACT

Governmental hospitals in Texas, such as hospital districts, hospital authorities, and county hospitals, are subject to the requirements of the **Texas Open Meetings Act** and the **Texas Public Information Act**. Health care trustees of governmental facilities need to be familiar with the key requirements of these laws to ensure compliance. Here is a primer to help you get more familiar with these laws:

## Open Meetings Act

The Open Meetings Act requires meetings of governmental bodies to be open to the public, except for expressly authorized closed sessions. The Act applies to any meeting of a governmental governing board in the state and requiring that written notice of the meeting be publicly posted in advance.

**Meeting** is defined under the Act as a gathering of a quorum, or majority, of the directors when there is either:

- A deliberation involving public business or formal action taken by the board; or
- Receipt of information from, or exchange with, a third person about the board's public business.

**Written notice** must be publicly posted at least 72 hours in advance of the governing board meeting, stating the date, time, location, and subjects to be considered. The notice must be sufficiently detailed with subjects that will be covered; terms such as old, new or other business are not sufficient. Notice of meetings must be posted at a place convenient to the public on your hospital's website, provided to the county clerk for posting.



**There are certain detailed exceptions for emergency meetings that can be held with less than 72 hours' notice.**



**Common closed meeting exceptions include consultations with attorneys, deliberations about real property, personnel, security devices, new service lines and medical peer review, quality assessment and compliance.**

Meetings must be **open and accessible to the public**.

- A governmental board may only vote on an item in an open meeting. The public has a right to **attend and record** an open meeting.
- A governmental board is required to allow members of the public to speak on an agenda item before or during the board's consideration of the item.
- The board may adopt reasonable rules regarding public comment, including time limits on speaking.

Governmental boards are required to **keep minutes or a recording** of each open meeting and to keep a "certified agenda" (a list of topics discussed) or a recording of each closed meeting. The certified agenda or recording of a closed meeting must be kept confidential by law.

Actions taken by a governmental board in violation of the Act can later be declared void by a court!

The Act makes the following violations a crime:

- Failing to keep a certified agenda or recording of a closed meeting;
- Disclosing a certified agenda or recording of a closed meeting to the public
- Going into closed meeting when a closed meeting is not permitted under the Act; and
- Meeting in multiple small groups of less than a quorum to circumvent the Act

### Texas Public Information Act

Most information generated or retained by a governmental entity is public information under the Public Information Act (PIA). This includes information in any form – including paper, electronic or video.

Although most governmental information is public, **certain information is made confidential** by law and not subject to the PIA. Examples include information related to:

- Patient health;
- Pending or anticipated litigation;
- Competition or bidding;
- Attorney-client privilege; and
- Current or former employees

Any member of the public is entitled to **make a request for public information** under the PIA. The request must be made in writing; however, the request does not have to be labeled as a PIA request, and no magic words are required.

Upon receipt of a valid request for information under the PIA, the governmental entity usually must either promptly provide the information to the requestor or, within 10 business days of receipt of the request, seek a decision from the Attorney General's Office regarding whether the requested information must be disclosed.

Information on an a governmental official or employee's personal device, such as a cell phone or personal computer, can still be subject to the PIA if it relates to the official business of the governmental entity. If a government official or employee has such information on a personal device, they are considered a custodian of the information and are subject to Texas laws regarding retention and destruction of government records.

### Required Training and Resources

Governmental board members are required to receive a one-time training on the Texas Open Meetings Act and the Texas Public Information Act, within 90 days after taking the oath of office. Training resources created by the Texas Attorney General's Office are available at [www.texasattorneygeneral.gov/open-government/governmental-bodies](http://www.texasattorneygeneral.gov/open-government/governmental-bodies)

*Authored by Brian Jackson, J.D. and Craig Carter, J.D., of Jackson & Carter PLLC – an Austin based law firm that specializes in the representation of hospitals, hospital related organizations, physicians, and other health care providers throughout Texas. [www.jackson-carter.com](http://www.jackson-carter.com). This document does not constitute legal advice, please consult with your legal counsel for specific questions.*