MEMBERSHIP HANDBOOK

for

BOARDS & COMMISSIONS

John A. Kitzhaber, M.D.

Governor

State of Oregon

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Dear Board Member:

As Oregon state board and commission members, you are participating in a long tradition of citizen involvement in state governance. Your generous contribution of time and talent assures the continuation of diverse and innovative approaches in governance in the state of Oregon.

I am working hard to strengthen Oregon's economy, create jobs, and improve the quality of life for all citizens of our great state. In order to achieve these goals, we must work together as a community. That is why I consider you and your fellow board members an invaluable part of my network throughout the state. I am committed to creating a broad-based and inclusive group of dedicated people who will invest in local communities, listen to the needs of constituents and find equitable solutions to problems. Your participation enables Oregon to preserve the values and benefits that makes Oregon such a wonderful place to live, do business and raise our families.

My staff and I want to ensure that you are aware of the purpose and function of your respective board, so we created this handbook to help you in your role as a board member. This role bestows upon you a responsibility to actively participate in your board's work by being prepared and by regularly attending meetings. In addition, it is extremely important that you maintain the highest ethics and use taxpayer monies wisely. I have pledged to maintain a system that is both transparent and held accountable to the citizens of Oregon, and you are on the frontlines of that commitment.

Every board and commission is an integral part of our work in communities across the state and I appreciate your time and commitment to our success. On behalf of all Oregonians, I thank you for your service.

Sincerely,

John A. Kitzhaber, M.D.
Governor

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THE BOARD SYSTEM

At all levels of state government, contributions by members of boards increase efficiency, innovation and responsiveness of governmental decision-making. Most major state agencies and departments are headed by policy-making boards or commissions appointed by the Governor. Many additional committees, councils, boards and commissions establish policy in given areas or serve in advisory roles. (The term “boards” shall be used to refer to all of the above groups.)

With boards functioning at all levels, dedicated citizens have the opportunity to participate in developing a wide variety of governmental policies on major issues ranging from consumer protection to economic development, education, conservation, personal rehabilitation and criminal justice.

The board system contributes to the success of Oregon state government. It is key to bringing local citizens’ talent and interest to the state level, keeping government innovative and responsive and improving state performance.

TYPES OF BOARDS & COMMISSIONS

The purpose and scope of each board are determined by the state law or executive order that created it. There are five main types of boards. Each is created to meet a specific need in the management of state government, so it is important to understand the distinctions between each type.

Policy Making Boards are given statutory power by the legislature to make policy decisions and enforce regulations. Policy is developed by interpreting legislative intent as outlined in the board’s governing statutes or in officially adopted administrative rules, and by implementing procedures to carry out those laws or rules. Members of policy making boards are generally final decision makers, accountable directly through the Governor to the public.

Some policy making boards are also **Governing Boards**, responsible for directing a state agency and/or appointing the agency director.

Advisory Boards may be created by the Governor, the legislature, state agencies or existing boards. They serve as advisors on policy matters to their appointing authority who is responsible for the management and administration of the policy. These boards study existing policy and make recommendations for change or implementation. Although they do not have final authority to make or enforce rules, their research and advice to decision makers contribute to effective changes in state government.

Licensing Boards fall into either of the above types, depending on the statute or order that established them. These boards examine and license members of a profession or occupation to practice in Oregon. Some also have the power to discipline members of the regulated profession or occupation, and to suspend or revoke licenses.

Judgment Boards are created by the legislature as review and appeals boards which hear and rule on individual cases. The decisions made by most of these and all other boards may be appealed to a higher court.

Some boards share responsibility for policy making with their appointing authority or another state agency, even though they are called advisory boards.

YOUR ROLE AS A BOARD MEMBER

THE APPOINTMENT PROCESS

You have been appointed to serve on one of Oregon's boards because of your ability, experience and interest in serving. Many boards have specific statutory requirements for membership relating to years of licensed experience, occupation or position, residence, number of public members and other criteria. In selecting members, the Governor strives to balance the membership among geographic, gender, age and ethnic diversity.

The Governor receives recommendations on appointments from many sources. Primary consideration is always given to the ability of the prospective appointee to contribute to the productivity and effectiveness of the board.

Some of the Governor's appointees are required by statute to be approved by the State Senate before they are sworn in as board members. The Governor's appointee appears before the Senate committee which conducts an interview and then forwards the appointment to the full Senate for a vote. The appointment is not official until Senate confirmation has been obtained.

An appointee becomes an official member of the board *only* after the Oath of Office has been signed, notarized and filed with the Governor's office. The board member may not take any official actions until then, but is encouraged to attend board meetings and become acquainted with board issues.

Terms of membership are generally established by statute and vary from one to four years. In some cases, members serve "at the pleasure" of the appointing authority and do not have specific terms of office. Under the Oregon Constitution, a single term of office cannot be more than four years.

Statutes governing some boards prohibit serving more than two or three consecutive terms of office. To include as many citizens in the process as possible, a member will not generally be appointed to serve more than eight years on the same board. However, a board member might serve beyond eight years under certain circumstances, such as when the board is in the middle of a special project or decision.

If a member is interested in being reappointed to the board, it is appropriate for the member to inform the Governor of their interest.

If it is necessary to resign, the board member should send a letter to the Governor's Office of Executive Appointments with the effective date of the resignation. A copy of this letter should also be sent to the administrator of the board from which the member is resigning.

A member may be removed from office at any time for continued neglect of duties required by law, for failure to attend two consecutive meetings of the board without just cause, for incompetence, or for unprofessional or dishonorable conduct.

REPRESENTATION

It is important to keep in mind that all members have been appointed to the board to serve the public at large. The concerns and points of view of all interested parties must be represented and considered, but ultimately, the primary responsibility of every board member is to protect the health, safety and welfare of the general public.

If you were recommended by a professional association or special interest group, you will be expected to provide the board with your technical expertise, and to bring the point of view of the group to the board. However, you were not appointed to serve only as the representative

of a specific group. When the group's interest conflicts with that of the general public, your primary responsibility is to the public. All board members must work for the benefit of the public first, with the good of any particular profession, industry or special interest group taking a secondary position.

If you were appointed to fill a designated "public member" position, you may feel intimidated on occasion by other members' experience in the field or expertise with the subject matter. You are, however, a vital part of the board, representing the Oregon consumer's point of view. Each of you is encouraged to ask questions and seek information until you have a clear answer and good understanding of the items under discussion.

Public and special interest members working together form a productive, effective complement to one another in conducting the work of the board. Listening to all viewpoints and working as a cohesive group provides an excellent forum for developing good policies and procedures and finding fair solutions to problems.

BEING AN EFFECTIVE BOARD MEMBER

Oregon boards are generally small in size (three to 10 members) and are composed of a carefully balanced membership. Each board member has the potential to influence board decisions.

The most important factor to ensure the decisions your board makes are fair and meaningful is **regular attendance** by all members. In addition, it is important that you **prepare for meetings** by reading reports, proposals and other documents prepared or distributed by staff. If you are unsure about something, seek advice and information before and during each meeting that enables you to make a knowledgeable recommendation or decision.

State law also places an important emphasis on regular attendance. In ORS 182.010, it says that a member who has two successive, unexcused absences "shall forfeit his or her office unless prevented from attending" for reasonable cause.

To summarize, effective board members:

- Attend all board meetings.
- Prepare for meetings.
- Recognize that serving the public interest is the top priority.
- Recognize the board must operate in a public and open manner.
- Learn about issues affecting the board.
- Examine all available evidence before making judgment.
- Are aware that authority to act is granted to the board as a whole, not to individual members.

PUBLIC RECORDS/PUBLIC MEETINGS

Oregon is known for an open form of government that allows for citizen participation and involvement. Two illustrations of this are the public records and open meetings laws that have been on the books for many years.

These laws are designed to protect public interest, and to make sure the public's business is conducted in an open forum. As a board member, you should become familiar with these laws and how they apply to the board on which you serve.

AMERICANS WITH DISABILITIES ACT

The ADA sets criteria for accessibility and accommodation. Under the ADA, people who have disabilities have a right to an equal opportunity for effective participation in the activities of boards, whether as appointed members or as members of the public.

Meetings and other board sponsored activities should be held in wheelchair accessible locations. Qualified sign language interpreters, materials in accessible format such as Braille, large print and tape, and other forms of auxiliary aids for effective communications should be provided upon request. Reasonable modifications should be made to policies or procedures whenever they create a barrier to the full and equal participation of a person who has a disability.

COMMON SENSE

- Board members must be familiar with and operate within their board's governing statutes and bylaws, and state and federal laws at all times.
- To ensure accountability, all applicable policies and procedures adopted by the board should be in written form.
- No board member should make decisions or take unilateral action without the consent of the board as a whole.
- Questions about board issues should be directed to the board's administrative or executive officer, who will see that all board members receive full information by the next regular meeting.
- No details of board investigations or matters dealt with in executive session should be disclosed by a board member unless they are part of the public record.
- Board members should use caution about participating in private discussions on behalf of one party in the absence of other parties to a dispute.
- Board members should remember they are seen as representatives of the board when they appear at industry or professional gatherings. They must take care not to appear to be speaking for the board unless specifically authorized by the board to do so.
- Board members must keep in mind that their mission is to serve the public, and it is inappropriate to use board membership to create a personal platform.

GENERAL BOARD ACTIVITIES

BYLAWS

It is recommended that boards have a set of bylaws to direct and clarify its actions, procedures and organization. Bylaws are the guidelines by which a board functions and should include expectations of members. Issues such as attendance, responsibilities and discipline should be addressed in the bylaws. Board members are expected to adhere to bylaws and all relevant statutes.

An organization's bylaws generally include a number of articles, such as the following:

- Name of board
- Mission statement
- Membership

- Officers
- Meetings
- Executive board (if needed)
- Committees, subcommittees
- Parliamentary procedure, often including the name of the manual the board will follow
- Amendment procedures for changing the bylaws

BUDGETING

Every state board whose costs are paid wholly or in part from funds held in the State Treasury must submit to the Department of Administrative Services, before September 1 of each even-numbered year, a proposed budget for the biennium beginning July 1 of the following year.

The proposed budget identifies expected revenues, the expenditures necessary to maintain the existing service level, and expenditure requests—in priority order—to add or delete programs or activities. It also includes any requests for fee increases. Preparing and monitoring the budget is a process that involves many participants. As a board member, you may assist in creating your board's budget, or you may participate in studying the budgets of other agencies.

The budget process includes several steps. The board or its staff prepares an agency budget request and submits it to the Department of Administrative Services for review. A budget analyst in the Department reviews the board's request and submits recommendations to the Governor. The Governor may approve, reject or amend all or part of the budget analyst's recommendations. The approved budget becomes part of the "Governor's Recommended Budget," which is presented to the legislature by the agency and the budget analyst.

Approval of the budget is one of the principal issues in every session of the legislature. Because the Oregon Constitution provides that the state may not spend money in excess of its revenues, legislators go through a delicate budget balancing act each session.

Appropriation bills follow a procedure similar to other bills. The Joint Committee on Ways and Means conducts hearings and receives testimony on the Governor's Recommended Budget. The budget is then reviewed and approved by both houses of the legislature and signed by the Governor. Upon signature or effective date, the appropriation bill becomes law.

The legislatively approved biennial budget is administered by state agencies beginning on July 1 of every odd-numbered year. The budget specifies the maximum amount an agency can spend, subject to quarterly allotment approval by Administrative Services.

State board budget money comes primarily from three sources:

General Funds: This fund is primarily from personal income taxes, corporate excise and income taxes, cigarette taxes, liquor apportionment and insurance taxes. Other large resources of General Fund money include interest earnings, state court fees and fines and other fees. Budget approval for a General Fund board means the board is authorized to spend up to a certain amount of tax money for its operation. This authorization is called an appropriation.

General Fund money is generally used for programs that deal with health (public and mental health), education (higher education, community colleges, basic school support), public welfare, correctional institutions, legislative and judicial functions, general governmental administrative functions and public transportation.

Federal Funds: Some state boards are funded in whole or in part by federal funds. Such boards must get permission from the legislature to apply for this money (federal grants or en-

titlement programs). A federal grant may be a gift to the state or may require that the state provide matching funds.

Other Funds: Most boards get their operating money from sources such as business and non-business license and permit fees, trust fund contributions and earnings (unemployment funds), selective sales and user taxes (gasoline tax, cigarette tax), sales of services (college tuition) or sales of commodities (timber from State lands). Generally, these sources are established by the legislature specifically to support the board or program.

Budget approval for a board financed with Federal or Other Funds establishes the maximum amount of money it can spend from its income source. This is called an expenditure limitation.

Other Funds money is used for most transportation oriented programs (highways, motor vehicles, marine); most employee protection programs (employment, retirement, workers' compensation); many regulatory activities (public utilities, banking, building codes); and some natural resource functions (forestry, wildlife).

Regardless of revenue source, authority for all state agency expenditures rest with the legislature. During a biennium, if your board finds it needs authority to spend more than the available funds due to an emergency situation, it may ask for a limitation increase from the Emergency Board or for an allocation of General Funds from the Emergency Board's fund known as the Emergency Fund. Such requests go to the Emergency Board only if they are approved in advance by the Governor.

The Emergency Board is a statutory committee made up of state legislators who usually serve on the Joint Committee on Ways and Means. The Emergency Board meets regularly throughout the legislative interim and considers only state agency requests (including boards). A board submits its request to the Department of Administrative Services, which reviews the request with the Governor, and if he approves, makes a recommendation to the Emergency Board. If items are sent to the Emergency Board, a budget analyst from the Legislative Fiscal Office also evaluates the request and sends a recommendation to the Emergency Board. The request is then considered by a subcommittee of the board which makes a recommendation to the full board, and a final decision is made.

Whether you are directly or indirectly involved in the budget process, you will find there are budget experts in Administrative Services and in your agency who can help you understand and deal with the process.

RECOMMENDING LEGISLATION

Many state boards work with the legislature in changing and developing state law. Your board may propose legislation and/or track bills relating to the work and concerns of your board. Legislation proposed by your board should be submitted to your agency staff liaison, to the Governor's assistant who works with your board, or to the Governor's legislative coordinator.

As a board member, you may also testify before legislative committees and advise legislators on issues that concern your board. The knowledge and expertise provided by state boards can be very helpful to the legislature. Be careful, however, that you do not represent yourself as a spokesperson for your board without the board's prior consent and approval.

RULEMAKING

To carry out prescribed duties and responsibilities, your board may need to prepare and/or adopt administrative directives. Generally speaking, there are four types of directives: Rules, policies, procedural statements and administrative memoranda. It is important to understand

the differences between these types of directives and the extent of your board's authority to adopt one or more of the types.

A **rule** is a general administrative directive, standard, regulation or statement that implements, interprets or prescribes law. It may set forth standards and expectations in general terms or may specifically deal with day to day objectives. A rule, rather than a policy or procedural statement, is adopted when the subject matter affects the public or another agency of government, or when a statute directs that a rule be adopted. Once established, a rule has the force of law and all persons or entities to whom the rule applies must adhere to it.

Boards may engage in rulemaking *only* if the legislature has specifically delegated that authority in the board's enabling statute. Most boards have the authority to pass rules and regulations necessary to implement their own statutory powers. The board cannot pass rules which go beyond the scope of its statute, because rules are generally intended to provide interpretive support for the statutes.

Because rules affect the public, they must be adopted in compliance with the requirements of the Administrative Procedures Act (ORS Chapter 183) unless specifically exempted by statute. The Administrative Procedures Act (APA) is a comprehensive code that imposes requirements for several types of board procedures: Rulemaking, issuing declaratory rulings, holding contested case hearings, ensuring readability of public writings, and legislative review of state agency rules.

According to the APA, any individual or group can petition a board to adopt, amend or repeal a rule. Or the board itself may initiate a rule or rule change in response to a pattern of problems. Following is a common procedure for writing administrative rules:

1. Board staff, working with the board, develop the proposed rules, keeping these guidelines in mind:
    - the board must have legal authority to adopt the rule and may adopt only rules supported by statute;
    - the board must take into account the economic impact of the proposed rule on consumers and affected businesses, industries and occupations;
    - the board may not adopt a rule which violates the law or the constitution; and
    - the board must comply with statutory requirements for rulemaking procedures.
2. The board reviews and approves the proposed rules.
3. The board's legal counsel from the Attorney General's office may be asked to review the proposed rules.
4. Public notice is given of the intent to adopt the proposed rules.
5. A public hearing may be held to hear testimony on the proposed rules.
6. The board formally adopts the rules.
7. A copy of the rules is sent to the Secretary of State for filing, and public notice is given that the rules have been adopted by the board.
8. Legislative Counsel reviews the proposed rules.

A **policy** sets forth, in general terms, minimum standards and directives concerning internal management which do not substantially affect the interests of the public. They are generally issued by the board's administrative officer or appointing authority. They have the same status within the board as a rule, and all persons to whom a policy applies must adhere to it.

Policy development and adoption are not subject to statutory mandate or the requirements of the APA. However, to protect the interests of the board members, staff and other parties affected by the proposed policies, it is wise to develop a systematic procedure for policy making.

Staff and other affected persons should always be given an opportunity to make suggestions or ask questions before final adoption.

Procedural statements give the specific details of the day to day processes that carry out policies and rules. They are issued by the board administrative officer, govern all persons affected, and have the same status within the board or agency as rules.

Administrative memoranda are simply the notes used internally to communicate temporary data, one-time announcements or requests, and page revisions of existing policies and procedure statements. There is no specific format prescribed for administrative memoranda.

ADDITIONAL REGULATORY BOARD ACTIVITIES

Many boards engage in regulatory activities. The philosophy of government regulation assumes the public would suffer physical, emotional or financial injury if the state did not exercise some oversight or control. Occupational and professional regulation is intended to ensure that people engaged in those activities having an impact on the public's health, safety or welfare, provide Oregon citizens with honest and competent service. In addition, the regulation system provides a means for the public to seek amends through a fair, objective process.

Members of regulatory boards help to set policy and give guidance to the regulated industry or profession under governing statutes. In addition, your responsibilities may include preparing and conducting examinations, evaluating applications, issuing or denying licenses, regulating by inspection, conducting investigations of alleged violations of the law, taking normal disciplinary action, issuing citations, holding hearings and imposing penalties. These responsibilities must be prudently exercised on behalf of both the public and the occupations and professions being regulated.

Following are key activities of regulatory boards:

TESTING

Effectively constructed and administered tests provide an important contribution to licensure. Licensing tests should be designed to ensure an applicant's education and experience have adequately prepared them to assume an occupational or professional role that impacts the public's health, safety and welfare.

DISCIPLINE

A principal responsibility of licensing boards is to determine whether a person should obtain or retain a license. Those licensing boards with regulatory authority not only establish the standards and prescribe the qualifications required for a license to practice, they are able to regulate the services provided by the licensee by enforcing compliance with those standards.

Most licensing boards may revoke, suspend or refuse to renew any license, registration or certificate they issue, and some are authorized to stay a suspension on probationary conditions. They may issue a letter of warning, reprimand or censure. Most boards may assess a fine for noncompliance with certain statutes or rules.

COMPLAINTS

Most boards receive complaints about licensees. Complaints are usually received from consumers of licensee services, other licensees or professionals, other regulatory agencies, or as

a result of routine inspections or investigations. Each complaint must be reviewed, and every effort must be made to mediate and satisfactorily resolve all complaints.

If there is a question as to whether a complaint falls within the board's jurisdiction, the administrative officer should consult with the board's assigned Attorney General. If a complaint is not within the board's jurisdiction, the board should transmit the complaint, together with any evidence or information, to the proper agency. The complainant should be notified of this transmittal.

HEARINGS

In some cases, an administrative hearing will need to be held to resolve a complaint. The Administrative Procedures Act establishes specific procedures that must be followed to take disciplinary actions against individuals or firms (e.g., suspending or revoking a license or assessing a fine). If the board conducts a hearing required by the APA, board members should not participate in the investigative or pre-hearing complaint handling functions. They must be impartial parties to the hearing.

Individual board members should disqualify themselves if bias or significant interest prevents fair and impartial participation in the hearing. Bias, or prejudgment, include issues of fact in a case as well as bias for or against a party in the case. Interest means the board member personally stands to gain or lose from the outcome of the hearing.

If members have any conflicts of interest or have received any communication on a fact or issue made outside the hearing during review of a case, they must place on the record a statement on the nature of the conflict or substance of the communication.

Hearing decisions made by boards may be appealed to the Court of Appeals.

Administrative details of hearings are generally handled by staff. The administrative officer of your board can give you more information about procedures for hearings the board conducts.

BOARD RELATIONS

In Oregon, most state agencies are relatively independent within their areas of responsibility. Overall policy guidance and direction are provided by the Governor, as the state's chief executive officer, and by the legislature, which writes laws and appropriates operating funds. To provide an overall management structure, the Governor uses the Department of Administrative Services.

The executive and legislative branches reflect the separation of powers principle that provides a system of checks and balances. The legislature creates state agencies, defines their functions and appropriates funds. The Senate confirms the Governor's appointments to certain offices. To ensure legislative intent is followed, the Legislative Counsel Committee reviews state agencies' administrative rules.

The Governor coordinates the activities of state agencies; actively participates in the design, development and approval of state agency budgets; appoints many agency directors, board members and other officials; and approves or disapproves all legislation affecting state agencies.

Board activities are subject to both legislative and executive oversight. Actions by the Governor and the legislature may result in revision of a board's authority or changes in appropriations.

OREGON STATE LEGISLATURE

Many board members have some involvement with the legislature during their period of service. Oregon's legislature consists of the House of Representatives, which has 60 members elected for two-year terms, and the Senate, whose 30 members are elected to serve four-year terms.

The Oregon Constitution requires that the legislature meets annually. It convenes on the second Monday in January and stays in session approximately six months. The members of the legislature or the Governor may call a Special Session if there is a need to meet during the interim.

The Speaker of the House and President of the Senate, the two most significant leadership positions in the legislature, are elected by the majority of their respective houses to preside over daily sessions and perform other duties prescribed by rule, custom and law.

Both houses operate under an open committee system that allows public testimony on any issue. The committees are appointed by the presiding officers. Typically, some 2,000 bills are introduced each session, and about one-third of them become law. Most of the work in considering and revising bills during the session is done in legislative committees. Committees also conduct interim studies.

General information regarding the current organization of the legislature, including committee assignments, office locations and telephone numbers, may be obtained from the following offices:

SENATE	HOUSE
Secretary of the Senate	Chief Clerk of the House
S-223 State Capitol	H-271 State Capitol
Salem, OR 97310	Salem, OR 97310
503-986-1851	503-986-1870

LOCAL & FEDERAL GOVERNMENT

As a board member, you may represent state government in its relations with other governmental bodies. State government has a significant responsibility in the federal system of planning, funding and operating programs. About 70 percent of all federal grant dollars are funneled to state government or through state government to local governments. The other 30 percent goes directly to local programs.

State-Local Relations: Many state boards make policy decisions or recommendations, and conduct studies that directly affect the budget, programs and daily operations of cities, counties and other local government districts in Oregon.

Boards can work directly with local citizens and officials or through established associations. As in prior administrations, the goal is to strengthen local government to establish healthy communities. Boards help accomplish this goal by serving as the communications link between local communities and state government.

State-Federal Relations: Under the direction and leadership of the Governor, state government can affect the development and operation of federal regulations, funding and programs to ensure the state's priorities are considered. Each federal agency must publish significant regulations scheduled for review in the Federal Register. Comments from state governments

are included in the review process. The review and comment procedures determine if existing regulations should be rewritten or eliminated.

WHERE TO GET INFORMATION & HELP

BOARD STAFF

Most state boards work within a state agency or have access to assistance and advice from the agencies. Typically, if a board works within an agency, certain central support services are provided to manage internal business. Some boards have their own staff to perform their day to day administrative functions.

Most often, the primary role of board staff is to carry out the rules, policies and programs developed by the board. Administrative officers or staff also bring to the attention of the board issues of importance, prepare meeting agendas in consultation with the board chair and compile background information for board study.

Additional responsibilities often delegated to board staff include:

- all meeting arrangements
- preparation of minutes
- processing of complaints
- staff supervision
- administering board programs
- designing forms to conduct board business
- preparing budget requests and Emergency Board requests
- monitoring income and expenditures to comply with legislatively approved budgets
- working with the board to develop proposed rules
- providing information to the board about proposed legislation
- tracking bills during a legislative session
- coordinating testimony before legislative committees
- representing the board before legislative committees and other groups

GOVERNOR'S OFFICE (503-378-3111)

The Governor manages and coordinates the operations of state government through a staff of professionals in his Salem office.

Most state agencies report to the Governor through the Department of Administrative Services. Staff in the Governor's Office are responsible for human resources, health care, natural resources, education, legislative relations, legal affairs, executive appointments, citizen representation, affirmative action, special projects and communications.

In addition to the Governor's Office, your immediate staff and affiliated state agency, there are resources available to you throughout state government. You may have occasion to request advice from legal experts, a fiscal manager or others with special expertise. Following are descriptions of the specific functions of state agencies that may affect board members and whose support services are available to all state boards.

DEPT. OF ADMINISTRATIVE SERVICES (503-378-3104)

The director of Administrative Services is appointed by the Governor. The Department was established to administer the Governor's programs, and to provide policy direction and support services to state agencies. As mentioned above, most state agencies report to the Governor through the Administrative Services Director.

The Budget & Management Division (503-378-3106) reviews all state agency proposed budgets to assure resources are allocated effectively, and prepares the Governor's biennial budget package for approval by the Governor and presentation to the legislature. All state agencies, including state boards, submit their proposed budgets to this Division for review and assistance. Additionally, the Division oversees expenditures to assure consistency with the Governor's policy and legislative intent. Board members participate in preparing, reviewing and presenting the budget to the Governor and legislature.

The Human Resource Services Division (503-378-8344) administers state personnel management programs; provides services to state agencies in recruiting, compensation, records and training; and negotiates collective bargaining contracts for the state with state employee labor unions. This Division is responsible for ensuring all state employees are hired according to the state merit system and affirmative action goals. The Division also approves the selection process and salaries for all staff. The contracts it negotiates with unions typically cover two-year periods.

ATTORNEY GENERAL (503-378-4400)

The Department of Justice is the state's law firm, headed by the Attorney General. The Department provides most of the same services as do private law firms, but with a few important differences.

By statute, the Attorney General and lawyers within the Department are the sole providers of legal advice and representation to state agencies and officials. Any legal question must be asked of the Department of Justice. By the same token, the Department is required to answer any question asked of it.

The Department provides oral and written legal advice to all state agencies and state officials, acts as a legal adviser at meetings, and is an advocate for the state in hearings, trials and appeals.

Each state agency, and its governing board, is assigned at least one assistant attorney general who specializes in the area of law affecting the agency. These lawyers are assigned to identify any legal problems that may be posed by existing or proposed agency policies or actions. Your attorney is there to facilitate your policy choices by pointing out potential problems and evaluating the legal effect of other policy options that may accomplish the desired goal more easily.

If you act on the advice of counsel, the Department will defend you in court and any liability will be assumed by the state. Acting without consulting your lawyer, or acting contrary to his or her advice, may result in personal liability.

Getting legal advice from the Department can be as simple as a phone call. However, some issues require a more formal and comprehensive review through the opinion process. Each agency and board usually has an internal procedure for requesting legal assistance. You may wish to discuss that procedure with your board staff.

The Department also uses conferences, such as the biennial Administrative Law Conference; and publications, such as the Public Records and Meetings Manual, the Agency Administra-

tor's Guide and the Administrative Law Manual, to help inform agency staff and citizen board members of their legal rights and responsibilities.

The Attorney General encourages board members to work through their agency staff to arrange personal meetings with their contact attorney and acquaint themselves with the statutes or rules providing their source of authority. Reviewing the Public Records and Meetings Manual and the Administrative Procedures Act is also a worthwhile task for board members.

SECRETARY OF STATE (503-986-1500)

The Secretary of State is an elected official who serves as the state's chief elections and public records officer, the auditor of public accounts and the administrator of the State Archives.

The Audits Division (503-986-2255) performs fiscal and compliance audits of all state agencies and boards as well as establishing and monitoring standards for municipal audits. Be certain you are provided reports on regular or special audits or any examination of your board.

The Archives Division (503-373-0701) preserves permanent government records and establishes retention schedules for public records of state agencies and boards. State boards must follow the guidelines established by the division on the care, accessibility, storage and destruction of its papers and records. No official records may be destroyed without the approval of the division. **Administrative Rules** receives and processes administrative rules adopted by all state agencies. This section edits, codifies and publishes Oregon Administrative Rules.

OREGON GOVERNMENT ETHICS COMMISSION (503-378-5105)

The Ethics Commission enforces Oregon's government ethics and lobby registration laws. These laws require public officials to disclose potential conflicts of interest, prohibit use of office for personal gain and require certain officials to file statements of economic interest.

Lobby regulation laws require lobbyists to register and to file expenditure reports. Certain lobbying is prohibited. One example is making a monetary contribution to a legislative official's campaign fund during a legislative session.

The Commission has authority to conduct investigations and hearings, to issue advisory opinions on these matters, and to levy fines for infractions. An ethics guide is available upon request from the Commission.

SELF-ASSESSMENT

The following checklist may be useful in carrying out a regular review of your board's functions:

1. Is there a need for regulation?
   - When did regulation of the profession or occupation begin, and for what reasons? Does the need still exist?
   - Are the rules promulgated by the board consistent with the statutes and legislative intent?
   - Is the implementation (guidelines, procedures, etc.) consistent with the rules?
2. Does the board promote and protect the public interest?
   - Are there contacts with consumer groups?
   - What mechanisms encourage consumer participation in decision making?

- Are due process protections provided to applicants, licensees and the public?
- Is the board making itself known to, and open to, the public? Do any members of the general public attend meetings?
- How are board meetings, activities and decisions publicized?
- Does the board or its administrator produce an annual report summarizing its activities? Would the average citizen understand the report and be able to judge how well the board is doing its job? Where does the report place its emphasis?

3. Is the board involved in consumer education?
   - Are consumers informed of their rights? Are they informed of ways to get help when their rights have been violated?
   - Is information made available to help consumers avoid problems by knowing what to expect when they deal with members of your profession or occupation?
4. Does the board provide protection against deceptive practices, negligence and incompetence?
   - Are records of complaints kept to indicate patterns of abuse?
   - What actions does the board take to discipline licensees? Are they fair to licensees and to consumers?
5. Does the board avoid engaging in practices that limit competition?
   - Does the licensing process unduly restrict entry into the profession or occupation?
   - Are minimum or suggested fee schedules avoided?
6. Is the board operating efficiently?
   - Do meetings start on time? Do members arrive on time consistently?
   - Do members attend regularly? Do they notify the chair or staff when they are not coming or will be late? Are they aware of quorum requirements?
   - Are minutes of previous meetings mailed promptly?
   - Does the board spend much time in routine administrative items that could be taken care of by staff?
   - Do board members study written background material prepared by staff before coming to meetings?
   - Is the board meeting at a time most convenient for the members? Does it meet too often? Not often enough?
7. Does the board allow others to take up too much of its meeting time?
   - Do licensees or those connected with the occupation sit with the board and participate in its discussions and decisions?
   - Are people from the audience making comments when they are not part of the scheduled presentation at meetings?
8. Does each board member understand his or her responsibilities?
   - Do board members have a current copy of the agency budget to review, discuss and monitor?
   - Do board members view, discuss and monitor the agency's monthly or quarterly expenditure report?

- Does the board review the Secretary of State's agency/board audit and take appropriate action?
- Does each board member have a packet or compendium of policies and/or administrative rules followed by the agency, as well as copies of all statutes for which the board has responsibility?
- Are board members informed of procedure followed by the administrative staff for processing licenses or other certificates for which your board is responsible; complaints from consumers; license revocation, hearings, etc.?
- Does your board or agency have a statement of goals and objectives? (Note: these goals and objectives should be reviewed on an annual basis for currency.)
- Does your board have a statement of the affirmative action policy of your administrative agency and statistics regarding its implementation?

SUMMARY OF PERTINENT LAWS

It is important that members be familiar with these laws—please review them!

ACTIVITY	REFERENCE
Senate Confirmation	Oregon Constitution, Article III Section 4
Holding Office, Tenure, Oaths	Oregon Constitution, Article XV Sections 1-3
Personal Liability	ORS 30.260, et seq.
Lobby Disclosure Act	ORS 171.725
Non-Attendance of Board Members	ORS 182.010
Administrative Procedures Act	ORS Chapter 183
Alternative Dispute Resolution	ORS 183.502
Public Records & Meetings Laws	ORS 192.610-192.710
Vacancies & Eligibility	ORS 236.010-030
Diversity in Appointment Criteria	ORS 236.115
Term Length, Removal, Prohibition from Accepting Certain Positions	ORS 236.140-147
Government Ethics Law	ORS Chapter 244
Expenses, Compensation & Parking	ORS 292.495
Oregon Documents Depository Program	ORS 357.003-004 & 357.090
Unlawful Trade Practices Act	ORS 646.608, et seq.
Licensing Boards Administration	ORS Chapter 670