

Sunset Public Hearing Questions for
TENNESSEE MOTOR VEHICLE COMMISSION
Created by Section 55-17-103, *Tennessee Code Annotated*
(Sunset Termination June 2016)

1. Provide a brief introduction to the Tennessee Motor Vehicle Commission, including information about its purpose, statutory duties, staff and administrative attachment.

The Motor Vehicle Commission was created by the general assembly in 1955 by T.C.A. 55-17-101 declaring that the distribution and/or sale of motor vehicles in the state vitally affects the general economy and the public interest and welfare. The purpose of the commission is to protect the citizens against frauds, impositions and other abuses related to the sale of motor vehicles. Per T.C.A. 55-17-107 the commission is vested with the powers and duties necessary and proper to enable it to fully and effectively carry out the provisions and objectives of Chapter 17, including but not limited to: (1) the authority to promulgate reasonable substantive and procedural rules pursuant to the UAPA; and (2) the authority to prescribe all forms to be used by the commission in the transaction of its business.

The commission is attached to the Department of Commerce and Insurance in the Division of Regulatory Boards and employs an Executive Director, who serves at the pleasure of the commission and is responsible for the supervision of seven (7) staff members who administer the activities associated with the disposition and performance of the required duties. The department employs investigators and field investigators for proper disposition of the other duties of this part.

2. Provide a list of commission members and describe how membership complies with Section 55-17-103 and 55-17-104, *Tennessee Code Annotated*. Please indicate if there are any vacancies on the commission and explain what is being done to fill those vacancies.

The Commission is comprised of (17) seventeen members. Two vacancies currently exist and 4 four member's terms are expired; however the consumer and manufacturer members (which are expired) serve coterminous with the term of the Governor and until their successor is appointed and qualified. Qualified candidates for appointment to these vacant or expired seats are currently under evaluation by the Governor in consultation with the Tennessee Automotive Association.

FUNCTION	MEMBER	TERM EXPIRES
Chairman (Industry Member)	Eddie Roberts/Lewisburg, TN	January 14, 2019
Independent Dealer Member	Stan Norton/Arlington, TN	June 30, 2020
Manufacturer Member		January 14, 2015
Manufacturer Member		January 14, 2015
Consumer Member	George Bass/Paris, TN	January 14, 2015
Consumer Member	Nathaniel Jackson/Memphis, TN	January 14, 2015
Consumer Member	Don Parr/Pulaski, TN	January 14, 2015
Consumer Member	Billy Keck/Sharps Chapel, TN	January 14, 2015
First Congressional District Member	Lynn Webb/Sevierville, TN	June 30, 2016
Second Congressional District Member	B. Joe Clayton/Knoxville, TN	June 30, 2018
Third Congressional District Member	Ronald Fox/Clinton, TN	June 30, 2020
Fourth Congressional District Member	Stan McNabb/Tulahoma, TN	June 30, 2016
Fifth Congressional District Member	Reed Trickett/Nashville, TN	June 30, 2018
Sixth Congressional District Member	Jim Galvin/Gallatin, TN	June 30, 2020
Seventh Congressional District Member	John S. Murrey/Pulaski, TN	June 30, 2018
Eighth Congressional District Member	Donnie Hatcher/Brownsville/ TN	June 30, 2016
Ninth Congressional District Member	Farrar Schaeffer Vaughan/Memphis, TN	July 31, 2020

3. Does the commission's membership include public/citizen members? Female members? Members of racial minorities? Members who are 60 years of age or older?

Female Members: Yes

Racial Minorities: Yes

Members who are 60 years of age or older: Yes

4. How many times did the commission meet in fiscal years 2013 and 2014 and to date in fiscal year 2015? How many members were present at each meeting? Did the commission comply with the statutory mandate to meet four times each year in January, April, July and October (Section 55-17-105(b), *Tennessee Code Annotated*)

The Commission did comply with the statutory requirement to meet four times per year in January, April, July, and October. The commission met (5) five times in FY13; (4) four times in FY 14; and (6) six times in FY15. The dates and total number members present at each meeting are outlined in the following table:

Year	Present
July 9 2012	15
October 8 2012	12
Jan 7 2012	12
March 4 2013	10
April 15 2013	12
July 15 2013	12
October 7 2013	9
January 6 2014	10
April 21 2014	10

July 14 2014	10
October 7 2014	9
November 13 2014	9
December 3 2014	11
January 12 2015	11
March 2 2015	10

5. What per diem or travel reimbursement do commission members receive? How much was paid to commission members during fiscal years 2013, 2014 and to date in fiscal year 2015?

Commission members are eligible for travel reimbursement at the standard state rates and \$50.00 per day per diem.

	FY12-13	FY 13-14	FY 14-15 YTD
Travel	\$9,250	\$10,089	\$11,420
Per Diem	\$2,261	\$2853	\$2584
<i>Per Diem Includes Medicare and FICA YTD = March 31, 2015 Per TCA 56-1-307</i>			

6. What were the commission's revenues (by source) and expenditures (by object) for fiscal years 2013 and 2014 and to date for fiscal year 2015? Does the commission carry a fund balance and, if so, what is the total of that fund balance? If expenditures exceeded revenues, and the commission does not carry a fund balance, what was the source of the revenue for the excess expenditures?

The commission expenditures did not exceed revenues. The commission carries a reserve fund balance of \$1,621,447.00 for FY 13 and 14. Revenue and expenditures for FY 13, 14, and 15 are outlined by object code in the following table:

EXPENDITURES			
Motor Vehicle Commission	FY12-13	FY13-14	FY 14-15 YTD(Mar 15)
=====			
EXPENDITURES BY OBJECT	MOTOR V	MOTOR V	MOTOR V

Regular Salaries and Wages (70100)	279,794	283,705	315,134.00
Longevity (70102)	13,400	14,300	10,800
Overtime (70104)	0	0	172
Employee Benefits (702)	151,224	150,503	166,604
Payroll Expenditures	444,418	448,508	492,710

Travel (703)	9,250	10,089	11,420
Printing, Duplicating & Film Proc. (704)	13	0	0
Utilities and Fuel (705)	0	0	0
Communications & Shipping (706)	23,976	23,362	16,558
Maint., Repairs and Svcs by Others (707)	0	0	0
Third Party Prof. & Admin. Svcs (708)	2,153	3,575	2,050
Supplies and Office Furniture (709)	1,776	2,508	4,379
Rentals and Insurance (710)	1,614	1,614	1,076
Motor Vehicle Operation (711)	0	0	0
Awards and Indemnities (712)	0	0	0
Grants and Subsidies (713)	0	0	0
Unclassified Expenses (714)	0	0	0
Inventory (715)	0	0	0
Equipment (716)	0	0	0
Land (717)	0	0	0
Buildings (718)	0	0	0
Lost Discounts (719)	0	0	0
Highway Construction (720)	0	0	0
Training of State Employees (721)	435	0	0
Computer Related Items (722)	879	1,030	1,325
State Prof. Svcs. (725)	52,433	65,939	47,548
Total Other Expenditures	92,530	108,117	84,356

GRAND TOTAL	536,948	556,625	577,066
=====			
Cost Backs:			
Administration	329,404	324,090	N/A
Investigation	377,433	429,213	N/A
Legal	122,998	174,567	N/A
Total Cost Backs	829,835	927,870	N/A
TOTAL EXPENDITURES	1,366,784	1,484,495	N/A
=====			
REVENUE:	FY 12-13	FY 13-14	FY 14-15
Licensing Revenue	2,071,353	1,704,278	1,160,494
Case and Complaint Revenue	362,050	206,403	119,385.00
Less: State Regulatory Fee	137,240	143,730	N/A
Net Revenue	2,296,163	1,766,951	N/A
=====			
FISCAL YEAR BALANCE	929,379	282,456	
=====			
PRIOR FISCAL YEAR RESERVE	528,930	1,458,309	N/A
=====			
RESERVE BALANCE	1,458,309	1,740,765	N/A
=====			
CORE Expense	0	119,318	N/A
=====			
RESERVE BALANCE AFTER CORE EXPENSE	1,458,309	1,621,447	N/A

7. Is the commission subject to Sunshine law requirements (per Section 8-44-101 et seq., *Tennessee Code Annotated*) for public notice of meetings, prompt and full recording of minutes, and public access to minutes? If so, what procedures does the commission have for informing the public of its meetings and making its minutes available to the public?

Yes. The Tennessee Motor Vehicle Commission is subject to the Sunshine law requirements found in Tennessee Code Annotated §8-44-101 et seq. All meetings of the Commission are open to the public at all times, except as provided by the Constitution of Tennessee. The dates for the quarterly meetings of the Commission are decided well in advance and public notice is given of each meeting date and time. The schedule and locations for the 2015 meetings, for instance, was approved and announced to the public at the July 2014 meeting, and was posted for the public to the website shortly thereafter. The agenda for the meetings is posted no later than five (5) business days prior to the meeting date, and is available on the website of the Tennessee Motor Vehicle Commission, located at <http://www.tn.gov/regboards/mvc/index.shtml>.

The agenda is also posted, in advance of the meeting, for the public at the entrance to the room where the meeting will be held. Pursuant to Tennessee Code Annotated § 8-44-144, minutes of every meeting of the Motor Vehicle Commission are promptly and fully recorded, and are available to the public as soon as they are approved by the Commission. They can be obtained by contacting the Commission, or by viewing on the website at the address given above.

All meetings of the Tennessee Motor Vehicle Commission are also recorded by the Department of Commerce and Insurance and published to the Department's Youtube channel. Currently, videos of all meetings held by the Commission since October 2012 are available for viewing by the public. The videos of the Commission meetings are usually posted within days of the meeting; for instance, the April 20, 2015 meeting was available for viewing on April 21, 2015.

8. How does the commission ensure that its members are operating in an impartial manner and that there are no conflicts of interest? If the commission operates under a formal conflict of interest policy, please attach a copy of that policy.

When Board members are appointed, they are given an orientation during which conflicts of interest and the need for impartiality are discussed. All Board members are required to sign an annual conflict of interest statement. Additionally, complaints against members of the profession are presented to the board in an anonymous manner so the board members can avoid conflicts during the disciplinary hearing process. A copy of the disclosure statement is attached.

9. Has the commission promulgated rules and regulations? If yes, please cite the reference.

Yes. Rules of the Tennessee Motor Vehicle Commission, Chapters 0960-01-01 through 0960-01-.27; 0960-2-01 through 0960-2-.10; and 0960-05-.01 through 0960-05-.09.

10. Does the commission have a website? If so, please provide the web address. What kind of public information is provided on the website?

Yes. The web address is <http://www.tn.gov/regboards/mvc/index.shtml>. The site contains public meeting agendas and notifications; post-meeting minutes and videos. Staff and commission member contact information. A “Complaint Form” is available for online submission or in downloadable format. Applicant resources are provided for those wishing to become licensed. The site includes downloadable forms, legislative and rule making news, as well as links to information and updates relevant to the industry. The links include related laws, rules, and commission activity which are viewable in audio-visual format. Consumer resources available also include “Tips for Buying a Car” and links to external agencies that have an impact on the industry or provide resources to the consumers such as the “Better Business Bureau” and “National Highway Traffic Administration.”

**Note: there will be a new web address after June 5, 2015.*

<https://tn.gov/commerce/section/motor-vehicle>

11. How many individuals or businesses are currently licensed in each of the following categories: Motor Vehicle Dealers, Motor Vehicle Sales Staff, Dismantlers and Recyclers, Automobile Auction Companies, Manufacturers and Distributors, Manufacturer and Distributor Representatives, RV Dealers, and RV Dealers and Distributors?

Code	Profession	Currently Licensed as of April 30, 2015
2701	Dealer	3750
2702	Auto Auctions	30
2703	Manufacturers and Distributors	150
2704	Salespersons	15798
2705	Representatives	627
2706	Dismantler Recycler	294
2707	RV Dealer	27
2798	RV Manufacturer	62

12. In each of the categories shown in question eleven above, how many applications did the commission receive during fiscal years 2013 and 2014 and to date in fiscal year 2015? In each category, how many applications were approved and the license granted? In each category, how many applications were rejected? Of those rejected, what was the primary reason for rejection? How many existing

licenses in each category were revoked during the same period of time? What were the primary reasons for revocation?

The following table outlines the number of applications received for the fiscal years identified above. The primary reason for the rejection of a license is the result of an applicant’s failure to satisfy the statutory requirements of the license type applied for or failure to complete the application process. Revocations are specific to license type and based on the statutory provisions of each. Motor Vehicle Dealer revocations are primarily the result of “deceptive business practices,” while salespersons revocations and denials most typically result due to a felony conviction that fails outside of the provisions specified in T.C.A. 55-17-114(C).

From CIRS Info (Transactional Table)															
Profession	FY 12/13	Received	Rejected	Approved	Revoc.	FY 13/14	Received	Rejected	Approved	Revoc.	FY 14/15	Received	Rejected	Approved	Revoc.
2701	3856	377	37	340	2	3795	390	40	350	2	3750	251	20	231	2
2702	24	0				29	2	0	2		30	1	0	1	
2703	122	9	0	9		143	7	0	7		150	7	0	7	
2704	14909	3865	70	3780		15606	4090	124	3954	4	15798	3057	47		
2705	386	112	0	112		567	96	0	96		627	60	1	59	
2706	328	21	2	19		317	18	4	14		294	14	4	10	
2707	26	3	1	2		27	4	0	4		27	2	0	2	
2708	56	2	0	2		60	9	0	9		62	2	0	2	

Based on RBS Data through April 30, 2015

13. How many complaints were filed with the commission in fiscal years 2013 and 2014 and to date in fiscal year 2015?

Fiscal Year 2013 July 1, 2012 – June 30, 2013	529
Fiscal Year 2014 July 1, 2013 – June 30, 2014	532 
Fiscal Year 2015 July 1, 2014 – May 11, 2015	*530 

*Indicates amount in an incomplete Fiscal Year. Number of complaints will surpass previous Fiscal Year numbers by June 30, 2015.

14. What were the commission’s major accomplishments during fiscal years 2013, 2014 and to date in fiscal year 2015?

The commission has strengthened protections for the public as a result of the following process changes:

- 1) *Enacted changes in the inspection process for licensees providing for annual inspections in an effort to deter impositions and fraud upon the citizens through preventative educational efforts, oversight, and accountability.*
 - 2) *T.C.A. 55-17-114(e) was amended creating an avenue for the commission to hold licensees accountable for not maintaining components that were required for the issuance of the license. This is particularly important in regard to the surety bond requirement and garage liability insurance coverage. The surety bond is required of each dealer in the event a dealer fails to deliver a title in connection with the sale of a motor vehicle. The required insurance coverage provides protection on vehicles being operated on the roadways using license plates issued to dealers and manufactures. This change further strengthened the protections available to the state's citizens.*
15. What reports, if any, does the commission prepare concerning its activities, operations, and accomplishments? Who receives copies of these reports? Please attach copies of any such reports issued in fiscal years 2013 and 2014 and to date in fiscal year 2015.

All programs prepare a year-end financial report. This includes the revenues and expenditures for the year and is presented to the board by the administration and director annually. Examples of the year-end financials are shown in answer #6.

Additionally, the director of the board prepares a monthly report submitted to the Assistant Commissioner with licensure numbers, complaint numbers and other information related to regular board business. An example is attached.

A Disciplinary Action Report is prepared monthly, which includes a list of the regulatory actions taken by the board for violations of the laws and rules. This report is combined with all other Regulatory programs within the Division of Regulatory Boards and posted on the website monthly for access by the media and general public.

16. Has the commission developed and implemented quantitative performance measures for ensuring it is meeting its goals? (Please answer either yes or no). If the commission has developed and implemented quantitative performance measures, answer questions 17 through 24. If the commission has not developed quantitative performance measures, proceed directly to question 25.

Yes, the Board has developed and implemented quantitative performance measures with the assistance of the Division of Regulatory Boards.

17. What are your key performance measures for ensuring the commission is meeting its goals? Describe so that someone unfamiliar with the program can understand what you are trying to measure and why it is important to the operation of your program.

The Board's key performance measures are:

- 1) Timely issuance of licenses*
- 2) Efficient resolution of complaints filed against industry members*
- 3) Financial self-sufficiency of the board*

These goals are important because the program is charged with protecting the interests of consumers while ensuring effective and timely processing of licensure and oversight of Tennessee professionals.

18. What aspect[s] of the program are you measuring?

The aspects being measured are timely licensure, efficient complaint processing, and financial self-sufficiency.

19. Who collects relevant data and how is this data collected (e.g., what types information systems and/or software programs are used) and how often is the data collected? List the specific resources (e.g., report, other document, database, customer survey) of the raw data used for the performance measure. Data is collected in RBS (Regulatory Boards System).

Licensure: The data collected for the licensure metric is pulled monthly from our Licensing System, RBS (Regulatory Board System and reviewed by the Division's Accounting Manager. This data is used by the Accounting Manager to evaluate average licensure times and form a summary report within Excel.

Complaints: The data for the complaint information pulled weekly from RBS and is presented in a case and complaint report, which reports the current status of all complaints open. The Division's Accounting Manager then pulls raw data from RBS and utilizes Access and Excel monthly to calculate the complaint metric.

Self-Sufficiency:

The program works with the Fiscal Division and Accounting Manager to prepare an Annual Spending Plan. Then monthly the program reviews performance spreadsheets that include forecast and actual amounts, conducts monthly meetings with Assistant Commissioner's staff to review board performance, monitors expenses and revenue and schedules annual financial presentations to the board.

20. How is the actual performance measure calculated? If a specific mathematical formula is used, provide it. If possible, provide the calculations and supporting documentation detailing your process for arriving at the actual performance measure.

Complaint performance measure – The board is measured by evaluating whether complaints are resolved or referred to formal hearing within 180 days of their initial processing beginning with the date of receipt of the complaint.

Licensing performance measure – The average number of days required to issue a license is taken and compared annually against the previous year’s average licensure timeframe.

Self-Sufficiency – The program is evaluated by whether the program can financially sustain its operations over (2) years.

21. Is the reported performance measure result a real number or an estimate? If an estimate, explain why it is necessary to use an estimate. If an estimate, is the performance measure result recalculated, revised, and formally reported once the data for an actual calculation is available?

It is a real number.

22. Who reviews the performance measures and associated data/calculations? Describe any process to verify that the measure and calculations are appropriate and accurate.

The performance measures and associated data/calculations are reviewed by the Accounting Manager and the Board director. The 180 Day Case and Complaint metric is also reviewed by the program attorneys. The measure is compared to the prior month’s measures to assess appropriateness and accuracy. The financial performance measures are reviewed by the Accounting Manager, the Board director, the Board, and the Assistant Commissioner for Regulatory Boards. Additionally, all licensure and complaint calculations are reported to the Office of Customer Focused Government monthly.

23. Are there written procedures related to collecting the data or calculating and reviewing/verifying the performance measure? Provide copies of any procedures.

Yes, see attached complaint SOP, which is used to describe the process used to measure the efficiency of the complaint process.

Yes, see attached self-sufficiency SOP and Annual Spending Plan, which maintains performance spreadsheet that includes forecast and actual amounts.

24. Describe any concerns about the commission’s performance measures and any changes or improvements you think need to be made in the process. There are no concerns at this time.

The current measures related to licensure and complaints will be impacted by the new licensure system that will be put into place this year. This system should create a more efficient process for handling licensure and complaints, but it will take time to make sure the measurements will accurately take into account the changes caused as a result of the implementation of the new licensure system processes.

25. Provide an explanation of any items related to the commission that may require legislative attention, including your proposed legislative changes.

None

26. Should the commission be continued? To what extent and in what ways would the absence of the commission affect the public health, safety, or welfare of the citizens of the State of Tennessee?

Yes, in the interest of public welfare. The Commission serves the purpose of regulating the motor vehicle industry by licensing, and policing motor vehicle manufacturers, distributors, dealers, salespersons, and their representatives doing business in Tennessee in order to protect the consuming public and legitimate businesses from frauds, impositions, and other abuses. The lawful distribution and/or sale of motor vehicles in the state vitally affect the general economy of the state.

27. Please list all commission programs or activities that receive federal financial assistance and, therefore are required to comply with Title VI of the Civil Rights Act of 1964. Include the amount of federal funding received by program/activity.

None

If the commission does receive federal assistance, please answer questions 28 through 35. If the commission does not receive federal assistance, proceed directly to question 34.

28. Does the commission prepare a Title VI plan? If yes, please provide a copy of the most recent plan. **N/A**
29. Does the commission have a Title VI coordinator? If yes, please provide the Title VI coordinator's name and phone number and a brief description of his/her duties. If not, provide the name and phone number of the person responsible for dealing with Title VI issues. **N/A**
30. To which state or federal agency (if any) does the commission report concerning Title VI? Please describe the information your commission submits to the state or federal government and/or provide a copy of the most recent report submitted. **N/A**
31. Describe the commission's actions to ensure that association staff and clients/program participants understand the requirements of Title VI. **N/A**
32. Describe the commission's actions to ensure it is meeting Title VI requirements. Specifically, describe any commission monitoring or tracking activities related to Title VI, and how frequently these activities occur. **N/A**
33. Please describe the commission's procedures for handling Title VI complaints. Has the commission received any Title VI-related complaints during the past two years? If yes, please describe each complaint, how each complaint was

investigated, and how each complaint was resolved (or, if not yet resolved, the complaint's current status). **N/A**

34. Please provide a breakdown of current commission staff by title, ethnicity, and gender.

Executive Director	Caucasian	Female
Administrative Manager	Caucasian	Male
AARB II	Caucasian	Male
AARB II	Caucasian	Female
AARB II	Caucasian	Female
Licensing Tech	Caucasian	Female
Licensing Tech	Caucasian	Female

35. Please list all commission contracts, detailing each contractor, the services provided, the amount of the contract, and the ethnicity of the contractor/business owner.

None



STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
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DIVISION OF REGULATORY BOARDS
NASHVILLE, TENNESSEE 37243-0572
615-741-3449 FAX 615-741-6470

CONFLICT OF INTEREST STATEMENT

For

Board and Commission Members

- 1) Each board or commission member shall avoid any action, whether or not specifically prohibited by statute or regulation, which might result in or create the appearance of:
 - i. Using public office for private gain;
 - ii. Giving preferential treatment to any person;
 - iii. Impeding government efficiency or economy;
 - iv. Losing complete independence or impartiality;
 - v. Making a government decision outside of official channels; or
 - vi. Affecting adversely the confidence of the public in the integrity of the government.
- 2) Use of information. No board or commission member shall, directly or indirectly:
 - i. Use, disclose, or allow the use of official information which was obtained through or in connection with his or her appointment to the respective board or commission and which has not been made available to the general public for the purpose of furthering the private interest or personal profit of any person, including the board or commission member; or
 - ii. Engage in a financial transaction as a result of, or primarily relying upon, information obtained through his or her board or commission appointment.
- 3) Use of government property. No board or commission member shall make use of the facilities, equipment, personnel, or supplies of the State or its agencies for private use or gain, except to the extent that the use is incidental or de minimis or is lawfully available to the general public.
- 4) The board or commission member will avoid all known conflicts of interest, and to the extent he or she becomes aware of a conflict of interest in connection with any matter brought before the board or commission on which he or she serves, he or she will disclose such conflict to the appropriate person and will further recuse himself or herself from participating in any consideration of the matter.
- 5) While serving on any board or commission, the board or commission member will not participate in considerations or actions involving individuals in his or her immediate family, individuals employed by him or her, or his or her organization, services provided by him or her, or his or her organization, or any other matter in which his or her participation may create an appearance of bias or impropriety.
- 6) While serving on any board or commission, the board or commission member shall not serve as an officer, or otherwise serve in a policy-making role, in any trade or professional association directly related to the trade or profession regulated by the board or commission on which he or she serves. Service on committees of trade or professional associations is permissible; provided, however, that

while in such service, the board or commission member does not participate in considerations or actions concerning the board or commission of which he or she is a member.

- 7) Questions on interpretation of this statement. When a board or commission member is in doubt as to the proper interpretation of this conflict of interest statement, he or she is expected to seek the advice of the Commissioner of Commerce and Insurance or the Ethics Compliance Officer of the Department of Commerce and Insurance.

Board or Commission Member

Date

Print Name: _____

Board or Commission Name: _____

Please list any conflicts of interest:

**DEPARTMENT OF COMMERCE AND INSURANCE
DIVISION OF REGULATORY BOARDS
COMPLAINT HANDLING STANDARD OPERATING PROCEDURE**

Form of complaint

The original of a complaint received by or a complaint initiated by the Division shall be sent to the Respondent for a response. All complaints sent to the Respondent should be in writing. A complaint initiated by the Division should fully explain the allegation.

Who can initiate a complaint?

A complaint may be initiated by any member of the public. Complaints may also be initiated by referrals from the Division, the Department's legal staff, or Board or Commission members. All complaints initiated by the Division, the Department's legal staff, or Board or Commission members should be opened as staff complaints. All anonymous complaints shall be reviewed on a case-by-case basis by the Program Director in consultation with the attorney assigned to the program ("Program Attorney") to determine what, if any, action they merit. Unless a program has specific statutory authority to deny anonymous complaints, anonymous complaints should be opened under the regular procedure so long as they state a ground that the program could, if true, take action.

Declining to open a complaint

If the Executive Director and Program Attorney decide that a complaint fails to state any ground for the agency to take action, construed liberally in favor of opening a complaint, then a letter should be sent by U.S. mail to the Complainant explaining the reason for declining to open a complaint within seven (7) business days of receiving the complaint.

Request for complaint form

Board Staff should first direct the requestor to the complaint form on the website. If the requestor does not have internet access, then staff shall mail a complaint form to requestor within one (1) business day of the request with instructions explaining the Program's complaint process, legal authority, and a statement that Regulatory programs cannot require restitution or specific performance.

Upon receipt of complaint

Within two (2) business days of receipt of complaint, the Program Director or designee shall conduct an initial review of the complaint to determine: (1) whether the complaint has been filed with the correct program and (2) whether the complaint is a high priority matter (e.g., the alleged conduct poses an imminent danger to the public health, safety or welfare).

- 1) If the complaint is not filed with the correct program, then the Program Attorney should be consulted. Then the complaint should be forwarded to the correct Division program or other state regulatory program(s) within three (3) business days of its receipt.
- 2) If the complaint is a high priority matter, then the Program Attorney should immediately be consulted and he/she shall immediately notify the Deputy General Counsel and Assistant Commissioner. The Program Attorney should report the progress of all high priority matters in the weekly report to the Deputy General Counsel and the Program Director should report the progress of all high priority matters in his/her regular report to the Assistant Commissioner.

- 3) Within five (5) business days of receiving the complaint, the Complaint Coordinator shall:
 - a. Enter the complaint into the Regulatory Boards Case/Complaint System (“RBS”) which automatically assigns a complaint number.
 - b. Send a copy of the complaint, via U.S. mail, to the Respondent, unless otherwise advised by the Program Attorney after consultation with the Program Director.¹ The Complaint Coordinator shall enclose a letter instructing that Respondent has fourteen (14) calendar days (or the number of days allowed by the Program’s law and rules, but not to exceed thirty (30) calendar days) from date of receipt of the complaint to respond.
 - c. Send notification of receipt of the complaint to Complainant via U.S. mail.

No response to complaint

If the Respondent does not respond, the Complaint Coordinator shall forward the complaint to the Division’s legal department within thirty (30) calendar days of its receipt.

Upon receipt of response to complaint

Within three (3) business days of receiving Respondent’s response to the complaint, the Complaint Coordinator shall:

- 1) Update RBS.
- 2) Forward a copy of the complaint and Respondent’s response to the Program Director and Program Attorney.
- 3) Forward a copy of Respondent’s response to the Complainant.

Upon referral to Legal Staff

The Legal Division Secretary or Program Paralegal shall open new matter transmittals in RBS as cases and transmit them to the Program Attorney within three (3) business days after receiving the complaint.

Investigation referrals

The Program Attorney shall make a determination whether or not a complaint needs investigation within forty-five (45) days of receiving the complaint from the program. Investigations requests shall be completed and written investigation reports shall be sent to the Program Attorney within thirty (30) calendar days of referral. If additional time is needed for completion of investigations requests, then the investigator shall make such request by email to the Director of Investigations with a copy to the Attorney who requested the investigation. The request shall specify how much additional time is needed and must be made within twenty-five (25) calendar days of when the matter was referred.

Presentation to Regulatory Authority

¹ The program in consultation with the program attorney may determine that sending the complaint to the Respondent would be harmful to a future investigation of the complaint. An example of this includes a complaint of unlicensed activity or illegal action where a copy of the complaint requesting a response would solicit a denial from the Respondent and further harm a future investigation. In this scenario, the complaint may be forwarded directly to legal after consultation and agreement with the program attorney whose office will request an investigation of the complaint prior to informing the Respondent of the allegations.

After review of the complaint, as well as any response, investigation report or other relevant information, the Program Attorney will present an anonymous summary of the complaint in a written legal report to the Program's regulatory authority along with a recommendation as to probable cause and course of action. In cases where informal settlement is authorized (e.g., Consent Order), the Respondent shall be given thirty (30) calendar days from receipt of the offer of settlement to respond. If the Respondent fails to respond to the offer within the thirty (30) calendar day period, the Program Attorney shall refer the case to the Litigation Attorney for formal charges.

Final action and case closure

1) Procedure for case in which Respondent is to comply over time

Cases closed with a signed order (Consent Order, Agreed Order, Initial Order or Final Order) that includes a period of time for payment of a civil penalty and/or costs and/or any non-monetary conditions to be completed over a period of time shall be monitored by Program Staff and the Program Attorney. Within one (1) day of receipt, the Program Attorney will deliver a copy of the executed and/or filed order to the Program Director and the Program staff will initially enter the order on the appropriate tracking chart within three (3) business days of receipt of the Order.² The Program Attorney, Litigation Attorney and Program Director will review Respondent's compliance with such Orders at each monthly meeting. Any evidence of compliance received by the Attorney shall be delivered to Program Staff within one (1) business day of receipt. Program Staff shall update the tracking chart within three (3) business days of Program Staff's receipt of each item of compliance. Once Respondent fully complies with the terms of the Order or is determined by the Program Director and the Program Attorney to have failed to comply with the Order, any final action provided in the Order shall be taken and the case shall be closed as set forth below.

2) Procedure for closing case

After final action is taken in a case, the Program or Litigation Attorney shall complete the Legal Status Tracking Memorandum, which shall include the date of closure and a description of the final action (e.g., dismissed, letter of warning, consent order paid, formal hearing/revocation, etc.). The Memorandum and the file shall be delivered to the Program Paralegal, who shall within three (3) business days of receipt deliver a copy of the Legal Status Tracking Memorandum and the executed order or letter of warning to the Program staff and update RBS within 3 days.

3) Determining the Closure Date

A complaint's closure date shall be determined as follows:

Dismissed/Closed with no action: Date of board vote;

Letter of Warning: Date letter is sent;

Consent Order/ Agreed Order (no monitoring): Date executed order is received;

² Orders requiring monitoring shall be included on the Disciplinary Action Report upon receipt of the executed and/or filed Order.

Consent Order/ Agreed Order (with monitoring): Date final payment or action is completed. The Board does not close the case until the final payment is received. Legal will close the case coding it "Payment Plan" but it will remain on the legal report until the final payment is received;

Order following a Formal Hearing: Date Initial/Final Order is filed with Secretary of State.

Complaint Closure

The complaint coordinator shall close the complaint in RBS and send a written closure notification to the Complainant and the Respondent within three (3) business days of receipt of closure Memorandum from Legal Staff.

Cases Referred for Collection

Any Order authorized or issued by a Board, Commission, Commissioner or Administrative Law Judge that assesses a civil penalty and/or costs that is not timely satisfied, is subject to being sent outside the Department for collection. Any Final Order that is thirty (30) calendar days past the appeal deadline or any fully executed Consent Order or Agreed Order that is sixty (60) calendar days past the payment deadline should be reviewed by the Litigation Attorney, who will determine whether it should be referred for collection. If it is determined that the Order should be referred for collection, the Litigation Attorney should follow the standard operating procedures for referring cases outside the Division for collection.

Reporting

The Program Director or designee shall submit a Disciplinary Action Report to Mark Green – Chief Counsel and designated Paralegal by the close of business on the third (3rd) day of each month.

Meetings

The following meetings are to be held regularly:

- 1) *Monthly*: The Program Director, Complaint Coordinator, Board Attorney, and Program Paralegal shall meet to review the accuracy of the weekly RBS complaint report, compliance with performance standards, cases for the upcoming legal report, Orders on the chart tracking compliance and any other issues related to the status and handling of cases that may arise.
- 2) *Quarterly (to be scheduled by Assistant Commissioner with each program)*: Assistant Commissioner, Deputy General Counsel, Chief Counsel, Program Director, Complaint Coordinator, Board Attorney, Litigation Attorney and Program Paralegal shall meet to review complaint patterns, i.e., oldest complaints, repeat offenders, unpaid citations, non-compliant respondents and any other issues related to the status and handling of complaints and cases that may arise.

Acknowledgement of receipt and understanding of Complaint Handling Standard Operating Procedure:

[PROGRAM DIRECTOR'S NAME]

Division of Regulatory Boards Self-Sufficiency SOP

Objective:

The following provides a brief overview of the plan that the Division of Regulatory Boards has developed in order to have a documented and formalized process to ensure that the financial position of each board is properly reviewed. Additionally, management will devote ongoing resources to education and training of appropriate program staff (Executive Directors and Administrative Managers) with regards to budget forecasting, allocation formulas, data integrity, best practices, etc.

Education:

The Accounting Manager will prepare and conduct formalized training sessions related to the budget process and the monthly financial reports for the Division. This will include documents and training on commonly used reports, and any other financial topics, State and Fiscal policies as needed.

The budget process session will be held annually, prior to the preparation of the budget documents for F&A.

Monthly:

The Accounting Manager will hold monthly meetings with each director to review and discuss their board(s) financial position. The Accounting Manager should strive to conduct these meetings within 10 working days following the release of the monthly reports from the Department's Fiscal Service Office. This discussion will allow the Accounting Manager to focus on each individual board to ensure that all aspects of each board's financial position is reviewed and evaluated. The meeting and any notes or corrections that arise from the meeting will be recorded and kept by the Accounting Manager with the current fiscal year information.

Following the individual discussions with the board directors the Accounting Manager will meet with the Assistant Commissioner of Regulatory Boards. During this meeting the Division's overall position and any specific concerns will be discussed. Documented meeting outcomes will include

- Trend Analysis, including over/under performance by board
- Notes related to remedial steps/action items to address performance failures
- Updating of the spreadsheet used to track action item statuses
- Minutes or notes related to the meeting

Quarterly:

The Assistant Commissioner and the Accounting Manager will meet with the Deputy Commissioner and review the boards' financial positions. The meeting will be held at the conclusion of each quarter. Documented outcomes of the meeting shall include:

- Trend Analysis
- A quarterly view of the boards individual performance
- Forecast reports by board
- Identify and discuss extraneous threats to boards self-sufficiency
- Advise the Deputy Commissioner of current remedial steps/action items

The Accounting Manager will meet with the Department's Fiscal Service staff to discuss any upcoming financial reporting deadlines. The will include the annual budget, spending plans, reserve letters, and any other report required by F&A. The meeting will be held at the conclusion of the quarter.

Annually:

The Accounting Manager will prepare a financial statement for each board within 30 working days of the F&A reserve letter deadline.

The Assistant Commissioner will appear before each board and discuss the board's financial position. This meeting will ensure that board members are apprised of any financial concerns or challenges that the board may be facing. During this meeting each year the Assistant Commissioners will present the board with its financial statements from the prior fiscal year. This meeting will be held as part of the board's established monthly, bimonthly or quarterly meeting.

During the annual budget process the Accounting Manager will coordinate the preparation of the following:

- Annual Revenue Projections – Each board director is responsible for their board(s) projection.
- Annual Spending Plan – The Accounting Manager and the Assistant Commissioner will prepare with input from the directors.

3351021001 - Motor Vehicle Comm.	Work Plan	Expenditures:										Accrual	Requisitions/ Encumbrances	Year-to-Date Total	Percentage Expended to Date
		July Period 1	August Period 2	September Period 3	October Period 4	November Period 5	December Period 6	January Period 7	February Period 8	March Period 9	April Period 10				
Regular Salaries and Wages (70100)	294,800.00	45,018.98	36,153.29	38,190.09	36,405.66	33,806.11	34,726.40	31,319.47	27,904.29	31,609.98	37,088.30			352,222.57	119.48%
Longevity (70102)	11,100.00	800.00	0.00	0.00	0.00	700.00	6,300.00	0.00	0.00	3,000.00	0.00			10,800.00	97.30%
Overtime (70104)	0.00	0.00	24.83	42.22	0.00	55.43	3.80	45.67	0.00	0.00	0.00			171.95	#DIV/0!
Employee Benefits (702)	155,700.00	21,175.86	19,258.83	19,588.96	19,116.48	18,236.67	19,624.60	15,907.45	16,713.16	16,981.97	17,965.46			184,569.44	118.54%
Payroll Expenditures	461,600.00	66,994.84	55,436.95	57,821.27	55,522.14	52,798.21	60,654.80	47,272.59	44,617.45	51,591.95	55,053.76	0.00	0.00	547,763.96	118.67%
Travel (703)	24,000.00	1,920.38	0.00	1,415.23	1,896.83	1,647.54	1,626.44	1,665.73	514.56	732.96	1,186.50			12,606.17	52.53%
Printing, Duplicating & Film Proc. (704)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00			0.00	#DIV/0!
Utilities and Fuel (705)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00			0.00	#DIV/0!
Communications & Shipping (706)	41,700.00	1,776.15	1,605.72	1,532.75	1,505.41	1,222.28	3,414.39	1,619.57	1,788.57	2,093.42	2,003.29			18,561.55	44.51%
Maint., Repairs and Svcs by Others (707)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00			0.00	#DIV/0!
Third Party Prof. & Admin. Svcs (708)	4,400.00	(23.99)	220.07	702.16	179.67	159.17	132.87	275.49	236.83	167.87	176.09			2,226.23	50.60%
Supplies and Office Furniture (709)	3,100.00	0.00	3,573.81	0.00	393.78	(2.18)	0.00	0.00	141.23	272.00	417.88			4,796.52	154.73%
Rentals and Insurance (710)	3,700.00	0.00	134.52	134.52	134.52	134.52	134.52	134.52	134.52	134.52	134.52			1,210.68	32.72%
Motor Vehicle Operation (711)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00			0.00	#DIV/0!
Awards and Indemnities (712)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00			0.00	#DIV/0!
Grants and Subsidies (713)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00			0.00	#DIV/0!
Unclassified Expenses (714)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00			0.00	#DIV/0!
Inventory (715)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00			0.00	#DIV/0!
Equipment (716)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00			0.00	#DIV/0!
Land (717)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00			0.00	#DIV/0!
Buildings (718)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00			0.00	#DIV/0!
Lost Discounts (719)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00			0.00	#DIV/0!
Highway Construction (720)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00			0.00	#DIV/0!
Training of State Employees (721)	600.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00			0.00	0.00%
Computer Related Items (722)	3,000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1,325.18	0.00	163.40			1,488.58	49.62%
State Prof. Svcs. (725)	122,700.00	0.00	530.61	8,472.67	5,403.04	4,437.31	4,613.16	8,580.51	6,642.72	4,451.92	5,030.18	4,416.00		52,578.12	42.85%
Other Expenditures	203,200.00	3,672.54	6,064.73	12,257.33	9,513.25	7,598.64	9,921.38	12,275.82	10,783.61	7,852.69	9,111.86	4,416.00	0.00	93,467.85	46.00%
TOTAL EXPENDITURES	664,800.00	70,667.38	61,501.68	70,078.60	65,035.39	60,396.85	70,576.18	59,548.41	55,401.06	59,444.64	64,165.62	4,416.00	0.00	641,231.81	96.45%
COSTBACK BUDGET	0.00											290,139.65	w/Costback=	641,231.81	96.45%