

STATE OF MISSISSIPPI



JIM HOOD  
ATTORNEY GENERAL

OPINIONS  
DIVISION

May 10, 2019

Chris Hutchinson, Executive Director  
Mississippi State Board of Dental Examiners  
600 East Amite Street, Suite 100  
Jackson, MS 39201-2801

Re: Open Meetings

Dear Mr. Hutchinson:

Attorney General Jim Hood has received your opinion request and has assigned it to me for research and reply.

### Issues Presented

In your request, you provide:

The Board is currently considering an amendment of its rules and regulations pertaining to the administration of dental anesthesia. See Chapter: 30 - Mississippi Administrative Code Part 2301, Rule 1.29. To ensure that all aspects of dental anesthesia are considered, the Board wishes to solicit the advice from those who are experts in the fields of dentistry and anesthesia, including but not limited to medical and dental anesthesiologists, pediatric dentists, and oral and maxillofacial surgeons. At the last meeting of the Board on April 5, 2019, the Board designated such an Advisory Panel ("Panel").

In order to receive the candid advice which the Board needs, the Panel will operate totally independent from the Board. No Board member(s) will serve on the Panel; and the Panel will decide when and where they meet. While the Dental Board has offered its facilities for meetings, the Panel can meet at any other location it wishes. Most importantly, any findings and/or recommendations of the Panel are advisory only and are not binding on the Board. In other words, the Panel has not been delegated any decision making authority.

We understand that at the first meeting of the Panel, the meeting was filmed

by local media website host. Several of the panel members expressed frustration and inability to candidly discuss anesthesia issues in the presence of the press or media. Therefore, they have inquired as to whether or not they can conduct their meetings in private, then report their findings and recommendations to the Board, which would take the matter up at a Board meeting open to the public pursuant to the Mississippi Open Meetings Act.

In summary, the Mississippi State Board of Dental Examiners requests your opinion as to whether or not the Advisory Panel can conduct its work in private. If you find that the Panel can meet in private, is it obligated to video record such a meeting for later public review.

### Response

The Open Meetings Act defines a "public body" as follows:

any executive or administrative board, commission, authority, council, department, agency, bureau or any other policymaking entity, **or committee thereof**, of the State of Mississippi, or any political subdivision or municipal corporation of the state, whether the entity be created by statute or executive order, which is supported wholly or in part by public funds or expends public funds, and any standing, interim or special committee of the Mississippi Legislature.

Miss. Code Ann. Section 25-41-3(a)(emphasis added). According to your request, the Advisory Panel was created by official action of the Dental Board and is tasked with making findings and recommendations to the Dental Board regarding an amendment of its rules and regulations pertaining to the administration of dental anesthesia. Citing the Mississippi Supreme Court<sup>1</sup>, our office has previously opined that an advisory panel or sub-committee created by official action of a public body is subject to the Open Meetings Act. See MS AG Ops., Wright (September 4, 2015) and Atkinson (January 31, 1997).

As a public body, the Advisory Panel would be required to comply with the mandates of the Open Meetings Act, including, but not limited to, the keeping of minutes.

The Advisory Panel may go into executive session to discuss certain matters in private in accordance with Section 25-41-7. The Open Meetings Act does not mandate that the Advisory Panel video record any portion of its meetings for later public review.

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<sup>1</sup>*Gannett River States Pub. Corp. v. City of Jackson*, 866 So.2d 462, 469 (Miss. 2004) ("All the deliberative stages of the decision-making process of the public body that lead to formation and determination of public policy are 'meetings' within the meaning of Section 25-41-7(4) which requires that all meetings of a public body be public except when in executive session. *Board of Trustees*, 478 So.2d at 278. While the exceptions to the statute are to be construed narrowly, the statute is to be construed liberally to keep public meetings open."), *Mayor & Aldermen of City of Vicksburg v. Vicksburg Printing & Pub. Co.*, 434 So.2d 1333 (Miss. 1983).

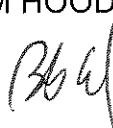
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If we may be of further service, please let us know.

Very truly yours,

JIM HOOD, ATTORNEY GENERAL

By:



Beebe Garrard  
Special Assistant Attorney General

OFFICIAL OPINION