

OPEN
MEETING LAW
and ETHICS

Clark County Regional
Opioid Task Force
(ROTF)

January 20, 2023





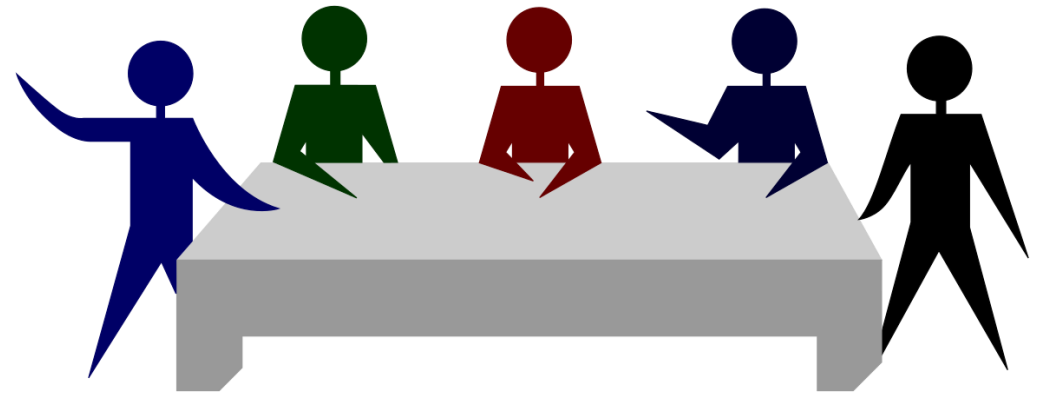
Nevada Revised Statutes
(NRS) Chapter 241

- Open Meeting Laws exist to conduct the people's business. Deliberations and actions taken by the public body are done openly.

NRS 241.010

Public Body defined:

- A public body includes “any ... advisory...body of the State or a local government entity of at least two persons which . . . advises or makes recommendations to any entity which expends or disburses or is supported in whole or in part by tax revenue...if the advisory, body is created by:
- A resolution or an action by the governing body of a political subdivision of this State.
- The Board of County Commissioners established the ROTF via Resolution, as required by AB 132(2023).





Meeting defined:

- A gathering of members of a public body at which a quorum is present, in person, by use of a remote technology system or by means of electronic communication, and
- the members deliberate toward a decision or take action on any matter over which the public body has advisory power.
- Or
- A series of gatherings with less than a quorum where the collective number = quorum
- Intent to “avoid” OML requirements



Does not include...

- A social function as long as the members do not deliberate toward a decision or take action on any matter over which the public body has advisory power.
- For the ROTF, a quorum equals a majority of the members (eight people since there are fifteen members required by AB 132), but if there is a vacancy in a seat the quorum is reduced.

Serial meetings

- A serial meeting may occur through email. For example, if a member sends out an email to a quorum of the public body regarding an issue over which the public body has Duties and Responsibilities, this action may be a violation.
- Or if a member sends an email to one member who then forwards it on to another member, and it continues to be forwarded from one member to the next until a quorum of the public body has received the email, this may also be a violation.



Social Media and Violations of OML

- While there are Attorney General opinions as to the use of emails in serial communications, social media is less clear.
- Best practices:
 - Do not “friend” or “follow” members of the task force (might make a quorum)
 - Do not comment on or post about issues before the task force (deliberation)
 - Be mindful what groups you belong to, what other members are in that group, if the group is small, it may indicate targeted communication
 - If you do post about an issue before your task force or are friends with your fellow members, post generally and direct your message to the general public
 - If a fellow board member posts about an issue that is before the task force, do not reply to it directly or indirectly

Duties and Responsibilities

- As authorized by the Board of County Commissioners (“BCC”), the duties of ROTF include:
 - reviewing data relating to opioid overdose fatalities,
 - identifying gaps in community services relating to opioids,
 - identifying existing databases that contain information relating to harm reduction and
 - ensuring data reviewed is comprised of multiple sources and databases.
- After reviewing the above data, the ROTF:
 - May conduct a systemic review of opioid overdose fatalities in the zip codes with the highest number,
 - Shall identify any trends in the social determinants of health relating to opioid fatalities and opportunities for collaboration to leverage existing resources to prevent opioid overdose fatalities and
 - Shall, before December 30, 2024, submit a report to the Governor and Director of the Legislative Counsel Bureau, which includes a summary of the work of the ROTF and any recommendations for legislation.
- “Deliberate” means collectively to examine, weigh and reflect upon the reasons for or against the action. The term includes, without limitation, the collective discussion or exchange of facts preliminary to the ultimate decision.” NRS 241.015(2)
- “Action” means a decision, commitment or promise made by a majority of the members present, whether in person or by means of electronic communication, during a meeting of a public body. NRS 241.015(1).



NRS 241.020

All meetings must be open and public and all persons must be permitted to attend any of the ROTF meetings at a physical location, unless the meeting is exclusively done remotely. Reasonable efforts must be taken to assist and accommodate persons with physical disabilities who want to attend a meeting.

Upon request, provide copies of the agenda and supporting material at no charge and make at least one copy available to the public at the meeting.



Written notice must be provided no later than 9 a.m. of the third working day before the meeting. (and on the Internet if online)

The notice must include:

the time, place and location of the meeting
a list of the locations where posted
the name, business address and contact information from whom a member of the public may request supporting material and a list of locations where material is available to the public or how the supporting material may be found on the Internet.

A clear and complete statement of the topics to be considered

a list describing the items on which action may be taken and placing the term “**for possible action**” by those items



The notice must also include:

Minutes & Agendas

Meeting Agendas

Approved Meeting Minutes

March 2017 – Approved Minutes

February 2017 – Approved Minutes

January 2017 – Approved Minutes

December 2016 – Approved Minutes

- periods devoted to public comment periods (2 options) and any restrictions on comments as authorized by NRS 241.020(3)(d)(7)
- notification that items may be taken out of order, may be combined, may be removed, or discussion on an item may be delayed
- Minimum public notice posting at the principal office of the public body; if none, posting on the official website of the State pursuant to NRS 232.2175



Stick to the
posted
agenda,
don't stray



Alternates NRS 241.025(1)

- “Unless the designation is expressly authorized by the legal authority pursuant to which a public body was created: (a) The public body may not designate a person to attend a meeting of the public body in the place of a member of the public body; and (b) A member of the public body may not designate a person to attend a meeting of the public body in his or her place.”
- The BCC did not authorize alternates for the ROTF.

NRS 241.030(4)

- A person who willfully disrupts a meeting to the extent that its orderly conduct is made impractical may be removed from the meeting.



Meeting Records NRS 241.035

- a. must keep written minutes of each meeting including:
 - the date, time, and place
 - members present in person or by means of electronic communication and those absent
 - substance of all matters proposed, discussed or decided, and, at the request of any member, a record of each member's vote on any matter decided by vote. **STATE YOUR NAME EVERY TIME YOU SPEAK.**
 - substance of remarks made by the public, if requested to be included in the minutes, or a copy of the written remarks if the member of the public submits a copy for inclusion. **SPEAKER TO STATE THEIR NAME, ADDRESS. ROTF members should not get in discussions with public during public comment.**
 - any other information which a member of the public body requests to be included, such as a handout
- b. each meeting must be recorded on audiotape, or another means of sound reproduction, or be transcribed by a certified court reporter
- c. minutes or audiotape recordings of the meetings are public records and must be made available for inspection by the public
- d. a member of the public may record the meeting on audiotape or by other means so long as this in no way interferes with the conduct of the meeting
- e. unless good cause is shown, a public body shall approve the minutes of a meeting within 45 days after the meeting or at the next meeting of the public body, whichever occurs later.

Absolute Privilege NRS 241.0353

- – statements made by a member of the public body during the course of a public meeting are absolutely privileged and do not impose liability for defamation or constitute grounds for recovery in any civil action



got privilege?

Violations of OML and consequences



- a. The action of any public body taken in violation of any provision of this chapter is void. NRS 241.036.
- b. Corrective action may be taken in accordance with NRS 241.0365. If corrective action is taken, it is effective prospectively.
- c. NRS 241.037 authorizes the attorney general and any person denied a right conferred by OML to sue in court to declare the action void or to seek an injunction within 120 days of the alleged violation.
- d. NRS 241.039 authorizes the attorney general to investigate and prosecute any OML violation.
- e. NRS 241.040 addresses criminal and civil penalties for OML violations.



Ethics is knowing the difference between
what you have a right to do and what is
right to do

Better Stewart

- Members serve at the pleasure of the BCC and may be removed at the BCC's discretion.
- All members should follow ethical standards required of government employees and elected officials.
- Acting ethically includes:
 - Being open, honest and fair
 - Not using your position to gain any personal or business advantage for yourself or your family or other persons with whom you have a close relationship.

NEVADA ETHICS IN GOVERNMENT LAW

- **NRS 281A.020 Legislative findings and declarations.**
 - 1. It is hereby declared to be the public policy of this State that:
 - (a) A public office is a **public trust** and shall be held for the sole benefit of the people.
 - (b) A public officer or employee must commit himself or herself to **avoid conflicts between the private interests of the public officer or employee and those of the general public** whom the public officer or employee serves.
 - 2. The Legislature finds and declares that:
 - (a) The increasing complexity of state and local government, more and more closely related to private life and enterprise, enlarges the potentiality for conflict of interests.
 - (b) **To enhance the people's faith in the integrity and impartiality of public officers** and employees, adequate guidelines are required to show the appropriate separation between the roles of persons who are both public servants and private citizens.

- **NRS 281A.400 General requirements; exceptions.** A code of ethical standards is hereby established to govern the conduct of public officers and employees:
- 1. A public officer or employee shall not seek or accept any gift, service, favor, employment, engagement, emolument or economic opportunity, for the public officer or employee or any person to whom the public officer or employee has a commitment in a private capacity, which would tend improperly to influence a reasonable person in the public officer's or employee's position to depart from the faithful and impartial discharge of the public officer's or employee's public duties.
- 2. A public officer or employee shall not use the public officer's or employee's position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for the public officer or employee, any business entity in which the public officer or employee has a significant pecuniary interest or any person to whom the public officer or employee has a commitment in a private capacity.
- 3. A public officer or employee shall not participate as an agent of government in the negotiation or execution of a contract between the government and the public officer or employee, any business entity in which the public officer or employee has a significant pecuniary interest or any person to whom the public officer or employee has a commitment in a private capacity.
- 4. A public officer or employee shall not accept any salary, retainer, augmentation, expense allowance or other compensation from any private source, for the public officer or employee or any person to whom the public officer or employee has a commitment in a private capacity, for the **performance of the public officer's or employee's duties** as a public officer or employee.

- 5. If a public officer or employee acquires, through the public officer's or employee's public duties or relationships, any information which by law or practice is not at the time available to people generally, the public officer or employee shall not use the information to further a significant pecuniary interest of the public officer or employee or any other person or business entity.
- 6. . . .
- 7. . . .a public officer or employee shall not use governmental time, property, equipment or other facility to benefit a significant personal or pecuniary interest of the public officer or employee or any person to whom the public officer or employee has a commitment in a private capacity.
- 8. . . .
- 9. A public officer or employee shall not attempt to benefit a significant personal or pecuniary interest of the public officer or employee or any person to whom the public officer or employee has a commitment in a private capacity through the influence of a subordinate.
- 10. A public officer or employee shall not seek other employment or contracts for the public officer or employee or any person to whom the public officer or employee has a commitment in a private capacity through the use of the public officer's or employee's official position.

FINAL THOUGHTS

- Attendance
 - Multiple unexcused absences during a calendar year are grounds for removal from the ROTF for good cause or neglect of duty.
 - Regular attendance is vital. For one thing, meetings cannot be held without a quorum which means no action can be taken. Further, having full attendance is always preferable so that the important work of the ROTF may advance with all members providing their expertise and insight.
- If in doubt ask, if you have an OML or ethics question ask Admin Services, can prevent a violation if relying on advice.
- Questions?





The Basics of Using Robert's Rules of Order for Meetings



togetherforbetter

Meetings Uses Robert's Rules of Order

- Meetings that use Robert's Rules of Order...
 - Run in the same manner
 - No matter where the meeting is held



togetherforbetter

Purpose of Robert Rule of Order

- Based on common sense and logic...
- The rules protect:
 - (a) the rights of the majority to decide
 - (b) the rights of the minority to be heard
 - (c) the rights of individual members
 - (d) the rights of absentees



The Ten Basic Rules

1. The Rights of the Organization Supersede the Rights of the Individual Members
2. All members are equal and their rights are equal
3. A quorum must be present to do business



The Ten Basic Rules

4. The majority rules

- All questions at any legally convened meeting shall be decided by simple majority of the votes cast, unless stipulated otherwise in the Constitution.

5. Silence means consent

- Those members that do NOT vote AGREE to go along with the decision of the majority by their silence.

6. Two-thirds vote rule

- A 2/3rds vote is necessary whenever limiting or taking away the rights of members or changing a previous decision.



The Ten Basic Rules

7. One question at a time and one speaker at a time.
 - “Motions must be related to matters under consideration”

8. Once a member has been ‘recognized’ this individual has been granted ‘the floor’ and may not be interrupted by another member
 - Motions must receive full debate

9. The meeting chair may not put a motion to vote as long as members wish to debate it.



The Ten Basic Rules

10. Personal remarks in a debate are ALWAYS out of order

- Debate Motions not Motives
- Debate must be directed to Principles and not Personalities



Motions

- A motion is a formal proposal for consideration and action.
 - Only one motion can be made at a time,
 - No main motion can be made while the body is already considering a prior motion.
- Motion procedure:
 - Motion is made (“I move that...”)
 - Motion is seconded
 - Motion is debated/discussed
 - Motion is voted on



8 Steps in Processing a Motion

1. When nothing else is pending, a member will address the Chair or raise their hand.
 - Say “Chair ____.”
2. Chair recognizes the member by stating their name or otherwise acknowledging them.
 - Chair says: “Member ____.”



8 Steps in Processing a Motion

3. Member will state their motion.
 - Say “I move that ____.”

4. Another member seconds the motion.
 - Other member raises their hand and says “Second.”
 - Sometimes seconds are not needed → I suggest it.



8 Steps in Processing a Motion

5. Chair will re-state the motion and open discussion.
 - Chair says: “It is moved that ____.”
 - “Is there any discussion?”

6. Members now have the right to be recognized and debate the motion. During discussion, subsidiary motions (amend, refer, etc..) may be introduced.
 - Debate occurs in order: Pro, Con, Pro, Con,... until debate is called for end or time is depleted.



8 Steps in Processing a Motion

7. The Chair will now re-state the motion and put the question to a vote.
 - “The question on the table is on the adoption of ____.”
 - “All in favor say ‘Aye’, all opposed say ‘Nay’.”

8. The Chair will announce the results and transition to the next order of business.
 - “The motion is carried [lost]; We will [Will not]...”
 - “The next order of business is...”



Voting

There are 3 voting responses:

- In Favor: You approve of adoption of the question
- Not in Favor: You disapprove of the adoption of the question.
- Abstention: You withdraw from the vote.
 - Abstention is only in order if there is a distinct conflict of interest, or if the member is not well enough informed (through prior absence or some other extenuating circumstance) to make an educated decision.





Agenda Item V: Introduction to the Clark County Regional Opioid Task Force



togetherforbetter

Introduction to the Task Force

- Committee member introductions
- Overview of Member Roles and Responsibilities



Member Roles and Responsibilities

- As dictated by Assembly Bill 132.
- What we are NOT considering: how opioid litigation funding will be allocated or spent.
- Key responsibilities:
 - Data Review;
 - Systemic Review of opioid fatalities after October 1, 2023, with emphasis on identifying zip codes within County of highest number of fatalities;
 - Trends in social determinants of health; and
 - Opportunities for collaboration.
- **Report to LCB on or before December 30, 2024**





Agenda Item VI: Schedule of Meetings



togetherforbetter

Proposed Schedule of Meetings

- Minimum Quarterly Meetings
- **Meeting Dates:**
 - February 16, 2024
 - April 18, 2024
 - July 18, 2024
 - September 19, 2024
 - October 17, 2024
 - November 13, 2024
- All meetings will be held from 2:00 p.m. to 4:00 p.m.
(Clark County Commission Chambers)

