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## Question Submitted by: H.B. Tate, M.D., Secretary, State Board of Medical Examiners

1977 OK AG 251

Decided: 09/27/1977

### Oklahoma Attorney General Opinions

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Cite as: 1977 OK AG 251, \_\_ \_\_

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¶0 The Oklahoma State Board of Medical Examiners may hold more than one regular meeting in the first six months of the calendar year and more than one regular meeting in the last six months of the calendar year at which time they may consider disciplinary hearings pursuant to 59 O.S. 503 (1971) provided they meet the notice requirement of 59 O.S. 488 (1971) and the Open Meeting Law, 25 O.S. 301-314 (1977).

¶1 The Attorney General has considered your request for an opinion wherein you, in effect, ask the following question: **Can the Oklahoma State Board of Medical Examiners, pursuant to 59 O.S. 488 (1971) hold more than one regular meeting in the first six months of the calendar year and more than one regular meeting in the last six months of the calendar year at which time to consider disciplinary hearings pursuant to 59 O.S. 503 (1971)?**

¶2 The Oklahoma Medical Practice Act is found in 59 O.S. 481-518 (1971). The State Board of Medical Examiners is established in the State of Oklahoma pursuant to 59 O.S. 481 (1971). 59 O.S. 488 of the Act states

"The Board shall hold one regular meeting in the first six(6) months of each calendar year and one regular meeting in the last six (6) months of each calendar year, at times to be fixed by the president and secretary in a written notice sent by the secretary to each member of the Board not less than forty (40) days before said meetings, which are to be held at the State Capitol, and it shall have power to adjourn from time to time until its business is completed; and its president and secretary may call special meetings at any time to be held at the State Capitol or at any other place to be fixed by said president and secretary by giving written notice thereof to each member at least ten (10) days before each special meeting. A majority of the members of the Board shall constitute a quorum for the transaction of business but a less number may adjourn from time to time until a quorum is present." The procedure for the suspension or revocation of a medical license for unprofessional conduct is set out in 59 O.S. 503 of the Act. 59 O.S. 503 states in part:

". . . Upon the filing of such complaint, either by an individual or the Board as provided herein, such citation must forthwith be issued by the Secretary of the Board over his signature and seal of the Board, setting forth the complaint of said unprofessional conduct, and giving due notice of the time and place of the hearing thereof by the Board of Medical Examiners. The said citation shall be made returnable at the next regular meeting of the Board occurring at least thirty (30) days next after the service of said citation...."

¶3 It is apparent from a reading of 59 O.S. 503 that disciplinary hearings pursuant to this section may be held only at a regular board meeting. Accordingly, the question arises whether or not the State Board of Medical Examiners can meet more than the minimum requirement of meetings pursuant to 59 O.S. 488. This question can be answered by a plain reading of 59 O.S. 488. It is readily apparent from the reading of 59 O.S. 488 that the word "shall;" mandates a minimum number of meetings, however, it does not preclude the Board from exercising its discretion in setting or holding more than the minimum regular meetings of the Board. Therefore, the Board can hold more than one regular meeting within a six month period as long as it gives the requisite forty day notice pursuant to 59 O.S. 488.

¶4 The Open Meeting Law found at 25 O.S. 301-314 (1977) defines a "regularly scheduled meeting" as a meeting at which regular business of the public body is conducted. It distinguishes a "special meeting" as one of the public body other than a regularly scheduled meeting or emergency meeting. The Open Meeting Law, which becomes effective October 1, 1977, prescribes the public notice requirement in 25 O.S. 311. Accordingly, the State Board of Medical Examiners shall give notice to the Secretary of State in writing by December 15 of each calendar year showing the date, time and place of the regularly scheduled meetings for the following calendar year. If there is any change made in the date, time or place of the regularly scheduled meeting, then notice shall be given to the Secretary of State not less than ten (10) days prior to the implementation of such change

¶5 **It is, therefore, the opinion of the Attorney General that your question be answered as follows: The Oklahoma State Board of Medical Examiners may hold more than one regular meeting in the first six months of the calendar year and more than one regular meeting in the last six months of the calendar year at which time they may consider disciplinary hearings pursuant to 59 O.S. 503 (1971) provided they meet the notice requirements of 59 O.S. 488 (1971) and the Open Meeting Law, 25 O.S. 301-314 (1977).**

DAVID K. McCURDY  
Assistant Attorney General

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