



POLICY #19-001

Best Practices Program for the Motor Vehicle Dealer Board

I. PURPOSES OF POLICY

The purposes of this policy, established pursuant to Section 24-3.7-102, C.R.S., and applicable to each Member of the Motor Vehicle Dealer Board (hereafter, the “Board”), are: A) to develop and implement the “Best Practices Program for the Motor Vehicle Dealer Board” (hereafter, the “Program”) through orientation and annual training of Board Members; and, B) to instill and maintain public confidence and trust in the actions of the Board.

II. POLICY --- It is the policy of the Board:

- that the Board:
 - shall establish a Mission Statement for the Board;
 - shall set out a categorical framework of “best practices” for the Board, tailored to the legal authority and obligations of the Board; and,
 - shall develop an “Orientation and Training Manual” (hereafter, the “Training Manual”) for new Board Member orientations and for annual Board Member trainings; AND,
- that each Board Member:
 - shall, before taking action as a Board Member, complete a new Board Member orientation;
 - shall, every calendar year, complete that year’s annual Board Member training; and,
 - shall, after new Board Member orientation and after every annual Board Member training, affirm, in good faith, that he or she will follow the best practices of the Board.

III. PROCEDURE --- In order to implement the Program, the Board adopts Sections “A” through “F,” below:

A. MISSION STATEMENT OF THE MOTOR VEHICLE DEALER BOARD --- The Board declares that its Mission Statement is the following:

- To regulate the Motor Vehicle and Powersports Vehicle Industries with fundamental fairness pursuant to relevant law, regulation, and policy;
- To foster an honest and healthy Colorado Motor Vehicle and Powersports Vehicle Industry; and,
- To maintain public trust and confidence by ensuring consumer protection.

B. BEST PRACTICES OF THE MOTOR VEHICLE DEALER BOARD --- The Board not only recognizes Subsections “1” through “3” below as categories of organization with important features for the Program’s training materials, but also recognizes that the Division or the Attorney General’s Office may add additional categories and materials to assist Board Members in discharging their duties.

1. Best Practices Organizational Category One --- Important Substantive and Procedural Law --- The following legal materials and features shall be included in the Program, although other materials may also be incorporated:

a. The Board's Organic Law --- collectively, sections 44-20-101, et seq, C.R.S., sections 44-20-401, et seq, C.R.S., the Board's regulations under 1 CCR 205-1 and 1 CCR 205-2, relevant appellate court precedents, the Board's own history of decisions, and Board policies, guidelines, delegations of authority, and procedures;

b. Other Law Relevant to Board Actions --- These legal materials include, but are not limited to the following:

1) *The "State Administrative Procedures Act" (hereafter, the "APA")* --- Section 24-4-101, et seq, C.R.S. --- The APA provides general procedures for the Board to issue, renew, and deny licenses, discipline licensees, and conduct hearings. The APA also provides general procedures to engage in rule-making, including stakeholder participation, public notification, public participation, and coordination with the Secretary of State, the Attorney General, the Department of Regulatory Agencies, and the Office of Legislative Legal Services.

2) *Colorado's "Open Meetings Law"* --- Section 24-6-401, et seq, C.R.S.

a) This Law defines which interactions of Board Members constitute a board meeting under the principle of open and transparent government. Board Members cannot conduct official business except during a Board meeting.

b) This Law also requires the Board to: i) post advance public notice of and the agenda for each Board meeting; ii) open all but executive sessions to the public; iii) prepare minutes of the public portion of each Board meeting and make them available to the public; and, iv) electronically record each executive session.

c) This Law also specifies the procedure to enter into executive session through the Board's Attorney General's representative, solely to discuss confidential, private, and privileged materials and to receive legal advice on a pending matter.

3) *The "Colorado Open Records Act" (hereafter, "CORA")* --- Section 24-72-200.1, et seq, C.R.S. --- Board involvement with CORA is extremely limited. CORA sets out criteria for and restrictions upon the release of records. It also defines confidential and private information. Although the Board is expected to comply with CORA, the Board does not respond to a CORA request. Department of Revenue staff --- not the Board --- are solely responsible to release records according to Departmental protocols.

4) *Public Employment --- Eligibility* --- Section 24-5-101, C.R.S. ("Effect of criminal conviction on employment rights"). If an applicant or licensee introduces evidence of his or her rehabilitation, the Board shall consider that evidence.

- c. **Official Legal Actions of the Board** --- These legal materials include, but are not limited to the following: 1) rulemaking; 2) board orders, including stipulations; 3) licenses, changes to licenses, permits, or the denial of any of these; 4) actions on affidavits of probable cause; 5) policies; and, 6) delegations of authority to the Executive Secretary.
2. **Best Practices Organizational Category Two --- Board Member Ethics --- The following ethics materials and features shall be included in the Program, although other materials may also be incorporated:**
- a. **Relevant Ethics Law and Policies**
- 1) *Colorado Constitution, Article XXIX (“Ethics in Government”).*
 - 2) *Section 24-18-101, et seq., C.R.S., the Governmental “Code of Ethics”* --- Applicable provisions of this Code of Ethics address rules of conduct and ethical standards that a Board Member is expected to follow when conducting business on behalf of the public. A Board Member should, for example, avoid conflicts of interest or appearances of conflicts of interest either through recusal from deliberations where a conflict of interest exists or through disclosures of possible conflicts. A Board Member should seek the Board’s Attorney General’s representative’s advice on any possible conflict of interest.
 - 3) *Motor Vehicle Dealer Board Policy Number 17-001.*
- b. **Ethical Communication and Decision-making** --- These materials include, but are not limited to the following:
- 1) *State Communication Protocols* --- The Program will include instruction about governmental communication protocols on privileged or confidential information, matters discussed in executive session, and matters subject to attorney-client privilege with the Board’s Attorney General’s representative.
 - 2) *Board Positions as Opposed to Personal Opinions* --- A Board Member should not represent a particular position as the Board’s unless the Board voted publicly to issue a recommendation or decision reflecting that position. A Board Member has a right to express his or her personal opinion, but only if he or she explicitly qualifies the opinion to be a personal opinion and not the Board’s opinion or position.
 - 3) *Decision-making in the Public Interest* --- Board Members are expected to make licensing, adjudication, rulemaking, and policy decisions in the public interest, prioritizing consumer protection, rather than furthering or protecting Members’ private, personal, financial, or business interests or those of a licensee or applicant.

3. Best Practices Organizational Category Three --- Internal Board Procedures, Shared Procedures, and Professional Conduct

- a. Internal Board Procedures** --- The Board manages solely its own internal processes, which include, but are not limited to the annual election of officers and to general meeting processes under Robert’s Rules of Order.
- b. Shared Procedures** --- Because the Board employs no staff, it has to work, according to applicable law, with its Executive Secretary and with Auto Industry Division staff to accomplish its duties and responsibilities through delegations of authority and to identify and secure data that the Board considers in reaching informed decisions.
- c. Professionalism** --- A Board Member is expected to be professional at all times around other Board Members, the Director, the Executive Secretary, Auto Industry Division or Departmental staff, the Board’s Attorney General’s representative, hired consultants, members of other boards and commissions, other governmental representatives, licensees, applicants, witnesses, representatives of regulated industries, and the public.

C. ORIENTATION AND TRAINING MANUAL

The Board delegates to the Executive Secretary the creation of the Training Manual, to be developed jointly with the Board’s Attorney General’s representative and to be presented for approval to the Board. The Training Manual must include the provisions listed above, but may include additional materials to assist Board Members in discharging their duties. In response to changes of law and to Board experience, the Board intends to update this Manual, as needed, in order to continue to discharge its duties according to best practices.

D. NEW BOARD MEMBER ORIENTATION AND ANNUAL BOARD MEMBER TRAINING

Each Board Member shall: 1) initially attend a new Board Member orientation to take place before the new Board Member participates in Board meetings; and, 2) attend an annual Board Member training each calendar year. The annual Board Member training shall take place in September of each year, or at an alternative training date, if necessary.

- E. ACKNOWLEDGMENT OF TRAINING AND GOOD FAITH AFFIRMATION** --- At the conclusion of each Board Member’s initial orientation and at the conclusion of each year’s annual Board Member training, each Board Member shall execute the Motor Vehicle Dealer Board Policy Number 19-001 “Acknowledgment of Training and Good Faith Affirmation” [Attachment “A” to this Policy].

Policy No. 19-001 --- Approved, adopted, and made immediately effective by majority vote of the membership of the Colorado Motor Vehicle Dealer Board convened in public session on March 19, 2019.

ATTACHMENT A

**Motor Vehicle Dealer Board
Policy Number 19-001
Acknowledgment of Training and
Good Faith Affirmation**

I acknowledge receipt of training on Best Practices of the Motor Vehicle Dealer Board on:

_____ at my Initial Orientation.
[Date]

_____ at the Board's Annual Training.
[Date]

I also pledge, in good faith, to follow, throughout my tenure on the Board, the Best Practices of the Motor Vehicle Dealer Board.

Member Name: _____
(print name)

Member Signature: _____

Date: _____