

KNOW YOUR REGULATOR

How You Can Take More Control of Your Professional
Life Through Involvement in Your Regulated Industry

by
Troy
Beaulieu, Esq.



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WE CANNOT ALWAYS CONTROL

the challenges we face in our career

Hiring an attorney to help assist with a complaint from your regulator is one important way to regain some of that control. Another important way to have control is participation in the governing process. Remember that people have the right to know, see and participate in the regulatory process. Nowhere is opportunity for involvement more pronounced than at the state regulatory level. Despite this, when I worked in state government, I was amazed at how few people participated. Doing so gives you greater involvement in your career field and awareness of government activity.



It may require some research, but involvement in the regulatory process gives you a voice and awareness on current topics.

WHERE DO I LOOK TO FIND INFORMATION ABOUT INVOLVEMENT OPPORTUNITIES?

Your Regulator's Website

The website has information about what is going on at the crossroads between your industry and government, and what opportunities for involvement exist. This may include the need for subject matter experts on a committee, in an advisory group or participants in an event.

Subscribe to Agency Publications

Most regulators issue periodic publications, newsletters, press releases and other communications to generate awareness of agency activity and involvement opportunities. Consider subscribing to these publications. You often can sign up on the agency website.

Attend Your Regulator's Open Meetings

The name varies (the Board, the Commission, the Council, etc.), but the function is the same. The governing body provides policy direction within the legal parameters set by the legislature and courts. Members are industry members, but also public citizens who are appointed by the Governor. They typically meet quarterly (sometimes more or less often) to consider agency business. These meetings are open to the public and have a posted agenda on the agency's website that you can review roughly a week ahead. The Texas Secretary of State also keeps a current list of state agency meetings and agendas: <https://www.sos.state.tx.us/open/index.shtml>. Some agencies even give their license holders continuing education credit for attending meetings.

HOW CAN I get involved?

Are you passionate about a particular area in your field or hold strong opinions on a topic? Your regulator needs to hear from you and typically wants feedback. As you engage more, you will learn about other meetings, conferences, and opportunities to network where these issues are discussed prior to agency formal action.

This may take the form of a committee, or advisory group tasked to consider a topic and provide recommendations, or it may be staff giving a presentation on agency activity. Find something that interests you and get involved.

COMMITTEE MEETINGS

Many agencies have committees comprised of a subset of the members. These committees address areas of the regulated industry such as: licensing, enforcement, education, the agency's financial matters and other topics. These meetings are where initial drafts of proposed rules, legislative changes and policy are considered. The meetings are typically open to the public, and posted online with an agenda.



LEGISLATIVE AND OTHER agency reviews and oversight

Consider these further opportunities for involvement with your regulator. Each provides additional opportunities to share your concerns.



01

NEGOTIATED RULEMAKING

Tex. Gov't Code Chpt. 2008 gives agencies contemplating rule changes the opportunity to notify stakeholders and allow them to participate via a convener and a negotiated rulemaking committee. Do not overlook this opportunity to participate and provide input on agency rulemaking.

02

PETITION FOR ADOPTION OF RULE CHANGES

Tex. Gov't Code § 2001.021 provides citizens with the right to petition a Texas regulatory agency and ask the agency to make rule changes. Individual license holders and citizens may request the changes directly from their regulator.

AGENCY RULE REVIEW

Texas agencies must review existing rules at least every four years including an evaluation of “whether the reasons for initially adopting the rule continue to exist.” Tex. Gov’t Code § 2001.039. State agencies will provide notice in their regular meeting agendas and post it online. Sometimes a committee will take an initial look at those rules and develop recommendations for the full body to consider.

THE SUNSET REVIEW PROCESS

All state agencies are audited every twelve years. If the agency is not reauthorized by the legislature, it will “sunset” and be closed down. Usually the process results in policy changes, legislative revisions, changes in agency operations, jurisdiction and process. You may provide input to the Texas Sunset Advisory Commission staff performing the audit and again to the Texas Sunset Advisory Commission members (made up of Senate and House members and public members). The Sunset Advisory Commission’s website is: www.sunset.texas.gov where you can learn more about the process and scheduled review of your particular regulator.

LEGISLATIVE OVERSIGHT

The Texas House and Senate have committees which consider state agency activities and provide oversight. In the House, those matters are typically referred to the House Licensing and Administrative Procedures Committee. In the Senate, they are often referred to the Senate Business and Commerce Committee. During the legislative session and even when not in session, legislators have interest and sway in agency activity, policy, and legislative initiatives. In fact, Tex. Gov't Code § 2001.032 specifically provides for giving certain legislators notice of proposed agency rules and providing feedback.

GUBERNATORIAL OVERSIGHT

The Governor's Office has a new Regulatory Compliance Division that provides guidance to state agencies conducting rulemaking. It reviews proposed rules and provides written notice of their approval or rejection of the change. The division welcomes public comment and their website provides information on rules being evaluated.

CONSIDER JOINING

a trade group or professional association

In addition to providing you with the opportunity to interact with other people who work in your field, deal with your clients, and confront similar challenges, many trade groups get involved in lobbying, or participating in the regulatory process.

Whether that's at the federal or state legislative level or your individual regulator, trade group participation will expand your opportunities to impact your industry.

Sometimes trade groups and professional organizations have a committee or component dedicated to awareness and involvement in the matters impacting your career field.

This may be monitoring and providing feedback on legislation that has been introduced or providing input on rules being considered.

Working with an organized industry group gives you a larger voice, greater resources, and the networking opportunities that come with collaboration.



THE takeaway

Anyone who holds a government license should consider becoming involved in the regulatory process.

Important decisions about your industry, your license and your livelihood are being made by agency staff, regulators and state and federal legislators.

You can choose to voice your concerns and advocate for your chosen career field.



ABOUT

Troy Beaulieu, Esq.



Mr. Beaulieu is currently the Director of Legal Services for Bertolino LLP and has litigated and resolved a wide variety of regulatory matters before the State Office of Administrative Hearings, with a particular focus on cases involving allegations of gross negligence, serious ethical violations, and fraud. Much of that work was as a regulator addressing real estate appraisal regulatory complaints. During his time as a regulator, many of these involved parallel regulatory, civil, and criminal proceedings where Troy worked collaboratively with other state and federal agencies and law enforcement to address mortgage fraud in the wake of the 2008 financial crisis. He has also litigated a variety of matters in civil and appellate courts, including breach of contract, deceptive trade practices, consumer protection related claims, breach of warranty, intentional torts, declaratory and injunctive relief claims, defamation, and suits involving trade secrets, trademark infringement and breach of fiduciary duty.

Now that You Know How to Take More Control of Your Professional
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KNOW YOUR REGULATOR ... BETTER

*Sign-up to get your free, informational
bulletin tailored to your regulated
industry*

Your industry is constantly changing, and you need to be in the know to stay ahead of your competition. To help license holders meet this challenge, Bertolino LLP is excited to announce it has launched a free, educational update to keep license holders informed of the ever-changing laws, rules, regulations and legal interpretations that impact their livelihood and businesses. [Subscribe](#) for this free, periodic, informational service to stay current on what's happening in the regulatory world impacting your industry.



THANK YOU

Contact us if you have any questions.

Phone : (512) 476-5757

Email : knowyourregulator@bertolinolaw.com

Website : www.bertolinolaw.com
