Mid-Year Membership Meeting

Campbell’s Resort
Chelan, Washington
June 23, 2014
Business Meeting
October 16, 2013 AWPHD Annual Membership Meeting Minutes
AWPHD Board of Directors

OFFICERS

Scott Graham, President, Okanogan-Douglas Counties PHD #1 / Superintendent, Three Rivers Hospital Brewster

Julie Petersen, Past-President, Prosser PHD / Chief Executive Officer, PMH Medical Center - Prosser

Andrew Craigie, Vice President, Garfield County PHD / Chief Executive Officer, Garfield County Public Hospital - Pomeroy

Eric Jensen, Treasurer, from Snohomish County PHD #1 / Chief Executive Officer, Valley General Hospital - Monroe

AT LARGE MEMBERS

Eric Lewis, Clallam County PHD #2 / Chief Executive Officer, Olympic Medical Center - Port Angeles

Kevin Abel, Chief Executive Officer / Chelan County PHD #2, Chelan Community Hospital - Chelan

Diane Blake, Administrator / Chelan County PHD #1, Cascade Medical Center - Leavenworth
Welcome New District Superintendents

Scott Graham, Superintendent – Three Rivers Hospital, Brewster

Leslie Hiebert, Chief Executive Officer & Superintendent – Klickitat Valley Health, Goldendale

Sam Van Meter, Administrator – McKay Healthcare and Rehabilitation Center, Soap Lake

Pamela Hutchins, San Juan County Public Hospital District #1, San Juan County

Ted Brockman, Skagit County Public Hospital District #304, Sedro-Woolley (as of July 1)
Welcome Interim District Superintendents

- Debbie Bigelow – Coulee Medical Center, Grand Coulee
- Jon Smiley – Columbia County Health System, Dayton
- Gary Peck – Whitman Hospital & Medical Center, Colfax
- Tim Cournyer – Morton General Hospital, Morton
Financial Report
Nominating Committee
AWPHD Updates
Public Hospital Districts—
An Essential Community Asset
Unique Position

Well positioned to respond to needs of the community

Governed by elected boards and funded, in part, with local dollars

Public has unique ownership of their community hospital

Can collaborate with other hospital districts

Legacy and connection with the community
Preventive Medicine
The Video
Suggested Uses

- Community Meetings – Internal & External
- On your website
- On televisions in your facility
- To generate discussion with your community
Resources for You!

Policy Overview—Past and Future
2014 Legislative Session

GOAL: Support legislation that enables PHDs to effectively manage operations and efficiently meet the transparency responsibilities as units of local government; oppose legislation that impairs their capacity to operate or adds unnecessary administrative burden.
2014 Session

SUPPORT

SB 5964: Open Government Training
PASSED

HB 2105: Agenda-Posting Requirements
PASSED

HB 1037: Recovering Costs from Commercial-Purpose Records Requests
DID NOT PASS
2014 Session

OPPOSE

SB 6425: Constraints on Local Decision-Making and Affiliations
DID NOT PASS

SB 6004: Electing Commissioners by Sub-Districts
DID NOT PASS

SB 6348: New Reporting Requirements
DID NOT PASS
2015 Session

• Support Public Transparency While Limiting Unnecessary or Inappropriate Requirements

• Maintain/Increase Administrative Flexibility
  • Certificate of Need
  • Increase System Options

• Fight Potential Cuts to Cost Based Reimbursement
Affiliations, Access to Voter Approved Health Services
Issue: Affiliations

Concerns:

1) Concentration of Supply will reduce ability of payers to negotiate in the marketplace.

2) Worries that dominance of Catholic healthcare systems will limit access to voter approved services.
Update on Affiliations

Governor Inslee: DOH review of ALL proposed partnerships through Certificate of Need (CON) process. (Currently, sale, lease, lease or purchase are reviewable)

WSHA sues to block new rule. Court finds in our favor on June 6!!

Next Steps: State can appeal decision. Potential legislation to expand CON Law.
Access To Voter Approved Health Services

Right to Abortion
Right to Request Pharmacological Means to End Life
Visiting Rights of Same Sex Partners

Concern: Dominance of Catholic healthcare systems will lead to restrictions, impede access particularly at PUBLIC service providers (like PHDs).

OFM: Data do not support concerns (Fall 2013).
DOH: Hospitals should provide DOH with policies on admission, visiting, provision of end of life care and provision of reproductive health services.
Legal Update
2014 Open Government Training Act
Local government leaders understand the value of transparency of government and accountability to their constituents.

Training offers the knowledge, resources and tools to help them succeed through established best practices and to fulfill our vision of government that works for citizens.
Local Government Audits
- 3,455 total exceptions reported
- 9th category overall Open Public Meetings/Records

Citizen Hotline Reports
- 740 total reports
- 2nd category overall Open Public Meetings/Records
130 audit exceptions and 58 citizen reports in three main categories:

- Executive sessions 72%
- Meeting minutes 23%
- Business transacted outside of an open meeting 5%

The Local Government Performance Center offers an online resource center with tools and examples

The Center has partnered with MRSC to develop tools and resources that provide practical assistance and best practices
RESOURCES
Performance Audit Report

Open Public Records Practices at 30 Government Entities

Report No. 1000011

May 19, 2008
The Open Government Trainings Act – How it Applies to Public Hospital Districts

Presented by Joe Levan, MRSC Legal Consultant
AWPHD Membership Meeting, June 2014
MRSC’s services are available to all public hospital districts as part of your membership in AWPHD.

- Legal and policy consultation
- Research support
- Training Opportunities
- Sample document library
- Online research tools
- Timely news and information

MRSC.org
From the Attorney General’s Office
Open Government Training Website

- Office of the Attorney General - Model Rules for Public Disclosure
  - 2006 Model Rules (Paper Records)
  - 2007 Model Rules (Electronic Records)

- Office of the Governor Online Training – Public Records Act Overview

- Municipal Research and Services Center's Open Public Records Act site:
  - Public Records Act
  - MRSC Inquires - Public Records

- Municipal Research and Services Center’s publication, “Public Records Act for Washington Cities, Counties and Special Purpose Districts”
- Municipal Research and Services Center's publication, “Knowing the Territory – Basic Legal Guidelines for Washington City, County and Special Purpose District Officials”
- Municipal Research and Services Center's and Washington State Archives webinar, “Public Records: Tackling the Tough Questions (Including Use of Smart Phones and Other Thorny Issues)”
- Municipal Research and Services Center's presentation, “Social Media and the Public Records Act” (linked on this page)
- Washington Association of Public Records Officers
- Washington Coalition for Open Government Public Records Act site
Open Government & Transparency Training Sessions

Washington State Auditor Troy Kelley marked national Sunshine Week by announcing that his Office will offer local governments a series of Open Government & Transparency Training Sessions this spring and summer.

Sunshine Week – March 16-22 – is an annual initiative to promote open government and spark a nationwide discussion about the critical importance of access to public information. Sunshine Week highlights freedom of information as a cornerstone of democracy, enlightening and empowering people to play an active role in their government at all levels.

The Washington State Auditor's Office Local Government Performance Center has partnered with the Municipal Research and Services Center of Washington to develop tools and resources that will provide practical assistance and a guide to best practices. The training sessions are free of charge and designed to help elected and appointed local government leaders to excel in records management and compliance with the Open Public Meetings Act and the Public Records Act.
What is the Open Government Trainings Act?

- New law ([ESB 5964](https://leg.wa.gov/billsearch/Final%20Bill.aspx?BillNumber=5964)), named the “Open Government Trainings Act”
- Effective on July 1, 2014
- Requires persons in certain local and state government offices and positions to complete training regarding the Public Records Act (PRA) ([chapter 42.56 RCW](https://apps.leg.wa.gov/codetext/html/chapter_42.56.html)), the Open Public Meetings Act (OPMA) ([chapter 42.30 RCW](https://apps.leg.wa.gov/codetext/html/chapter_42.30.html)), or both, and, for some, regarding records retention laws ([chapter 40.14 RCW](https://apps.leg.wa.gov/codetext/html/chapter_40.14.html))
- Receive the required training within 90 days of assuming office or entering into their position, and in 4 year intervals thereafter
What Specific Training is Required?

• The Act allows for flexibility in meeting its requirements
• The specific training isn’t specified, other than what the training must address related to:
  • The OPMA for members of local and state governing bodies, and the PRA and chapter 40.14 RCW (records retention) for local and state elected officials and public records officers (and state records management officers)
  • The PRA training must be consistent with the Washington State Attorney General’s Office [PRA Model Rules](https://www.atg.wa.gov/)
  • The training “may be completed remotely with technology including but not limited to internet-based training.”
What Training is Recommended?

The Attorney General’s Office has issued a [2014 Open Government Trainings Act Guidance](#) document that addresses the legislation’s training requirements, including the following recommendations:

**OPMA Training** (chapter 42.30 RCW)
- Purposes of the OPMA, requirements for regular and special meetings, public notice, executive sessions, penalties, maintaining minutes and having them open for public inspection

**PRA Training** (chapter 42.56 RCW)
- Purposes of the PRA, what is a “public record,” basic public records procedures, how to respond to requests, searches, what an agency must do before withholding information in a record, penalties, and the agency’s particular PRA procedures set out in rules or policies

**Records Retention Training** (chapter 40.14 RCW)
- Basic retention requirements, explanations related to records retention schedules, descriptions of which such schedules apply to the agency, managing emails and other electronic records – with more detailed training provided to public records officers
How Long Should the Training Sessions Be?

According to the Attorney General’s Office 2014 Open Government Trainings Act Guidance document:

- There is no minimum number of hours required for this training.
- However, basic training for the OPMA and PRA should probably last no less than 15 – 20 minutes each.
- Basic records retention training should probably last 10-15 minutes.
- More detailed and longer training may be appropriate for some positions, such as public records officers, who may want to receive more detailed training on the PRA and records retention schedules, and/or receive training more often than once every four years.
Why Does Such Training Matter?

1. Violations of the PRA and the OPMA can lead to serious penalties, including legal costs, invalidation of actions of the board of commissioners, loss of public confidence, and additional scrutiny.

2. The experience of hospital districts and other local governments in this state has demonstrated that the PRA and the OPMA are laws which are frequently invoked.

3. Training is key to understanding and complying with these laws – ignorance isn’t bliss.

4. Effective training is an important risk management tool – be proactive and spot issues.

5. Training can help the district avoid litigation and legal action against the district and reduce legal costs, which can be significant.

6. Training can establish a culture of compliance for your district’s elected officials and staff.

7. The new law (ESB 5964) requires PRA and OPMA training, and records retention training for some.

8. Establish base year for training – a “refresher” is required every 4 years.
Training Matters:

In *Yousoufian v. Office of Ron Sims*, 168 Wn.2d 444, 458-59, (2010), the Washington Supreme Court established a framework to guide trial courts’ determination of penalties within the range provided under the PRA. The court identified 7 mitigating factors and 9 aggravating factors to aide assessment of agency culpability.

The mitigating factors that may justify a decrease in the penalty include: “(4) proper training and supervision of the agency’s personnel;”

The aggravating factors that may justify an increase in the assigned penalty include: “(3) lack of proper training and supervision of the agency’s personnel;”
## Who Does the Open Government Trainings Act Apply To?

<table>
<thead>
<tr>
<th></th>
<th>OPMA</th>
<th>PRA</th>
<th>Chapter 40.14 RCW (records retention)</th>
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<tbody>
<tr>
<td>Local elected officials – i.e., hospital district commissioners, as well as those appointed to vacancies in those elected offices</td>
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<td>Yes</td>
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<tr>
<td>Members of governing bodies subject to the OPMA – i.e., board of commissioners, certain committees and advisory bodies</td>
<td>Yes</td>
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<tr>
<td>Public records officers</td>
<td></td>
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</table>
By When is the Training Required?

Elected Officials:
• The Act requires the training once the local and state elected officials are elected or are appointed to fill a vacant position.
• Must receive the training within 90 days after taking the oath of office (if an oath is required) or otherwise after assuming their duties of their position.
• The training may also be taken prior to assuming office.
• Must receive "refresher training" at intervals of no more than four years.

Non-Elected Officials and Public Records Officers
• Non-elected (appointed) officials (e.g., members of appointed bodies subject to the OPMA) and Public Records Officers must receive training no later than 90 days after assuming office or otherwise assuming their duties.
• Must receive “refresher training” at intervals of no more than four years.

Note: MRSC and AWPHD, as well as the Office of the Attorney General, strongly recommend that all persons occupying positions subject to this legislation receive training in these important laws in a timely manner, even if not required to do so right away or during their current term of office.
How Can Your District Get Such Training?

- The Act doesn’t specify who may provide the required training.
- However, it does provide that training on the PRA may be provided by the Office of the Attorney General and must be consistent with the Attorney General’s Model PRA Rules (chapter 44-14 WAC).
- The Office of the Attorney General may also provide training on the OPMA.
- The required training can be provided by local and state government agencies themselves.
- The training can also be provided by other persons or organizations, such as AWPHD or MRSC.
- AWPHD and MRSC are working together on, for example, an e-learning module customized for hospital districts that is being designed to meet the training requirement.
• We strongly recommend that you document the training you receive related to the Act.
• Your district can develop its own forms to provide such documentation.
• The Attorney General’s Office has prepared sample documentation forms that officials and employees can use to document their training:
  • Sample training certificate
  • Sample training roster
Key Resources

State Auditor’s Office Open Government & Transparency Training Sessions website

State Attorney General’s Office Open Government Training website

PRA:
• MRSC publication, Public Records Act for Washington Cities, Counties and Special Purpose Districts
• MRSC and Washington State Archives webinar, Public Records: Tackling the Tough Questions (Including Use of Smart Phones and Other Thorny Issues)
• MRSC webinar, The PRA and Adequate Search Seeking Best Practices

OPMA:
• MRSC Open Public Meetings Act website
• MRSC publication, The Open Public Meetings Act – How it Applies to Washington Cities, Counties and Special Purpose Districts
OPMA and PRA Practice Tips and Checklists

• As explained on our OPMA and PRA Practice Tips and Checklists website, MRSC has partnered with the State Auditor's Local Government Performance Center to develop practical guidance and tools for local agencies on the Public Records Act (PRA) and the Open Public Meetings Act (OPMA).

• We have created and are making available "Checklist" and "Practice Tip" guides for local governments. These resources are focused on key issues related to the PRA and the OPMA, and they are generally one to two pages long.

• Our goal is to provide need-to-know information on selected PRA and OPMA topics, and to make that information available and useful in different formats.

• The following are the Checklists and Practice Tips guides we have available currently:
  • [OPMA] Agency Obligations: A Starting Point
  • [OPMA] Notice Requirements
  • [OPMA] Executive Session Procedures
  • [PRA] Agency Obligations: a Starting Point
Examples of MRSC Checklists

PRA – AGENCY OBLIGATIONS: A STARTING POINT

CHECKLIST
For Local Government Success

The Public Records Act (PRA) establishes basic procedural requirements that each agency must adopt. Use this checklist as a start for PRA compliance. For more information and resources visit www.mrsc.org/opmapra.

- Assign a Public Records Officer (PRO)
- Post the PRO’s contact information on the agency’s website (if any), and in any relevant publications. RCW 42.56.580.

- Adopt a Local Public Records Act Policy
- The local PRA policy should outline reasonable regulations for the agency’s handling of public records requests, as well as the agency’s response process when it receives a records request. The policy must be prominently displayed. RCW 42.56.040.

- Publish a List of Exemptions and Prohibitions Found Outside the PRA
- Publish a list of exemptions and prohibitions to disclosure other than those listed in the PRA. RCW 42.56.070. Examples of these other types of exemptions and prohibitions can be found in Appendix C of MRSC’s Public Records Act publication.

- Maintain an Index of Public Records
- Maintain a current index of all types of agency records unless to do so would be unduly burdensome for the agency. If it’s unduly burdensome, the agency must adopt a formal order specifying the reasons why and the extent to which compliance would unduly burden or interfere with agency operations. RCW 42.56.070.

- Adopt a PRA Fee Schedule
- Establish fees for PRA costs, including costs for hard copies, electronic copies, and mail costs. RCW 42.56.079 and RCW 42.56.120.

- Provide for a Review Procedure for any Denial of Records
- An agency must provide for a review of a denial to inspect records. The review can be conducted by the PRO’s supervisor, the agency’s attorney, or any individual designated by the agency. Review is deemed complete two business days after the initial denial. RCW 42.56.320.

- PRA Training Requirements, Effective July 1, 2014 (see Office of the Attorney General: Open Government Training Act Q & A):
  - Every local elected official and every local government PRO must receive records training (PRA training concerning chapter 42.56 RCW and records retention training concerning chapter 42.14 RCW).
  - This training must be completed no later than 90 days after these elected officials and PROs take their oath of office or assume their duties. They must also receive “refresher” training at intervals of no more than four years.

- [Other requirements and policies related to PRA compliance]

OPMA – EXECUTIVE SESSIONS

CHECKLIST
For Local Government Success

The Open Public Meetings Act (OPMA) requires specific steps to be taken in order to hold an executive session. Use this checklist to guide your agency’s compliance with the OPMA related to executive sessions. For more information and resources visit www.mrsc.org/opmapra.

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- Related to local governments, the following topics set forth in RCW 42.30.1101(1) can be discussed in executive sessions:
  - Matters affecting national security. RCW 42.30.1101(1)(a).
  - Lease or purchase of real estate if there’s a likelihood that disclosure would increase the price. RCW 42.30.1101(1)(b).
  - Consideration of the minimum offering price for sale or lease of real estate if there’s a likelihood that disclosure would decrease the price. RCW 42.30.1101(1)(c).
  - Notes: Final action selling or leasing public property must be taken in open session.
  - Complainants or charges brought against a public officer or employee. RCW 42.30.1101(1)(e).
  - Notes: At accused’s request, discussion must be open in session.
  - Qualifications of an applicant for public employment. RCW 42.30.1101(1). See back of page.
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Thank You
2014 Open Meetings Training Act

For Commissioners

- E-Learning Course
- OPMA and PRA
- 15-20 Minutes Per Module
- Certificate Provided
- Available August 15
2014 Open Meetings Training Act
For Public Records Officers

• PRA & Records Retention
• In-Person, Late August, Early September
• 4-5 Hour Intensive—Expert Presenters
• Real-Time Streaming to Other Locations
• Accessible via Internet Afterward
2014 Open Meetings Training Act
For Public Records Officers: **Content**

- Working with Requestor
- Public Records Defined (Electronic Records, Personal Devices)
- Coordinating the Search
- Retention Basics (Archivist)
- Exemptions
Contact Information

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Legal Consultant, MRSC  
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(206) 625-1300
Enjoy the Conference........