

AUSTIN FIRE FIGHTERS RELIEF AND RETIREMENT FUND
MEDICAL BOARD CHARTER

I. Purpose

Under Article 6243e.1, Vernon’s Texas Civil Statutes (the “*Act*”), the Board of Trustees (the “*Board*”) of the Austin Fire Fighters’ Relief and Retirement Fund (the “*Fund*”) has been granted the authority to designate a medical board (the “*Medical Board*”). The primary function of the Medical Board is to advise the Board with respect to the merits of a claim for disability retirement based on the Medical Board’s professional experience. The role of the Medical Board is advisory, and any recommendations it provides shall not be substituted for the required review and approval of a disability retirement by the Board.

The Board has adopted the Disability Retirement Benefit Policy (the “*Policy*”) which sets forth general guidelines to be consistently applied by the Board, the Medical Board, and the Fund’s administrative staff, as applicable, to each disability retirement and the entire disability retirement process. By adopting this Medical Board Charter (the “*Charter*”), the Board intends to provide the Medical Board’s organizational and governance structure and the Board’s expectations of the Medical Board in fulfilling its responsibilities under the Act. The Board will review this Charter periodically and retains full discretion to amend or modify this Charter, from time to time, as it deems necessary and/or appropriate.

Any capitalized term that is not defined herein shall have the meaning of such term as defined in the Policy. If there is any conflict between the Act and the terms of this Charter, the Act will control.

II. Responsibilities of Medical Board

Pursuant to Section 12.05 of the Act, in connection with each application for disability retirement submitted to the Fund or any subsequent review of a disability retirement under Part 5 of the Policy, the Medical Board shall:

- (a) review all medical examinations and reports submitted by the Member or otherwise obtained in connection with the Member’s disability retirement;
- (b) investigate essential statements and certificates made by or on behalf of a Member in connection with the Member’s application for disability retirement benefits; and
- (c) report in writing to the Board its conclusions and recommendations on all matters referred to it in accordance with the guidelines set forth in this Policy and any governing document of the Medical Board.

III. Composition and Eligibility Requirements of Medical Board

- (a) The Medical Board will consist of three (3) persons designated by the Board (each, a “*Medical Board Member*”). The Medical Board Members designated to serve on the Medical Board need not be the same for each claim and may differ depending on the nature of the disability under review.

- (b) The Medical Board Members may be physicians or persons other than physicians, *provided that* each Medical Board Member satisfies the applicable requirements below:
 - (i) Physicians. Any physician who is selected to serve on the Medical Board must be licensed to practice medicine in the state of Texas and in good standing with all applicable regulatory and oversight bodies of the medical profession.
 - (ii) Non-Physicians. Any person who is not a physician and is selected to serve on the Medical Board must be a specialist in the field of practice related to the nature of the injury or disability under consideration and licensed by the state of Texas or other applicable oversight body in such field of practice (i.e., a psychologist, vocational counselor, etc.).
- (c) The Board may establish a list of approved professionals to choose from in selecting Medical Board Members. The Board may also designate specific persons to serve as “alternate” Medical Board Members in the event one or more of the designated Medical Board Members are unable to satisfy the duties required under the Act.
- (d) Medical Board Members may serve for any term as specified by the Board. The Board has full discretion to remove a Medical Board Member or otherwise change the composition of the Medical Board at any time.
- (e) Each Medical Board Member is expected to remain independent in the performance of his or her role. If a conflict of interest exists, or the appearance of the conflict of interest exists, between a Medical Board Member and any Member who is under review by the Medical Board (such as a doctor-patient, family or personal relationship with the Member), the Medical Board Member must inform the Fund Administrator immediately of such conflict of interest and recuse himself or herself from serving as a Medical Board Member for such review.

IV. Meetings of the Medical Board

- (a) The Fund Administrator will designate one Medical Board Member to be the Chair of the Medical Board (the “*Chair*”) for any given review who will act as the designated representative of the Medical Board for purposes of all communication with respect to a given disability review. The Chair shall be responsible for:
 - (i) scheduling and arranging the meetings of the Medical Board as necessary in order to satisfy its responsibilities under the Act, but in no event later than sixty (60) days from the date the Chair receives a request for review of an application for disability retirement benefits, or the continuation of disability retirement benefits, and the related documentation from the Fund Administrator;
 - (ii) maintaining custody of the documentation provided to the Medical Board in connection with its review of a Member’s disabled status in a secure and confidential manner;
 - (iii) providing updates to the Fund Administrator as to the status of the Medical Board’s review of a Member’s disabled status; and

- (iv) delivering the certification and Medical Board Report (as defined below) to the Fund Administrator upon completion of the Medical Board's review of a Member's disabled status.
- (b) The Medical Board may convene in any reasonable manner to perform its review of a Member's disabled status with proper consideration given to confidentiality and privacy concerns.
- (c) Meetings of the Medical Board are not subject to the Texas Open Meetings Act and must be held in a manner that ensures confidentiality of all Member and Fund information.
- (d) The Chair shall be the presiding officer of the meetings of the Medical Board. If the Chair cannot attend the meeting, the Chair may designate another Medical Board Member to preside over the meeting.
- (e) A majority of the Medical Board must be in agreement in order to certify a Member's disabled status for approval to the Board.

V. Guidelines for Medical Board's Review

- (a) The Fund Administrator will deliver to the Chair (i) the Member's Application, Physician's Statement, and all supporting documentation, and (ii) a written description of the duties of the Member's position in the Fire Department and an available Equivalent Position (as defined below), if any, for the Medical Board's consideration.
- (b) The Medical Board shall review all submitted documentation in evaluating the Member's disabled status.
 - (i) If the Medical Board is performing an initial review of an Application for disability retirement benefits, the Medical Board must determine whether the Member is unable to perform the duties of the position that the Member held with the Fire Department at the time the disability occurred or any other position in the Fire Department that is currently being offered to the Member and that would pay an amount that is at least equal to the pay the Member was receiving in his or her position with the Fire Department at the time that the disability occurred ("*Equivalent Position*").
 - (ii) If the Medical Board is performing a periodic review of a Member's continuing disabled status, the Medical Board must determine whether a Member is unable to perform the duties of any occupation for which the Member is reasonably suited based on the Member's education, training and experience.
- (c) The Medical Board shall confirm that the customary and standard tests that are necessary to diagnose the Member's alleged disability have been performed by the Member's attending physician and adequately documented in the Physician's Statement. If the Medical Board determines that the Member's attending physician did not perform a customary or standard test that is necessary to diagnose the member's disabling condition, the Chair should notify the Fund Administrator and

request that the Member re-submit the Physician's Statement after the Member's attending physician has performed such tests.

- (d) If the Medical Board determines that the information submitted is inconclusive or insufficient for the Medical Board to certify the Member's disabled status, the Medical Board may request (i) that an independent physician or other relevant professional perform any evaluation that the Medical Board deems necessary or appropriate for its review of the Member's disability status, including without limitation any physical, psychiatric, or psychological evaluation, test, procedure, or imaging (an "***Independent Evaluation***") or (ii) any other supporting documentation that it deems appropriate for its review of the Member's disabled status. Any such request must be submitted by the Chair to the Fund Administrator who will communicate the request to the Member.

VI. Reporting to the Board

- (a) The Medical Board shall prepare and submit a written report to the Board that provides a summary of the Medical Board's review and findings with respect to the Member's disabled status and an official certification as to whether or not, in the professional opinion of the Medical Board, the Member is disabled pursuant to the applicable standard (the "***Medical Board Report***"). The Medical Board Report should be provided to the Fund Administrator no later than seven (7) days after the Medical Board has made its final determination on the disability review. A copy of the standard Medical Board Report is attached hereto as Exhibit A.
- (b) If the Medical Board determines that it cannot make an official certification as to the Member's disabled status for any reason, including, without limitation, a lack of conclusive medical information or the Member's failure to cooperate with a request for an Independent Evaluation, the Medical Board shall submit the Medical Board Report to the Board without an official certification, but shall include a statement explaining why it cannot certify the Member's disability status.

VII. Confidentiality and Privacy

- (a) Pursuant to Section 2.13 of the Act and the Public Information Act (Chapter 552, Texas Government Code), all information in the records and custody of the Medical Board concerning a Member is confidential and may not be disclosed in a form that identifies the Member. Any information or records related to a Member's disabled status that are obtained by or held in the custody of the Medical Board, including, without limitation, an application for disability retirement benefits, Physician's Statements, Medical Board Reports, Independent Evaluations, and Vocational Evaluations, will be treated as confidential and will not be disclosed by the Medical Board to anyone other than the Fund Administrator, unless required by law.
- (b) The Medical Board shall comply with all federal rules and regulations concerning the privacy and security of "protected health information" under the Health Insurance Portability and Accountability Act of 1996 ("***HIPAA***") and any applicable state laws, rules or regulations regarding the protection of confidential health information.

EXHIBIT A

STANDARD FORM OF MEDICAL BOARD REPORT