

MANITOBA HEALTH APPEAL BOARD POLICIES

DATE REVISED: JANUARY 19, 2023

POLICY TITLE

CODE OF CONDUCT FOR MEMBERS OF THE MANITOBA HEALTH APPEAL BOARD

POLICY STATEMENT #1

The Code of Conduct (the “Code”) provides:

- A comprehensive overview of the roles and responsibilities of the members of the Manitoba Health Appeal Board (the “Board”) to the Board, each other, administrative staff, the public trust and to the parties of appeals.
- The appropriate standards of conduct governing the professional and ethical responsibilities of Board members.
- An appreciation and reflection of the principal and paramount undertaking of Board members to sustain and promote the proficiency, efficacy and integrity of the Board.
- An incorporation of the integral requirements of fairness and independence in adjudicative decision making into the standards of conduct set out by the Code.

SCOPE

The Code sets out minimum standards of conduct with respect to the primary areas of duties and responsibilities, including:

- The role and authority of Board members and the Chair of the Board
- The responsibilities of members to the Board
- The responsibilities of members to each other and administrative staff
- The responsibilities of members to the Chair of the Board
- The responsibilities of the Chair of the Board
- Pre-hearing requirements and expectations
- Conduct during hearings
- Decision making responsibilities
- Post-term responsibilities

- Dress Code
- Public and media comment

POLICY

I) Members' Responsibilities to the Board

- Members are expected to act honestly and in good faith, as well as abide by the Board's policies, procedures and standards, including this Code.
- Upon the commencement of their appointment and prior to General Meetings, members are expected to read and familiarize themselves with any orientation and training materials provided.
- Members must be knowledgeable of and adhere to the legislation governing their roles and responsibilities on the Board, including but not limited to *The Health Services Insurance Act* and the Board's Conflict of Interest and Rules of Procedure policies.
- Members shall not conduct themselves in any way which will be harmful to the reputation of or public confidence in the Board.
- Board membership includes the reasonable expectation that the member will attend and participate in periodic meetings, policy discussions, orientation and training opportunities/programs.
- The conduct and language of members must be without any discrimination or harassment prohibited by the *Human Rights Code*.
- Where a Board member has a reasonable belief that the behaviour of a colleague is in breach of this Code he or she is required to bring this to the Chair's attention.
- Members shall not disclose or use confidential information gained by virtue of their association with the Board for personal gain, or to benefit friends, relatives or associates.
- Members must ensure compliance with *The Freedom of Information and Protection of Privacy Act* and *The Personal Health Information Act*.
- Members must ensure compliance with the *employee network usage policy (ENUP)*.

- To ensure confidentiality, members must also safeguard information or documents in their possession for the purposes of any case-
- A member's duty of confidentiality to the Board continues even after he/she is no longer in office as part of their post term responsibilities.

II) Collegial Responsibilities

- Members will conduct themselves, through their language and demeanor, in a manner which is appropriate and contributes to a positive work atmosphere.
- Where a Board member has a problem or conflict with any other member of the administrative staff, he/she should bring it to the attention of the Administrator.
- During a hearing, when a member disagrees with the opinion or finding of another member, or takes issue with another member for any other reason, he/she must refrain from arguing with that individual or bringing attention to the issue. The member may bring up the issue in private with the individual at an appropriate time. The member may also request that the Chair call a recess.
- Members should remain open and unbiased when considering other members' viewpoints that differ from their own. However, members should not disregard their own strongly held beliefs on material issues for the sake of unanimity in decision making or in exchange for agreement on any other point.
- Where a member, after discussion and careful analysis, is unable to agree with the proposed decision of a majority of the Board, he/she must provide reasons for the dissent.

III) Responsibilities of the Board Chair or Acting Chair

The Chair must, to the best of his/her abilities, see that he/she and other members abide by the conduct requirements set out in this Code and take any measures deemed necessary to assure compliance, provide assistance and guidance in resolving disputes and provide clarification as needed including but not limited to:

- Intervening and calling a recess when necessary to allow members to deliberate and come to a decision on how to carry on.
- Facilitating discussion amongst members during the decision making process following a hearing.

IV) Pre-Hearing Requirements and Expectations

- Members are required to be fully prepared for hearings; which includes but is not limited to: thoroughly reviewing all hearing material submitted.
- Members must ensure they are present and ready to proceed prior to the scheduled time of the hearing, as well as remain in attendance throughout the proceeding.
- Members shall not communicate directly or indirectly with any party, witness or representative with respect to a proceeding, except in the presence of all parties and their representatives.
- Members should refrain from casual or private conversations with parties or their representatives before, during and after the hearing.

V) Conduct During the Hearing

Procedures:

- Members should strive to ensure that hearings are considered to be fair and reasonable by all the parties involved.
- Members are encouraged to refrain from addressing parties or their representatives on a first-name basis.

Impartiality:

- Members should be impartial. Members shall enter hearings with an open mind in regards to every issue.
- Members must not give preferred attention to any party in a hearing.
- Members should not exhibit bias or conduct themselves in a manner which gives rise to a reasonable apprehension of bias.

Questioning:

- Questions should be asked in an impartial manner in an attempt to better understand the evidence, not to interrogate or intimidate. Members should refrain from asking leading questions, arguing with the witness, giving a second opinion or offering advice.
- Members should limit the number and types of questions they ask, being sure to

only ask questions that are relevant to the inquiry. They must pay attention to the questions their colleagues ask in order to avoid repeating questions that have already been asked.

- Members must avoid causing unnecessary interruptions during the examination of witnesses or the submissions of a party or their representative. If necessary, it is permissible for a member to ask a question in order to clarify a submission or to ensure the relevance of a certain argument.

Active Listening:

- Members shall actively listen to all parties and their representatives when being presented with evidence, opinions and submissions.
- Members should be self-aware of their body language so they do not exhibit disinterest or indifference towards the hearing process. This includes refraining from expressions of fatigue or occupying themselves with personal or unrelated business such as electronic devices.

The Right To Be Heard:

- Members shall take all measures necessary to protect against unnecessary delay during hearings in order for the hearing to be conducted in an expeditious manner. However, members must do their best to ensure parties have a full and fair opportunity to put forward their case. This includes having the chance to examine witnesses and present relevant evidence.
- Members shall make reasonable efforts to ensure that unrepresented parties are not unfairly disadvantaged at the hearing. For example, although members cannot favour or act as counsel to an unrepresented party, it is acceptable for members to advise an unrepresented party on the procedural rules to be followed during the hearing.

VI) Decision Making Responsibilities

- The Board's authority to make decisions is circumscribed by *The Health Services Insurance Act*.
- During the decision-making process, members should consider relevant Board decisions. Where previous decisions are relevant and are not adhered to, the decision must explain the reasons for the divergence.
- Members must give explicit reasons for their decisions. Parties rely on the reasons set out in decisions to understand the reasons for the Board's decision and to determine whether grounds for an application for judicial review exist.

- Members shall not disclose any decision regarding a hearing prior to its issuance.

VII) Dress Code

- During hearing-members should maintain a business or business casual dress.

VIII) Public and Media

- The Board Chairperson or another Board member designated by the Chairperson speaks on behalf of the Manitoba Health Appeal Board on questions from the media. No other Board member or staff member are to comment to the media.