

# **Consent and Capacity Board**

**Annual Report 2020-2021**

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## Chair's Message

I am pleased to report on the Consent and Capacity Board (CCB) for the fiscal year 2020/2021.

This year the Board faced unprecedented challenges impacting the nature of its work and membership. Once again, application and hearing numbers continued to increase province-wide, and there was meaningful pressure on membership. These issues were compounded by necessary process adjustments required following the swift transformation of hearing operations brought about by the pandemic. The conversion of administrative and adjudicative processes to a completely electronic platform required initiating an electronic file management system for hearing documentation, effective communication, problem-solving and adaption of and between staff and members as operations and hearing processes evolved. Staff responded to the challenges professionally, efficiently and effectively.

The objective of providing fair, respectful and efficient hearings completely electronically required significant member support. Members were required to adapt quickly to changing technology challenges. Member supports were delivered in multiple ways; working groups were established to problem solve and recommend best practices, individuals with expertise in technology provided group and individual coaching, forums were created where members could share problems, solutions and explore best practices, group training in technology platforms, member meetings and written communication. Despite the many challenges the Board was successful in meeting its mandate without interruption of hearing processes. No single hearing day was lost or cancelled. Regular and ongoing communication with stakeholders and the public was a critical element of the Board's success.

The need for more adjudicators to meet the increased hearing demand together with significant membership losses created meaningful pressure on a part-time membership model. The Board initiated major, province-wide membership recruitment across its five disciplines. Education, training and mentoring programs for new members were prioritized to provide key instruction to support fair, efficient and sensitive hearing practices. As with hearing practices, training and mentoring programs were revised and delivered electronically.

Hearing efficiency was supported by a prehearing practice where complex matters were identified and carefully case managed by a team of experienced senior lawyer members. This

year all members were provided training designed to identify and debate best practices in hearing management.

The COVID-19 outbreak created unprecedented challenges to the Board. The Board continues to use teleconference as a default hearing platform and has introduced a pilot project using videoconferencing technology. In-person hearings have not been offered respecting social distancing, stay at home requirements and eliminating personal attendance at facilities. The Board communicated revisions to the electronic hearing platform to the public and stakeholders.

The CCB continued to meet legislated requirements regarding scheduling hearings within seven days of receipt of an application, releasing decisions by the end of the day following the hearing and issuing written reasons within four business days even in a state of health emergency.

I acknowledge and thank CCB staff for the delivery of efficient, timely and fair customer service to the public, and support for the membership and acknowledge the challenges posed by a stay at home order. Staff members worked tirelessly to ensure that the Board's mandate and legal requirements were met and adapted to the changing circumstances brought by the emergent pandemic environment and consequential systemic change.

I acknowledge and thank CCB members for the dedication, professionalism, compassion, flexibility and fairness they demonstrate in the fulfillment of their duties. The decisions they reach have real, serious and lasting effects on the most vulnerable in our society. Members were nimble in response to rapidly changing circumstances including significant challenges posed by a rapid transformation in hearing processes.

Staff and members are to be commended for their extraordinary and professional response to the pandemic.

A handwritten signature in black ink, appearing to read 'Marg Creal', is positioned above the printed name and title.

Marg Creal  
Chair

# Mission, Mandate and Jurisdiction

## Mission

To provide fair, timely, effective and respectful hearings that balance legal and medical considerations while protecting individual rights and ensuring the safety of the community.

## Mandate

The CCB is an independent administrative tribunal with a mandate to adjudicate on matters of capacity, consent, civil committal, substitute decision making, disclosure of personal health information and mandatory blood testing.

## Jurisdiction

The CCB is responsible for holding hearings and for making decisions on matters in which the least restrictive, least onerous and least intrusive decisions are made to:

- 1) maintain the safety of the individual
- 2) protect the safety of the community
- 3) maintain the dignity and autonomy of the individual
- 4) preserve the right of a person to have treatment when required.

The CCB's authority to hold hearings arises under the following legislation:

### ***Health Care Consent Act***

- Review of a finding of incapacity to consent to treatment, admission to a care facility or a personal assistance service
- Consideration of the appointment of a representative to make decisions for an incapable person with respect to treatment, admission to a care facility or a personal assistance service
- Giving directions on issues of treatment, admission to care facilities and personal assistance services

- Consideration of a request for authority to depart from prior capable wishes of an incapable person
- Review of a decision to consent to an admission to a hospital, psychiatric facility or other health facility for the purposes of receiving treatment
- Review of a substitute decision-maker's compliance with the rules for substitute decision-making
- Consideration of a request to amend or terminate the appointment of a representative

### ***Mental Health Act***

- Review of involuntary status for a patient subject to a certificate of involuntary status, renewal of involuntary status or continuation of involuntary status
- Consideration of a request to order, vary or cancel specific conditions for an involuntary patient
- Review of a finding of incapacity to manage property
- Review of whether a young person (aged 12 - 15) requires observation, care and treatment in a psychiatric facility
- Review of a Community Treatment Order

### ***Substitute Decisions Act***

- Review of a finding of incapacity to manage property

### ***Personal Health Information Protection Act***

- Review of a determination of incapacity to consent to the collection, use or disclosure of personal health information;
- Review of a substitute decision maker's compliance with the rules for substitute decision-making
- Consideration of the appointment of a representative to consent to the collection, use or disclosure of personal health information on behalf of an incapable person
- Consideration of a request to amend or terminate the appointment of a representative

### ***Child, Youth and Family Services Act***

- Review of a determination of incapacity to consent to the collection, use or disclosure of personal information
- Review of a substitute decision maker's compliance with the rules for substitute decision-making
- Consideration of the appointment of a representative to consent to the collection, use or disclosure of personal health information on behalf of an incapable person
- Consideration of a request to amend or terminate the appointment of a representative

### ***Mandatory Blood Testing Act***

- Review of a request, by an eligible individual who has allegedly come into contact with another person's bodily fluid, for an order that a blood sample of the other person be provided and analyzed for specific blood borne pathogens

## Organization

The CCB is an independent adjudicative Board created under the *Health Care Consent Act* with jurisdiction under that Act, the *Mental Health Act*, the *Substitute Decisions Act*, the *Personal Health Information Protection Act* and the *Mandatory Blood Testing Act*.

The CCB had 128 members, as of March 31, 2021, down from 140 the previous year. In addition to the full-time Chair and two full time Vice Chairs, part-time CCB members include four Vice Chairs, 37 Lawyers, 30 Psychiatrists, ten Physicians, nine Nurses in the Extended Class and 35 Public members. Members of the CCB are appointed by Order-in-Council, for a term of one to five years.

As of March 31 2021, 15 employees of the Ontario Public Service support the work of the CCB and its members. Along with a Registrar, Deputy Registrar and Counsel, eight employees in the hearings unit and four in the administrative unit are responsible for functions such as: scheduling and supporting hearings, creating and serving appeal records, records management, financial processing, providing executive support to the Chair, coordinating the member appointment process, organizing staff and member training, liaising with stakeholders, answering public inquiries, strategic planning, providing legal advice to the Chair and the Board, and monitoring and ensuring compliance with legislation and government directives and policies.

As a quasi-judicial body, the CCB maintains an arm's length relationship with the Ministry of Health. The Chair is accountable to the Minister while staff report through the Corporate Services Division of the Ministry. The CCB functions under statutory requirements and a Memorandum of Understanding between the Chair and the Minister of Health.



# Performance Measures

## Statutory Performance

Performance measures for the CCB regarding the scheduling of hearings and the issuance of decisions and written reasons are established by the *Health Care Consent Act* and are as follows:

1. The Board shall promptly set a time and place for the hearing.
2. The hearing shall begin within seven days after the day the Board receives the application, unless all parties agree to a postponement.
3. The Board shall render its decision and provide a copy of the decision to each party, or the person who represented the party, within one day after the day the hearing ends.
4. If within 30 days after the day the hearing ends, the Board receives a request from any of the parties for reasons for its decision, the Board shall, within four business days after the day the request is received, issue written reasons for its decision; and provide a copy of the reasons to each person who received a copy of the decision
5. Where a decision of the Board is appealed, the Board shall promptly serve the parties and the Court with the record of proceedings before the Board, including a transcript.

The Board consistently meets its statutory timelines with respect to notice, convening hearings and issuing decisions, reasons and records of proceeding.

## Operational Performance

The CCB moves exceptionally quickly to adjudicate matters at the intersection of the medical and legal systems and makes decisions on issues with serious consequences for individuals and for the community, such as civil detention, decisions regarding health care or loss of control of personal financial resources. Decisions of the Board have implications for both the wellbeing and rights of individuals. Hearings are convened at up to 250 venues throughout the province, including hospitals, long-term care facilities and community locations, with most hearings taking place within schedule 1 psychiatric facilities (note that in 2020/2021 all

hearings took place remotely). Adjudicators are part time appointees, most of whom have other professional obligations, and Board staffing resources are very lean relative to caseload. Given the environmental considerations and operational constraints within which the Board operates, the CCB must strive to ensure that its adjudicative and operational processes are clearly focussed on achievement of its statutory performance measures.

Compliant statutory performance is dependant upon excellent operational performance including the following requirements:

- Engage in high quality, merit-based recruitment of new members and reappointment recommendations of existing members
- Provide excellent initial training and onboarding to new members
- Provide efficient and effective ongoing educational opportunities for members to develop and maintain specialized expertise
- Provide effective mentorship and peer review for members
- Provide high quality initial training, onboarding and ongoing training and development opportunities for staff to ensure they are skilled, knowledgeable and engaged
- Make use of technology to support hearing operations
- Provide clear, informative and accessible information to stakeholders and the public
- Engage with stakeholders and government with respect to the delivery of the Board's services
- Maintain administrative processes which are designed to support the achievement of the Board's mandate
- Use public funds in a responsible fashion
- Conduct hearings which are both fair and efficient
- Create an environment of respect for the adjudicative process, the parties and the public
- Engage in ongoing review of the Board's operations, through a lens of continuous improvement

# 2020/2021 Accomplishments

## COVID-19 Pandemic Response

### *Background*

Since its inception, the CCB has conducted in-person hearings typically convened in the health facility where the patient was located or received care, augmented by limited teleconferencing and, since 2009, by videoconferencing through the Ontario Telemedicine Network (OTN). This primarily in-person model required board members to attend at one to three health facilities (including hospitals and long-term care homes) per day, and up to 15 different facilities in a week. The COVID-19 health emergency required the Board to rapidly restructure its hearing operations in the interest of protecting parties, adjudicators, service providers, facilities and the community at large particularly due to the high risk of cross-facility contamination resulting from panels interacting with multiple parties and facilities each day, and in keeping with local, provincial and federal pandemic response requirements.

### *Hearing Operations*

As reported in 2019/2020 the Board implemented its COVID-19 response on the morning of March 13, 2020, with all hearings switching to a digital format as of March 16, 2020. The default hearing platform from that point forward was teleconference. While it is acknowledged that this format has limitations, it provided the nimbleness required to deal with the high volume of hearings convened daily by the Board and required minimal additional support from Board staff who themselves were dealing with significant complexities related to working and supporting hearings remotely. Teleconference hearings also required no specialized equipment for access, did not rely on internet or VPN networks (which showed signs of strain in the early days of the pandemic), did not require technical skills or training for parties or adjudicators, and minimized the impact for hospitals which were preparing to redeploy resources to pandemic management.

While all in-person hearings were suspended, there was a recognition that teleconference would not meet the needs of all hearings and the Board continued to convene a limited number of matters by videoconference where the circumstances warranted.

In Q3 the Chair struck a working group of members to examine videoconferencing and to make recommendations concerning the adoption of an appropriate platform and an effective and efficient roll out. The working group examined the response of courts and other tribunals

and recommended the use of the Zoom platform for video hearings and the incremental increase in the use of video. In response to these recommendations the Board launched a pilot to formalize the existing practice of being responsive to requests for videoconference hearings. This was followed in Q4 with the launch of a proof of concept pilot for a transformation to a video-first hearing model by convening all Waypoint hearings using Zoom. Response to this from parties and adjudicators was positive and it is expected that in 2021/2022 this program will expand to other locations.

Policy Guideline 4, which addresses the delivery of documents to be relied up on at hearing was also introduced in 2020/2021 to enhance the digital hearing model, to promote best practices in document exchange between parties, and to ensure smooth hearing operations in a remote environment.

While digital hearings do present real challenges and obstacles that must be considered they also present many positive opportunities that may be leveraged beyond the pandemic environment. For example, digital hearings present the opportunity to convene diverse panels, to provide a common hearing experience for individuals located in all communities in the province, to enhance the opportunity for an accessible and open hearing process and help to ensure the responsible use of public resources.

#### *Communication*

Throughout the pandemic the Board has utilized its website to inform stakeholders and the public about important changes, new operational requirements and ongoing hearing operations. The Board has also regularly engaged with its stakeholder committees and received and responded to feedback and concerns from individual parties and stakeholders.

#### *Administrative Operations*

As employees of the Ontario Public Service, and in keeping with public health recommendations at the municipal, provincial and federal levels, all CCB staff have been teleworking throughout the pandemic. Having previously implemented many operational and technical modernizations, the Board was well positioned to pivot quickly to a fully remote workforce. Building on the significant pre-existing integration of technology in their daily work, staff of the Board have worked collaboratively to transition workflows and develop new best practices that leverage the opportunities created by remote work while offsetting new responsibilities related to scheduling and supporting a fully digital hearing platform and the transition of corporate activities from paper-based to electronic.

### *Continuity of Operations*

Staff and members have worked cooperatively and collaboratively over the past year to maximize effectiveness and minimize disruptions. Due to the Board's quick and nimble transition to a digital hearing model scheduling, hearing and business operations have continued without interruption throughout the pandemic.

### **Stakeholder Consultation, Outreach and Education**

1. *General stakeholder relations:* In 2020/2021 the CCB met with various organizations and bodies, including the Ministry of Health, Legal Aid Ontario, the Psychiatric Patient Advocate Office, and the Association of General Hospital Psychiatric Services and participated in discussions of mutual interest.
2. *Stakeholder committees:* The CCB also engaged with two key stakeholder committees in 2020/2021. The first is composed of psychiatrists that generally represent themselves at CCB hearings. The second is composed of counsel that represent patients / residents, physicians and other parties before the CCB. These meetings provided an opportunity to communicate on issues of mutual interest and proved to be an effective tool for sharing information and gathering feedback. In particular in 2020/2021, these meetings provided an invaluable opportunity to discuss the electronic hearing format instituted in response to the pandemic.
3. *Information sharing and stakeholder education:* The CCB continued its information sharing program in response to requests to educate parties to CCB hearings, counsel and stakeholders about the roles and responsibilities of the Board, its processes, and associated implications for healthcare professionals and individuals. These presentations are designed to assist persons who appear before the Board to communicate with CCB personnel and effectively prepare for, and participate in, hearings. This initiative promotes good relations with the Board and facilitates high quality hearings. In 2020/2021 five programs were delivered virtually to stakeholders.

### **Effective Hearing Management**

1. *Case Conferences:* In response to long-term detention amendments to the *Mental Health Act*, and in recognition of an increasing caseload generally, the CCB initiated a dedicated case conferencing process to manage issues arising in these new application types in

2015/2016. The use of case conferences promoted both the responsible use of resources and enhanced service to parties by ensuring that these complex matters were well positioned to convene and conclude in an effective and timely fashion. The success of case conferences in this respect clearly illustrated their value as a case management tool for the Board generally, and they were soon expanded to a broader spectrum of cases. In 2020/2021 544 case conferences were convened, a three-and-a-half-fold increase from the first year of the program.

2. *Delivery of documents to be relied upon at hearing to the Board and other parties:* Following a pilot period during which stakeholder feedback was invited, the Board implemented Policy Guideline 4 on October 1, 2020. The development of PG4 sprung from document management needs that arose as a result of the transition to digital hearing operations. PG4 provides a framework for document submission that supports efficient and fair hearing operations for all participants and is complementary to the Board's Rules of Practice.

## **Member Recruitment, Training, Continuing Education, Engagement and Development**

1. *Recruitment:* In 2020/2021 the CCB initiated 5 recruitment competitions for Lawyer, Psychiatrist, Physician, Nurse in the Extended Class, Public and Vice-Chair Public Members. Recruitment, merit-based interviews and recommendation of new members are conducted in accordance with the requirements of *the Adjudicative Tribunal Accountability Governance and Appointments Act*. In 2020/2021 12 new members were appointed to the CCB, three Lawyer, four Physician, three Psychiatrist, one Nurse-in-the-extended-class and one Public members. There were 20 members reappointed and 24 members were not reappointed during this period including 7 who sought reappointment and were recommended by the Chair.
2. *New Member Training:* The CCB conducted its new member training program which includes hearing observation, classroom training and participation on hearing panels with experienced member mentors. 16 new members received this training in 2020/2021. See Board Members' Training and Professional Development section of this Report for further details.
3. *In-Service Training:* In response to the increasing complexity of matters before the CCB, and turnover among more experienced members, in 2020/2021 the Board continued its

in-service training program, initiated in 2017/2018, with 34 sessions with a combined attendance of 534, with many members attending training on more than one topic . Further details on member training programs can be found in the Board Members Training and Professional Development section of this Report.

4. *Technical Skill Development:* In 2020/2021 the rapid pivot to digital operations presented new, and sometimes significant, challenges for a membership group of varied technological experience. In response the Board initiated the development of peer-led training presented by members with superior technical skills in various tasks, tools and platforms.
5. *Engagement* – In addition to supporting significant peer-led education and knowledge sharing, the Chair hosted 24-member town hall meetings which provided a forum for consistent messaging, identification of issues, constructive discussion and solution development among the membership. While such open forum discussions have been held in the past, in 2020/2021 the inclusion of this interactive communication between the Chair’s office and the membership was of paramount importance as a means to acknowledge and address the various challenges presented by the new digital hearing model ranging from technical issues, to new hearing management needs, to member isolation.

## **Scheduling and Administration**

1. *Digital Hearing Workflows:* As a Tribunal which has incorporated digital hearings in its operations for many years, the Board was able leverage existing processes by upscaling and enhancing them, to rapidly create a fully digital operation. Once up and running the Board employed a continuous improvement approach to improving digital workflows. The handling of party submissions for all hearings was a key area requiring workflow development, as was the creation of a static hearing schedule which allowed for effective panel, ancillary service provider and teleconference system management. Overall, as the focus of the back-office team responsible for scheduling and supporting hearings shifted in response to a digital environment, internal case management responsibilities shifted as well, bringing with its new approaches to scheduling and supporting hearings.
2. *Appeals:* When an appeal of a CCB decision to the Superior Court of Justice is undertaken by a party the CCB is statutorily obliged to produce a Record of Proceedings and serve it, along with an official transcript of the hearing, to all parties and the Court.

Administrative staff are responsible for the physical preparation of appeal records and for arranging service. Administrative staff prepared and issued 45 records of appeal to parties in 2020/2021.

3. *Member recruitment and training support:* Administrative staff provided support to member recruitment, training and development through the coordination of five recruitments, two new member training sessions, 34 in-service training sessions, 24 town halls and a lunch and learn session. Staff further coordinated the creation, publication and posting of training materials and documentation to support member development.
4. *Financial processing and accountability:* In 2019/2020, an auto-pay system for members pre-booked for hearing days was piloted. The pilot was still in an early phase when COVID-19 began. The change to digital operations provided a large-scale test opportunity for the protocol which was extended to all hearings. Autopay was determined to be highly efficient for staff and highly effective at ensuring per diem payments were made to all members within a reasonable period after the provision of services and in keeping with financial reporting timelines. Staff also implemented a number of enterprise-wide changes to financial processing which stemmed from modernization efforts on the part of government. Many of these changes resulted in increased demands on staff resources at the local level however due to internal improvements in other areas of financial processing, Board staff were able to incorporate these changes with minimal disruption.



## **Members' Training and Professional Development**

The CCB has a comprehensive training program for new and existing members, designed to ensure the Board is populated with well-trained and highly qualified adjudicators. The Board's training program includes new member education, mentoring, performance evaluation, reference resources and in-service training. In 2020/2021 all training and development was provided virtually.

### **New Member Education**

Due to the COVID-19 pandemic New Member Training, which is mandatory for all new appointees to the Board, was conducted virtually in 2020/2021. With the change to a videoconference format, the program was adjusted from two full days to four half days. New Member Training provides an overview of role of the member, and the legislation, rules and policies that are relevant to the work of the CCB. A mock hearing exercise was added to the virtual training program with experienced members taking on the role of parties and other participants, to provide trainees with a visualized hearing experience. New members were also paired with an experienced mentor to participated in training panels with them and provides advice and guidance during the training period. In 2020/2021 two sessions were held in which 16 new members were trained.

### **New Presiding Member Supplemental Training**

New Presiding Member supplemental training was developed in recent years in recognition of increasing hearing complexity, heightened demands on Lawyer members and the significant number of new Lawyer members. This training was provided once in 2020/2021 to four Lawyer members.

### **Member-sector Best Practices Training**

A new Best Practices training program for presiding members (lawyer members) was developed by the membership, under the guidance of the Chair, in recognition of continued increases in hearing complexity, compounded by the significant challenges posed by an all-digital approach to hearings and a relatively inexperienced cohort of lawyer members. This

training was provided on five occasions in 2020/2021. The training was presented in small groups allowing for optimal delivery of content and participant discussion.

Thanks to the success of the Best Practices sessions for lawyer members, similar sessions were developed for, and presented to, medical and public members. These sessions were held on four occasions in 2020/2021 following the same format and design as the lawyer member sessions.

### **Issue Specific Training**

Ongoing training is provided on key issues throughout the year. The nature of this training is dependant on emerging interests and needs with respect to legislative changes as well as general or Board specific changes of a legal, administrative or operational nature. An embrace of virtual learning in 2020/2021 prompted an increase in the issue specific training provided to members with 33 sessions with a combined attendance of 530. This training, on a range of topics including technology training which served to support digital hearings, Community Treatment Orders, and board matters related to findings of incapacity with respect to property contributed significantly to the knowledge and skills of all members. The Board also convened a facilitated session for all members concerning supporting communication for persons with disabilities in the context of hearings.

## Legal Developments

### **Superior Court of Justice Considers Person's Ability to Comply with the Terms of a Community Treatment Plan as a Result of the COVID-19 Pandemic**

The cases of *Edem v. Kantor*, 2020 ONSC 4729 (CanLII) and *K.M. v. Banik*, 2020 ONSC 4829 (CanLII) were appeals of Consent and Capacity Board decisions where findings of incapacity and Community Treatment Orders were confirmed. In both cases, the lawyer for the appellants raised, for the first time on appeal, the issue of the appellants' ability to comply with a community treatment plan during the COVID-19 pandemic if they had to take public transportation to get to their appointments.

In *Edem v. Kantor*, the Court considered COVID-19 and the societal lockdowns in place in determining whether the appellant was able to comply with the terms of the Community Treatment Plan. The Court held that the public health situation called for adding an element of judgment and flexibility in the Community Treatment Plan, and since that required medical judgment, the physician should assume responsibility for working out a flexible arrangement for the visitations required in the Community Treatment Plan. The Court amended the Community Treatment Plan so that any required meetings with either the physician or the Assertive Community Treatment team can take place by either videoconference, or teleconference, or in person. The Court also held that the determination of how those meetings were to occur was to be made by the physician, taking into account personal circumstances, medical needs, and public health considerations.

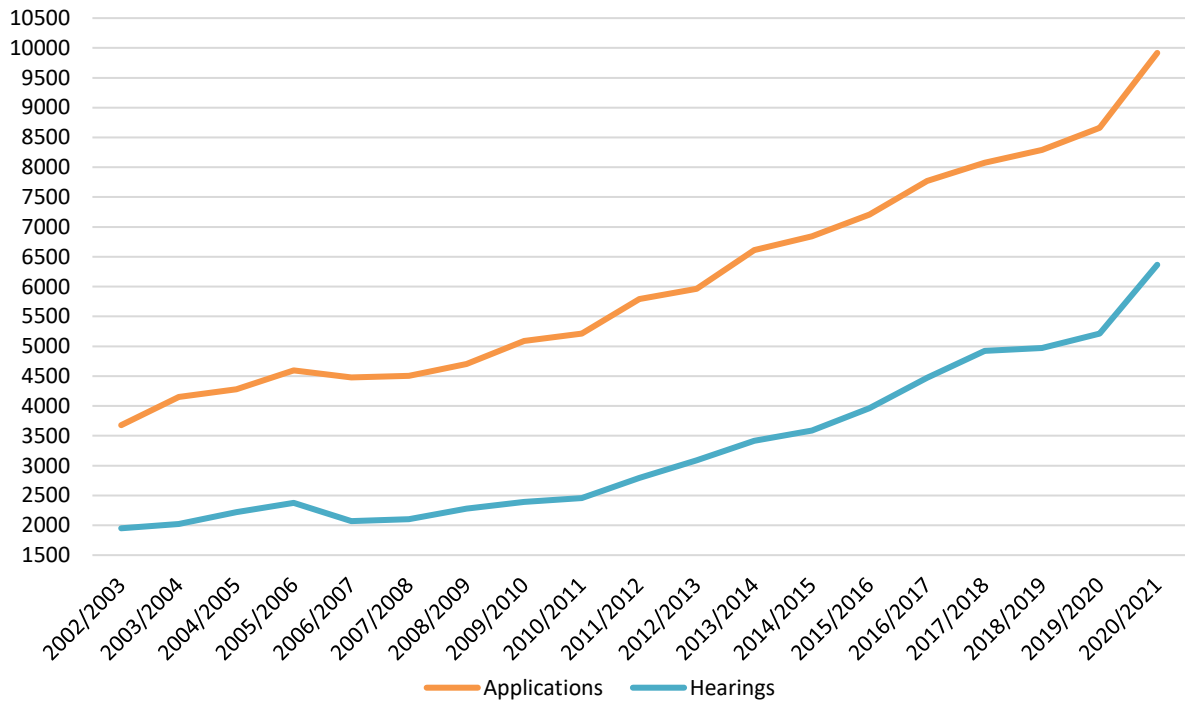
In *K.M. v. Banik*, the Court held that, because this issue had not been raised before the Board, there was no basis for the appellant's argument that the Board erred in confirming the Community Treatment Order on the ground that the appellant could not comply with the requirement to meet with the Assertive Community Treatment team because of the heightened risks of contracting the COVID-19 virus by use of public transportation. The Court noted, however, that even if it were capable of being appealed on this issue, the appeal would have been dismissed. While the Court acknowledged that it could take judicial notice of the COVID-19 pandemic and its impact on Canadians, there was no evidence that the ability of the health professionals to attend to the appellant's care and treatment under the Community Treatment Plan had been compromised by the public health requirements needed to address the pandemic, or that the appellant was not able to be safely treated under the Community Treatment Plan because of the pandemic. As such, the court found no basis on which to substitute its view for that of the Consent and Capacity Board on this issue.

# Caseload

## Caseload Increase

The CCB has an obligation to accept and process all applications submitted and convene hearings within statutory timelines regardless of increased volumes or other factors. For the 2020/2021 fiscal year application receipts climbed to over 9900 and over 6300 hearings were convened province wide. This is approximately a 170% increase in applications and a 225% increase in hearings since the centralization of provincial operations.

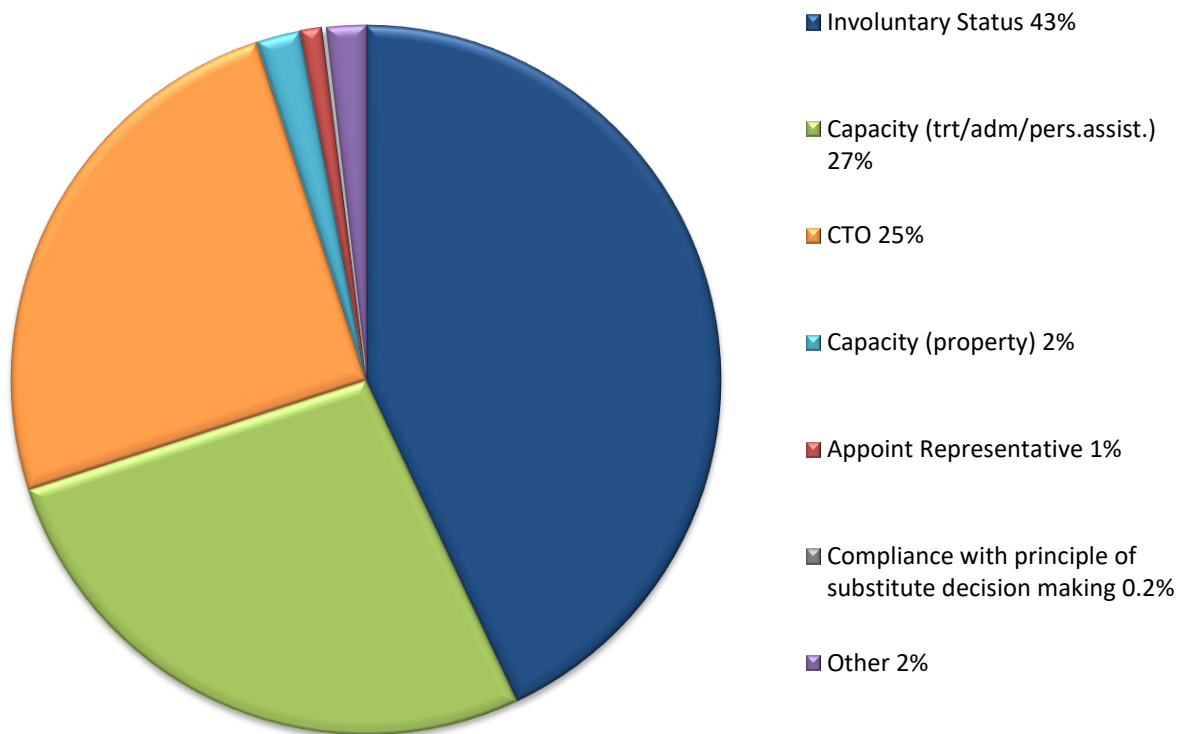
## Caseload Increase



## Applications to the Board

In 2020/2021 a total of 9917 applications were received by the CCB. The majority of the applications to the Board were one of three types: 43% related to a review of involuntary status, 27% related to a review of a finding of incapacity (treatment, admission or personal assistance services) and 25% related to a review of a Community Treatment Order.

### Application Types Received 2020/2021



## Applications Reviewed at Hearings

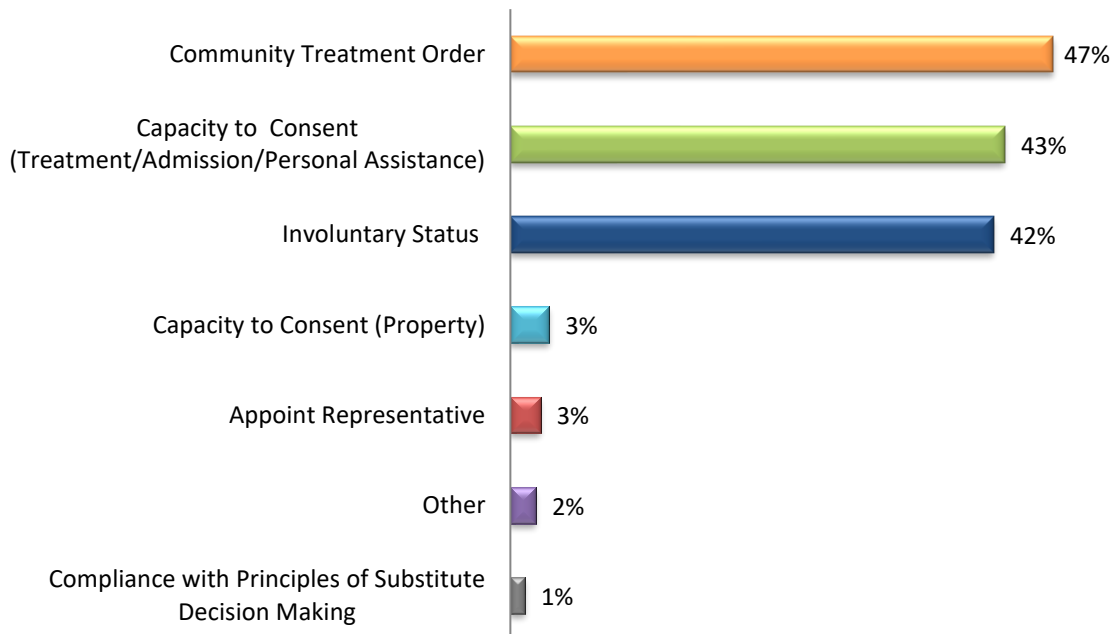
Historically most hearings convened by the Board involve an application for a review of involuntary status (Form 16/17), a finding of incapacity with respect to treatment, admission or personal assistance (Form A), or a Community Treatment Order (Form 48).

In 2020/2021 a total of 6365 hearings were convened. 47% involved a review of a Community Treatment Order making it the first year that Form 48s were the application most often considered at hearing. Form A applications were considered at 43% of all hearings, with Form 16/17s rounding out the most common applications considered at hearings with 42% of all hearings.

This contrasts slightly with 2019/2020 when F16/17 was the most common application reviewed, at 43% and Form A and Form 48 applications were each reviewed at 40% of hearings.

Note that the total of all hearings by application type is greater than 100% because more than one application may be reviewed at a single hearing.

### 2020/2021 Percentage of Hearings Involving Each Application Type



## Appeals

Parties may appeal a decision of the CCB to the Superior Court of Justice within seven days of the Board’s decision. From 2003 – 2015 an average of 56 CCB decisions per year were appealed. In 2016, due to changes at Legal Aid Ontario, there was a steep increase in appeals to 123. From 2017-2020 the average is 84 per year. When viewed as a percentage of total applications, appeals have declined from about 1.5% of applications received in 2003 to less than 1% of all applications in 2020. While there is not a direct correlation between applications received and appeals, this comparison provides some context for the increases in appeal raw numbers over time.

Few appeals proceeded in the first two quarters of 2020/2021 due to operational changes in the courts related to COVID-19. In the third quarter as court activity increased, more CCB appeals began to move forward, however many appeals filed earlier in the year were ultimately withdrawn or abandoned.

The following chart shows the number of appeals received by the CCB in recent years and the percentage of those appeals that were withdrawn / abandoned, dismissed or allowed. On average approximately 2 appeals per year are allowed. Appeal numbers below are based on calendar year, not fiscal year. Note, appeal outcomes may not correspond to the calendar year the appeal was initially filed, nor the year of the CCB decision and the CCB is not always notified of the outcome of appeals which are not allowed.

Year	Received	Withdrawn / Abandoned	Dismissed	Allowed
2010	58	47%	33%	2%
2011	63	48%	29%	6%
2012	49	41%	31%	4%
2013	62	40%	31%	2%
2014	66	33%	39%	6%
2015	95	32%	32%	6%
2016	123	33%	22%	2%
2017	95	24%	16%	4%
2018	73	34%	7%	0%
2019	85	19%	6%	1%
2020	82	34%	11%	1%

## Finance

From 2000/2001 to 2017/2018 the CCB experienced annual pressures of \$1 - \$2M in most fiscal years due to primarily to cumulative caseload increases representing shortfalls equivalent to as much as 25% of allocated funding. Allocation adjustments in 2018/2019 better aligned allocated resources with the operational needs of the Board in response to increased demand for services. Since that time allocations have generally aligned with the Board's overall needs. The Board's allocation for fiscal 2020/2021 was \$8,411,400, up 0.4% from 2019/2020, not including accommodations. Total expenditure for the year was approximately 4% above allocation at \$8,764,327.

Note that in 2020/2021 responsibility for accommodations for the Board has been transferred to the Ministry of Government and Consumer Services, along with the allocation for this expenditure. As a result, the Board is no longer including accommodation costs in its financial reporting and any comparisons in this report also exclude accommodations for the comparator years as well.

Long term increases in CCB expenditures are outpaced by caseload increases. Since 2010/2011 actual expenditures increased approximately 63% while hearings before the board increased 159%. The 2020/2021 total expenditure was an increase of only 5% in spending compared to the previous year, despite year over year caseload increases of 15% in applications and 22% in hearings.

Member remuneration is driven by hearing demand and volume. The CCB makes significant efforts to create hearing schedules that are both logistically sound and cost effective with respect to the deployment of adjudicators, while ensuring all legal and procedural obligations are met. Total per diem expenditures for part time appointees 2020/2021 were \$5,916,237 and full-time appointee salary and benefits were \$555,762.

The CCB exercises prudent fiscal controllership by ensuring all member claims and vendor invoices adhere to Board and government guidelines and directives and continues to carefully monitor all aspects of its operations to enhance administrative efficiencies and to implement cost-savings or cost-avoidance strategies, as appropriate.



**Financial Expenditure Report**  
**April 1, 2020 to March 31, 2021**

	Allocation	Actual Expenditures	Surplus (Deficit)
<u>DIRECT OPERATING EXPENSE</u>			
Salaries and Wages	1,337,600	1,375,289	(37,689)
Benefits	194,000	195,269	(1,269)
<b>Subtotal</b>	<b>1,531,600</b>	<b>1,570,558</b>	<b>(38,958)</b>
<u>OTHER DIRECT OPERATING EXPENSES</u>			
Program Specific Costs	6,879,800	7,193,769	(313,969)
<b>TOTAL</b>	<b>8,411,400</b>	<b>8,764,327</b>	<b>(352,927)</b>

# Consent and Capacity Board Members and Remuneration

## Members of the Board as of March 31, 2021

Surname	First Name	Member Type*	Appointment Date	Appointment Expiry Date	Per Diem Rate	2020/2021 Remuneration
<b>Chair</b>						
Creal	Marg	Chair	March 11, 2015	March 10, 2022	N/A*	\$223,581.28
<b>Full Time Vice Chairs</b>						
Newman	Michael	L	September 01, 2017	August 31, 2022	N/A*	\$145,810.34
Patton	Lora	L	July 11, 2017	July 10, 2022	N/A*	\$145,810.34
<b>Part Time Vice Chairs</b>						
Bhatla	Rajiv	Ps	November 22, 2000	April 23, 2023	\$788	\$11,915.10
Jacob	Judith	L	April 03, 1995	April 02, 2022	\$788	\$36,356.68
Lester	Nina	L	June 17, 2009	April 10, 2023	\$788	\$112,412.27
Strang	Gary	Pu	September 24, 2003	January 14, 2024	\$583	\$56,696.12
<b>Part Time Members</b>						
Alatishe	Yuri	Ps	March 19, 2014	March 18, 2023	\$788	\$788.00
Alexander	Hilary	Pu	December 20, 2019	December 19, 2021	\$472	\$33,186.47
Ambrosini	Daniel	L	June 22, 2016	December 31, 2022	\$788	\$122,936.69
Andrade	Donna	N	August 29, 2019	August 28, 2021	\$788	\$66,341.45
Anweiler	Jane	L	October 31, 2019	October 30, 2021	\$788	\$58,029.41
Bakewell	Francis	Ph	May 28, 2020	May 27, 2022	\$788	\$14,686.69
Beasley	Geoffrey	L	May 18, 2016	May 17, 2026	\$788	\$52,763.95
Beaton	Marilyn	Pu	October 17, 2019	October 16, 2021	\$472	\$34,830.33
Bessner	Ronda	L	August 13, 2014	August 15, 2024	\$788	\$16,711.03
Bismil	Ramprasad	Ps	May 28, 2020	May 27, 2022	\$788	\$11,860.76
Booth	Hazel	N	August 29, 2019	August 28, 2021	\$788	\$41,587.38
Braden	Donald	Ps	October 06, 1999	October 17, 2024	\$788	\$23,748.69
Brisson	Kim	Pu	February 08, 2018	February 26, 2023	\$472	\$41,592.96
Brook	Shelley	Ps	August 29, 2019	August 28, 2021	\$788	\$31,248.28
Bruckmann	Elisabeth Margaret	L	June 20, 2012	June 19, 2022	\$788	\$42,579.17
Buckingham	Robert	Ps	October 09, 2013	December 11, 2022	\$788	\$54,983.38
Bullbrook	Jane	L	November 28, 2019	November 27, 2021	\$788	\$52,429.19
Cato	Kimberly	Pu	August 17, 2017	September 12, 2022	\$472	\$37,165.93
Cavanaugh	David	L	May 31, 2017	August 15, 2022	\$788	\$72,428.07
Chandrasena	Ranjith	Ps	June 01, 1986	April 08, 2023	\$788	\$29,386.97
Charbonneau	Yoland	Ps	August 23, 1993	April 02, 2022	\$788	\$75,077.37
Chenoweth	Frederick	L	January 28, 2015	January 27, 2025	\$788	\$43,016.65
Chillman	Brian	L	January 15, 2016	January 14, 2026	\$788	\$73,691.61

Surname	First Name	Member Type*	Appointment Date	Appointment Expiry Date	Per Diem Rate	2020/2021 Remuneration
Clapp	Suzanne	L	October 30, 2013	December 11, 2024	\$788	\$64,483.37
Cohen	Alina	Pu	October 17, 2019	October 16, 2021	\$472	\$0.00
Cook	Peter	Ps	July 04, 2001	July 25, 2024	\$788	\$46,668.62
Corey	JoAnn	Ps	August 17, 2017	September 12, 2022	\$788	\$15,868.69
Danbrook	Catherine	Pu	October 17, 2019	October 16, 2021	\$472	\$27,807.30
Datta	Partha	Ph	April 24, 2020	April 23, 2022	\$788	\$18,232.69
Decaria	Jennifer	Pu	October 17, 2019	October 16, 2021	\$472	\$24,478.89
Doyle	Patricia	Ph	October 17, 2019	October 16, 2021	\$788	\$50,323.31
Drouin	Danielle	N	October 17, 2019	October 16, 2021	\$788	\$60,499.38
Duggan	Stephen	Pu	October 17, 2019	October 16, 2021	\$472	\$31,949.51
Earle	Julie	N	October 17, 2019	October 16, 2021	\$788	\$33,503.58
Edwards	Virginia	Ps	August 01, 2012	July 31, 2022	\$788	\$57,632.69
Ewer	Diane	L	January 15, 2016	January 14, 2026	\$788	\$44,826.88
Ferencz	Joseph	Ps	January 15, 2007	January 14, 2023	\$788	\$9,564.69
Flanagan	Curt	L	March 25, 2020	March 24, 2022	\$788	\$25,419.80
Forget	Martin	Pu	March 12, 2020	March 11, 2022	\$472	\$22,376.37
Galbraith	Donald	Ps	January 13, 1994	April 08, 2023	\$788	\$63,379.65
Giroux	Maurice	Pu	July 11, 2017	September 25, 2022	\$472	\$36,661.38
Goodman	R. Gail	L	November 21, 2019	November 20, 2021	\$788	\$63,708.46
Gopikrishna	Sabnavis	Pu	January 07, 2021	January 06, 2023	\$472	\$0.00
Gorewicz	Harvey	Pu	February 14, 2020	February 13, 2022	\$472	\$37,480.38
Hackett	R. Andrew	Ps	March 18, 2015	April 08, 2021	\$788	\$69,477.14
Hanbidge	John	L	January 15, 2016	January 14, 2026	\$788	\$74,164.40
Hand	Karen	Ps	May 04, 2011	May 03, 2026	\$788	\$118,621.16
Handelman	Mark	L	August 29, 2019	August 28, 2021	\$788	\$109,695.01
Handsor	Julie	Pu	October 31, 2019	October 30, 2021	\$472	\$26,220.41
Harris	Yvonne	Pu	October 18, 2017	October 17, 2022	\$472	\$39,200.41
Harris	Janet	Pu	October 19, 2016	December 11, 2022	\$472	\$32,161.10
Harvie	Elizabeth	L	August 17, 2017	September 25, 2022	\$788	\$60,270.04
Heakes	Susan	L	November 21, 2019	November 20, 2021	\$788	\$81,156.39
Herne	Jill	Pu	September 28, 2016	November 13, 2022	\$472	\$38,401.26
Hodgson-Harris	Loree	L	May 18, 2016	December 31, 2022	\$788	\$39,834.77
Hopgood	Derek	Ps	August 29, 2019	August 28, 2021	\$788	\$0.00
Johnson	Slavo	Pu	April 14, 2010	May 12, 2023	\$472	\$39,843.31
Johnston	Susan	Ps	April 24, 2020	April 23, 2022	\$788	\$41,435.21
Kay	Gary	Ps	September 08, 2015	September 07, 2025	\$788	\$44,589.93
Kindiak	Darlene	Pu	October 17, 2019	October 16, 2021	\$472	\$35,943.60

Surname	First Name	Member Type*	Appointment Date	Appointment Expiry Date	Per Diem Rate	2020/2021 Remuneration
Kirkpatrick	Kimberley	N	October 17, 2019	October 16, 2021	\$788	\$56,638.18
Koyama	Ken	Pu	October 17, 2019	October 16, 2021	\$472	\$0.00
Krasnik	Catherine	Ps	August 01, 2012	July 31, 2022	\$788	\$0.00
Ladouceur Beauchamp	Renee	Pu	October 25, 2019	October 24, 2021	\$472	\$23,948.29
Lake	Rae	Ph	April 02, 2020	April 01, 2022	\$788	\$36,003.45
Lakra	Rekha	L	May 08, 2013	December 31, 2024	\$788	\$73,066.63
Landry	Lynn Marie	L	April 24, 2020	April 23, 2022	\$788	\$59,785.80
Langlois	David	Pu	October 17, 2019	October 16, 2021	\$472	\$14,062.34
Liddle	John	L	January 15, 2016	January 14, 2026	\$788	\$75,213.26
Links	Paul	Ps	September 14, 2016	November 13, 2022	\$788	\$22,960.69
List	Stephen	Ps	May 03, 2006	July 25, 2024	\$788	\$10,407.03
Lossing	Julie	N	October 25, 2019	October 24, 2021	\$788	\$14,876.90
Louvish	Dimitri	Ph	May 28, 2020	May 27, 2022	\$788	\$28,911.45
Lyn	Leonard	L	October 17, 2019	October 16, 2021	\$788	\$24,835.59
Martschenko	Linda	L	January 15, 2016	January 14, 2026	\$788	\$78,881.52
Matheson	Charles	Pu	October 31, 2019	October 30, 2021	\$472	\$31,713.51
McFadden	David	Pu	February 24, 2016	April 28, 2026	\$472	\$46,426.89
Menezes	Natasja	Ps	August 29, 2019	August 28, 2021	\$788	\$37,266.97
Merrifield	Thomas	L	October 31, 2019	October 30, 2021	\$788	\$80,552.62
Murphy	Patrick	L	August 29, 2019	August 28, 2021	\$788	\$36,546.88
Nathanson	Jay	Ps	January 29, 2014	January 30, 2023	\$788	\$9,673.38
Nemet	Joseph	L	August 17, 2017	September 12, 2022	\$788	\$62,156.90
Neuburger	Sheila	Pu	October 31, 2019	October 30, 2021	\$472	\$35,253.50
Nytko	Barbara	Pu	October 31, 2019	October 30, 2021	\$472	\$31,225.23
Papatheodorou	George	Ps	November 04, 2015	December 09, 2025	\$788	\$52,008.00
Pelletier	John	Ps	October 02, 2002	December 11, 2022	\$788	\$52,035.17
Pilon	Brigitte	L	April 26, 2017	December 09, 2021	\$788	\$102,431.84
Power	Martina	Ps	April 09, 2014	April 08, 2024	\$788	\$71,610.18
Proops	Simon	Pu	February 21, 2018	February 26, 2023	\$472	\$30,875.30
Quinlan	Elizabeth	L	June 11, 2020	June 10, 2022	\$788	\$27,824.56
Raina	Shashi	L	December 09, 2015	December 08, 2025	\$788	\$67,490.84
Rainboth	Robert	Pu	August 17, 2017	September 12, 2022	\$472	\$55,196.65
Ranger	Nathalie	Ph	August 29, 2019	August 28, 2021	\$788	\$43,880.72
Rasminsky	Frances	Pu	September 13, 2017	September 12, 2022	\$472	\$37,979.73
Ribeyre	Anne-Sophie	Pu	October 25, 2019	October 24, 2021	\$472	\$23,842.50
Roblin	Blair	L	November 28, 2019	November 27, 2021	\$788	\$70,675.46

Surname	First Name	Member Type*	Appointment Date	Appointment Expiry Date	Per Diem Rate	2020/2021 Remuneration
Rosen	Lonny	L	July 18, 2012	July 17, 2022	\$788	\$18,422.90
Sarjeant	Jennifer	Ph	August 29, 2019	August 28, 2021	\$788	\$55,934.41
Schofield	Carol	Pu	March 25, 2020	March 24, 2022	\$472	\$20,084.40
Sharma	Sangita	Ph	August 29, 2019	August 28, 2021	\$788	\$0.00
Shoucri	Rami	Ph	August 29, 2019	August 28, 2021	\$788	\$37,742.48
Shugar	Gerald	Ps	July 04, 2001	July 03, 2022	\$788	\$43,163.37
Silver	Laura	L	May 18, 2016	December 31, 2022	\$788	\$118,632.58
Smith	Mary	N	May 07, 2020	May 06, 2022	\$788	\$33,517.17
Stewart	Ross	L	February 24, 2016	February 23, 2026	\$788	\$97,804.94
Tackaberry	Debra	Pu	March 25, 2020	March 24, 2022	\$472	\$13,647.30
Tomaszewski	Katherine	L	November 28, 2019	November 27, 2021	\$788	\$42,647.12
Tulandi	Myrna	L	April 24, 2020	April 23, 2022	\$788	\$51,013.49
Tulotsang	Dolkar	Pu	October 17, 2019	October 16, 2021	\$472	\$33,487.58
Uchendu	Kate	N	May 31, 2017	July 25, 2022	\$788	\$87,712.55
Vaillancourt	Timothy	Pu	December 05, 2012	December 04, 2022	\$472	\$47,525.51
Velamoor	Varadaraj	Ps	May 31, 2017	July 25, 2022	\$788	\$62,319.93
Veltman	Albina	Ps	July 11, 2017	July 25, 2022	\$788	\$30,270.07
Vivona	Francesca	Pu	October 31, 2019	October 30, 2021	\$472	\$32,055.30
Waddell	Andrea	Ps	April 24, 2020	April 23, 2022	\$788	\$18,450.07
Warr	Anthony	Pu	December 05, 2012	December 04, 2022	\$472	\$47,221.48
Whitehead	Katherine	Ph	April 12, 2017	April 11, 2023	\$788	\$3,546.00
Williams	Eugene	L	January 05, 2006	January 30, 2023	\$788	\$64,219.28
Woodman	Mary	N	August 29, 2019	August 28, 2021	\$788	\$62,849.79
Woogh	Carolyn	Ps	October 09, 2013	December 11, 2022	\$788	\$67,020.76
Zeath	F. Zeenath	L	March 07, 2018	March 11, 2023	\$788	\$60,743.93

\* Member Types:

L – Lawyer

Ps – Psychiatrist

Ph – Physician

N – Nurse in the Extended Class

Pu - Public

**Members Whose Appointment to the Board Ended  
between April 1 2020 and March 30 2021**

Surname	First Name	Member Type *	Appointment Date	Appointment End Date	Per Diem Rate	2020/2021 Remuneration
<b>Part Time Members</b>						
Allen	Susan	L	October 31, 2019	December 17, 2020	\$788	\$32,634.05
Arciszewska	Halszka	Ps	June 17, 2015	June 16, 2020	\$788	\$0.00
Bouvier	Andre	Pu	March 05, 2020	July 16, 2020	\$472	\$537.10
Franklin	Ronald	L	December 02, 2015	December 01, 2020	\$788	\$16,395.84
Geist	Rose	Ps	February 27, 2008	February 26, 2021	\$788	\$17,336.00
Gopidasan	Balaji	Ps	March 09, 2016	March 08, 2021	\$788	\$108.69
Grange	Hamlin	Pu	February 09, 2011	February 08, 2021	\$472	\$17,675.58
Hoe	Walter	Ps	January 15, 2016	January 14, 2021	\$788	\$1,576.00
Johnston	Anita	Ps	April 11, 2018	April 10, 2020	\$788	\$9,456.00
Karrass	Robert	L	November 04, 2015	November 03, 2020	\$788	\$66,789.78
Krause	Pamela	L	July 26, 2019	June 04, 2020	\$788	\$20,134.74
Kukreja	Kanwal Deep Singh	Ps	October 21, 2015	October 20, 2020	\$788	\$0.00
Manchanda	Rahul	Ps	June 17, 1993	April 02, 2020	\$788	\$788.00
Maraj	Sabita	Pu	September 15, 2010	September 14, 2020	\$472	\$21,150.48
Meier	Helen Rosemary	Ps	June 01, 1986	April 02, 2020	\$788	\$0.00
Mills	Janette	L	October 25, 2019	October 08, 2020	\$788	\$2,662.90
Pooran	Brendon	L	February 22, 2011	February 21, 2021	\$788	\$6,439.86
Qadeer	Susan	Pu	October 21, 2015	October 20, 2020	\$472	\$21,004.00
Scrutton-Fulford	Jill	L	November 28, 2019	October 26, 2020	\$788	\$23,333.50
Silverman	Marvin	Ps	July 11, 1990	June 11, 2020	\$788	\$13,002.00
Skrypniak	Andrew (Andy)	Pu	February 24, 2016	February 23, 2021	\$472	\$35,692.97
Stevenson	Cameron	Ps	June 05, 1996	May 13, 2020	\$788	\$0.00
Stuart	Glenn	L	November 04, 2015	November 03, 2020	\$788	\$48,187.57
Vora	Arpana	Pu	April 11, 2018	April 10, 2020	\$472	\$20,019.31

\* Member Types:

L – Lawyer

Ps – Psychiatrist

Ph – Physician

N – Nurse in the Extended Class

Pu - Public

## Members Reappointed in 2020/2021 using ATAGAA Waivers

Surname	First Name	Member Type *	Initial Appointment Date	Waiver Appointment Date	Appointment Expiry Date
<b>Part Time Vice Chairs</b>					
Jacob	Judith	L	April 03, 2017	April 03, 2020	April 02, 2022
Lester	Nina	L	April 11, 2018	April 11, 2020	April 10, 2023
Strang	Gary	Pu	January 15, 2018	January 15, 2021	January 14, 2024
<b>Part Time Members</b>					
Chandrasena	Ranjith	Ps	April 04, 2019	April 09, 2020	April 08, 2023
Chillman	Brian	L	January 15, 2018	January 15, 2021	January 14, 2026
Ewer	Dianne	L	January 15, 2018	January 15, 2021	January 14, 2026
Galbraith	Donald	Ps	April 04, 2019	April 09, 2020	April 08, 2023
Hanbidge	John	L	January 15, 2018	January 15, 2021	January 14, 2026
Johnson	Slavo	Pu	April 14, 2015	May 13, 2020	May 12, 2023
Kay	Gary	Ps	September 08, 2017	September 08, 2020	September 07, 2025
Liddle	John	L	January 15, 2018	January 15, 2021	January 14, 2026
Martschenko	Linda	L	January 15, 2018	January 15, 2021	January 14, 2026
McFadden	David	Pu	February 24, 2018	April 29, 2021	April 28, 2026
Papatheodorou	George	Ps	November 04, 2017	December 10, 2020	December 09, 2025
Pilon	Brigitte	L	November 30, 2019	December 10, 2020	December 09, 2021
Power	Martina	Ps	April 09, 2019	April 09, 2020	April 08, 2024
Raina	Shashi	L	December 09, 2017	December 09, 2020	December 08, 2025
Silverman	Marvin	Ps	April 03, 2017	April 03, 2020	April 02, 2023
Stewart	Ross	L	February 24, 2018	February 24, 2021	February 23, 2026
Whitehead	Katherine	Ph	April 12, 2019	April 12, 2020	April 11, 2023

\* Member Types:

L – Lawyer

Ps – Psychiatrist

Ph – Physician

N – Nurse in the Extended Class

Pu - Public