

Legal Member



Consent and Capacity Board Position Description

RESPONSIBILITY

Within the area of Mental Health and Health Law the Legal Member is responsible for making decisions on applications submitted by parties appearing before the Consent and Capacity Board pursuant to the *Mental Health Act*, *Health Care Consent Act*, *Substitute Decisions Act*, *Personal Health Information Protection Act* and *Mandatory Blood Testing Act*; responsible for issuing timely Decisions and/or Reasons for Decision; responsible for presiding over Board hearings.

KEY DUTIES

Law, Procedure and Decision Making

A Legal Member may carry out this responsibility alone as a single adjudicator or as part of a panel.

A Legal Member:

- > Conducts hearings, or other duties as assigned by the Chair, in accordance with the governing statute and other applicable laws as well as within the policies, procedures and rules of practice developed by the Consent and Capacity Board
- > Hears submissions and evidence presented by parties, and ensures that all issues are dealt with at the hearing.
- > Preside over hearings in a way which is fair, dignified, inclusive, professional, and respects the rules of natural justice
- > Actively listens to comprehend interests and positions, which are sometimes difficult to ascertain.
- > Issues written Decisions and/or Endorsements and/or Reasons for Decision
- > Makes rulings necessary for the proper and expeditious conduct, control and completion of the hearing.
- > Participates fully in deliberations by finding the facts from the evidence, then applying the law to those facts
- > Makes rulings and issues written decisions that are independent and free of outside influence.
- > Reviews and analyzes all evidence and submissions thoroughly and makes decisions based on the evidence and consideration and application of relevant law.

- > Issues Decisions and Reasons for Decision in a timely manner, within the time frames established by the Consent and Capacity Board and governing statutes.
- > Issues clear, well-written, soundly reasoned Decisions, Endorsements and Reasons for Decision, which are understandable and can be implemented by the parties.
- > Where the parties agree or where the law permits, acts as a mediator among parties by listening to the parties' positions, defining underlying issues and interests, focusing the parties' attention on what a workable settlement would be and facilitating a resolution between the parties.
- > Participates in pre-hearing procedures to define and clarify issues.
- > Identifies opportunities to resolve the application or specific issues before moving on to a hearing.
- > Participates in initial training and stays current in the field by engaging in ongoing professional development, participating in scheduled and ad-hoc meetings of the Consent and Capacity Board, as well as participating on committees and work groups related to the work of the Board.
- > Participates in meetings of the Board, and when requested to do so by the Chair or the Chair's designate, in training and mentoring sessions and in committees established for the administration of the Board's role.
- > Complies with policies and practices set out by the Board to meet financial accountability and administrative requirements.
- > Works constructively and contributes to a collegial atmosphere at the Board by sharing knowledge, time and experience with Board staff and other appointees.
- > Maintains positive, productive and appropriate relationships with Board staff and adjudicators, stakeholders and all parties appearing before the Board.

Integrity and Fair Practices

- > Ensures equal access, fair treatment and due process in hearing practices.
- > Deals with conflict and diverging interests while maintaining decorum, due process, and professional and respectful interactions among all participants.
- > Recognizes and deals appropriately with situations that may involve an issue of bias or conflict of interest in accordance with the Board Code of Conduct and Conflict of Interest rules.
- > Acts with integrity and honesty. Actions are guided by the best interests of the Board and the public.

QUALIFICATIONS

Legal Members are required to have the following abilities, skills and knowledge in order to carry out their responsibilities effectively:

- > Experience in interpreting and applying legislation with specific knowledge of the *Mental Health Act, Health Care Consent Act, Substitute Decision Act, Personal Health Information Protection Act, Mandatory Blood Testing Act, Statutory Powers Procedures Act.*

- > Knowledge of the Board's Rules of Practice and Policy Guidelines.
- > Ability to interpret and commitment to adhere to the Board's internal guidelines and processes.
- > Assists their colleagues to understand and deal with legal issues when necessary
- > Understanding of the professional, institutional and community context within which the Board operates.
- > Fulfills the roll of presiding member by chairing the hearing, maintaining firm control over the hearing and issuing timely Decision and/or Reasons for Decision.
- > Understanding of the justice system and administrative law and the concepts of fairness and natural justice.
- > Demonstrated analytical, conceptual, problem-solving, decision-making skills.
- > Well-developed writing skills.
- > Ability to listen and communicate clearly and effectively.
- > Ability to formulate reasoned decisions and communicate them orally and in writing in a timely manner.
- > Well-developed dispute resolution skills.
- > Impartiality and sound judgement to fairly assess cases involving issues regarding conflicting verbal / written evidence and the assessment of credibility.
- > Commitment to ongoing professional development to enhance expertise and remain current in the field.
- > Good organizational skills to manage a heavy workload with complex, ongoing processes.
- > Self-confidence/self-control and sensitivity to the diverse interests of the parties in order to maintain effective control in confrontational and stressful situations.
- > Commitment to respect diversity, and to maintain fair, transparent processes that meet high professional standards.
- > Computer and technology literate.
- > Ability and willingness to travel within the province on short notice (i.e. 24 hours).
- > Good standing with the Law Society of Upper Canada.