

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE MINISTER OF HEALTH AND LONG-TERM CARE
AND
THE CONSENT AND CAPACITY BOARD

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1. Purpose

- a. The purpose of this Memorandum of Understanding (MOU) is to:
- Set out the accountability relationships between the Minister of Health and Long-Term Care and the Chair of the Consent and Capacity Board on behalf of the Board.
 - Clarify the roles and responsibilities of the Minister, the Chair, the Deputy Minister and the Registrar, Senior Manager.
 - Set out the expectations for the operational, administrative, financial, staffing, auditing and reporting arrangements between the Board and the Ministry.
- b. This MOU should be read together with the *Health Care Consent Act, 1996*, S.O.1996, c.2, Sched.A. This MOU does not affect, modify or limit the powers of the Board as set out in the *Health Care Consent Act*, or interfere with the responsibilities of any of its parties as established by law. In the event of conflict between this MOU and any act or regulation, the act or regulation prevails.

2. Definitions

In this MOU:

- a. “Act” means the *Health Care Consent Act, 1996*, S.O.1996, c.2, Sched.A that governs the Board
- b. “AEAD” means the Treasury Board/Management Board of Cabinet Agency Establishment and Accountability Directive
- c. “ALPAU” means the Agency Liaison and Public Appointments Unit in the Ministry’s Corporate Services Division with responsibility for agency liaison
- d. “Appointee” means a member appointed to the Board by the Lieutenant Governor in Council, but does not mean an individual employed by the Board as staff
- e. “ATAGAA” means the *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009*, S.O. 2009, c. 33, Sched.5
- f. “Board” means the Consent and Capacity Board
- g. “CAO” means the Chief Administrative Officer and Assistant Deputy Minister, Corporate Services Division, Ministry of Health and Long-Term Care
- h. “Chair” means the Chair and Chief Executive Officer of the Consent and Capacity Board
- i. “Constituting instrument” means the *Health Care Consent Act, 1996*, S.O.1996, c.2, Sched.A
- j. “Deputy Minister” means the Deputy Minister of Health and Long-Term Care
- k. “Designate” means a ministry official designated by the Deputy Minister to carry out certain roles and responsibilities under this MOU
- l. “Effective date” means the date this MOU is signed by the Minister
- m. “MBC” means Management Board of Cabinet
- n. “MGS” means the Ministry of Government Services
- o. “Minister” means the Minister of Health and Long-Term Care
- p. “Ministry” means the Ministry of Health and Long-Term Care
- q. “MOU” means this Memorandum of Understanding between the Minister and the Board
- r. “PSOA” means the *Public Service of Ontario Act, 2006*. S.O.2006, c.35, Sched. A.
- s. “Registrar, Senior Manager” means the senior public servant assigned to the Board by the Ministry as appointed under part III of the PSOA
- t. “TB” means Treasury Board.

3. Board’s Legal Authority and Mandate

- a. The legal authority of the Board is set out in the *Health Care Consent Act, 1996*, c.2, Sched.A.
- b. The Board also exercises powers and authority under the *Mandatory Blood Testing Act, 2006*, S.O. 2006, c.26, the *Mental Health Act*, R.S.O. 1990, c. M.7, the *Substitute Decisions Act, 1992*, S.O.1992, c.30 and the *Personal Health Information Protection Act, 2004*, S.O. 2004, c.3, Sched.A.
- c. The mandate of the Board is to receive applications and make decisions in accordance with its constituting instrument and the additional statutes under which the Board exercises authority.

4. Crown Agent Status

- a. The Board is not a Crown Agency within the meaning of the *Crown Agency Act*, R.S.O. 1990, c.C.48.

5. Agency Classification

- a. The Board is classified as an Adjudicative Agency under the AEAD.

6. Guiding Principles

- a. The Minister acknowledges that the Board exercises powers and performs duties in accordance with its mandate.
- b. The Minister acknowledges the need for the Board's adjudicative decisions to be made, and be seen by the public to be made, independently and impartially.
- c. The Minister acknowledges that the Board plays a meaningful role in the development of the policies and programs of the government, as well as in the implementation of those policies and delivery of programs.
- d. The Chair acknowledges that accountability is a fundamental principle to be observed in the management, administration and operations of the Board.
- e. As an agency of the government, the Board conducts itself according to the management principles of the Government of Ontario. These principles include ethical behaviour; prudent, efficient and lawful use of public resources; fairness; high-quality service to the public; and openness and transparency to the extent allowed under law.
- f. The Board and the Ministry agree to avoid duplication in services wherever possible.

7. Accountability Relationships

7.1 Minister

The Minister is accountable:

- a. to Cabinet and the Legislative Assembly for reporting and responding to the Legislative Assembly on the affairs of the Board.
- b. for attesting, reporting and responding to TB/MBC on the Board's performance and compliance with government's applicable directives and operational policies.
- c. to the Cabinet for the performance of the Board and its compliance with the government's operational policies and broad policy directions.
- d. for receiving and ensuring that the Board's annual report is made available to the public after tabling it in the Legislative Assembly.

7.2 Chair

The Chair is accountable:

- a. to the Minister for the performance of the Board in fulfilling its mandate, and for carrying out the roles and responsibilities assigned to the Chair by the Act and other applicable legislation, this MOU, and applicable TB/MBC, Public Service Commission, and Ministry of Finance directives.
- b. for reporting to the Minister, as requested, on the Board's activities.
- c. for ensuring timely communications with the Minister regarding any issue that affects, or can reasonably be expected to affect, the Minister's responsibilities for the Board.

7.3 Deputy Minister

The Deputy Minister is accountable:

- a. to the Secretary of the Cabinet and the Minister for the performance of the Ministry in providing administrative and organizational support to the Board and for carrying out the roles and responsibilities assigned by the Minister, applicable TB/MBC and Ministry of Finance directives, and this MOU.

7.4 Registrar, Senior Manager

The Registrar, Senior Manager is accountable:

- a. to the Deputy Minister or designate for ensuring the Board's compliance with government and Ministry directives, guidelines, policies and procedures that relate to the administration and operation of the Board.
- b. to the Deputy Minister or designate for any exercise of authority delegated from the Deputy Minister in accordance with the PSOA, applicable government directives and the Ministry's signing authority limits.
- c. to the Chair for the management of the Board's operations and staff. The Board's staff report to and are accountable to the Registrar, Senior Manager for their performance.
- d. for working under the direction of the Chair to implement policies and operational decisions, and report the Board's performance to the Chair.

8. Conflict of Interest

- a. The Chair is responsible for ensuring that appointees and staff of the Board are informed of the ethical rules to which they are subject, including the rules on conflict of interest, political activity and protected disclosure of wrongdoing that apply to the Board.

9. Roles and Responsibilities

9.1 The Minister

The Minister is accountable to Cabinet and to the Legislative Assembly for:

- a. Reporting and responding to the Legislative Assembly on the affairs of the Board.
- b. Attesting, reporting and responding to TB/MBC on the Board's performance, compliance with applicable TB/MBC directives, the government's operational policies and policy directions.
- c. Where required, recommending to TB/MBC the merger, any change to the Board's mandate or dissolution of the Board.
- d. Recommending to TB/MBC the powers to be given to, or revoked from, the Board when a change to the mandate of the Board is being proposed.
- e. Determining at any time the need for a review or audit of the Board, and recommending to TB/MBC any changes to the governance or administration of the Board resulting from any such review or audit.
- f. When appropriate or necessary, taking action or directing that corrective action be taken with respect to the Board's administration or operations.
- g. Receiving the Board's annual report and ensuring that the annual report is made available to the public after tabling it in the Legislative Assembly.
- h. Informing the Chair of the government's priorities and broad policy directions for the Board.
- i. Consulting, as appropriate, with the Chair (and others) on significant new directions or when the government is considering regulatory or legislative changes for the Board.
- j. Developing the Board's MOU with the Chair and signing it into effect after it has been signed by the Chair.
- k. Reviewing and approving the Board's annual business plan.
- m. Recommending to TB/MBC any provincial funding to be allocated to the Board.
- n. Directing a review of the Board, at least once every six (6) years and directing any additional reviews of the Board, in accordance with the ATAGAA and making recommendations to TB/MBC as may be required after such reviews are completed.
- o. Reviewing the advice or recommendation of the Chair on candidates for appointment or re-appointment to the Board.

9.2 The Chair

The Chair is responsible for:

- a. Providing leadership to the Board.
- b. Ensuring the implementation of actions that support the goals, objectives, and strategic direction of the Board.
- c. Seeking strategic policy direction for the Board from the Minister.
- d. Ensuring timely communications with the Minister regarding any issues or events that may concern, or can reasonably be expected to concern the Minister in the exercise of his/her responsibilities relating to the Board.
- e. Consulting with the Minister in advance regarding any activity which may have an impact on the government and ministry's policies, directives or procedures, or on the Board's mandate, powers or responsibilities as set out in the Board's constituting instrument.
- f. Monitoring the performance of the Board.

- g. Reporting to the Minister as requested on the Board's activities within agreed upon timelines.
- h. Ensuring that the Board operates within its approved budget allocation in fulfilling its mandate.
- i. Developing the Board's MOU with the Minister and signing it on behalf of the Board.
- j. Reviewing and approving the Board's business plan, budget, annual report and financial reports, and submitting them to the Minister in accordance with the time lines specified in the applicable TB/MBC and Ministry of Finance directives, and this MOU.
- k. Providing both the Minister and the Minister of Finance with a copy of every audit report, a copy of the Board's response to each report, and any recommendations in the report.
- l. Advising the Minister annually on any outstanding audit recommendations.
- m. Ensuring that appointees are informed of their responsibilities under the PSOA with regard to the rules of ethical conduct (Part IV of the PSOA), including the political activity rules (Part V of the PSOA).
- n. Making sure that appropriate management systems are in place (financial, information technology, human resource) for the effective administration of the Board.
- o. Making sure that an appropriate framework is in place for Board staff and appointees to receive adequate orientation and training.
- p. Making sure that Board staff and appointees are aware of and comply with applicable TB/MBC and Ministry of Finance directives.
- q. Making sure a process for responding to and resolving complaints from the public and Board clients is in place.
- r. Carrying out effective public communications and relations for the Board as its chief spokesperson.
- s. Cooperating with any review or audit of the Board directed by the Minister or TB/MBC.
- t. Fulfilling the role of ethics executive for public servants who are government appointees to the Board, promoting ethical conduct and ensuring that all members of the Board are familiar with the ethical requirements of the PSOA and the regulations and the directives made under that Act, including the regulations and directives in respect of conflict of interest, political activity and the protected disclosure of wrongdoing.
- u. Setting the goals, objectives, and strategic directions for the Board within its mandate as defined by the Act and directing the affairs of the Board so as to fulfill its mandate as defined by the Act.
- v. Developing performance measures and targets for the Board.
- w. Approving the Board's annual business plan for submission to the Minister and making decisions consistent with the business plan approved for the Board.
- x. Ensuring that public funds are used for the purpose intended with integrity and honesty.
- y. Directing that corrective action relating to the operations of the Board be taken, if needed.
- z. Preparing the Board's annual report for submission to the Minister in a manner timely enough to allow the Minister to meet the requirements for tabling of the report in the Legislative Assembly.
- aa. Establishing with the Deputy Minister or designate the performance criteria and performance development plan for the Registrar, Senior Manager.
- bb. Consulting with the Deputy Minister or designate in the evaluation of the Registrar, Senior Manager pursuant to the performance criteria and performance development plan established with the Deputy Minister or designate.

9.3 The Deputy Minister is responsible for:

- a. Advising and assisting the Minister regarding the Minister's responsibilities for the Board.
- b. Advising the Minister on the requirements of the AEAD, the Government Appointees Directive and other government directives that apply to the Board.
- c. Recommending to the Minister, as may be necessary, the evaluation or review, including a risk-based review, of the Board or any of its programs, or changes to the management framework or operations of the Board.
- d. Facilitating regular briefings and consultations between the Chair and Minister, and between Ministry staff and Board staff.
- e. Attesting to TB/MBC as required, to the Board's compliance with the mandatory accountability requirements set out in the AEAD.
- f. Ensuring that the Ministry and the Board have the capacity and systems in place for on-going risk-based management, including appropriate oversight of the Board.
- g. Ensuring that the Board has an appropriate risk management framework and a risk management plan in place for managing risks that the Board may encounter in meeting its program or service delivery objectives.
- h. Undertaking timely risk-based reviews of the Board, its management or operations, as may be directed by the Minister or TB/MBC.
- i. Establishing a framework for reviewing and assessing the Board's business plans and other reports.
- j. Supporting the Minister in reviewing the performance targets, measures and results of the Board.
- k. Advising the Minister on documents submitted by the Board to the Minister for review or approval, or both.
- l. Submitting to the Minister, as part of the annual planning process, a risk assessment and management plan for each risk category.
- m. Undertaking reviews of the Board as may be directed by the Minister.
- n. Cooperating with any review of the Board as directed by the Minister or TB/MBC.
- o. Monitoring the Board on behalf of the Minister while respecting the Board's authority, identifying needs for corrective action where warranted, and recommending to the Minister ways of resolving any issues that might arise from time to time.
- p. Negotiating a draft MOU with the Chair as directed by the Minister.
- q. Consulting with the Chair, as needed, on matters of mutual importance including services provided by the Ministry and compliance with TB/MBC directives and Ministry policies.
- r. Meeting with the Chair as needed or as directed by the Minister.
- s. Arranging for administrative, financial and other support to the Board as specified in this MOU.
- t. Informing the Chair, in writing, of new government directives and any exceptions to or exemptions in whole or in part from TB/MBC directives or Ministry administrative policies.
- u. When required, submitting a report to the secretaries of TB/MBC on the wind-down of the Board, disposition of any assets, completion of any outstanding responsibilities by the Board, and the termination of any appointments.
- v. Establishing with the Chair the performance criteria and the performance development plan for the Registrar, Senior Manager.

- w. Consulting with the Chair in the evaluation of the Registrar, Senior Manager pursuant to the performance criteria and performance development plan established with the Chair.

9.4 Registrar, Senior Manager

The Registrar, Senior Manager is responsible for

- a. Keeping the Chair informed on operational matters.
- b. Preparing the Board's annual business plan to be approved by the Chair prior to submission to the Minister.
- c. Preparing financial reports.
- d. Ensuring that at least annual audited financial statements are prepared for public release and posting on the Board's website after submission to the Minister and tabling in the Legislature as part of the Board's annual report.
- e. Coordinating with the Ministry, the development of a performance measurement system for Board staff and implementing the system.
- f. Keeping the Deputy Minister informed about operational matters.
- g. Assisting in the preparation of an annual report for the Board as directed by the Chair.
- h. Managing the day-to-day operations of the Board in accordance with TB/MBC and Ministry of Finance directives, accepted business and financial practices, and this MOU.
- i. Advising the Chair on the requirements of and compliance with the AEAD as well as other TB/MBC and Ministry of Finance directives and policies and Board policies.
- j. Applying policies so that public funds are used with integrity and honesty.
- k. Providing leadership and management to the Board staff, including financial resources management.
- l. Establishing and applying a financial management framework for the Board in accordance with applicable Ministry of Finance controllership directives, policies and guidelines.
- m. Translating the goals, objectives and strategic directions of the Board into operational plans and activities in accordance with the Board's approved business plan.
- n. Ensuring that the Board has the oversight capacity and an effective oversight framework in place for monitoring its management and operations.
- o. Keeping the Board, through the Chair, informed with respect to implementation of policy and operations of the Board.
- p. Establishing systems to ensure that the Board operates within its approved business plan.
- q. Ensuring that the Board has an appropriate risk management framework and risk management strategy in place as directed by the Chair.
- r. Supporting the Chair in meeting his responsibilities.
- s. Carrying out in-year monitoring of the Board's operational performance and reporting on results to the Chair.
- t. Keeping the Ministry and the Chair advised on issues or events that may concern the Minister, the Deputy Minister and the Chair in the exercise of their responsibilities.
- u. Advising the Chair on compliance with TB/MBC and Ministry of Finance directives and Ministry policies and procedures.
- v. Seeking support and advice from the Ministry, as appropriate, on Board management issues.
- w. Undertaking timely risk-based reviews of the Board's management and operations.

- x Consulting with the Deputy Minister as needed, on matters of mutual importance, including services provided by the Ministry, and on TB/MBC and Ministry of Finance directives and Ministry policies.
- y. Cooperating with a periodic review directed by the Minister or TB/MBC.
- z. Establishing a system for the retention of Board documents and making such documents publicly available when appropriate, for complying with the *Freedom of Information and Protection of Privacy Act* and the *Archives and Recordkeeping Act* where applicable.

10. Reporting Requirements

10.1 Business Plan

- a. The Chair will ensure that the Minister is provided annually with the Board's business plan covering a minimum of three years from the current fiscal year that includes a financial budget and a risk management plan, for approval within the timelines established by the Minister for this purpose.
- b. The Chair is responsible for ensuring that the Board's annual business plan meets the requirements of the AEAD.
- c. The Chair will ensure that the business plan includes a risk assessment and risk management plan to assist the Ministry in developing its risk assessment and risk management plan information in accordance with the requirement of the AEAD, to assess risks, develop and maintain necessary records and report to TB/MBC.
- d. The Minister will review the Board's annual business plan and will promptly advise the Chair whether or not he/she concurs with the directions proposed by the Board. The Minister may advise the Chair where and in what manner the Board's plans vary from government or Ministry policy or priorities as may be required, and the Board will revise its plan accordingly.
- e. The Chair is responsible for ensuring that the Board's business plan includes a system of performance measures and reporting on the achievement of the objectives set out in the business plan. The system must include performance goals, how they will be achieved, and target results and time frames.
- f. In addition, TB/MBC may require the Minister to submit the Board's business plan to TB/MBC for review at any time.

10.2 Annual Reports

- a. The Chair is responsible for ensuring that the Board's annual report is submitted to the Minister for tabling in the Legislative Assembly. The Chair will submit the annual report to the Minister within 90 days of the Board's fiscal year end.

10.3 Other Reports

- a. The Chair is responsible for ensuring that the reports and documents set out in Appendix 1 to this MOU are submitted for review and approval to the Minister according to the prescribed time lines in Appendix 1.

- b. At the request of the Minister or Deputy Minister, the Chair will supply specific data and other information that may be required from time-to-time for the purpose of Ministry administration.

11. Communications

The parties to this MOU recognize that the timely exchange of information on the operations and administration of the Board is essential for the Minister to meet her responsibilities for reporting and responding to the Legislative Assembly on the affairs of the Board. The parties also recognize that it is essential for the Chair to be kept informed of the government initiatives and broad policy directions that may affect the Board's mandate and functions.

The parties, therefore, agree as follows:

- a. Communications shall not include discussion or the exchange of information between Board personnel and the Minister, Deputy Minister or Ministry staff about specific cases that are or will be the subject of adjudicative decision-making by the Board.
- b. Inquiries received by the Minister's office regarding a case in progress at the Board must be re-directed to the Board without comment. Any response made by the Minister's Office to the inquiring party will indicate that the inquiry has been forwarded to the Board and that the Minister cannot comment on an adjudicative proceeding.
- c. The Chair will keep the Minister advised, in a timely manner, of all planned events and issues that concern or can be reasonably expected to concern the Minister in the exercise of her responsibilities.
- d. The Minister will consult with the Chair, as appropriate, on broad government policy initiatives or legislation being considered by the government that may impact on the Board's mandate or functions.
- e. The Minister and the Chair will consult with each other on public communications strategies and publications. They will keep each other informed of the results of stakeholder and other public consultations and discussions.
- f. The Minister and the Chair will meet at least annually, or as requested by either party, to discuss issues relating to the fulfillment of the Board's mandate, management and operations.
- g. The Deputy Minister and the Chair will meet as required to discuss issues relating to the efficient operation of the Board and the provision of services by the Ministry to the Board.
- h. The Board and Ministry will adhere to the Public Communications Protocol set out in Appendix 3 to this MOU.

12. Administrative Arrangements

12.1 Applicable Treasury Board/Management Board of Cabinet and Ministry of Finance Directives

- a. The Chair is responsible for ensuring that the Board operates in accordance with all applicable TB/MBC, Ministry of Finance and Public Service Commission directives under the PSOA, as well as applicable Ministry financial and administrative policies and

procedures. Appendix 2 to this MOU provides a statement of the applicable directives and policies.

- b. The Chair is responsible for ensuring that the legal, financial and other interests of the government in intellectual property are protected in any contract that the Board may enter into with a third party that involves the creation of intellectual property.

12.2 Administrative and Organizational Support Services

- a. The Deputy Minister is responsible for providing the Board with the administrative and organizational support services listed in Appendix 4 to this MOU, and for negotiating with Ontario Shared Services concerning these services, as appropriate.
- b. Appendix 4 may be reviewed at any time at the request of either party.
- c. The Deputy Minister will ensure that the support or services provided to the Board are of the same quality as those provided to the Ministry's own divisions and branches.

12.3 Legal Services

- a. The Board requires legal services. These services are to be provided in accordance with the Ministry of the Attorney General's Corporate Operating Policy on Acquiring and Using Legal Services.

12.4 Freedom of Information and Protection of Privacy

- a. The Minister is the institution head for the purposes of the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31.
- b. The Chair and Registrar, Senior Manager shall ensure that all members and all staff of the Board comply with the requirements of the *Freedom of Information and Protection of Privacy Act* and the *Personal Health Information and Protection Act, 2004*, S.O.2004, c.3, Sched.A in relation to any information collected, used or disclosed and the Government's directives, guidelines, policies and procedures respecting freedom of information and privacy.

12.5 Delegation of Human Resource Management Authority Under the *Public Service of Ontario Act, 2006*

- a. Where the Public Service Commission has delegated its powers, duties and functions in relation to human resources management to the Deputy Minister, Chair or a Prescribed Individual under Regulation 148/10, that person is accountable for exercising that authority in compliance with any relevant legislation, directives, or policies in accordance with the mandate of the Board, and within the parameters of the delegated authority.
- b. The Registrar, Senior Manager will bring any significant human resources or financial matters to the attention of the Chair and the CAO or his or her designate, whether or not a delegated authority is or has been exercised.

12.6 Records Management

- a. The Chair is responsible for ensuring that a system is in place for the creation, collection, maintenance and disposal of records.
- b. The Chair is responsible for ensuring that the Board complies with the TB/MBC Management of Recorded Information Directive.
- c. The Chair is responsible for ensuring that the Board complies with the *Archives and Recordkeeping Act, 2006*, S.O. 2006, c.34, Schedule A.

12.7 Client/Customer Service

- a. The Chair will ensure that the Board delivers its services at a quality standard that reflects the principles and requirements of the Ontario Public Service Directive.
- b. The Board has in place a formal process for responding to complaints about the quality of services received by clients of the Board consistent with the government's service quality standards.
- c. The Board's annual business plan will include performance measures and targets for client service and the Board's response to complaints.
- d. The Board's process for responding to complaints about the quality of services is separate from any statutory provisions about re-consideration, appeals, etc. of the Board's adjudicative decisions.

13. Financial Arrangements

13.1 Funding

- a. The Board is funded from the Consolidated Revenue Fund pursuant to an appropriation authorized by the Legislative Assembly.
- b. The Registrar, Senior Manager will prepare estimates of the Board's expenditures for inclusion in the Ministry's Results Based Plan. The Chair will deliver these estimates to the Minister in sufficient time to be analyzed and approved by the Minister.
- c. The estimates provided by the Chair may, after appropriate consultation with the Chair, be altered as required.
- d. The Board may be subject to budget constraints in a manner consistent with other constraints on the Ministry's budget. Budget constraints will be applied to the Board in a manner which is mindful of the Board's statutory obligations, particularly with regard to the Board's legislated timeframes for hearings.
- e. Financial procedures of the Board must be in accordance with TB/MBC and Ministry of Finance directives and guidelines and other applicable government direction.
- f. Pursuant to section 28 of the *Financial Administration Act*, the Board shall not enter into any financial arrangement or commitment, guarantee, indemnity or similar transaction that may increase, directly or indirectly, the indebtedness or contingent liabilities of the Government of Ontario without the written approval of the Minister of Finance. The Minister's approval is required before seeking the Minister of Finance's statutory approval.

- g. When ordered to do so by the Minister of Finance, pursuant to section 16.4 of the *Financial Administration Act*, the Board shall pay into the Consolidated Revenue Fund any money that the Minister of Finance determines is surplus to its requirements.

13.2 Financial Reports

- a. The Chair will provide to the Minister annual financial statements, and will include them as part of the Board's annual report. The statements will be provided in a format that is in accordance with the province's stated accounting policies issued by the Office of the Provincial Controller.
- b. The Board will submit to the Ministry of Finance its salary information according to the *Public Sector Salary Disclosure Act*.

13.3 Taxation Status: Harmonized Sales Tax (HST)

- a. The Board receives a CVAT rebate under the Comprehensive Integrated Tax Coordination Agreement.

14. Audit and Review Arrangements

14.1 Audits

- a. The Board is subject to periodic review and value-for-money audit by the Auditor General of Ontario under the *Auditor General Act*, R.S.O.1990, c.A.35 or by the Ontario Internal Audit Division.
- b. The Ontario Internal Audit Division may also carry out an internal audit, if approved to do so by the Ministry's Audit Committee or by the Corporate Audit Committee.
- c. Regardless of any annual external audit, the Minister may direct that the Board be audited at any time.
- d. The Board will promptly provide a copy of every report from an audit to the Minister and the Minister of Finance. The Board will also provide a copy of its response to the audit report and any recommendations therein. The Board will advise the Minister annually on any outstanding audit recommendations.
- e. The Chair may request an external audit of the financial transactions or management controls of the Board at the Board's expense.

15. Staffing and Appointments

15.1 Staffing

- a. The Board is staffed by persons employed under Part III of the PSOA.
- b. The Board, in its dealings with staff employed under the PSOA, is subject to MBC human resources directives and Public Service Commission directives under the PSOA.
- c. The Registrar, Senior Manager, as the senior executive at the Board appointed under the PSOA, is formally accountable to the Deputy Minister, but works under the direction of the Chair in implementing policy and operational decisions.

15.2 Appointments

- a. The Chair is appointed as a member and designated as Chair of the Board by the Lieutenant Governor in Council on the recommendation of the Minister pursuant to subsections 70(2) and 71(1) of the Act.
- b. The Vice-Chairs are appointed as members and designated as Vice-Chairs of the Board by the Lieutenant Governor in Council on the recommendation of the Minister pursuant to subsections 70(2) and 71(1) of the Act.
- c. The members of the Board are appointed by the Lieutenant Governor in Council on the recommendation of the Minister pursuant to subsection 70(2) of the Act.

16. Liability Protection and Insurance

- 16.1 Pursuant to section 71.1 of the Act, no proceeding for damages shall be commenced against the Board, a member, employee or agent of the Board or anyone acting under the authority of the Chair of the Board for any act done in good faith in the performance or intended performance of the person's duty or for any alleged neglect or default in the performance in good faith of the person's duty.
- 16.2 The Board is included in the Government of Ontario Commercial General Liability Protection Program.

17. Effective Date and Duration and Periodic Review of the MOU

17.1 Effective Date of MOU

- a. This MOU is effective on the date it is signed by the Minister.
- b. This MOU expires five (5) years after the effective date and may be renewed before that date for another five (5) years. This MOU will continue in force after its expiry until it is replaced or renewed.
- c. The Minister and the Chair shall review the MOU within 6 months after there is a change in the responsible minister or the chair of the tribunal and, in any event, at least once before it expires.
- d. Without affecting the effective date of this MOU, either the Minister or Chair may initiate a review of this MOU by written request to the other.
- e. After any review of this MOU, the Minister and Chair may affirm by letter that the MOU will continue in force without amendments or alternatively, they may agree to revise it. A copy of the letter of affirmation between the Minister and Chair or the revised MOU must be provided to the Secretary, Management Board of Cabinet within six months of the affirmation or revision.

- f. A full review of this MOU will be conducted prior to its expiry not more than five years following the date it came into effect, or immediately in the event of a significant change to the Board’s mandate, powers or governance structure as a result of an amendment to the Act.

17.2 Reviews

- a. The Minister shall direct a review of the Board at least once every six (6) years in accordance with subsections 21(1) and (2) of the ATAGAA.
- b. In addition, the Minister may at any time direct a public servant employed under Part III of the PSOA or any other person to conduct a review of the Board in respect of any of the matters listed in subsection 21(2) of the ATAGAA.
- c. The Minister will consult the Chair as appropriate during any such review.
- d. The Chair will cooperate in any review directed by the Minister.

18. Signatures

Honourable Deb Matthews
Minister of Health and Long-Term Care

Date

**Honourable Justice Edward Ormston
Chair and Chief Executive Officer**

Date

Appendix 1: Summary of Board Reporting Requirements

DUE DATE	REPORT/DOCUMENT	NAMES OF RESPONSIBLE OFFICIALS
Fall	The Board will prepare estimates of the Board's expenditures for inclusion in the ministry's business plan.	<ul style="list-style-type: none"> • Registrar, Senior Manager/Chair
Fall	The Board will prepare a Risk Assessment Refresh. <ul style="list-style-type: none"> • Prepares • Approves 	<ul style="list-style-type: none"> • Registrar, Senior Manager/Chair • Chair and Minister
Spring	Board Business Plan <ul style="list-style-type: none"> • Prepares • Approves • Provides to minister 	<ul style="list-style-type: none"> • Registrar, Senior Manager and Chair • Chair and Minister • Chair
June 30	Annual Report <ul style="list-style-type: none"> • Prepares • Approves • Provides to minister 	<ul style="list-style-type: none"> • Registrar, Senior Manager/Chair • Chair and Minister • Chair
As required	Auditing	<ul style="list-style-type: none"> • Chair and Minister

Appendix 2: Applicable TB/MBC and Ministry of Finance Directives

The Board is subject to all applicable TB/MBC and Ministry of Finance Directives and all associated policies, procedures and guidelines. These documents may all be accessed through the intranet web site at <http://intra.ops.myops.gov.on.ca>.

All TB/MBC and Ministry of Finance directives, guidelines, and policies apply to the Board including, but not limited to, the following:

- Accountability Directive
- Advertising Content Directive
- Agency Establishment and Accountability Directive
- Communications in French Directive
- Delegation of Authority Key Directive
- Disclosure of Wrongdoing Directive
- Freedom of Information and Protection of Privacy Directive
- Government Appointees Directive
- Government Publications Directive
- Internal Audit Directive
- Management of Recorded Information Directive
- Managing, Distributing and Pricing Government Information (Intellectual Property)
- Perquisites Directive
- Procurement Directive
- Travel, Meal and Hospitality Expenses Directive
- Visual Identity Directive
- All Business Planning and Financial Management Directives
- All MBC and Public Service Commission Human Resource Management Directives
- All Information Technology Directives

The Ministry will inform the Board of amendments or additions to directives, policies and guidelines that apply to the Board; however, the Board is responsible for complying with all directives, policies and guidelines to which it is subject.

Appendix 3: Public Communications Protocol

Purpose:

- I. To establish clear guidelines pertaining to communication between the Minister's Office and the Board.
- II. To set out a process for handling specific case/hearing related inquiries received by the Minister's Office and the Ministry.
- III. To set out a process for dealing with information requests from the Minister's Office or Ministry staff to the Board on legal, policy, administrative and other issues.
- IV. To set out the process for handling public communications/contentious issue inquiries.

The following procedures shall be adhered to with respect to communication between the Minister's Office, the Ministry, and the Board.

I. Communication between the Minister's Office and the Board

- a) The staff of the Minister's Office shall not contact the Board, including Board members or Board staff, to inquire about specific hearings or cases before the Board. This may include any inquiries relating to the subject-matter of a specific case or the process by which a case before the Board is being handled.
- b) Information requests related to specific cases and received by the Minister's Office will be forwarded to the ALPAU who will communicate with the Board to determine an appropriate response to each request. Requests for information about specific cases will be handled in a manner that is consistent with the terms set out in this Protocol.

II. Process for handling specific case/hearing related inquiries

- a) Parties who contact the Minister's Office or the Ministry with an inquiry, issue, or complaint concerning a specific case or hearing before the Board will be referred by the ALPAU to the Registrar, Senior Manager.
- b) Any party with a matter previously referred to the Board requesting to discuss a specific case/hearing with the Minister's Office or with Ministry staff, shall be referred to the ALPAU. The ALPAU will ensure that an appropriate response is communicated to the party. The Ministry's response will advise the party of the independent nature of the Board's relationship with the Ministry and the Minister.

- c) Requests for information pursuant to the *Freedom of Information and Protection of Privacy Act* (FIPPA) received by the Minister's Office or the Ministry will be referred to the ALPAU. The ALPAU will communicate with the Registrar, Senior Manager who in turn will determine an appropriate response to each request in consultation with the Chair.
- d) The Ministry will ensure that all enquires referred by the Minister's Office are addressed in a manner that is consistent with the FIPPA.
- e) The Board will ensure that all inquires referred by the Minister's Office via the Ministry are addressed in a manner which is consistent with the FIPPA.

III. Process for dealing with information requests from Ministry staff to the Board

Ministry staff contact and communication with the Board shall be handled in a manner that is consistent with the terms and conditions agreed to under the MOU.

- a) *Legal Issues*: staff of the Legal Services Branch may contact the Board counsel where appropriate legal discourse is required between the Board and the Ministry.
- b) *Policy and Legislation*: staff of the Health Systems Strategy Division may have contact with the Board on matters pertaining to policy and legislation.
- c) *Administrative and other Issues*: ALPAU, as a designate of the Assistant Deputy Minister, Corporate Services Division, is the primary contact in the Ministry for the Board Chair and/or the Board's Registrar, Senior Manager. The ALPAU is responsible for day-to-day liaison with the Board and the overall co-ordination of Ministry/Board issues including: issues management, briefing materials, reviewing performance measures and business plans, reviewing and tabling of annual reports, drafting and negotiating MOUs with the Board, liaising with central agencies, and monitoring Board compliance with the TB/MBC and Ministry of Finance and Ministry policies, directives and guidelines applicable to classified agencies.

IV. Process for handling public communications/contentious issue inquiries

- a) Definitions

“Public communications” means any material that is communicated to the public either directly or through the media in:

- oral form, such as a speech or public presentation;
- printed form, such as a hardcopy report or;
- electronic form, such as a posting to a website

“Contentious issue” means a matter that is, or may reasonably be expected to be, of concern to the Legislative Assembly or the public or is likely to result in inquiries being directed to the Minister or Government. Contentious issues may be raised by:

- Members of the Legislative Assembly
- The public
- Media
- Stakeholders
- Service delivery partners

- b) The Board will comply with the Management Board Visual Identity Directive and identify itself in all media responses and news releases as an Adjudicative Agency of the Government of Ontario.
- c) With regards to media responses or news releases related to the day-to-day business of the Board that do not have direct implications for either the Ministry or the Government of Ontario:
- The Board should communicate their media responses or news releases to the Ministry, who will circulate as appropriate to other individuals within the Ministry.
- d) Contentious issues, media responses, and news releases that may have direct implications for either the Ministry or the government, or are likely to result in inquiries being directed to the Minister or Government of Ontario:
- For all contentious issues, the Board will notify the Ministry lead (Manager, ALPAU) immediately upon becoming aware of the issue and will notify the Minister simultaneously. The Ministry may also advise the Board of contentious issues that require attention. The Board will provide all required background information on the issue to the Ministry, who will prepare a Contentious Issues Note.

Appendix 4: Administrative or Organizational Support Services

The Deputy Minister is responsible for ensuring that the ministry program areas or the Ontario Shared Services, as appropriate, provide the following administrative support services to the Board:

- a. Financial administration; pay and benefits administration, accounts payable and technical advice, purchasing, central mail and printing services and records and form advisory services.
- b. Human resources services: classification; advice and consultation regarding recruitment procedures and staff relations; job description writing; career counseling and staff development; and advice and consultation regarding corporate initiatives such as occupational health and safety.
- c. Corporate educational opportunities and career planning services are available and open to Board staff and the Ministry must assist the Registrar, Senior Manager in ensuring that these are communicated effectively to Board staff.
- d. Information technology and telecommunications services: advice, consultation, and support.
- e. Internal audit: financial compliance, management, human resources and information systems audits; operational reviews and special investigations as required.
- f. Accommodation: planning, including lease renewals.
- g. Freedom of information program services.
- h. Archives and Recordkeeping program services.
- i. French language services translation and interpretation services.
- j. Business planning.
- k. Performance measurement and program evaluation.