

MANITOBA HEALTH APPEAL BOARD POLICIES

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POLICY TITLE

MANITOBA HEALTH APPEAL BOARD CONFLICT OF INTEREST POLICY

POLICY STATEMENT #2

The purpose of the Conflict of Interest Policy is to inform members that a high standard of integrity, impartiality and fairness is required in carrying out their duties.

A Conflict of Interest Policy is required to:

- ensure that the Board promotes a high level of integrity, impartiality and fairness at all times;
- minimize or avoid any bias that might eliminate the Board's neutrality;
- assist Board members in determining when they may have a conflict or potential conflict of interest;
- establish procedures for Board members to follow when a conflict of interest situation arises.

Board members are responsible for determining their own conflict of interest and responsibility for disclosure of a conflict of interest will rest with each member.

DEFINITIONS

Conflict of interest is:

The real or apparent conflict between one's personal interest in a matter and one's duty to another or to the public in general regarding the same matter.

A conflict of interest exists in each of the following situations:

A "real conflict of interest" exists where a Board member has a private interest that is sufficient to influence the exercise of his/her duties and responsibilities as a member.

A "potential conflict of interest" exists where a member has a private interest that could potentially influence the exercise of a member's or other member's duties.

A “perceived conflict of interest” exists when there is a reasonable expectation (which a reasonably well-informed person could realistically and practically have) that a conflict of interest exists on the part of a member or a panel of members.

POLICY

Members shall not, directly or indirectly:

- place themselves in a situation where there is a private or personal interest that would raise questions about how objective their actions or decisions are in the matter;
- seek or receive personal or private gain by granting preferential treatment to any persons while performing the Board’s duties;
- seek or accept personal or private gain from the use of information acquired during the course of their duties;
- use or permit the use of Manitoba Health Appeal Board property to promote or serve their personal or private interests;
- solicit or accept fees, gifts or other benefits that are connected directly or indirectly with the performance of their Board duties.

Members shall:

- Continually review the interaction between their duties and responsibilities as a Board member and their business, professional, political, community, private and personal interests to ensure that they are not in conflict;
- Declare a conflict of interest situation as soon as one becomes known;
- Abide by the decision of the Board on the matter regarding a conflict if the member is uncertain whether he/she should disqualify him/herself and under what circumstances.

The Board Chair shall:

- Ensure all members are provided with a copy of this policy.
- Ensure members fully comprehend this policy and the procedures to follow should a conflict of interest situation arise.

- Ensure that, upon request of a member, further training on this policy is arranged.
- Ensure that the Administrator is informed of any conflict of interest situation that has been declared to him/her by a Board member.

Procedures to Address Conflict of Interest Situations

Members' Responsibility to Disclose

Ongoing Conflict of Interest

1. Upon appointment or as soon thereafter as circumstances are known where a member has an ongoing conflict of interest, the member shall declare to the Chair the nature of the conflict and the circumstances under which he/she shall not be assigned to sit on a quorum.

Conflict Specific to an Individual Matter

2. It is the responsibility of each Board member to immediately disclose a concern about a conflict or a situation that gives rise to an apprehension of bias to the Administrator as soon as they become aware that one may exist.
3. Where a member is assigned to hear a matter before the Board, and the member is of the opinion that he/she is not able to act with full impartiality on the appeal, the member shall withdraw from the matter and his/her decision is final.
4. Where a member is unsure of whether or not he/she should withdraw from the matter, the member will request through the Administrator that the Chair review the situation and make a determination as to whether the conflict is significant and whether he/she should continue to sit on the quorum for the matter. Where deemed necessary by the Chair, the issue shall be referred to the members on the quorum involved in the matter to make that determination.
5. Where the Chair is of the opinion that the member should withdraw from the matter and the member does not agree with that decision, the Chair's decision is final. However, the Chair has the discretion to refer the issue to the quorum to make that determination;
6. Where a member is in a possible conflict situation but does not deem it necessary to withdraw from participating on an appeal and the quorum has a different opinion, the decision of the quorum is final.
7. Any member who has a conflict of interest and is not participating in the matter shall refrain from discussing the appeal or related government policy or in any way acting to influence the outcome with other members or staff.

Administrator's Responsibility

8. Where a member declares a conflict of interest situation, the Administrator shall ensure that the administrative staff is informed in order to ensure that the member is not assigned to sit on a quorum on a related appeal.
9. Where a member who is assigned to a quorum withdraws from participating in the matter due to a conflict or concern about a conflict of interest, the Administrator shall disclose this information to the Chairperson and to all parties. The Administrator shall give direction to the member that he/she shall not discuss the matter in any way with the remaining members of the Board quorum or any other Board member or staff member.
10. Where a member discloses a concern about conflict or potential conflict and a decision is made that the member will continue to participate on the quorum for the hearing of the matter, the Administrator shall ensure that all parties are informed of the conflict or potential conflict situation in advance of the hearing and given an opportunity to advise of their position as to the member's participation.
11. Where there is no opposition raised by the parties, the member will participate on the quorum for the matter and the Chair will note this matter on the record at the commencement of the hearing.
12. Where one or both parties raise an objection to the member participating on the quorum of the matter, the parties will be informed that the Board will hear arguments from the parties at the commencement of the hearing and will make a decision and/or adjourn the matter in order to seek a legal opinion from its counsel before making a decision.

Potential Conflict of Interest Issue Arising at a Hearing

13. Where a party raises an issue of potential conflict at a hearing, the member shall:
 - a. Withdraw from the proceedings and the member's withdrawal shall be recorded in the minutes; or
 - b. The Board will hear arguments from the parties on the matter and make a decision.
 - c. If deemed necessary, the Board may adjourn the proceedings in order to seek a legal opinion on the issue.

14. If the hearing continues, the conflict issue, the party's objection, the arguments of the parties on the issue and the Board's decision shall be recorded in the minutes.
15. Where during the course of hearing a matter, a member becomes aware of facts that raise or might raise a reasonable apprehension of bias, he/she shall:
 - i. disclose to the parties forthwith the possible conflict and withdraw from the quorum. The member's disclosure and withdrawal from the hearing shall be recorded in the minutes; or
 - ii. immediately ask the Chair to call a recess, disclose the situation to the quorum and determine whether or not he/she will continue to participate on the matter or ask the quorum to decide on the issue.
 - iii. Upon the continuation of the hearing of the matter, the Chair shall disclose the conflict issue to the parties. If a decision is made to allow the member to continue to participate in the proceedings and an objection from one or both parties is raised, the Board will hear arguments and make a decision on the issue.
 - iv. The conflict issue, any objection, the parties' arguments and the Board's decision shall be recorded in the minutes.