

## Questions and Answers – Session 2: Understanding the Board’s Responsibilities

**Q: Is it possible to require that Board members possess personal characteristics like integrity, honesty, and be collaborative and supportive?**

A: The characteristics and behaviour required of Board members is outlined in the Code of Conduct. The Code of Conduct therefore, is formal documentation of your organization’s expected standards of behaviour and it is informed by your organization’s values and mission. The Code of Conduct is one means for holding Board members accountable for their actions.

**Q: Can you give some examples of conflict of interest?**

A: A conflict of interest arises when a Board member or employee has competing interests that either are, or potentially can be, at odds with each other. Some examples include:

- An affiliated physician or physician group owning property that the FHT rents.
- Hiring an immediate family member into a FHT/NPLC position.
- An affiliated physician making decisions about when to refer or not refer a patient to the FHT based on the physician’s financial gain rather than patient needs.

**Q: In provider-led boards, physicians sit on the Board and are also directly benefited by the FHT's function. How can there NOT be a conflict of interest? Mixed governance models also come with their own instances of conflict of interest. Is it correct to say that no matter what model of governance, there will be occasions of conflict of interest?**

A: It is common for Board members to occasionally find themselves in a position of conflict, no matter what the governance model. This does not mean that Board members must resign; it simply means that conflict must be declared and handled in a manner that protects the integrity of both the Board member and the corporation.

Conflicts of interest are not wrong in and of themselves and can happen without anyone being at fault. However, it is vital that they are disclosed and managed effectively so that public officials perform their duties in a fair and unbiased way.

There is an inherent conflict in provider-led and mixed-governance Boards, where clinicians who are providing service to the corporation are also Board members who are making decisions that may impact either their service or the corporation. Community Board members bring other and different potential conflicts of interest to the table.

Strategies to assist Boards in managing conflict of interest include:

- Ask for a declaration of conflict of interest at the beginning of every board meeting and/or have the chair review the agenda to highlight items that are particularly at risk for conflict (Note that conflict may affect any member of the board; it is not restricted to physician members)
- Ensure that board decisions are measured against their alignment with the corporation's vision, mission, values and strategic directions
- Remind directors that when they serve as board members, their duty to act in the best interest of the corporation must take precedence over personal or professional roles and obligations
- Ensure that board members who are in conflict are recused from discussions and voting on the relevant issue.
- Ensure that directors respect the board's code of conduct in all business proceedings
- Ask board members to sign a conflict of interest statement at the beginning of each year

(Excerpted from AFHTO's *"Fundamentals of Governance"* resource.)

**Q: Is it legally required to sign the Code of Conduct annually?**

A: It is not legally required to sign the Code of Conduct annually, though it is considered good practice. The Ministry of Health and Long-Term Care's Governance and Compliance Attestation document requires that Board members have signed the Code of Conduct, but does not indicate that this must be done annually.

**Q: What does an ED succession plan look like in a really small FHT?**

A: An ED succession plan is simply an outline of what should be done in the event of an ED vacancy. When the FHT is large enough, the succession plan may involve developing employees from within the organization to fill key positions. In small FHTs, this may not be possible.

If the ED vacancy is anticipated, the plan will include a description of the attributes the organization is looking for in an ED, along with an outline of who is responsible for the hiring

process. The process itself may also be outlined – is external help needed, how and where will the organization advertise etc.

If the vacancy is unexpected, it is helpful to have a plan in place that outlines how the position will be filled in the interim while a search is conducted. It is very helpful to have a file containing important passwords and documents accessible for whoever is taking on the role of ED. The plan should also outline who is responsible for leading the recruitment process, and who needs to be informed of the vacancy.

**Q: How detailed does the risk management plan need to be? Is it possible to design a risk management plan without an expert on board? How necessary is legal input? Is there a risk management plan or check list on the AFTHO website?**

A: Enterprise risk management involves identifying and managing risk across the entire organization including risks related to governance, strategy, and operations, including clinical care. Managing risk involves every level of the organization working together including board, management and staff. Legal input and expert advice are not usually necessary.

It is the board’s responsibility to ensure that:

- There is a risk management policy in place and review it regularly
- The organization’s tolerance for risk is clearly defined and understood
- The organization has a risk management framework in place to:
  - Identify risks
  - Assess the likelihood and impact of the risks
  - Mitigate negative risks and take advantage of positive risks borne of opportunities
  - Assign responsibility for monitoring or managing the risk
  - Report on risk

There is a sample “risk matrix” as part of the “*Fundamentals of Governance*” program on the AFHTO website.

**Q: Is it the board’s responsibility to keep all of their board packages and minutes? Or is it fine to leave the originals with the ED and shred each director’s copies? What is the legal term/limit for storing/maintaining such documents (minutes, etc.?)**

A: This link provides a good overview of your organization’s responsibilities related to record

retention... [Cowperthwaite Mehta](#)

According to Cowperthwaite Mehta, Revenue Canada divides records into categories that must be kept for:

- the organization’s lifespan plus two years
- six years from the end of the fiscal period to which the records relate
- two years from the end of the calendar year to which the records relate

Board minutes falls into the category of “lifespan plus two years” .

According to Cowperthwaite, it is not acceptable to Revenue Canada to have your organization’s books and records maintained off-site without also having a backup copy at the organization’s place of business.

**Q: Can anybody shed a light on the Retention and recruitment strategy that the MOH is requiring?**

A: MOHLTC requires a Board recruitment strategy and documents staff recruitment and retention. A Board recruitment strategy could be part of your Board Work Plan and might include the following:

- establish a Board committee to oversee recruitment (or assign responsibility to an existing committee)
- Develop a profile of your current board and determine the skills required of new Board members. There is a sample “competency matrix” as part of the Fundamentals of Governance program on the AFHTO website.
- Maintain a list of potential Board directors

Documentation of staff recruitment and retention may include tracking of key staff vacancies, employee turnover rate, and vacancy rate.

**Q: For physician-led FHTs who have chosen to have mixed governance boards, do the community directors also become corporate members who can vote at the AGM? Does this process get included in the bylaws?**

A: It is common practice that Board directors are elected from the membership of the corporation. As such, all Board directors, including community directors, are corporate members. This will be outlined in the Bylaw.

**Q: Small blended salary model - is the Board to approve all policies of the FHT and does the chair sign off or the ED?**

A: One of the roles of the Board is to approve policy. The role of the executive director is to develop the procedures that support the policies. The Board may approve the procedures, but generally would want solely to be assured that the procedures are in place and are effective.

**Q: Can you ask a board member to resign due to not being a fit for the board and is this a whole board discussion or just the ED and chair?**

A: The organization's Bylaw will identify under what circumstances a Board member may be asked to resign (e.g. poor attendance, showing bias, non-participation). It is the responsibility of the Board Chair and not the executive director, to deal with situations where a Board member is asked to step down.

**Q: I'm from a FHT of 12 physicians & 18 residents (academic FHT). Can you say something about in-camera sessions? I was reminded about this in your discussion of ED evaluation, financial discussions, and conflicts of interests. This has been a challenge for us with leadership staff.**

A: *In camera* means "in private". It is a meeting, or a portion of the meeting, where one or more of the people in attendance are excused. *In camera* sessions are an important means for the Boards to discuss matters that must be kept confidential or private. These can include personnel items like salaries, the Executive Director's performance, handling of conflict of interest situations, personal health information of an individual, legal issues, Board governance matters like attendance, evaluation and leadership.

Sometimes an Executive Director and/or a senior staff member (e.g. Director of Finance) may be asked by the Board Chair to remain for the *in camera session*, in order to provide the Board with information and to ensure that the Board is fully informed. However, the Board should feel comfortable at any time asking any and all staff to leave the meeting so that they may discuss or vote on sensitive issues without staff present.

Minutes should be taken even during *in camera* sessions and they should be recorded and sealed in a document that is separate from the other board meeting minutes so that they may be kept private.

**Q: There is a requirement in the Ministry’s Attestation document that the organization have a “Performance Measures document monitored by the Board on an on-going basis”. Is there a specific Performance Measures document that the Ministry is referring to?**

A: AFHTO plans to present this question to the Ministry during their meeting on March 5 to clarify the intent of this requirement and will inform the membership of the Ministry’s response.