

## Draft December 6, 2012

# Middlesex-London Board of Health CODE of CONDUCT

### BACKGROUND:

**Purpose:** This Code of Conduct is intended to address issues that Board of Health members may encounter when discharging their duties as a board member. The Code of Conduct supports effective governance by clearly documenting the expected conduct of Board of Health members.

This Code serves as a supplement to the duties and responsibilities of Board of Health members under the [Health Protection and Promotion Act](#), the [Ontario Public Health Organizational Standards](#), any Public Health Accountability Agreement between the Board of Health and the Province, the Health Unit's Corporate Code of Conduct and other legal obligations.

**Statutory Provisions:** The following provincial legislation, standards and agreements apply to the Board of Health and require compliance from Board of Health members when discharging their duties:

- (a) [Health Protection and Promotion Act](#);
- (b) [Personal Health Information Protection Act](#);
- (c) [Ontario Public Health Organizational Standards](#);
- (d) Public Health Accountability Agreement between the Board of Health and the Province;
- (e) [Municipal Freedom of Information and Protection of Privacy Act](#);
- (f) [Municipal Conflict of Interest Act](#);
- (g) [Municipal Act](#); and
- (h) any other legislation, regulations, agreements and standards regulating the Board of Health.

## **Expected Conduct of Board of Health Members**

**Board of Health members have a fiduciary duty as well as a duty of loyalty and good faith to the Board of Health. When acting in their capacity as Board of Health members, their actions must be discharged in the best interests of the Board of Health without regard to the interests of themselves or any other entity.**

**Board of Health members shall comply with the following:**

### **1) Acting in the Best Interests of the Board of Health and Health Unit:**

- Always act in the best interest of the Board of Health and the Health Unit in compliance with fiduciary duties and the duties of loyalty and good faith to the Board of Health.

### **2) Public Meetings and Confidential Information:**

- Comply with the open meeting provisions of the [Municipal Act](#).
- Not disclose and keep confidential all information considered by the Board of Health in closed session and information that is prohibited from being disclosed by law.

### **3) Real and Perceived Conflicts of Interest:**

- Always act in the best interest of the Board of Health and the Health Unit.
- Not take advantage of membership on the Board of Health for personal gain or that of a third party.
- Notify the Secretary-Treasurer of any real (or reasonably perceived) conflicts of interest either prior to, or at the beginning of a Board of Health meeting.
- Declare neutrality, abstain from voting, refrain from taking part in any discussions and/or leave the room when a conflict of interest exists.

### **4) Serving on Other Boards / Councils:**

- Comply with “Real and Perceived Conflicts of Interest” provisions as noted above.
- Disclose information relevant to Health Unit business, subject to the qualifications set out in this Code of Conduct.

### **5) Conduct at Meetings:**

- Regularly attend and be prepared for meetings.
- Conduct themselves with decorum.

**6) Media Interactions and Public Discussions:**

- Not speak on behalf of or represent the Board of Health unless authorized to do so by the Chair.
- When contacted by the media regarding a Board of Health-related topic:
  - Refer media inquiries requesting a statement from the Board of Health to the Chair through the Secretary Treasurer;
  - Inform the Chair and Secretary Treasurer of any media inquiries related to Board of Health or Health Unit matters;
  - Consider the impact that a comment made to the media will have on the Board of Health and/or the Health Unit;
  - Only comment to the media once it has been clarified that the comment is not on behalf of the Board of Health, unless authorized to speak on behalf of the Board of Health by the Chair.

**7) Interactions with Staff Members:**

- Contact the Medical Officer of Health (MOH) if they wish to contact Health Unit staff.
- Ensure that interactions and communications with staff members are respectful and constructive.

**8) Election Campaigns:**

- Not use Health Unit resources or Board of Health meetings to advance an election campaign.

**9) Post-Board of Health Membership:**

- Not take advantage of past membership on the Board of Health for personal gain or that of a third party.
- Not disclose and keep confidential all Confidential Information obtained while a member of the Board of Health.

**10) Legal Advice:**

- Make a request through the Secretary-Treasurer when legal advice is necessary.

**11) Compliance:**

- Hold each other accountable for complying with the Code of Conduct, including raising compliance issues, collaborating to develop solutions, and being aware of consequences of failing to comply.

## EXPLANATION OF THE CODE OF CONDUCT:

### 1) Acting in the Best Interests of the Board of Health and Health Unit:

Board of Health members shall always:

- act in the best interests of the Board of Health and Health Unit;
- when making decisions relating to the business of the Board of Health, do so in compliance with each Board of Health Member's duty of care, loyalty and good faith to the Board of Health;
- serve (and be seen to serve) the Board of Health in a conscientious and diligent manner;
- be committed to performing their functions with integrity and shall avoid conflicts of interest, both perceived and real;
- perform their duties and arrange their private affairs in a manner that promotes public confidence;
- seek to serve the Board of Health's interest and the public's interest by upholding the intent and the spirit of all laws applicable to the Board of Health;

#### **Therefore, Board of Health members shall:**

- Always act in the best interest of the Board of Health and the Health Unit in compliance with fiduciary duties and the duties of loyalty and good faith to the Board of Health.

### 2) Public Meetings and Confidential Information:

Board of Health members shall comply with the open meeting provisions of the [Municipal Act](#). Board of Health members may, but are not required, to meet in closed session when considering issues outlined in [Section 239 of the Municipal Act](#).

When receiving information, Board of Health members are also required to comply with the [Municipal Freedom of Information and Protection of Privacy Act](#) and the [Personal Health Information Protection Act](#). "Confidential Information" includes:

- (i) information that is considered by the Board of Health in closed session; or
- (ii) information in the possession of Board of Health members that the Board of Health is either prohibited from disclosing, or is required to refuse to disclose, under the [Municipal Freedom of Information and Protection of Privacy Act](#) or [Personal Health Information Protection Act](#).

No Board of Health member shall disclose or release by any means to any member of the public, any Confidential Information acquired by virtue of being a Board member, in either oral or written form, except when required by law, or authorized to do so by the Board of Health. No Board of Health member shall use Confidential Information for personal or private gain, or for the gain of or to advance the interests of any other third parties.

When a matter has been discussed at a closed meeting, the subject matter of the meeting is Confidential Information and shall remain confidential. No Board of Health member shall disclose the content of any such matter or the substance of deliberations of the closed meeting until the Board of Health discusses the Confidential Information at a meeting that is open to the public or releases the Confidential Information to the public.

**Therefore, Board of Health members shall:**

- Comply with the open meeting provisions of the [Municipal Act](#).
- Not disclose and keep confidential all information considered by the Board of Health in closed session and information that is prohibited from being disclosed by law.

### 3) Real and Perceived Conflicts of Interest

Board of Health members may be under public and media scrutiny. This means that any conflicts of interest (or even the perception of a conflict) may reduce the public's confidence in the Board of Health. Types of conflicts include:

- **Personal Gain** - When Board of Health members (or their relatives) benefit financially from a Board decision; when Board of Health members (or their relatives) accept gifts for services that may influence a Board decision or when Board of Health members act in a way that is driven by self-interest.
- **Information Relevant to Health Unit Business** – Subject to the guidelines below for serving on other Boards and Councils, Board of Health members must disclose information that is relevant to the Health Unit's affairs. If they are unwilling or unable to do so, this may constitute a conflict of interest (see #4 for more information).
- **Acting in the Interests of Other Entities** - When considering Health Unit matters, Board of Health members do not have a legal duty to the entity that appointed them to the Board of Health. Board of Health members must disclose when they are not prepared to disregard the interests of other entities (particularly but not limited to the entity that appointed them to the Board of Health) when considering Health Unit business. Board of Health members must also, when considering issues fundamental to the Health Unit, disclose whether they have an actual or perceived duty to another entity that may have an interest in or may have taken positions on a matter before the Board of Health.

**Therefore, Board of Health members shall:**

- Always act in the best interest of the Board of Health and the Health Unit.
- Not take advantage of membership on the Board of Health for personal gain or that of a third party.
- Notify the Secretary Treasurer of any real (or reasonably perceived) conflicts of interest either prior to, or at the beginning of a Board meeting.
- Declare neutrality, abstain from voting, refrain from taking part in any discussions and/or leave the room when a conflict of interest exists.

#### 4) **Serving on Other Boards / Councils:**

Board of Health members have a responsibility to make decisions in the best interest of the Health Unit, as well as a legislated responsibility for ensuring the delivery of provincially mandated public health services in the City of London and Middlesex County. Outside of this role, Board of Health members are often leaders in the community and must be aware that a conflict may arise where a Board of Health member serves as a director / member / councillor on another board / council that has a competing interest or transaction with the Health Unit.

Board of Health members do not have a conflict of interest solely as a result of being appointed to the Board of Health by any particular organization, even if the appointing organization takes a position on a matter before the Board of Health. However, where a Board of Health member is not prepared to consider Board of Health business in a manner that is consistent with the best interests of the Board of Health, the member has contravened their duty to act in the best interest of the Board of Health. Further, where a Board of Health member uses his or her position as a Board of Health member for the purpose of advancing the interests of any other entity (whether or not they were appointed by that entity), the Board of Health member has contravened their duty to act in the best interest of the Board of Health.

Board of Health members may be in possession of information received in one capacity that is related to a matter before the Board of Health. If certain information is relevant to Board of Health business and is not confidential, Board of Health members shall disclose this information to the rest of the Board. If information is confidential and is relevant to Board of Health business, a Board of Health member must request consent to release this information to the Board of Health from the entity that originally provided the Board of Health member with this information.

- If such consent is granted, the Board of Health member shall disclose this information to the Board of Health.
- If such consent is not granted and the information remains relevant to Health Unit business, this constitutes a conflict of interest and the Board of Health member shall declare the conflict, shall not participate in the discussion pertaining to this issue and shall not vote on this issue.
- If the matter before the Board of Health is fundamental to the Board of Health and the Board of Health member has conflicting duties with respect to this Confidential Information, the Board of Health member shall seek legal advice and consider resigning from the Board of Health.

**Therefore, Board of Health members shall:**

- Comply with “Real and Perceived Conflicts of Interest” provisions as noted above.
- Disclose information relevant to Health Unit business, subject to the qualifications set out in this Code of Conduct.

## 5) Conduct at Meetings:

Board of Health members shall regularly attend Board of Health meetings, as well as orientation and educational sessions, as appropriate. Board of Health members shall also exercise due diligence by reviewing the materials and being prepared for Board of Health meetings.

Board of Health members shall conduct themselves with decorum at Board of Health meetings in accordance with the provisions of the Board of Health procedural bylaw and this Code of Conduct. All debates at Board of Health meetings shall be respectful and there shall be no profanity, no attempts to intimidate, threaten, coerce or otherwise engage in discreditable conduct at Board of Health meetings.

**Therefore, Board of Health members shall:**

- Regularly attend and be prepared for meetings.
- Conduct themselves with decorum.

## 6) Media Contact Interactions and Public Discussions:

In order to speak with a unified voice, the Chair is the designated spokesperson for the Board of Health. This means that only the Chair (or designate) may speak on behalf of the Board. Similarly, only the Medical Officer of Health (or designate) may speak on behalf of the Health Unit. Board of Health members may speak in public and to the media, but must clarify that their views do not represent the views of the Board of Health. Furthermore, Board of Health members must carefully consider the impact of their media comments on the Board of Health and the Health Unit.

**Therefore, Board of Health members shall:**

- Not speak on behalf of or represent the Board of Health unless authorized to do so by the Chair.
- When contacted by the media regarding a Board of Health-related topic:
  - Refer media inquiries requesting a statement from the Board of Health to the Chair through the Secretary Treasurer;
  - Inform the Chair and Secretary Treasurer of any media inquiries related to Board of Health or Health Unit matters;
  - Consider the impact that a comment made to the media will have on the Board of Health and/or the Health Unit;
  - Only comment to the media once it has been clarified that the comment is not on behalf of the Board of Health, unless authorized to speak on behalf of the Board of Health by the Chair.

## 7) Interactions with Staff Members:

Health Unit staff members and Board of Health members should work together in a respectful manner to address local public health issues. However, the accountability structure is that the MOH is the only employee accountable to the Board, and all Health Unit staff members are accountable to the MOH. Board of Health members must respect this structure and contact the MOH if they wish to contact staff members.

No Board of Health member shall falsely injure the professional or ethical reputation of Health Unit staff members and all Board of Health members shall show respect to Health Unit staff, recognizing that Board of Health members do have the right and obligation to diligently examine and debate Board of Health issues at meetings. Board of Health members also have the right and the obligation to request clarification and further information from Health Unit staff.

### Therefore, Board of Health members shall:

- Contact the Medical Officer of Health (MOH) if they wish to contact Health Unit staff members.
- Ensure that interactions and communications with staff members are respectful and constructive.

## 8) Election Campaigns:

Some members of the Board are municipally elected officials. These members are under additional scrutiny and have additional responsibilities (both campaign work and responsibilities under the [Municipal Elections Act](#)). Board of Health Members who are elected officials cannot act in self-interest or use Health Unit resources or Board of Health meetings to advance their election campaign.

### Therefore, Board of Health members shall:

- Not use Health Unit resources or Board of Health meetings to advance an election campaign.

## 9) Post-Board of Health Membership:

Board Members will have access to Confidential Information. While on the Board of Health and after leaving, they must not disclose Confidential Information indefinitely, and shall not use Confidential Information for their own benefit or the benefit of any third party. Board of Health members must also return or shred / delete all materials containing Confidential Information, upon request from the Board of Health or the Health Unit.

### Therefore, Board of Health members shall:

- Not take advantage of past membership on the Board of Health for personal gain or that of a third party.
- Not disclose and keep confidential all Confidential Information obtained while a member of the Board of Health.



## 10) Legal Advice:

Outside legal advice is occasionally necessary given the complex nature of public health practice and governance. However, in the interest of resolving issues and conflicts effectively without unnecessary expense, Board of Health members seeking legal advice will make a request through the Secretary-Treasurer.

**Therefore, Board of Health members shall:**

- Make a request through the Secretary-Treasurer when legal advice is necessary.

## 11) Compliance:

Board of Health members are responsible to hold each other accountable in maintaining compliance with this Code of Conduct. This includes raising potential compliance issues as well as collaborating to develop solutions to resolve compliance issues. Board of Health members should be aware that there are consequences for failing to comply with this Code of Conduct (see below).

**Therefore, Board of Health members shall:**

- Hold each other accountable for complying with the Code of Conduct, including raising compliance issues, collaborating to develop solutions and being aware of consequences of failing to comply.

## MECHANISMS TO MANAGE COMPLIANCE ISSUES:

If a Board of Health member is alleged to have contravened this Code of Conduct, a person (the “complainant”) may pursue either the informal complaint process or the formal complaint process as set out below:

### I. Informal Complaints:

Any person who has identified or witnessed behaviour or activity by a Board of Health member that appears to be in contravention of the Code of Conduct may address their concerns in the following manner:

- (a) Advise the Board of Health member that their behaviour or activity contravenes the Code of Conduct;
- (b) Encourage the Board of Health member to stop the prohibited behaviour or activity;
- (c) If applicable, confirm to the Board of Health member your satisfaction or dissatisfaction with his or her response to the concern identified;

- (d) Keep a written record of the incident(s), including date, time, location, other persons present or any other relevant information, including steps taken to resolve the matter.

If the complainant is not satisfied with the response received through the informal process, the complainant may still proceed with the formal complaint process set out below.

## **II. Formal Complaints:**

If a complainant has identified or witnessed behaviour or activity by a Board of Health member that appears to be in contravention of this Code of Conduct, the complainant may address their concerns through the process set out below:

- (a) A formal written complaint shall be submitted to the Board of Health Chair (the "complaint"). The complaint shall set out the specific section of the Code of Conduct that is alleged to have been contravened together with an explanation as to why such actions may be a contravention of the Code of Conduct. The complaint must include the name of the Board of Health member alleged to have breached the Code of Conduct, the date, time and location of the alleged contravention and any other information and evidence in support of the allegation. Any witnesses in support of the allegation must be identified in the complaint.
- (b) Once the complaint is submitted to the Board of Health Chair, the Board of Health member that is alleged to have contravened the Code of Conduct shall meet with the Board Chair and the Secretary-Treasurer to discuss the complaint and provide information on whether there has been a contravention of this Code of Conduct.

In the event that the Board Chair and the Secretary-Treasurer agree that there has been no contravention of the Code of Conduct, no action shall be taken and a report shall be delivered to the Board of Health with full disclosure of the relevant information and findings. As this matter may involve an identifiable individual, the report is permitted to be delivered in closed session.

In the event that the Board of Health Chair and the Secretary-Treasurer agree that there has been a contravention of the Code of Conduct or, alternatively, cannot unanimously agree that there has not been a contravention of the Code of Conduct, the matter shall be referred to the Board of Health with a full report to determine whether there has been a contravention of the Code of Conduct and, if so, what if any action might be appropriate in the circumstances.

The complaint and the full report shall be presented to a meeting of the Board of Health. As this matter may involve an identifiable individual, this discussion is permitted to occur in closed session. If the Board of Health determines that there has not been a contravention of the Code of Conduct, no action shall be taken. If the Board of Health determines that there has been a contravention of the Code of Conduct, the Board has the right, in its sole and absolute discretion, to recommend and/or take the following actions:

- (a) no action or other sanction should be taken against the offending member;
- (b) a request for a public apology from the offending member, failing which other options will be considered;
- (c) a public reprimand by the Board of Health of the offending member;
- (d) a resolution of the Board of Health requesting the resignation of the Board of Health member which shall be non-binding on the Board of Health member in question; and
- (e) all other remedies that may be available to the Board of Health at law.

When determining the appropriate action that might be taken under this Section, the Board of Health shall consider:

- (i) the Board of Health member's past conduct;
- (ii) the severity of the contravention of the Code of Conduct;
- (iii) the implications of the Code of Conduct contravention to the Board of Health and the Health Unit;
- (iv) the Board of Health member's co-operation in addressing the contravention;
- (v) the Board of Health member's general level of remorse that the contravention of the Code of Conduct has occurred; and
- (vi) such further and other criteria that may reasonably be considered by the Board of Health.