

**CODE OF CONDUCT**

**Between**

**MINISTER OF LABOUR**

**- And -**

**MEDICAL PANELS COMMISSIONER**

**REGARDING THE**

**MEDICAL PANELS OFFICE**

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## MEDICAL PANELS OFFICE CODE OF CONDUCT

### PREAMBLE

The Medical Panels Office is an administrative body that reports to the Medical Panels Commissioner and the Minister of Labour. The Medical Panels Office assists the Medical Panels Commissioner in the facilitation of Medical Panels, Case Conferences and Independent Medical Examinations.

The parties appearing before a Medical Panel, Independent Medical Examiner, or attending a Case Conference, have a right to services that are performed impartially and ethically. These obligations arise from the directive of the Medical Panels Commissioner and, by extension the Medical Panels Office, to ensure confidence in the fairness of Alberta's workers compensation system. This obligation requires that individuals acting on behalf of the Medical Panels Office and Medical Panels Commissioner not have, nor be seen to have, any conflict between their private interests and their duties.

It is acknowledged and accepted that individuals appointed to Medical Panels are practicing physicians in the Province of Alberta, pursuant to section 2(1) of the *Medical Panels Regulation*, AR 21/2018. Accordingly, the potential for conflicts of interest arising due to prior relationships between the Worker and a Panel Member is addressed through the selection process developed by the Medical Panels Office and in accordance with section 2 of the *Medical Panels Regulation*, AR 21/2018. In particular, physicians are deemed ineligible to serve on the Medical Panel of a Worker for whom they have:

- (a) previously treated in their capacity as a physician; or
- (b) assessed in their capacity as an Independent Medical Examiner, under section 38 of the *Workers Compensation Act*, RSA 2000 c W-15.

Impartiality requires Panel Members to adjudicate matters before the Medical Panel with an open mind to the evidence and arguments of the parties, free from irrelevant or inappropriate influences or prejudice.

### PART 1: APPLICATION OF THE CODE OF CONDUCT

The purpose of this Code of Conduct is to provide guidance to the Members and Employees of the Medical Panels Office, regarding their ethical obligations when performing their duties with the Medical Panels Office.

The following apply:

- 1.1 Members and Employees of the Medical Panel Office will follow the principles that the Code of Conduct is based upon. Those personnel covered by this Code of Conduct are expected to adhere to the spirit and intent of the Code of Conduct to guide their conduct,

decision-making and all other matters related to their work with the Medical Panels Office. This Code of Conduct may not cover every potential scenario that may arise during the course of performing ones duties.

- 1.2 Employees are Government of Alberta employees and will follow the Code of Conduct and Ethics for Alberta’s Public Service. Conflicts between the Code of Conduct and the Code of Conduct and Ethics for the Public Service will be resolved by using the highest standard of conduct for either Code of Conduct.
- 1.3 Members who are regulated members of the College of Physicians and Surgeons of Alberta who hold a practice permit issued under the *Health Professions Act*, RSA 2000, c H-7, or members who have similar status under similar legislation in jurisdiction outside Alberta will also comply with the CPSA Code of Conduct of Conduct which clarifies the College’s expectations for Alberta’s physicians.
- 1.4 Members and Employees of the Medical Panels Office to whom this Code of Conduct applies are in a “Conflict of Interest” if they:
  - (a) take part in the adjudication of, or otherwise participate in, a Medical Panels Office file or decision or action by the Medical Panels Office or Medical Panels Commissioner, in the course of carrying out their duties, knowing that the decision or action might further a private interest of that person, their spouse, partner, child, or any business associate or organization with whom they are associated;
  - (b) use their public role to influence or seek to influence a decision or action by the Medical Panels Office or Medical Panels Commissioner which could further a private interest of that person, their spouse, partner, child, or any business associate or organization with whom they are associated; or
  - (c) use or communicate information not available to the general public that was gained in the course of carrying out their duties, to further or seek to further a private interest of that person, their spouse, partner, child, or any business associate or organization with whom they are associated.
- 1.5 A “private interest” does not include an interest in a matter that is of general application, or that affects a person as one of a broad class of the public, or that is trivial.
- 1.6 The Code of Conduct is managed by the Medical Panels Commissioner.

## **PART 2: DEFINITIONS**

- 2.1 In this Code of Conduct:
  - (a) “Case Conference” means a meeting between the injured worker and their advocates, the Medical Panels Commissioner, a senior physician or allied health professional, and a facilitator, for the purpose of hearing the worker’s perspective on the medical aspects of a claim with the intent to resolve or narrow areas of medical dispute;

- (b) “Chair” means the Chair of a Medical Panel or a Chair of a Case Conference;
- (c) “Code Administrator” means the individual responsible for ensuring compliance with the Code. The Medical Panels Commissioner is the Code Administrator for all Members and Employees, excluding the Medical Panels Commissioner. The Ethics Commissioner is the Code Administrator for the Medical Panels Commissioner.
- (d) “Code of Conduct” means this Code of Conduct of Conduct, as amended from time to time;
- (e) “Conflict(s) of Interest” includes the actions or decisions that Members and Employees make or take, on behalf of the Medical Panels Office, and which provide, appear to provide, or have the potential to provide them with an opportunity to further the private interests of themselves or closely associated persons;
- (f) “Employee” means a permanent, temporary or contract employee of the Medical Panels Office, including the Medical Panels Commissioner, the Medical Panels Deputy Commissioner(s), other employees of the Medical Panel Office, and the Director of the Medical Panels Office;
- (g) “Independent Medical Examination” means a physician examination of an injured worker pursuant to section 38 of the *Workers Compensation Act*, RSA 2000, c W-15;
- (h) “Members” means collectively all Panel Members, and representatives appointed to a Case Conference;
- (i) “Panel Member” means all individuals appointed to a Medical Panel pursuant to section 2 of the *Medical Panels Regulation*, AR 21/2018;
- (j) “Worker” means a Worker, as defined in section 1(z) of the *Workers Compensation Act*, RSA 2000, c W-15, and whose matter has been referred to the Medical Panels Office pursuant to section 46.3 of the *Workers Compensation Act*, RSA 2000, c W-15.

### **PART 3: GENERAL OBLIGATIONS OF THE MEDICAL PANELS OFFICE MEMBERS AND EMPLOYEES**

This part of the Code of Conduct applies to all Members and Employees of the Medical Panels Office except where otherwise stated.

- 3.1 Members and Employees will act impartially and independently in carrying out their duties.
- 3.2 Members and Employees will not act in self-interest or further their private interests by virtue of their position with the Medical Panels Office or in carrying out their duties, or otherwise act in a conflict of interest.

- 3.3 Members and Employees will disclose, in writing, all matters which would create a reasonable apprehension of bias in the performance of their duties, including any real or apparent conflict of interest.
- (a) At their earliest opportunity, an Employee will disclose, in writing, to Code Administrator, all circumstances where their private interests could conflict, appear to conflict, or do conflict with the performance of their duties.
  - (b) At their earliest opportunity, a Member will disclose, in writing, to Code Administrator, all circumstances where their private interests could conflict, appear to conflict, or do conflict with the performance of their duties.
- 3.4 Members and Employees will not accept additional compensation for duties, which they perform in the course of their employment with the Medical Panels Office.
- 3.5 Members and Employees shall not allow the performance of their duties to be influenced by offers of future employment or the anticipation of offers of employment.
- 3.6 Members and Employees may participate in political activities, including holding membership in a political party, supporting a candidate for elected office or seeking elected office. However, they must not use their position with the Medical Panels Office to seek contributions for a political party or to solicit political support from current or future clients or Entities doing business with the Medical Panels Office. In addition, any political activity must be clearly separated from activities related to the work of the Medical Panels Office and must not be done while carrying out of the work of the Medical Panels Office nor make use of Medical Panels Office facilities, equipment or resources in support of these activities.
- 3.7 Members and Employees will preserve the confidentiality of all information obtained as a result of their position, and will adhere to the requirements of the *Freedom of Information and Protection of Privacy Act*, RSA 2000 c F-25. The confidentiality obligations on Members and Employees continue even after the Member or Employee has ceased working with the Medical Panels Office.
- 3.8 Members and Employees will foster a collegial and respectful approach to the performance of their duties and responsibilities.
- 3.9 Media Requests:
- (a) Members and Employees will not comment publicly to the media about the Medical Panels Office or its work without first consulting with the Medical Panels Commissioner. Members and Employees will promptly notify the Medical Panels Commissioner of any media requests for comment and the Medical Panels Commissioner will work collaboratively with the Deputy Minister's Office to deal with the requests.
- 3.10 Preventing workplace harassment:

- (a) The Medical Panels Office is committed to providing a work environment where all individuals are treated with dignity and respect. The Medical Panels Office will not tolerate any discriminatory, harassing, bullying, threatening, abusive, or violent behavior by or against any Employee, Member, or, Member of the Public, or any other individual affiliated with the Medical Panels Office. Any behaviors that are contrary to a respectful workplace and contrary to the categories covered under the *Alberta Human Rights, Citizenship and Multiculturalism Act*, RSA 2000, c A-25.5 will be dealt with accordingly.

### 3.11 Criminal Charges:

- (a) If a Member or Employee is charged with an offence under the Canadian *Criminal Code*, RSC 1985, c C-46, or *Controlled Drugs and Substances Act*, SC 1996, c 19, arising from the conduct of the Employee or Member while on or off duty, the Employee or Member will immediately report the charge to the Code Administrator.
- (b) Where any such charge is reported, the Code Administrator will determine if the Employee or Member has created a real or perceived conflict of interest that impacts the member's ability to continue to perform their duty as an Employee or Member of the Medical Panels Office.

## **PART 4: SPECIFIC OBLIGATIONS OF EMPLOYEES**

The following provisions apply only to Employees:

### 4.1 Employment Matters:

- (a) All Employees except the Medical Panels Commissioner, may hold supplementary employment (including self-employment, appointments, businesses, undertakings) unless such employment:
  - (i) Causes an actual or apparent conflict of interest, or; is performed in such a way as to appear to be an act of the Medical Panels Office, or to represent a decision, opinion or policy of the Medical Panels Office or Medical Panels Commissioner, or;
  - (ii) Interferes with regular duties, or;
  - (iii) Involves the use of the premises, equipment or supplies of the Medical Panels Office, unless such use is otherwise authorized.
- (b) Prior to accepting any supplementary employment, the Employee will notify the Medical Panels Commissioner in writing about the nature of such supplementary employment. The Medical Panels Commissioner will review the employment opportunity for any actual or apparent conflict of interest.

- (i) If there is no actual or apparent conflict of interest, the Medical Panels Commissioner will approve the employment in writing.
  - (ii) If there is an actual or apparent conflict of interest, the Medical Panels Commissioner will, in writing, either:
    - (A) Deny the employment; or
    - (B) Allow the employment and put procedures in place to manage the actual or apparent conflict of interest.
  - (c) These restrictions also apply to volunteer activities.
- 4.2 Employees will not accept fees, gifts or other benefits that are connected directly or indirectly with the performance of their duties, from any individual, organization or corporation.

## **PART 5: SPECIFIC OBLIGATIONS OF MEMBERS**

- 5.1 Members will decline assignment to any hearing of a matter where the decision may further a private interest of the Member, their spouse, partner, child, or any business associate or organization with whom they are associated.
- 5.2 Members must disclose in writing all concurrent appointments, businesses, undertakings or employment, including self-employment, for review by the Medical Panels Commissioner for real or apparent conflicts of interest.
- (a) For clarity, a Members being a practicing physician in the Province of Alberta does not, in itself, constitute a real or apparent conflict of interest and does not need to be disclosed in writing for review by the Medical Panels Commissioner.
- 5.3 In performing concurrent appointments, businesses, undertakings or employment, including self-employment, Members will:
- (a) Refrain from actions or statements that appear to be acts of the Medical Panels Office, an exercise of the Member's Medical Panels Office duties, or appear to represent a decision, opinion or policy;
  - (b) Not accept additional compensation for duties which they perform in the course of their duties with the Medical Panels office; and
  - (c) Not allow the performance of their duties with the Medical Panels Office to be influenced by offers of compensation or advancement of their employment, future employment or the anticipation of offers of employment.
  - (d) These restrictions also apply to volunteer activities.

- 5.4 Members will not accept fees, gifts or other benefits that are connected directly or indirectly with the performance of their duties, from any individual, organization or corporation, other than:
- (a) The normal exchange of gifts between friends;
  - (b) The normal exchange of hospitality between persons doing business together;
  - (c) Tokens exchanged as part of protocol;
  - (d) The normal presentation of gifts to persons participating in public functions, awards, speeches, lectures, presentations or seminars.
- 5.5 The value of a single gift or benefit permitted under Article 5.4 will not exceed \$100, further, the total value of gifts or benefits from any one source in a calendar year will not exceed \$200.
- 5.6 Chairs and Members are adjudicative decision-makers owing duties of natural justice and procedural fairness to all parties attending Medical Panels. This Code of Conduct process does not replace the obligation and authority of the adjudicative decision maker to decide issues of fairness, including alleged conflicts of interest or alleged reasonable apprehensions of bias, arising during the conduct of Appeal Panels or Case Conferences.

## **PART 6: SPECIFIC OBLIGATIONS OF THE MEDICAL PANELS COMMISSIONER**

- 6.1 The Medical Panels Commissioner, is a trained physician who previously practiced in the Province of Alberta, as such, there is the potential for conflicts of interest arising due to a prior physician-patient relationship between the Worker and the Medical Panels Commissioner.
- (a) The Medical Panels Commissioner is obligated to disclose to the Ethics Commissioner, in writing, of any such potential conflicts of interest.
  - (b) If a Deputy Medical Panels Commissioner has not been appointed, the Medical Panels Commissioner is obligated to convene the Medical Panel under section 26.3(7) of the *Workers Compensation Act*, RSA 2000, c W-15.
    - (i) To guard against potential conflicts, the Medical Panels Commissioner will:
      - (A) Promptly disclose the prior relationship to all parties involved in the matter, to the extent he or she is able under Physician-Patient confidentiality;
      - (B) Refrain from unnecessary involvement in the matter, including:
        - (I) preparing the list of eligible physicians such that it includes all physicians that are registered with the College of

Physicians as being trained in, or specializing in, the relevant medical issue;

- (C) Decline to appear before the panel or provide any medical opinion on the matter; and
- (D) Decline any request to act as the Complainant’s Medical Professional Advisor, as defined in section 3 of the *Medical Panels Regulation*, AR 21/2018.

6.2 As a senior official and designated senior official pursuant to the *Conflicts of Interest Act*, the Medical Panels Commissioner is subject to the following additional obligations under that Act:

- (a) The Medical Panels Commissioner will not take part in a decision in the course of carrying out their office or powers knowing that the decision might further a private interest of the Medical Panels Commissioner, a person with whom he or she is associated, or his or her children.
- (b) The Medical Panels Commissioner will not use his or her office or power to influence or seek to influence a decision made by or on behalf of the Crown or public agency to further a private interest of the Medical Panels Commissioner, a person directly associated with him or her, including the Medical Panel Commissioner’s minor child, or to improperly further any other person’s private interest.
- (c) The Medical Panels Commissioner will not use or communicate information not available to the general public that was gained by in the course of carrying out his or her position to further or seek to further a private interest of the Medical Panels Commissioner or any other person’s private interest.
- (d) The Medical Panels Commissioner will not be involved in any other appointment, business, undertaking or employment, including self-employment, except with written approval of the Ethics Commissioner and in compliance with any conditions included in such approval.
- (e) The Medical Panels Commissioner is subject to restrictions on the ownership or beneficial interest in publicly traded securities, unless held in an approved arrangement pursuant to the *Conflicts of Interest Act*, RSA 2000, c C-23.
- (f) The Medical Panels Commissioner is subject to the filing of prescribed disclosure statements, and returns relating to persons directly associated with the Medical Panels Commissioner, with the Ethics Commissioner.
- (g) The Medical Panels Commissioner will appropriately and adequately disclose any real or apparent conflicts of interest to the Ethics Commissioner.
- (h) For a period of 12 months after the last day he or she holds the position of Medical Panels Commissioner, the Medial Panels Commissioner:

- (i) Must not lobby any public office holder, as defined in the *Lobbyists Act*, SA 2007, c L-20.5;
  - (ii) Must not act on a commercial basis or make representations on behalf of any party in connection with any ongoing matter in connection with which the Medical Panels Commissioner directly acted for or advised a department or public agency;
  - (iii) Must not make representations with respect to or solicit or accept on his/her own behalf a contract or benefit from a department or public agency with which the Medical Panels Commissioner had a direct and significant official dealing; and
  - (iv) Must not accept employment with an individual, organization, Board of Directors, or equivalent body of an organization with which the Medical Panels Commissioner had a direct and significant office dealing.
- 6.3 To the extent of discrepancy between this Code and the *Conflicts of Interest Act*, RSA 2000, c C-23, the Act governs. To the extent further persons with the Medical Panels Office are designated as designated senior officials, these obligations will apply to them and this Code of Conduct will be amended.

## **PART 7: ADMINISTRATION AND REVIEW PROCESS**

- 7.1 Persons subject to this Code of Conduct will affirm in writing at least every 24 months their understanding of, and commitment to, the obligations of this Code of Conduct.
- 7.2 The Medical Panels Commissioner and the Minister will review this Code at least every 24 months with a view to ensuring ongoing effectiveness.
- 7.3 Coming into Force:
- (a) The Code, and any subsequent amendments, becomes effective 90 days after it has been made public.

## **PART 8: BREACH DISCLOSURE, DISCIPLINE AND REVIEW**

- 8.1 Duty to Report:
- (a) Members and Employees are responsible for reporting potential breaches of the Code, in writing, to the Code Administrator. This responsibility requires Members and Employees to report both their own breaches, and those of other Members and Employees.
- 8.2 Reports made by a non-party:

- (a) If a potential breach relates to a Member or Employee other than the person reporting the breach, the Member or Employee in question has the right to be made aware of the allegation and will be given the opportunity to respond to the allegation.
- (b) When reporting a potential breach of another Member or Employee, in good faith, and with reasonable grounds, the reporting Member or Employee will be protected from reprisal for such reporting.
  - (i) The identity of the person reporting a breach or potential breach will not be disclosed by the Code Administrator unless required by law, and no documentation regarding the reporting will be recorded in the Medical Panel Commissioner's records.
- (c) The Code Administrator will review the circumstances and details of the actual or potential breach and ensure the confidentiality of all disclosures.

### 8.3 Procedure for Review:

- (a) Once a potential breach has been reported, the Code Administrator will engage the Breach Procedures appended to this Code. At the conclusion of the Code Administrator's review of the potential breach, she or he will complete a written report in a timely manner, copying the affected individual, and other parties as necessary.
- (b) Where a Member has reported to the Code Administrator, circumstances that may create a reasonable apprehension of bias, the Code Administrator may disclose the issue to the parties appearing before the panel.

### 8.4 Review of Code Administrator's Report:

- (a) A Member or Employee has the right to request a review of the Code Administrator's decision by submitting a request in writing to the Ethics Commissioner within 30 days of receipt of the Code Administrator's written report.

### 8.5 Discipline:

- (a) Employees or Members who are found under this Part not to comply with the standards of behavior identified in this Code of Conduct may be subject to the following disciplinary actions:
  - (i) recommendation of removal of the Member or Employee; or
  - (ii) termination of the Employee.

## **PART 9: APPROVALS**

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Christina Gray  
Minister of Labour

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Date

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Dr. Chris De Gara  
Medical Panels Commissioner

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Date



## APPENDIX A: GUIDANCE QUESTIONS

When Members and Employees are faced with a difficult situation, the following questions may help them decide the right course of action:

- Have I reflected on or consulted with the Code Administrator about whether I am compromising my responsibilities under the Code?
- Have I considered the issue from a legal perspective?
- Have I investigated whether my behavior aligns with a policy or procedure of the Medical Panels Office?
- Could my private interests or relationships be viewed as impairing my objectivity?
- Could my decision or action be viewed as resulting in personal gain, financial or otherwise?
- Could my decision or action be viewed as furthering the private interests of someone with whom I have a significant personal or business relationship?
- Could my decisions or actions be perceived as granting or receiving preferential treatment?
- Could my action result in a Conflict of Interest, whether real or apparent?



## APPENDIX B: BREACH PROCEDURES AND FORM

Where a potential breach of the Code of Conduct is reported to the Code Administrator, the Code Administrator will initiate the breach protocol within 3 business days of the report being filed.

### Medical Panels Office Code of Conduct (Code) Breach Report Form

To be completed by the Code Administrator.

**NOTE: All fields are mandatory.**

<b>Report Date*:</b>	<b>Incident number*:</b>
<b>CONTACT INFORMATION – Code Administrator:</b>	
Name and contact information for a person who can answer questions related to a breach of the Code.	
<b>Description of the Breach</b> (report all of the circumstances of the breach)*:	
Employee or Member Name	
Created By: Person(s) who committed the breach of the Code	
Date* on which or time period during which the breach occurred:	
Date breach discovered*	
<b>INFORMATION INVOLVED</b>	
Description* of the type(s) of information involved in the breach:	



## MEDICAL PANELS OFFICE BREACH PROTOCOL

Date: November 1, 2018

When an issue is identified that may compromise the privacy or security of personal information, or where a conflict of interest has occurred, the following processes are in place to ensure the appropriate action is taken.

An example of an incident that warrants reporting would be:

- A conflict of interest was not declared by a Medical Panel Member.

### **THE FOLLOWING CHECKLIST IS REQUIRED TO BE COMPLETED UPON NOTIFICATION OF A POTENTIAL BREACH OF THE CODE**

#### **CODE ADMINISTRATOR WILL:**

- Receive information regarding a potential breach of the Code of Conduct (Code)
- Ensure that the affected party (Committee member or employee) is made aware of the allegation and that they will be given the opportunity to respond to these allegations
- Assure the affected party, where applicable, that the circumstances of the breach will be investigated by the Code Administrator
- Inform the affected party of the breach protocol
- Complete the Breach form:
  - obtain as much information as possible including the history of the situation,
  - who is reporting the incident?
  - what was the nature of the incident?
  - when did it happen?
  - receive demographic information of all affected, if applicable
- Identify the section of the Code that was breached
- Investigate how the breach occurred, this can be done by identifying the nature of the incident
- The Code Administrator will determine next steps, including whether discipline is required.