



CLEAR Seminar: Governance Issues in Professional Regulation

March 24, 2011 – Workshop Notes

Topic: The Role of Public Appointees on Boards/Councils

Notes:

Six symposium attendees attended this workshop – four public appointees and two regulators. The group began by introducing themselves and relating what their status was on their individual Council. The public appointees determined that “laypersons” did not adequately reflect their appointment status and so the term “layperson” was changed to public appointee or public member as College’s often refer to them. The group discussed a public member’s role as they have experienced it to date. They talked about the consistency in appointments as regards timing in that public appointments are made throughout the year which makes it difficult on occasion to catch up on what is happening on individual Councils and appointments to committees of the College. All public members in the group had prior experience on boards or Councils.

Challenges:

The group noted the following challenges:

- The work can be challenging (i.e. Investigations, Complaints and Reports Committee)
- Very little to no orientation provided by the government prior to the appointments on what the requirements of the position entail.
- Took some issue with how Councils are required to serve the wants and needs of the Ministry of Health with more and more requests/requirements coming out of the Ministry sometimes with very short timelines attached.
- Remuneration.

Role of the Public Appointee:

The group then discussed what they envisioned as the role of a public appointee.

- A bridge between the public and professionals.
- Thought that public members served the public very well.
- Act in an advisory capacity to a Council in bringing a public perspective.
- A love of public service.

Like to Haves:

A discussion took place on what changes or improvements public members would like to see.

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- To be able to provide meaningful input to the Ministry of Health regarding what they saw, in some cases, as the Ministry placing a “burden” on regulators – would like a channel of communication opened with the Ministry.
- No avenue for constructive criticism to the Ministry.

Moving Forward:

Some thoughts on improvements for public members moving forward:

- The group consensus was that public members are well integrated with their Councils.
- Public members do not need to know the specifics of the profession of the regulatory Council on which they sit, but do need to know the process.
- Would like some recognition by the government of public member service – Councils and Boards acknowledge the service and contributions of their public members but not the government.
- Should be more information on public appointments available to prospective appointees prior to their appointments.
- It was acknowledged that individual Colleges do offer orientation for their public members.

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Topic: Dealing with the Difficult Board/Council Member

Who is a difficult board member?

- Does not participate
- Does not support the governance model / organization
- Has a “different agenda”
- Is not a team player
- Controller
- Bully
- Weak
- “Yes-sayer”
- Draws inappropriately on previous experience
- Undermines decisions
- “Ney-sayer”
- Poor personal conduct
- A career board member
- Manipulator

What to do?

- Ongoing training (in stages, not all at once)
- Focus on the Chair (education for the Chair: seminars, coach)
- Do evaluation of orientation
- Go through core competencies
- Assess the Board needs
- Introduce good practices from other boards
- Every board member has a role
- Chair to individually meet with board members
- Be aware there are different reasons why somebody is “challenging”
- Have clear provisions of conflict of interest and Code of Ethical conduct
- Have the Board have collective responsibility

Solutions

- “challenging” vs. “difficult”
- Provide orientation and training
- Get “buy-in” from board members
- Have a strong chair
- Ensure full understanding of collective responsibility
- Mentoring

What can staff do?

- Always bring back to the public interest rationale
- Provide briefing notes
- Present clear choices and possible outcomes

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Role of Chair

- Essential
- Should be a leader
- Must lead utilizing governance

Other

- Truly difficult individuals get ostracized
- Evaluation from the public attending
- Have a parliamentarian
- Speaking notes / “script” for the Chair
- Executive Director – President/Board Chair should have regular de-briefings
- Have respect for the Chair

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Topic: Board/Council Member Training

When? How? Who? Content? Length? What's in it for me?

Newly elected members

- 2-day session
- Roles and responsibilities
- Orientation to resources (Board portals vs binders)

Council Retreats

- Orientation and re-orientation
- 2 days

Overwhelming with information

Where does the information fit their future work?

- Suggest shorter but more frequent orientation / training
- Checking in

Committees

- Consider needs of new committee members
- Avoid jargon and legalese

Mentor training – existing member supports new member

Include training component at each Council meeting

Binder can be overwhelming and IT resources can be difficult to manage

- Suggest smaller binders
- Ongoing training for Council and staff for Council Portals
- Consistency in Council and Committee training resources/portals
- Laptops for Council members if using electronic materials/resources
 - o Protocols needed around privacy / confidentiality

Learn through experience – role playing (e.g., discipline hearing training)

Offer board training 3 times per year (e.g., legislation related)

- Small groups – discussion around topic (profession related)

Before and/or after experience

Panels of regulatory expertise for Council / committee orientation

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Location can influence experience and efficacy of training

Include outside / external perspective in training session (not just staff and existing Council members)

Ask them what they think they need (i.e., assessment of member strengths/gaps) before offering orientation / training

Intake survey for new Council / committee members (Board knowledge, legislation, professional expertise, IT, etc.)

- Where are they now and where do they want to be?

Teleconference training

Social interactions (e.g., dinner following ½-day training offsite - \$\$, but opportunity for bonding)

Looking at own laws/regulations & how used

Consider other external training offerings (e.g., CLEAR Board Member Training)

- Ongoing

Remember that people will “pay attention” when they need to

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Topic: Dealing with the “Constituency” Mindset

- Candidate education about the role of the Board Member
- Presenting as “Council Member”, not representative from area/district
 - o Wearing the right hat
- Public members represent the public, not government
- Code of conduct / ethics (or a hybrid of the two) – as reference
- Conflict of Interest
- Acknowledge history of “constituency”, then move on
- NOT separating council members who are separate professions (e.g., pharmacy techs vs pharmacists) – understand commonalities and differences

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Topic: What role should member/registrant interests play in governance?

Interests of the public vs interests of the profession

- Line between the two not clear cut

“Governance” in this context means governing/regulation of the member and profession

How do members have input?

- Environmental scan
- Strategic plan
- Consultation
- Professional practice questions
- Committee members

Members awareness of governance and regulatory issues

What role? Understanding professional interests helps the regulator.

- Communication
- Education
- Obtaining “buy-in”
- Finding solutions
- Professional expertise
- Predicting future needs
- New roles / challenges

Conflict of interest – perceived

- Loss of public confidence
 - o At Board level
 - o At practice level

Member interest input can be okay, but must be kept within the regulatory framework and public interest

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Topic: Dealing with Boards/Councils that Want to “Manage” Instead of “Govern”

Issue Definition

1. Boards which try to manage operations
2. Board which try to manage membership

Discussion

1. Boards which try to manage operations (staffing, etc)
 - This is often done as a result of the fact that many board members tend to be managers in their day jobs – they do what they know
 - Lack of meaningful work for board members
 - Paternalistic towards CEO/ED
 - CEO/ED needing to check with or get approval from the Board for operational matters like organizational re-structuring
2. Boards which try to manage membership
 - Example: continuing competency program – currently CMEs and other directive criteria
 - Board resisting move towards reflective practice method, as feels it is less meaningful (and perhaps unfamiliar)
 - Paternalistic towards members
 - Boards with “old school” mentality of allowing professional members to make decisions autonomously
3. Discussion common to both issues:
 - Lack of board education as to their role
 - some boards are “working” boards, while others are “policy” boards, it depends on the size (membership & staffing levels) of the organization
 - Other extreme is a board which is too “hands-off”
 - Sometimes a board needs to hit “rock bottom” in order to regroup and find its way.
 - Consultants being hired because it is the trend – not based on research

Solutions

1. Continuous board education with regard to the “type” of board they are and, as a result, what is within their purview.

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2. Provide the board with meaningful work – particularly true for policy boards.
3. Manage the board meeting agenda.
4. Manage board expectations.
5. Create an action log for board decisions and ensure a reporting back mechanism through CEO.
6. Need strong leaders (President/CEO) who are on same page.

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Topic: Who Controls the Board/Council Meeting Agenda? Who Should Control the Agenda?

Who writes / develops the agenda? During the meeting, who keeps things “on agenda”?

Writing / Developing the Agenda

- Written by CEO
- Reviewed / approved by the Chair
- Template style

Controlling the Meeting

- Control is the responsibility of the Chair
- Use other members to control “difficult” members
- Training for Chairs on running a good meeting
- Big issue: members who run “on a platform”

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Topic: Board Self-Assessment / Board Member Assessment

- Meeting Evaluation
- Board Performance Evaluation
- Board Member Performance Evaluation
 - Self
 - Peer
- What to do with the information

Written meeting evaluation at each meeting

- Usually honest
- Sometimes rushed
- Can appoint one person as meeting “evaluator”

Board Performance Evaluation

- Scorecard needs to be established
 - o Vs Strategic Plan
 - o Report on obligations / responsibilities met
- Can use external resource to bring objectivity
- Anonymous annual survey
 - o For purpose of improvement
 - o Objective questions / measures

Board Member Evaluation

- Important in raising performance level
- Provides opportunity for education / training
- Focus on improvement – no punitive
- Members should have chance to self-assess
- Peer assessment
 - o Multi-source feedback (360 degrees)
 - Cumbersome
 - What will be done with the information?
 - o Better to deal only with “problematic” members (and we know who these are)
- Chair should actively solicit input from quiet members
- Personality assessments? (e.g., Myers-Briggs)

Do the best with what you have.

Deal with exceptions.

Focus on group performance and process improvement.

Always work towards improvement – be constructive.