

Memorandum of Understanding for Adjudicative Tribunals

**Memorandum of Understanding
Between
Minister of Health
and
Chair of the Consent and
Capacity Board**

April 2025

Signatures

I have read, understood and concur with this MOU dated January 2025 and will abide by the requirements for this MOU and the AAD.

"Original Signed By"

January 21, 2026

The Honourable Sylvia Jones
Deputy Premier and Minister of Health

Date

I have read, understood and concur with this MOU dated January 2025 and will abide by the requirements for this MOU and the AAD.

"Original Signed By"

March 27, 2025

Philip Squire
Chair, Consent and Capacity Board

Date

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1. Preamble

The parties to this memorandum of understanding agree to the following:

Preamble

- a. Provincial agencies deliver important and valued services to the people of Ontario. In delivering these public services, provincial agencies are accountable to the government through the responsible minister.
- b. Provincial agencies must use public resources efficiently and effectively to carry out their mandates, as established by their respective constituting instruments and in alignment with the key priorities of the provincial government. Their operations are guided by the key principles of the Agencies and Appointments Directive (AAD).
- c. The parties to this MOU acknowledge that the agency is part of government and is required to comply with legislation, government directives, policies and guidelines applicable to them. Further, the agency may be required to ensure that their directives and policies adhere to certain government directives, policies and guidelines, including those for human resources, while being mindful of collective agreement and bargaining obligations.

2. Purpose

- a. The purpose of this memorandum of understanding (MOU) is to:
 - Establish the accountability relationships between the Minister of Health and the Chair of the Consent and Capacity Board.
 - Clarify the roles and responsibilities of the minister, the chair, the deputy minister, and the registrar and senior manager.
 - Establish the expectations for the operational, administrative, financial, staffing, auditing and reporting arrangements between the Consent and Capacity Board and the Ministry of Health that support the accountability requirements within a framework, which recognizes that the provincial agency makes independent adjudicative decisions.
- b. This MOU should be read together with the *Health Care Consent Act, 1996*. This MOU does not affect, modify or limit the powers of the agency as set out under the Act or interfere with the responsibilities of any of its parties as established by law. In case of a conflict between this MOU and any act or regulation, the act or regulation prevails.

- c. This MOU replaces the memorandum of understanding between the parties dated June 1, 2020.

3. Definitions

In this MOU:

- a. “AAD” means the Agencies and Appointments Directive, issued by Management Board of Cabinet;
- b. “Agency” or “provincial agency” means the Consent and Capacity Board;
- c. “Annual Report” means the annual report described under article 11.2 of this MOU.
- d. “Applicable Government Directives” means the government directives, policies, standards and guidelines that apply to the adjudicative tribunal;
- e. “Artificial intelligence system” means a machine-based system that, for explicit or implicit objectives, makes inferences, from the input it receives, in order to generate outputs such as predictions, content, recommendations, or decisions that can influence physical or virtual environments;
- f. “ATAGAA” means the *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009*, S.O. 2009, c. 33, Sched. 5 that applies to adjudicative tribunals prescribed under Ontario Regulation 126/10;
- g. “Business Plan” means the business plan referred to in article 11.1 of this MOU;
- h. “CAO” means the chief administrative officer and assistant deputy minister, Ministry of Health;
- i. “Chair” means the Chair of the Consent and Capacity Board;
- j. “Constituting instrument” means the *Health Care Consent Act, 1996*, S.O. 1996, c. 2, Sched. A. that established the agency;
- k. “Consultant” means a person or entity that under an agreement, other than an employment agreement, provides expert or strategic advice and related services for consideration and decision-making;
- l. “Deputy minister” means the Deputy Minister of Ministry of Health;
- m. “Designated Executive” means designated executive defined in the *Broader Public Sector Executive Compensation Act, 2014*, S.O. 2014;
- n. “Executive Council Act” means the *Executive Council Act*, R.S.O. 1990, c. E. 25, as amended;
- o. “FIPPA” means the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c.F.31, as amended.
- p. “Fiscal Year” means the period from April 1 to March 31;

- q. “Government” means the Government of Ontario;
- r. “MBC” means the Management Board of Cabinet;
- s. “Member” means an individual appointed to the agency by the Lieutenant Governor in Council on the recommendation of the minister, but does not mean an individual employed or appointed by the agency as staff;
- t. “Minister” means the Minister of Health or such other person who may be designated from time to time as the responsible minister in relation to this MOU in accordance with the *Executive Council Act*, R.S.O. 1990, c.E.25, as amended;
- u. “Minister of Finance” means the Minister of Finance or such other person who may be designated from time to time under the *Executive Council Act*;
- v. “Ministry” means the Ministry of Health or any successor to the ministry;
- w. “MOU” means this memorandum of understanding signed by the minister and the chair;
- x. “OPS” means the Ontario Public Service;
- y. “President of the Treasury Board” means the President of the Treasury Board or such other person who may be designated from time to time under the *Executive Council Act*;
- z. “PSC” means the Public Service Commission;
- aa. “PSOA” means the *Public Service of Ontario Act, 2006*, S.O. 2006, c. 35, Sched. A, as amended;
- bb. “Registrar and Senior Manager” means the senior public servant at the Consent and Capacity Board who acts in the capacity of Registrar and Senior Manager.
- cc. “TBS” means the Treasury Board Secretariat;
- dd. “TB/MBC” means the Treasury Board/Management Board of Cabinet;
- ee. “Vice-chair” means a Vice-Chair of the Consent and Capacity Board.

4. Agency’s Legal Authority and Mandate

- a. The legal authority of the agency is set out in the *Health Care Consent Act, 1996*, S.O. 1996, c. 2, Sched. A.
- b. The agency also exercises powers and authorities as set out in the *Mental Health Act, Substitute Decisions Act, 1992, Personal Health Information Protection Act, 2004, Child, Youth and Family Services Act, 2017, and Mandatory Blood Testing Act, 2006*.
- c. The provincial agency is an independent, adjudicative tribunal issuing decisions based upon the evidence presented and submissions made to it by the parties,

and upon its interpretation and determination of the relevant legislation and jurisprudence. Because of the functions that it performs and the interests at stake, and also because the Crown may appear as parties before it, independence is required of the agency. Independence as used herein refers to the independence of the agency and its members in rendering adjudicative decisions.

- d. The provincial agency's mandate is set out in the *Health Care Consent Act, 1996*. The agency convenes hearings and makes decisions under six Acts including the: *Health Care Consent Act, 1996*, the *Mental Health Act*, the *Substitute Decisions Act, 1992*, the *Personal Health Information Protection Act, 2004*, the *Child Youth and Family Services Act, 2017* and the *Mandatory Blood Testing Act, 2006*.
- e. In exercising its role, the agency seeks to encourage harmonious relations between parties by dealing with matters before it in a fair, impartial and expeditious manner.

5. Agency Type, Function and Public Body Status

- a. The provincial agency is designated as an adjudicative tribunal, a non-board-governed provincial agency under the Agencies and Appointments Directive (AAD).
- b. The provincial agency is prescribed as a public body and a Commission public body in accordance with Ontario Regulation 146/10 under the PSOA.

6. Corporate Status and Crown Agency Status

- a. The provincial agency is not a Crown agency within the meaning of the *Crown Agency Act*.
- b. The provincial agency does not have the capacity, rights, power and privileges of a natural person for carrying out its objects, subject to the *Health Care Consent Act, 1996*.

7. Guiding Principles

The parties agree to the following principles:

- a. **Accountability:** Provincial agencies deliver public services and are accountable to the government through the responsible minister. In delivering on their mandate, provincial agencies balance operational flexibility with the minister's accountability for the provincial agency to Cabinet, the Legislative Assembly and the people of Ontario. Accountability of the minister for each provincial agency cannot be delegated.

Every provincial agency complies with all applicable legislation and Ontario Public Service (OPS) directives and policies. Further, agencies ensure that their directives and policies adhere to certain government directives, policies and guidelines, including those for human resources, while being mindful of collective agreement and bargaining obligations. This includes applicable legislation and directives related to procurement.

- b. **Responsiveness:** Provincial agencies align their mandate and operations with government priorities and direction. Open and consistent communication between provincial agencies and their responsible ministry helps ensure that government priorities and direction are clearly understood and helps to manage risks or issues as they arise. Provincial agencies deliver a high standard of public service that meets the needs of the population that they serve.
- c. **Efficiency:** Provincial agencies use public resources efficiently and effectively to carry out their mandates, as established by their respective constituting instruments. They operate in a cost-effective manner, and pursue efficiencies throughout the agency's service delivery and administration.
- d. **Sustainability:** Provincial agencies operate in a way so that their current form is sustainable over the long-term while delivering a high standard of service to the public.
- e. **Transparency:** Good governance and accountability practices for provincial agencies are complemented by transparency in the form of public posting of governance and accountability documents including the business plan, annual report, MOU and expenses information.
- f. **Impartial decision-making** is the paramount requirement.

8. Accountability Relationships

8.1 Minister

The minister is accountable:

- a. To Cabinet and the Legislative Assembly for the agency's fulfilment of its mandate and its compliance with government policies, and for reporting to the Legislative Assembly on the agency's affairs.
- b. For reporting and responding to Treasury Board/Management Board of Cabinet on the agency's performance and compliance with government's applicable direction, including directives and operational policies.
- c. To the Cabinet for the performance of the agency and its compliance with the government's operational policies and broad policy directions.

8.2 Chair

The chair is accountable:

- a. To the minister for the provincial agency's performance in fulfilling its mandate, and for carrying out the roles and responsibilities assigned to the chair by the *Health Care Consent Act, 1996* and other applicable legislation, this MOU, and applicable government directives and policies.
- b. For reporting to the minister, as requested, on the provincial agency's activities.
- c. For ensuring timely communications with the minister regarding any issue that affects, or can reasonably be expected to affect, the minister's responsibilities for the agency.
- d. To the minister to confirm the agency's compliance with legislation, government directives, and applicable accounting, financial, and I&IT policies.

8.3 Deputy Minister

- a. The deputy minister reports to the Secretary of the Cabinet and is responsible for supporting the minister in the effective oversight of provincial agencies. The deputy minister is accountable for the performance of the ministry in providing administrative and organizational support to the provincial agency and for carrying out the roles and responsibilities assigned by the minister, the *Health Care Consent Act, 1996*, this MOU, and applicable government directives and policies.
- b. The deputy minister is also accountable for attesting to TB/MBC on the agency's compliance with applicable directives to the best of their knowledge and ability.

8.4 Registrar and Senior Manager

- a. The registrar and senior manager works under the direction of the chair to implement policies and operational decisions, and reports the agency's performance to the chair.
- b. The provincial agency's staff report to and are accountable to the registrar and senior manager for their performance.

9. Roles and Responsibilities

9.1 Minister

The minister is responsible for:

- a. Reporting and responding to the Legislative Assembly on the affairs of the agency.

- b. Reporting and responding to TB/MBC on the agency's performance and compliance with applicable directives, the government's operational policies and policy directions.
- c. Meeting with the chair at least quarterly on: emerging issues and opportunities; agency high risks and action plans including direction on corrective action, as required; and agency business plan and capital priorities.
 - i. As a best practice, meetings are to be quarterly. The minister may delegate some of the meetings to an associate minister or parliamentary assistant. The minister should meet with the chair at least twice per year.
 - ii. If the minister deems the agency to be low-risk, the minister may reduce the number of meetings to twice a year, instead of quarterly.
- d. Working with the chair to develop appropriate measures and mechanisms related to the performance of the agency.
- e. Reviewing the advice or recommendation of the chair on candidates for appointment or re-appointment to the provincial agency.
- f. Making recommendations to Cabinet and the Lieutenant Governor in Council for appointments and reappointments to the agency, pursuant to the process for agency appointments established by legislation and/or by MBC through the AAD, after consulting with and receiving the recommendation of the chair.
- g. Determining at any time the need for a review or audit of the agency, directing the chair to undertake reviews or audits of the agency on a periodic basis, and recommending to TB/MBC any change(s) to the governance or administration of the agency resulting from any such review or audit.
- h. Directing a review of the agency, at least once every six (6) years and directing any additional reviews of the agency, in accordance with the ATAGAA and the AAD, and making recommendations to TB/MBC as may be required after such reviews are completed.
- i. Signing the MOU into effect after it has been signed by the chair.
- j. Receiving the agency's annual business plan and approving or providing suggested changes to the plan no later than 30 calendar days from receiving it.
- k. Ensuring that the agency's business plan is made available to the public no later than 30 calendar days from approving it.
- l. Receiving the agency's annual report and approving the report no later than 60 calendar days of the ministry's receipt of the report from the agency.
- m. Ensuring the annual report is tabled no later than 30 calendar days from approval and then made available to the public.
- n. Recommending to TB/MBC any provincial funding to be allocated to the agency.

- o. When appropriate or necessary, taking action or directing that the agency take corrective action with respect to the agency's administration or operations.
- p. Consulting, as appropriate, with the chair (and others) on significant new directions or when the government is considering regulatory or legislative changes for the agency.
- q. Recommending to TB/MBC the application of the OPS Procurement Directive.
- r. Recommending to TB/MBC, where required, the merger, any change to the mandate, or dissolution of the agency.
- s. Recommending to TB/MBC the powers to be given to, or revoked from, the agency when a change to the agency's mandate is being proposed.

9.2 Chair

The chair is responsible for:

- a. Providing strategic leadership to the agency by setting the goals, objectives, processes and strategic directions for the agency within its mandate, as defined by the agency's constituting instrument.
- b. Directing the affairs of the agency so as to fulfill its mandate as defined by the agency's constituting instrument.
- c. Ensuring compliance with legislative and TB/MBC policy obligations.
- d. Reporting to the minister as requested on the agency's activities within agreed upon timelines, including an annual letter confirming the agency's compliance with all applicable legislation, directives, and accounting, financial and I&IT policies.
- e. Meeting with the minister at least quarterly on: emerging issues and opportunities; agency high risks and action plans including direction on corrective action, as required; and agency business plan and capital priorities.
 - i. As a best practice, meetings are to be quarterly. The minister may delegate some of the meetings to an associate minister or parliamentary assistant. The minister should meet with the chair at least twice per year.
 - ii. If the minister deems the agency to be low-risk, the minister may reduce the number of meetings to twice a year, instead of quarterly.
- f. Ensuring timely communications with the minister regarding any issues or events that may concern or can reasonably be expected to concern the minister in the exercise of their responsibilities relating to the agency.
- g. Working with the minister to develop appropriate measures and mechanisms related to the performance of the agency.

- h. Utilizing the agency's skills matrix to advise the minister of any competency skills gaps and provide recommendations for recruitment strategies, appointments, or re-appointments as needed, including advising the minister on appointee attendance and performance.
- i. Cooperating with any review or audit of the agency.
- j. Requesting an external audit of the financial transactions or management controls of the agency, at the agency's expense, if required.
- k. Advising the minister and deputy minister, annually at minimum, on any outstanding audit recommendations/issues.
- l. Sharing all audit engagement reports (including those prepared by their own internal audit function and/or those reported to the agency's chair) with their respective minister and deputy minister (and when requested, with the President of the Treasury Board).
- m. Seeking strategic policy direction for the agency from the minister.
- n. Ensuring the implementation of actions that support the goals, objectives, and strategic direction of the agency, and otherwise directing the affairs of the agency so as to fulfill its mandate.
- o. Developing a performance measurement system for the provincial agency, including targets, for assessing the agency's performance.
- p. Monitoring and evaluating the performance of the provincial agency, including the performance of vice-chairs and members, as appropriate.
- q. Identifying the required skills, experience and capacity required for the provincial agency to meet its mandate.
- r. Working with the ministry to oversee the recruitment of members and providing recommendations to the minister on appointments and reappointments, as applicable, pursuant to the process for appointment to adjudicative tribunals established by the ATAGAA and by MBC through the AAD.
- s. Preparing the agency's annual report for submission to the minister/ministry within 90 calendar days after the provincial agency's fiscal year-end.
- t. Making decisions consistent with the business plan approved for the agency.
- u. Signing the provincial agency's MOU.
- v. Submitting the provincial agency's business plan, budget, annual report and financial reports to the minister in accordance with the timelines specified in the applicable government directives and this MOU.

- w. Ensuring that the agency operates within its approved budget allocation in fulfilling its mandate, and that public funds are used for the purpose intended with integrity and honesty.
- x. Consulting with the minister in advance regarding any activity which may have an impact on the government and ministry's policies, directives or procedures, or on the agency's mandate, powers or responsibilities as set out in the agency's constituting instrument.
- y. Reviewing and approving claims for per diems and travel expenses for members.
- z. Ensuring appropriate management systems are in place (financial, information technology (including cyber security), human resources, procurement and records management) for the effective administration of the provincial agency.
- aa. Establishing and implementing artificial intelligence (AI) risk management in alignment with the principles of the Responsible Use of AI Directive and requirements in section 6.3, ensuring that they fulfill the role outlined for "Provincial Agency Heads or Equivalent" in the Responsible Use of AI Directive.
- bb. Ensuring that there is timely, effective and efficient caseload management to resolve disputes.
- cc. Directing that corrective action be taken relating to the provincial agency's operations, if needed.
- dd. Making sure that an appropriate framework is in place for provincial agency staff and appointees to receive adequate orientation and training with respect to the business and operations of the agency and their particular responsibilities.
- ee. Making sure that provincial agency staff and appointees are aware of and comply with applicable government directives, and all applicable legislation.
- ff. Making sure a process for responding to and resolving complaints from the public and the provincial agency's clients is in place.
- gg. Carrying out effective public communications and stakeholder relations for the provincial agency as required by the Communications Protocol.
- hh. Acknowledging the importance of promoting an equitable, inclusive, accessible, anti-racist and diverse workplace within the agency, and supporting a diverse and inclusive workplace within the agency.
- ii. Ensuring that members are informed of their responsibilities under the PSOA with regard to the rules of ethical conduct, including the political activity rules.
- jj. Fulfilling the role of ethics executive for public servants who are government appointees to the provincial agency, promoting ethical conduct and ensuring that all members of the agency are familiar with the ethical requirements of the PSOA,

and the regulations and the directives made under that act, including in respect of conflict of interest, political activity and the protected disclosure of wrongdoing.

- kk. Consulting with the deputy minister in the evaluation of the registrar and senior manager's performance pursuant to the performance criteria established by the deputy minister and the chair.
- ll. Ensuring that the responsibilities for the institution head are carried out as set out in Regulation 460 for the purposes of the *Freedom of Information and Protection of Privacy Act*.

9.3 Deputy Minister

Deputy minister responsibilities may be fulfilled by a delegate approved by the Secretary of Cabinet.

The deputy minister is responsible for:

- a. Advising and assisting the minister regarding the minister's oversight responsibilities for the provincial agency, including informing the minister of policy direction, policies and priorities of relevance to the provincial agency's mandate.
- b. Advising the minister on the requirements of the AAD, ensuring governance and accountability documents accurately adhere to the requirements of the AAD, and other directives that apply to the provincial agency.
- c. Attesting to TB/MBC on the provincial agency's compliance with the mandatory accountability requirements set out in the AAD and other applicable directives, the government's operational policies and policy directions based on the annual letter of compliance from the agency chair to the minister to the best of their knowledge and ability.
- d. Reporting/responding, within prescribed timelines, to TBS on compliance tracking.
- e. Ensuring that the registrar and senior manager or equivalent is aware of the administrative requirements of government and is compliant with them.
- f. Informing the registrar and senior manager or equivalent, in writing, of new government directives and any exceptions to, or exemptions in whole or in part from directives, government policies, or ministry administrative policies.
- g. Ensuring regular briefings and consultations between the chair and the minister at least quarterly, and between the ministry staff and the provincial agency staff as needed.
- h. Providing supporting and background information for the minister's quarterly meetings with the chair.
- i. Supporting the minister in reviewing the performance targets, measures and results of the agency.

- j. Signing the agency's MOU, acknowledging their responsibilities.
- k. Undertaking reviews of the agency as may be directed by the minister.
- l. Cooperating with any review of the agency as directed by the minister or TB/MBC.
- m. Ensuring the review of and assessing the agency's business plans and other reports.
- n. Requesting information and data as needed to fulfill obligations under the AAD.
- o. Monitoring the agency on behalf of the minister while respecting the agency's authority, identifying needs for corrective action where warranted, and recommending to the minister ways of resolving any issues that might arise from time to time.
- p. Providing regular feedback to the minister on the performance of the agency.
- q. Supporting ministers and minister's offices in monitoring and tracking upcoming and existing vacancies on boards, particularly where there is a legislated minimum number of members and to maintain quorum.
- r. Recommending to the minister, as may be necessary, the evaluation or review, including a risk-based review, of the Consent and Capacity Board or any of its programs, or changes to the management framework or operations of the Consent and Capacity Board.
- s. Ensuring that the ministry and the provincial agency have the capacity and systems in place for on-going risk-based management, including appropriate oversight of the agency.
- t. Ensuring that the provincial agency has an appropriate risk management framework and a risk management plan in place for managing risks that the agency may encounter in meeting its program or service delivery objectives.
- u. Undertaking timely risk-based reviews of the provincial agency, its management or operations, as may be directed by the minister or TB/MBC.
- v. Submitting to the minister, as part of the annual planning process, a risk assessment and management plan for each risk category.
- w. Consulting with the provincial agency's chair, as needed, on matters of mutual importance including services provided by the ministry and compliance with directives and ministry policies.
- x. Arranging for administrative, financial and other support to the provincial agency, as specified in this MOU.
- y. Consulting with the chair on the performance evaluation of the registrar and senior manager.

9.4 Registrar and Senior Manager

The registrar and senior manager is responsible for:

- a. Managing the day-to-day financial, analytical, and administrative affairs of the provincial agency in accordance with the mandate of the agency, government directives and policies, accepted business and financial practices, and this MOU.
- b. Advising the chair on the requirements of and the provincial agency's compliance with the AAD, as well as other government directives and policies, and agency by-laws and policies, including annually attesting to the chair on the agency's compliance with mandatory requirements.
- c. Applying policies and procedures so that public funds are used with integrity and honesty.
- d. Providing leadership and management to the provincial agency staff, including human and financial resources management, in accordance with the approved business plan, accepted business and financial practices and standards, the agency's constituting instrument, and government directives.
- e. Preparing the provincial agency's annual business plan to be approved by the chair prior to submission to the minister.
- f. Assisting in the preparation of the provincial agency's annual report as directed by the chair.
- g. Preparing financial reports.
- h. Ensuring that, at minimum, annual audited financial statements are prepared for public release and posting on the provincial agency's website after submission to the minister, and tabling in the Legislative Assembly as part of the agency's annual report.
- i. Establishing and applying a financial management framework for the provincial agency in accordance with applicable Minister of Finance/Treasury Board controllership directives, policies and guidelines.
- j. Translating the goals, objectives and strategic directions of the chair into operational plans and activities in accordance with the provincial agency's approved business plan.
- k. Ensuring that the provincial agency has the oversight capacity and an effective oversight framework in place for monitoring its management and operations.
- l. Keeping the chair informed with respect to implementation of policy and the operations of the provincial agency.
- m. Establishing systems to ensure that the provincial agency operates within its approved business plan.

- n. Ensuring that the provincial agency has an appropriate risk management framework and risk management plan in place, as directed by the Board.
- o. Supporting the chair in meeting their responsibilities, including compliance with all applicable legislation, directives, policies, procedures and guidelines.
- p. Carrying out in-year monitoring of the provincial agency's performance and reporting on results to the chair.
- q. Keeping the ministry and the chair advised on issues or events that may concern the minister, the deputy minister and the chair in the exercise of their responsibilities.
- r. Seeking support and advice from the ministry, as appropriate, on provincial agency management issues.
- s. Establishing a system for the retention of provincial agency documents and for making such documents publicly available when appropriate, for complying with the *Freedom of Information and Protection of Privacy Act* and the *Archives and Recordkeeping Act* where applicable.
- t. Undertaking timely risk-based reviews of the provincial agency's management and operations.
- u. Consulting with the deputy minister as needed, on matters of mutual importance, including services provided by the ministry, and on government directives and ministry policies.
- v. Keeping the deputy minister informed about operational matters.
- w. Cooperating with a periodic review directed by the minister or TB/MBC.
- x. Coordinating with the ministry, the development of a performance measurement system for agency staff and implementing the system.

10. Ethical Framework

- a. The members of the provincial agency who are appointed by the Lieutenant Governor in Council are subject to the conflict of interest provisions of the AAD and the conflict of interest provisions of the PSOA and its regulations.
- b. Members shall not use any information gained as a result of their appointment to or membership on the agency for personal gain or benefit. A member who has reasonable grounds to believe that they have a conflict of interest in a matter before the agency, or a committee of the agency, shall disclose the nature of the conflict to the chair at the first opportunity and shall refrain from further participation in the consideration of the matter. The chair shall cause to be recorded in the minutes of the meeting of the agency any declared conflicts of interest.

- c. The chair, as the ethics executive for the provincial agency, is responsible for ensuring that appointees of the agency are informed of the ethical rules to which they are subject, including the rules on conflict of interest, political activity and protected disclosure of wrongdoing that apply to the agency.
- d. The chair will ensure that an ethics plan is developed for the provincial agency, and that the ethics plan be approved by the Conflict of Interest Commissioner.

11. Reporting Requirements

11.1 Business Plan

- a. The chair will ensure that the minister is provided annually with the provincial agency's business plan covering a minimum of three (3) years from the upcoming fiscal year, unless otherwise specified by TB/MBC, for approval by the minister. The annual business plan shall be in accordance with the requirements set out in the AAD and the ATAGAA, including any related regulations.
- b. The draft annual business plan is to be submitted to the ministry's chief administrative officer or designated equivalent no later than 90 calendar days prior to the beginning of the provincial agency's fiscal year- start, and the chair-approved business plan is to be submitted to the minister for approval no later than 30 calendar days prior to the beginning of the provincial agency's fiscal year.
- c. The chair is responsible for ensuring that the provincial agency's business plan includes a system of performance measures and reporting on the achievement of the objectives set out in the business plan. The system must include performance goals, how they will be achieved, and targeted results and timeframes.
- d. The chair will ensure that the business plan includes a summary of HR impacts, including: current number of employees expressed as full-time equivalents and current number of executives.
- e. The chair will ensure that the business plan includes a risk assessment and risk management plan. This will assist the ministry in developing its risk assessment and risk management plan information in accordance with the requirements of the AAD to assess risks, develop and maintain necessary records, and report to TB/MBC.
- f. The chair will ensure that the business plan includes an inventory of the provincial agency's artificial intelligence (AI) use cases in accordance with requirements of the Responsible Use of AI Directive.
- g. The chair will ensure that publicly posted business plans do not disclose: personal information, sensitive employment and labour relations information, solicitor-client privileged information, Cabinet confidential information, trade secrets, information that would prejudice the financial or commercial interests of the agency in the

marketplace, and information that would otherwise pose a risk to the security of the facilities and/or operations of the agency. If necessary, this confidential information, included in the minister-approved business plan, may be redacted in the publicly posted version.

- h. The minister will review the provincial agency's annual business plan and will promptly advise the chair whether or not they concur with the directions proposed by the agency. The minister may advise the chair where and in what manner the agency's plan varies from government or ministry policy or priorities as may be required, and the chair will revise the agency's plan accordingly. Business plans are only to be considered valid once the responsible minister has approved the plan and the approval has been expressed in writing.
- i. The minister will approve or provide suggested changes to the business plan no later than 30 calendar days from the minister's receipt of the report. In certain circumstances, minister approval may be given to only certain portions of a business plan as submitted by an agency.
- j. The parties acknowledge that TB/MBC may require the minister to submit the provincial agency's business plan to TB/MBC for review at any time.
- k. The chair, through the registrar and senior manager or equivalent, will ensure that the minister approved business plan is made available to the public in an accessible format (to comply with the *Accessibility for Ontarians with Disabilities Act, 2005*), in both official languages (to comply with the *French Language Services Act*), on the Consent and Capacity Board's website no later than 30 calendar days from minister's approval of the plan.

11.2 Annual Reports

- a. The chair will ensure that the ministry is provided annually with the agency's annual report. The annual report shall be in accordance with the requirements set out in the AAD.
- b. The chair is responsible for ensuring that the provincial agency's annual report is prepared and submitted to the ministry for approval within 90 calendar days after the agency's fiscal year-end.
- c. The chair, through the registrar and senior manager or equivalent, will ensure that the annual report is prepared in the format specified in the AAD.
- d. The chair will ensure that the annual report includes a summary of HR impacts, including: number of employees expressed as full-time equivalents, and number of executives.
- e. The chair will ensure that publicly posted annual reports do not disclose: personal information, sensitive employment and labour relations information, solicitor-client privileged information, Cabinet confidential information, trade secrets, information

that would prejudice the financial or commercial interests of the provincial agency in the marketplace, and information that would otherwise pose a risk to the security of the facilities and/or operations of the provincial agency.

- f. The minister will receive and review the provincial agency's annual report to confirm compliance with AAD requirements and will approve the report no later than 60 calendar days from the day of receipt.
- g. The minister will table the report in the Legislative Assembly no later than 30 calendar days from approval.
- h. The chair, through the registrar and senior manager or equivalent, will ensure that the minister approved annual report is publicly posted in an accessible format (to comply with the *Accessibility for Ontarians with Disabilities Act, 2005*), in both official languages (to comply with the *French Language Services Act*), on the Consent and Capacity Board's website after the report has been tabled in the Legislature and no later than 30 calendar days from minister's approval of the report.
- i. When distributing annual reports, digital formats and channels for distribution must be used unless otherwise required (e.g. by directive, legislation).

11.3 Human Resources and Compensation

- a. The agency will provide workforce, compensation and operational data as set out in the AAD Operational Policy.
- b. The agency will report on HR and compensation policies in its business plans and annual reports, in accordance with the requirements of the AAD, AAD Operational Policy, and articles 11.1 and 11.2 of this MOU.
- c. The agency will provide any other additional workforce, compensation and operational data as requested by TBS.

11.4 Other Reports

The chair is responsible for:

- a. Ensuring that all required reports and documents, including those set out in the AAD and the agency's constituting instrument, are submitted for review and approval by the minister in accordance with the prescribed timelines.
- b. Supplying specific data and other information, at the request of the minister or the deputy minister, that may be required from time-to-time, subject to any restrictions which may interfere or conflict with the integrity of adjudicative, assessment, decision-making or investigative process, or natural justice rights of the parties.

12. Public Posting Requirements

- a. The provincial agency, through the chair, will ensure that the following approved governance documents are posted in an accessible format (to comply with the *Accessibility for Ontarians with Disabilities Act, 2005*), in both official languages (to comply with to the *French Language Services Act*), on the Consent and Capacity Board's website no later than the specified timelines:
 - Memorandum of understanding – 30 calendar days of signing by all parties
 - Annual business plan – 30 calendar days of minister's approval
 - Annual report – 30 calendar days of minister's approval (the report must first be tabled in the Legislature)
- b. Posted governance documents should not disclose: personal information (including personal health information), sensitive employment and labour relations information, solicitor-client privileged information, Cabinet confidential information, trade secrets, information that would prejudice the financial or commercial interests of the provincial agency in the marketplace, and information that would otherwise pose a risk to the security of the facilities and/or operations of the provincial agency.
- c. The provincial agency, through the chair, will ensure that the expense information for appointees and senior management staff are posted on the agency or ministry website, in accordance with the requirements of the Travel, Meal and Hospitality Expenses Directive.
- d. The provincial agency, through the chair, will ensure that any other applicable public posting requirements are met.

13. Communications and Issues Management

The parties to this MOU recognize that the timely exchange of information on the plans, strategies, operations and administration of the provincial agency is essential for the minister to meet their responsibilities for reporting and responding to the Legislative Assembly on the affairs of the agency. The parties also recognize that it is essential for the chair to be kept informed of government initiatives and broad policy directions that may affect the provincial agency's mandate and functions.

The minister and the chair, therefore, agree that:

- a. "Communications" shall not include discussion or exchanging of information between provincial agency personnel and the minister, deputy minister or ministry staff about specific cases that have been, are or will be the subject of adjudicative or regulatory decision- making by the provincial agency.

- b. Inquiries received by the minister's office regarding a case in progress at the provincial agency must be re-directed to the provincial agency without comment. Any response made by the minister's office to the inquiring party will indicate that the inquiry has been forwarded to the provincial agency and that the minister cannot comment on an adjudicative proceeding, assessment, decision, investigation or resolution.
- c. The chair will consult with the minister, in a timely manner, of all planned announcements, events or issues, including contentious matters, that concern or can be reasonably expected to concern the minister in the exercise of their responsibilities.
- d. The minister will advise the chair in a timely manner, as appropriate, on broad government policy initiatives or legislation being considered by the government that may impact on the provincial agency's mandate or functions, or which otherwise will have a significant impact on the agency.
- e. The minister will advise the chair, and the chair will consult with the minister on public communication strategies and publications. They will keep each other informed of the results of stakeholder and other public consultations and discussions as they relate to the agency's mandate and functions.
- f. The minister and the chair will meet at least quarterly on: emerging issues and opportunities; agency high risks and action plans including direction on corrective action, as required; and agency business plan and capital priorities.
 - i. As a best practice, meetings are to be quarterly. The minister may delegate some of the meetings to an associate minister or parliamentary assistant. The minister should meet with the chair at least twice per year.
 - ii. If the minister deems the agency to be low-risk, the minister may reduce the number of meetings to twice a year, instead of quarterly.
- g. The agency and ministry will comply with the Public Communications Protocol set out in Appendix 1 to this MOU for ongoing issues management, public communications and paid advertising.

14. Administrative Arrangements

14.1 Applicable Government Directives

- a. The chair is responsible for ensuring that the agency operates in accordance with all applicable government directives and policies. This includes, but is not limited to, the list of directives and policies found on the InsideOPS Directives and Policies page.

- b. The ministry will inform the agency of amendments or additions to legislation, government directives, policies and guidelines that apply to the provincial agency; however, the provincial agency is responsible for complying with all legislation, government directives, policies and guidelines to which it is subject. Information on corporate direction is available on the InsideOPS Directives and Policies page.
- c. The OPS Procurement Directive applies in full.
- d. The Procurement Directive on Advertising, Public and Media Relations and Creative Communications Services applies in full.

14.2 Administrative and Organizational Support Services

- a. The deputy minister is responsible for providing the provincial agency with the administrative and organizational support services listed in Appendix 2 to this MOU, and for negotiating with Ontario Shared Services concerning these services, as appropriate.
- b. Appendix 2 may be reviewed at any time at the request of either party.
- c. The deputy minister will ensure that the support or services provided to the provincial agency are of the same quality as those provided to the ministry's own divisions and branches.

14.3 Agreements with Third Parties

- a. Procurement required to support the programs and services of the provincial agency will be done in a clear manner, consistent with applicable policies and directive, including but not limited to, the MBC Procurement Directive.

14.4 Legal Services

- a. Legal services to the provincial agency will be provided by the Ministry of the Attorney General, in accordance with an MOU established between the provincial agency and the Ministry of the Attorney General.
- b. The provincial agency may request outside legal services when it requires expertise which is unavailable within the Ministry of the Attorney General or when the use of a law office of the Crown would result in any conflict of interest.
- c. Outside legal services will be acquired in accordance with the MAG Operating Policy on Acquiring and Using Legal Services.

14.5 Creation, Collection, Maintenance and Disposition of Records

- a. The chair is responsible for ensuring that a system is in place for the creation, collection, maintenance and disposal of records.

- b. The chair is responsible for ensuring that the provincial agency complies with all government legislation, directives and policies related to information and records management.
- c. The registrar and senior manager or equivalent and the chair shall protect the legal, fiscal and other interests of the provincial agency by implementing reasonable measures to ensure the ongoing viability, integrity, preservation and security of all official records created, commissioned or acquired by the agency. This includes, but is not limited to, all electronic records, such as emails, information posted on the agency's website(s), database data sets, and all records stored on personal computers and shared drives.
- d. The chair is responsible for ensuring measures are implemented requiring the provincial agency's employees to create full, accurate and reliable records that document and support significant business transactions, decisions, events, policies and programs.
- e. The chair is responsible for ensuring that the provincial agency complies with the TB/MBC Management and Use of Information and Information Technology (I&IT) Directive, in conjunction with the Corporate Policy on Recordkeeping, as applicable.
- f. The chair is responsible for ensuring that the provincial agency complies with the *Archives and Recordkeeping Act, 2006*, S.O. 2006, Chapter 34, Schedule A.

14.6 Cyber Security

- a. Agencies are responsible and accountable for the ownership and management of cyber security risks and related impacts within their organization.
- b. Agencies must ensure adequate systems, protocols and procedures are established and maintained to ensure cyber resilience, recovery and maturity.
- c. An agency's cyber security practices and protocols should be regularly reviewed and updated to address new and emerging cyber security threats.
- d. Agencies should align with any applicable policies and standards issued by the OPS, such as the Government of Ontario Information Technology Standards (GO-ITS) 25.0 and any other relevant GO-ITS standards, Corporate Policy on Information Sensitivity Classification, Corporate Policy on Cyber Security and Cyber Risk Management, Governance and Management of Information and Data Assets Directive, Governance and Management of Information Technology Directive.

14.7 Intellectual Property

- a. The chair is responsible for ensuring that the legal, financial and other interests of the government in intellectual property are protected in any contract that the

provincial agency may enter with a third party that involves the creation of intellectual property.

14.8 Freedom of Information and Protection of Privacy

- a. The chair and the minister acknowledge that the provincial agency is bound to follow the requirements set out in the *Freedom of Information and Protection of Privacy Act* (FIPPA) in relation to the collection, retention, security, use, distribution, disclosure, access and correction and disposal of records.
- b. The chair is delegated as the institution head for the purposes of the FIPPA.
- c. The chair is responsible for ensuring that the ministry is notified of any significant or contentious information requests under the FIPPA.

14.9 Service Standards

- a. The provincial agency shall establish customer service and quality standards that are consistent with the appropriate standards of the government, the ministry and the Ontario Public Service.
- b. The chair will ensure that the provincial agency delivers its services at a quality standard that reflects the principles and requirements of the OPS Service Directive.
- c. The chair will ensure that the agency designs, delivers and implements its digital services, whether internally built or procured, to reflect the principles and requirements outlined in the Digital and Data Directive, including Ontario's Digital Service Standard.
- d. The provincial agency has in place a formal process for responding to complaints about the quality of services received by clients of the agency consistent with the government's service quality standards. The provincial agency's process for responding to complaints about the quality of services is separate from any statute provisions about re-consideration, appeals, etc. of the agency's adjudicative decisions.
- e. The agency's annual business plan will include performance measures and targets for client service and the agency's response to complaints.

14.10 Diversity and Inclusion

- a. The provincial agency, through the chair, acknowledges the importance of promoting an equitable, inclusive, accessible, anti-racist and diverse workplace within the agency.
- b. The chair will support a diverse and inclusive workplace within the agency by:

- i. Developing and encouraging diversity and inclusion initiatives to promote an inclusive environment free of workplace discrimination and harassment; and
 - ii. Adopting an inclusive process to ensure all voices are heard.
- c. The chair is responsible for ensuring that the agency operates in accordance with the *Human Rights Code*, *Accessibility for Ontarians with Disabilities Act, 2005*, *French Language Services Act*, and *Pay Equity Act*.

15. Financial Arrangements

15.1 General

- a. All financial procedures for the provincial agency shall be in accordance with applicable government directives, ministry and corporate financial and administrative policies and procedures.
- b. When ordered to do so by the Minister of Finance and/or the President of the Treasury Board, pursuant to Section 16.4 of the *Financial Administration Act*, the provincial agency shall pay into the Consolidated Revenue Fund any money that the Minister of Finance and/or the President of the Treasury Board determines is surplus to its requirements.
- c. Pursuant to Section 28 of the *Financial Administration Act*, the provincial agency shall not enter into any financial arrangement or commitment, guarantee, indemnity or similar transaction that may increase, directly or indirectly, the indebtedness or contingent liabilities of the Government without the approval of the Minister of Finance and/or the President of the Treasury Board. The minister's approval is required before seeking statutory approval from the Minister of Finance or President of the Treasury Board.
- d. The provincial agency's approved operating and capital allocations may be adjusted in a given year if in-year fiscal constraints are ordered by Cabinet or the minister. The agency will be provided with notice of changes to its allocation as soon as is reasonably possible. Where the provincial agency must reallocate resources as a result of its operating and/or capital allocations being adjusted, the provincial agency shall inform and discuss the changes with the ministry before making such changes.
- e. The agency will report to TBS when it has sought external advice on matters where: (i) the effectiveness of the advice depends on a particular accounting treatment or presentation in the financial statements; (ii) the outcome or consequences of the advice has or will have a material effect on the financial statements; and (iii) where there could be reasonable doubt as to the

appropriateness of the related accounting treatment or presentation under the relevant financial reporting framework.

- f. The registrar and senior manager shall be responsible for providing the ministry with the necessary documentation to support the agency's expenditures.

15.2 Funding

- a. The provincial agency is funded by the Government of Ontario, out of the Consolidated Revenue Fund (CRF) pursuant to an appropriation authorized by the Legislative Assembly, and is subject to adjustments made by the minister, TB/MBC or the Legislative Assembly.
- b. The chair will prepare estimates of the provincial agency's expenditures for inclusion in the ministry's business plan for presentation to the Legislative Assembly. The chair will deliver these estimates to the minister in sufficient time to be analyzed and approved by the minister.
- c. The estimates provided by the chair may, after appropriate consultation with the chair, be altered as required. The parties acknowledge that TB/MBC has final decision-making authority.
- d. Financial procedures of the provincial agency must be in accordance with TB/MBC and Ministry of Finance directives and guidelines and other applicable government direction.

15.3 Financial Reports

- a. The chair will provide to the minister annual financial statements as part of the provincial agency's annual report.
- b. The provincial agency will submit its salary information to the ministry, in accordance with the *Public Sector Salary Disclosure Act, 1996*.

15.4 Taxation Status: Harmonized Sales Tax (HST)

- a. The agency is not entitled to claim HST Government Rebates.
- b. The agency is expected to claim any refunds, input tax credits or other rebates under the *Excise Tax Act (Canada)* for which it is eligible.

15.5 Realty

- a. The chair is responsible for ensuring that the agency operates in accordance with the MBC Realty Directive.
- b. Appendix B of the Realty Directive sets out the Mandatory Office Space Standards and Office Space Planning Practices that must be complied with when acquiring space for accommodation and program purposes.

- c. The chair recognizes that all lease agreements for provincial agencies without realty authority are under the administration and control of the Minister of Infrastructure.
- d. The agency will align hybrid work policies with the OPS and identify and assess office optimization opportunities to reduce office realty footprint and find cost reductions.

16. Audit and Review Arrangements

16.1 Audits

- a. The provincial agency is subject to periodic review and value-for-money audit by the Auditor General of Ontario under the *Auditor General Act* or by the Ontario Internal Audit Division of Treasury Board Secretariat.
- b. A provincial agency can request and/or must accept the provision of internal audit services by the Ontario Internal Audit Division in accordance with the Internal Audit Directive.
- c. Regardless of any previous or annual external audit, the minister or the chair may direct that the agency be audited at any time. The results of such audit should be shared by the chair to the minister in accordance with article 8.2.
- d. A provincial agency will share all engagement reports (including those prepared by their own internal audit function and/or those reported to the agency's chair) with their respective minister and deputy minister (and when requested, with the President of the Treasury Board). The provincial agency will advise the respective minister and deputy minister annually, at a minimum, on any outstanding recommendations/issues.
- e. A provincial agency will share its approved audit plan with their respective minister and deputy minister, (and when requested, with the President of the Treasury Board) to support understanding of agency risks.
- f. The chair may request an external audit of the financial transactions or the management controls of the provincial agency, at the agency's expense.

16.2 Other Reviews

- a. The provincial agency is subject to periodic review initiated at the discretion and direction of TB/MBC or the minister. The review may cover such matters relating to the provincial agency that are determined by TB/MBC or the minister, and may include the mandate, powers, governance structure and/or operations of the provincial agency, including finance, human resources/labour relations and agency processes.

- b. In requiring a periodic review, the minister or TB/MBC shall determine the timing and responsibility for conducting the review, the roles of the chair and the minister, and how any other parties are involved.
- c. A mandate review of the provincial agency will be conducted at least once every six years. The next review will be completed by 2024-2025.
- d. The minister will direct a review of the provincial agency at least once every six (6) years in accordance with subsections 21(2) and (2) of the ATAGAA. (This review may be structured in such a way that it also fulfills the obligation for a mandate review.)
- e. The minister will consult the chair as appropriate during any such review.
- f. The chair and registrar and senior manager will cooperate in any review.
- g. In the event of a review initiated at the direction of the minister, the minister shall submit any recommendations for change that are developed from the results of the review regarding the provincial agency to TB/MBC for consideration.

17. Staffing and Appointments

17.1 Delegation of Human Resources Management Authority

- a. Where the PSC has delegated its powers, duties and functions in relation to human resources management to the deputy minister, chair or prescribed individual under Ontario Regulation 148/10, that person is accountable for exercising that authority in compliance with any relevant legislation, directives or policies in accordance with the mandate of the provincial agency, and within the parameters of the delegated authority.

17.2 Staffing Requirements

- a. The provincial agency is staffed by persons employed under Part III of the *Public Service of Ontario Act, 2006*. Such persons are eligible for all the rights and benefits accorded under the PSOA and relevant collective agreements.
- b. The provincial agency, in its dealings with staff employed under Part III of the *Public Service of Ontario Act, 2006*, is subject to MBC human resource directives and Public Service Commission directives under the PSOA.
- c. The ministry will provide the provincial agency with administrative services and program analysis as required through the Corporate Management Branch sufficient to ensure the efficient and effective administration of the provincial agency.

- d. The Corporate Management Branch will develop job descriptions for the staff providing administrative services to the provincial agency.
- e. The specific administrative support services to be provided by the ministry to the provincial agency are identified in Appendix 2 to this MOU.
- f. The ministry is responsible for providing administrative support to the operation of the provincial agency, including the preparation of cheques and maintenance of financial records.
- g. Ministry employees are assigned to the provincial agency as and when required.

17.3 Designated Executives

- a. The agency shall provide total compensation to its designated executives in accordance with the legislation, directives, policies and guidelines applicable to them.

17.4 Appointments

- a. The chair is appointed by the Lieutenant Governor in Council on the recommendation of the minister pursuant to subsections 70(2) and 71(1) of the constituting instrument through an Order in Council.
- b. The vice-chairs of the provincial agency are appointed by the Lieutenant Governor in Council on the recommendation of the minister pursuant to subsections 70(2) and 71(1) of the constituting instrument through an Order in Council.
- c. The members of the provincial agency are appointed by the Lieutenant Governor in Council on the recommendation of the minister pursuant to subsection 70(2) of the constituting instrument through an Order in Council.
- d. Members and vice-chairs are selected for appointment through a competitive, merit-based process that assesses candidates based on experience, knowledge or training in the subject matter and legal issues dealt with by the tribunal; aptitude for impartial adjudication; and aptitude for applying alternative adjudicative practices and procedures that may be set out in the tribunal's rules.
- e. The chair must utilize the agency's skills matrix and recruitment strategy in advising the minister of any competency skills gaps and providing any recommendations for appointments or re-appointments, including advising the minister on appointee attendance and performance.
- f. Pursuant to subsection 14(4) of the ATAGAA, no person shall be appointed or reappointed unless the chair, after being consulted as to their assessment of the person's qualifications under the ATAGAA and, in the case of reappointment, of the member's performance of their duties on the tribunal, recommends that the person be appointed or reappointed.

17.5 Remuneration

- a. Remuneration is set by the Lieutenant Governor in Council.
- b. The provincial agency's full-time and part-time appointees will be remunerated pursuant to rates identified in Schedule B of the AAD.
- c. Provincial agencies, including members, must comply with the Travel, Meal and Hospitality Expenses Directive issued by MBC. Legitimate authorized expenses incurred during the course of government business shall be reimbursed. Expenses for members under the Directive are subject to requirements for public disclosure of expense information.

18. Risk Management, Liability Protection and Insurance

18.1 Risk Management

- a. Ministers and ministries are accountable for working with their provincial agencies to ensure effective management of risks. The ministry and agency will meet to discuss agency high risks and action plans including direction on corrective action.
- b. The chair is responsible for ensuring that a risk management strategy is developed and in place for the provincial agency, in accordance with the AAD and the OPS Enterprise Risk Management Directive and Risk Management process.
- c. The provincial agency shall ensure that the risks it faces are addressed in an appropriate manner.

18.1.1 Artificial Intelligence Risk Management

The chair is responsible for ensuring that artificial intelligence (AI) risk management is undertaken in alignment with the principles and requirements of the Responsible Use of AI Directive.

- a. The agency shall implement AI risk management in alignment with the requirements outlined in Section 6.3 of the Responsible Use of Artificial Intelligence Directive.
 - i. The agency shall ensure the management of technology risks in a documented and appropriate manner.
 - ii. The agency will identify threats and risks, assess their potential impact, severity and likelihood, and document the risks and actions taken to address them.

- b. The agency shall ensure that a business process exists for accountable executives to document their ongoing efforts to treat (resolve, mitigate, or accept) risks throughout the technology lifecycle.
- c. The agency shall publish a list of AI use cases as part of the Business Plan.
- d. The agency shall track and report quarterly on IT threats and technology risks and vulnerabilities, and associated risk treatment efforts. This includes reporting on AI use cases and associated risk management.
- e. The agency shall ensure that IT systems can meet the confidentiality, integrity, and availability requirements of all information and that systems can adequately safeguard or dispose of information according to its sensitivity level.

18.2 Liability Protection and Insurance

- a. Pursuant to section 71.1 of the *Health Care Consent Act, 1996*, no proceeding for damages shall be commenced against the provincial agency, a member, employee or agent of the provincial agency or anyone acting under the authority of the chair of the provincial agency for any act done in good faith in the performance or intended performance of the person's duty or for any alleged neglect or default in the performance in good faith of the person's duty.
- b. The Board is covered under the Government's Commercial General Liability Protection Program (GRLPP) for bodily injury, personal injury, property damage and advertising liability claims made by third parties.

19. Compliance and Corrective Actions

- a. Open and consistent communication between provincial agencies and their responsible ministry helps ensure that government priorities and direction are clearly understood and helps to manage risks or issues as they arise.
- b. Situations may arise through the course of monitoring where corrective action is required. Corrective action refers to the steps taken to remedy non-compliance with this directive. Corrective action supports agencies in delivering on desired outputs and/or outcomes, and meeting the terms and conditions established by this directive.
- c. If a ministry initiates corrective action, it must be progressive in nature and in proportion to the risk associated with the degree of non-compliance. The degree of corrective action should only be increased if the agency's non-compliance continues. It is important that ministries document all actions, and provide timely and clear communication to the agency chair or senior executives relating to potential corrective actions. This may include letters of direction by the accountable minister and/or the President of the Treasury Board as required.

- d. Before engaging in more severe corrective actions, ministries must consult with TBS and legal counsel.

20. Effective Date, Duration and Review of the MOU

- a. This MOU becomes effective on the date it is signed by the minister as the last party to execute it (“Original Effective Date”) and continues in effect until it is revoked or replaced by a subsequent MOU signed by the parties.
- b. A copy of this signed MOU and any successor MOU must be provided to the Secretary, Treasury Board/Management Board of Cabinet, no later than seven calendar days from being signed.
- c. Upon a change in minister, deputy minister, or chair of the provincial agency, the newly appointed individual must review and sign this MOU no later than four months from the new appointment.
- d. Subject to any further written agreements or updates, the parties agree that this MOU entered into between them will satisfy the requirements of section 11 of the ATAGAA.

Signature

I acknowledge my role and the requirements as set out in this MOU and the AAD.

"Original Signed By"

January 20, 2025

Deborah Richardson, Deputy Minister
Ministry of Health

Date

Appendix 1: Public Communications Protocol

1. Purpose

The communications protocol sets out a framework for the ministry and the provincial agency to collaborate on public communications opportunities led by the agency, and to set out a process for handling specific case/hearing related inquiries received by the minister's office and the ministry.

The communications protocol applies to both the provincial agency's implementation of its legislated mandate and the promotion of the work it does. It will also support the minister's accountability to the Legislative Assembly and to Cabinet for the same.

2. Definitions

- a. "Public communications" means any material that is communicated to the public, either directly or through the media in:
 - Oral form, such as a speech or public presentation or interview to be broadcast
 - Printed form, such as a hard copy report
 - Electronic form, such as a posting to a website
 - Paid advertising, such as digital or print campaign.
- b. A "contentious issue" is a matter that is, or may reasonably be expected to be, of concern to the Legislative Assembly or the public, or is likely to result in inquiries being directed to the minister or government. Contentious issues may be raised by:
 - Members of the Legislative Assembly
 - The public
 - Media
 - Stakeholders
 - Service delivery partners.

3. The provincial agency will comply with the TB/MBC Visual Identity Directive.

4. The ministry and the provincial agency will appoint persons to serve as public communications "leads".

- The ministry lead is the Director of Communications or designate.
- The agency lead is the registrar and senior manager.

5. For the purpose of this protocol, public communications are divided into three categories:

- a. **Media responses or communications products related to the routine business** of the provincial agency and its programs that do not have direct implications for either the ministry or the government.
- Media responses, news releases or other communications products are to be shared with the ministry lead on an appropriate and timely cadence (i.e., daily) who will circulate as appropriate to other individuals within the ministry.
 - **Note:** Funding related announcement are not considered routine business and must be escalated to category B. Contentious issues must be escalated to category C.
- b. **Communications products and/or plans where provincial or ministerial messaging on government priorities would enhance the provincial agency's or the government's profile**, or would provide opportunities for local government announcements.
- **For all non-contentious items that might generate media interest**, the provincial agency lead will notify the ministry lead of upcoming communications plans and products a minimum of three (3) business weeks in advance.
 - **For non-contentious items which provide government messaging opportunities** or involve funding announcements, the agency must request approval of communications products seven (7) business days prior to the date required.
 - Final approval is required from the minister's office and will be sought via the ministry lead. If the provincial agency were not to receive comments or approval from the minister's office or ministry lead within forty-eight (48) hours of the date on which the item is to be issued, the agency should escalate a follow-up, noting that they will proceed accordingly.
 - **Non-contentious media responses** are to be shared with the ministry lead on an appropriate and timely cadence (i.e., daily) who will circulate as appropriate to other individuals within the ministry. Contentious media responses follow the process below.
- c. **Contentious issues, media responses, and news releases** that may have direct implications for either the ministry or the government, or are likely to result in inquiries being directed to the minister or government.
- The provincial agency lead will notify the ministry lead immediately upon becoming aware of the issue and will notify the minister's office simultaneously. The ministry lead may also advise the agency of contentious issues that require attention. The provincial agency will provide all required background information on the issue to the ministry lead, who will arrange to have a contentious issues note prepared.

- The provincial agency must obtain ministry approval prior to issuing media responses or news releases in this category. The provincial agency lead will provide the media response or news releases to the ministry lead who will initiate the approval process within the ministry.
- Final approval on media responses and news releases in this category is required from the minister's office.

6. Advertising

- To deliver on the long-range demands of planning advertising, the agency will provide the ministry with its annual marketing plan three (3) months in advance of its start date (on the agency's fiscal year).
- Agency to share campaign briefs with the ministry a minimum of two (2) weeks in advance of briefing creative/media (agency) partners. Ministry to ensure alignment on campaign objectives and messaging.
- Advertising materials and campaigns can be reviewed by the ministry's Minister's Office.
- Final messaging and creative to be shared with the ministry at least two (2) weeks before going live.

7. For the purpose of handling specific case/hearing related inquiries:

- a. Parties who contact a minister's office or the ministry with an inquiry, issue or complaint concerning a specific case or hearing before the provincial agency will be referred to the registrar and senior manager or equivalent.
- b. Any party with a matter previously referred to the provincial agency requesting to discuss a specific case/hearing with the minister's office or with ministry staff shall be referred to the registrar and senior manager or equivalent. The registrar and senior manager or equivalent will ensure that an appropriate response is communicated to the party. The response will advise the party of the independent nature of the provincial agency's relationship with the ministry and the minister.
- c. Requests for information pursuant to the *Freedom of Information and Protection of Privacy Act* (FIPPA) received by the minister's office or the ministry will be referred to the registrar and senior manager or equivalent who will determine an appropriate response to each request in consultation with the chair.
- d. The ministry will ensure that all enquiries referred by the minister's office are addressed in a manner that is consistent with the FIPPA.
- e. The agency will ensure that all inquiries referred by the minister's office via the ministry are addressed in a manner which is consistent with the FIPPA.

Appendix 2: Administrative or Organizational Support Services

The deputy minister is responsible for ensuring that the ministry and/or Ontario Shared Services provides the following administrative support services to the provincial agency:

- a. Financial administration: pay and benefits administration, accounts payable and technical advice, purchasing, central mail and printing services, and records and forms advisory services
- b. Human resource services: classification, advice and consultation regarding recruitment procedures and staff relations, job description writing, career counselling and staff development, and advice and consultation regarding corporate initiatives such as occupational health and safety
- c. Corporate educational opportunities and career planning services are available and open to agency staff; the ministry must assist the registrar and senior manager or equivalent in ensuring that these are communicated effectively to agency staff
- d. Information technology and telecommunications services: advice, consultation and support
- e. Internal audit: financial compliance, management, human resource and information systems audits, operational reviews, and special investigations as required
- f. Accommodation: facilities planning and relocation services, including *Accessibility for Ontarians with Disabilities Act, 2005* compliance, and lease renewals
- g. Freedom of information and protection of privacy program services
- h. French language services translation and interpretation services
- i. Business planning
- j. Performance measurement and program evaluation
- k. Communications and marketing