

**Report to  
Rapport au :**

**Ottawa Board of Health  
Conseil de santé d'Ottawa  
17 June 2019 / 17 juin 2019**

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**Submitted by  
Soumis par :**

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**Ward: CITY WIDE / À L'ÉCHELLE DE LA VILLE      File Number: ACS2019-OPH-BOH-0008**

**SUBJECT: REVIEW AND UPDATE OF BOARD OF HEALTH POLICIES AND BY-LAWS**

**OBJET: EXAMEN ET MISE À JOUR DES POLITIQUES ET RÈGLEMENTS DU CONSEIL DE SANTÉ**

## **REPORT RECOMMENDATIONS**

**That the Board of Health for the City of Ottawa Health Unit:**

- 1. Approve updates to the Board of Health Procedure By-law, as highlighted in this report and detailed in Document 1;**
- 2. Approve updates to the Board of Health Delegation of Authority By-law, as highlighted in this report and detailed in Document 2;**
- 3. Direct staff to bring forward a report in Q3 of 2019 with recommendations for enhancing the Board of Health Code of Conduct, including options with respect to enforcement of same, as outlined in this report; and**

4. Direct staff to bring forward a report in Q3 of 2019, with recommendations for a Board of Health Travel Policy.

## RECOMMANDATIONS DU RAPPORT

Que le Conseil de santé de la circonscription sanitaire de la Ville d'Ottawa :

1. approuve les mises à jour apportées au *Règlement de procédure du Conseil de santé*, comme le souligne le présent rapport et le précise le document 1;
2. approuve les mises à jour apportées au *Règlement du Conseil de santé sur la délégation de pouvoirs*, comme le souligne le présent rapport et le précise le document 2;
3. demande au personnel de présenter, au cours du troisième trimestre de 2019, un rapport contenant des recommandations pour améliorer le code de conduite du Conseil de santé, et notamment des options en matière de mise en application dudit code, comme il est décrit dans le présent rapport;
4. demande au personnel de présenter, au cours du troisième trimestre de 2019, un rapport énonçant ses recommandations pour une Politique sur les déplacements du Conseil de santé.

## BACKGROUND

Many legislative bodies undertake regular reviews of policies, procedures and by-laws to ensure effective governance. The [Ontario Public Health Organizational Standards](#) require that boards of health review and revise (if necessary) relevant by-laws, policies and procedures at least every two years. To fulfill this requirement, staff reviewed the policies, procedures and by-laws that guide the Ottawa Board of Health. This review included taking into consideration recent amendments to policies, procedures and by-laws of the City of Ottawa and Ottawa City Council as well as examining the requirements for Boards of Health, as stipulated in the Ontario Public Health Organizational Standards and other legislation and regulations.

The last review of Board of Health policies, procedures and by-laws was in February 2017.

## DISCUSSION

Having reviewed the various policies and by-laws of the Ottawa Board of Health as part of this process, no changes are being recommended to the following:

- By-law 2011-3 – A by-law of the Board of Health to designate a head of the Ottawa Board of Health for the purposes of the Municipal Freedom of Information and Protection of Privacy Act;
- By-law 2011-4 – A by-law of the Board of Health to appoint a person for the purposes of administering requests for disclosure of personal health information pursuant to the Personal Health Information Protection Act, 2004;
- By-law 2011-5 - A by-law of the Board of Health to establish fees for the purposes of administering requests for disclosure of personal health information pursuant to the Personal Health Information Protection Act, 2004; and
- Medical Officer of Health Performance Appraisal Policy.

However, the review concluded that in order to ensure continued effective governance, amendments were required of the Board of Health's *Procedural By-law*, *Delegation of Authority By-law* and Code of Conduct. These amendments are highlighted below and further detailed in supporting documents 1, 2 and 3 respectively.

### **Recommendation 1 – Approve updates to the Board of Health Procedure By-law, as highlighted in this report and detailed in Document 1**

#### ***Statutory “power to expel” from a meeting***

Subsection 241(2) of the *Municipal Act, 2001* provides that, “The head of council or other presiding officer may expel any person for improper conduct at a meeting.” This statutory authority is currently reflected in Section 12 of the *Procedure By-law*, which states as follows:

#### **“MEETINGS OPEN TO PUBLIC**

12. (1) Subject to Section 13, the meetings of the Board shall be open to the public and no person shall be excluded except for improper conduct.
- (2) The Chair may expel or exclude from any meeting any person who has engaged in improper conduct at the meeting.”

In a July 2018 report, the Ontario Ombudsman made a number of recommendations following an investigation into the December 7, 2017 meeting of council for the Regional Municipality of Niagara related to an incident in which a citizen blogger and journalist were ejected from a Council meeting and had their equipment seized. The ejection and equipment seizure occurred after a digital recorder belonging to the citizen blogger was found running during an *In Camera* portion of the meeting.

The Ombudsman's recommendations with respect to Niagara Region's *Procedure By-law* included the suggestion that any by-law or policy that references "improper conduct" should contain a definition of that term, including reference to specific categories or examples. In particular, the report recommended that in order to ensure consistent application and to provide general information to the public about conduct that would not be accepted, the region should amend its policy to include a specific definition of 'improper conduct'.

The Ombudsman also recommended that the region's procedural by-law be amended to specify that, where the Chair exercises authority under the *Municipal Act, 2001* to expel an individual from a meeting, the reasons for the expulsion be recorded in the meeting minutes.

The City of Ottawa's most recent governance review report, approved December 5, 2018, included recommendations to amend the Council and Committee *Procedure By-law* to reflect the Ombudsman's recommendations.

Through this report, it is recommended that the Board of Health Procedure By-law also be amended to include a definition of "improper conduct", examples of unreasonable behaviour/incident types, and a requirement that the exercise of such powers be recorded in the meeting minutes. Recommended wording can be found in Document 1, attached.

### ***Closed Meeting Provisions***

The *Municipal Act, 2001* requires that all meetings shall be open to the public, except in particular discretionary circumstances, as described in Subsections 239(2) and 239(3.1) of the Act, as well as particular mandatory circumstances addressed in Subsection 239(3) of the Act.

As of January 1, 2018, Bill 68, the *Modernizing Ontario's Municipal Legislation Act, 2017*, added four new, discretionary clauses that may be used for a meeting to be closed to the public under Subsection 239(2) of the Act, as follows:

- Information explicitly supplied in confidence to the municipality or local board by Canada, a province or territory or a Crown agency of any of them;

- A trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence to the municipality or local board, which, if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;
- A trade secret or scientific, technical, commercial or financial information that belongs to the municipality or local board and has monetary value or potential monetary value; or
- A position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality or local board.

On November 22, 2017, City Council approved an amendment to its Council and Committee Procedure By-law to include these additional provisions.

Though it is not anticipated that these additional discretionary reasons for closed meetings will have an effect on current practices or the frequency of closed meetings of the Board of Health, it is recommended that the Board's Procedure By-law also be amended to reflect these legislative changes.

### ***Housekeeping Amendments***

Several housekeeping amendments are also be recommended, as detailed in Document 1, attached.

### **Recommendation 2 – Approve updates to the Board of Health Delegation of Authority By-law, as highlighted in this report and detailed in Document 2**

Various housekeeping amendments are being recommended for the Delegation of Authority By-law in order to:

- a) reflect new administrative structures and/or position titles resulting from recent re-alignments at both Ottawa Public Health and the City of Ottawa;
- b) align with the City's delegation of authority thresholds for transfers of funds; and
- c) align with OPH's administrative policy on limits to signing authority.

These amendments are outlined and explained in Document 2 attached.

### **Recommendation 3 – Direct staff to bring forward a report in Q3 of 2019 with recommendations for enhancing the Board of Health Code of Conduct, including options with respect to enforcement of same, as outlined in this report;**

At its meeting of June 15, 2015, the Board of Health adopted a values-based Code of Conduct for its Members. The Board's Code of Conduct, which was based primarily on the City of Ottawa's Code of Conduct for Members of Council at that time, enhanced the Board's governance framework, facilitated transparency and accountability, and outlined ethical standards expected of Members.

As part of its most recent governance review process and in response to Bill 68, the *Modernizing Ontario's Municipal Legislation Act, 2017*, City Council enacted a new *Code of Conduct for Members of Local Boards By-law*. As required by provincial legislation, this new by-law addresses the following prescribed subject matters:

- Gifts, benefits and hospitality;
- Respectful conduct, including conduct toward officers and employees of the municipality or local board;
- Confidential information; and
- Use of property of the municipality or local board.

Though the legislative requirements that led to Council's adoption of this new by-law do not apply to boards of health, staff reviewed the Board's current Code of Conduct for comparative purposes and found that it only addresses two (2) of the four (4) prescribed subject matters, namely: respectful conduct; and confidential information. Further, as currently written, the Board's Code of Conduct makes no reference to any enforcement mechanism – such as a complaints process or oversight by an Integrity Commissioner – which may be negatively viewed as a lack of accountability.

In the interest of ensuring the Board's governance policies, procedures and by-laws continue to reflect best practices, it is recommended that staff be directed to review this matter and bring forward recommendations, in Q3 2019, for enhancing the Board's Code of Conduct, including options with respect to enforcement of same.

**Recommendation 4 – Direct staff to bring forward a report in Q3 of 2019, with recommendations for a Board of Health Travel Policy**

In January 2011, the City's Finance and Economic Development Committee adopted a motion directing that Councillors attending a conference at the City's expense be required to "report on what they gained from attendance at that conference and how they advanced the City's position or interests at any public forum." This requirement

was formalized through the 2014-2018 Term of Council governance report, adopted by Council on December 3, 2014.

Similarly, the Ottawa Public Library Board has adopted a “Trustee Orientation and Continuing Education” policy, which talks about the importance of continuous learning and development for Board Members, including participation at conferences, seminars and workshops. The policy also outlines the level of reimbursement for associated expenses, and requires that Board Members attending a conference, seminar or workshop of more than 24 hours provide a written report to the Board and, when attendance is less than 24 hours, a verbal report is to be provided at the board meeting immediately following the conference, seminar or workshop.

In recent years, the Board of Health has adopted the informal practice of receiving verbal reports from Members of the Board following their participation at meetings and conferences of the Association of Local Public Health Agencies (alPHA). This emulated the requirements of City Council and the Ottawa Public Library Board, as described above.

The adoption of a Board of Health Travel Policy would contribute to further enhancing the Board’s governance framework, facilitate transparency and accountability, and clearly outline guidelines for the reimbursement of Members’ travel expenses.

## OTHER MATTERS

### ***Public Registry for Declarations of Interest***

Bill 68, referenced above, also requires that municipalities and local boards establish and maintain a public registry for declarations of interest, including a copy of each written statement filed with the Clerk/secretary and a copy of the declaration of interest, as recorded in the minutes. In order to fulfil this requirement, staff is proposing to amend the Board of Health section on the OttawaPublicHealth.ca website to add a tab titled “Declarations of Interest” where Members’ written statements would be posted with a link to the corresponding meeting minutes.

## **RURAL IMPLICATIONS**

There are no rural implications associated with this report.

## **CONSULTATION**

This report is administrative in nature and did not require public consultation.

**LEGAL IMPLICATIONS**

There are no legal impediments to approving the recommendations in this report.

**RISK MANAGEMENT IMPLICATIONS**

There are no risk management implications associated with this report.

**FINANCIAL IMPLICATIONS**

There are no financial implications associated with this report.

**ACCESSIBILITY IMPACTS**

There are no accessibility impacts associated with this report.

**SUPPORTING DOCUMENTATION**

Document 1 – Proposed amendments to the Board of Health Procedure By-law, being By-law 2011-1

Document 2 – Proposed amendments to the Board of Health Delegation of Authority By-law, being By-law 2011-2

Document 3 – Proposed amendments to the Board of Health Code of Conduct

**DISPOSITION**

Upon approval of this report, the Board of Health Secretary will implement changes to the processes, procedures and by-laws, as per recommendations 1 through 3, and bring forward a report for the Board's consideration pursuant to recommendation 4.