

Prescription Drug Affordability Board Requirements & Responsibilities

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Board Requirements and Responsibilities

- Conflicts of Interest
- Board Procedures (statutory and parliamentary)
- Data Practices and Open Meeting Laws
- Compensation

The information contained in these slides is general summary information. It is not intended to cover every single requirement and responsibility of the Board, nor does it address every situation that the Board may encounter. The Attorney General's Office, acting as counsel for Board, is able to provide detailed legal advice to the Board.

Conflicts of Interest

Conflicts of Interest are defined in Minn. Stat. § 62J.89

- 1) Financial or personal association that has the potential to bias or have the appearance of biasing your decisions in matters related to the board or in the conduct of the board's activities"
- 2) Conflicts include any instance in which you or your immediate family member (including in-laws) has received or could receive a direct or indirect financial benefit deriving from the result or findings of a decision of the board.
 - Diversified mutual funds or retirement accounts administered by an independent trustee don't count as conflicts.

Conflicts of Interest

Duty to disclose conflicts:

- Before accepting appointment or before entering into a contract, board members, staff, and contractors must disclose any conflicts, including the type, nature, and magnitude of interests involved.
- Any board member, staff, or contractor must recuse themselves from any discussion, review, or decision of the board related to the prescription drug product.
- Conflicts must be disclosed before the first board meeting or within 5 days of identifying the conflict, whichever is earlier.

Board members, staff, and contractors, prohibited from accepting gifts, donations, etc. that could create the appearance of a conflict of interest or bias into the board's activities.

Statutory Board Procedures

- Nine board members - seven voting members, as appointed by the Governor.
- Board members serve 4-year terms, except that initial appointees will serve staggered terms as determined by the Secretary of State. Limit of 2 consecutive terms.
- Resignation at any time by written notice to the board.
- Removal for 1) cause, after notice and hearing or 2) after missing 3 consecutive meetings.
- Board members may not have alternates or proxies.

Statutory Board Procedures

- Must elect a board chair. May elect a co-chair and other officers.
- Board must meet at least once every 3 months.
- Board must announce each meeting at least 3 weeks in advance.
- Meeting materials must be made available at least 2 weeks in advance.
- Each public meeting must provide an opportunity for comments from the public, including written comments.
- Board must hire an Executive Directive, with experience in pharmacoeconomics, pharmacology, health policy, health services research, medicine, or a related field or discipline, and other staff.

Other Board Procedures

- Bylaws or Charter
 - Statute silent on issue of quorum, so AGO can give board legal advice on this topic.
 - Often, a simple majority of board members, excluding vacancies, constitutes a quorum.
- Parliamentary or other board procedures
 - Robert's Rules or Other
 - How to structure public comments
 - Roles of Board officers and staff

Minnesota Government Data Practices Act, Chapter 13

- Presumes government data are public
- Classifies data that are not public
 - This board will have access to not public proprietary data, governed by Minn. Stat. § 62J.91, subd. 3.
- Provides rights for the public and data subjects
- Requires that data on individuals are accurate, complete, and secure

Open Meeting Laws

- Meetings must be open to the public
 - Must make meeting minutes public, including meeting journal or minutes that record any voting by the board
 - Phone or video attendance permitted so long as additional requirements are met
 - Exceptions: when discussing proprietary information and receiving legal advice from AGO, so long as additional requirements are met
- Purpose of open meeting law
 - To prohibit actions taken at secret meetings
 - To assure the public's right to be informed
 - To give the public an opportunity to present its views to the public body
- See Minn. Stat. Chap. 13D

Gatherings not covered by Open Meeting law

- Gatherings of less than a quorum
- Chance or social gatherings (banquets, parties, etc.)
 - *St. Cloud Newspapers v. District 742 Community Schools*, 332 N.W.2d 1 (Minn. 1983)
- Trainings/team building
 - Attorney General opinion 63a-5, Feb. 5, 1975
 - DPO Advisory Opinion 16-006
- But serial meetings may violate Open meeting laws
 - Meetings of groups of less than a quorum to avoid public hearing or reach agreement on an issue outside of an open meeting are not allowed

Compensation

Board members may not receive compensation but can receive reimbursement for certain expenses.

Minn. Stat. § 62J.87, subd. 6.

- Reimbursable expenses are governed by the commissioner's plan, per Minn. Stat. § 43A.18, subd. 2. *See* [2023-25 Commissioner's Plan \(mn.gov\)](#)
 - May include childcare expenses that you would not have otherwise incurred but for time spent at a board meeting.
 - Generally, need advance permission to incur expense.
 - Commissioner's plan sets out reimbursement rates for travel, meals, etc.