Overview of Board Members' Legal Duties

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Approved by: NSRDDA Board	Approval Date: October 10, 2025

1. Purpose

The purpose of this policy is to support informed and responsible decision-making by providing an overview of the legal duties and obligations of Board members in their role as governors of the NSRDDA.

2. Scope

This policy applies to the NSRDDA Board members and persons appointed as Officers of the organization.

3. Policy Statement

As a member of a governing board for a body corporate, Board members owe a fiduciary duty to the NSRDDA – they are 'fiduciaries.' They have a legal duty to act primarily for the NSRDDA's benefit. Board members: (a) owe the NSRDDA the duties of good faith, trust, confidence, and candor; and (b) must exercise a high standard of care in managing the NSRDDA's assets and property. Being a fiduciary means that Board members will be held to high standards of good faith, fair dealing, and loyalty regarding the organization.

Board members' fiduciary duties can be divided into two main categories: the duty of loyalty and duty of care.

Duty of Loyalty

The duty of loyalty requires that Board members act honestly and in good faith in the best interests of the organization. The duty of loyalty is a personal duty and cannot be delegated. This means, among other things, that the Board member is not allowed to profit or benefit from their office and must avoid all situations in which their duty to the organization conflicts with their interests or duties to others. The duty of loyalty also includes the obligation to maintain the confidentiality of Board information and deliberations and to publicly support the outcome of the Board's decision-making process.

Duty of Care

Board members have a duty of competence, i.e., a requirement to act with a certain level of skill. The duty of care describes the level of attention required of a Board member and can be described as the "duty to be informed" and to act with competence and diligence. A Board member must generally be informed about an issue before making a business decision relating to it. However, the law does not require Board members to be experts but rather to act in accordance with a particular standard of care.

For NSRDDA Board members, the *Regulated Health Professions Act* (RHPA) does not explicitly provide an objective standard of care. This means that the common law subjective standard applies. Under that standard, Board members are judged against their own person characteristics, attributes, skill level, education, experience, and profession. They are required to "exercise the degree of care and skill that may reasonably be expected of a person of the Board member's particular knowledge and experience."

The duty of care requires that Board members pay attention and try to make good decisions for the NSRDDA. The duty is comprised of the following responsibilities:

(a) ***The duty to act honestly*** – Board members must deal honestly with the organization and not act for an improper purpose.
(b) ***The duty of diligence*** – Board members must be diligent in attending to their legal duties by familiarizing themselves with the organization, being informed and prepared for and attending meetings whenever possible. Where advice of a specialized nature is required, the Board should obtain the services of qualified professionals. Board members should exercise their own judgment when voting on any decisions, not simply voting with the majority for no well-informed reason.
(c) ***The duty to exercise power*** – Board members, acting collectively, are ultimately responsible for the organization. Board members can breach their fiduciary duty through inaction or inattention. They are responsible for furthering the NSRDDA's objects and goals and they must make decisions.
(d) ***The duty of obedience*** – Board members must comply with all applicable laws and the NSRDDA's governing documents (bylaws, etc.). Board members should also satisfy themselves that Board decisions are being implemented by the NSRDDA.

Statutory Duties

In addition to common law duties, individual Board members or the Board collectively have legal duties under various statutes. In addition to the RHPA, there are a number of other statutes that apply to the NSRDDA as a body corporate and that impose specific duties upon the Board members. Some of these statutory legal duties may expose Board members to legal liabilities if the NSRDDA is non-compliant with them. <u>Examples</u> include:

- The Income Tax Act
- The Excise Sales Tax Act
- The Criminal Code
- Employment standards legislation
- Environmental protection legislation
- Privacy protection legislation
- Occupational health and safety legislation

The NSRDDA will obtain an inventory of applicable statutes that highlights those with potential personal liabilities for Board members. It will develop a system of regular reporting to the Board regarding ongoing compliance with those statutes.

The NSRDDA will also obtain appropriate Directors' and Officers' Liability Insurance as an additional risk mitigation strategy for potential legal liabilities of Board members.

4. Monitoring and Policy Review

The Chair of the Governance and Human Resources Committee will ensure that this policy is reviewed in accordance with the Board's policy review cycle or as required by significant operational or environmental changes.

5. Accountability

The Board Chair is accountable for ensuring compliance with this policy.