

COLLEGE OF MASSAGE THERAPISTS OF BRITISH COLUMBIA

Board Policy on Confidentiality

[Passed by the Board on April 11, 2013, Updated on June 8, 2015]

PURPOSE

1. To ensure that confidential matters are not disclosed unless disclosure is authorized by the Board, or where disclosure is otherwise permitted by or under the *Health Professions Act*, R.S.B.C. 1996, c. 183 (the “HPA”).

BACKGROUND

2. The HPA requires all persons exercising a power or performing a duty under the HPA, including all Board members, to preserve confidentiality unless disclosure is “necessary” to exercising a power or performing a duty, or where disclosure is authorized by the Board as being in the public interest:

Confidential information

53 (1) Subject to the *Ombudsperson Act*, a person must preserve confidentiality with respect to all matters or things that come to the person's knowledge while exercising a power or performing a duty under this Act unless the disclosure is

(a) necessary to exercise the power or to perform the duty,
or

(b) authorized as being in the public interest by the board of the college in relation to which the power or duty is exercised or performed.

Health Professions Act, section 53(1)

3. A person who contravenes section 53(1) of the HPA commits an offence, under section 51 of the HPA, and may be subject to restraint by an injunction of the Supreme Court under section 52 of the HPA.
4. Board members may also be subject to common law duties of confidentiality.
5. Confidentiality refers to the restricted availability of a defined body of information. A duty to maintain or preserve confidentiality means a duty to refrain from the unauthorized use or disclosure of information.

6. Under section 53(1) of the HPA, anything a person learns while exercising a power or performing a duty under the HPA is confidential information.
7. Confidentiality may apply to information regardless of form, which may include information received verbally, and information contained in any physical or electronic document.

APPLICATION

8. This Confidentiality Policy applies to all Board members, and is a rule of conduct for the purposes of Bylaw 18(1). Bylaw 18(1) requires Board members to adhere to the rules of conduct that the Board may approve to govern their behaviour and relationships with the College. Board members are individually responsible for adhering to this Confidentiality Policy.

POLICY

A. Generally

9. Board members must comply with section 53 of the HPA.
10. Board members may generally disclose confidential information
 - a. to other Board members, and
 - b. to the Registrar, and to such other College employees or contractors assisting in the matters to which the information relates,as part of exercising their powers and performing their duties as Board members.
11. A Board member may disclose confidential information for purposes of obtaining legal advice from a member of the Law Society of British Columbia, provided the lawyer is instructed to and is in a position to preserve confidentiality.
12. Board members must not use or disclose confidential information for personal benefit, or for the personal benefit of other persons. Where the use or disclosure of confidential information will be or may possibly be affected by personal or third-party interests, Board members must ensure they comply with the Board's Conflict of Interest Policy.
13. Any confidential information or document disclosed at a closed or *in camera* meeting of the Board remains confidential.
14. Any information or document properly disclosed at an open meeting of the Board is no longer confidential.
15. Even where information or a document is properly disclosed at an open meeting of the Board, no Board member may make any statement about such information

or document to the press or to the public except in a manner consistent with the Board's Communications Policy.

B. Board Minutes

16. All draft or approved minutes of closed or *in camera* meetings of the Board are confidential, must be marked "confidential", and must be handled in a secure manner by Board members and by staff.

C. Confidential documents (including electronic documents)

17. Board members must preserve the confidentiality of documents they receive or use in the course of exercising their powers or performing their duties, except where disclosure is permitted by law:
 - a. Board members must not, except as permitted by law, permit unauthorized persons to inspect or otherwise have access to confidential documents, including confidential electronic information.
 - b. Board members must implement reasonable measures to secure access to the computers, the email systems or other forms of media by which they receive and store confidential electronic information.
18. Board members must treat all printed versions of confidential e-mails or other confidential electronic documents as confidential documents.
19. Subject to any policies relating to the preservation or destruction of records, Board members disposing of confidential documents they no longer need to exercise their powers or perform their duties should dispose of confidential documents through College staff, through personal or confidential shredding, or otherwise in a fashion that will reasonably preserve confidentiality.

D. Questions about confidentiality

20. Any Board member with a question about confidentiality, such as a question about
 - a. information or documentation being or remaining confidential,
 - b. disclosure of confidential to a particular person, or
 - c. the legality of disclosure as being necessary to the exercise of a power or the performance of a duty, or as being expressly or implicitly authorized by the Board,

may discuss the matter with the Chair of the Board or the Registrar.

21. Any Board member who has reason to believe confidentiality of any information or document has been compromised should report the circumstances to the Chair of the Board or to the Registrar.

[END OF POLICY]