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Health Canada Policy on External Advisory Bodies (2011)

Consultations and Outreach Division

Public Affairs, Consultation and Communications Branch



Canada

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Health Canada Policy on External Advisory Bodies (2011)

Health Canada's Policy on External Advisory Bodies (2011) replaces all other Health Canada policies or guidance on the management of advisory bodies.

OVERVIEW

Context

The use of external advisory bodies is consistent with the Government of Canada's commitments to involve people outside of government in government's work and decision-making processes.

External advisory bodies provide Health Canada with expert advice from individuals who have valuable knowledge, expertise, or experience. The advice may relate to scientific, technical, policy, or program matters. Health Canada's advisory body activities are carried out in accordance with the principles and requirements set out in applicable federal government policies and legislation, such as those related to Privacy, Official Languages, and Risk Management, among others.

This policy reflects and upholds the principles of openness, transparency, and accountability.

Policy Objective

To promote Health Canada's effective and consistent management of external advisory bodies.

Authority

This policy is issued under the authority of the Deputy Minister, Health Canada.

Application

The policy applies to all situations in which Health Canada, through its branches, directorates, and agencies, uses an external advisory body on a long-term or temporary (*ad hoc*) basis. "External advisory bodies" includes working groups, expert panels, reference groups, task groups, and committees established with members external to the federal government and selected to provide expert advice.

To the extent no conflict exists, committees established under legislation are also covered by this policy with respect to their management and operations.

An external advisory body may operate outside this policy only under exceptional circumstances such as in a public health emergency situation. In such a case, the reasons must be documented.

Health Canada will uphold, promote, and encourage the use of this policy when co-chairing or jointly managing advisory bodies with other government departments and agencies.

This policy includes a review and feedback process and will be updated as necessary.

DEFINITION OF AN EXTERNAL ADVISORY BODY

These are the defining characteristics of an external advisory body:

- It is established by the Minister or the Department to provide advice on specific medical, scientific, technical, policy, or program matters within the scope of Health Canada's mandate.
- Its members are external to the federal government and are selected to provide Health Canada with expert advice.
- It provides its advice to Health Canada as a group, and not as individuals or representatives of organizations.

Chapter 1

1.0 THE ROLE OF EXTERNAL ADVISORY BODIES

Purpose

To set out the reasons to establish an external advisory body and to establish its role.

Context

Health Canada seeks information and advice in a variety of situations from a variety of individuals, organizations, agencies, and governments. Not every group that provides advice to Health Canada is an advisory body. For example, a federal/provincial/territorial committee and an interdepartmental working group are not considered advisory bodies. Advisory bodies are composed of members who are external to the federal government and who are appointed to reflect a wide range of relevant knowledge, expertise, and experience. Members act in advisory capacity to Health Canada specific to the mandate of their advisory body.

Principle

Health Canada decides when to establish an advisory body and defines its mandate, terms of reference, duration, and membership. The advisory body provides advice to Health Canada, which Health Canada considers in its work and during its decision-making processes. Health Canada has the ultimate decision-making authority and accountability for all decisions resulting from the advice received from an external advisory body.

Supporting documents

- *Terms of reference*

1.1 Purpose of an advisory body

Health Canada may establish an advisory body to seek expert advice on medical, scientific, technical, policy, or program matters within Health Canada's mandate.

1.2 Authority to establish an advisory body

All advisory bodies are to be established with the approval of the Department's Minister, Deputy Minister, or Branch Assistant Deputy Ministers.

1.3 Reasons to establish an advisory body

Health Canada may establish an advisory body to receive external advice, including advice on:

- (a) policy development and implementation;
- (b) program development and implementation;
- (c) professional or scientific matters where there is a need to supplement Health Canada's expertise;
- (d) a matter for which there is a lack of conclusive data or scientific certainty;
- (e) a matter for which input on a risks and benefits evaluation, including ways to mitigate or minimize risks, would be beneficial.

1.4 Factors taken into account

Health Canada considers a variety of factors when deciding whether to establish an advisory body and when determining its mandate. These factors include:

- (a) the time and resources available;
- (b) the urgency of the matter;
- (c) the availability of people with the required knowledge, expertise, and experience;
- (d) the connection to Health Canada's mandate and to Department and Government priorities;
- (e) the importance of the matter to the health of Canadians.

1.5 Mandate and terms of reference

Every advisory body must have a mandate and terms of reference.

1.6 Wrap-up of the work of an advisory body

Health Canada may end the mandate of an advisory body and disband it at any time for a variety of reasons, including:

- (a) a change in circumstances that causes the advisory body's advice to no longer be required;
- (b) a breach of confidentiality or ethics that has undermined the credibility of the advisory body;
- (c) the completion of the advisory body's mandate.

Health Canada will write to advisory body members to notify them of this decision.

1.7 Health Canada retains decision-making authority

The role of an advisory body is to provide advice and make recommendations to Health Canada. Health Canada has the ultimate responsibility and accountability for all decisions resulting from the advice received from an external advisory body.

Chapter 2

2.0 MEMBERSHIP

Purpose

To set out the principles respecting the appointment of members to an advisory body.

Context

Health Canada invites individuals to be part of an advisory body to share their knowledge, expertise, or experience and to work together to formulate recommendations. In appointing individuals to an advisory body, Health Canada's goal is to have a group with a range of relevant knowledge, expertise, and experience to provide the best advice possible.

Principle

Appointments to an advisory body should reflect a broad range of perspectives relevant to its mandate.

Supporting documents

- *Confidentiality Agreement*
- *Affiliations and Interests Declaration Form*
- *Personnel Screening, Consent, and Authorization Form*
- *Biography Guide*

2.1 Appointment of members

Health Canada appoints the members of an advisory body and sets a term for the appointment. When deciding on appointments to an advisory body, Health Canada may seek nominees through an open call for nominations of people whose knowledge, expertise, or experience best match the mandate of the advisory body. Health Canada will also consider a person's:

- (a) professional standing;
- (b) affiliations and interests;
- (c) demonstrated ability to work in a committee environment;
- (d) availability.

2.2 Number of members

An advisory body must have at least three members. The optimal number of members will depend on the advisory body's mandate.

2.3 Knowledge, expertise, and experience of members

When deciding on appointments to an advisory body, Health Canada will seek a range of relevant knowledge, expertise, and experience, as appropriate. Depending on its mandate, members of an advisory body may include people who have:

- (a) medical, scientific or technical knowledge;
- (b) specialized expertise;
- (c) recognition as a leader in the field;
- (d) practical or clinical experience;

- (e) first-hand personal experience as, for example, a health professional, patient, consumer, or caregiver;
- (f) first-hand business knowledge as, for example, a product developer, manufacturer, or commercial user;
- (g) organizational experience representing people who share a point of view or interest;
- (h) any other relevant background that will bring useful input to the advisory body and complement the knowledge, expertise, and experience of other members.

2.4 Demographic representation

When deciding on appointments to an advisory body, Health Canada will seek a diverse and inclusive membership, as appropriate. For example, it may seek members from specific population groups, official language minority communities, or a variety of geographic locations.

2.5 Federal employee participation on an advisory body

To preserve the independence of the federal government as a decision maker, a federal employee can neither chair nor be a member of an advisory body and cannot participate in the formulation of an advisory body's advice to Health Canada.

2.6 Appointment of the Chair

Health Canada appoints the Chair of an advisory body for a specific term. The Chair may be a member of the advisory body or may be a non-member. The non-member Chair does not participate in formulating the advisory body's report and recommendations. The non-member Chair's primary role is as a facilitator and coordinator.

2.7 Appointment of a Vice-Chair

Health Canada, after consulting the Chair, may appoint, for a specific term, a Vice-Chair from among the members of the advisory body.

2.8 Seeking input on appointments

When deciding on appointments to an advisory body whose mandate is confidential, Health Canada may consult with:

- (a) Health Canada officials;
- (b) the Minister and the Minister's Office;
- (c) the advisory body Chair and members already appointed to the advisory body.

When deciding on appointments to an advisory body whose mandate is not confidential, Health Canada may go outside the department to other Canadian and international governments or to external organizations and associations to ask for appointment suggestions.

2.9 Requirement before appointment

Before being appointed as a member of an advisory body, a nominee must:

- (a) submit a *Personnel Screening, Consent, and Authorization Form* for security clearance and receive the security clearance appropriate to the mandate of the advisory body;
- (b) sign a *Confidentiality Agreement*;
- (c) complete and sign an *Affiliations and Interests Declaration Form* and, if participation is permitted despite a direct financial interest, accept limitations on participation as described in Chapter 3 of this policy;
- (d) provide a brief autobiography and review and accept a summary of his or her affiliations and interests that might be made public, including in media releases.

2.10 Resignation

A member may resign from an advisory body by writing to the Executive Secretary of the advisory body, with a copy to the Chair, including the effective date of the resignation. It is preferred that the member give 14 days notice of his or her intent to resign.

2.11 End of appointment (general)

An appointment to an advisory body ends when:

- (a) the member's term is complete;
- (b) the member resigns;
- (c) the member becomes a federal government employee;
- (d) the mandate of the advisory body has been completed;
- (e) the mandate of the advisory body is changed and the member's knowledge, experience, or expertise is no longer relevant to the revised mandate;
- (f) Health Canada and any collaborating government departments, agencies, or organizations decide to rescind the advisory body's mandate and terms of reference.

2.12 End of appointment (for cause)

Health Canada may end a member's appointment by writing to the member stating the reasons the appointment is being concluded and the effective date when:

- (a) the member has failed to act according to the advisory body's terms of reference;
- (b) the member has broken the *Confidentiality Agreement*;
- (c) a change in the member's affiliations and interests results in a direct financial interest that prevents participation;
- (d) the member has missed three consecutive meetings of the advisory body without a satisfactory reason;
- (e) the member has acted in a way that jeopardizes the integrity of the advisory body.

Chapter 3

3.0 AFFILIATIONS AND INTERESTS

Purpose

To define affiliations and interests, including a direct financial interest, and to clarify when, how, and to whom members of an advisory body must disclose these affiliations and interests, and in what circumstances they prohibit or limit participation.

Context

Health Canada may seek advisory body members with knowledge, expertise and experience that are often gained through research grants, paid work for an interested party, etc. A person's affiliations and interests do not necessarily prevent him or her from being a member of an advisory body, since his or her input could nevertheless be valuable to the advisory body's mandate. By asking members to declare their interests and affiliations, the advisory body is operating openly and transparently. However, people with a direct financial interest may not participate in any advisory body discussion or formulation of advice related to that interest.

Principle

Maintaining the credibility of advice provided to Health Canada by an advisory body depends on members of the advisory body disclosing their affiliations and interests. In situations where the mandate and membership of the advisory body is not confidential, a summary of the affiliations and interests of advisory board members will be made public.

Supporting documents

- *Affiliations and Interests Declaration Form*
- *Summary of Expertise, Experience, and Affiliations and Interests*

3.1 Compulsory disclosure of affiliations and interests

Before being appointed to an advisory body, a potential member must complete and submit the *Affiliations and Interests Declaration Form* within the time frame set out by the advisory body Secretariat. A potential member must use the form to disclose all affiliations and interests, including any direct

financial interests and other affiliations and interests that relate to the mandate of the advisory body. These might include financial support received from a commercial enterprise, participation in an activity sponsored by a commercial enterprise, or published or publicly stated points of view related to the advisory body's mandate.

3.2 Affiliations and interests may not necessarily prohibit appointment

A person with affiliations and interests related to the mandate of an advisory body may still be appointed as a member of the advisory body. Health Canada strives for a range of relevant knowledge, expertise, and experience among advisory body members. This policy recognizes that, sometimes, people with affiliations and interests related to the mandate of the advisory body have valuable knowledge, expertise, or experience and may have a worthwhile contribution to make to the advisory body's work.

3.3 Affiliations and interests: Limited participation

Health Canada, after consulting the Chair, may limit the participation of an advisory body member with respect to an agenda item or meeting topic, depending on the nature of the member's affiliations or interests.

3.4 Direct financial interest: Definition

A person has a direct financial interest when the person, the person's spouse or common law partner, or the person's dependent family member has a direct financial interest in the outcome of the advisory body's work, for example through current employment, investments in companies, partnerships, equity royalties, joint ventures, trusts, real property, stocks, shares, or bonds.

3.5 Direct financial interest: Reviews

A person with a direct financial interest in the outcome of a review, whether of a program, policy, regulated product, or submission, may not be a member of an advisory body whose mandate is solely to provide advice on specific matters relating to the review. In this situation, Health Canada considers the direct financial interest in a review to be a conflict that prevents participation in the advisory body.

3.6 Direct financial interest: Limited participation

A person with a direct financial interest in only some aspects of the advisory body's mandate may be a member of the advisory body but may not participate in any discussion or formulation of advice or recommendations with respect to the matters for which the member has a direct financial interest. The member may participate in the advisory body's work with respect to the other aspects of the mandate, such as policy, management, or program development matters.

3.7 Protection of the completed Affiliations and Interests Declaration Form

In keeping with the *Privacy Act*, the personal information in a completed *Affiliations and Interests Declaration Form* is protected. A summary of a member's affiliation and interest will be made public with the permission of the member who signed it.

In preparing the summary to be published, the Secretariat must ensure that it includes no information that would allow the identification or re-identification of a member's spouse, common law partner or dependent family member.

3.8 Summary information about members

As a condition of appointment, an advisory body member must give Health Canada permission to publish a brief biography and summary of his or her affiliations and interests. The potential member will have the opportunity to review and approve the summary for accuracy during the appointment process. The summary will be made public unless the mandate or membership of an advisory body must be kept confidential.

3.9 Statement at meeting

The Chair will ask members to make a verbal statement of their relevant affiliations and interests at the beginning of every meeting.

Chapter 4

4.0 ROLES AND RESPONSIBILITIES

Purpose

To clarify the roles and responsibilities of advisory body members and the Chair, as well as the supporting roles of the Secretariat, the Executive Secretary, and other Health Canada branches and officials.

Context

An advisory body is set up to provide advice and recommendations to Health Canada. This complex work requires administrative assistance from departmental officials, but the advisory body itself is responsible for the content of its advice in whatever form it takes: process minutes, formal report, etc.

Principle

The duty of advisory body members is to give their best advice to Health Canada. Through an advisory body Secretariat and the Executive Secretary, Health Canada supports the work of advisory bodies.

A. Advisory body members: Roles and responsibilities

4.1 Responsibility of members to provide their best advice

Members of an advisory body have a responsibility to Health Canada and by extension to all Canadians, to give their best advice to Health Canada.

4.2 Requirement to consider all input received

Members of an advisory body must consider all the input received that is related to the mandate of the advisory body when preparing their recommendations, advice, or report.

4.3 Confidentiality Agreement commitments

The *Confidentiality Agreement* prohibits a member from disclosing any confidential information received as part of the member's involvement in the advisory body. The *Confidentiality Agreement* applies to information received in writing or orally, including through email correspondence, telephone calls, and print materials, as well as during presentations

and discussions at advisory body meetings. In some circumstances, the very fact that a given advisory body exists may also be confidential.

4.4 Additional responsibilities of members

Members of an advisory body also have a responsibility to:

- (a) be available and prepared to participate in advisory body meetings, including virtual meetings (teleconferences, email exchanges, videoconferences, etc.);
- (b) be available and prepared to attend a public input activity related to the advisory body's mandate, and to act as a media spokesperson, if requested by the Secretariat;
- (c) participate in the discussions about the advisory body's recommendations, advice, or report to Health Canada;

- (d) notify the Secretariat and the Chair of any changes in their affiliations and interests related to the advisory body's mandate during the time they are members of the advisory body;
- (e) make an oral statement of affiliations and interests at the beginning of every meeting;
- (f) direct any media inquiries or inquires from the public to the Secretariat.

4.5 Additional responsibilities of the Chair

A member of an advisory body who serves as the Chair has additional responsibilities, including to:

- (a) provide input to Health Canada on the selection of advisory body members;
- (b) chair advisory body meetings;
- (c) invite members to make a presentation at a meeting when relevant and appropriate;
- (d) facilitate a full and frank discussion among advisory body members in fulfillment of the advisory body's mandate, including in formulating its recommendations, advice, or report to Health Canada;
- (e) seek consensus on the advisory body's advice among all advisory body members, and, if there is no agreement, to ensure that this diversity of opinion is noted in meeting records or the report;
- (f) deliver the advisory body's advice to Health Canada and ensure the preparation of the meeting records or report;
- (g) act as the designated media spokesperson for the advisory body unless another person is designated as the media spokesperson under section 4.8;
- (h) support, in any other way, the fulfillment of the advisory body's mandate.

4.6 Role of the Vice-chair

At the request of the Chair, or in the case of the Chair's absence, the Vice-Chair will chair the meeting(s) and take on the Chair's other tasks, as required.

4.7 Role of an advisory body member in a public input process

When Health Canada decides to seek broad public input on a topic related to the mandate of an advisory body, it will consult with the Chair and members of the advisory body on the process to be used and the organization of the public input activity. Members of the advisory body are expected to attend the public input activity.

The advisory body's Executive Secretary will introduce members of the advisory body at the start of the public input activity and make public a summary of their expertise, affiliations, and interests.

4.8 Media spokesperson

In accordance with the *Communications Policy of the Government of Canada*, Health Canada and the Chair may decide to name someone other than, or in addition to, the Chair as a media spokesperson for the advisory body.

4.9 The media and other members

A member of an advisory body who is not the designated media spokesperson does not have the authority to speak to the media about the work of the advisory body unless the Secretariat specifically asks them to do so.

4.10 Media inquiries

Advisory body members must immediately direct any media inquiries about the advisory body's membership, mandate, and work to the Secretariat, who in turn will contact Health Canada's Media Relations.

B. Health Canada: Roles and responsibilities

4.11 Executive Secretary to the advisory body

Health Canada will name a senior official to act as the Executive Secretary to the advisory body. The Executive Secretary provides guidance to the Secretariat. After an advisory body submits advice to Health Canada, the Executive Secretary will report back to the advisory body on how that advice was used.

4.12 Secretariat

Health Canada will establish a Secretariat, made up of Health Canada officials, to provide organizational and administrative support to each advisory body. A working group may be set up to support the Secretariat.

4.13 Responsibilities of the Secretariat

The responsibilities of the Secretariat include the following:

- (a) coordinate the member appointment process
- (b) coordinate the preparation and distribution of materials for advisory body members, observers, and others;
- (c) assist with the work of the advisory body, as required;
- (d) provide administrative support to advisory body members;
- (e) support public access to information about the advisory body, as appropriate;
- (f) act as a liaison between Health Canada and the advisory body, including seeking input from Health Canada's subject-matter experts;
- (g) assist the Chair in carrying out his or her responsibilities;
- (h) carry out any additional duties as appropriate to support the advisory body, including developing risk assessment and mitigation strategies for the advisory body;

- (i) undertake any tasks that the Executive Secretary delegates to the Secretariat;
- (j) report to the Executive Secretary on the advisory body's activities;
- (k) assist with a review or audit of the advisory body, as required;
- (l) consult with the Chair, member or non-member, to consider whom to invite to provide input to the advisory body;
- (m) consider whom to invite or accept as an observer to all or part of an advisory body meeting;
- (n) discuss whether broader input is needed and how it will be sought;
- (o) determine whether all or part of an advisory body meeting should be held in private;
- (p) restrict an advisory body member's participation in a meeting due to the nature of that person's affiliations or interests;
- (q) determine that the mandate of the advisory body has been fulfilled.

4.14 Support to the Secretariat

Health Canada employees may assist the Secretariat with meeting logistics, document preparation, and other tasks.

4.15 Role of Health Canada's subject-matter experts

Health Canada's medical, scientific, technical, program, policy, and other subject-matter experts support the work of an advisory body in a variety of ways, including:

- (a) preparing background documents such as research summaries and regulatory process overviews;
- (b) providing information about government policies and programs;

- (c) making a presentation or answering questions at an advisory body meeting;
- (d) reporting to the Executive Secretary on the actions taken as a result of the advice that the advisory body provided to Health Canada.

4.16 Responsibilities of Health Canada's senior management

Health Canada's senior managers are responsible for implementing this policy through the programs they manage or administer. This responsibility includes:

- (a) the governance, management, and operations of advisory bodies to support policy development and the regulatory process;
- (b) the oversight of resource allocations and expenditures;
- (c) the review and audit of advisory bodies;
- (d) collaboration with other governments, agencies, and organizations as appropriate to the mandate of the advisory body.

4.17 Responsibilities of the Public Affairs, Consultation and Communications Branch

The Public Affairs, Consultation and Communications Branch is responsible for providing leadership and strategic advice in the implementation and adherence to this policy among Health Canada's branches. The Public Affairs, Consultation and Communications Branch does this through means such as:

- (a) supporting the advisory body Secretariats;
- (b) supporting the branches and programs in their implementation of the policy;
- (c) monitoring, reviewing, and reporting on the implementation of the policy;
- (d) ensuring that the policy remains relevant and continues to reflect departmental priorities and best practices.

Chapter 5

5.0 NON-MEMBERS: PRESENTERS, INVITED GUESTS, AND OBSERVERS

Purpose

To clarify the role of individuals who are not advisory body members. This includes, for example, contracted experts, invited guests, government employees, and observers.

Context

Health Canada may invite certain individuals who are not advisory body members to provide input on a specific topic or agenda item. As well, individuals may ask to speak to the advisory body on a given topic or agenda item or may ask to observe all or part of a meeting. Their request will be considered by Health Canada, in consultation with the Chair, and may be granted or refused.

Principle

An advisory body may benefit from input received from others. However, non-members may not participate in formulating advice or recommendations for Health Canada.

Supporting documents

- *Confidentiality Agreement*
- *Affiliations and Interests Declaration Form*
- *Personnel Screening, Consent, and Authorization Form*
- *Observer Protocol*

5.1 Access to advisory body materials

Health Canada determines which of the materials being used by the advisory body may be made available to participants, observers, and others who request copies. While Health Canada is committed to openness and transparency, confidentiality rules may prevent the release of these materials.

5.2 Reasons for an advisory body to hold closed meetings

Advisory body meetings may be closed to non-members for a variety of reasons, including to:

- (a) provide the greatest opportunity for a full and frank discussion among members;
- (b) support the protection of confidential business information;
- (c) keep deliberations from becoming public before the advisory body decides on its final recommendations.

5.3 Attendance at meetings

At the discretion of the Secretariat and in consultation with the Chair, meetings of an advisory body may be:

- (a) closed to everyone except advisory body members (a non-member Chair facilitator is considered an advisory body member in this situation);
- (b) closed to everyone except advisory body members and Health Canada support staff;
- (c) closed to everyone except advisory body members, Health Canada support staff, and invited presenters and observers;
- (d) open, when there are no confidential materials or discussions.

5.4 Request to participate in or observe a meeting

Health Canada will consider requests to participate in or observe a meeting and, after consulting the Chair, will respond to the request by telephone or in writing.

5.5 Invitation to provide information

To fulfill an advisory body's mandate, Health Canada may, after consulting the Chair, invite an individual with particular expertise or experience to attend a meeting to provide input on a topic or agenda item or to answer a specific question. Invited guests may include:

- (a) experts under contract with Health Canada;
- (b) federal government employees, including those of Health Canada;
- (c) representatives of corporations and organizations, health professionals, and others with information or an interest related to the advisory body's mandate;
- (d) members of the public.

5.6 Presentation of information

The Secretariat, in consultation with the Executive Secretary and Chair, may invite an individual to provide the advisory body with information through:

- (a) a written submission;
- (b) an oral presentation at an advisory body meeting;
- (c) participation in discussions at an advisory body meeting, except for those for formulating advice or recommendations.

5.7 Role of presenters and observers

Presenters and observers may not participate in discussions at the advisory body meeting unless the Chair specifically invites them to do so. Only advisory body members may participate in the advisory body's formulation of advice or recommendations to Health Canada.

5.8 Requirements of participants

Before an individual may present information at or observe an advisory body meeting, Health Canada may require the person to complete:

- (a) an *Affiliations and Interests Declaration Form*;
- (b) a *Confidentiality Agreement*; and
- (c) a *Personnel Screening, Consent, and Authorization Form*.

5.9 Contract with an expert

When Health Canada engages an expert to provide information to an advisory body, it will:

- (a) develop a clear statement of work;
- (b) set out the contract deliverables and timelines;
- (c) follow the Treasury Board Secretariat's *Contracting Policy*;
- (d) follow the *Government Contracts Regulations*.

Chapter 6

6.0 ADVISORY BODY REPORTS AND PUBLIC INFORMATION

Purpose

To clarify how an advisory body provides advice and when its work may be made public.

Context

An advisory body's work is often confidential. Health Canada may make public information about the advisory body, its mandate, recommendations, advice, or report, as permitted by law and policy.

Principle

In keeping with Health Canada's openness and transparency policies, advisory body information may be made available to the public. However, for a variety of reasons, including the protection of confidential information and the possibility of potential or ongoing litigation, it will not always be possible to make public an advisory body's existence, recommendations, advice, or report.

Supporting documents

- *Meeting report format*
- *Annual or end-of-mandate report*
- *Follow-up report to members*

6.1 Information that is public

Information that is generally not protected by confidentiality requirements includes:

- information that is already in the public domain, such as information that is available on the Internet;
- information that has been made public in Canada;
- information for which the person to whom the information relates, or to whose business or affairs the information relates, has consented to its release to the public.

6.2 Form of recommendations and advice

The advice from an advisory body may be reported in:

- the minutes of a meeting;
- a record of proceedings;
- a record of decision; or
- a formal report.

The Secretariat will prepare a non-attributable record that includes the recommendations and advice resulting from each advisory body meeting. This includes in-person meetings, virtual meetings, conference calls, and videoconferences. If parts or all of this record are confidential, the document will indicate this.

The draft record will be provided to advisory body members in a timely manner. As soon as is possible, the advisory body will then confirm the draft as an accurate record or will correct it.

A member of an advisory body who did not participate in a portion of a meeting because of affiliations and interests may not receive the section of the document pertaining to those affiliations and interests until that part of the document becomes public.

Recommendations and advice received from an advisory body will be kept in accordance with Treasury Board policies and guidelines.

6.3 Discussion leading to recommendations or advice

An advisory body provides its advice to Health Canada as a group, and not as individuals or representatives of organizations. If members cannot come to a consensus, then the record must note that there is a diversity of opinion with respect to the recommendations or advice.

6.4 Advice linked to mandate

An advisory body may provide recommendations or advice only in response to questions posed by Health Canada and within the scope of its mandate. Information that Health Canada receives beyond the scope of an advisory body's mandate will be retained and used at the discretion of the Department for future purposes.

6.5 Advisory body report (end of term or annual)

A report of an advisory body will include, as appropriate:

- (a) the mandate of the advisory body;
- (b) the questions that Health Canada posed to that advisory body, if any;
- (c) a brief biography and summary of affiliations and interests of members;
- (d) the meeting dates and lists of attendees;
- (e) the instances when any member did not participate in all or part of a meeting because of an affiliation or interest;
- (f) a summary of the input that the advisory body received;
- (g) a summary of the discussions and considerations that led the advisory body to its conclusions;
- (h) the recommendations or advice that the advisory body provided, including regarding next steps, and a summary of any differences of opinion when all members did not agree with the recommendations or advice.

6.6 Follow-up report to members

In a timely manner, the Executive Secretary will provide the Chair and advisory body members with a follow-up report on how Health Canada responded to and used the recommendations or advice it received from the advisory body.

6.7 Publication of the advisory body report and the follow-up report to members

Advisory body reports and the follow-up reports to members may be published on the Health Canada website when they do not contain any information that must remain confidential. Information from these reports may include links to information on other websites.

6.8 Restrictions on making information public

Health Canada is responsible to ensure that information is not inappropriately disclosed. When applicable, Health Canada will include specific guidelines for the publication of information about an advisory body in the terms of reference for the advisory body.

6.9 Publication on the Internet

Unless otherwise stated in the advisory body's terms of reference, the publication of any advisory body information will be accomplished by posting of the information on the Health Canada website as well as, if appropriate the website of a collaborating department or agency. Before posting, the Public Affairs, Consultation and Communications Branch will ensure documents meet publishing guidelines.

Chapter 7

7.0 REVIEW OF AN ADVISORY BODY

Purpose

To set out the process for reviewing the purpose and functioning of an advisory body.

Context

It is government practice to conduct regular evaluations and audits to verify that government initiatives are cost-effective and achieve expected results. Although advisory bodies are in place to provide advice to Health Canada, their purpose and functioning will be periodically reviewed as part of standard accountability procedures.

Principle

The purpose and functioning of an advisory body should be periodically reviewed to ensure it is operating effectively and efficiently, to confirm that its work is still required, and to identify opportunities for administrative and management improvements.

Supporting documents

- *Advisory body review process*

7.1 Purpose of the review

The purpose of the review is to determine whether administrative, management, or other improvements are required to increase the efficiency and effectiveness of a particular advisory body or of advisory bodies generally. The review may also be carried out to determine the ongoing relevance of the advisory body's mandate and to inform disbanding or renewal decisions.

7.2 Scope of the review

The review may include an examination of the following:

- A. Review of Content and Administrative Functions
 - (a) the continued relevance of the advisory body's mandate
 - (b) the relevance of the membership's knowledge, expertise, and experience to the advisory body's mandate
 - (c) the extent to which the advisory body is operating in conformity with its terms of reference
 - (d) the quality, quantity, and relevance of material provided to the advisory body
 - (e) the use of input from non-members

- (f) Health Canada's use of the advisory body's advice
- (g) the cost of the advisory body
- (h) the diversity of perspectives reflected in recommendations, advice, and reports
- (i) the Secretariat's capacity to provide the necessary administrative support.

B. Review of Logistics

- (a) the timing, location, and effectiveness of meetings
- (b) the availability of all members to be part of the discussions and the formulation of recommendations and advice
- (c) the timing and relevance of advice provided to Health Canada
- (d) the availability of information about the advisory body to the public, if appropriate
- (e) the timeliness of postings on the Health Canada website, if applicable.

7.3 Review approach

A review of an advisory body may include:

- (a) an examination of its mandate, terms of reference, and work accomplished to date;
- (b) an analysis of meeting agendas, minutes, and reports;
- (c) a questionnaire or interviews to solicit feedback;
- (d) focus group meetings or other discussions;
- (e) a financial review of advisory body expenses, including meeting costs, travel expenses, and contracts;
- (f) an analysis of Health Canada's processes in response to advice and reports from the advisory body.

7.4 Input to the review

During the review process, feedback may be sought from advisory body members, Secretariat officials, the Executive Secretary, participants, observers, and others.

7.5 Timing of the review

The Executive Secretary will ensure a review of the purpose and functioning of an advisory body:

- (a) at least once every three years for an advisory body with an ongoing or long-term mandate;
- (b) no later than six months after the end of the mandate of an advisory body set up to provide advice on a short-term basis.

7.6 Reviewers

The review may be conducted by Health Canada officials or by consultants hired by Health Canada.

7.7 Dissemination of the Review Report

The Review Report will be submitted to the Executive Secretary, who may then authorize its distribution to advisory body members. In the case of a general review of advisory bodies, the Review Report will be submitted to the Deputy Minister.

Chapter 8

8.0 ADMINISTRATION

Purpose

To describe the administrative policies that apply to an advisory body.

Context

The Secretariat handles the administration of the advisory body and must follow the policies set out by Treasury Board.

Principle

Although advisory bodies are set up to provide advice to Health Canada, their activities are carried out in accordance with the principles and requirements set out in applicable federal government policies and legislation.

8.1 Official languages

In keeping with the federal *Official Languages Act* advisory body members have the right to receive documents and participate in discussions in the official language of their choice.

8.2 Travel and accommodation expenses

Members of an advisory body who travel for authorized advisory body purposes will have their travel and accommodation expenses reimbursed according to Treasury Board's *Travel Directive* and *Directive on the Management of Expenditures on Travel, Hospitality and Conferences*.

8.3 Risk assessment

The provisions of the Treasury Board *Framework for the Management of Risk* (2010) apply to advisory bodies. As such, Deputy Heads are responsible for managing organizational risks by leading the implementation of effective risk management practices. In the interest of effective management of advisory bodies, branches must evaluate the potential liabilities that their advisory body's activities could place upon the Crown. This includes conducting a risk assessment to identify, address, and mitigate risks. Advisory body activities must be carried out in accordance with good risk management principles and practices outlined in the Treasury Board Framework and its supporting learning resources.

8.4 Indemnification of members: When serving as volunteers

Health Canada undertakes to provide its volunteer advisory body members with protection against civil liability provided the volunteer member acts in good faith, within the scope of their volunteer duties; and does not act against the interests of the Crown.

Members act collectively as an advisor to Health Canada with respect to the mandate of their advisory body but they are not final decision-makers. The Department has the ultimate responsibility and accountability for any decision resulting from the advice received from an external advisory body.

8.5 Indemnification of members: When receiving payment for time

Members that are paid for their participation on an advisory body would be considered contractors and not volunteers. These members are not eligible for indemnification. Obtaining appropriate insurance coverage under these circumstances is the responsibility of individual members if they wish to do so.

Members appointed by the Minister to an advisory body established pursuant to a statutory authority, with remuneration (but not under contract), would be eligible to legal assistance and indemnification pursuant to Treasury Board's *Policy on Legal Assistance and Indemnification*.

8.6 Remuneration of members: Payment for time

In exceptional circumstances, Health Canada may enter into service contracts with its advisory body members, to compensate them for their participation on an advisory body. The decision to make members contractors must be based on a rationale which may include the requirement for certain expertise, exceptional scope of work, or other criteria. Such decisions will be made by the Deputy Minister or a person identified by the Deputy Minister, and in adherence to applicable Treasury Board policies and guidelines for reporting and auditing.

Statutes may provide that advisory bodies are or may be established by the Minister and that members may be remunerated. Such remuneration may be fixed by the Governor in Council but the relevant provisions may differ from one statute to the other.

8.7 Honoraria

Health Canada has the discretion to offer an honorarium as a token of appreciation for services that have been provided free of charge. An honorarium should not be used as a replacement for salary and wages, and should be the exception rather than the rule. Each decision on this subject should be well documented.

Health Canada undertakes to provide its advisors/ advisory body members with protection against civil liability provided the members act in good faith, within the scope of their duties, and do not act against the interests of the Crown.

Honoraria are not to be paid to public servants or other public officials already receiving salary for the conduct of public business.

APPENDIX A: GLOSSARY

For the purposes of the Policy on External Advisory Bodies (2011), the following words are given the meanings shown in this table.

Accountability	Health Canada's meeting of commitments and communicating outcomes, including its rationale for how and why it made a given decision.
Chair	The person appointed by Health Canada to facilitate the work of the advisory body. The Chair may be a member of the advisory body and participate fully in all of the advisory body's work, or may be a non-member whose role is primarily as a facilitator and coordinator.
Commercial enterprise	A corporation, partnership, or other organized business that operates in the marketplace, including buying or selling goods, services, research, or ideas.
Confidential business information	Business information <ul style="list-style-type: none">(a) that is not publicly available;(b) in respect of which the person to whose business or affairs the information relates has taken measures that are reasonable in the circumstances to ensure that it remains not publicly available; and(c) that has actual or potential economic value to the person or their competitors because it is not publicly available and its disclosure would result in a material financial loss to the person or a material financial gain to their competitors.
Confidential information	All information, in any form whatsoever, and irrespective whether of not it is marked confidential, that is provided directly or indirectly to an advisory body by, on behalf of, or for the benefit of Health Canada, including but not limited to the following: <ul style="list-style-type: none">(a) proprietary or other confidential information of a third party, including but not limited to information contained in an application for product review; trade secrets, and financial, scientific, technical, legal, and marketing information about a product or company;(b) information that is confidential to the federal government, including but not limited to internal communications, draft policy or guidance documents, white papers, and briefing notes;(c) information that is conceived or developed by, on behalf of, or for the benefit of the person using any of the Confidential information;(d) notes, summaries, and memoranda of any nature or form whatsoever of the work of the advisory body;(e) personal information about individuals on, or in contact with, an advisory body, as protected by privacy laws.
Direct financial interest	A person has a direct financial interest when the person, the person's spouse or common law partner, or the person's dependent family members has a direct financial interest in the outcome of the advisory body's work, through current employment, investments in companies, partnerships, equity royalties, joint ventures, trusts, real property, stocks, shares, or bonds.

Executive Secretary	The Health Canada official with the lead responsibility for the advisory body. The Executive Secretary provides guidance to the Secretariat and reports back to advisory bodies on how Health Canada used their advice.
External advisory body	<p>These are the defining characteristics of an external advisory body:</p> <ul style="list-style-type: none"> • It is established by the Minister or the Department to provide advice on specific scientific, technical, policy, or program matters within the scope of Health Canada's mandate. • Its members are external to the federal government and are selected to provide Health Canada with expert advice. • It provides its advice to Health Canada as a group, and not as individuals or representatives of organizations. <p>Health Canada may collaborate with another government department, agency, or organization to convene or support the work of an external advisory body.</p> <p>Health Canada retains its decision-making authority and decides how it will use the recommendations and advice of an external advisory body.</p>
Honorarium	<p>In keeping with Health Canada's Delegation of Financial Signing Authorities, an honorarium payment is not made under a contractual arrangement; rather, it is a gratuitous payment as distinguished from compensation for service or hire, and the recipient, if not paid, cannot sue in a Court of Law. Honoraria should not be used as an alternative to a service contract or as a replacement for salary and wages. It is left to the cost centre manager to judge the appropriateness of paying honoraria and to determine the appropriate amount. Each decision on this subject should be well documented.</p> <p>An honorarium payment should be the exception rather than the rule. It should be given to an individual as a token of appreciation for services that would have been provided free of charge.</p> <p>Honoraria are not to be paid to public servants or other public officials already receiving salary for the conduct of public business.</p>
Jointly managing	External advisory bodies whose establishment, management and operations are shared between Health Canada and other government departments and agencies.
Openness	Inviting, hearing, considering, and sharing of information in the conduct of Health Canada's business.
Public	All individuals and groups who may be interested in or affected by the advice provided by an advisory body. The definition does not require the certainty that any individual or group has such an interest, just that they may have an interest. Therefore, the public includes consumers, patients, professionals, and members of academia and industry and the groups that represent them.
Secretariat	A dedicated resource that provides organizational and administrative support to an advisory body. A Secretariat is composed of Health Canada officials and may be supported by a working group within Health Canada.
Transparency	Facilitating access to and understanding of the information and processes Health Canada uses to conduct its business.
Vice-Chair	The person appointed to act on behalf of the Chair in case of the Chair's absence or at the request of the Chair.