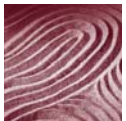
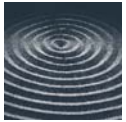


This Presentation is provided as an information service to our clients and is a summary of current legal issues. The Presentation is not meant as legal opinions and readers are cautioned not to act on information provided in this document without seeking specific legal advice with respect to their unique circumstances.



Medical Staff/ Board/Administration: Why it is a Partnership

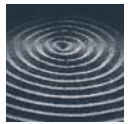
Sept. 19th 2007

Joshua Liswood

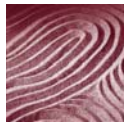
Miller Thomson LLP
20 Queen Street West
Toronto Ontario M5H 3S1



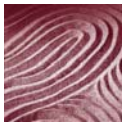
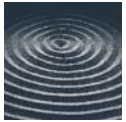
Statutory, Regulatory and Legal Structures



a) Public Hospitals Act R.S.O. 1990 cP40

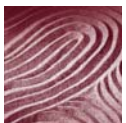
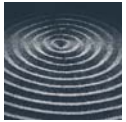


- **Board Powers s.36**
 - Appointment
 - Privileges
 - Revoke, suspend or deny



a) Public Hospitals Act (cont'd)

- Medical Advisory Committee s. 35
 - Consider and review
 - Recommendations re: appointment and reappointment
 - Other duties as assigned by Act or Board

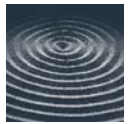


a) Public Hospitals Act (cont'd)

- Advice Re: Quality of Professional Work s. 34
 - Chief of Staff, Chief of Dept. President of Medical Staff
 - Duty to confront and assume care
 - Duty to report
 - M.A.C. to report to administrator



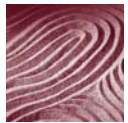
b) Hospital Management



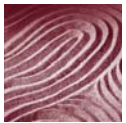
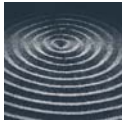
Regulation R.R.O 1990 Reg. 965



- **Board to Pass By-Laws s.4(1)**

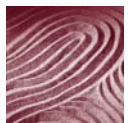
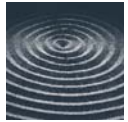


- Establish criteria for appointment & reappointment
- Procedures for appointing Chief of Staff & Dept. Chiefs
- Establishment & duties of medical staff committees
- Criteria for appointment and duties of dentists, midwives and extended class nurses



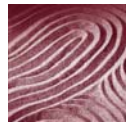
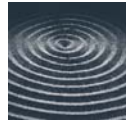
c) Common Law Obligations

- Board has duty to appointment physicians that
 - Meet the needs the needs of the community
 - Effectively utilize the resources of the hospital
 - Are skilled & experience
 - Will work as an effective member of the healthcare team



c) Common Law Obligations (cont'd)

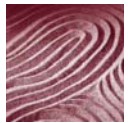
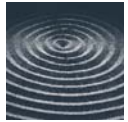
- Board duty to set appointment standards
 - Application contents
 - Criteria - credentials, manpower need, utilization impact, resource availability
 - Establish due process
 - Performance review



c) Common Law Obligations (cont'd)

- **Liabilities**

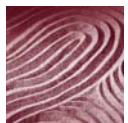
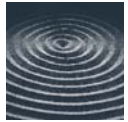
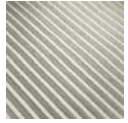
- Corporate responsibility for reasonable policies/safe environment
- Responsibility to ensure quality
- Responsibility to enforce legislation
- Responsible for Chief of Staff and Administration



By-Laws, Rules and Regulations

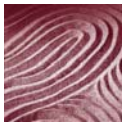
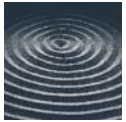
a) **General Principles/Corporate Responsibility**

- Legislated requirements reflect minimum standards for content
- Common law and other standards will extend content
- Need to reflect local environment
- What goes in the Professional Staff Rules



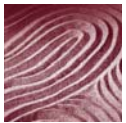
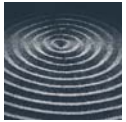
b) Appointment Criteria

- Minimum credentials
- Application information
- References
- Personal traits and qualities
- Internal or regional impact:
 - Manpower statement
 - Impact analysis
 - Resource statement



b) Appointment Criteria (cont'd)

- Commitment to provision of services
- Criteria are a condition precedent to appointment will set the terms of the contract

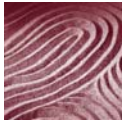
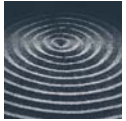


c) Appointment Categories

- There is no statutory imperative re categories
- Categories should be responsive to meeting community and regional needs
- Responsive to facilitating physician recruitment and retention



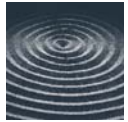
d) Privileges



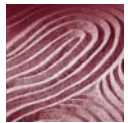
- May be locally defined
- Will represent rights and obligations
- Privileges shall integrate with appointment



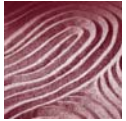
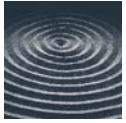
Midwives, Dentists and Extended Class Nurses



- Statutory recognition

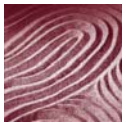
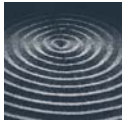


- Nature of relationship
- Credentialing principles
- Quality review



e) **Process and Procedure**

- Appointment and reappointment
 - Specifically prescribed by P.H.A. s.37
 - Opportunity for streamlined procedures when combined with quality review



e) **Process and Procedure** (cont'd)

- Mid-term action
 - Little direction from PHA s.41
 - Common law has dictated the adoption of process based upon principles of natural justice