FACILITY ENGAGEMENT
Specialist Services Committee

Director Compensation – Application of the BC Societies Act

Background

Facility Engagement physician society bylaws allow MSA executives to be paid for serving as directors and reimbursed for reasonable expenses. Under the *BC Societies Act*, a **majority** of the directors of a physician society must not be remunerated by the society for *non-director work* (see definition below).

Director Work

Under the Act, the directors of a physician society must manage or supervise the physician society's activities and internal affairs. Director work (which is not subject to the *Societies Act* restriction) **typically** includes:

- Preparing for and attending meetings of the board, its committees, and the physician society's annual and special meetings;
- Activities related to the board's financial oversight of the physician society, such as reviewing, approving and monitoring the physician society's budget, approving contracts, and ensuring funds are spent in accordance with the stated purposes and objectives of the physician society; and
- Activities related to the governance of the physician society, such as establishing policies and procedures; evaluating, approving, and monitoring initiatives; and ensuring the physician society complies with its constitution and bylaws, as well as applicable laws and regulations.

Examples of Director Work for Which All Directors Can Be Paid

- Attending a working group meeting that is a committee of the physician society's board of directors.
- Spending 10 hours preparing for a working group meeting that is a committee of the physician society's board of directors.
- Meeting with health authority administration in their capacity as directors of the physician society to present results of a specific initiative approved and carried out by the physician society, or to problem-solve and co-develop solutions for issues common to both.
- Meeting with the medical staff or MSA's administrator(s) to discuss an engagement activity authorized by the physician society. The purpose of the meeting is to review the activity's progress and/or monitor whether it is achieving its desired results (not to implement the activity per se). The director can be paid because they are exercising their duty to manage the physician society's affairs.

Non-Director Work

This is work done by the director related to the implementation or day-to-day operations of the physician society's engagement activities. It is important to note that this non-director work relates to the type of work and not the specific activity.

Examples of Non-Director Work for Which Less Than a Majority of the Directors Can Get Paid

The "hands-on" work of specific engagement activities will fall under this category. For example:

- The board, on the working group's recommendation, approves an engagement activity aimed at reducing surgical wait times. One director spends 20 hours designing a plan, testing software, and implementing it with physicians and the administration. **That director can only be compensated for the 20 hours of work if less than 50% of the directors are being compensated for non-director work.**
- The board, on the working group's recommendation, approves an engagement activity to develop a notes-dictation template. All three directors of the society spend time developing and testing the template. **Only one of the directors can be compensated for the time spent on development and testing.**

If several engagement activities are underway, note that if the physician society has 3 or 4 directors, only 1 director can be paid at a time for non-director work, regardless of the activity. If the physician society has 5 directors, only 2 directors can be paid at a time for non-director work, regardless of which activity.

Recommendations for Application of the Society Act's Director Compensation Rule

- Set up a control procedure. As part of the activity approval process, evaluate the work proposed by directors to determine whether it falls outside the scope of director work before it begins. If a determination is made that some of the work proposed is non-director work, ensure that no more than 50% of the directors will be doing this type of work. See Appendix A for further details.
- Revise the working group terms of reference/executive terms of reference or individual director position descriptions to include more responsibilities for directors. Directors have general powers to manage the affairs of the physician society; if more implementation work is specifically included, then more of that work can be considered director work.
- Rotate non-director work. For each fiscal year, select one (or two, if there are five directors on that board) director who will be remunerated that year for non-director work.

APPENDIX A – Control Procedure Guidelines

Scope

These control procedures apply to members of a physician society who are undertaking authorized work on behalf of the physician society, either in their capacity as a director or in their individual capacity as a MSA member.

Guidelines

The following guidelines are intended to assist physician societies in ensuring that fewer than a majority of directors receive remuneration for non-director work undertaken on behalf of the physician society.

1. Recruitment

- ✓ Inform individuals about the role of a director and the limitations on director remuneration when recruiting potential physician society directors.
- ✓ Prospective directors should not expect to do (or be paid for) the implementation or "operational" work of their physician society's engagement activities. This work should be carried out by other members of the physician society, most often under the direction of a physician society's working group. As a general rule, members of the physician society that want to do, and be paid for, the hands-on work for engagement activities should not be directors.

2. Establish Categories of Director Work and Non-Director Work

- ✓ Establish categories of director work and non-director work, what is eligible for remuneration and the amount or any limits on such remuneration. Incorporate these categories into any general remuneration policy and into any reporting system, such as FEMS.
- ✓ Below sets out the typical tasks that would be classified as director work or non-director work. A key question to ask: "*Is this high-level oversight and leadership work, or is this operational or implementation work?"* The former is generally director work; the latter is generally non-director work.

Director Work	Non-Director Work
• Attending board meetings • Preparing for board meetings • Strategic planning • Preparing for and participating in working group meetings • Work in respect of time spent on officer duties (e.g. treasurer, board chair agenda meeting preparation, etc.) • Preparing for and attending the AGM • Managing the affairs of the physician society with MSA administrator(s) • Meetings with health authority when serving in the capacity of a director	• Participation on non-board related committees, e.g. other working groups where any member could serve in the capacity is outside director's duties • Designing a work plan for an engagement activity • Implementing and tracking of an engagement activity

3. Implement Control Procedures for MSA Society Boards and Working Groups

The following control procedures should be followed by all physician engagement society boards and working groups.

A. At a board meeting that occurs in the fourth quarter of the fiscal year (i.e. between January and the end of March), **discuss and determine who on the board will be eligible to do non-director work in the coming fiscal year.** Recall that this has to be less than a majority of directors (i.e., 1 of 3 or 4 directors, or 2 of 5 directors). Additionally, this consideration accounts for all activities that have been approved and are currently ongoing, not just specific activities (e.g., if there are 3 directors and director X is being paid for non-director work on activity A, director Y can't be paid for non-director work on activity B). **Pass a resolution at the meeting** that documents this decision in writing.

B. At a board meeting before the society AGM, **review the financial statements** prepared by the physician society's accountant to confirm that remuneration paid to directors is accurately disclosed. The financial statements should set out what director work and non-director work was paid to directors.[1] It is this disclosure that will demonstrate whether the physician society is in compliance with section 41 of the *BC Societies Act* (i.e., director compensation rule). Directors should also review the financial statements in their entirety and pass a resolution confirming that their contents accurately reflect the physician society's financial position.

C. **Ensure** that the working group's terms of reference state that it is a committee of the physician society's board.

D. At working group meetings throughout the year where engagement activities are approved:

- **Ensure that conflict-of-interest considerations are reviewed.** When a proposed engagement activity is discussed and is in the process of being approved by the working group, working group members, including board directors, that are in an actual or perceived conflict of interest (e.g., they will be getting compensated from the physician society for doing work on that activity) should abstain from voting to approve that activity.
- **Identify director work and non-director work in the engagement activity's work plan.**

  a) The work plan for an activity should list the specific tasks involved, indicate the people who will take on the tasks, and provide an estimate of how much time they will spend on them.

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[1] According to Section 8 of the *Societies Regulation:*

Reporting on remuneration of directors

8 The information that must, under section 36 (1) *[reporting on remuneration of directors, employees and contractors]* of the Act, be provided in a note in the financial statements of a society in respect of the remuneration, if any, paid by the society to the directors is the following:

(a) a list of all of the directors to whom the society paid, during the period in relation to which the financial statements are prepared,

(i) remuneration for being a director, or

(ii) remuneration for acting in another capacity,

which list must include the position or title of each director and may include, but is not required to include, the directors' names;

(b) the amount of remuneration, if any, described in paragraph (a) (i) paid to each director;

(c) the amount of remuneration, if any, described in paragraph (a) (ii) paid to each director and a description of the capacity in which each such director acted.

b) Each task in the work plan should also be categorized into director work or non-director work.

c) Review the work plan to confirm whether any directors will be performing and paid for non-director work on this activity.

d) Confirm who is eligible amongst directors to receive payments for non-director work, based on the resolution passed by the board at a previous board meeting.