



St. Anne Centre

“Working Together Toward Excellence in Health and Wellness”

Sustaining an Effective Board

Adapted from presentation by Cheryl Hodder, QC, ICD, D McInnis/Cooper

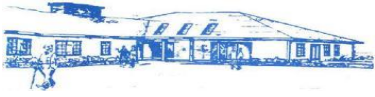


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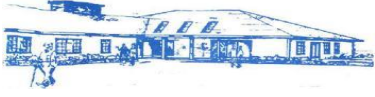
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History

St. Anne Centre is a community based non-profit organization which provides Long Term Care, Ambulatory Care and Emergency service to the residents of Isle Madame and Louisdale. It is governed by an 11 member Board of Directors.

Timelines

- > Established in 1946 as the Red Cross Hospital
- > Taken over by “Les Filles de Jesus” in 1957 and became St. Anne’s Hospital
- > Converted into an 11 bed long term care facility, St. Anne Centre in 1980
- > Constructed the new St. Anne Community and Nursing Care Centre, consisting of 24 long term care beds and an adjacent Outpatient/ Emergency Department in 1985
- > In 1996 the 5 **bed Veterans’ wing was built**

General Information

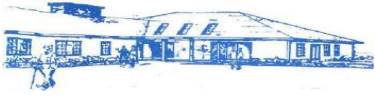
St. Anne Centre is home to 29 Residents, with 24 beds funded by the Nova Scotia Department of Health and Wellness – Continuing Care Branch and 5 beds funded by Veterans’ Affairs Canada.

St. Anne Centre is obligated to operate under the Nova Scotia Department of Health and Wellness Long Term Care Program Requirements: Nursing Homes & Residential Care Facilities.

<http://novascotia.ca/dhw/ccs/policies/Long-Term-Care-Facility-Program-Requirements.pdf>.

This guides many of our policies and practices.

St. Anne Centre has an active Continuous Quality Improvement Program and we are proud to be accredited by Accreditation Canada.



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Mission Statement

St. Anne Centre is committed to promoting excellence in health care and to meeting changing health care needs in collaboration with our community and health care providers.

Vision

Working Together Toward Excellence in Health and Wellness

Guiding Principles

People come first - All people will be treated with respect and dignity. Integrity

We are committed to ensure that our conduct earns the respect and trust of our community and the people we serve.

Accountability

We are accountable for our actions and for the management of all resources. We make informed decisions in the best interest of the people we serve. We accept responsibility for our decisions and actions.

Quality Improvement and Safety

We are committed to achieve better outcomes. We work toward system improvement and safety in client care and operations. We continually monitor and evaluate programs, services and processes and implement quality improvement measures to ensure high performance levels.

Collaboration

We work together with our partners and other stakeholders to achieve improved services.

Engagement

Clients and families are involved in making decisions regarding their care.

Transparency

We are committed to be open, honest and accountable



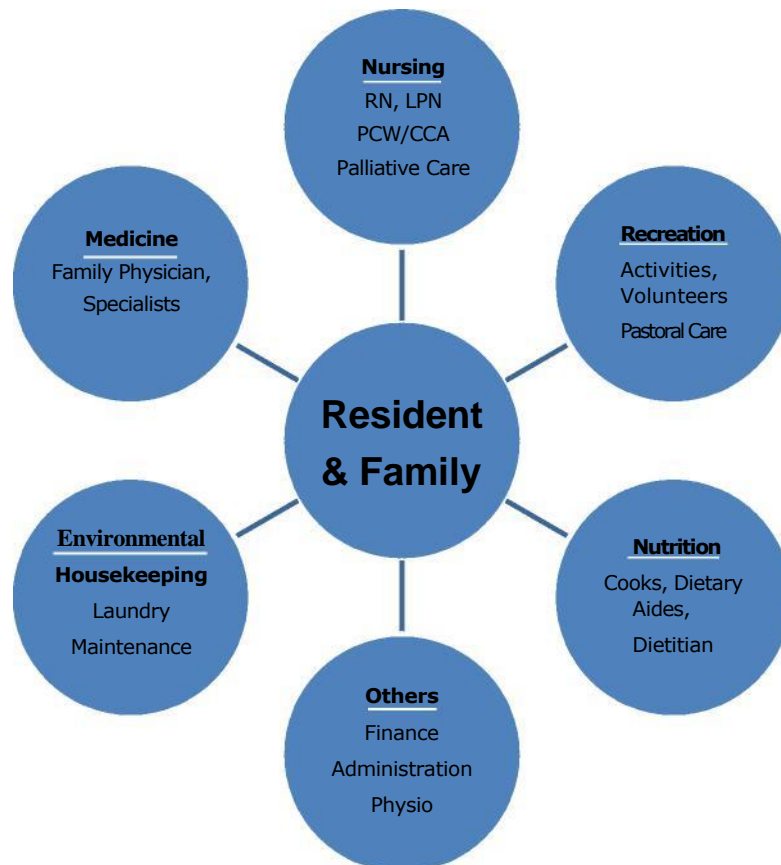
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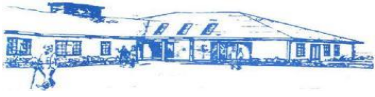
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Philosophy of Long Term Care

- We believe in a resident focused model of care which maintains and enhances the quality of life for each individual resident.
- We provide a resident focused living environment in a home-away-from-home atmosphere.
- We strive to maximize independence and individual strengths and capabilities to promote the health of the body, mind and spirit.
- We support residents’ participation in their Resident Council and value Council’s contribution to decisions and evaluations at St. Anne Centre.
- We strive for continuous quality improvement through communication, productive interdisciplinary team work, mutual pride and respect between staff, volunteers, residents, and the community.
- Our dedicated staff and volunteers provide the residents of long term care with quality professional care and personal services.

RESIDENT FOCUSED MODEL OF CARE





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Objectives

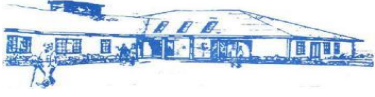
- 1. Review current governance environment and corresponding best practices
- 2. Enhance understanding of Fiduciary Duty and Duty of Care
- 3. Enhance understanding of the unique aspects of governance for St. Anne Centre

The Governance Environment

- Demand for accountability greater than ever (particularly financial)
- Boards and their work scrutinized closely
- Need to maintain credibility with community, government and the general public
- Pressure on boards to **clearly understand** roles and responsibilities
- Need to clearly define the role of the board vis-à-vis “management”
- Expectation that directors **know** the “business” and the complex environment within which the organization operates
- Boards expected to get the right information to inform decisions

The Importance of Context

- One size does not fit all in governance
- All decision making by boards takes place within a particular context
- Directors duties are always examined within a broad contextual context
- Optimal governance structures will vary across types of organizations and over an organization’s life cycle
- Courts will examine the “pathway” to decision making
- Important for directors to truly understand the context within which the organization operates



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Current Context

- #Me Too
- NAFTA Negotiations
- Climate Change
- Class Action Risk
- Potential Acts of Terrorism
- Currency Risk
- Political Climate
- Amalgamation of Health Authorities

Thinking of Governance Practices in the Context of St. Anne Centre

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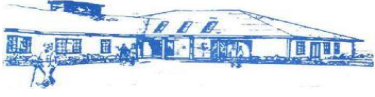
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The Governance Framework

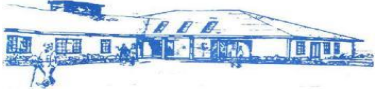
- Licensed pursuant to the Home for Special Care Act
- LTC Program Requirements: Nursing Homes & Residential Care Facilities (March, 2016)
- St. Anne Centre By-Laws
- Board Policies
- Case Law

What is the Board’s Role?

- “ Boards... must continue to honor the well-respected tradition that directors, generally are **not elected to micro-manage the corporation**, but rather for **oversight, insight and foresight...**” (Dr. Chris Bard, CA)
- **Oversight** – Directors must ensure that appropriate processes and controls are in place both to manage and monitor risks and to provide for the smooth, effective and efficient functioning of the business
- **Insight** – Directors are there to add their experiences and wisdom, not to second guess management, but to **supplement** and **enhance** executive decision- making
- **Foresight** – The directors are there to provide a **perspective on the future** that helps management identify those opportunities that are most worth pursuing
- The Board is **not** responsible for running the “business”
- Directors do not have to make all business decisions, but they must **monitor** those decisions
- Directors must be sufficiently familiar with the “business” to know that the organization is being managed appropriately
- In a well-functioning organization, the Board’s role is one of oversight:

- Manage vs Monitor

-NIFO (“Noses in, fingers out”)



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Manage vs Monitor

- A board should supervise and oversee the business and affairs of the organization
- The board does not manage day to day
- Directors monitor the organization's business and are not expected to devote attention full-time to the corporation's affairs.
- The relationship between the board and senior management is critical to good corporate governance and to minimizing director's liability risk

Standards of Performance for Directors

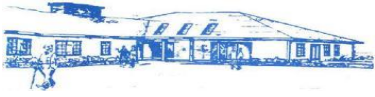
Fiduciary Duty

- Definition: **Fiduciary duty requires a director to:**
... Act honestly and in good faith with a view to the best interests of the corporation
- Component Parts: Fiduciary duty speaks to concepts such as:
 - Duty of confidentiality
 - Conflict of interest
 - Duty to disclose certain information



Breach Examples

- Shocking Technologies, Inc. vs Michael (Delaware)
 - A director believed that there were governance issues confronting the company of such an important nature that no investments should be sought until they were resolved
 - **This director shared confidential information with a third party** in order to persuade them not to invest in the company – the court found this to be a breach of his duty of loyalty (fiduciary duty), despite good intentions
- Slate Venture Inc. vs Hurley (NFLA)
 - A director of a slate mining company purchased a slate quarry in his name, appropriating a corporate opportunity
 - The NFLD Court of Appeal determined that this was a breach of his fiduciary duty as **he prioritized his personal interest over that of the company.**



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To whom is the Fiduciary duty owed?

- Fiduciary duty is owed to the “corporation”
This is not always well understood
You can't “take your director hat off”
- Fiduciary duty is the highest duty required by law

St. Anne Centre By-laws

- "Director" should mean a person duly elected, appointed or chosen as a trustee of St. Anne Centre, Arichat, Nova Scotia. The group of Directors shall be known as the Board of Directors. No member of the medical or general staff of St. Anne Centre can serve as a director.
- The actual physical operation of St. Anne Centre will be the sole responsibility of an eleven (11) member Board of Directors, representing the Society, to be elected, appointed, or chosen.
- The Board of Directors shall be responsible to:
 - (A) Promote and maintain a high standard of service in our long term care facility and Emergency/Outpatient Departments.
 - (B) Promote good public relations and maintain official recognition of St. Anne Centre.
 - (C) Meet the objectives of the society and provide a quality governance model.

They speak to:

- conflict of interest
- The responsibility of confidentiality
- Committees and their work
- AGM

“Best Interest of the Corporation”

- Not just the best interest of the stakeholders or Society members – maximize the “value” of the corporation
- Other relevant factors to determine what directors and officers should consider to **soundly manage** in the best interests of the corporation include:

- Society Members
- Consumers
- Suppliers
- Employees
- Governments
- The Environment



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- Often the interests of society members and stakeholders are co-extensive with that of the corporation
- If they conflict, the directors’ duty is clear- it is to the corporation
- Your role is to provide independent judgement, direction and advice
- Courts have also said the duty to act in the best interests of the corporation comprehends a duty to treat individual society members affected by corporate action equitably and fairly “commensurate with the corporation’s duties as a **responsible corporate citizen**”
- The concept of the fiduciary duty of directors and officers broadly encompasses a duty to uphold the statutory obligations of the Corporation

Fiduciary Duty of Directors, Officers and Senior Employees

- In general, fiduciary duties apply evenly between directors and senior officers with management duties or anyone performing a similar role
- Examples: CEO, Vice Presidents, Comptroller or Finance Officer, General Counsel, Officers

Duty of Care

- Duty of Care speaks to concepts such as:
 - Obtaining the appropriate information
 - Reviewing information critically
 - Probing analysis and recommendations provided by management and advisors carefully
 - Bringing own judgement to bear on the matter
 - Devoting reasonable time and care to the affairs of the corporation

Conflict of Interest

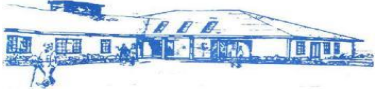
Conflict of Interest: By-Laws

- St. Anne Centre Conflict of Interest

(A) Members of the Board of Directors and their immediate relatives shall not enter into any business arrangement with St. Anne Centre in which they are interested directly or indirectly, except:

- (i) On a written and competitive sealed quotation basis and,
- (ii) Having refrained from voting and debate thereon.

(B) The Chairperson of any meeting of the Board, or committees of the Board, shall request any member who has declared an interest in any business or other financial arrangement with St.



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Anne Centre, which is being discussed to excuse him/herself during the discussion and the vote. The matter and the event shall be recorded in the minutes.

(C) A director shall not participate in any Board of Director meetings or discussions at any time when the discussion or business transacted is directly in relation to a relative in the employ of, or is a resident of, St. Anne Centre.

Mitigation Procedures

- Mitigation procedures should address:
 - Disclosure
 - Recusal
 - Gifts

Disclosure:

- CEO and Board Members must disclose private and corporate conflicts of interest
- CEO and each Board Member should prepare written disclosure statement at time of initial appointment and each year thereafter

Recusal & Gifts

Recusal

- Directors must abstain from voting where a conflict of interest exists
- The Chair will ask this director to leave the room during such a vote

Gifts

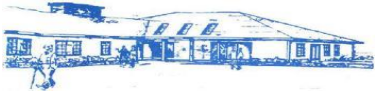
- The CEO and Board Members are not to accept benefits, gifts or perquisites (including travel, accommodations, memberships, etc), unless such a gift is purely honorary or symbolic in nature and is of nominal economic value

Duties Following Resignation

- In some instances, directors may have continuing liability with respect to their role following their resignation or end of their term
 - Income Tax/ GST
 - Environmental
 - Unpaid Wages

Income Tax/GST

- Various federal laws provide that directors may be liable for the failure of a corporation to remit tax and other payments to the government. This includes failure to remit:



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- Income tax, employment insurance premiums and Canada Pension Plan premiums from payments such as wages or benefits
- Goods and Services Tax (GST) (where the company charges GST)

Environmental

- ▶ Cases in Ontario and Alberta, including *Baker vs Ministry of the Environment*, illustrate the potential scope of an environmental regulator's jurisdiction to order current and/or former officers and directors to cover remediation costs.
- ▶ Directors should be diligent when regarding environmental affairs, including:
 - ▶ Engaging environmental consultants, identifying the company's past, present or potential environmental liabilities, assessing potential future environmental liabilities and taking action to ensure the environmental; liabilities are both addressed and monitored

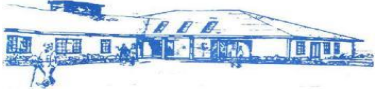
Unpaid Wages

- ▶ Some Canadian legislation provides that directors may be liable to employees for up to six months unpaid wages, potentially spanning beyond the resignation of the director.

The Importance of Relationships

Effective Boards Pay Attention to how they are working as a Group

Formally	Informally
<ul style="list-style-type: none"> ▶ Agendas ▶ Meeting the management ▶ Background documentation ▶ Minutes ▶ Follow-up action items ▶ Maintaining confidentiality 	<ul style="list-style-type: none"> ▶ How are we working together ▶ Candour/honesty ▶ Open communications ▶ Resolve differences quickly & constructively ▶ Clear understanding & agreement re: roles and mutual expectations ▶ Avoid passive aggressive behaviour – words in meetings match actions outside meetings



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What makes Great Boards Great?

- Create a climate of trust and candor
- Foster a culture of open dissent
- The Board speaks with “one voice”
- Ensure individual accountability
- Evaluate the Board’s performance.

-What makes Great Boards Great by Jeffrey Sonnenfield

Harvard Business Review

Legal

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