Appointment Process for District Health Board Members
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Overview

Under section 29 of the New Zealand Public Health and Disability Act 2000 (the NZPHD Act), the Minister of Health may appoint up to four board members to each District Health Board (DHB). The appointment itself is made pursuant to section 28 of the Crown Entities Act 2004 (the CE Act), in consultation with Cabinet and Caucus. The Minister appoints a chairperson and deputy chairperson from the elected or appointed board members, and may also appoint members to vacancies which arise in either elected or appointed positions.

The Minister’s appointments are used to balance the boards’ elected membership in terms of skills and, where relevant, representation of ethnic, gender and geographic groups. The Minister may only appoint persons who, in the Minister’s opinion, have the appropriate knowledge, skills and experience to assist the DHB in question to achieve its objectives and perform its functions. A list of attributes which, in the experience of the Ministry, are likely to be those sought in a Ministerial appointee, appears in the next section. In making appointments, the Minister must also take into account the desirability of promoting diversity in the membership of DHBs, and must endeavour to ensure Māori membership of the board.

Board member remuneration and expenses are covered by the Fees Framework, while duties of boards and board members are set out in the NZPHD Act and the CE Act. The appointment process itself is managed by the Ministry of Health on behalf of the Minister. A list of attributes which, in the experience of the Ministry, are likely to be those sought in a Ministerial appointee, is included on the next page.

The appointments process is complex and requires confidentiality and discretion on the part of all involved. Information given by potential candidates, either orally or in writing, is kept strictly confidential.

‘Due diligence’ is conducted for all candidates, to ensure that no impediment to appointment exists. This procedure includes an interview and referee checks. Timeframes to complete short-listing and interviewing are often brief, yet at other times the process may appear slow: consultation with interested parties can take some time and Cabinet priorities may result in necessary delays.

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1 See clause 10 of Schedule 3 to the NZPHD Act.
2 See section 29(3) of the NZPHD Act.
3 See section 29(2)(a) of the CE Act.
4 See section 29(2)(b) of the CE Act.
5 See section 29(4) of the NZPHD Act.
6 Cabinet Office Circular CO (03) 04, Fees Framework for Members of Statutory and Other Bodies Appointed by the Crown (available online at http://www.dpmc.govt.nz/cabinet/circulars); see also sections 47-48 of the CE Act.
7 See sections 26-27 of the NZPHD Act, and sections 25-26 and 49-59 of the CE Act.
Desirable Attributes in Ministerial Appointees

The skills and attributes most relevant to a specific vacancy are determined by analysing the current composition of the board in question. This analysis also involves the board’s chairperson, and considers the board’s needs and the particular challenges faced by the DHB in terms of performance, health outcomes and collaboration. Other factors may also be considered (eg, if the board is planning a major capital development).

Board appointees must have backgrounds that demonstrate strong personal integrity to enable them to meet their obligations in terms of personal behaviour and ensuring the propriety of the DHB’s actions (set out in sections 53-57 and 59 of the CE Act).

Generic skills for a board member will usually include:

- a wide perspective on, and awareness of, social, health and strategic issues
- integrity and a strong sense of ethics
- financial literacy and critical appraisal skills
- strong reasoning skills and an ability to actively engage with others in making decisions
- knowledge of a board member’s responsibilities, including an ability to distinguish governance from management, understanding of collective responsibility and an appreciation of the Crown as owner
- good written and oral communication skills
- an ability to contribute constructively and knowledgeably to board discussions and debates.

These qualities will usually be demonstrated through some or all of the following:

- governance experience in significant organisations with either a commercial, public service or community focus
- experience at chief executive or senior management level in organisations that have commercial or public service attributes
- holding senior positions in relevant professional areas including, but not limited to, health, social services, finance, law, and social policy
- relevant governance or management experience in community or professional organisations.

In addition to the above qualities, members are often appointed for their unique abilities, such as expertise in an area of specialisation or representation. In these cases, it is expected that the candidate would have the respect of their peers in these groups.
Conflicts of Interest

Appointed members must provide the Minister with a conflict of interest statement prior to their appointment. A conflict of interest statement is a statement which discloses to the Minister the nature and extent (including monetary value, if quantifiable) of any conflicts of interest that the person has at that time, or that may arise in the future, in matters relating to the DHB.

Those shortlisted for appointment are asked to disclose current and future conflicts of interest on a declaration form (see Appendix A for a sample form). Potential appointees are also required to describe how they intend to manage identified conflicts, if appointed to the board.

The NZPHD Act contains specific legal requirements for the ongoing process of identifying and managing conflicts of interest. The process of managing conflicts is likely to prevent board members from taking part in any board decision-making related to matters affected by the conflict. Members who ‘sit out’ in this manner are also removed from the meeting’s quorum. If a majority of the other board members agree, the member with the conflict of interest may take part in the board’s discussion on the issue but would still be excluded from voting.

The legal requirements were enacted to protect the interests of the Crown, the public and board members, and to ensure transparency. They also ensure that boards have the necessary information to manage conflicts appropriately. All board members are required to keep their conflicts of interest under review and ensure that any changes are entered into the conflicts of interest register maintained by the board.

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8 See section 31 of the CE Act.
9 See clause 36 of Schedule 3 to the NZPHD Act.
The Appointment Process

The Ministry of Health manages the appointment process on behalf of the Minister of Health. The Minister, in consultation with Cabinet and Caucus, appoints suitable candidates to boards based on the following process.10

Vacancies

The term of office for Ministerial appointments to DHB boards is three years or less. Vacancies may arise through expiry of current terms of office, or the resignation or death of a member. Members are required to write to the Minister (with a copy to the DHB) to effect their resignation.11

On becoming aware of a vacancy, Ministry officials usually:
1. review the current board composition and performance and consider any issues (including ethnicity, gender, etc) that may affect the attributes desired in potential appointees
2. discuss the vacancy with the board chairperson to identify any other requirements of the board
3. develop a skills profile specific to the DHB that reflects the needs of the board, following the above review and discussion
4. discuss this skills profile and options regarding the vacancy with the Minister.

Nominations

Nominees for Ministerial appointment come from a variety of sources. Many people choose to nominate themselves for appropriate positions, and this can be done through the Ministry’s website (www.moh.govt.nz). The Ministry maintains a database of potential appointees, as do other government agencies. The Ministry works with these agencies to ensure a broad range of appropriate nominations are presented for consideration by the Minister.

In seeking nominees, Ministry officials:
1. review the Ministry’s Statutory Boards and Committees database and identify potentially suitable applicants
2. seek nominations from other relevant government agencies (for example, the Ministry of Women’s Affairs, Te Puni Kōkiri, the Office of Ethnic Affairs, the Crown Company Monitoring Advisory Unit (CCMAU), the Ministry of Pacific Island Affairs and the Office for Disability Issues)
3. seek nominations from the Minister; the Minister’s Office also consults the Minister’s Caucus colleagues

10 The appointment process may vary from that described in this document, depending on the specific circumstances relating to the vacancy in question.
11 See section 44 of the CE Act.
4. consider any nominations submitted by iwi, health organisations and agencies, and the general public
5. collate nominations and carry out initial screening for eligibility based on the relevant statutory criteria\textsuperscript{12}
6. review those nominations which meet legislative requirements against the skills profile for the vacancy, and develop an initial shortlist of nominations
7. discuss the initial shortlist with the Minister who indicates preferred candidates for interview.

**Interview**

Interviewing candidates, via a Ministry-chaired panel, ensures that no impediment to appointment exists. It also confirms the candidate’s general suitability (or otherwise) for appointment.

At the interview stage, Ministry officials:
1. discuss with relevant candidates that they have been short-listed for appointment, and confirm that those candidates are still interested and available for appointment
2. send a declaration form to short-listed candidates to complete and return (see Appendix A)
3. convene the interview panel, which consists of a Ministry official (as panel chairperson), the DHB board chairperson and a local iwi representative
4. conduct interviews, which include discussion of the completed declaration forms with the candidates and how they intend to manage any identified conflicts of interest
5. discuss the panel’s recommendations with the Minister.

**Appointment**

After the Minister selects a potential appointee, the process to appoint that person begins. Convention requires appointments to be reviewed and confirmed by Cabinet’s Appointments and Honours Committee (APH), followed by Cabinet itself and then Caucus.

During the appointment phase:
1. an appointment memorandum is considered by APH and Cabinet; Caucus is also consulted
2. if the proposed appointment is approved, a signed letter of appointment is sent to the successful candidate, with a copy to the DHB; this letter also sets out the terms and conditions of the member’s appointment

\textsuperscript{12} See clause 17(1) of Schedule 2 to the NZPHD Act, which references the criteria set out in section 30(2)(a)-(f) of the CE Act. Note that nominees for elected member vacancies must be New Zealand citizens and be on the parliamentary electoral roll (clause 17(2) of Schedule 2 to the NZPHD Act, which references section 25 of the Local Electoral Act 2001), and that elected members cannot serve on more than one board at the same time, whether by election or appointment (clause 3 of Schedule 3 to the NZPHD Act).
3. after the appointment has been made, notice of it is published in the Gazette (the notice
specifies the appointee’s term of office)
4. the board’s chairperson is notified that an appointment has been made.

The Minister typically announces the appointee as soon as possible after Caucus has agreed to
the appointment.

**Fees**

Appointees are remunerated in accordance with the Fees Framework.13 The Minister is
responsible for determining members’ remuneration14 and members are entitled to
reimbursement for actual and reasonable travelling and other expenses incurred.15

**Reappointment**

When a member’s term of office draws to a close, the Minister may consider reappointing that
member. A number of factors need to be taken into account when contemplating
reappointments. Issues may arise with periods of service and members appointed to fill elected
vacancies.

In managing the reappointment process, Ministry officials:

1. enquire as to whether the Minister wishes to appoint to the pending vacancy (or whether
the position should be left vacant) and if so, whether the incumbent member is suitable for
reappointment
2. if the Minister agrees to a reappointment, enquire as to the incumbent member’s
willingness to be reappointed
3. seek a review of the member’s contribution to the board from the board chairperson
4. check the Ministry’s records for the member’s commencement date: if appointment for a
further term will result in the member continuously serving more than six (but fewer than
nine) years on the same board, explicit consent to reappointment will be required from the
Minister. Members may not be appointed to serve more than nine years continuously on
one board.
5. consider any reappointment in light of changes which have occurred in the board’s
composition, whether through DHB elections or resignations, since the original
appointment was made.

As described earlier, Ministerial appointments are used to balance the composition of the board’s
elected members, and to provide the board with additional skills and representation. With this in
mind, there may be a need for the Minister to appoint different members to boards, regardless of
an incumbent member’s positive contribution.

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13 Cabinet Office Circular CO (03) 04, *Fees Framework for Members of Statutory and Other Bodies
Appointed by the Crown* (available online at http://www.dpmc.govt.nz/cabinet/circulars).
14 See section 47 of the CE Act.
15 See section 48 of the CE Act.
Appendix A: Sample Declaration Form for Shortlisted Candidates

DECLARATION FORM: CANDIDATES FOR APPOINTMENT TO DISTRICT HEALTH BOARDS

The Ministry of Health acts as the Minister’s agent to ensure that all prospective and current DHB board members comply with the relevant legislative requirements for appointment. These requirements are outlined in the New Zealand Public Health and Disability Act 2000 (the NZPHD Act) and the Crown Entities Act 2004 (the CE Act). Information obtained through this process is held and used in accordance with the Privacy Act 1993. For further details, please see the privacy policy on the final page of this form.

This form is in five sections.
- Section 1: General Information.
- Section 2: Board Member Qualifications.
- Section 3: Disclosure of Interests.
- Section 4: Other Matters and Referees.
- Section 5: Consent and Declarations.

Please complete all sections (including signing and dating the consent and declarations in Section 5) and return this form as soon as possible to:

Manager – Governance
DHB Funding & Performance
Ministry of Health
PO Box 5013
WELLINGTON

Section 1: General information

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<th>Title:</th>
<th>Dr / Mr / Mrs / Miss / Ms / Other ( .................. )</th>
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<td>(please circle one)</td>
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<td>First name(s):</td>
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<td>(please underline preferred first name)</td>
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<tr>
<td>Surname:</td>
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<td>Male/Female:</td>
<td>M / F</td>
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<td>District Health Board:</td>
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<td>(to which you are seeking appointment)</td>
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<td>Residential address:</td>
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<td>Postal address:</td>
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<td>(if different to residential address)</td>
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Contact details:  
Home Ph: .................................................................................................................
Home Fax: ....................................................................................................................
Work Ph: ......................................................................................................................
Work Fax: ....................................................................................................................
Mobile: ........................................................................................................................
Fax: ..............................................................................................................................
Email: ...........................................................................................................................

Date of birth: ....................................................................................................................

Are you a New Zealand citizen?  
Yes / No  
(note that candidates for appointment to an elected member vacancy must be New Zealand citizens)

If not, please state citizenship  
.................................................................................................................................

Which ethnic group do you belong to?  
(mark the space or spaces that apply to you)

☐ New Zealand European
☐ Māori
☐ Samoan
☐ Cook Island Māori
☐ Tongan
☐ Niuean
☐ Chinese
☐ Indian
☐ other (such as DUTCH, JAPANESE, TOKELAUAN).

Please state:  

Iwi affiliation(s):  
(if applicable)  
.................................................................................................................................

Current profession/occupation:  
.................................................................................................................................

Section 2: Board Member Declaration

The NZPHD Act and the CE Act contain grounds which disqualify certain persons from DHB board membership. Please answer the following questions to determine whether you are eligible for appointment to a DHB board. If you are unsure how to answer, or require further clarification of any of the grounds, please contact the Ministry of Health. Candidates are reminded that they have a responsibility to understand the requirements of the NZPHD Act and the CE Act.

Are you an undischarged bankrupt?  
Yes / No  
[Section 30(2)(a), CE Act – the Insolvency Act 1967 sets out bankruptcy and discharge procedures]

Are you prohibited from being a director or promoter of, or being concerned or taking part in the management of, a company under section 382, section 383, or section 385 of the Companies Act 1993? (which also reference certain convictions under that Act and the Crimes Act 1961)  
Yes / No  
[Section 30(2)(b), CE Act]

Are you subject to a property order under the Protection of Personal and Property Rights Act 1988 (the PPPR Act)?  
Yes / No  
[Section 30(2)(c), CE Act]
Are you someone in respect of whom a personal order has been made under the PPPR Act that reflects adversely on your competence to manage your own affairs in relation to your property, or your capacity to make or to communicate decisions relating to any particular aspect or aspects of your personal care and welfare?  Yes / No

[Section 30(2)(d), CE Act]

Have you been convicted of an offence punishable by imprisonment for a term of two years or more (or sentenced to imprisonment for any other offence) and have not obtained a pardon, served the sentence, or otherwise suffered the penalty imposed?  Yes / No

[Section 30(2)(e), CE Act]

Are you a Member of Parliament?  Yes / No

[Section 30(2)(f), CE Act]

Have you, since the date on which board members elected at the immediately preceding triennial general election came into office, been removed as a member of a board for any reason specified in clause 9(c) or (e) of Schedule 3 to the NZPHD Act?  Yes / No

[Clause 17(1)(e), Schedule 2, NZPHD Act]

Have you failed to declare a material conflict of interest before accepting nomination as candidate for an election of a DHB held in conjunction with the immediately preceding triennial general election?  Yes / No

[Clause 17(1)(f), Schedule 2, NZPHD Act]

If you answered yes to any of the preceding questions, or if you have reason to believe that any of the criteria might affect you in the foreseeable future, provide details below:
...............................................................................................................................................................
...............................................................................................................................................................

Current Government policy states that public servants (ie, employees of public service departments) should not be appointed to DHB boards.  Are you a public servant?  Yes / No

For current board members only

Clause 2 of Schedule 3 to the NZPHD Act limits the circumstances in which current board members may be reappointed.  To ensure that any appointment complies with this clause, please state whether you are a current board member of the DHB for which you are a candidate?  Yes / No

If yes, have you held office as a board member of this DHB (whether elected or appointed) for more than three consecutive years?  Yes / No

If yes, what was the date of your initial appointment or election to this DHB?
...............................................................................................................................................................

Section 3: Disclosure of Interests

Before a candidate can be appointed to a DHB board, they must disclose to the Minister the nature and extent (including monetary value, if quantifiable) of all interests that they have at that time, or are likely to have, in matters relating to the DHB (section 31, CE Act).  A conflict of interest arises where you have, or would have, an interest in a transaction of the DHB (section 6, NZPHD Act).

Transaction, in relation to a DHB, means:
(a) the exercise or performance of a function, duty, or power of the DHB, or
(b) an arrangement, agreement, or contract to which the DHB is a party, or
(c) a proposal that the DHB enter into an arrangement, agreement, or contract.
A person is interested in a transaction of the DHB if, and only if, he or she:

(a) is a party to, or will derive a financial benefit from, the transaction, or
(b) has a financial interest in another party to the transaction, or
(c) is a director, member, official, partner or trustee of another party to, or person who will or may derive a financial benefit from, the transaction, not being a party that is:
   (i) the Crown, or
   (ii) a publicly-owned health and disability organisation, or
   (iii) a body that is wholly owned by one or more publicly-owned health and disability organisations, or
(d) is the parent, child, de facto partner (whether of the same or different sex), or spouse of another party to, or person who will or may derive a financial benefit from, the transaction, or
(e) is otherwise directly or indirectly interested in the transaction.

For the avoidance of doubt, ‘conflict of interest’ is defined as including the employment or engagement of the person, or of the person’s spouse, as an employee or contractor of the DHB. Because of (d) above, all family/whānau employment connections with the DHB should be disclosed.

A person is not interested in a transaction:

(a) if his or her interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence him or her in carrying out his or her responsibilities under the NZPHD Act or another Act, or
(b) because he or she receives remuneration or other benefits authorised under the NZPHD Act or another Act.

Having read and carefully considered the above, please disclose the nature and extent (including monetary value, if quantifiable) of all interests that you have at this time, or are likely to have, in matters relating to the DHB:

..............................................................................................................................................................
..............................................................................................................................................................
..............................................................................................................................................................

Indicate below how you intend to manage any conflicts arising in relation to these interests:
(mandatory, if any conflicts listed above)
..............................................................................................................................................................
..............................................................................................................................................................
..............................................................................................................................................................

Please also list any currently held board membership/directorship/trusteeship of any company, organisation or trust:
(including dates of commencement; if none held, please write “Nil”)
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..............................................................................................................................................................
..............................................................................................................................................................

Section 4: Other Matters and Referees

List any matters of which the Minister should be aware in considering your suitability for appointment (eg, anything which could be seen as influencing your judgement, or which might cast doubt on your ability to act with honesty and integrity):
..............................................................................................................................................................
..............................................................................................................................................................
..............................................................................................................................................................
Please provide the names and contact details of two referees who will be able to discuss your suitability for a board member position.

Referee One:  
Name: ........................................................................................................
Occupation: ........................................................................................................
Phone Hm: ........................................................................................................
Phone Wk: ........................................................................................................
Mobile: ........................................................................................................

Referee Two:  
Name: ........................................................................................................
Occupation: ........................................................................................................
Phone Hm: ........................................................................................................
Phone Wk: ........................................................................................................
Mobile: ........................................................................................................

Section 5: Consent and Declarations

Please complete and sign each of the following, where indicated.

1. Should the Minister wish to appoint me, I consent to being a member of ………………… DHB.

Signed: ………………………………………….  Date: …………………………….

2. I certify that I am not disqualified from being a member of ………………… DHB.

Signed: ………………………………………….  Date: …………………………….

3. I have declared in Section 3 above all of my interests in matters relating to ………………… DHB.

Signed: ………………………………………….  Date: …………………………….

4. I declare that the information provided in this form is accurate. I acknowledge that the information provided on this form will be used by the Ministry of Health for the purposes of confirming my eligibility to serve as a DHB board member. I also acknowledge that the information may be provided to the Minister of Health, and note that all information I provide will be held securely and kept confidential, except as may be required to be disclosed by law. I note that I have the right to access the information provided and that I may also request its correction.

Signed: ………………………………………….  Date: …………………………….
Privacy Policy

1. The Ministry of Health uses the information collected on this form to ensure compliance with relevant legislation (eg, the NZPHD Act and the CE Act) and to advise the Minister of Health on DHB member appointments.

2. For questions regarding this privacy policy, please contact the Manager – Governance, DHB Funding & Performance, Ministry of Health, PO Box 5013, Wellington (phone: (04) 496 2275; fax: (04) 496 2100).

Storage and security of personal information

3. The Ministry of Health and the Office of the Minister of Health (the agencies) will ensure that:
   (a) the personal information the agencies hold on you shall be protected by such security safeguards as it is reasonable in the circumstances to take, against:
      (i) loss, and
      (ii) access, use, modification or disclosure, except with the authority of the agencies, and
      (iii) other misuse, and
   (b) if it is necessary for the information to be given to a person in connection with the provision of a service to the agencies, everything reasonably within the power of the agencies is done to prevent unauthorised use or unauthorised disclosure of the information, and
   (c) if the agencies are required by law to disclose any personal information about you, the agencies will do everything reasonably within their power to consult you before making such disclosure.

Access to personal information

4. Where the agencies hold personal information in such a way that it can readily be retrieved, you are entitled:
   (a) to obtain from the agency in question confirmation of whether or not the agency holds such personal information, and
   (b) to have access to that information.

5. Where, in accordance with the above clause, you are given access to personal information, you will be advised that you may request the correction of that information.

6. The agencies will not hold your personal information longer than is required for the purposes for which the information may lawfully be used.

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1 The Ministry will usually refuse requests to release personal information about board members or candidates (see the grounds for refusal set out in section 9 of the Official Information Act 1982).