

Health Services Appeal *and Review Board*

Annual Report

Fiscal Period April 1, 2006 to
March 31, 2008



**Health Services Appeal
and Review Board**

**Commission d'appel et de
révision des services de la santé**



June 30, 2009

The Honourable David Caplan
Minister of Health and Long-Term Care
80 Grosvenor Street
10th Floor, Hepburn Block
Toronto, ON M7A 2C4

Dear Minister:

Re: Health Services Appeal and Review Board Annual Report

On behalf of the Health Services Appeal and Review Board, it is my pleasure to submit our Annual Report for the fiscal years of 2006-2008.

The Appeal Board continues its commitment to the initiatives outlined in the report and to ensuring excellence in the service it provides to the Ontario public.

Yours sincerely,

A handwritten signature in purple ink that reads 'Linda P. Lamoureux'.

Linda P. Lamoureux
Chair
Health Services Appeal and Review Board

c: Lori Coleman, Registrar, Health Services Appeal and Review Board



June 30, 2009

Ms. Linda Lamoureux
Chair
Health Services Appeal and Review Board
151 Bloor Street West, 9th Floor
Toronto, ON M5S 2T5

Dear Ms. Lamoureux,

It is my pleasure to report to you on behalf of the Health Boards Secretariat. The Health Boards Secretariat (the "Secretariat") provides comprehensive administrative, corporate, fiscal and case management support to the Health Services Appeal and Review Board. In addition, the Secretariat provides a similar support function for the Health Professions Appeal and Review Board, the Ontario Hepatitis C Assistance Plan Review Committee, the Transitional Physicians Audit Panel as well as payment processing functions for other health related services.

The Secretariat framework of support to multiple adjudicative tribunals is unique in the administrative tribunal sector. The most notable of many benefits of this framework is the ability to share resources. While the individual agencies supported by the Secretariat have some dedicated human resources, they also share a number of human resources, facilities, information technology and corporate services which results in both operational and fiscal efficiencies.

Funding is allocated to the Secretariat from the Consolidated Revenue Fund. There are some limitations in detailing expenditures as they relate specifically to the agencies supported by the Secretariat. You'll note that expenditures such as salaries and facilities are not included in the financial data on page 9 as it would be arbitrary to determine what portion of cost should be attributed to the Health Services Appeal and Review Board alone. These costs are, however, incorporated in the fiscal planning cycle by the Secretariat and are reported to the Ministry.

The information reported on page 9 details expenditures that link directly to the delivery of services to the Health Services Appeal and Review Board. You will note that the majority of the Appeal Board's related expenditure is payment of per diems to the membership and that there has been a marked increase in this expenditure in the past year. Between September 2006 and March 31, 2008 there was an over 90% increase in the per diem rate paid to public members of the Board significantly increasing expenditure in the area of per diem honouraria.

I trust that this information is of assistance to you, and I look forward to continuing to lead services providing support to the Health Services Appeal and Review Board.

Yours truly,

A handwritten signature in purple ink that reads "Lori Coleman". The signature is fluid and cursive, with the first name "Lori" and last name "Coleman" clearly distinguishable.

Lori Coleman
Chief Operating Officer, Health Boards Secretariat
Registrar, Health Services Appeal and Review Board

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MESSAGE FROM THE CHAIR

This report sets out the results for the Health Services and Appeal Board for a two-year period. The results and accomplishments were achieved under the direction of the former Chair, Beverly Harris. On behalf of the members of the Appeal Board and the staff of the Health Board Secretariat, I would like to thank Ms. Harris for her service and dedication to the Health Services Appeal and Review Board.

During this period, the Board continued to decide the majority of cases under the *Health Insurance Act* in less than one year. It was also able to respond to urgent requests under that Act and the other legislation for which it is responsible. As of 2007 the public was able to access the Board's decisions dating back to 2002 on its website. It also initiated a project to develop written materials detailing its processes and requirements to assist the public. These projects along with the Board's continued focus on providing its members with training and education, demonstrates the Board's commitment to improving the public's access and continuous improvement of the services it provides.

As I assume leadership of the Health Services Appeal and Review Board, I look forward to working with the dedicated and talented members of the Board and the staff of the Health Boards Secretariat in serving the people of Ontario.

JURISDICTION OF THE APPEAL BOARD

The Health Services Appeal and Review Board (“HSARB”) is an independent quasi-judicial tribunal created by the *Ministry of Health Appeal and Review Boards Act, 1998*. The Appeal Board has a review and appeal mandate under fourteen different statutes. These are:

The Ambulance Act
The Charitable Institutions Act
The Commitment to the Future of Medicare Act
The Healing Arts Radiation Protection Act
The Health Facilities Special Orders Act
The Health Insurance Act
The Health Protection and Promotion Act
The Homes for the Aged and Rest Homes Act
The Immunization of School Pupils Act
The Independent Health Facilities Act
The Laboratory and Specimen Collection Centre Licensing Act
The Long Term Care Act
The Nursing Homes Act
The Private Hospitals Act

HSARB was established to conduct hearings and reviews, and to make decisions, orders and recommendations regarding:

- decisions of the Ontario Health Insurance Plan respecting eligibility and payment;
- decisions of agencies under the *Long Term Care Act* respecting eligibility for service;
- orders of the Medical Officer of Health or public health inspectors;
- decisions of the Director with respect to licensing under the *Nursing Homes Act*;
- determinations of the placement coordinator respecting eligibility for admission to an approved charitable home for the aged; and
- decisions of the Director with respect to licensing of independent health facilities.

Transitional Physician Audit Panel

The Health Services Appeal Board also has an associated Panel called the Transitional Physician Audit Panel (TPAP) that hears appeals from decisions by the General Manager of OHIP in respect of payments to physicians.

The bulk of the Appeal Board’s work involves hearing appeals under the *Health Insurance Act*, the *Long-Term Care Act*, and the *Health Protection and Promotion Act*.

Health Insurance Act

Most of the appeals heard are appeals under the *Health Insurance Act*. Under this *Act*, the Appeal Board hears appeals from decisions of the General Manager of the Ontario Health Insurance Plan (OHIP) respecting OHIP eligibility and coverage (eligibility and subscriber appeals). The Appeal Board also hears appeals from directions of the Practitioner Review Committee respecting payments by OHIP in respect of insured services. Finally, the Transitional

Physician Payment Review Board, a Panel of the Appeal Board is responsible for appeals from the audits of physician billings.

Eligibility and Subscriber Appeals

Most of the appeals before the Appeal Board under the *Health Insurance Act* relate to questions of whether treatments are insured services of OHIP. Many of these appeals are initiated by patients who are unrepresented by counsel. The second largest group of appeals involve the question of whether treatment provided outside of the country is an insured service of OHIP under Section 28.4 of Regulation 552 (a provision that allows for full funding of the treatment).

Long-Term Care Act

In addition to its jurisdiction to hear appeals under the *Health Insurance Act*, the Appeal Board also has jurisdiction under the *Long-Term Care Act* to hear appeals from decisions of approved agencies under the *Long-Term Care Act* respecting:

- eligibility for community service;
- excluding a particular community service from a plan of service;
- the amount of any particular community service, and
- terminating the provision of service.

The Appeal Board is required to appoint a time and place for a hearing within 30 days unless the parties agree to a postponement.

Health Protection and Promotion Act

Orders by Medical Officers of Health or Public Health Inspectors respecting action to be taken in respect of a health hazard (Section 13) or in respect of a communicable disease (Sections 22 and 37) can be appealed to the Appeal Board. Pursuant to Section 44(5) of the *Health Protection and Promotion Act*, the Appeal Board is required to hold a hearing within 15 days after the Appeal Board receives notice in writing requiring the hearing.

ACHIEVEMENTS OF THE BOARD

The Appeal Board continues to strive to improve on its performance in the core areas of its business. The following achievements have been accomplished in this period:

- **Access to Justice:** In an effort to increase accountability, transparency and the public's understanding of the Board, the Appeal Board began a major project to publish its decisions on its website. This project was completed at the end of 2007. The Appeal Board's on-line decisions date back to 2002 serving to improve the public's access to the Board and enhancing the level of customer service provided.
- **Customer Service:** The Board continued to meet its commitment to hear the majority of the cases under the *Health Insurance Act* in under one year and was able to provide hearings when there was an urgent need or in response to a legislative requirement.
- **Member Recruitment and Development:** Eleven new members joined the Board during this period. Training new members and continuing education for other members is an important priority for the Appeal Board. In addition to monthly education meetings and occasional special education opportunities, the Appeal Board is deeply committed to peer mentoring of Board members. This is the most efficient and cost-effective way of educating new members in the issues and jurisprudence of the Appeal Board.
- **Efficient and Cost-Effective Pre-hearing Process:** The Appeal Board continued to conduct Pre-hearing Conferences ('PHCs') to manage those cases where the applicant is represented by counsel. The purpose is to manage the more complex appeals through the pre-hearing process and to ensure the most expeditious disposition of the proceeding.

FINANCIAL PERFORMANCE

HSARB Financial Performance					
DESCRIPTION ¹	2003/2004	2004/2005	2005/2006	2006/2007	2007/2008
PER DIEM HONORARIA²					
Attendance at Proceedings	81,950	144,100	93,175	123,685	181,498
Preparation for Proceedings	33,825	39,786	40,588	55,780	77,896
Decision Writing	68,525	75,438	104,800	116,433	184,697
Board Administration ³	84,787	69,310	100,509	178,746	205,589
PHC ⁴	n/a	n/a	n/a	58,000	90,763
PROCEEDINGS: RELATED EXPENSES					
Court Reporting Services	30,900	16,428	37,300	26,357	25,620
OTHER EXPENSES					
Independent Legal Services	109,838	130,842	167,770	151,961	199,631
Sundry ⁵	36,840	28,017	29,295	23,777	30,018
Administration ⁶	29,848	32,448	23,170	39,084	46,716
TOTAL	476,513	536,369	596,607	773,823	1,042,428

¹ All figures in dollars (\$).

² For the period of 2005-06 Public Member = \$200; Vice-Chair = \$250.
2006-07 Public Member = \$355; Vice-Chair = \$444.
2007-08 Public Member = \$380; Vice-Chair = \$470.

³ Board Administration includes costs for administration, education, travel, cancellation and all Board/Committee meetings.

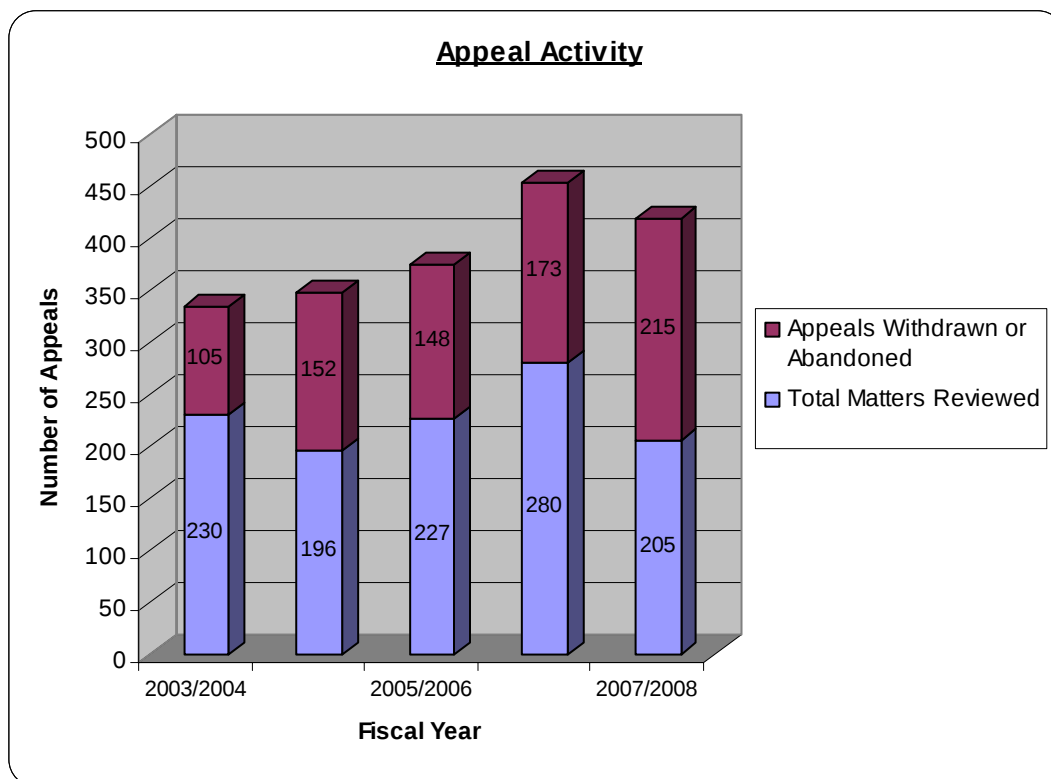
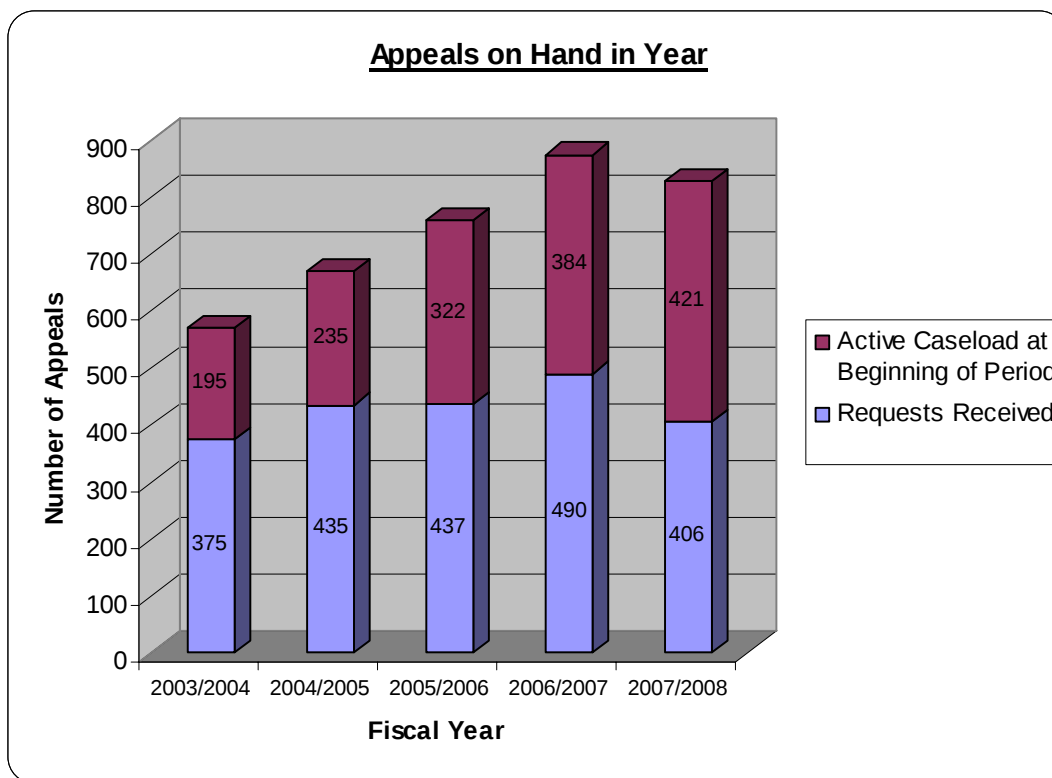
⁴ Pre Hearing Conferences (PHC) introduced in 2006.

⁵ Language, sign interpretation, assistive listening devices, translation, printing, copying, lease of computers and access fees.

⁶ Administration costs include mailing, telephone, teleconference and office supplies.

OPERATIONAL PERFORMANCE

ITEM	Apr. 1, 2003 - Mar. 31, 2004	Apr. 1, 2004 - Mar. 31, 2005	Apr. 1, 2005 - Mar. 31, 2006	Apr. 1, 2006 - Mar. 31, 2007	Apr. 1, 2007 - Mar. 31, 2008
Active Caseload at Beginning of Period	195	235	322	384	421
Requests Received	375	435	437	490	406
Total Case Load	570	670	759	874	827
Total Matters Reviewed	230	196	227	280	205
Appeals Withdrawn or Abandoned	105	152	148	173	215
Active Caseload at End of Period	235	322	384	421	407



HEALTH SERVICES APPEAL AND REVIEW BOARD MEMBERS as at MARCH 31, 2007

Last Name	First Name	Original Start Date	Expiration Date	Position
Burstyn	Marla	03-Nov-04	02-Nov-07	Vice-Chair
Cohen	May	09-Apr-03	08-Apr-09	Public Member
Downing	Beth	15-Jul-05	14-Jul-08	Public Member
Elstner	Elizabeth	21-Nov-01	14-Dec-07	Public Member
Farha	Soraya	15-Dec-04	14-Dec-07	Public Member
Green	David	10-Aug-06	09-Aug-09	Public Member
Harris	Beverly	21-Apr-01	20-Apr-07	Chair
Hasselback	Richard	17-Jun-04	16-Jun-07	Public Member
Lawford	Michele	16-Feb-00	20-Feb-09	Public Member
Lum	Lillie Lai Quon	01-Feb-99	22-Mar-08	Public Member
Miszuk	Hedy	05-Oct-06	04-Oct-09	Public Member
Moss	Christine	01-Feb-99	22-Mar-08	Public Member
Mullan	Elizabeth	15-Apr-03	14-Apr-09	Public Member
Roper	Dawn	22-Jun-06	21-Jun-09	Public Member
Rudin	Stephen	29-Nov-06	28-Nov-08	Public Member
Shin	Elaine	27-Feb-02	31-Jan-08	Vice-Chair
Yedvab	Jay Okun	05-Jul-04	04-Jul-07	Public Member

HEALTH SERVICES APPEAL AND REVIEW BOARD MEMBERS as at MARCH 31, 2008

Last Name	First Name	Original Start Date	Expiration Date	Position
Burstyn	Marla	03-Nov-04	26-Feb-10	Vice-Chair
Cohen	May	09-Apr-03	08-Apr-09	Public Member
Dizgun	L. Leslie	21-Dec-04	15-May-09	Public Member
Downing	Beth	15-Jul-05	14-Jul-08	Public Member
Farha	Soraya	03-Mar-04	02-Mar-12	Vice-Chair
Freedman	Paul Edward	21-Dec-04	19-Jun-10	Panel Member
Green	David	10-Aug-06	09-Aug-09	Public Member
Harris	Beverly	21-Apr-01	20-Apr-08	Chair
Hasselback	Richard	17-Jun-04	16-Jun-12	Public Member
Kerenyi	Norbert Andrew	21-Dec-04	19-Jun-10	Panel Member
Lawford	Michele	16-Feb-00	20-Feb-09	Public Member
Leroux	Jean	30-May-07	29-May-09	Public Member
Lum	Lillie Lai Quon	01-Feb-99	22-Mar-13	Public Member
Miszuk	Hedy	05-Oct-06	04-Oct-09	Public Member
Moss	Christine	01-Feb-99	22-Mar-13	Public Member
Mullan	Elizabeth	15-Apr-03	14-Apr-09	Public Member
Ng	Nelly Wing-Kwong	21-Dec-04	19-Jun-10	Panel Member
Paivalainen	Seppo	02-May-07	01-May-09	Public Member
Rasky	Holly	20-Jun-07	19-Jun-09	Panel Member
Roper	Dawn	22-Jun-06	21-Jun-09	Public Member
Rudin	Stephen	29-Nov-06	24-Sep-08	Public Member
Shin	Elaine	27-Feb-02	31-Jan-08	Vice-Chair
Stewart Ferreira	F. Lydia	13-Feb-08	12-Feb-10	Public Member
Yedwab	Jay Okun	05-Jul-04	04-Jul-12	Public Member

HEALTH SERVICES APPEAL AND REVIEW BOARD STAFF as at MARCH 31, 2008

Lori Coleman*	Registrar
Rafia Sheikh	Deputy Registrar
Patricia Godden	Case Management Coordinator
Angela Cornacchia	Case Officer
Anna Dunscombe	Case Officer
Denise Higgins	Case Officer
Christine Nieckarz*	Coordinator, Business Operations
Therese McGuirk*	Financial Coordinator
Irith Alterescu*	Secretary to the Chairs/COO
Lihua Jiang*	Records Clerk
Sarah Paul-Lutchman*	Receptionist
Mathanan Kailas*	Sr. Tech/Business Systems Administrator
Aravinth Ramalingam*	Systems Support Analyst

CHAIR

Beverly Harris	Health Services Appeal and Review Board; OHCAP Review Committee; Transitional Physicians Audit Panel
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* Shared resource with the Health Boards Secretariat