



7.9 Disclosure of Membership Information - Policy and Procedure

7.9.1 Policy

7.9.1.1 BCPWA's policy regarding disclosure of membership information is set out in its By-law 4(1)(d):

7.9.1.1.1 "4(1)(d) all membership information shall be held in the strictest confidence by the Society's Board of Directors and the Membership Registrar. Membership information is not open for scrutiny by other members, nor other organizations, nor government representatives except by express written authorization of the member."

7.9.1.2 When a member, volunteer or employee of BCPWA is confronted by a duly authorized agent of any Canadian Federal, Provincial or Municipal government or court, or of any person, corporate or individual, when that agent is requesting the disclosing to him/her of any information whatsoever regarding a member or members of BCPWA, that member, volunteer or employee shall not comply with the request for information, except as provided in the following procedures.

7.9.2 Procedure

7.9.2.1 When a member, volunteer or employee of BCPWA is confronted by a duly authorized agent (1) of any Canadian Federal, Provincial or Municipal government or court, or (2) of any person, corporate or individual, when that agent is requesting the disclosing to him/her of any information whatsoever regarding a member or members of BCPWA, that member, volunteer or employee shall

7.9.2.1.1 not comply with the request but, rather, direct the agent making the demand to the Executive Director or the Executive Director's designate, and

7.9.2.1.2 immediately notify the Executive Director or the Executive Director's designate, and at least one member of the Board of Directors Executive Committee if an Executive Committee member is then present, of the request.

7.9.2.2 The Executive Director or the Executive Director's designate shall, when a request for disclosure of membership information is brought to his attention pursuant to

clause 7.9.2.1.2, determine if the agent making the request possesses and is serving either a search warrant or a subpoena specifying the information being sought and/or authorizing its seizure.

7.9.2.3 If the Executive Director or the Executive Director's designate determines the agent requesting the disclosure of information does not possess and is not serving either a search warrant or a subpoena specifying the information being sought and/or authorizing its seizure, the Executive Director or the Executive Director's designate shall inform the agent that the request for information will not be complied with.

7.9.2.4 If the Executive Director or the Executive Director's designate determines the agent requesting the disclosure of information possesses a search warrant specifying the information being sought and authorizing its seizure, the Executive Director or the Executive Director's designate shall

7.9.2.4.1 ask to see the warrant and shall examine the warrant to be certain a justice of the peace has signed it and that it relates to the information being sought by the agent;

7.9.2.4.2 if the warrant appears to the Executive Director or the Executive Director's designate to be in order, ask the agent exactly what information is being sought;

7.9.2.4.3 based on the agent's response, and having determined what record(s) correspond to the exact information being sought, the Executive Director or the Executive Director's designate shall

7.9.2.4.3.1 locate the record(s),

7.9.2.4.3.2 place the record(s) located into an envelope or box and seal the envelope or box,

7.9.2.4.3.3 affix a blank gummed label across the sealed flap of the envelope or box and write on the label: "PRIVILEGE ASSERTED – DO NOT OPEN", and

7.9.2.4.3.4 inform the agent that: "I am asserting that these records are confidential and privileged at law"; and that the sealed envelope or box will be retained in safe keeping by BCPWA until such time as the assertion of privilege is adjudicated at law;

7.9.2.4.4 if the agent objects or appears to doubt the validity of the assertion made pursuant to clause 7.9.2.4.3.4, inform the agent: "I am relying on the principles set out in section 488.1 of the Criminal Code that apply to law office searches";

7.9.2.4.5 regardless, inform the agent that BCPWA's lawyer is

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and that: "We will be instructing our lawyer to bring a motion to a judge as soon as possible";

7.9.2.4.6 in the event the agent demands the surrender of the sealed envelope or box despite the assertion of privilege, politely refuse;

- 7.9.2.4.7 immediately inform BCPWA's lawyer of all that has transpired, seek whatever advice may be given, and effect the advice given insofar as it does not conflict with any element of this policy and procedures; and,
- 7.9.2.4.8 immediately contact the member or members regarding whom the disclosure of information has been sought, and about which information privilege has been asserted, informing the member or members fully as to all that has transpired;
- 7.9.2.4.9 cause the electronic version(s) of the record(s) equivalent to the record(s) contained in the sealed envelope or box to be destroyed; and
- 7.9.2.4.10 in the event actual seizure of envelope or box containing the record(s) seems imminent, destroy the envelope or box and the record(s) contained therein, that they may not be seized.

7.9.2.5 If the Executive Director or the Executive Director's designate determines the agent requesting the disclosure of information possesses and is serving a legal subpoena specifying the information being sought, the Executive Director or the Executive Director's designate shall

- 7.9.2.5.1 contact the member or members regarding whom the disclosure of information has been sought (1) informing the member or members fully as to all that has transpired, (2) suggesting that they seek legal advice, and (3) providing such referrals – criminal lawyer, lawyer referral service, legal aid office, legal clinic or legal advice service – as may reasonably be effected;
- 7.9.2.5.2 contact BCPWA's lawyer and inform her/him of all that has transpired, seek whatever advice may be given, and effect the advice given insofar as it does not conflict with any element of this policy and procedures;
- 7.9.2.5.3 on the basis of the specifications set out in the subpoena, the Executive Director or the Executive Director's designate shall
 - 7.9.2.5.3.1 locate the record(s) specified
 - 7.9.2.5.3.2 place the record(s) located into an envelope or box and seal the envelope or box,
 - 7.9.2.5.3.3 affix a blank gummed label across the sealed flap of the envelope or box and write on the label: "PRIVILEGE ASSERTED – DO NOT OPEN", and
 - 7.9.2.5.3.4 instruct BCPWA's lawyer to prepare to defend the assertion of privilege at law;
- 7.9.2.5.4 cause the electronic version(s) of the record(s) equivalent to the record(s) contained in the sealed envelope or box to be destroyed; and
- 7.9.2.5.5 in the event the defense of privilege fails at law, destroy the envelope or box and the record(s) contained therein, that they may not be seized.

Approved by the Board of Directors, May 12, 2004