



What is Mediation?

Mediation is the process of using a neutral third party to bring together a complainant, the physician and the regulatory body, i.e. the College, for the purpose of reaching an agreement in the resolution of a complaint. The College, representing the broad interests of the public, participates as a full partner in the mediation process.

How does Mediation work?

- Once the College decides whether a complaint may be suited to mediation, both the physician and the complainant are offered mediation as a voluntary alternative to a more formal process.
- If both parties agree, the College engages the services of a trained mediator who contacts each party individually and:
 - explains the mediation process and answers any initial questions;

- determines whether each party is ready to mediate; the degree of flexibility of each party in reaching a resolution; whether each party is able to negotiate fairly, openly and equitably in reaching an agreement; and, whether the parties will follow through once a mutual agreement is reached.
- Once the above factors are determined, each party signs an agreement to proceed.
- The parties then meet face-to-face in a controlled, confidential, neutral setting. During this stage, it is crucial that each party be given the opportunity to present his/her own issues and that the other side is able to listen and to communicate that they have heard and understood correctly. The mediator assists in identifying areas of common ground and in searching for options or solutions.
- If the parties reach an agreement, a 'Memorandum of Agreement' is drafted which reflects the consensual decisions reached. This is circulated and signed by each party and enforced by the College of Physicians and Surgeons.
- If an agreement is not reached, the option of a more formal resolution process is re-activated. Nothing that transpired in the

mediation process is admissible in any alternate process.

What are the advantages of Mediation?

- The process is confidential, voluntary and "without prejudice."
- Both the complainant and the physician have an opportunity to tell their story and how the events have affected them and their lives. This is in contrast to a more formal process in which both parties are subject to controlled examination and cross-examination and where a resolution is determined by a committee rather than by an agreement between the parties themselves.
- The process is non-adversarial. It is geared toward reaching an agreement which is acceptable to all parties. Each party has an equal opportunity for input.
- The agreement reached is tailored to fit the nature of the complaint (such as an apology, an acknowledgment of wrong-doing or misinterpretation, monitoring, or up-grading of skills, etc.) rather than being restricted to revocation, suspension, fine or reprimand.

- A complaint is finalized. There is no right of appeal for either party.
- Complaints can be handled in a more cost-effective and timely manner.

Sometimes, when patients or their families file a complaint against a physician, all that is required is an explanation or an apology for what happened, and an opportunity to express their hurt. For the physician, it is an opportunity to explain why a situation occurred and to recognize a weakness in knowledge or communication so as to prevent a similar situation from occurring in the future.

For Further Information Contact:

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The College staff would be pleased to answer any of your questions concerning Mediation in the resolution of patient-physician complaints.

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MEDIATION

GUIDE TO COMPLAINT RESOLUTION THROUGH MEDIATION