



## POLICY

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### Alternative Dispute Resolution

<b>STATUS:</b>	APPROVED
<b>Approved by Council:</b>	November 2019
<b>Amended:</b>	
<b>To be reviewed:</b>	November 2024

#### 1. Preamble

The College of Physicians and Surgeons of Saskatchewan, as guided by its Governance Policies:

- 1) Acknowledges that the End “Public Protection” is the Council’s highest priority in governance (governance policy E-2);
- 2) Recognizes that the public and the medical profession deserve fair, timely and effective resolution of complaints of unprofessional conduct (governance policies E-6, GP-14 and EL-6);
- 3) Acknowledges the importance of transparency in College regulatory and discipline processes (governance policies E-6, GP-14 and EL-7);
- 4) Acknowledges that balancing is required between a physician’s right to privacy and the public’s right to transparency (governance policies E-6, GP-14 and EL-6).

#### 2. Definitions

For the purposes of this policy, the following definitions apply:

*Alternative dispute resolution (ADR)* includes any method of resolving College disciplinary matters without proceeding to formal hearing or penalty hearing.

*Pre-charge ADR* includes any ADR entered into prior to charges of unprofessional conduct being laid against the physician, and can be before or after an investigation by a preliminary inquiry committee.

*Post-charge ADR* includes any ADR entered into after charges of unprofessional conduct have been laid against the physician.

### **3. Purpose of this policy**

The College Council and/or Executive Committee have discretion to make decisions as to whether or not alternative dispute resolution should be considered in a particular disciplinary matter. This policy is primarily a statement of principles for the assistance of the Council and Executive Committee in considering whether ADR would be appropriate in an individual case. It is also intended to provide transparency as to the principles applied and process followed by the College.

A diagram of the College process for disciplinary investigations, highlighting the three points in the process at which ADR may be considered, is attached to this policy. ADR may be “pre-charge” or “post-charge”.

### **4. Guiding principles**

The following guiding principles are applicable to decisions as to whether or not ADR is appropriate:

- 1) ADR can be directed by either the College Council or Executive Committee.
- 2) The Council and/or Executive Committee have discretion to consider ADR in any case and to consider each case individually.
- 3) The physician must consent to the proposed ADR.
- 4) In most cases, the complainant’s perspective on possible ADR will be sought. While it is preferable if the complainant consents, this is not necessarily determinative if the Council and/or Executive Committee determines that the ADR is in the public interest.
- 5) Allegations involving sexual misconduct will not typically be considered for ADR. However, there remains discretion in the Council and/or Executive Committee to consider whether it may be appropriate.
- 6) Generally, the Council and/or Executive Committee will expect the physician to acknowledge responsibility as part of the ADR process.

### **5. Situations in which ADR may be appropriate**

Without limiting the discretion of the College Council and/or Executive Committee to consider ADR in any case, ADR may be appropriate in the following types of disciplinary matters:

- 1) Interpersonal disputes between physician colleagues or between physicians and members of the public;
- 2) Allegations that a physician is practising below the standard of the medical profession in one particular area such as prescribing certain medications;
- 3) Discrete instances of breaching patient confidentiality;
- 4) Discrete instances of unprofessional communication with a patient or colleague;
- 5) Allegations relating to record-keeping or failing to provide reports in a timely manner;

- 6) Allegations of quality of care concerns in the context of a billing audit.

## 6. Types of ADR to be considered

Pre-charge ADR typically occurs prior to formal investigation of a complaint by a preliminary inquiry committee but can also be directed by the Council or Executive Committee upon considering the report of the preliminary inquiry committee. The physician enters into an undertaking with the College, promising to comply with certain terms. If those terms are completed, the matter is resolved without further action.

Once charges of unprofessional conduct have been laid against a physician, the Council or Executive Committee may determine that post-charge ADR is appropriate. The physician enters into an undertaking with the College, promising to comply with certain terms. If those terms are completed, the charges do not proceed to hearing for formal adjudication.

Examples of the terms a physician may be expected to complete as part of the ADR process follow. These are examples only and do not restrict the discretion of the College Council and Executive Committee to determine appropriate terms.

- 1) Participating in a facilitated discussion between the complainant and physician, with or without an independent mediator;
- 2) Complying with practice restrictions;
- 3) Completing specific educational courses;
- 4) Providing a written apology to the complainant;
- 5) Resigning licensure with or without an agreement never to practise medicine anywhere again;
- 6) Attending a meeting with the College President and/or Registrar to discuss the College's concerns with the physician's conduct;
- 7) Agreeing to cooperate with a chart audit to assess improvements in quality of care.

As part of the alternative dispute resolution, the Council and/or Executive Committee will consider how costs are to be addressed.

## 7. Publication of ADR

Subject to the principles set out in CPSS Governance Policy EL-6, publication will generally occur as follows:

- 1) Post-charge ADR: The charges of unprofessional conduct together with details of the ADR will be published on the physician's profile on the CPSS website. Once the terms of the ADR have been met, the website description will be updated to state that the physician has complied with the terms of their undertaking. All details will be provided on a request for Certificate of Professional Conduct from another medical regulatory authority.

- 2) Pre-charge ADR: Details of pre-charge ADR will not be published; however, details of any practice restriction imposed will be published on the website. All details will be provided on a request for Certificate of Professional Conduct from another medical regulatory authority.

## **OTHER RESOURCES**

College of Physicians and Surgeons of Saskatchewan – Governance Policies

## DISCIPLINARY INVESTIGATIONS FLOWCHART

