



Discipline Committee

PRACTICE DIRECTION

REQUEST FOR ADJOURNMENT OF DISCIPLINE HEARINGS

The Discipline Committee of the College of Physicians and Surgeons of Ontario is committed to the just and expeditious determination of discipline proceedings. The Rules of Procedure of the Committee contain in Rule 5.01.1 the procedure to follow on an adjournment request.

The Discipline Committee has developed the following Practice Direction on adjournments to provide further guidance to parties. This Practice Direction does not replace the provisions respecting adjournments provided for by the Rules.

STRICT ADJOURNMENT POLICY

The Rules require parties to follow various pre-hearing procedures, including those related to disclosure, pre-hearing conferences, scheduling, and hearing management, so that hearing time is used efficiently and unnecessary adjournments of hearings are avoided.

When hearing dates have been scheduled, adjournments can interfere with access to justice, waste resources and cause delay and cost to all parties and the Hearing Panel. Once a hearing date is scheduled, which is normally done on consent, parties are expected to be ready to proceed on the dates that are set. It is understood that adjournments may be necessary in certain circumstances, and the courts have said that failure to grant an adjournment can constitute a denial of natural justice in certain circumstances. Adjournment requests are discouraged except where necessary and especially so on short notice before a scheduled hearing date. The timing of an adjournment request will be a factor to be considered on an application for an adjournment.

REQUESTS FOR ADJOURNMENTS PRIOR TO SCHEDULED HEARING DATES

In advance of scheduled hearing dates, a party seeking an adjournment shall comply with Rule 5.01.1 and include in the adjournment request the reasons for it, the nature of the allegation against the member, available dates for the rescheduling of the hearing as confirmed with the hearings office, and whether the motion is on consent, unopposed, or opposed.

The fact that an adjournment request is made on consent will be a factor to be considered, but will not be determinative of whether the Committee should grant the request, as broader institutional and public interests must also be considered. It is the Discipline Committee and not the parties or their counsel who make the decision whether a hearing will be adjourned or not, and if so, on what terms.

The determination will be made in each case taking into account a variety of substantive and procedural considerations, including the overall objective of a determination of the matter on its substantive merits as well as providing the parties an opportunity for a fair hearing.

A decision respecting an adjournment request will be delivered in writing, with reasons, for future reference.

REQUEST FOR ADJOURNMENTS TO BE HEARD BY THE HEARING PANEL

Where an adjournment request is made too close to the scheduled hearing date for the Chair or a case management chair to deal with it, the Hearing Panel may hear the request on the date scheduled for the hearing.

An adjournment request, on or after the commencement of the hearing, should be made only in exceptional circumstances. Any adjournment granted at this stage will likely be made on strict terms.

Approved: April 4, 2013

Revised: October 1, 2013; effective January 6, 2014