

What does this mean?

We provide definitions for the legal terminology used in the discipline process

Admission

The physician admits that the facts alleged amount to professional misconduct and/or incompetence.

Plea of No Contest

The physician does not contest the facts. The College files a statement of facts as an exhibit at the hearing. The Discipline Committee can accept the facts as correct and make a finding of professional misconduct and/or incompetence. The physician does not admit to the facts or findings for the purpose of any other proceeding.

Agreed Statement of Facts

A statement of facts that are negotiated and agreed to by the College and the physician. It is filed as an exhibit at the hearing.

Joint Submission on Penalty

A penalty that is proposed to the Committee as an appropriate penalty by both the College and the physician. In law, the Discipline Committee must accept a joint submission on penalty unless it would be contrary to the public interest and bring the administration of justice into disrepute.

Contested Hearing

The physician denies the allegations. The College must prove the allegations on a balance of probabilities (the civil standard of proof) by calling evidence such as witnesses. If one or more of the allegations is proved, a penalty hearing is scheduled. The College and the physician may agree and jointly propose a penalty to the Committee or they may disagree and a contested penalty hearing takes place.

Aggravating, Mitigating Circumstances

Aggravating and mitigating circumstances may be considered by the Discipline Committee in determining an appropriate penalty. Mitigating and aggravating circumstances are considered by the Committee, so that the penalty imposed is proportionate to the gravity of the physician's conduct, and the degree of responsibility of the physician. Mitigating circumstances tend to reduce penalties, whereas aggravating circumstances tend to increase penalties.

Aggravating circumstances could include: a high degree of vulnerability of the person(s) affected by the physician's conduct; a prior disciplinary history with the College; a lack of insight by the physician into his or her own misconduct; a lack of remorse about the effects of the misconduct on others.

Mitigating circumstances could include: a clean disciplinary record; an admission to the facts underlying the allegations in advance of a hearing; cooperating with the investigation; a demonstration of remorse or regret about the effects of the misconduct on others; taking remedial steps on the physician's own initiative prior to a finding or an order by the College.