

# ALTERNATIVE DISPUTE RESOLUTION MEDIATOR POLICY

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## Purpose

The purpose of this policy is to describe the qualifications that must be possessed by candidates who wish to serve as alternative dispute resolution (“ADR”) mediators, the mediator application process and the responsibilities of mediators once selected.

## Scope

This policy applies to all candidates who have applied to become or have been selected to become mediators for complaints being resolved through ADR at the College.

## Definitions

Mediator – a neutral, third party that assists in guiding the complainant(s) and registrant of the College to a mutually agreeable and voluntary settlement of a complaint

## Policy Statement

### Mediator Qualifications

In order to be considered as qualified to become a mediator for a matter that has been referred to ADR, a candidate must:

- Have undertaken at least 40 hours of basic mediation/negotiation training in a course acceptable to the College
- Have completed at least:
  - Two matters utilizing an alternative dispute resolution process as the lead mediator; or
  - Three matters utilizing an alternative dispute resolution process as a co-mediator
- Be in good standing with any regulated profession that they may belong to

Candidates will be selected based on their experience and training in ADR as well as their educational and professional/work backgrounds.

Candidates must exhibit the following characteristics:

- Patience and non-judgment
- Empathy and objectivity
- Trustworthiness
- Strong verbal and active listening skills
- Flexibility and creativity
- Confidence and control of the process
- Ability to recognize and manage power dynamics

### Candidate Approval Process

In order to be approved by the College, the candidate must:

- Provide a resume which lists all post-secondary education, as well as any professional degrees, certificates and/or designations
- Provide a copy of any and all supporting documentation, including proof of completion of ADR training and completion of matters using ADR
- A letter of good standing from any professional regulatory body they belong to
- At least two reference letters from relevant sources
- Be interviewed by a College staff member to determine their suitability

Once approved, before engaging the services of the candidate, the mediator must agree to and sign a contractual document that sets out the terms of the agreement.

### **Selection on a Matter**

Once the parties agree to ADR, the Registrar will appoint a College approved mediator to facilitate the resolution. If appointed, a mediator must:

- Confirm that they have no conflict of interest in the matter
- Ensure all efforts are made to achieve resolution within 60 days of the referral
- Contact the parties within 5 business days of being appointed
- Abide by relevant College policies and agreements

### **The Mediation**

- The mediator acknowledges that the registrant and complainant are expected to participate and attend any mediation discussions but either party may bring a representative with them.
- The mediator will conduct a mediation in a style acceptable to the parties involved, which may be facilitated by videoconference or telephone meeting
- Efforts should be made to conduct videoconference mediations before in person meetings are considered. However, in the exceptional circumstance where the parties would like to meet in person, the mediator, in consultation with relevant College Staff, will secure an appropriate and private location at a reasonable cost, which will be borne by the College. Any costs for location must be approved by the College first.
- The mediator must ensure that all parties are fully informed about the process
- The mediator must respond to any College requests for updates on the matter and estimated timelines that takes into account the time period within which ADR matters must be resolved, as required by legislation<sup>1</sup>
- The mediator may contact the College's practice advisor, in the event the mediator has any clinical questions relevant to the matter. The mediator can also request that the practice advisor attend the mediation to answer clinical questions.
- The mediator must not disclose any content of the ADR discussions with any College staff unless required by law.
- The mediator can cease the ADR process on their own authority or by order of the Registrar, if it is evident that either party is abusing the process and/or not acting in good faith

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<sup>1</sup> s. 25.1(6) of the *Health Professions Procedural Code* requires that ADR matters be resolved within 60 days of referral, with the possibility of a time extension to 120 days.

- The mediator may draft the resolution agreement on a template form provided by the College and must submit a signed resolution agreement to the College with all the required signatures

### Compensation

- Mediators will invoice the College according to the terms of their contract. Prior approval for any overage or expenses associated with a matter must be pre-approved by the College to be eligible for payment.

### References

*Health Professions Procedural Code, Schedule 2 to the Regulated Health Professions Act, S.O. 1991, c.18.*

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