



Health Professions Review Board

Information Sheet

Mediation in the Review Board Process

1. What is mediation?

Mediation is a process of respectful, collaborative communication. It is an opportunity for the parties to reach a mutually acceptable settlement of the issues with the help of a neutral third party (the mediator). Parties sign an “Agreement to Mediate” which sets out the ground rules for the mediation; then they meet with the mediator to explore the possibility of settlement without a formal written hearing.

2. Why should I choose mediation?

- Mediation is interest-based and self-determined in that the parties agree on an outcome that is satisfactory to everyone;
- it offers a broader range of possible outcomes than a formal hearing;
- it is an opportunity for the parties to speak directly for themselves in a live session;
- parties often find they get more satisfaction and finality than they would in a formal hearing;
- if the parties do not agree on a settlement in mediation, they still have the right to move forward to a formal written hearing.

3. Who is the mediator and what do they do?

The Review Board Chair designates a qualified Review Board staff person or Review Board member to be the mediator. The mediator helps the parties to work together to find an agreement by facilitating discussion, information sharing and open communication.

The mediator does not make decisions about the review application or impose a resolution.

4. Will I have an opportunity to meet privately with the mediator before the mediation?

It is common for the mediator to meet with each party separately to explain how the process works, address any concerns or questions the party has, and learn more about the issues.

During the mediation, the mediator or one of the parties can request a private meeting, known as a caucus. If this happens, the mediator will meet separately with each party before resuming the joint meeting.

5. How do mediation sessions work?

Ideally, mediation is done in-person in a location that is convenient for all parties and arranged by Review Board staff. However, this is not always practical, so mediations are also held by videoconference. Mediations may also be done by teleconference or through a facilitated exchange of documents under the guidance of the mediator.

6. How long do the sessions last?

Mediation sessions generally last 2 to 3 hours. Complex mediations may take as much as a full day (two 3-hour sessions).

7. Who may attend the mediation?

Only the parties and their agents or lawyers may attend the mediation unless all parties agree otherwise. A friend, family member or other trusted person may attend as a support person if arranged in advance. Members of the public are not allowed to attend.

8. Do I need a lawyer?

A lawyer is not needed for mediation. Mediation is a collaborative process with outcomes that are reached only with the agreement of the parties. It is “without prejudice” in that it does not affect the parties’ legal rights. A party can hire a lawyer to support them but they must pay their own legal fees.

9. What should I do before the mediation?

Things to think about include:

- the facts and circumstances that led to the disagreement;
- what specifically do you and the other parties agree on and what do you disagree on;
- what efforts have been made to resolve the issues and what prevented resolution;
- what would have to change to reach agreement and resolve the dispute; and
- what your part in the disagreement was, and what you might do to accommodate the concerns of the other parties.

10. Is the mediation process confidential?

Yes. Matters discussed and information exchanged during the mediation process are confidential and cannot be used by any party against another party at a subsequent hearing or proceeding.

11. What happens if an agreement is reached?

The mediator will put the terms of the agreement in writing. When all parties have signed the agreement, the application for review will be withdrawn.

12. What happens if an agreement is not reached?

The application will proceed to a formal written hearing before a Review Board adjudicator. The mediator cannot be the adjudicator in the formal written hearing unless all parties agree. The Review Board Chair will designate a different member to conduct the review.