

Practice Direction About Electronic Hearings

INTRODUCTION

The Discipline Committee of the Royal College of Dental Surgeons of Ontario (RCDSO) adopts a digital-first approach to its proceedings. As such, the Discipline Committee holds most pre-hearing conferences and discipline hearings by videoconference, or some other form of electronic hearing technology. These will be referred to as “electronic pre-hearings” and “electronic hearings”. This approach is in keeping with the Discipline Committee’s commitment to adjudicate allegations of professional misconduct and incompetence in a fair, accessible, and timely manner.

REQUESTS FOR IN-PERSON PRE-HEARINGS OR HEARINGS

Either the College or the dentist referred to the discipline proceeding (the “parties”) may request in writing that a pre-hearing or hearing take place in-person. The Discipline Committee Chair (the “Chair”) will receive and review such requests. Parties need to clearly specify their reasons for the request.

The Chair will typically allow in-person hearings when:

- an in-person hearing is required as an accommodation for an Ontario Human Rights Code-related need; and/or
- a party can establish that the electronic format will result in an unfair hearing.

The Chair will provide the other party with an opportunity to respond in writing to the request to change the pre-hearing or hearing format. The Chair will consider the parties’ positions as well as the parties’ interests and rights, including the right to a fair hearing; the parties’ ability to access necessary technology to participate in an electronic hearing; and the public interest in having discipline proceedings heard efficiently and expeditiously. The Chair will also be guided by the principles of public protection. On these bases, the Chair will decide whether the pre-hearing or hearing format should be changed. The Chair may decide that the matter will proceed in a mixed format, partly in person, and partly electronic.

Effective December 10, 2021, the RCDSO has a mandatory COVID-19 vaccination Policy (“Policy”). This Policy applies to all RCDSO employees, Council members, Committee members, service providers, and any other individual who will, or may, attend at the RCDSO premises or any location where the RCDSO conducts its business (the “RCDSO Premises”). All such persons must be fully vaccinated to attend the RCDSO premises. In-person pre-hearing conferences and hearings will be held at RCDSO Premises.

Under the Policy, fully vaccinated means at least 14 days have elapsed since the individual has completed a full course of a Health Canada approved vaccine (one or two shots (where applicable)), and includes ensuring the individual receives any subsequent dose, booster, or boosters that may be required or recommended by the provincial government and/or public health authorities.

All parties attending an in-person pre-hearing or hearing, including, but not limited to legal representatives, support persons, or witnesses accompanying a party, must be fully vaccinated and will be required to present proof of that status prior to the scheduling of the pre-hearing conference or hearing.

Any requests to change the pre-hearing or the hearing format must be made as soon as possible after being served with a Notice of Hearing and prior to the scheduling of a pre-hearing conference by contacting the Chair via the RCDSO Hearings Office at hearingsoffice@rcdso.org.

The College website will provide the public with the date and time for all hearings. Members of the public wishing to observe an electronic hearing are directed to contact the Hearings Office at hearingsoffice@rcdso.org.

PROCEDURE ON AN ELECTRONIC HEARING

Where the hearing proceeds electronically, every party is entitled to receive every document that the Discipline Committee receives.

The hearing will proceed by way of a video conference.

The parties shall deliver to every other party and the Hearings Office at hearingsoffice@rcdso.org by email only, every document, in sequentially numbered pages, they intend to rely on during the electronic hearing at least five (5) days before the proceeding.

At least 48 hours before an electronic hearing is scheduled to commence, the parties shall give notice to the Hearings Office at hearingsoffice@rcdso.org of the email address and telephone number where they, and any witnesses, can be reached for the hearing.

The parties shall ensure that they and any witnesses to be called at the hearing can be reached at the telephone number provided to the Hearings Office at hearingsoffice@rcdso.org at least fifteen (15) minutes before the Hearing is scheduled to commence.

At least two (2) days before an electronic hearing is scheduled to commence, the parties and any witnesses to be called to testify will be provided with the relevant link to the electronic hearing platform and will be offered the opportunity to test the link prior to the hearing.

ELECTRONIC HEARING DOCUMENTS – DOCUMENT FILING

Uncontested Hearings – Document Filing

Notwithstanding Rules 3 and 6 of the Discipline Committee Rules of Procedure, the parties are directed to file the following electronic copies of documents with the Hearings Office by email to hearingsoffice@rcdso.org:

- Scanned copies of the Notice of Hearing, signed copies of the Agreed Statement of Facts and Joint Submissions on Order, signed copy of the written Plea Inquiry (if applicable).
- Agreed Statement of Facts, Joint Submissions on Penalty or Order, and any draft Orders in Word format.
- A PDF (i.e., a scanned) copy of all Books of Documents.

All electronic copies shall be received by the Hearings Office, no later than noon five (5) days in advance of the hearing.

Contested Hearings – Document Filing

Notwithstanding Rules 3 and 6 of the Discipline Committee Rules of Procedure, the parties are directed to electronically file the documents they intend to rely on during the hearing with the Hearings Office by email to hearingsoffice@rcdso.org.

For the liability portion of the hearing, the parties are directed to file their materials in Books of Documents using sequentially numbered volumes as follows:

- Book(s) of Documents containing all documents that will be provided to the Panel during the liability phase of the hearing.
- Book(s) of Submissions and Authorities containing written closing submissions, if any, and any case law regarding liability.

If findings of misconduct are made, each party is directed to file their materials for the penalty phase of the hearing in Books of Documents using sequentially numbered volumes as follows:

- Book(s) of Documents containing all documents that will be provided to the Panel during the penalty phase of the hearing.
- Book(s) of Submissions and Authorities containing written closing submissions, if any, and any case law regarding the penalty.

All electronic copies of documents for each phase of the hearing shall be received by the Hearings Office no later than noon seven (7) days in advance of the commencement of that phase of the hearing, with the exception of Books of Submissions and Authorities.

All electronic copies of Books of Submissions and Authorities for each phase of the hearing must be received by the Hearings Office no later than noon seven (7) days in advance of the scheduled day for oral closing submissions. In the event the oral closing submissions are scheduled to occur immediately following the end of the evidentiary phase, the parties shall seek direction from the Panel Chair regarding the deadline for filing their written closing materials.

All documents must have clearly marked page numbers.

The Panel will not review any materials provided to them in advance of a contested hearing except on consent of the parties.

ELECTRONIC HEARINGS REQUIREMENTS

Hearings by videoconference will be conducted using Zoom.

Parties will receive a link to join the meeting at least 48 hours before the hearing is scheduled to begin.

Parties will log in at least 15 minutes prior to the hearing start time to avoid any potential issues.

Counsel, the Member whose conduct is under examination and witnesses must have access to the following to participate in a hearing by videoconference:

- Computer (desktop or laptop);
- Video camera capability (either built into the computer or a web cam that is attached);
- Internet connection (wired connection preferred for greater stability and security over Wi-Fi);
- Adequate internet speed and stability to support a videoconference (a minimum of 5 to 8 mb of bandwidth is recommended);
- Landline telephone preferred over cell phone (if possible) to minimize potential for problems connecting to the teleconference, and feedback due to overloaded cellular services;
- A physical location to conduct the videoconference that is suitably quiet and professional.

PANEL DELIBERATIONS AND BREAKOUT SESSIONS

The Panel will be given a private breakout room to deliberate during the hearing.

MEMBERS OF THE PUBLIC

As set out above, members of the public who wish to attend a hearing will be directed to contact the Hearings Office to determine whether it is possible to participate by videoconference. Members of the public will be required to provide at least 24 hours' notice of their intention to attend a hearing.

COURT REPORTER AND TRANSCRIPTS

A court reporter will make an audio recording of hearings held by videoconference. The transcript can be ordered in the usual course.

Effective Date: December 7, 2022