



## Interim Practice Directive 13:

### Setting, Changing, and Adjourning Hearing Dates

#### 1. Purpose

This practice directive sets out how the Health Professions Discipline Tribunal (Discipline Tribunal) schedules and changes hearing dates.

#### 2. Authority

The Discipline Tribunal operates under the Health Professions and Occupations Act (HPOA). When this practice directive mentions a section number, it refers to a section in the HPOA, unless it says otherwise.

The Discipline Tribunal also applies the Administrative Tribunals Act (ATA) to the extent it is incorporated by the HPOA or otherwise applies.

#### 3. Scope and application

This practice directive applies to all proceedings where a discipline hearing date has been set.

This includes:

- before the Consent Resolution Deadline (CRD): the Director of Discipline (Director) manages scheduling and rescheduling of hearing dates, including contested requests;
- after the CRD: the hearing chair on the discipline panel's behalf ordinarily addresses requests to change hearing dates through the hearing management and pre-hearing application process, unless the discipline panel directs otherwise; and
- during the hearing: the discipline panel addresses applications to adjourn the hearing.

In this practice directive, **reschedule** refers to changing a hearing date before the CRD.

**Changing** a hearing date refers to changes after the CRD. **Adjournments** refer to adjourning a hearing during the hearing.

Practice Directive 1: Filing and Service and Practice Directive 2: Time Periods for Cases Before the Discipline Tribunal apply to requests and submissions under this practice directive.



The Discipline Tribunal may vary the process set out in this practice directive in a particular case.

#### **4. Definitions**

In this practice directive:

- **Consent Resolution Deadline (CRD):** the date after which proposals may no longer be made under section 139. The citation states this date.
- **Case Management Conference (CMC):** a conference the Discipline Tribunal schedules under Practice Directive 12: Case Management Process to manage the proceeding up to and including the CRD.

#### **5. Initial hearing date**

The Director sets an initial hearing date in the citation when issuing it.

Under the HPOA, the citation must include the CRD and the date, time and, if applicable, location of the discipline hearing, and information respecting the hearing process.

The initial hearing date is set early in the proceeding and may be set before the parties provide availability information. The Director will reschedule the hearing date during case management to accommodate the availability of the parties.

#### **6. Rescheduling before the CRD**

##### **6.1 Rescheduling at a CMC**

The Director may reschedule the hearing date at a CMC.

##### **6.2 Requests to reschedule before the CRD**

A party may request rescheduling of the hearing date at any time up to and including the CRD.

Rescheduling the hearing date does not change the CRD stated in the citation. A request to change the CRD is addressed under Practice Directive 9: Consent Resolutions.

A party must request rescheduling as soon as the party becomes aware of the need to change the hearing date.

##### **6.2.1 How to request rescheduling**

A request to reschedule must be made in writing, and in accordance with Practice Directive 1: Filing and Service unless directed otherwise at a CMC.



If the parties consent, the parties may file a joint request.

If the parties do not consent:

- the requesting party must file and serve its request on the other parties;
- the other party may file and serve a response within three days after being served with the request, unless the Director gives different directions;
- if the other party does not file a response within the time permitted, the Director may decide the request without further submissions; and
- the Director may decide the request in writing or schedule a CMC to address the request.

Time is calculated under Practice Directive 2: Time Periods.

### **6.2.2 What to include**

A request to reschedule a hearing must include:

- proposed alternative hearing dates and the parties' availability for those dates;
- the reason for the request and when the requesting party became aware of the issue;
- the other party's position (consent, oppose, or no position);
- either:
  - a proposed hearing plan that identifies key steps and timelines, including any anticipated pre-hearing applications, witness statements, expert reports, document exchange, and submissions; or
  - an explanation of why a hearing plan is not reasonably possible at this stage and the steps the party proposes to take to provide one;
- any expected impact on persons with an interest; and
- any documents the requesting party relies on to support the request, if available.

### **6.2.3 Factors the Director considers**

In deciding whether to grant a request to reschedule the hearing, the Director may consider the nature and circumstances of the request, including:

- the reason for the request and the diligence of the requesting party;



- the proximity of the existing hearing date and the proposed new hearing date;
- the impact of the requested change on the case management process and steps scheduled before the CRD;
- the impact of the requested change on each party's ability to prepare and participate fairly;
- the impact of the requested change on persons with an interest and the steps needed to provide updated notice;
- prior rescheduling requests and the overall procedural history;
- availability of discipline panel members and Discipline Tribunal hearing resources; and
- the public interest in the timely resolution of discipline matters.

#### **6.2.4 Directions**

If the Director grants a request to reschedule before the CRD, the Director may give case management directions to support a fair and timely proceeding, including directions that adjust timelines for procedural steps.

If the hearing date changes, the Director gives written notice of the new date, time and, if applicable, location to each person with an interest in the discipline hearing, as required by the HPOA.

The Director gives written notice to each person with an interest, other than the respondent and the College no fewer than 14 days before the hearing date.

### **7. Hearing date changes after the CRD**

After the CRD, a party who requests a change to the hearing date must bring the request by pre-hearing application under Practice Directive 14: Hearing Management Conferences and Pre-hearing Applications, unless the hearing chair or discipline panel directs another process.

File and serve the request in accordance with Practice Directive 1: Filing and Service.

Changes to the hearing date after the CRD are granted only in exceptional circumstances.

In deciding whether to grant a request, the hearing chair or discipline panel may consider the nature and circumstances of the request, including:

- the reason for the request and the diligence of the requesting party;



- any prior requests to change the hearing date;
- the impact of the requested change on each party's ability to prepare and participate fairly;
- the impact of the requested change on persons with an interest;
- the impact on Discipline Tribunal resources and the public interest in a timely hearing; and
- any other factor the hearing chair or discipline panel considers relevant.

If the hearing chair or discipline panel grants the request, the hearing chair or discipline panel may make orders and give directions authorized by the HPOA to support the fair and timely progression of the proceeding.

### **8. Adjournments during the hearing**

A party who requests an adjournment during the hearing must apply to the discipline panel as soon as reasonably possible.

The discipline panel may, on its own motion or on application by a party, adjourn the hearing only if an adjournment is required to permit an adequate hearing. An adequate hearing is one that gives each party a reasonable opportunity to prepare for, participate in, and respond to the case. The discipline panel applies the factors set out in section 39 of the ATA:

- the reason for the adjournment;
- whether the adjournment would result in unreasonable delay;
- the impact of refusing the adjournment;
- the impact of granting the adjournment on the other parties; and
- the public interest.

If the discipline panel grants an adjournment, the discipline panel may make orders and give directions authorized by the HPOA to support the fair and timely completion of the hearing.