

COLLEGE OF MIDWIVES OF BRITISH COLUMBIA

INFORMATION ON MEDIATION AS AN OPTION FOR RESOLVING COMPLAINTS

Under the Bylaws for the College of Midwives of BC complaints referred to the Inquiry Committee may be resolved through a process of face-to-face mediation if the panel to which the complaint has been referred believes that mediation is appropriate and the parties agree to participate in the process.

For a complaint to be referred for mediation, as permitted under section 33 of the *Health Professions Act*, the inquiry panel must determine that:

- (a) the issuance of a citation for a discipline hearing under section 36 of the *Act* is not warranted;
- (b) the complaint is not related to professional misconduct, incompetence or incapacity; and
- (c) the complainant and the registrant agree to mediation.

The Mediation Process

1. Once a complaint has been referred for mediation, the chair of the inquiry committee appoints a mediator and confirms that the mediator is acceptable to the complainant and the registrant.
2. The mediator conducts the mediation process in accordance with the terms of a written mediation contract executed by the inquiry committee, the complainant and the registrant.
3. The inquiry committee will normally set a time limit on the duration of the mediation, including a maximum number of hours and/or sessions, in the mediation contract.
4. The inquiry committee may ask the registrar to attend the mediation and represent the college with regard to the broader public interest.
5. Inquiry committee/panel members do not participate directly in the mediation process.
6. When an agreement between the complainant and the registrant is reached through mediation, the terms of the agreement must be approved by the inquiry panel that referred the matter for mediation.
7. Where the terms of a mediation agreement between the complainant and the registrant require the registrant to undertake or consent to an action referred to in section 36 of the *Health Professions Act*, the inquiry panel may ask the registrant to sign an undertaking or consent agreement as a part of the mediated agreement.

8. Where an agreement is approved by the inquiry committee as described in number six (6), the inquiry committee is required under the bylaws to:
 - (a) report the resolution of the matter to the board (this is generally done without providing the names of the complainant or the midwife); and
 - (b) retain a copy of the agreement on file.
9. If an agreement is not reached through mediation in the timeframe set in the contract, the mediator will refer the matter back to the panel of the inquiry committee that originally referred it for mediation. The mediator may recommend that the panel take one or more actions under section 36 of the *Health Professions Act*, however, only the mediator's recommendations and reasons for those recommendations are conveyed to the inquiry panel. Other information about the mediation process remains confidential. If the matter is referred back to the panel for further action, the panel will conduct its own investigation as described in *Information on the College's Inquiry Process*.
10. A mediation agreement arrived at by consent between the parties is not subject to appeal. By agreeing to the terms of a mediation agreement the right to appeal is waived.
11. As with Consent agreements, a registrant who breaches the terms of a mediation agreement may be subject to inquiry or discipline proceedings.