




Hearing Tribunals

What to expect

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This guide contains general information to assist physicians and Albertans who will be participating in a CPSA Hearing.

It does not include legal advice or opinion. For any legal advice or opinions, we recommend you consult a lawyer.

How a complaint goes to a hearing

Under the [Health Professions Act](#) (HPA), anyone has the right to complain about an Alberta physician. This includes the CPSA Complaints Director if there is reason to believe a physician has shown unprofessional conduct.

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When CPSA receives a written complaint, the Complaints Director decides how best to proceed based on options outlined in the HPA. This includes resolving the complaint informally, starting an investigation, appointing an expert to collect more information or referring the matter to a discipline hearing. The Complaints Director also has the option to dismiss the complaint. Dismissal can occur before or after an investigation.

If the Complaints Director refers the matter to a hearing, CPSA’s Hearings Director will appoint a Hearing Tribunal and set a date for the hearing to take place at CPSA’s offices or virtually.

Who participants in a hearing?

Several people may attend or participate in the process leading up to a hearing, including:

<p>Hearings Director</p>	<ul style="list-style-type: none"> • Receives a hearing referral from the Complaints Director • Appoints Hearing Tribunal members from lists approved by Council and the Alberta government • Appoints a chair for the Hearing Tribunal • Schedules the hearing, notifies the investigated physician of the hearing and the allegations, and when to attend • Requests additional information on behalf of the parties involved (Notice to Produce Documents, Substances and Things) • Provides administrative support to the Hearing Tribunal
<p>Complainant</p>	<ul style="list-style-type: none"> • Person who makes the complaint • May be called as a witness • Cannot call witnesses, other evidence or cross-examine witnesses • Cannot submit documents or evidence to the Hearing Tribunal

CPSA Complaint Navigator	<ul style="list-style-type: none"> • CPSA team member who provides support and information to the complainant about the complaint process and discipline hearings
Complaints Director	<ul style="list-style-type: none"> • CPSA team member who receives complaints and decides if a hearing is necessary • Presents the allegations and evidence against the physician at the hearing – similar to a trial prosecutor
Investigated Physician	<ul style="list-style-type: none"> • The subject of the complaint and allegations • Can call witnesses, other evidence or cross-examine other witnesses (alternately, this may be done by their legal counsel) • Can submit documents or evidence to the Hearing Tribunal
Legal Counsels	<ul style="list-style-type: none"> • May represent the Complaints Director, investigated physician and the Hearing Tribunal • Legal counsel for the Hearing Tribunal does not vote on the decision
Witnesses	<ul style="list-style-type: none"> • Individuals with knowledge relevant to the allegations • Provide evidence to help the Hearing Tribunal make a decision • The Complaints Director and the investigated physician decide who to call as witnesses
Certified Court Reporter	<ul style="list-style-type: none"> • Records the hearing proceedings • Produces a transcript of the hearing
Hearing Tribunal	<ul style="list-style-type: none"> • Made up of physicians and at least one member of the general public. • Physician members are appointed by CPSA Council and public members are appointed by the Alberta government. • Hears evidence to determine if the allegations are true, and if the physician’s conduct was unprofessional • May impose sanction orders and penalty if the physician is found guilty of unprofessional conduct (may include having the physician pay for all or part of the hearing costs)

What to expect at a hearing



Hearing Opens

1. A hearing starts when the Hearing Tribunal Chair “calls the hearing to order”. This is when the court reporter begins to transcribe everything said at the hearing.
2. The Chair introduces members of the Hearing Tribunal and asks participants and attendees to introduce themselves. This ensures witnesses expected to testify at the hearing are not in the room and influenced by other testimonies before giving their own testimony.
3. The Chair asks the Complaints Director and the investigated physician (or their legal counsels) questions. This is to determine if there are any preliminary applications or matters for the Hearing Tribunal to address before hearing evidence. Preliminary matters can include:
 - Applications for hearing adjournments
 - Applications of bias or conflict of interest by Hearing Tribunal members
 - Applications to amend the allegations in the Notice of Hearing
 - Applications to close all or part of the hearing to the public (HPA section 78)
 - Any procedural or ‘housekeeping’ issues such as timing for the hearing, the sequence of witnesses, etc.

4. For each preliminary application or matter, the Hearing Tribunal will hear submissions from the person making the application, and then submissions from the other party in response. The applicant will then make their final submissions. The Hearing Tribunal may ask questions and deliberate in private before announcing the decision on a matter.

Allegations, Admissions and Denials

5. Allegations are read out loud for the investigated physician to admit or deny. Often the parties agree the Hearing Tribunal can simply read the Notice of Hearing.

Opening Statements

6. The Complaints Director and the investigated physician (or their legal counsels) each have an opportunity to make an opening statement. This alerts the Hearing Tribunal as to what evidence will be presented during the hearing and what arguments will be made at the end of the hearing. Opening statements are not evidence in the case.

Both parties **have the opportunity** to make an opening statement.

7. The Complaints Director (or their legal counsel) presents their opening statement first, followed by the investigated physician (or their legal counsel). Sometimes, the investigated physician party defers their opening statement until they call witnesses and other evidence.

Entering Evidence

8. Often, both parties agree to enter certain documents into evidence (as exhibits) without the need to call a witness to authenticate them. Typically, this includes the Notice of Hearing but can also include an agreed statement of some or all relevant facts, documentary evidence, etc.

9. Legal counsel for the Complaints Director calls the first witness. All witnesses are sworn in or affirmed to tell the truth. Counsel for the Complaints Director starts the examination by asking the witness questions.
10. The investigated physician (or their legal counsel) is then given the opportunity to cross-examine the witness.
11. Legal counsel for the Complaints Director may ask questions arising from the cross-examination. This is called “re-examination.” The re-examination should only ask about issues raised by the cross-examination which were not previously covered, or to clarify testimony which appears inconsistent.
12. Hearing Tribunal members then have the opportunity to ask the witness questions for clarification.
13. The parties (or their legal counsels) then get an opportunity to ask the witness questions in response to the Hearing Tribunal’s questions. These questions should be restricted to issues directly raised by the witness’s response.
14. This questioning process is repeated for each witness called by the Complaints Director. After all of the Complaints Director’s witnesses are called, counsel for the Complaints Director advises their case is closed.
15. The investigated physician then starts their case. If the investigated physician (or their legal counsel) did not make an opening statement at the beginning of the hearing they may do so now.
16. The investigated physician (or their legal counsel) calls and questions witnesses. The process of questioning, re-examination and more questioning is the same as described above.
17. After the investigated physician has called all their witnesses, they advise the Hearing Tribunal that their defense is closed.

Witnesses play an
important role in
a hearing.

18. On rare occasions, counsel for the Complaints Director may call a rebuttal witness after the conclusion of the investigated physician’s case. This happens if something arose unexpectedly for the first time during the investigated physician’s case. In some cases, the investigated physician (or their legal counsel) may object to calling rebuttal witnesses. After listening to the objection, the response, and any final submissions, the Hearing Tribunal will deliberate and issue a ruling on whether they will hear the rebuttal witnesses’ evidence.

Closing Submissions

19. Once both parties have closed their cases, the Hearing Tribunal Chair asks the parties for their closing submissions. Closing submissions focus on whether the evidence is sufficient to prove the allegations in the Notice of Hearing.
20. Generally, the Complaints Director’s legal counsel makes closing submissions first, followed by the investigated physician (or their legal counsel).
21. The Hearing Tribunal may ask questions about the closing statements. If either side does not address a specific point which the Tribunal feels is important, they may ask for further submissions.

Concluding the hearing

22. The Hearing Tribunal will meet privately to deliberate. Everyone, other than the Tribunal and its independent legal counsel, leaves the room.
23. In contested cases, where the parties do not agree, the Hearing Tribunal will typically “reserve” its decision and issue the decision in writing at a later date.
24. If the Hearing Tribunal deliberates and supports a finding of unprofessional conduct, they will notify the parties. The hearing then proceeds to a second stage to determine appropriate sanctions and penalties.

The Tribunal
deliberates privately
to make a final
decision.

25. At the sanction stage, the Hearing Tribunal can reconvene and hear further evidence and further submissions from the parties relevant to sanctions orders. Often there is no new evidence and the parties just make written or oral submissions on sanction.