

**Patient's Guide** to the ODA

## Mediation Program

The Ontario Dental Association (ODA) Patient- Dentist Mediation Process exists for the benefit of the patient and dentist. It can be an effective, impartial, easily accessible and time efficient means for resolving problems regarding dental treatment.

As a *voluntary* association representing the dentists of Ontario and promoting the optimum oral health of Ontarians, the ODA offers this program as a *voluntary* process relying on good faith between dental mediators, dentists and patients.

**Mediation services are available to ODA member dentists only and their patients.** There is no charge to enter into the mediation process.



### Where can I get more information?

Please send your questions, comments or concerns to:

**Ontario Dental Association  
Attention: Mediations  
4 New Street  
Toronto, ON M5R 1P6**

Phone: 416-922-3900  
Fax: 416-922-9005  
Email: [info@oda.ca](mailto:info@oda.ca)

The ODA Mediation Program recognizes that problems between a patient and a dentist may happen even in the best patient-dentist relationships. Impartial mediators may be able to find a solution that both parties can accept.



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## What is Mediation?

Mediation is an alternative to formal legal processes, and involves the assistance of a neutral third party who acts as a facilitator between two parties in a conflict. The mediator encourages the parties to achieve a mutually acceptable solution to resolve their dispute. The ODA offers a mediation program to assist patients and dentists who have not been able to resolve a problem on their own. This voluntary process requires that the Parties cannot be represented by legal counsel. Parties, however, may seek independent legal advice.

## What does Mediation cover/ not cover?

If the problem concerns dental care, dental treatment, or the fees charged for dental treatment, it may be considered within the scope of the ODA Patient-Dentist Mediation Program. The following problems are not within the scope of the ODA Patient-Dentist Mediation Program:

1. compensation for time lost from work, travel costs associated with dental/health care visits, or any non-dental health care expenses;
2. compensation for pain and suffering;
3. where a complaint has been brought against the dentist before the Royal College of Dental Surgeons of Ontario (RCDSO);
4. where legal proceedings, collection process or an alternate formal or informal resolution process has been initiated;
5. where legal counsel is formally involved in resolving the problem; or
6. if the patient involved is under age 18. In some cases, Mediators may decide to terminate or refuse mediation if they determine that it is not appropriate to proceed with the mediation.

## What is the Goal of Mediation?

The goal of mediation is to come to a reasonable solution that is acceptable to both parties.

## Who are the Mediators?

The ODA, through its local dental societies, has created Mediation Committees made up of volunteer dentists who are ODA members within their dental communities and serve as mediators. Members of the Mediation Committee are committed to providing a fair and objective approach to resolving the dispute.

## What is the Mediation Process?

### Step One: Initiating Mediation

If you have a problem with a dentist which you have not been able to resolve, you may contact the ODA stating:

- that you want to initiate mediation
- the complete first and last name of the dentist
- the complete address of the dentist's practice
- whether the dentist is aware of your complaint
- your full address and contact information

### Step Two: Mediation Forms (Complainant)

The ODA or the Mediation Committee will send you general information and ODA Mediation Forms, including the Agreement to Mediate, the Disputant Form, and the Consent to Release Dental Records, which you are to sign and return if you would like to proceed with mediation.

As all patient information and records are confidential, you will need to provide written permission for disclosure of the information to the **Mediation Committee**. The ODA Agreement to Mediate includes provisions to confirm your consent to the collection, use and disclosure of your personal health information for the purpose of the mediation process. Please see our Privacy Brochure for ODA Mediations or contact the ODA for information on our privacy policy.

Further, as dental mediators are volunteers and not lawyers, participants are asked to release them from legal liability. A Release is included in the Agreement to Mediate.

### Step Three: Mediation Forms (Dentist)

After your Agreement to Mediate, Disputant Form and Consent for Release of Dental/Health Records are received, a copy is sent to the Dentist. Once the Dentist completes the Agreement to Mediate and the Response Form, the Committee then starts to facilitate resolution of the dispute.

### Step Four: Mediator Intervention

If necessary, the Committee may meet to discuss the information, and may review clinical records, may speak to you and/or your dentist and may even contact you to arrange for a meeting. Depending on the resources available to the Mediation Committee, the mediation process may take place through correspondence, telephone conference or in person. The Mediation Committee will decide on the process.

Every attempt is made to resolve the matter as quickly as possible. Additional time is often required for complex cases. The Mediation Committee will work with you and your dentist with a view to achieving a resolution that is agreeable to all parties.

## Does each party have to follow the Committee's recommendations?

Each of the parties decides whether or not to accept the solutions proposed during the mediation process. Since the process is **non-binding**, neither of you are required to follow the advice offered. The Committee may make recommendations for each party to consider.

## What if a resolution is not reached?

If an agreeable solution is not reached through the assistance of the Mediation Committee, you may consider formal legal alternatives.

## What are the legal issues, if any?

The ODA Patient-Dentist Mediation Program is not a court of law and not disciplinary in nature. Information obtained during the Mediation Process is confidential and is not intended to be used in a court of law. The voluntary Patient-Dentist Mediation Program is an alternative to formal legal processes and cannot be used if such processes have been engaged.

## What is the time deadline for more formal action against a dentist?

Under the *Limitations Act, 2002*, a civil action against a Dentist must be commenced within two years from the date when the patient knew or ought to have known the facts related to the claim, provided that the facts were discovered after January 1, 2004. For these actions, the limitation period may be suspended from the date of the Agreement to Mediate until termination of the mediation process.

For claims discovered prior to January 1, 2004, the limitation period is only one year, and participation in the ODA mediation process does not stop, interrupt, or suspend the running of any legal time limitation period.