



COLLEGE *of* OPTICIANS
OF BRITISH COLUMBIA
a B.C. Health Regulator

Inquiry Policy

Inquiry Policies for
the College of Opticians of British Columbia

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TABLE OF CONTENTS

DEFINITIONS	2
THE COMPLAINTS PROCESS	3
SUBMITTING A COMPLAINT	3
INTAKE OF A COMPLAINT	3
INVESTIGATING A COMPLAINT	4
RESOLVING A COMPLAINT	4
RECORD REVIEW EXPENSES	5
COMMUNICATION WITH PARTIES	5
TIMELINES AND EXTENSIONS	5
UNAUTHORIZED PRACTICE AND USE OF TITLE	6
RECORD RETENTION	6
PUBLICATION	7

DEFINITIONS

For the purposes of this policy the following are defined as:

Allegation – A claim that a Licensed Optician has conducted practice inappropriately, or that their practice is not in accordance with the regulations or standards for opticians.

Committee (or Inquiry Committee) – The inquiry committee for the College of Opticians of British Columbia (COBC).

Complaint – a complaint submitted to COBC that meets the requirements for a complaint on page 3 which, is lodged against an optician and outlines allegations.

Complainant – a person who submits a formal complaint to COBC.

Investigation – an inquiry initiated into a complaint pursuant to section 33 of the *Health Professions Act*.

Registrant – A Licensed Optician with the COBC, either practicing or non-practicing, registered in any licensing category.



Reserved Title - The titles "optician" and "dispensing optician" which are reserved for exclusive use by registrants. The title "contact lens fitter" which is reserved for exclusive use by contact lens fitters.

Restricted Activities – Activities that must be performed by a registrant of COBC who is appropriately registered to conduct the restricted activity. Activities include contact lens fittings and independent automated refractions.

Unauthorized Practice – Opticianry which is conducted by a non-registrant of COBC or an optician who conducts services outside of their scope of practice.

THE COMPLAINTS PROCESS

SUBMITTING A COMPLAINT

A complaint may be submitted to COBC by a complainant in writing, online through the COBC's complaint form, or orally in some circumstances. If a complaint is submitted orally the complainant will be asked to confirm a written statement attesting to their official allegations or the oral complaint will be recorded, then transcribed. These methods are considered to constitute a complaint in writing pursuant to section 32 of the *Health Professions Act* (HPA).

A complaint must include:

1. Name of the complainant and their contact information.
2. Name of the optician and business.
3. A summary of the allegations.

Steps may be taken by COBC to mediate complaints before initiating the complaints process in low-risk circumstances.

INTAKE OF A COMPLAINT

When a complaint is submitted COBC will:

1. Review the complaint to ensure COBC has jurisdiction over the matter and that the complaint is not missing any crucial information, such as the name of the optician.
2. Engage with the complainant to ensure they have relevant information about COBC's complaints process and what to expect.
3. Manage the complainant's expectations on any desired outcomes.
4. Obtain the informed consent of the complainant to continue with the process.

Once informed consent has been obtained COBC will send a notice of complaint to the registrant which, includes a copy of the original complaint letter. Any personal information is redacted in accordance with the *Freedom of Information and Protection of Privacy Act* (FIPPA). The registrant is asked to respond to the complaint and its allegations in writing but may also respond orally. Where an oral response is



submitted the registrant will be asked to confirm a written statement attesting to their official response or the oral response will be recorded, then transcribed.

Upon receipt of a registrant's written response COBC advises the complainant of the response. A copy of the registrant's written response is provided to the complainant for review. The registrant's personal information is redacted in accordance with FIPPA. The complainant may submit additional comments or documentation. COBC staff must consider the registrant's written response and determine if the complainant should receive a trigger warning and/or redactions when receiving the response. A trigger warning must be provided to the complainant if the response contains any discriminatory remarks including but not limited to racism, sexism, agism, homophobia, or transphobia.

COBC reviews all documentation and presents the information along with an investigation plan or a recommended resolution to the committee.

INVESTIGATING A COMPLAINT

COBC reviews written responses to determine any other investigative steps that may be conducted to gather information to assist the committee in resolving the complaint.

COBC staff are trained in investigative techniques and tools. Staff are trained to determine when certain tools and steps are appropriate. In cases where additional investigation is recommended, COBC proposes a detailed investigation plan to the committee for review. Upon approval of the investigation plan, COBC works to complete the plan which aims to gather further information that will assist the committee in their resolution of the complaint.

Level of past, present and/or future risk, or potential risk is considered when developing investigation plans. Investigation steps must outline clear investigative goals.

During an investigation, if issues are identified which were not listed in the original allegations, the committee may choose to pursue those issues further, include them in their deliberations and resolution, and/or open a secondary complaint into those issues.

Upon completion of investigative steps, an investigative report must be submitted to the committee for review.

RESOLVING A COMPLAINT

The committee reviews the investigative report and documentation associated with a complaint. It must utilize the risk analysis tool and penalty analysis tool to determine how best to resolve the complaint, and what penalty to issue. The committee considers past complaint cases and similar issues to ensure consistency with decision making. The committee may also consider emerging trends in regulation and consider precedents set by the decisions of other regulators.



In accordance with [section 39.2 of the HPA](#) the committee will consider the past action when issuing a penalty to a registrant if:

- a) The past investigation and subsequent regulatory action resulted due to an allegation of a similar nature to the present matter.

In cases where the COBC does not have jurisdiction over the complaint, COBC will advise the individual of other avenues for resolution that are available to them.

RECORD REVIEW EXPENSES

The committee may request that the registrant enter an undertaking pursuant to [section 36 of the HPA](#). The committee may determine that record review follow-ups are required to resolve the complaint. The committee may determine that record reviews must be conducted at the expense of the registrant in accordance with COBC's Bylaws schedule B "Investigation Tariffs". If the registrant is required to pay for the record review the registrant must only be charged:

1. The amount charged to COBC by the inspector for completion of the review and subsequent report.
2. Up to a maximum amount as set in the undertaking.

The registrant must not be charged for expenses related to the inspector's travel, accommodations, meals, or other expenses incurred during the record review inspection.

COBC must produce an invoice to the registrant detailing the amount due, due date, and payment methods available no later than 30 days before the payment due date.

COMMUNICATION WITH PARTIES

Throughout the course of the complaints process COBC will communicate to the complainant and the registrant. The complainant and the registrant can expect communications from COBC outlining upcoming committee meetings, timelines for investigative steps when appropriate, and projected resolution dates. Details of the investigation may not be released upon request.

At minimum COBC must communicate the investigation progress within 6 months of the investigation commencement, and every 3 months thereafter in accordance with the [HPA section 50.55](#).

TIMELINES AND EXTENSIONS

Extensions for response may be requested by the complainant or registrant. A request for extension must be submitted in writing to the Registrar with an explanation and/or documentation to support the



request. COBC will review and determine the appropriateness of all requests.

UNAUTHORIZED PRACTICE AND USE OF TITLE

When an individual submits an allegation that a non-registrant is performing restricted activities or using title COBC will investigate the matter.

If COBC determines that the allegation is founded, a cease-and-desist letter must be sent to the individual performing restricted activities or using title. COBC routinely follows up to ensure the conduct, or title use ceases. In cases where the individual does not comply, COBC may seek an injunction at the Supreme Court of British Columbia. Unauthorized practice and use of title by non-registrants is not under the jurisdiction of the inquiry committee.

In instances where unauthorized practice, or title use is alleged against a current registrant of COBC the complaints process will be utilized pursuant to section 33 of the HPA.

RECORD RETENTION

The files of the inquiry committee must be kept on file for no less than 16 years. Files may be kept in an electronic format. After an investigation is closed any duplicate copies of materials (i.e., printed investigation materials) may be securely destroyed.

Contracted investigators and/or inspectors must securely store electronic and/or physical copies of investigative materials. Investigators and/or inspectors may securely destroy materials only when the materials have been rendered by COBC and only after an inquiry file has been closed, and the period for appeal has passed (30 days from the date of the decision or order).

Despite this, all records documenting decisions and reasons for decision of the inquiry committee, including the minutes of meetings of those committees and panels, must be retained permanently in the college records.

If an inspector, in the course of exercising a power or performing a duty under the HPA, receives information or a record that the inspector:

- a) determines is not related or relevant to a complaint under section 32(2) of the Act, a report under section 32.2 to 32.4 of the Act or an investigation under section 33 of the Act,
- b) has reasonable grounds to believe belongs to or is intended for a party adverse to the college or a third party in a matter referred to in paragraph (a) and was not intended for the inspector or college to see, or
- c) has reasonable grounds to believe was obtained by a party to litigation or other proceedings of a judicial nature, and that it may have been disclosed by that party in breach of an express or implied undertaking of confidentiality



the inspector may

- d) omit or remove the information or record from the college's records on the matter, and
- e) dispose of the omitted or removed information or record as the inspector determines is appropriate, subject to section [27.1 of the Freedom of Information and Protection of Privacy Act](#).

If paragraph b) or c) applies in respect of a record, the inspector must:

- a) in the case of a paper record, return it unread and uncopied to the party who provided it to the inspector or the college, or to the party to whom it belongs or appears to belong or be intended for,
- b) in the case of an electronic record, delete it unread and uncopied and advise the party who provided it to the inspector or the college, or to the party to whom it belongs or appears to belong or be intended for, that that was done, or
- c) if the inspector reads part or all the record before realizing that it was not intended for the inspector or the college, cease reading the record and promptly return it or delete it, uncopied, to the party who provided it to the inspector or the college, or to the party to whom it belongs or appears to belong or be intended for, advising that party:
 - a. of the extent to which the inspector or college is aware of the contents, and
 - b. what use the inspector or college intends to make of the contents of the record.

PUBLICATION

Inquiry committee decisions, undertakings where the matter was considered of a serious nature, consent orders and discipline committee decisions are published in accordance with the [BC Health Regulator's Publication Framework policy](#) and in accordance with [section 39.3 of the HPA](#).

Complaint summaries may be published anonymously as case studies in the COBC newsletter, or on the COBC website. The case study will not contain any information that may identify the registrant or business location.

Instances of unauthorized practice and unauthorized use of title by non-registrants will be published on COBC's website after investigation. After at least one cease and desist has been delivered requirement for publication will be assessed by staff on a case-by-case basis. Staff will consider factors such as:

1. Actions taken by the non-registrant (if any) to comply by either:
 - a. Removing instance of unauthorized title use, and/or
 - b. Ceasing performance of restricted activities.
2. Actions taken by the non-registrant (if any) to complete registration or reinstatement with COBC.

Publication will remain on the COBC's website until the matter is rectified through compliance or successful completion of registration with COBC.