



Administrative Policy No: 016

To: Council
From: Regulations Committee and Registrar
Date: August 29, 2023
Re: Procedures for Dealing with a Complaint

All complaints involving an optical professional practice, a Licensed Optician or a Licensed Contact Lens Practitioner are investigated by the Saskatchewan College of Opticians (SCO or College). The SCO evaluates each complaint independently and impartially to ascertain whether it has merit or not. The SCO takes all complaints seriously. If you have any concerns about the behaviour or competence of an optician or contact lens practitioner or unregulated individual performing opticianry services without a licence, you can file a formal complaint with the SCO by sending an email to registrar@skopticians.com or submitting a form with a formal letter of complaint to the following address:

**Saskatchewan College of Opticians
#356, 318-21st Street East,
Saskatoon, SK S7K 6C8**

The SCO does not have the authority to investigate concerns about anonymous complaints, rumours, or monetary issues such as prices, poor service, or poor manners of the optician or practitioner. These concerns should be referred to the practice, dispensary, or business manager. The College is not concerned with an optician's strictly private life or extracurricular activities if they do not cast doubt on their professional ability or integrity. Opticians must, however, inform the College in detail of any convictions for any offence that would reasonably be assumed to cast doubt on professional ability or integrity. This encompasses the criminal offences committed in any jurisdiction(s), unless a full pardon has been granted, thereby expunging any record of an offence.

During the preliminary investigation, a complaint is handled confidentially. Only those individuals will be informed of submissions which require the necessary information to conduct an impartial and unbiased investigation.

Step 1 – Complete and Submit a Complaint

For the Professional Conduct Committee (PCC) to investigate a complaint made to the College regarding a member, the allegation or report of “Professional misconduct” would include, but not be limited to, the following:

- i. been found by any other regulatory body to have committed an act that would, in the opinion of the PCC, be an act of professional misconduct and, as defined below from (ii) to (xxiv),
- ii. the failure of a member to abide by the terms, conditions, or limitations of his/her licence as per the Opticians Act, regulatory bylaws, standards of practice, policies, and any other rules prescribed by the College from time to time.
- iii. abused patients/ clients.
- iv. committed an act of sexual misconduct.
- v. being mentally or physically incapable of practicing as an optician or contact lens practitioner.
- vi. practising while their ability to perform any opticianry practice is impaired by alcohol or drugs.
- vii. being convicted of an offence that, in the opinion of the council, renders it inappropriate to continue to practise.
- viii. the procurement of a practising member’s license or a contact lens practitioner license by misrepresentation or fraud.
- ix. knowingly permitting the premises in which a member practises to be used for unlawful or illegal purposes.
- x. failure to provide the patient, upon their request, with a written copy of the physical specifications of the eyeglasses or contact lenses within a reasonable time.
- xi. the falsification of a record in respect of a prescription for eyeglasses or contact lenses.
- xii. contravened a term, condition, or limitation imposed on the member’s certificate of registration, code of conduct and code of ethics.
- xiii. contravened a standard of practice of the profession.
- xiv. giving patient information to any third party without the consent of the patient or their representative, except when the information is needed or permitted by law.
- xv. falsifying a record relating to the member’s practice.
- xvi. falsely submitting a third-party insurance claim.
- xvii. failed to provide a patient access to their records or any contravention in terms of records under The Health Information Protection Act (HIPA).
- xviii. signed or issued, in the member’s professional capacity, a document that the member knows contains a false or misleading statement.
- xix. submitted an account or charged for services that the member knows are false or misleading.
- xx. the practice of the member constitutes a danger to the public.
- xxi. making racially degrading behaviour or remarks toward or about an individual or a group of individuals.
- xxii. failing to appear before the Professional Conduct Committee to be cautioned.
- xxiii. failing to cooperate in a college investigation.
- xxiv. any other violations under the Opticians Act, bylaws, standards of practice and policies of the College.

Step 2- Reviewing a Complaint and the Role of the Professional Conduct Committee (PCC)

1. A formal complaint against a member occurs when there is factual evidence that a Licensed Optician or Licensed Contact Lens Practitioner failed to meet the requirements of the code of ethics, code of conduct, standards of practice, policies, bylaws, or The Opticians Act and resulted in any act of professional misconduct. A formal complaint must be made in writing and sent to the address via mail or email to the College or by submitting an online form. Typically, persons filing complaints will also provide further details about their circumstances. The registrar's office will receive the written complaint.
2. The registrar will contact the PCC chair, set up a file, and hand the file over to the PCC chair. The registrar will provide the complaint with a tracking number and record it in the Register of Complaints.
3. Once the file has been passed to the PCC, the registrar is no longer involved in any part of the investigation. The PCC acts independently in an unbiased manner. The PCC needs to determine the jurisdiction of the member. If a member is from another province, a file must be sent to the registrar or PCC of the respective province.
4. The PCC must inform the council of the College of the investigation's receipt and handling of a complaint.
5. When the PCC receives a complaint, the chair of the PCC will consult with committee members and identify those who do not have a conflict of interest with the member being investigated or the person who filed the original complaint. If there is potential for conflict of interest, it shall be at the discretion of the chair of the committee if the committee member involved should excuse himself or herself during any discussion, refrain from participating in the overall discussion of the matter or resign from the committee.
6. The PCC will conduct a thorough investigation of the facts presented and may seek other sources to clarify the charges and seek to understand the situation. The PCC prepares a written report of the conclusion of its investigation. The member being investigated is required to respond to the allegations made by the complainant, as prescribed under The Options Act and regulatory bylaws.
7. The PCC may assign one or more investigators or committee members the task of investigating, and these members are required to submit a written report to the committee detailing their findings.
8. Once the investigation into a complaint has been completed, the PCC may decide that:
 - No further action is warranted, in which case the complaint is dismissed and the file closed with no public disclosure of the complaint. A copy of their report will be provided to:
 - ✓ the council
 - ✓ the complainant, if any; and
 - ✓ the member whose conduct is the subject of the complaint.
 - The PCC may refer the complaint to mediation or Alternative Dispute Resolution (ADR) under Administrative Policy No.015 if the PCC decides that the complaint is of concern only to the complainant and the investigated member, both of whom agree to mediation. The member under investigation must be willing to admit there was a breach of conduct and accept corrective action(s). Once a settlement is ratified, the details of the ADR are provided to the discipline committee, the registrar and posted on the SCO website.

- Disciplinary action is necessary and will be dealt with as set out in the Opticians Act. The registrar shall, at least 14 days prior to the hearing date:
 - ✓ send a copy of the formal complaint to the member being investigated.
 - ✓ serve notice to the member being investigated of the hearing's date, time, and place.
- 9. The PCC investigation of a complaint should not exceed 90 days. However, in exceptional cases, the matter could be delayed, provided council members are updated on the reason for the delay.
- 10. If the registrar or the PCC finds the member is practising under options (v) and (vi) above, they can direct the member to submit to a physical or mental examination, or both, by a person or at a facility specified by the registrar or the PCC.
- 11. If the PCC finds the member is practising under options (v) and (vi) above and till the time the medical report is obtained, the PCC can impose limitations or conditions on the member's licence or suspend the licence. The member can be given an opportunity to hear within 15 days after the imposition of the limitations, conditions, or suspension.
- 12. Failure by a member to submit to an examination as directed by the PCC or to comply with a limitation, condition or suspension imposed on the member by the PCC is professional misconduct within the meaning of the Act.
- 13. On the member's application, if the PCC is satisfied, they can cancel or amend a limitation or condition or cancel the suspension to allow the member to resume practice, which can delay an investigation up to 180 days or as determined by the council.
- 14. The PCC must deliver written notice of its decision, with written reasons, to the complainant within 30 days after making its decision. A report signed by a majority of the PCC is the decision of that committee.
- 15. The PCC has all the power and authority to investigate the complaint, as prescribed in the Opticians Act. The PCC may take any steps that it considers proper and may summon any person who is under investigation and any other person whose information may be relevant to the investigation.

Step 3 – Action by Discipline Committee (DC)

1. If the PCC investigation determines that there is "merit" to a complaint against a member for professional misconduct, the PCC will prepare a notice of hearing to the DC, recommending the DC hear and determine the complaint. The DC members are identified by the council and are recognized within the profession as people with integrity, fairness, and good judgment.
2. Upon receiving a report from the PCC recommending a hearing, the chair of the DC will consult and identify the committee members who do not have a conflict of interest* with the member being investigated or the person who filed the original complaint, to sit on the panel for the hearing. In addition, a public representative serves as a member of the hearing panel. The role of the public representative is to ensure fairness, objectivity and that due process is followed.
3. The members of the DC hearing panel are only provided with the charge of the complaint, as reported by the PCC. During the hearing, the DC hearing panel serves as the jury that will decide whether the

allegations of misconduct against the member being investigated are proven. They hear the evidence and testimony by both parties involved and make their determination based only on that evidence and testimony.

4. At the conclusion of the hearing, the DC hearing panel will decide whether the allegation(s) of misconduct has been proven. If the DC hearing panel determines that the allegations are not proven, the complaint will be dismissed. If the DC hearing panel determines that the member has been found guilty of professional misconduct, the DC hearing panel will determine the appropriate penalty/order.
5. The DC hearing panel, while making a decision, needs to consider the facts about the seriousness of the conduct, history of the licensed member, single event vs pattern of events, harm to an individual, cooperation during the investigation, and if sanctions imposed are circulated to relevant regulatory agencies in other jurisdictions.
6. The types of disciplinary sanctions may include:
 - place terms, conditions, and/or limitations on the member's licence for a specific or indefinite period.
 - suspend the member's licence for a specific period.
 - suspend a member's licence while he or she completes specific requirements.
 - revoke the member's licence and membership.
 - pay a fine.
 - any other requirements as requested by the DC.
7. A report of the decision of the DC will be submitted to the attention of the council members and can be published on the official website of the SCO.
8. If the member whose conduct is the subject of the complaint, has been found guilty of professional misconduct by the DC, the member may appeal the decision or any order of the DC to the council by serving the registrar with a notice of appeal within 30 days after the decision or order.
9. The DC has all the power and authority prescribed in the Opticians Act.

*Conflict of Interest:

- *It is a situation where a committee member is directly or indirectly connected with the member or complainant, including taking any service, personal or financial benefit, gift, advantage, or emolument of any kind whatsoever, financial obligation, loan, credit or generating income from any source except work performed in opticianry.*
- *Having an employer, employee, supervisor, partner, or colleague relationship*
- *Also, if the committee member is related to the member or complainant's family member (any person connected with the member or complainant by blood relationship, marriage, or adoption), extended or distant family members, including personal or organizational interests in a decision or outcome that may be perceived to have a personal benefit in a decision.*