



NSCDO Professional Conduct Committee Terms of Reference

Introduction

In accordance with the requirements of the *Dispensing Opticians Act*, S.N.S. 2005, c. 39, and the Regulations and By-laws made thereunder, the Board shall appoint a Professional Conduct Committee comprised of such number of members and non-members as determined by the Board.

The terms of reference below address the membership of the committee, terms of office of committee members, quorum, and mandate of the committee.

Committee Membership

- Committee composition will be at least seven persons, including a minimum of:
 - Two (2) non-members;
 - Three (3) dispensing opticians.
- The Board shall appoint a Chair and a Vice Chair of the Professional Conduct Committee.
- None of the members of the Committee may be members of the Board.
- When considering appointments to the Professional Conduct Committee, with the exception of non-members, the persons appointed must hold a license at the time of initial appointment to the committee, and ideally have held a license for a minimum period of five years.
- Experience on committees or boards is considered an asset when making appointments.
- The person appointed as chair should if possible, be a lawyer with experience in regulatory proceedings.

Panel Membership

- Upon receipt of a referral from the Complaints Committee, the Chair will appoint a panel of at least five (5) persons to act as the Professional Conduct Committee, including at least:
 - One (1) non-member;
 - Three (3) dispensing opticians.
- No person who serves on the Complaints Committee may serve on the Professional Conduct Committee with respect to a matter that was considered by the Complaints Committee when the person was a member of the Complaints Committee.

- When appointing a Panel, the Chair shall advise the proposed members of the Panel of the name of the complainant and respondent, any known witnesses, and any other relevant information that will assist the proposed members in determining whether there are any conflicts that would preclude their participation on the Panel.
- Dispensing optician members of the committee who have a complaint filed against them shall not participate on a Panel while the complaint remains outstanding unless the Chair otherwise determines.

Term of Office

Committee members hold office for one, two or three year terms as directed by the Board, and are eligible for reappointment.

Where a proceeding is commenced before a panel of the Professional Conduct Committee and the term of office of a member sitting on the committee expires, that member may remain part of the panel until the proceeding is concluded.

Dispensing optician members of the committee who have a complaint filed against them shall recuse their membership on the committee unless the Chair otherwise determines.

Quorum

In accordance with subsection 31(4) of the *Dispensing Opticians Act*, a quorum of the panel shall consist of any three (3) persons from the panel, regardless of whether such persons are members or non-members.

All decisions of the panel require the vote of a majority of the panel.

Mandate

The Professional Conduct Committee is established by the *Dispensing Opticians Act* to exercise the powers and functions as provided for in the Act, Regulations, and By-laws, including without limitation the following activities:

- Consider matters referred by the Complaints Committee and take such steps as the committee considers appropriate within the scope of the authority granted to it in the Act, Regulations, and By-laws, including:
 - fix the date, time and place for holding a hearing, which must commence not later than ninety (90) days from the date of the referral of the Complaints Committee, or such later date as the respondent and the Professional Conduct Committee agree;
 - ensure that a Notice of Hearing is forwarded to the respondent and the complainant at least thirty (30) days prior to the hearing;
 - where needed in the performance of its duties, have all the rights, powers and privileges of a Commissioner under the *Public Inquiries Act*;
 - when conducting a hearing, ensure that the parties receive procedural fairness in accordance with the Rules of Natural Justice;

- if the committee makes a finding of professional misconduct, conduct unbecoming of the profession, incompetence or incapacity, hold a second stage of a hearing to determine the sanction to be issued, and consider the appropriate sanction as set out in Section 38 of the Regulations;
 - when issuing decisions, the Professional Conduct Committee shall give its decision in writing and provide reasons for its decision within a reasonable time after completing the matter.
- Consider settlement proposals that have been consented to by the College and a respondent to a complaint and recommended for approval by the Complaints Committee, and determine whether or not to approve the proposals as the final disposition of the complaint, in accordance with section 28 of the regulations.

The Professional Conduct Committee may retain legal counsel to advise it in the performance of its mandate.

Approved by the Board this 26th day of July, 2023.