

November 27, 2014

Suzanne McGurn, Assistant Deputy Minister
Health Human Resources Strategy Division
Ministry of Health and Long-Term Care
900 Bay Street
Macdonald Block, 2nd Floor, Room M2-61
Toronto ON M7A 1R3

Dear Assistant Deputy Minister McGurn,

The College of Opticians of Ontario (the College) is pleased to provide this report to you about its current transparency practices and how it intends to enhance those transparency practices.

The College looks forward to discussing this important issue at its next Council meeting on Monday December 8, 2014. In the interim, this initial report has been prepared in consultation with the College's Executive Committee, College staff, other regulatory colleges and the Federation of Health Regulatory Colleges of Ontario (FHRCO).

CURRENT TRANSPARENCY PRACTICES

The College currently demonstrates transparency in a number of ways. The following description provides a brief overview.

Core Values

The College is committed to ensuring its processes are transparent and in the public interest. Transparency is one of the College's four core values. At its 2014 strategic planning sessions, the College reaffirmed transparency as a core value in its draft 2015 to 2017 Strategic Plan, along with accountability, integrity, and efficiency.

The value of transparency is reflected in many of the College's priority initiatives in its draft 2015-2017 Strategic Plan, which will be finalized by Council on December 9, 2014 (immediately following the Council meeting). As well, at its November 17, 2014 meeting, the Executive Committee recommended that transparency initiatives including those described in this letter be added to the Strategic Plan and be made a priority.

The Executive Committee also recommended that the College adopt a set of eight transparency principles to help guide its decision-making about what information to make public. These principles were developed by a group of regulatory colleges in Ontario called the Advisory Group for Regulatory Excellence (AGRE). If adopted, these principles will be considered as the College implements its Strategic Plan, as well as in decision-making across all committees and departments. This will be on the December 8 Council meeting agenda.

The transparency principles are as follows:

1. The mandate of regulators is public protection and safety. The public needs access to appropriate information in order to trust that this system of self-regulation works effectively.
2. Providing more information to the public has benefits, including improved patient choice and increased accountability for regulators.
3. Any information provided should enhance the public's ability to make decisions or hold the regulator accountable. This information needs to be relevant, credible and accurate.
4. In order for information to be helpful to the public, it must:
 - be timely, easy to find and understand
 - include context and explanation
5. Certain regulatory processes intended to improve competence may lead to better outcomes for the public if they happen confidentially.
6. Transparency discussions should balance the principles of public protection and accountability, with fairness and privacy.
7. The greater the potential risk to the public, the more important transparency becomes.
8. Information available from colleges about members and processes should be similar.

Council Activities

The Council is the College's governing body. The College website provides information about the roles of Council, and about each of the College's committees. This includes information about the statutory mandate of the Council and each committee. This information is found in the "public" section of the website, under the heading "[About the College](#)".

Council meetings are open to the public. If sensitive information is being discussed, the Council sometimes closes portions of its meetings to the public, as permitted by subsection 7(2) of the *Health Professions Procedural Code*. For example, the Council may close its meetings to receive legal advice, or to discuss personnel matters.

The College posts the dates of all upcoming and past Council meetings on its website. The College, moving forward, will be posting the Council agenda for all upcoming meetings beginning with its December 8, 2014 Council meeting.

Additionally, in September 2014, the Council resolved to begin posting more information about Council meetings on its website, including highlights from recent meetings and approved meeting minutes. Meeting highlights give a snapshot about key Council decisions, before the official minutes are approved at the following Council meeting.

The Council also holds a public Annual General Meeting each year. The College has committed to exploring ways to make these meetings more accessible and engaging.

Council reports to the Minister annually on its regulatory activities and operations. A copy of the College's annual report is placed in the "[Resources](#)" section of its website.

Regulations and By-laws

The College's by-laws and regulations are published in the "[Resources](#)" section of the College's website.

The College circulates, electronically and in other formats when requested, all proposed by-laws and regulations for consultation. It welcomes feedback from members of the public, opticians, other colleges, and optician-related organizations. The College's website provides information about the date a by-law or regulation change was adopted by Council, and a link to the updated document.

Each public consultation is posted on the "[Stakeholder Feedback](#)" page of the College's website. Members of the public have the opportunity to fill out a feedback form and submit it to the College. As well, the College recently introduced a new "[Mailing List](#)" webpage where members of the public can sign up to receive information about public consultations, as well as upcoming Council meetings and newsletters.

Public Register

The College's public register is maintained on its website. This is the public's most important source of information about members of the College. The College recognizes that the public needs access to appropriate information about its members, as well as former members, in order to trust that self-regulation works effectively.

The College places the following information on its public register, in accordance with section 23 of the *Health Professions Procedural Code* ("Code"):

1. Each member's name, business address and business telephone number, and, if applicable, the name of every health profession corporation of which the member is a shareholder.
2. The name, business address and business telephone number of every health profession corporation.
3. The names of the shareholders of each health profession corporation who are members of the College.
4. Each member's class of registration and specialist status.
5. The terms, conditions and limitations that are in effect on each certificate of registration.

6. A notation of every matter that has been referred by the Inquiries, Complaints and Reports Committee to the Discipline Committee under section 26 and has not been finally resolved, until the matter has been resolved.
7. The result, including a synopsis of the decision, of every disciplinary and incapacity proceeding, unless a panel of the relevant committee makes no finding with regard to the proceeding.
8. A notation of every finding of professional negligence or malpractice, which may or may not relate to the member's suitability to practise, made against the member, unless the finding is reversed on appeal.
9. A notation of every revocation or suspension of a certificate of registration.
10. A notation of every revocation or suspension of a certificate of authorization.
11. Information that a panel of the Registration, Discipline or Fitness to Practise Committee specifies shall be included.
12. Where findings of the Discipline Committee are appealed, a notation that they are under appeal, until the appeal is finally disposed of.
13. Where, during or as a result of a proceeding under section 25, a member has resigned and agreed never to practise again in Ontario, a notation of the resignation and agreement.

In addition, the College voluntarily makes the following additional information available, in accordance with section 15.6 of its by-laws:

- (i) The member's registration number.
- (ii) The dates on which each class of registration and specialist status that the member holds was obtained and, if applicable, the dates on which each terminated.
- (iii) Whether the member has been granted Refraction Designation and, if so, the date the designation was obtained and, if applicable, the date on which the designation was terminated.
- (iv) If the member ceased to be a member, a notation specifying the reason for the termination of membership and the date upon which the member ceased to be a member.
- (v) For every matter that has been referred by the Inquiries, Complaints and Reports Committee to the Discipline Committee

under section 26 of the *Code* and has not been finally resolved, until the matter has been resolved,

- (a) a notation of that fact, including the date of the referral;
 - (b) a summary of each specified allegation; and
 - (c) any hearing dates.
- (vi) A notation, including the date of the referral, for every matter that has been referred by the Inquiries, Complaints and Reports Committee to the Fitness to Practise Committee under section 61 of the *Code* and has not been finally resolved, until the matter had been resolved.
- (vii) Any information jointly agreed to be placed on the register by the College and the member.
- (viii) Where the member's certificate of registration is subject to an interim order a notation of the fact, the nature of the order and the date that the order took effect.
- (ix) Where the member's certificate of registration is subject to a suspension for failure to pay a fee, the reason for the suspension and the date of the suspension in addition to the fact of the suspension.
- (x) Where the College is aware that a finding of professional misconduct or incompetence or similar finding has been made against the member by a body that governs a profession, inside or outside of Ontario, and that finding has not been reversed on appeal:
- (a) a notation of the finding;
 - (b) the name of the governing body that made the finding;
 - (c) a brief summary of the facts on which the finding was based;
 - (d) the penalty and any other orders made relative to the finding;
 - (e) the date the finding was made; and
 - (f) information regarding any appeals of the finding.
- (xi) Where the College is aware that a finding of incapacity or similar finding has been made against the registrant by a body that governs a profession, inside or outside of Ontario, and that finding has not been reversed on appeal:
- (a) a notation of the finding;
 - (b) the name of the governing body that made the finding;
 - (c) the date the finding was made;
 - (d) a summary of any order made; and
 - (e) information regarding any appeals of the finding.
- (xii) Where a decision of the Discipline Committee has been published by the College with the member's name or former name included:
- (a) a notation of the fact; and

- (b) identification of the specific publication of the College which contains the information.
- (xiii) The business e-mail address, if there is one, and any operating names of every health profession corporation.

The College's Executive Committee has asked the Governance Committee to make further recommendations about information to be included on the public register. In reviewing this issue, it is expected that the Governance Committee will consider the recommendations of AGRE for expanding the public register.

The College's Governance Committee has already recommended two additions to the public register, which will be proposed to Council:

- Where a member has been referred to discipline, the full Notice of Hearing.
- Details about the status of the hearing (in addition to the date of referral to discipline, and hearing dates, which are already published).

The College has also recently added a new webpage entitled "[About the Public Register](#)", which the public views when using the "Optician Search" feature of the website. The introductory page is intended to help the public understand the purpose of the public register and what information is included.

Registration Process

The College provides information about its registration requirements and process in the "[Applicants](#)" section of its website. Upon request, the College also provides applicants for registration with the information in its files related to their application in accordance with section 16 of the *Code*.

The College works diligently with the Office of the Fairness Commissioner of Ontario (OFC) to ensure that its registration practices are transparent, and to make continuous improvements to its registration information.

The College reports to the OFC at least annually about its registration practices. It has participated in an independent audit (2007) and two OFC assessments (in 2011 and 2014). In both assessments, the OFC found that the College had a number of commendable registration practices. In 2014, the College was commended for having a new website that:

- provides more complete registration information,
- improves the accessibility of registration information, and
- enables applicants to understand the registration process from start to finish.

The OFC has also recognized the College in its "Exemplary Practices" database, which is a collection of registration practices that serve as an example for other regulators. Specifically, the College was recognized for:

- clearly presenting registration information on its website including information about registration fees and flow-charts of registration pathways, and

- communicating information about acceptable documentary alternatives for unaccredited applicants seeking registration.

All of the College's reports to the OFC are placed on the "[Fair Registration Practices Report](#)" page of the College's website. These reports are also available on the OFC website along with the OFC's most recent assessment report.

The applicant section of the College's website provides a link to the "[College Fees](#)" webpage that sets out all College fee information. The schedule for yearly fee increases is also included in the College's by-laws.

Complaints and Investigations Process

Complaints and investigations are managed by the College's Inquiries, Complaints and Reports Committee (ICRC).

The College provides information about its complaints and investigation process in the "[Public](#)" section of its website.

This includes a complaint form, and information about:

- how to make a complaint
- what happens once a complaint has been received, including timelines with respect to the complaints process
- information about investigations of complaints, including possible investigation steps that may be taken by the ICRC
- possible outcomes of a complaint
- how to appeal a decision of the ICRC to the Health Professions Appeal and Review Board
- frequently asked questions
- how to contact the College's complaints department

Complaints decisions (where the result is something other than a referral to discipline or a referral for an incapacity inquiry) may be appealed by either party to the Health Professions Appeal and Review Board ("HPARB"). HPARB decisions are available on the internet on the CanLII website.

Discipline

Disciplinary matters are heard by the College's Discipline Committee. The Discipline Committee will only consider a matter that has been referred to it by the ICRC.

Discipline hearings are open to the public. Rare exceptions are made in cases where an individual's strong privacy or legal interests are in jeopardy (e.g., personal medical information, persons identifying sexual abuse).

The public is notified of upcoming discipline hearings at the College through the College's website. The "Public" section of the website includes a link to disciplinary information, including the names of members referred to the Discipline Committee. If a hearing has been scheduled, this page lists the date, time, and location of the hearing. Additionally, the public register includes information about the date of any referral to discipline, any scheduled hearing dates, and a summary of allegations.

All discipline findings are recorded on the public register. There is the possibility that less serious findings can be removed after six years if the member satisfies the Discipline Committee that continued public access no longer serves the public interest. Otherwise, findings are recorded on the public register permanently.

In addition, the discipline decision itself is available on the College's website.

Appeals of discipline decisions are heard in open court and all appeal decisions are publicly available, usually online.

The College makes full disclosure of all information relevant to a discipline matter to the member so that he or she can fully respond to the allegations made.

Fitness to Practise

The College's Fitness to Practise Committee determines whether an optician has a physical or mental condition or disorder that affects, or could affect, her or his practice.

The College has never had a fitness to practise matter brought to its attention. As a result, it has never had to hold a fitness to practise hearing. However, the College appoints a Fitness to Practise Committee each year who is able to address these matters should they arise.

The College provides information about the Fitness to Practise Committee's composition and mandate, and responsibilities of the committee chair (in the event that a meeting or hearing is required) on the College's website. This information is found in the "public" section of the website, under the "[Committees](#)" heading.

Because fitness to practise matters involve the personal health information of the member, usually involving mental illness or addiction, human rights considerations require a high degree of privacy. Fitness to practise hearings are closed to the public. However, where a finding is made, certain information is still placed in the public register including a notation of the finding, the date of the finding, a summary of the decision, and information about any appeals of the finding. In this way the College ensures that the public is made aware of legitimate fitness to practise concerns.

Appeals of fitness to practise decisions are heard in open court and all appeal decisions are publicly available, usually online.

As in the case of discipline matters, the College would make full disclosure of all information relevant to the incapacity concerns to the member so that he or she can fully respond to the allegations made.

Quality Assurance

The College recognizes that as health care providers, opticians must maintain continued competence in order to provide the highest levels of eye care to the public of Ontario. Evidence of this commitment is reflected in the revised Quality Assurance Program that was launched in 2014. Members are required to self-assess and set learning goals each year by maintaining a Professional Learning Portfolio which the College audits. During the audits, members are expected to participate in the Multi-Source Feedback process (a “360 degree assessment”) that involves input from peers and patients to recognize strengths and areas that require remediation.

The College provides information about its quality assurance program in the “[Members](#)” section of its website. This includes:

- videos and e-learning modules for opticians
- documents explaining how to complete a professional portfolio
- information about continuing education activities
- information about the College’s multi-source feedback process
- a link to the National Competencies for opticians
- frequently asked questions

Since the purpose of the quality assurance program is to work with members to enhance their practice, it is conducted on a remediation basis. The program is constructive and positive, looking for ways to improve practice rather than identifying misconduct. The legislation requires that quality assurance information about individual members be kept confidential. However, if significant concerns are discovered in the course of operating the quality assurance program or the member fails to participate in the program, they are reported to the Inquiries, Complaints and Reports Committee and could become publicly available through that process.

Other Programs

The College provides detailed information about its patient relations program on its website.

The patient relations program is administered by the Patient Relations Committee, and provides funding for therapy and counselling for patients who were sexually abused by members.

The College’s “[Committees](#)” webpage lists the members of the Patient Relations Committee, and sets out the committee’s terms of reference and mandate. As well, the “[Publications and Resources](#)” section of the “[Resources](#)” webpage provides the following information:

- a description of the College’s complaints and investigation process for complaints of sexual abuse of patients, including information about member and patient rights, possible orders, and the availability of funding
- an explanation of the requirement that members report sexual abuse of patients
- the College’s Sexual Abuse Prevention Guidelines

The College website also provides information about the College's Contact Lens Mentor Program, and information about unauthorized or illegal opticianry practice.

The "[Contact Lens Mentor Program](#)" webpage includes information about how members can become contact lens mentors, information for students (who can only dispense under supervision), and a link to the College's Contact Lens Mentor Policy.

The College's "[Unauthorized Practice](#)" webpage explains what unauthorized practice means, how to inform the College about unauthorized practice, and information about past prosecutions by the College.

Communications and Outreach

The College engages in a number of communications and outreach activities.

The College is committed to public protection through education about its role. This is one of the ways the College meets its statutory object to assist individuals to exercise their rights under the *Code* and the *Regulated Health Professions Act* (the "*RHPA*"). To this end, the College has employed communication initiatives such as the 'Love Your Eyes' and the 'Licensed Optician' campaigns to educate the public about the existence of the College and that the dispensing of eye glasses and contact lenses is a regulated act. For maximum reach and effectiveness, these campaigns have been coordinated at a national level in collaboration with other regulators, educators and professional associations.

As well, the College communicates with the public through its website and through newsletters published up to three times each year. College representatives routinely attend and make presentations at opticianry schools, continuing education events for members, and trade shows, to inform members and the public about College initiatives and obtain feedback.

During its 2014 strategic planning sessions, the College committed to exploring new ways of enabling public feedback. As a result, the College has recently added a prominent "Have a Question? Ask Us" feature on the College's website.

The College's draft 2015-2017 Strategic Plan proposes to task appropriate committees of the College with overseeing expansion of public outreach initiatives over the next three years.

Also in development is a service standards protocol, which will help set expectations regarding how promptly the College will respond to questions, process applications, or address other issues that arise.

Discretionary Disclosure Provisions

The College has the discretion to make information available to appropriate authorities under section 36 of the *RHPA*. The circumstances where disclosure can be made under these provisions include the following:

- (a) to the extent that the information is available to the public under the *RHPA*, a health profession Act or the *Drug and Pharmacies Regulation Act*;
- (b) in connection with the administration of the *RHPA*, a health profession Act or the *Drug and Pharmacies Regulation Act*, including, without limiting the generality of this, in connection with anything relating to the registration of members, complaints about members, allegations of members' incapacity, incompetence or acts of professional misconduct or the governing of the profession;
- (c) to a body that governs a profession inside or outside of Ontario;
- (d) as may be required for the administration of the *Drug Interchangeability and Dispensing Fee Act*, the *Healing Arts Radiation Protection Act*, the *Health Insurance Act*, the *Independent Health Facilities Act*, the *Laboratory and Specimen Collection Centre Licensing Act*, the *Ontario Drug Benefit Act*, the *Coroners Act*, the *Controlled Drugs and Substances Act* (Canada) and the *Food and Drugs Act* (Canada);
- (e) to a police officer to aid an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result;
- (f) to the counsel of the person who is required to keep the information confidential under this section;
- (g) to confirm whether the College is investigating a member, if there is a compelling public interest in the disclosure of that information;
- (h) where disclosure of the information is required by an Act of the Legislature or an Act of Parliament; and
- (i) if there are reasonable grounds to believe that the disclosure is necessary for the purpose of eliminating or reducing a significant risk of serious bodily harm to a person or group of persons.

In exercising the discretion to disclose information, the College considers the risk of harm that could result if the information is or is not disclosed, any harm to the College's own processes by making disclosure and the fairness to the member. For example, if a member is applying for registration with another regulator (either in Ontario or elsewhere) the College will, where possible, advise the other regulator of any concerns about the member's conduct, competence or capacity. In addition, the College often shares the results of its investigations with other Colleges whose members were also involved in the incident, such as at a multi-disciplinary practice.

Inspections

While the College solely regulates its members and not the premises at which they practice, the College agrees that members of the public should have access to detailed information about the results of any inspections of premises that provide health care services. The College will ensure that this is included in any future proposal to administer an inspections program.

French Language

Members of the public have the right to use French in all dealings with the College. Upon request, the College provides information and services to members of the public in French.

Accessibility

The College has an accessible customer service policy, which is posted on the website. The College also provides accessibility training to its staff. An accessibility feedback form is also provided on the website.

Additional accessibility policies are currently being developed, as required by the *Accessibility for Ontarians with Disabilities Act*, and will be posted on the website when approved.

NEW AND ENHANCED MEASURES

The College strives for continuous improvement of its transparency practices.

The College is working closely with FHRCO and has attended a number of FHRCO sessions on the topic of transparency during the last month. The College also routinely collaborates with the College of Optometrists and will continue to do so as it implements new transparency measures.

The issue of enhancing transparency will be discussed by Council on December 8, 2014, and will continue to be a key focus in the year ahead. This will involve both strategic and financial planning to ensure that the College's goals can be achieved. The College has already begun to revise its Strategic Plan to make transparency a priority. Additionally, the College's proposed budget for 2015 commits additional resources for transparency initiatives. This includes funds allocated for meetings of the Governance and Patient Relations Committees, for communications activities, and for website and database improvements.

In 2014 and 2015, it is anticipated that the College will begin to address, publicly consult on and, where appropriate, implement transparency measures in three key areas. These are: making information about College members, processes, and proposals easier to find and understand; expanding the information provided to the public about members; and developing and publishing new guidelines about information sharing.

Making information about College members, processes, and proposals easier to find and understand

The College will begin reviewing the following:

1. The completeness of the content of the College's website, adding content where appropriate. The College has already committed to enhancing its website in 2015 in a number of ways including:
 - Providing an explanation of what information is not included on the public register, and why not.

- Adding a glossary of terms for the public register.
 - Explaining the criteria for assessing the past and current conduct of applicants.
 - Providing additional interview preparation resources for applicants participating in the prior learning assessment process.
 - Providing additional information about the disciplinary process, including possible outcomes of a discipline proceeding.
 - Providing additional information about fitness to practise proceedings.
2. The look and functionality of the public register for ease of use, as well as accessibility.
 3. Its consultation process for regulations, by-laws and Standards of Practice to ensure that all members of the public have a full opportunity to participate effectively in the process; as well as its process for engaging in public consultations about College policies where appropriate.

Expanding the information provided to the public about members

The College will carefully consider placing the following information on the public register, through amendments of the by-laws:

4. Relevant information from criminal proceedings. (The College currently collects information about criminal findings, but does not currently publish this information.)
5. The registration status of members with other regulators (inside or outside of the province). (The College currently places information about members' discipline history with other regulators, if known. The College collects information about members' registration status with other regulators but does not currently publish it.)
6. Significant/relevant complaints decisions, such as ICRC decisions that result in oral cautions or orders to complete education.
7. Additional significant/relevant information about members obtainable from other regulators.
8. Information about prosecutions of members for unauthorized practice or holding out (with respect to the practice other professions, or with respect to the practice of opticianry in other provinces). (The College already places information about its prosecutions of unauthorized practice and holding out by non-members in Ontario on its website.)
9. Confirmations made under 36(1)(g) of the *RHPA* when the College is investigating a member, where there is a compelling public interest in the disclosure of that information.

Developing and publishing new guidelines

10. The College will consult with other regulators regarding the development of guidelines articulating when discretionary disclosure of information will be made, including the circumstances where the College will share information with the police.

The College looks forward to addressing these important issues with its Council, and to working with the Ministry and FHRCO as it pursues these and other transparency initiatives. In working to enhance transparency, our goal is to ensure that patients have sufficient information so that they understand the role of the College, know the type and quality of care to expect and can

make informed choices about their health care. The College recognizes this cannot be achieved simply by publishing more information. It is in the public interest to ensure that public information is relevant, easy to find and easy to understand. It is equally important for the public to know what information is confidential and why.

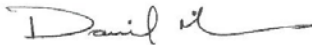
Following its December 8, 2014 Council meeting and December 9, 2014 strategic planning session, the College will provide a further report, outlining the specific measures that Council has adopted and the College's next steps towards enhancing transparency.

The College will place this initial report, our follow-up report and the letter of October 4, 2014 from Minister Eric Hoskins, on our website as soon as possible.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Fazal Khan', with a horizontal line extending to the right.

Fazal Khan
Registrar, College of Opticians of Ontario

A handwritten signature in black ink, appearing to read 'David Milne', with a horizontal line extending to the right.

David Milne
President, College of Opticians of Ontario