College of Optometrists of Ontario
Registration Policy: Assessing an Applicant’s Good Character
Approved by Council, September 30, 2015

Purpose
This policy explains, in the interests of transparency and fairness, how the College of Optometrists of Ontario assesses information from or about applicants for whom evidence of past conduct raises questions about their ability to practise optometry with honesty and integrity, which is also known as “good character.”

Scope
This policy applies to all applicants who apply for a certificate of registration from the College of Optometrists of Ontario (the “College”).

Background
The College’s overriding mandate is to serve and protect the public interest. As part of its commitment to doing so, the College adopted a mission statement which provides:

**Mission:** To serve the public by regulating Ontario’s optometrists. The College uses its authority to guide the profession in the delivery of safe, ethical, progressive and quality eye care at the highest standards.

One of the ways in which the College ensures that the profession delivers safe and ethical eye care is by requiring applicants to be of good character. Good character can be understood as being willing and able to practise optometry with honesty, integrity and in accordance with the law.

While the College does not currently have an explicit general good character requirement in the Registration Regulation, good character is implicitly required by the College’s Registration Regulation and the Regulated Health Professions Act, 1991. In addition, several other specific registration requirements help ensure that future members of the College are of good character, including:

- The requirement to have no previous findings of guilt in relation to a criminal offence;
- The requirement to have no previous findings or current proceedings regarding allegations of professional misconduct, incompetence or incapacity;
- The requirement not to make any false or misleading statements or representations in his or her application;
The requirement for applicants who are already registered as optometrists in another Canadian jurisdiction to submit a certificate of good standing.

Applicants are generally presumed to be of good character unless and until evidence demonstrates otherwise. Good character remains an ongoing expectation of registered optometrists who are required to submit declarations about their conduct to the College as part of the annual registration renewal process.

The relevant legislation is set out in the attached Appendix 1.

Policy
Optometrists are expected to demonstrate honesty and integrity in all of their actions, to practise in an ethical and safe manner, and to comply with all legislation, regulations, College By-laws, and policy governing the profession.

Examples of conduct or circumstances that may give rise to doubt on the part of the Registrar that the applicant is of good character include, but are not limited to:

- A previous finding of professional misconduct, incompetence or incapacity by a regulatory body;
- A current proceeding regarding professional misconduct, incompetence or incapacity;
- A previous finding of guilt in relation to a criminal offence (including offences under the Criminal Code, the Controlled Drugs and Substances Act and the Food and Drugs Act);
- A previous or current charge in relation to a criminal offence;
- A previous finding or current proceeding in relation to discipline by a post-secondary education institution;
- A refusal by another optometric regulatory body to register the applicant;
- Other serious concerns that come to the attention of the College.

If the Registrar has doubts about whether an applicant is of good character, or is of the opinion that terms, conditions or limitations should be imposed, or proposes to refuse registration, the Registrar will refer the application to the Registration Committee in accordance with the Regulated Health Professions Act, 1991. The applicant will be provided with notice of the referral and an opportunity to make written submissions to the Registration Committee about his or her good character.

The Registration Committee of the College then reviews the application and the submissions, if any, in order to determine if the issuance of a certificate of registration—with or without terms, conditions and limitations—is in the public interest.

Referrals to the Registration Committee

Procedural Fairness
When making decisions about the issuance of a certificate of registration, the College is committed to ensuring that:

1. Decisions are made in the public interest.
2. Decisions are made using a process that is transparent and fair, by committee members acting in an objective and impartial manner.

3. Decisions are grounded in reasons that are fully explained in writing (unless the decision is to register the applicant with no terms, conditions or limitations in which case reasons are not required).

4. Decisions are made on the specific merits of the case under review.

Committee Role and Options
The Registration Committee reviews applications referred to it by the Registrar.

The Registration Committee will review the application and any submissions of the applicant in order to make a determination of whether the applicant is of good character at the time of the application.

Supporting Documentation Submitted by the Applicant
When the Registrar has doubts about an applicant’s character, the applicant has the onus of establishing that he or she is of good character. In other words, it is up to the applicant to prove to the College, generally through supporting documents, that the applicant is of good character. Therefore, if an applicant answers “yes” to any declaration question on the application form, the College recommends that the applicant provide additional supporting documentation as follows:

- A personal statement describing the circumstances of the incident(s).
- In relation to any criminal charges or findings, official copies of any court transcripts, court information, reports, orders, reasons for decision, sentencing documents, probation orders or pardons.
- In relation to any regulatory findings, copies of any orders and reasons for decision.
- In relation to any outstanding regulatory proceedings, copies of any Notices of Hearing and interim orders.
- An explanation as to why the incident(s) is not relevant to the applicant’s suitability to practise optometry (for example, is there evidence that rehabilitation and/or remediation was successful?)
- Evidence of compliance with any Order imposed by a court or another regulatory body.
- Letters of reference from employers or colleagues, including current ones, who are aware of the facts of the matter.

Applicants are responsible for making arrangements at their own expense with the proper authorities to have official information (such as transcripts) sent directly to the College.

The Registrar may request any of the above information if the Registrar has doubts about the applicant’s good character.

The College keeps all information confidential except as required or allowed by law.

Factors to be Considered by the Registration Committee
In each case, several factors will be considered by the Registration Committee vis à vis the conduct under review, including the following:
1. The nature of the conduct, including:
   a. The seriousness and impact of the incident(s);
   b. The duration, repetition, concealment and apparent motivation of the incident(s);
   c. How long ago the incident(s) occurred;
   d. The relevance of the incident(s) to professional practice.

2. The honesty and completeness of the submission by the applicant:
   a. Has the applicant made an honest declaration on the application form? Or
   b. Did the College learn of an issue on receipt of a Certificate of Standing from another jurisdiction, from a criminal record check or other source?

3. The consequential actions of the applicant, such as:
   a. The outcome of any remediation or rehabilitation undertaken.
   b. The acceptance of responsibility, expression of remorse or provision of restitution by the applicant.
   c. The subsequent conduct of the applicant including any work, volunteer activities or practice of optometry with no further evidence of conduct issues arising.
   d. The development of measures or safeguards to prevent any repetition of the incident(s), such as establishing policies and procedures and developing monitoring and accountability mechanisms where appropriate.

**Registration Committee Decisions**
After considering the application, the submissions of the applicant and the factors set out above, a panel of the Registration Committee may:
- Direct the Registrar to register the applicant;
- Direct the Registrar to register the applicant with terms, conditions and limitations; or
- Direct the Registrar to refuse to register the applicant.

Where the Registration Committee determines that the public interest may be protected by directing the Registrar to register the applicant with terms, conditions and limitations, the following is a non-exhaustive list of the types of terms, conditions and limitations that may be imposed:
- practice supervision or monitoring;
- counselling or therapy;
- course work (e.g. ethics or boundaries course).

Decisions of the Registration Committee may be appealed by the applicant to the Health Professions Review and Appeal Board (HPARB) within 30 days of receipt of the written Decision and Reasons.
APPENDIX 1

Excerpts of Relevant Legislation


GENERAL CERTIFICATES OF REGISTRATION

2. (1) The requirements and qualifications for the issuing of a general certificate of registration to an applicant are:

[...]

4. Where the applicant has previously practised optometry, there must not be any finding of, or of any current proceeding involving an allegation of, professional misconduct, incompetence or incapacity or any like finding or proceeding against the applicant.

5. The applicant must not have been found guilty in relation to a criminal offence in any jurisdiction. For the purposes of this paragraph, a “criminal offence” includes, without being limited to, an offence under the Criminal Code (Canada), the Controlled Drugs and Substances Act (Canada) and the Food and Drugs Act (Canada).

[...]

(2) An applicant shall be deemed not to have satisfied the requirements for a certificate of registration if the applicant made a false or misleading statement or representation in his or her application. O. Reg. 837/93, s. 2 (2).

[...]

2.1 (1) Where section 22.18 of the Health Professions Procedural Code applies to an applicant for a general certificate of registration, the applicant is deemed to have met the requirements of paragraphs 2 and 7 of subsection 2 (1) of this Regulation. O. Reg. 279/12, s. 2.

(2) It is a non-exemptible registration requirement that an applicant referred to in subsection (1) provide a certificate, letter or other evidence satisfactory to the Registrar or a panel of the Registration Committee confirming that the applicant is in good standing as an optometrist in every jurisdiction where the applicant holds an out-of-province certificate. O. Reg. 279/12, s. 2.

(3) Without in any way limiting the generality of subsection (2), “good standing” shall include the fact that,
(a) the applicant is not the subject of any discipline or fitness to practise order or of any proceeding or ongoing investigation or of any interim order or agreement as a result of a complaint, investigation or proceeding;

(b) the applicant has complied with the continuing competency and quality assurance requirements of the regulatory authority that issued the applicant that out-of-province certificate as an optometrist.

[...]

3. It is a condition of a general certificate of registration that the member shall provide the College with details of either of the following that relate to the member and that occur or arise after the member is registered:

1. Where the member is or has been registered or licensed to practise optometry in another jurisdiction, a finding of professional misconduct, incompetence or incapacity or any like finding against the member.

2. A finding of guilt in relation to an offence in any jurisdiction. O. Reg. 224/03, s. 2; O. Reg. 279/12, s. 3.

[...]

**ACADEMIC CERTIFICATES OF REGISTRATION**

5. (1) The requirements and qualifications for issuing an academic certificate of registration are:

[...] 

5. Where the applicant has previously been registered or licensed as an optometrist in any jurisdiction, or has previously practised optometry, there must not be any finding of, or current proceeding involving an allegation of, professional misconduct, incompetence, incapacity or any like finding or proceeding against the applicant.

6. The applicant must not have been found guilty in relation to a criminal offence in any jurisdiction. For the purposes of this paragraph, a “criminal offence” includes, without being limited to, an offence under the Criminal Code (Canada), the Controlled Drugs and Substances Act (Canada) and the Food and Drugs Act (Canada).

[...]

(2) An applicant shall be deemed not to have satisfied the requirements for a certificate of registration if the applicant made a false or misleading statement or representation in his or her application. O. Reg. 837/93, s. 5 (2).

5.1 (1) Where section 22.18 of the Health Professions Procedural Code applies to an applicant for an academic certificate of registration, the applicant is deemed to have met the requirements of paragraph 3 of subsection 5 (1) of this Regulation. O. Reg. 279/12, s. 7.

(2) It is a non-exemptible registration requirement that an applicant referred to in subsection (1) provide a certificate, letter or other evidence satisfactory to the Registrar or a panel of the Registration Committee confirming that the applicant is in good standing as an optometrist in every jurisdiction where the applicant holds an out-of-province certificate. O. Reg. 279/12, s. 7.
(3) Without in any way limiting the generality of subsection (2), “good standing” shall include the fact that,

(a) the applicant is not the subject of any discipline or fitness to practise order or of any proceeding or ongoing investigation or of any interim order or agreement as a result of a complaint, investigation or proceeding;

(b) the applicant has complied with the continuing competency and quality assurance requirements of the regulatory authority that issued the applicant that out-of-province certificate as an optometrist.

[...]

6. An academic certificate of registration is subject to the following terms, conditions and limitations:

[...]

3. The member must provide the College with details of either of the following that relate to the member and that occur or arise after the member is registered:

   i. where the member is or has previously been registered or licensed as an optometrist in another jurisdiction, a finding of professional misconduct, incompetence, incapacity or any like finding or proceeding against the member, or

   ii. a finding of guilt in relation to an offence in any jurisdiction. O. Reg. 224/03, s. 4; O. Reg. 279/12, s. 8.

[...]

9. (1) All qualifications or requirements for the issuing of a general certificate of registration are non-exemptible, other than requirements listed in paragraph 3, 4 or 5 of subsection 2 (1). O. Reg. 224/03, s. 4.

(2) All qualifications or requirements for the issuing of an academic certificate of registration are non-exemptible, other than requirements listed in paragraph 4, 5 or 6 of subsection 5 (1). O. Reg. 224/03, s. 4.

[...]

**Health Professions Procedural Code, being Schedule 2 to the Regulated Health Professions Act, 1991, S.O. 1991, c. 18**

**REGISTRATION**

15. (1) If a person applies to the Registrar for registration, the Registrar shall,

(a) register the applicant; or

(b) refer the application to the Registration Committee. 1991, c. 18, Sched. 2, s. 15 (1).
(2) The Registrar shall refer an application for registration to the Registration Committee if the Registrar,

(a) has doubts, on reasonable grounds, about whether the applicant fulfils the registration requirements;

(a.1) is of the opinion that terms, conditions or limitations should be imposed on a certificate of registration of the applicant and the applicant is an individual described in subsection 22.18 (1);

(b) is of the opinion that terms, conditions or limitations should be imposed on a certificate of registration of the applicant and the applicant does not consent to the imposition; or

(c) proposes to refuse the application. 1991, c. 18, Sched. 2, s. 15 (2); 1993, c. 37, s. 6; 2009, c. 24, s. 33 (3).

Notice to applicant

(3) If the Registrar refers an application to the Registration Committee, he or she shall give the applicant notice of the statutory grounds for the referral and of the applicant’s right to make written submissions under subsection 18 (1). 1991, c. 18, Sched. 2, s. 15 (3).

Terms, etc., attached on consent

(4) If the Registrar is of the opinion that a certificate of registration should be issued to an applicant with terms, conditions or limitations imposed and the applicant consents to the imposition, the Registrar may do so with the approval of a panel of the Registration Committee selected by the chair for the purpose. 1991, c. 18, Sched. 2, s. 15 (4).

Panels for consent

(5) Subsections 17 (2) and (3) apply with respect to the panel mentioned in subsection (4). 1991, c. 18, Sched. 2, s. 15 (5).

Disclosure of application file

16. (1) The Registrar shall give an applicant for registration, at his or her request, all the information and a copy of each document the College has that is relevant to the application.

Exception

(2) The Registrar may refuse to give an applicant anything that may, in the Registrar’s opinion, jeopardize the safety of any person. 1991, c. 18, Sched. 2, s. 16.

Panels

17. (1) An application for registration referred to the Registration Committee or an application referred back to the Registration Committee by the Board shall be considered by a panel selected by the chair from among the members of the Committee. 1991, c. 18, Sched. 2, s. 17 (1); 2007, c. 10, Sched. M, s. 24 (1).

Composition of panels

(2) A panel shall be composed of at least three persons, at least one of whom shall be a person appointed to the Council by the Lieutenant Governor in Council. 2007, c. 10, Sched. M, s. 24 (2).

Quorum

(3) Three members of a panel constitute a quorum. 1991, c. 18, Sched. 2, s. 17 (3).
18. (1) An applicant may make written submissions to the panel within thirty days after receiving notice under subsection 15 (3) or within any longer period the Registrar may specify in the notice.

Orders by panel
(2) After considering the application and the submissions, the panel may make an order doing any one or more of the following:

1. Directing the Registrar to issue a certificate of registration.
2. Directing the Registrar to issue a certificate of registration if the applicant successfully completes examinations set or approved by the panel.
3. Directing the Registrar to issue a certificate of registration if the applicant successfully completes additional training specified by the panel.
4. Directing the Registrar to impose specified terms, conditions and limitations on a certificate of registration of the applicant and specifying a limitation on the applicant’s right to apply under subsection 19 (1).
5. Directing the Registrar to refuse to issue a certificate of registration.

Idem
(3) A panel, in making an order under subsection (2), may direct the Registrar to issue a certificate of registration to an applicant who does not meet a registration requirement unless the requirement is prescribed as a non-exemptible requirement.

Order on consent
(4) The panel may, with the consent of the applicant, direct the Registrar to issue a certificate of registration with the terms, conditions and limitations specified by the panel imposed. 1991, c. 18, Sched. 2, s. 18.

Application for variation
19. (1) A member may apply to the Registration Committee for an order directing the Registrar to remove or modify any term, condition or limitation imposed on the member’s certificate of registration as a result of a registration proceeding. 1991, c. 18, Sched. 2, s. 19 (1).

Limitations
(2) The right to apply under subsection (1) is subject to any limitation in the order imposing the term, condition or limitation or to which the member consented and to any limitation made under subsection (7) in the disposition of a previous application under this section. 1991, c. 18, Sched. 2, s. 19 (2).

Panels
(3) An application to the Registration Committee under subsection (1) or an application referred back to the Registration Committee by the Board shall be considered by a panel selected by the chair from among the members of the Committee. 1991, c. 18, Sched. 2, s. 19 (3); 2007, c. 10, Sched. M, s. 25 (1).

Idem
(4) Subsections 17 (2) and (3) apply with respect to the panel mentioned in subsection (3). 1991, c. 18, Sched. 2, s. 19 (4).

Submissions
(5) An applicant may make written submissions to the panel. 1991, c. 18, Sched. 2, s. 19 (5).

Orders
(6) After considering the application and the submissions, the panel may make an order doing any one or more of the following:

1. Refusing the application.
2. Directing the Registrar to remove any term, condition or limitation imposed on the certificate of registration.
3. Directing the Registrar to modify terms, conditions or limitations on the certificate of registration. 1991, c. 18, Sched. 2, s. 19 (6); 2007, c. 10, Sched. M, s. 25 (2).

Limitations on applications

(7) When an application has been disposed of under this section, the applicant may not make a new application under subsection (1) within six months of the disposition without leave of the Registrar. 2007, c. 10, Sched. M, s. 25 (3).

Registrar’s leave

(8) The Registrar may only give leave for a new application to be made under subsection (7) if the Registrar is satisfied that there has been a material change in circumstances that justifies the giving of the leave. 2007, c. 10, Sched. M, s. 25 (3).

Notice of orders

20. (1) A panel shall give the applicant notice of an order it makes under subsection 18 (2) or 19 (6) and written reasons for it if the order,

(a) directs the Registrar to refuse to issue a certificate of registration;
(b) directs the Registrar to issue a certificate of registration if the applicant successfully completes examinations or additional training;
(c) directs the Registrar to impose terms, conditions and limitations on a certificate of registration of the applicant; or
(d) refuses an application for an order removing or modifying any term, condition or limitation imposed on a certificate of registration. 1991, c. 18, Sched. 2, s. 20 (1).

Contents of notice

(2) A notice under subsection (1) shall inform the applicant of the order and of the provisions of section 19 and of subsections 21 (1) and (2). 1991, c. 18, Sched. 2, s. 20 (2); 2007, c. 10, Sched. M, s. 26.

Appeal to Board

21. (1) An applicant who has been given a notice under subsection 20 (1) of an order may require the Board to hold a review of the application and the documentary evidence in support of it, or a hearing of the application, by giving the Board and the Registration Committee notice in accordance with subsection (2).

Requirements of notice

(2) A notice under subsection (1) shall be a written notice, given within thirty days after the notice under subsection 20 (1) was given, specifying whether a review or a hearing is required.

Order, etc., to Board

(3) If the Registration Committee receives a notice that an applicant requires a hearing or review, it shall, within fifteen days after receiving the notice, give the Board a copy of the order
made with respect to the application, the reasons for it and the documents and things upon which
the decision to make the order was based.

When order may be carried out

(4) An order of a panel, notice of which is required under subsection 20 (1), may be
carried out only when,

(a) the applicant has given the Registrar notice that the applicant will not be requiring
a review or hearing;

(b) thirty-five days have passed since the notice of the order was given under
subsection 20 (1) without the applicant requiring a review or hearing; or

(c) the Board has confirmed the order. 1991, c. 18, Sched. 2, s. 21.

Registration hearings or reviews

22. (1) This section applies to a hearing or review by the Board required by an applicant
under subsection 21 (1). 1991, c. 18, Sched. 2, s. 22 (1).

Procedural provisions

(2) The following provisions apply with necessary modifications to a hearing or review:

1. Subsection 38 (4) (exclusion from panel).
2. Section 42 (disclosure of evidence).
3. Section 43 (no communication by panel members).
4. Section 50 (members of panel who participate).
5. Section 55 (release of evidence). 1991, c. 18, Sched. 2, s. 22 (2).

Idem

(3) The following provisions also apply with necessary modifications to a hearing:

1. Section 45 (hearings open).
2. Section 47 (sexual misconduct witnesses).
3. Section 48 (transcript of hearings). 1991, c. 18, Sched. 2, s. 22 (3).

Same

(3.1) The following provisions of the Statutory Powers Procedure Act also apply with
necessary modifications to a review by the Board:

1. Section 21.1 (correction of errors).

Findings of fact

(4) The findings of fact in a hearing shall be based exclusively on evidence admissible or
matters that may be noticed under sections 15, 15.1, 15.2 and 16 of the Statutory Powers
Procedure Act. 1991, c. 18, Sched. 2, s. 22 (4); 2007, c. 10, Sched. M, s. 27 (1).

Idem

(5) The findings of fact in a review shall be based exclusively on the application and
documentary evidence admissible or matters that may be noticed under sections 15, 15.1, 15.2
and 16 of the Statutory Powers Procedure Act. 1991, c. 18, Sched. 2, s. 22 (5); 2007, c. 10,
Sched. M, s. 27 (2).

Disposal by Board
(6) The Board shall, after the hearing or review, make an order doing any one or more of the following:

1. Confirming the order made by the panel.

2. Requiring the Registration Committee to make an order directing the Registrar to issue a certificate of registration to the applicant if the applicant successfully completes any examinations or training the Registration Committee may specify.

3. Requiring the Registration Committee to make an order directing the Registrar to issue a certificate of registration to the applicant and to impose any terms, conditions and limitations the Board considers appropriate.

4. Referring the matter back to the Registration Committee for further consideration by a panel, together with any reasons and recommendations the Board considers appropriate. 1991, c. 18, Sched. 2, s. 22 (6); 2007, c. 10, Sched. M, s. 27 (3).

(7) The Board may make an order under paragraph 3 of subsection (6) only if the Board finds that the applicant substantially qualifies for registration and that the panel has exercised its powers improperly. 1991, c. 18, Sched. 2, s. 22 (7).

(8) The Board, in making an order under subsection (6), shall not require the Registration Committee to direct the Registrar to issue a certificate of registration to an applicant who does not meet a registration requirement that is prescribed as a non-exemptible requirement. 1991, c. 18, Sched. 2, s. 22 (8).

(9) The College and the applicant are parties to a hearing or review. 1991, c. 18, Sched. 2, s. 22 (9).