



# Rules of Practice and Procedure

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## Disclaimer

The legislation, regulations and container trucking licence referred to in these Rules are subject to amendment from time to time and to judicial interpretation. These Rules may not reflect the most recent amendments to, or judicial interpretations of, the legislation, regulations and licence and should not be relied upon as an accurate statement of the law. In the event of a discrepancy between any provision of these Rules and the *Container Trucking Act*, *Container Trucking Regulation*, the applicable provisions of the *Administrative Tribunals Act*, and/or the container trucking licence, the relevant provision(s) of the latter shall prevail.

These Rules are also subject to change and will evolve with the OBCCTC to meet the needs of the container trucking industry.

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## Notes about the Rules

These Rules of Practice and Procedure (“Rules”) are published by the Office of the British Columbia Container Trucking Commissioner (“OBCCTC”) and are effective June 14, 2022. Capitalized terms in these Rules have the meaning ascribed to them in the *Container Trucking Act* (the “Act”), *Container Trucking Regulation* (the “Regulation”) and container trucking licence.

## PART A - INTRODUCTION

### Background

#### Authority

- a. Section 6(1) of the Act allows the Commissioner to make rules respecting practice and procedure for all applications, audits, complaints, reconsiderations, submissions and hearings coming before the Commissioner and for all investigations.
- b. Section 6(2) of the Act requires the Commissioner to make any applicable rules accessible to the public. These Rules shall be published on the OBCCTC website and updated from time-to-time as required.

#### Purpose of these Rules

- a. The purpose of the Rules is to set out the rules regarding the practices and procedures that support the licensing, audit, investigative, and enforcement functions of the Commissioner.
- b. These Rules are intended to facilitate the just and timely resolution of applications, audits, complaints, reconsiderations, submissions, hearings, and investigations under the Act.
- c. To further the purpose of these Rules and of the Act, Regulation, and container trucking licence, the Commissioner may use procedures other than traditional adjudicative or adversarial procedures.

#### Application of these Rules

- a. All persons and entities must comply with these Rules and with any decisions, orders or directions regarding procedure given by the Commissioner, unless the Commissioner orders or directs otherwise.
- b. If a person does not follow these Rules, or a decision, order, or any direction regarding procedure, the Commissioner may take such action the Commissioner considers appropriate, including:
  - (i) ordering that the participant comply;
  - (ii) making a decision based on the information that has been filed;
  - (iii) waiving the non-compliance;
  - (iv) dismissing the complaint or the licensee’s application for reconsideration of a decision, decision notice, or reconsideration.
- c. The Commissioner may waive or vary these Rules as the Commissioner considers appropriate in the circumstances.

## Role and Powers of the Commissioner

- a. The Act establishes the Commissioner as an investigator, regulator and decision-maker with all the powers and duties prescribed by the Act and Regulation. The Commissioner is independent of truckers and licensees.
- b. The Commissioner will strive to make decisions that are:
  - (i) predictable, consistent, and efficient;
  - (ii) fair, independent and impartial;
  - (iii) succinct and understandable; and
  - (iv) consistent with the purposes of the Act and Regulation.
- c. The Commissioner does not have jurisdiction to decide constitutional questions, including questions arising under the *Canadian Charter of Rights and Freedoms*, or to apply the *Human Rights Code*.

## Communications with the OBCCTC

- a. A licensee or a complainant may be represented by counsel or an agent.
- b. Persons who are represented should communicate with the OBCCTC through their representative. Unless otherwise directed by the Commissioner, persons must communicate with the OBCCTC in English and in writing (either by email or letter).
- c. The OBCCTC's mailing address is: 1085 Cambie Street, Vancouver, BC, V6B 5L7.
- d. General inquiries should be directed to [Info@OBCCTC.ca](mailto:Info@OBCCTC.ca) or to the OBCCTC mailing address.
- e. Inquiries concerning the Truck Licensing System ("TLS") Program, licensing, compliance, and enforcement should be directed to [Registrar@OBCCTC.ca](mailto:Registrar@OBCCTC.ca) or to the OBCCTC mailing address.
- f. Complaints should be directed to the addresses set out in Part C/Complaints/(f).
- g. All documents sent to the OBCCTC must include the following information:
  - (i) date;
  - (ii) full name of sender and recipient;
  - (iii) title and position of the sender, if applicable;
  - (iv) street address of the sender;
  - (v) postal box of the sender, if applicable;
  - (vi) telephone number of the sender; and
  - (vii) electronic address, if applicable, of the sender.
- h. All documents being filed to replace or supersede documents previously sent to the OBCCTC must clearly identify the documents being replaced by stating the document name, date, and page numbers of original document that the new document is intended to replace or supersede.

## Communications from the OBCCTC

- a. The OBCCTC may deliver a notice or order or other document by personal service or by sending a copy by any of the following methods:
  - (i) by courier, registered, or express mail to the most recent business address in the OBCCTC's records, in which case it will be considered to have been received on the date shown in the proof of service document; or
  - (ii) by email to the recipient's most recent email address in the OBCCTC's records, in which case it will be considered to have been received on the day after it was sent, unless that day is a holiday, in which case the copy will be considered to have been received on the next day that is not a holiday.

## Requesting time extensions

- a. Requests for time extensions may be made only in the following circumstances:
  - (i) to meet the additional requirements identified in a conditional licence approval;
  - (ii) to respond to requests from auditors, investigators and/or the Commissioner during an audit or investigation;
  - (iii) to comply with an order, including an order to pay an administrative fine;
  - (iv) to submit a reconsideration request or perfect a deficient reconsideration request pursuant to s. 38 of the Act.
- b. Requests for time extensions must be made in writing and must include:
  - (i) the reason(s) the deadline cannot be met; and
  - (ii) the new deadline proposed.
- c. Requests for time extensions must be received seven days prior to the original deadline. Requests that are not received seven days prior to the original deadline may not be considered.
- d. The Commissioner may accept, vary, or reject a request for a time extension.

## PART B – LICENSING

### Licensing General

- a. The Commissioner may impose any conditions on a licence that the Commissioner considers necessary.

### Security

- b. Under the terms of the licence, a licensee must maintain security in an amount prescribed by the Regulation.
- c. The Commissioner may require the licensee to modify the security during the term of a licence.
- d. If an amendment to a security is required, the licensee must submit a rider or new security in a form and amount prescribed by the Commissioner no more than 30 days after the licensee has been notified that the amendment is required.
- e. Security is realized in accordance with s. 26 of the Regulation and s. 5 of the licence.
- f. If all or any portion of the security is realized, the Commissioner may require the licensee to re-establish the security.
- g. The Commissioner may realize against the security within 12 months of the termination of the licence.
- h. Failure to meet the security requirement will constitute a breach of the licence and will result in the cancellation of the licence.

### Licence Term

- a. A licence is issued for a specified term (“Term”).
- b. All licences expire on the expiry date set out in the licence.
- c. A licence does not automatically renew upon expiry of the Term.
- d. Applicants must meet the eligibility requirements in order to receive a licence for the new term regardless of whether they hold a licence for the prior term.
- e. The Commissioner may renew a licence for an addition term or terms.

## Refusal to issue a Licence

- a. The Commissioner may refuse to issue a licence for reasons including:
  - (i) the applicant does not meet all of the licensing criteria.
  - (ii) the applicant does not submit the licence application and/or required documentation by the due date.
  - (iii) the applicant fails to provide the required fee (if applicable) by the due date.
  - (iv) the applicant fails to obtain the required security by the due date.
  - (v) the applicant submits inaccurate, false, and/or incomplete information in support of its application.
- b. If the Commissioner refuses to grant a licence, the Commissioner will provide written notice to the applicant.

## Amendment of a Licence

- a. Section 19 of the Act allows the Commissioner to amend a licence with notice after giving the licensee an opportunity to be heard.
- b. Unless otherwise directed by the Commissioner, licensees must comply with the amended terms and conditions of the licence as of their effective date.
- c. If the Commissioner rescinds imposition of a condition or an amendment, the Commissioner will promptly reissue the licence with the condition removed or the amendment reversed.

## Cancellation of a Licence

- a. The Commissioner may cancel a licence after giving the licensee notice and an opportunity to be heard for reasons including:
  - (i) the Commissioner is satisfied that the licensee is no longer carrying out container trucking services (s. 21 of the Act).
  - (ii) the Commissioner concludes that licence cancellation is an appropriate administrative penalty as a result of the licensee's non-compliance with the Act, Regulation and/or licence (s. 34 of the Act).
- b. If the Commissioner cancels a licence, the Commissioner will provide notice to the licensee of the cancellation and of any residual obligations of the licensee.
- c. Licensees can apply for reconsideration of licence cancellations made under s. 21 or s. 34 of the Act.

## Licensing Procedures

### Eligibility

- a. Any person meeting the criteria set out in section 8 of the Regulation and the mandatory criteria set by the Commissioner for the relevant licence application period can apply for a licence.
- b. Mandatory licence application criteria may include the following:
  - (i) neither the applicant nor a Related Person can hold or have held shares and/or an ownership interest in a licensee whose licence has been cancelled as an administrative penalty.
  - (ii) the applicant must hold or be eligible to hold a valid Access Agreement issued by the VFPA.

### Invitation to Apply for a Licence

- a. The Commissioner may invite licence applications in advance of the expiration of the current licence or at any other time the Commissioner is satisfied that it is desirable to increase the number of licences.
- b. The invitation to apply for a licence will be posted on the OBCCTC website.
- c. The invitation to apply for a licence will specify:
  - (i) the period during which applications will be accepted;
  - (ii) the number of truck tags available;
  - (iii) all mandatory requirements for a licence;
  - (iv) all other qualifications or criteria;
  - (v) a statement that a person, by applying for a licence, waives any claim for compensation or damages in the event the commissioner refuses to issue a licence, unless the Commissioner's conduct is dishonest, malicious or otherwise in bad faith.

### Licence Application Package

- a. Where the Commissioner has issued and posted an invitation to apply for a licence, a licence application package will also/subsequently be posted on the OBCCTC website.
- b. The licence application package will contain the information set out in Part B/Invitation to Apply for a Licence/(c), above, and:
  - (i) application instructions
  - (ii) the period during which applications will be accepted;
  - (iii) all other relevant dates;
  - (iv) identification of any additional sources of information and/or data the Commissioner may rely upon when evaluating an application (e.g., VFPA Balanced Scorecards); and
  - (v) any other information the Commissioner deems necessary.

### Licence Application Evaluation Process

- a. The Commissioner may, as a courtesy, review applications for completeness while receiving applications and advise applicants if materials are missing, in which case the Commissioner will provide a deadline by which the additional documents must be submitted.
- b. An application may be deemed to be withdrawn if all required information is not received when due.
- c. Applicants must state the number and type of truck tags requested.
- d. Applicants must clearly demonstrate how they meet the licence application criteria.
- e. The Commissioner may verify information submitted in an application but is not obligated to do so.
- f. The Commissioner may publish bulletins clarifying the application criteria during the licence application period where the Commissioner considers that additional information may benefit applicants.
- g. Applicants may not submit additional information after the application deadline.



### Conditional Licence Approval

- a. The Commissioner may issue a conditional licence after an application has been evaluated.
- b. A conditional licence may include the following:
  - (i) additional requirements for final approval;
  - (ii) the dates by which the additional requirements must be met;
  - (iii) any additional information the Commissioner deems relevant to the final approval of the licence; and
  - (iv) the effective date of the conditional licence.

### Truck Tag Decision

- a. A conditional licence approval will include a decision detailing the number and type of truck tags allocated to the licence and the reasons for allocation.
- b. Allocation of truck tags is based upon an assessment of the licence application criteria provided by the applicant.
- c. Applicants are not permitted to re-open their applications to change their proposed truck tag allocation mix.
- d. Subject to certain limited exceptions,<sup>1</sup> the Commissioner's decision concerning the number and type of truck tags allocated to a conditionally approved licence is final and will not be reconsidered.
- e. Truck tags expire with the licence under which they are awarded. Applicants will not necessarily be granted the same number or type of truck tags as under prior licences.

### Final Licence Approval

- a. The Commissioner may, after an application has been evaluated, issue or refuse to issue a licence.
- b. If the Commissioner refuses to issue a licence, the Commissioner will advise the applicant of the refusal in a decision notice.

### Reconsideration of Licence Refusal

- a. A licence refusal can be reconsidered.
- b. A reconsideration of a licence refusal must be made in accordance with s. 38 of the Act.

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<sup>1</sup> Where it is necessary to correct an accidental error or omission or ambiguity or where the decision in question was procured by reason of fraud, mental disability or the decision's integrity is for some other reason questionable.

## PART C – COMPLAINTS

### Complaints

- a. Any person may make a complaint to the Commissioner that a licensee or a trucker has contravened a provision of the Act.
- b. Any supporting documentation should be provided at the time the complaint is made.
- c. Subject to limited exceptions, complaints received 4 years after the date of the alleged breach will not usually be considered.
- d. A complainant may request that the Commissioner avoid disclosing any of the complainant's identifying information and the Commissioner will make best efforts to avoid disclosure, unless the Commissioner considers that disclosure is necessary for the purposes of a proceeding under Part 4 of the Act ("Enforcement").
- e. If the Commissioner believes that disclosure of identifying information respecting the complainant is necessary for the purposes of a proceeding under Part 4 of the Act, or that the nature of the complaint could reasonably reveal the identity of the complainant, the Commissioner will make reasonable efforts to advise the complainant of this before investigating the complaint.
- f. A complaint may be made to the Commissioner:
  - (i) by mail to #101 – 8333 Eastlake Drive, Burnaby, BC V5A 4M2;
  - (ii) by email to Registrar@obcctc.ca or confidence@ckrglobal.com;
  - (iii) through the Drayage Confidence Line at 1-877-713-5109.
- g. The Commissioner or an OBCCTC auditor or investigator may contact a complainant or others to obtain additional information about the complaint.

### Refusal to Accept a Complaint

- a. The Commissioner may refuse to accept a complaint or may stop or postpone reviewing a complaint for reasons including the following:
  - (i) The complaint is not within the jurisdiction of the Commissioner;
  - (ii) The complaint is not made or delivered to the Commissioner in accordance with the rules set out in Part C/Complaints, above.
  - (iii) The complaint is frivolous, vexatious, trivial, or is not made in good faith;
  - (iv) There is no reasonable prospect that the complaint will succeed (this may be the case where the subject matter of the complaint occurred more than four years prior to the date the complaint was filed);
  - (v) A proceeding relating to the subject matter of the complaint has commenced before a court, a tribunal, an arbitrator or mediator;
  - (vi) A court, tribunal or arbitrator has made a decision or award relating to the subject matter of the complaint;
  - (vii) The dispute that gave rise to the complaint has been resolved;
- b. If the Commissioner refuses to accept or review a complaint or stops or postpones reviewing a complaint, the Commissioner will advise the complainant of the reasons for that decision in writing.

## PART D – AUDIT AND INVESTIGATION

### Audit and Investigation

- a. The Commissioner may retain auditors and investigators to conduct audits and investigations of licensees in order to ensure compliance with the Act, Regulation, and licence.
- b. Licensees must make available all materials requested by the auditor or investigator during an audit or investigation in the form and manner specified and by the deadline specified in the request.
- c. Licensees are required by the terms of the licence to keep specified records for four years from the date of their creation.
- d. Licensees must maintain all records as of the date an audit or investigation is initiated until the audit, investigation, and any associated administrative and/or judicial proceedings have ended.
- e. The Commissioner may use any available records to determine compliance, including, but not limited to, records provided by drivers, banking records, and VFPA records, and may acquire records from sources other than the licensee.

### Interpreters and other accommodations

- a. Any person requiring an interpreter or any other accommodation in order to participate in an audit, investigation, hearing, or other matter must notify the Commissioner at least 14 days before the date the accommodation is required.

### Audit/Investigation Report

- a. Auditors and investigators may submit reports to the Commissioner at the conclusion of an audit and/or investigation.
- b. The Commissioner may review the audit and/or investigation report and may advise licensees in writing if the Commissioner finds that the licensee has not contravened the Act, Regulation, or licence.
- c. If, after reviewing the audit and/or investigation report, the Commissioner considers that the licensee may have breached the Act, Regulation or licensee, the licensee will be provided with a copy of the audit and/or investigation report<sup>2</sup> and an opportunity to respond in writing within a specified time.
- d. The Commissioner will normally conduct these hearings via written submissions.
- e. Licensees failing to respond to the audit and/or investigation report within the specified time period may be deemed to have accepted the audit and/or investigation report as accurate.

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<sup>2</sup> Only the audit and/or investigation reports will be provided to licensees for response; in most circumstances the Commissioner does not review audio recordings of the interviews and audio recordings are not transcribed.

## PART E – ENFORCEMENT

### Orders

#### Order of the Commissioner

- a. If a licensee fails to comply with any provision of the Act, Regulation or licence, the Commissioner may order the licensee to so comply.
- b. Unless otherwise specified, the licensee must comply with a Commissioner's order immediately.
- c. The Commissioner may make an order independently or as part of an audit, investigation, decision, decision notice or reconsideration.
- d. Orders of the Commissioner will be posted on the OBCCTC website.

#### Reconsideration of an Order

- a. An order is not subject to the reconsideration provisions of the Act unless it was made in a decision, or a decision notice.

### Decisions

#### Commissioner's Decision

- a. If, after considering the audit and/or investigation report, the licensee's written response and any other relevant information, the Commissioner concludes that the licensee has failed to comply with the Act, Regulation, or licence, the Commissioner may issue a decision proposing a penalty and setting out the reasons for the proposed penalty.
- b. The Commissioner will issue a decision proposing a penalty within 6 months of concluding that the licensee has failed to comply with the Act, Regulation, or licence.
- c. The decision will be sent to the licensee by email or registered mail/courier.
- d. The decision will not be posted on the OBCCTC website until after the decision notice has been issued.

#### Decision Notice

##### *Decision Response*

- a. Where the Commissioner has proposed an administrative penalty in a decision, the licensee may, within 7 days after receipt of the Commissioner's decision, submit a written response setting out why the proposed penalty should not be imposed.
- b. The written response should include information, evidence or submissions that were not considered in the audit/investigation or decision.
- c. The written response should, where appropriate, reference the Act, Regulation, licence or any previous decisions and communications of the Commissioner to explain why the licensee thinks the proposed penalty should not be imposed.

##### *Decision Notice*

- a. The Commissioner will consider the licensee's written response and may impose or refrain from imposing any or all of the proposed penalties.
- b. If the licensee does not provide a written response within 7 days receipt of the Commissioner's decision the Commissioner may impose the penalty proposed in the decision.
- c. The Commissioner will issue a decision notice setting out the reasons for imposing or not imposing any or all of the proposed penalty.
- d. The original decision and the decision notice will be posted on the OBCCTC website after the Commissioner has issued the decision notice.

## Reconsideration of Penalty Decision

### *Reconsideration Notice*

- a. A licensee may request a reconsideration of a penalty imposed in a decision notice not more than 30 days after receiving the decision notice.
- b. The reconsideration request must be made in writing and must:
  - (i) identify the decision for which the reconsideration is being sought;
  - (ii) state the reason(s) why the decision should be changed;
  - (iii) state the desired outcome;
  - (iv) include the licensee (or agent/counsel's) full name and contact information; and
  - (v) include an address for the delivery of notices pertaining to the reconsideration request and the signature of the licensee (or agent/counsel).
- c. The request should include any new information, evidence or submissions that has not already been considered by the Commissioner.
- d. The request should, where appropriate, reference the Act, Regulation, licence or any previous decisions and communications of the Commissioner to explain why the licensee thinks the proposed penalty should not be imposed.
- e. If the licensee is also seeking to have the Commissioner's order suspended pending the outcome of the reconsideration, the request should include an explanation of why the licensee thinks that is appropriate.
- f. The Commissioner may allow the licensee to correct a deficient reconsideration request within an amount of time the Commissioner considers reasonable.
- g. Despite the submission of a reconsideration request, unless the Commissioner has suspended the Commissioner's order until the outcome of the reconsideration, the decision that is subject to the reconsideration remains in effect until the Commissioner issues a reconsideration decision.
- h. The Commissioner may, at any time before making a final determination on the reconsideration, suspend any order until the outcome of the reconsideration.

### *Reconsideration Decision*

- a. The Commissioner will, after considering the licensee's written request, rescind, affirm or vary the penalty imposed in the decision notice.
- b. The Commissioner will issue a reconsideration decision setting out the reasons for rescinding, affirming or varying the penalty.
- c. The Commissioner will issue a reconsideration decision within 6 months of the date of receipt of the licensee's written reconsideration request or corrected reconsideration request.
- d. The reconsideration decision will be posted on the OBCCTC website.
- e. If a licence suspension or cancellation is rescinded in a reconsideration decision, the Commissioner will promptly reinstate and, if necessary, reissue the licence that was suspended or cancelled.
- f. If an administrative fine is reduced or rescinded in a reconsideration decision, the Commissioner will remit to the licensee the amount to be returned.

### Post-Decision

- a. The Commissioner may, upon request or on the Commissioner's own initiative, amend an order, decision, decision notice, or reconsideration decision to correct a clerical or typographical error, an accidental or inadvertent error or omission, or an arithmetical error within 30 days of the date of the order, decision, decision notice, or reconsideration decision.
- b. The Commissioner's reconsideration decisions are subject to s. 57 of the *Administrative Tribunals Act* which requires that an application for judicial review be commenced within 60 days of the date the decision is issued.

## PART F – ADMINISTRATIVE PENALTIES

### Administrative Penalty Procedures

#### Licence Suspension

- a. If, following the procedures outlined in Part E above, the Commissioner is satisfied that a licensee has failed to comply with the Act, Regulation or licence, the Commissioner may suspend the licensee's licence.
- b. The Commissioner will specify the time period for which the licensee's licence will be suspended.
- c. A licence suspension will not exceed a period of one year.
- d. If the Commissioner rescinds a licence suspension on reconsideration, the Commissioner will promptly reinstate and, if necessary, reissue the licence that was suspended.

#### Licence Cancellation

- a. If, following the procedures outlined in Part E above, the Commissioner is satisfied that a licensee has failed to comply with the Act, Regulation or licence, the Commissioner may cancel the licensee's licence.
- b. The Commissioner will specify the date upon which a licence cancellation becomes effective.
- c. If the Commissioner rescinds a licence cancellation on reconsideration, the Commissioner will promptly reinstate and, if necessary, reissue the licence that was cancelled.

#### Administrative Fine

- a. If, following the procedures outlined in Part E above, the Commissioner is satisfied that a licensee has failed to comply with the Act, Regulation or licence, the Commissioner may impose an administrative fine.
- b. The Commissioner will specify the amount and manner of payment of an administrative fine.
- c. An administrative fine will not exceed \$500,000.00.
- d. Unless the Commissioner orders otherwise, the licensee must pay the specified fine within 30 days of its receipt of the decision notice.
- e. Unless the Commissioner orders otherwise, payment must be by certified cheque, or money order payable to the Minister of Finance.
- f. If the licensee does not pay the administrative fine within the specified time, the Commissioner may:
  - (i) issue and file a certificate with the Supreme Court of BC setting out the unpaid amount, in which case the certificate is conclusive evidence of a debt due to the government and has the same effect as a judgement of the court; or
  - (ii) realize against the security held by the licensee.
- g. If the licensee has paid the administrative fine and the amount of the fine is reduced or cancelled on a reconsideration, the Commissioner will return the amount to the licensee.

- h. Licensees may be permitted to pay administrative fines in installments where they have provided evidence of their inability to pay the fine in one lump sum within 7 days of their receipt of the order to pay.

## PART G – HEARINGS

- a. The Commissioner will normally conduct hearings via written submissions as set out in E.2, above.
- b. The Commissioner may hold portions of hearings orally in exceptional circumstances, such as where credibility is a primary issue and there is no other reasonable way of determining credibility.
- c. In oral hearings, the Commissioner may require a licensee, complainant, or witness to attend before him to present their account of events and/or to respond to questions from the Commissioner. Only the participant and the participant's representative may attend.
- d. Cross-examination of a complainant by a licensee will not generally be permitted.
- e. Oral hearings may be conducted:
  - (i) in person;
  - (ii) by telephone conference;
  - (iii) by videoconference; or
  - (iv) by any combination of (i), (ii) or (iii).

### Notice of Oral Hearing

- a. Participants will be notified of an oral hearing in writing and given sufficient time to prepare for the oral hearing.
- b. An oral hearing notification will include:
  - (i) an identification of the matter which is to be the subject of the hearing;
  - (ii) the purpose of the oral hearing;
  - (iii) identification of a requirement to disclose information prior to the oral hearing;
  - (iv) the time, date and place of proceeding if the hearing is in person;
  - (v) the time, date and phone number or videoconference link if the hearing is by telephone or videoconference; and
  - (vi) how to contact the OBCCTC for more information.

### Pre-hearing Disclosure of Information

- a. The Commissioner may require participants to submit their written account of events or disclose evidence or information prior to an oral hearing.

### Recording of Proceedings

- a. The Commissioner may transcribe or tape record oral hearings.
- b. If the Commissioner transcribes or tape records an oral hearing, the transcription or tape recording will be considered to be correct and to constitute part of the record of the proceeding.
- c. If, by a mechanical or human failure or other accident, the transcription or tape recording is destroyed, interrupted or incomplete, the validity of the hearing is not affected.

## PART H – CODE OF CONDUCT

- a. This Code applies to all persons and their representatives participating in any matter before the Commissioner, including, but not limited to, an audit, investigation, or written or oral hearing.

### Duties of all Participants

- a. A participant must not put forward information known to be untrue and must not behave dishonestly.
- b. A participant must be familiar with the facts, gather and make available all relevant evidence, and base its position on relevant facts and law.
- c. A participant must behave courteously and respectfully in writing and in person to all other persons involved.
- d. A participant must respect the confidentiality of information disclosed during proceedings before the Commissioner and must not use that information for any other purposes.