

Discipline and Title Misuse Publication Policy

Policy Subject	ASTTBC Discipline and Title Misuse Publication Policy
Policy Section	
Policy Number	
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1.0 Reason

ASTTBC has a duty under the *Professional Governance Act* (“PGA”) to protect the public interest with respect to registrant conduct and reserved titles. As part of that duty, the PGA requires ASTTBC to establish bylaws about how certain information regarding investigations, discipline, and misuse of titles, as prescribed in the *Applied Science Technologists and Technicians Regulation* (“ASTT Regulation”), are to be made public.

The purpose of this policy is to outline when publication is required for outcomes of investigation, disciplinary or misuse of title files as per the *bylaws*, and to provide guidance to the Registrar and the Board on when and what information to redact in the public interest and in accordance with the governing legislation.

2.0 Applicability

This policy applies to information about the outcomes of investigation, disciplinary and misuse of title files in accordance with the PGA, *Regulations*, and the *ASTTBC’s Bylaws* (the “*Bylaws*”) for the purpose of upholding and protecting the public interest with respect to the practice of applied science and engineering technology in British Columbia.

3.0 Policy Statement

3.1 Definitions

Under Schedule 1 of the *Freedom of Information and Protection of Privacy Act* (“*FIPPA*”), “personal information” is defined as information about an identifiable individual other than contact information.

3.2 Legislative Framework

Under section 82(1) of the PGA, ASTTBC must have bylaws about how information for the following matters will be made available to the public:

- a. discipline hearings;
- b. consent orders; and
- c. any other matters prescribed by regulation

Per section 82(2) of the *PGA*, information described in section 82(1) of the *PGA* must be published on the ASTTBC's website, in accordance with the *Bylaws*, per section 82(3) of the *PGA*, this information must include the following:

- a. if the registrant's conduct is at issue, the name of the registrant;
- b. if applicable, the fact that a citation has been issued; and
- c. any other information prescribed by regulation of the Lieutenant Governor in Council.

3.3 Publication of Investigation and Discipline Information

Per section 75.4(a) of the *Bylaws*, if the discipline committee panel makes an adverse determination against a respondent, the Registrar must publish a summary of the discipline committee panel's findings regarding the allegations and its reasons. Publication must occur within 30 days of the issuance of the discipline committee panel's order.

Per section 75.4(b) of the *Bylaws* if the discipline committee panel dismisses all of a citation, the Registrar must publish a summary of the allegations and the discipline committee panel's reasons and may, if it is in the public interest to do so, publish the name and registration status of the respondent. Publication must occur within 30 days of issuance of the discipline committee panel's order.

Per section 76.4 of the *Bylaws*, the Registrar must publish an order for extraordinary action as well as the registration status of the registrant and allegations of misconduct within 30 days of the issuance of the order.

Per section 77 of the *Bylaws*, the Registrar must publish the following information on ASTTBC's website:

- a. any facilitated alternative complaint resolutions reached under section 69 of the *Bylaws* or remedial action by consent orders entered into under section 71 of the *Bylaws* which place limits or conditions on a registrant's practice, including the name, registration status of the registrant and nature of the misconduct, within 30 days of the resolution being reached or the consent order being signed by the registrant;
- b. a consent order after issuance of a citation, entered into under section 73 of the *Bylaws*, as well as the name, registration status of the registrant and nature of the misconduct, within 30 days of the consent order being signed by the registrant;
- c. notice of a citation, including the name of the respondent and the allegations of misconduct, at least 30 days before the date set for a hearing, and
- d. any limits and conditions imposed on a registrant's practice by the audit and practice review committee as well as the name and registration status of the registrant, the date and nature of the misconduct and a

summary of the action, within 30 days of the imposition of the limits and conditions.

Per section 77.1 of the *Bylaws*, the Registrar must also publish consent orders entered into under section 71 which do not place limits or conditions on a registrant's practice. However, the Registrar may, if satisfied that it is in the public interest to do so, anonymize such consent orders, for example, if it contains sensitive personal information about a complainant, other person, registrant, or historical registrant.

3.4 Publication of Title Misuse Information

Section 3 of the *Applied Science Technologists and Technicians Regulation* ("ASTT Regulation"), in accordance with section 51(1)(a) of the *PGA*, reserves the following titles for exclusive use by ASTTBC registrants:

- a. "applied science technologist";
- b. "applied science technologist trainee";
- c. "certified technician";
- d. "certified technician trainee"; and
- e. "registered technical specialist".

To protect the safety, health, and welfare of the public, including the environment, ASTTBC investigates complaints about individuals who are alleged to be misusing reserved titles, which is an offence under section 106(1)(a) of the *PGA*.

Per section 22(2) of the *PGA*, ASTTBC has the duty to preserve and protect and guard against the unlawful use of reserved titles, as prescribed under the *ASTT Regulation*.

Publishing outcomes of title misuse is dependent on the level of intervention required. ASTTBC uses an escalating model of intervention depending on the following circumstances:

- a. title(s) being used;
- b. representations by the unauthorized person (falsely portraying they are a registrant of or claiming affiliation with ASTTBC);
- c. gives rise to concerns regarding potentially serious, ongoing, or escalating risks to the public or environment;
- d. relates to or arises from an indictable offense; and

- e. alleged potential recklessness or carelessness in regard to actual harm or risk of harm to the public or environment.

A risk assessment is conducted by the Registrar to determine next steps. These include:

- a. in lower risk situations, to compel compliance by a person who misuses a reserved title, the Registrar may send an email and/or letter that explains the contravention and sets out action that the person must take to become compliant. The individual is provided an opportunity to rectify the situation. This letter puts the unauthorized person on notice should further enforcement be necessary.
- b. in cases where a higher risk to the public exists or the first level of intervention has not been effective, the Registrar will issue a cease and desist letter outlining how the unauthorized person has contravened the *PGA* by misusing any reserved title, as prescribed in the *ASTT Regulation*.

If there is a clear violation of the *PGA* and *ASTT Regulation*, a significant risk is identified, or all other forms of intervention have failed, the Registrar may apply for a court injunction, under section 107(1) of the *PGA*, to restrain a person temporarily or permanently from misusing a reserved title. The Registrar may make title misuse information publicly available on the following basis:

- a. pursuant to section 109(b)(ii) of the *PGA*, the Board may authorize certain information as being in the public interest, which may include a summary of the outcome of a misuse of title matter where a court injunction was not obtained. The Board may determine that publication is in the public interest based on the level of intervention required, risk assessment and the circumstances of the case.
- b. a summary of all title enforcement outcomes published yearly in the ASTTBC's annual report, with identifying information withheld;
- c. a summary and/or copy of any court injunction, obtained under section 107(1) of the *PGA*, shall be published on the ASTTBC's website within 30 days of the date that the injunction was granted, in accordance with any or third party or public interest information redactions.

3.5 Redacting Investigation and Disciplinary Information

Per Section 77.1 of the *Bylaws* the Registrar, if satisfied it is in the public interest to do so, may anonymize a consent order entered into under section 71 of the *bylaws* which does not place any limits or conditions on a registrant's practice.

Per section 77.2 of the *bylaws*, where publication is required under sections 77 and 77.1, the Board may determine that it is not in the public interest for certain information to be publicly available in accordance with section 1.8 of the General Regulation and may direct the Registrar to redact the order, notice, or summary before it is published.

Pursuant to section 1.8(1) of the *Professional Governance General Regulation* (“*PGG Regulation*”), the Board must direct the Registrar to redact and/or withhold certain personal information from discipline matters that are published on the ASTTBC’s website if satisfied that the public interest in the information is outweighed by the privacy interests of:

- a. a complainant or other person, other than a registrant, or
- b. a registrant or historical member who may be suffering from a physical or mental ailment, an emotional disturbance or an addiction to alcohol or drugs.
- c. If information is redacted and/or withheld from a publication, per section 1.8(1) of the *PGG Regulation*, the Registrar must, in accordance with section 1.8(2) of the *PGG Regulation*, state on the ASTTBC’s website that information has been redacted and/or withheld from the publication.

Additionally, as a public body and pursuant to section 79 of the *Bylaws*, ASTTBC adheres to the requirements of *FIPPA*, which defines the type of information that can be collected and limits what information can be disclosed. Consequently, some information stemming from the investigation or resolution of a complaint may not be publicly disclosed. The exceptions to disclosure are listed in *FIPPA* in sections 12 to 22.1, and the Board or the Registrar may consider redacting certain information in accordance with those sections.

The Board has delegated the following authority to the Registrar:

- a. where publication is required pursuant to the *Bylaws* as outlined above, the Registrar will redact information in accordance with section 1.8(2) of the *PGG Regulation and sections 12 to 22.1 of FIPPA*, where required, without having to obtain a direction from the Board.

3.6 Disclosure and Redaction of Misuse of Title Information

Per the *PGA*, ASTTBC has an obligation to protect the safety, health, and welfare of the public, including the environment.

Under section 33(3)(a) of *FIPPA*, the Board may determine disclosing personal information if there are compelling circumstances that affect the health or safety of any person. Accordingly, notwithstanding the privacy interests of a complainant, other person, registrant, or historical registrant, if satisfied that it is necessary to protect the safety, health, or welfare of the public, including the protection of the environment, the Board may direct the Registrar to disclose

personal information that is included in a title misuse publication on the ASTTBC's website.

If, for reasons other than protecting the safety, health and welfare of the public, including the environment, the Registrar determines that personal information about an unauthorized person complainant, other person, registrant or historical registrant should not be redacted, the Registrar must obtain consent from the individual prior to including the personal information in a title misuse publication on the ASTTBC's website.

Personal information about a complainant, other person, registrant or historical registrant that is included in a court injunction, as may be obtained under section 107(1) of the *PGA*, does not need to be redacted or withheld from publication on the ASTTBC's website as a court record is public information. However, as a court injunction may not be widely circulated in the public domain (e.g. online, newspapers, magazines, etc.), the Registrar may redact or withhold personal information from publication on the ASTTBC's website so as not to unnecessarily propagate identifying information about a complainant, other person, registrant or historical registrant.