

January 23, 2015

Mr. John Amodeo, Director
Health System Labour Relations and Regulatory Policy Branch
Ministry of Health and Long-Term Care
56 Wellesley St. W., 12th Floor
Toronto, ON M5S 2S3

By E-mail and Regular Mail

Dear Mr. Amodeo:

The College of Optometrists of Ontario is pleased to provide you with the following report as requested by the Honourable Dr. Eric Hoskins in his letter, dated December 17, 2014. The Colleges were asked to provide information on the current status and operations of its patient relations program's measures for preventing and dealing with the sexual abuse of patients.

OVERVIEW

Patients have the right to receive optometric care free from sexually abusive behaviours, and the College expects all health care practitioners to care for their patients in an environment of trust and openness. Although the College has addressed only three allegations of verbal or sexual impropriety by an optometrist in more than 20 years (since at least the introduction of the *RHPA*), it has a meaningful and robust program when this occurs. It includes:

- Emphasizing a collaborative approach to health care
- Mandatory education and training for all members
- Code of Ethics and Guidelines for member conduct
- Specialized training for all College staff
- Helpful resources for the public on the College's website
- \$30,000 Fund for Therapy and Counselling

The College is always reviewing its processes to make its program even better, and is eager to work with the Task Force on the Prevention of Sexual Abuse of Patients to improve everyone's experience in the delivery of quality health care.

THE COLLEGE'S PATIENT RELATIONS PROGRAM

1. A Collaborative Approach to Health Care

The cornerstone of any patient relations program is recognizing the importance of the patient/practitioner relationship. That is why two years ago, in September 2013, the College endorsed a policy called, "Partnership in Vision Care". It is meant to detail the collaborative nature of the relationship between optometrists and their patients and begins with the statement that "you and your optometrist should treat each other with dignity and respect". A copy of the policy can be found on page 6 of this report and is located on the College's website at: <http://www.collegeoptom.on.ca/index.php/resources/college-publications/document/265-partnership-in-vision-care-2>

2. Mandatory Education for Optometrists

Mandatory Jurisprudence Exam

It is the College's position that all members should have education and training in:

- Appropriate behaviours and interactions with patients, including avoidance of boundary violations;
- Recognizing and appropriately responding to sexual abuse by other healthcare practitioners;
- Understanding the nature of sexual abuse and its impact on the patient;
- Understanding the legislative requirements of the mandatory reporting provisions of the Health Professions Procedural Code (s. 84 through s.85.7 (13)).

These are all topics included on the Ontario Optometric Jurisprudence Examination. An applicant cannot become an optometrist in Ontario without having first passed this exam.

Optional Seminars

To assist applicants in being successful on the exam, the College provides optional seminars twice a year. These seminars highlight the significance of mandatory reporting and sexual abuse provisions in the RHPA.

Continuing Education

The College created a distance learning module in 2006 on professional boundaries for optometrists. Members earn continuing education credits by completing the module and submitting, to the College, answers to the questions at the end of the module. This program addresses all aspects of professional boundaries, including the power imbalance inherent in the patient/practitioner relationship and the role of professional ethics. A case scenario, in this course, specifically discusses issues surrounding sexual impropriety.

This course is available on the College website:

[http://www.collegeoptom.on.ca/images/pdfs/Distance Education Professional Boundaries.pdf](http://www.collegeoptom.on.ca/images/pdfs/Distance_Education_Professional_Boundaries.pdf)

3. Code of Ethics and Guidelines for Conduct of Members

Revising College's Bylaws

In 2012, the College revised its by-laws to include a Code of Ethics. Among the provisions in the Code of Ethics are requirements that the first priority for optometrists should be their patient's visual well-being and the provision of appropriate care, to treat all patients with respect and not to exploit their patients for personal advantage.

Creating Practice Advisories

The College created a practice advisory called, "the Prevention of Sexual Abuse in Optometric Practice". Members are always encouraged to review this advisory, refresh their understanding of the College's expectations, and compare their behaviours to these guidelines. Optometrists are reminded that it may be considered professional misconduct for an optometrist to have a social relationship with a current patient, particularly "dating". It addresses what would be considered inappropriate behaviour in the provision of optometric services, as well as sexual harassment of office staff and a description of the mandatory reporting requirements under the RHPA.

This document is found on page 7 of this report and can also be found on the College website at: http://www.collegeoptom.on.ca/images/pdfs/Practice%20Advisory_SexualAbuse.pdf

In 2010, the College also developed a practice advisory called, "Tips for Improving the Doctor/Patient Relationship – Communicating Across Cultures." This advisory provides guidance for members, which includes; "respect that patients will have different levels of comfort with physical contact." It suggests that in some cultures, shaking hands may be considered inappropriate and therefore, "it may be best to limit physical contact with patients to conducting examination procedures". The advisory is found on page 11 of this report and can be found on the College website:

<http://www.collegeoptom.on.ca/images/pdfs/Tips%20for%20Improving%20the%20Doctor.pdf>

Just last year, the College's Patient Relations Committee created a guideline addressing appropriate social media interaction for optometrists. This document can be found on the College website at: <http://www.collegeoptom.on.ca/index.php/resources/news/180-guidelines-for-the-appropriate-use-of-social-media-by-optometrists>

This document was designed to complement the interactive presentation on social media awareness developed by the Federation of Health Regulatory Colleges of Ontario (FHRCO). That presentation has been included on the College's website as well.

4. Specialized, Mandatory Training for College Staff

The staff at the College of Optometrists of Ontario plays an important role when receiving inquiries (phone calls or other correspondence) regarding allegations of sexual abuse and providing meaningful support to those who contact the College. That is why, earlier this week, the College staff (and especially those on the “front lines”) received updated training to ensure that they have the tools to provide this support and facilitate communication. This is important because the College wants everyone to know that these types of allegations will be taken seriously and treated with sensitivity and compassion. This training is mandatory for staff and updated annually.

5. Providing Helpful Information to Patients

Last year, the College re-designed its website to make it easier for the public to find information about how to contact the College for any reason. Now, when the public goes to the “Complaints” section of the website, the first heading they will see is “Complaints of a Sexual Nature”. The public is immediately informed of the following:

“The College has a “zero tolerance” policy on sexual abuse of patients by optometrists. If you believe that you are the victim of sexual abuse or physically or verbally inappropriate behaviour by an optometrist, contact the College or e-mail the Director, Investigations and Resolutions of the College.”

This tab provides them with immediate information on how to contact the College along with a link to the Patient Relations Program. The “Complaints” tab can be accessed at:

<http://www.collegeoptom.on.ca/index.php/public/complaints>

The College knows that patients may not be aware of what behaviours differentiate normal optometric care from sexually abusive behaviour by an optometrist. That is why the College has updated its website to include guidance to both optometrists (to avoid allegations of sexual impropriety or abuse) and patients (in identifying questionable requests or behaviours). The public is informed that behaviours such as (i) having a patient disrobe during an optometric examination is never appropriate; and (ii) hugging and kissing is inappropriate and should never be initiated by the optometrist and should be respectfully declined if initiated by the patient.

A copy of this information is found on page 13 of this report and can be found on the College website at: <http://www.collegeoptom.on.ca/index.php/public/complaints/patient-relations>

6. Funding for Therapy and Counselling

The College has a program in place to provide funding for therapy and counselling for individuals who are sexually abused while they are patients of an optometrist, as required under the RHPA. It has set aside \$30,000 to help victims of sexual abuse by optometrists who have been found guilty by the Discipline Committee. Applications for funding are considered by

the Patient Relations Committee. Information about the funding, including the forms, can be found on the College's website at:

<http://www.collegeoptom.on.ca/index.php/public/complaints/patient-relations>

CONCLUSION

The College is proud about what it has done to help educate optometrists, prevent inappropriate behaviour and to assist victims of sexual abuse. While the College is ready to handle these types of allegations with sensitivity, compassion and fairness, it knows that it can always do more. In the interests of further strengthening the RHPA's sexual abuse provisions, the College looks forward to fully participating and cooperating with the Task Force as it carries out its advisory work.

Sincerely,



Paula L. Garshowitz, OD
Registrar

Cc: The Honourable Dr. Eric Hoskins
Dr. Thomas-A. Noël, President, College of Optometrists of Ontario

Partnership in Vision Care

The College of Optometrists of Ontario believes that you and your optometrist should work together in order to maintain your optimum eye care.

- You and your optometrist should treat each other with dignity and respect.
- You have the responsibility to seek regular optometric health care and the right to receive quality care. You should report any significant changes in your vision and / or any eye-related conditions to your optometrist.
- You have the right to be guided to appropriate care in case you require urgent or emergency eye care.
- You have the responsibility to provide honest and full disclosure of your medical history and contact information. You have the right to a full explanation, in understandable terms, about your diagnosis, recommended treatment, prognosis, and alternatives.
- You can expect to receive treatment advice from your optometrist. However, you have the right to refuse treatment or seek other opinions if desired.
- You have the right to receive a copy of and / or access to the information in your record, upon request and payment of any applicable fees.
- You have the right to privacy and confidentiality of your information and your record.
- You have the right to communicate to your optometrist any concerns you may have regarding the overall care you received.
- You have the responsibility to remit payment for services received.

The College of Optometrists of Ontario is the regulatory body for optometrists in Ontario established by the government of Ontario.

Every optometrist practising in Ontario must be a currently registered member of the College of Optometrists of Ontario.

PRACTICE ADVISORY

Prevention of Sexual Abuse in Optometric Practice

Introduction

The College of Optometrists of Ontario views any form of abuse of a patient, whether sexual or otherwise, as professional misconduct that will not be tolerated. The *Regulated Health Professions Act, 1991 (RHPA)* and the *Health Professions Procedural Code* (the Code) set out specific requirements for the manner in which the College deals with sexual abuse and provides severe sanctions for members who are found to have sexually abused a patient. This advisory sets out the legislated standards of conduct that are required of members, and provides guidelines to assist members in avoiding allegations of sexual impropriety.

Definition of sexual abuse

Sexual abuse is defined in the Code as:

- a) sexual intercourse or other forms of physical sexual relations between the member and the patient;
- b) touching, of a sexual nature, of the patient by the member; or
- c) behaviour or remarks of a sexual nature by the member towards the patient.

According to the Code, touching, behaviour or remarks of a clinical nature appropriate to the services provided are not considered to be touching of a 'sexual nature'.

Discipline and Penalties

If a member is found to have committed an act of professional misconduct by sexually abusing a patient, sanctions imposed by a panel of the Discipline Committee may include any or all of the following:

- revoking the member's certificate of registration;
- suspending the member's certificate of registration for a specified period of time;
- imposing specified terms, conditions and limitations on the member's certificate of registration for a specified or indefinite period of time;
- reprimanding the member;
- requiring the member to pay a fine of up to \$35,000;
- requiring the member to reimburse the College for the cost of therapy; and counselling provided for the sexually abused patient under a program established by the College.

If the sexual abuse consisted of or included:

- sexual intercourse;
- genital to genital, genital to anal, oral to genital, or oral to anal contact;
- masturbation of the member by, or in the presence of, the patient;
- masturbation of the patient by the member;
- encouragement of the patient by the member to masturbate in the presence of the member,

a panel of the Discipline Committee is required by the Code to:

- **revoke, for a minimum of five years**, the member's certificate of registration; and **reprimand the member.**

In addition, the optometrist may be fined up to \$35,000 and be required to reimburse the College for the cost of therapy and counselling provided for the sexually abused patient under a program established by the College.

Sexual Relations with Patients, Including Spouses

Because of the broad definition of sexual abuse in the *RHPA*, it may be problematic for an optometrist to have a social relationship with a current patient. There are different types of social engagements that may be considered "dating", however professional misconduct occurs whenever a relationship with a patient involves behaviour or remarks of a sexual nature.

There are ethical dilemmas beyond the potential for sexual abuse allegations that may arise when dating a patient. The best course of conduct for members is to avoid dating any current patient. If an optometrist intends to date a patient, he or she must first terminate the patient/practitioner relationship by dismissing the patient.

The *RHPA* does not provide exemption from the sexual abuse provisions for a spouse who is also a patient.

Prevention

Members need to be exceptionally careful in their interaction with patients to ensure that their behaviour is not misinterpreted. Suggestive comments, profanity or sexual jokes may be misunderstood and could lead to allegations of professional misconduct. Optometrists should be aware of how their behaviour may be perceived by the patient as well as anyone who may observe or overhear the interaction.

Members should also be aware that patient expectations differ based on cultural background, religion, gender, age, and sexual orientation. Accordingly, a high level of respect and sensitivity is required to ensure that people of all backgrounds are treated with dignity.

The College advises all members to take a second look at their behaviour, be alert to the potential for allegations of sexual impropriety and, where necessary, change their behaviour.

The following advice is provided to assist members in avoiding allegations of sexual impropriety or sexual abuse:

- Having a patient disrobe is never appropriate;
- Hugging and kissing is inappropriate and should never be initiated by the optometrist;

- Touching should only be used as necessary to facilitate the optometric examination;
- Physical assistance may be required to facilitate patient positioning and head, eyelid or brow manipulation for ocular examination;
- Reclined patient positioning for examination may make a patient feel vulnerable.
- The reason for reclining the patient should be explained, and consent obtained.
- Comforting or reassuring a nervous or upset patient should be done with words rather than with touch.
- Appropriate touching for greeting purposes (such as shaking hands) or for assisting in the transfer of patients (for example from a wheel chair to examination chair), may enhance the comfort of a patient;
- Face to face proximity as is required in direct ophthalmoscopy should be explained. Patient and doctor comfort may be enhanced through the use of a face mask;
- Questioning and conversation must avoid references to sexual practices, thoughts, and orientation except where necessary, as in cases of diagnosis and treatment of ocular manifestations of sexually transmitted disease;
- Do not comment on a patient's appearance, clothing, or body unless clinically necessary;
- Do not tell jokes or stories of a sexual nature;
- Do not display material within the office that is sexual or suggestive, or may be offensive to patients or staff;
- Ensure that a member of the office staff or a third party is in attendance when services are performed within the optometry office outside of normal office hours;

If a patient initiates sexually inappropriate conversation or behaviour, this should be respectfully discouraged and a record of the incident made. Having a staff member or third party in attendance throughout the examination may help prevent misunderstanding or accusation. If the patient persists in the inappropriate behaviour, the optometrist should end the optometrist/patient relationship by dismissing the patient.

Because of the power differential in the optometrist/patient relationship, it is always the responsibility of the optometrist to maintain appropriate boundaries. Sexual activity between an optometrist and a patient, even if perceived as consensual by those involved, is by definition, considered to be professional misconduct.

Sexual harassment of office staff

While not dealt with in the *RHPA*, any form of harassment of office staff, including professional associates, may lead to allegations of professional misconduct.

A staff member who has received assessment or treatment services from an optometrist is considered to be a patient for the purpose of applying the sexual abuse provisions of the *RHPA*.

Mandatory Reports

If, in the course of practising the profession, an optometrist obtains reasonable grounds for believing that another regulated health professional has sexually abused a patient, the optometrist must make a report to the Registrar of the College of which the alleged abuser is a member. The report must be made within 30 days of obtaining such information and must contain the name of the reporter, the name of the alleged abuser, the details of the alleged abuse, and the name of the patient (**but only if the patient consents in writing** to the inclusion of his or her name in the report).

Patient Funding for Therapy and Counselling

The College has appropriated an amount of \$35,000 for the Patient Relations Fund. The legislation provides that patients who were sexually abused by their optometrist may apply for funding for therapy and counselling. This funding is available only if the member has been found guilty of sexually abusing the patient by a panel of the Discipline Committee.

Victims of sexual abuse must apply for funding. Consideration of the application is by the Patient Relations Committee. The maximum amount that can be paid for therapy or counselling is fixed by the regulations under the *RHPA* at the equivalent of 200 half hour sessions with a psychiatrist.

The legislation allows the College to make regulations specifying alternative criteria for funding. The Council has not made any such regulations. Funding does not continue indefinitely. The therapy or counseling must be completed within 5 years from either the first therapy session for which funding was requested or, if funding is not provided, the day on which the person becomes eligible for funding.

Tips for Improving the Doctor/Patient Relationship Communicating Across Cultures

1. Culture helps determine the roles for polite, caring behaviour and it shapes the concepts of a satisfactory relationship held by both patients and optometrists. Be conscious that there can be cross-cultural differences in the responses to authority, physical contact, communication style, gender and family interactions. For example, these differences can affect the use and interpretation of gestures, hand-shaking, eye contact, facial expressions and colloquial phrases.

2. Consider being initially more formal with patients who are from another culture. In most countries, a more distinct relationship between caregiver and patient is maintained through the relationship. Except when treating children or very young adults, it is best

to address patients using their family name.



3. Respect that patients will have different levels of comfort with physical contact. For example, there are significant cultural differences regarding whether to shake hands and how to shake hands. Contact between men and women, even touching an arm to guide patients to the

examination chair, are too intimate in some cultures. It may be best to limit physical contact with patients to conducting examination procedures.

4. Consider using a professional interpreter in situations where there is a significant language barrier. In cases where a detailed explanation of the condition and recommended treatment is necessary, an attempt to over-simplify the terminology and/or communicate through the interpretation of a family member may be inadequate.

5. Recognize that patients who do not look you in the eye or ask questions about treatment are not necessarily disinterested. In many cultures, it is disrespectful to look directly at other

people (especially one in authority) or to make someone "lose face" by asking him or her questions.

6. Consider that patients may hold different beliefs regarding health, illness and illness prevention. Adopt a line of questioning that will help them express these beliefs.

For example:

- What do you think is wrong?
- How does this problem affect you?
- What is your greatest concern about this problem?
- Do you have any ideas of what should be done about the problem?

Be conscious that patients who believe that an illness has been caused by *embrujado* (bewitchment), the evil eye, or punishment, may not take any responsibility for their cure. Belief in the supernatural may cause patients to resist medical advice or treatment.

7. Allow patients to be open and honest about their use of complementary and alternative medicine techniques.

The following questions will help to explore this issue:

- Have you seen anyone else about this problem?
- What are all the strategies you've used to treat this problem?
- Who advises you about your health?



8. Be sensitive in relating bad news or explaining the details of complications that may result from a particular course of treatment. Patients from Western culture often will want to make decisions for their own care after being informed about all of their options.

However, patients from some other cultures may prefer to transfer the responsibility for treatment decisions to you. Watch for and respect signs that patients have learned as much as they are able, or willing, to process. If necessary, defer the discussion of additional information to a future visit, and document this in your notes.

9. Describe specific management options in understandable terms, inquire about patients' priorities and then present a reasonable management plan. With patient consent, try to ascertain the value of involving the entire family in the treatment. In many cultures, medical decisions are made by the immediate family or the extended family. If family members can be involved in the decision-making process and the treatment plan, there is a greater likelihood of maintaining compliance throughout the course of treatment.

It is important that patients are aware that optometrists are advised that:

- having a patient disrobe during an optometric examination is never appropriate;
- hugging and kissing is inappropriate and should never be initiated by the optometrist and respectfully declined if initiated by the patient;
- touching should only be used as necessary to facilitate the optometric examination;
- physical assistance may be required to facilitate patient positioning and manipulation of the head, eyelid or brow during an ocular examination;
- patients in a reclined position during an examination may feel vulnerable and the reason for reclining the patient should be explained;
- patients who are upset or nervous should be comforted with words rather than with touch;
- appropriate touching, such as shaking hands or assisting in the transfer of patients (for example from a wheel chair to examination chair), may enhance the comfort of a patient;
- before conducting a test that necessitates physical closeness, such as direct ophthalmoscopy (a test which involves the patient and optometrist sitting face to face) the test and how it is conducted should be explained to the patient;
- questions and conversations must not have any references to sexual practices, thoughts, and orientation except where necessary, as in cases of diagnosis and treatment of ocular manifestations of sexually transmitted disease;
- they should not comment on a patient's appearance, clothing, or body unless clinically necessary;
- they should not tell jokes or stories of a sexual nature;
- they should not display material within the office that is sexually suggestive, or may be offensive to patients or staff; and
- they should ensure that a member of the office staff or a third party is in attendance when services are performed within the optometry office outside of normal office hours.

If a patient initiates sexually inappropriate conversation or behaviour, this should be respectfully discouraged and a record of the incident made. Having a staff member or third

party in attendance throughout the examination may help prevent any misunderstanding or accusation. If the patient persists in the inappropriate behaviour, the optometrist should end the optometrist/patient relationship by dismissing the patient.

Sexual activity between an optometrist and a patient, even if perceived as consensual by those involved, is by definition considered to be professional misconduct.