

**DISCIPLINE COMMITTEE OF THE COLLEGE
OF OPTOMETRISTS OF ONTARIO**

B E T W E E N:

THE COLLEGE OF OPTOMETRISTS OF ONTARIO

-AND-

DR. AJAY CHANDAIL

NOTICE OF HEARING

THE COLLEGE INQUIRIES, COMPLAINTS, AND REPORTS COMMITTEE OF THE COLLEGE OF OPTOMETRISTS OF ONTARIO has referred the following allegations about you to the Discipline Committee:

1. You have committed an act or acts of professional misconduct as provided by subsection 51(1)(c) of the *Health Professions Procedural Code* (the "Code") being Schedule 2 to the *Regulated Health Professions Act*, 1991, S.O. 1991 C.18, and defined in the following paragraphs:

- a. paragraph 1.11 of *Ontario Regulation 119/94*, under the *Optometry Act, 1991*, S.O. 1991, c. 35, in that you failed to refer your patient, Patient A, to another professional when you recognized or should have recognized a condition of the eye or vision system that appeared to require such referral;
- b. paragraph 1.14 of *Ontario Regulation 119/94*, under the *Optometry Act, 1991*, S.O. 1991, c. 35, in that you failed to maintain the standards of practice of the profession with respect to the following:
 - i. the oculo-visual assessment you performed on Patient A;
 - ii. the oculo-visual assessments you performed on 23 pediatric patients;
 - iii. the oculo-visual assessments of 101 patients who were students at Ottawa University;
 - iv. failing to notify the 101 patients at Ottawa University as to where their patient records were located and failing to provide the patients with your contact information (telephone number or other means of contacting you) in the event that they had questions or problems with their vision or eyeglasses; and
 - v. inputting inaccurate information on 17 patient records.
- c. paragraph 1.24 in that you failed to make and maintain records in accordance with Part IV of *Ontario Regulation 119/94*, under the *Optometry Act, 1991*, S.O. 1991, c. 35, in that:
 - i. you made a referral to a pediatric ophthalmologist for your patient, Patient B, but failed to maintain a referral in the patient record;
 - ii. you failed to maintain an appointment book as required by section 8 of *Ontario Regulation 119/94*;

- iii. you failed to maintain financial records for each patient as required by section 9 of *Ontario Regulation 119/94* respectively;
 - iii. you failed to record all of the information required by s. 10 of *Ontario Regulation 119/94* in the patient records; and
 - iv. you used equipment for recording, storing and the retrieval of records which permitted amendments, corrections, additions or deletions to be made to any record which obliterated the original record or did not show the date of the change contrary to paragraph 12(c) of *Ontario Regulation 119/94*.
- d. paragraph 1.39 of *Ontario Regulation 119/94*, under the *Optometry Act, 1991*, S.O. 1991, in that you engaged in conduct or performed an act, that having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable, unprofessional or unethical by adding information to the patient record of Patient C after the fact and not indicating that this is what you did.

Particulars of the allegations are set out at Appendix “A” to the Notice of Hearing.

TAKE NOTICE THAT THE DISCIPLINE COMMITTEE WILL HOLD A HEARING pursuant to the provisions of the *Health Professions Procedural Code* (the “Code”) which is Schedule 2 to the *Regulated Health Professions Act, 1991*, R.S.O. 1991 cs. 18 and the Discipline Committee’s Rules of Procedure (a copy of which is available to you upon request) for the purpose of deciding whether you are guilty of professional misconduct.

AND FURTHER TAKE NOTICE THAT a hearing will be held before a panel of the Discipline Committee of the College of Optometrists of Ontario on a date to be set at the Pre-Hearing Conference, on a date to be determined, at 65 St. Clair Avenue East, Suite 900, Toronto, Ontario.

AND FURTHER TAKE NOTICE THAT at the hearing the panel of the Discipline Committee will do the following:

1. Consider the allegations of professional misconduct;
2. Make its findings based exclusively on evidence admitted before it; and
3. Determine whether in respect of the allegations you have committed an act or acts of professional misconduct.

AND FURTHER TAKE NOTICE THAT pursuant to subsections 51(2) of the Code, if the Panel finds you guilty of professional misconduct, it may make an order doing one or more of the following:

1. Directing the Registrar to revoke your certificate of registration.
2. Directing the Registrar to suspend your certificate of registration for a specified period of time.
3. Directing the Registrar to impose specified terms, conditions and limitations on your certificate of registration for a specified or indefinite period of time.
4. Requiring you to appear before the panel to be reprimanded.
5. Requiring you to pay a fine of not more than \$35,000 to the Minister of Finance.

AND FURTHER TAKE NOTICE THAT pursuant to section 53.1 of the Code if the Panel finds you guilty of professional misconduct the Panel may make an Order requiring you to pay all of part of the College's legal costs and costs and expenses incurred in investigating this matter and conducting the hearing.

AND FURTHER TAKE NOTICE THAT you are entitled to be represented by counsel at the said Hearing and to call witnesses and to adduce evidence in answer to the allegations set out in this Notice of Hearing.

AND FURTHER TAKE NOTICE THAT a member whose conduct is being investigated in proceedings before the Discipline Committee is entitled to certain disclosure of evidence pursuant to section 42 of the Code. To facilitate that process, you or your lawyer may contact directly the lawyer for the College of Optometrists of Ontario. The College's lawyer in this matter is:

Julia J. Martin
Barrister and Solicitor
440 Laurier Avenue West, Suite 200
Ottawa ON
K1R 7X6
Tel: (613)513-6735
Email: julia@juliamartinlaw.com

AND FURTHER TAKE NOTICE THAT if you do not attend at the Pre-Hearing Conference on the date to be determined, or on any subsequent date fixed by the Discipline Committee, the panel of the Discipline Committee may proceed in your absence and you will not be entitled to any further notice.

DATED at Toronto, Ontario, this 21st day of June 2019.

**COLLEGE OF OPTOMETRISTS
OF ONTARIO**
65 St. Clair Avenue East
Suite 900
Toronto, ON M4T 2Y3

[Original signed]

Paula L. Garshowitz, O.D.
Registrar

TO: Dr. Ajay Chandail

Appendix "A"

1. Dr. Ajay Chandail is an optometrist who has practised in Ontario since in or about June 6, 2016.

University of Ottawa Students

2. In or about October and November 2016, Dr. Chandail attended at the University of Ottawa, in Ottawa, to conduct eye clinics for the students.
3. Dr. Chandail conducted oculo-visual assessments of the 101 students listed at Appendix "B".
4. It is alleged that Dr. Chandail's oculo-visual assessments of the patients listed at Appendix "B" did not include the following and that he therefore failed to maintain the standard of practice:
 - i. a review of the patients' ocular or visual symptoms or experiences;
 - ii. the patients' occupational and avocational visual environment and demands;
 - iii. the patients' apparent and relevant physical, emotional and mental status;
 - iv. the patients' posterior segment;
 - v. the patients' intraocular pressure;
 - vi. the patients' refractive status and best-corrected monocular visual acuities;
 - vii. the patients' accommodative function; and
 - viii. the patients' oculomotor status.
5. It is further alleged that Dr. Chandail failed to do the following which constitutes a failure to maintain the standard of practice:
 - i. provide his patients listed at Appendix "B" with his contact information (telephone number or other means of contacting him) in the event that they had questions or problems with their vision or eyeglasses; and
 - ii. inform them of the location of their patient records when he left Ottawa.
6. Dr. Chandail did not maintain financial records for his patients listed at Appendix "B" as required by section 9 of *Ontario Regulation 119/94*.
7. Dr. Chandail failed to record the following information in the patients' records at Appendix "B" which is required by section 10 of *Ontario Regulation 119/94*:
 - i. the patients' addresses;
 - ii. the correct time and date of the appointment; and
 - iii. the patients' correct date of birth.

Elementary School Children

8. On or about May 16, 2017, Dr. Chandail attended Franklin Road Elementary School in Hamilton and conducted oculo-visual assessments on children who were students there.
9. Dr. Chandail conducted oculo-visual assessments of the children listed at Appendix "C" as well as a child that he saw at Spec Appeal Optical in Cambridge on or about March 22, 2018.
10. It is alleged that Dr. Chandail's oculo-visual assessments of the patients listed at Appendix "C" as well as, Patient D, did not include the following and that he therefore failed to maintain the standards of practice:
 - i. the review of the patients' ocular or visual symptoms or experiences;
 - ii. the patients' general health history;
 - iii. the patients' apparent and relevant physical, emotional and mental status;
 - iv. the examination of the patients' external eye and adnexa;
 - v. the assessment of the patients' anterior segment;
 - vi. the patients' presenting monocular acuities;
 - vii. the patients' oculomotor status; and
 - viii. the patients' stereoacuity.
11. Dr. Chandail noted on the record for his patient, Patient B that he was to be referred to a pediatric ophthalmologist for refraction under cycloplegia. However, he did not have a copy of the referral in the patient record.
12. Dr. Chandail therefore failed to maintain the records required by Part IV of *Ontario Regulation 119/94*.
13. Also, on or about May 16, 2017, Dr. Chandail conducted an oculo-visual assessment of Patient A, another student at Franklin Road Elementary School in Hamilton.
14. Dr. Chandail concluded that Patient A's vision was normal.
15. Dr. Chandail did not refer Patient A to another health professional.
16. Patient A attended her family doctor on or about October 31, 2017, who noted upon examining her, that she had what appeared to be a "lazy eye".
17. Her guardians, therefore, took her to see another optometrist on or about November 20, 2017, who found a main diagnosis of "V pattern right eye exotropia", suspected as being congenital, with minor diagnoses of compound hyperopia astigmatism, receded near point of convergence, and reduced stereoacuity and had the patient return for cycloplegia.

18. Dr. Chandail failed to maintain the standard of practice of the profession in his oculo-visual assessment of Patient A as follows:
- i. he failed to complete the assessment of EOMs and refraction, including cycloplegic refraction;
 - ii. his analysis of the data was deficient in that he did not consider the stereoacuity; and
 - iii. given the foregoing, he failed to properly diagnose this patient.
19. In addition, Dr. Chandail failed to recognize, when he ought to have, that Patient A's condition of the eye required a referral to another professional whose profession is regulated under the *Regulated Health Professions Act*, contrary to paragraph 1.11 of *Ontario Regulation 119/94*.

Inaccurate Records

20. Other than the patient's name and health card number, Dr. Chandail input identical information, including the identical date and time of service, on the following groups of patient records for the patients at Appendix "B":
- a. 11/03/2016 – Patient E and Patient F;
 - b. 11/03/2016 – Patient G, Patient H and Patient I;
 - c. 11/03/2016 – Patient J, Patient K and Patient L;
 - d. 10/25/2016 – Patient M, Patient N and Patient O; and
 - e. 10/27/2016 – Patient P, Patient Q and Patient R.
21. Dr. Chandail input the same date of service and identical times for the measurement of intraocular pressure on the patient records for the following patients listed at Appendix "B":
- a. 10/25/2016 11:05 – Patient S and Patient T; and
 - b. 11/03/2016 11:05 – Patient U and Patient V.
22. The conduct alleged in paragraphs 20 and 21 above, constitutes a failure to maintain the standard of practice.
23. For Patient C, listed at Appendix "B", the College previously obtained a copy of her patient record during the course of a related investigation. Dr. Chandail subsequently provided another patient record for this patient during the investigation into his conduct.
24. The original patient record contained very little information whereas the one obtained during the current investigation contained the following additional details regarding this patient:
- i. health history (no health concerns);
 - ii. meds note (no meds);

- iii. allergies (NKA);
 - iv. cover test @D (exophoria 6pd) @N (exophoria 6pd);
 - v. stereo (50 specs);
 - vi. colour vision (NORMAL);
 - vii. pupil size (4.00mm OD / 4.00mm OS); and
 - viii. retinoscopy (-450-100x035 OD / -450-100x095 OS);
 - ix. subjective (-400-075x045 20/20 OD / -450-075x110 20/20 OS);
 - x. IOP (refused); and
 - xi. and BV/OH (WNL).
25. In addition, there was a change in information for Rx Diagnostic Recommendations from “spectacle rx released for full time wear” to “New spectacle Rx released for full time wear/as needed”.
26. Dr. Chandail did not indicate on the subsequent record that he had made any changes to the original one nor did he indicate any date of the changes.
27. Dr. Chandail therefore contravened paragraph 12(c) of *Ontario Regulation 119/94* in that his computer, electronic or other equipment for recording, storing and the retrieval of records permitted him to make an amendment, correction, addition or deletion to Patient C’s record which obliterated the original record and did not show the date of the change.
28. In addition, regarding Patient C, it is alleged that by adding information in the patient record after the fact and not indicating that this is what he had done, Dr. Chandail engaged in conduct or performed an act, that having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable, unprofessional or unethical.