

MANDATORY REPORTING OF SEXUAL ABUSE

As a member of one of Ontario's regulated health Colleges, opticians are legally obligated under the *Regulated Health Professions Act (RHPA)* to file a written report if, during the course of practicing opticianry, the optician has reasonable grounds to suspect that a patient has been sexually abused by a member of either the same or a different regulated health profession. In the case that the optician is aware of the name of the member in question, a mandatory report must be filed with the Registrar of the College to which the member who is the subject of the report belongs.

Failure to file such a mandatory report is an offence under the *Regulated Health Professions Act* and is punishable by a fine of up to \$25,000 for a first offence and up to \$50,000 for a second or any subsequent offence. It may also be considered as an act of professional misconduct should an optician fail to report an allegation of sexual abuse.

A member must file a mandatory report if the answer is "yes" to all of the following questions:

- 1) Is the alleged abuser a member of one of Ontario's regulated health Colleges (see list below)?
- 2) Do you know the name of the regulated health professional in question?
- 3) Was the person who was allegedly sexually abused a patient of the respective regulated health professional?
- 4) Did the conduct involve one or more of the following:
 - Sexual intercourse or some other form of physical sexual relations between the member and the patient;
 - Touching of a sexual nature of the patient by the member; or
 - Behaviour or remarks of a sexual nature by the member towards the patient?
- 5) Was the information regarding the alleged sexual abuse obtained in the course of your practising opticianry (e.g. did one of your patients tell you that they were sexually abused by another regulated health professional)?
- 6) Based on the information that you have, do you have reasonable grounds to believe that the regulated health professional has sexually abused a patient?

What constitutes reasonable grounds for belief is a matter of judgment and will depend on the circumstances that surround each respective case. Opticians are not required to investigate or make inquiries to confirm that the allegations are true before filing a mandatory report. If you are uncertain as to whether you have reasonable grounds for believing that a regulated health professional has sexually abused a patient, you may wish to contact the College of the member who is in question.

If an optician has answered yes to all six (6) of the above question, and is therefore required to file a mandatory report, before doing so the optician should make his or her best efforts to advise the patient that there is a duty on behalf of the optician to report any such allegations of sexual abuse, and that a report will be filed in the near future. Rumour or gossip that sexual abuse of a patient by a regulated health professional has occurred does not constitute reasonable grounds on which to file a report. When in doubt as to what reasonable grounds may be, please contact the College involved.

The *RHPA* Procedural Code sets out deadlines for making a mandatory report. An optician must:

- i. File the report within thirty days of learning about the alleged instance(s) of sexual abuse; or
- ii. Forthwith, if the optician has reasonable grounds to believe that the regulated health professional who is the subject of the report will continue to sexually abuse the patient, or will sexually abuse other patients.

The report must contain:

- a) The full name of the optician filing the report;
- b) The name of the accused regulated health care professional; and
- c) A description of the nature of the alleged sexual abuse.

The name of the victim of the sexual abuse allegation may be included in the report **ONLY** if the patient (or, in the instance that the patient is incapable of providing this information for him or her self, then his or her representative) has provided written consent for its disclosure. Patient consent forms are available for download from the College of Optician's website.

A member must still submit a report, without the patient's name, if the patient does not consent to his or her name being included in the report.

Regardless of whether or not the patient chooses to report the allegation of sexual abuse to the College of which the accused health professional is a member, the optician is still required to file a report should the circumstances that are described above be met.

The requirement that members submit a report where there are reasonable grounds to believe that an incident of sexual abuse has occurred applies only when the information regarding the alleged sexual abuse has been obtained in the course of practising opticianry. However, if a member obtains such information in a social setting or outside the course of practising opticianry, then the optician may voluntarily disclose that information to the Registrar of the College regulating the profession of the alleged abuser. As is the case with mandatory reporting, the patient's name cannot be disclosed without his or her consent.

Providing that a mandatory report is made in good faith, the *RHPA* stipulates that no action or proceeding shall be instituted against an optician for filing the report.