

## **SEXUAL ABUSE OF PATIENTS COMPLAINTS AND INVESTIGATION PROCESS**

Information that an optician has sexually abused a patient may come to the attention of the College of Opticians of Ontario (COO) in a number of ways, such as:

- 1) Through a mandatory report from another regulated health professional;
- 2) In the form of a complaint from a patient; or
- 3) Through other information received by COO (e.g. information from an ongoing criminal investigation).

Where a complaint or information is received regarding the possible sexual abuse of a patient by a member, the College will investigate it. At the conclusion of the investigation, the investigating committee may refer a specified allegation of a member's professional misconduct or incompetence to the Discipline Committee. Where an allegation has been so referred, the Executive Committee may make an interim order directing the Registrar to suspend or impose terms, conditions or limitations on a member's certificate of registration if it is of the opinion that the conduct of the member exposes or is likely to expose his or her patients to harm or injury.

### **Members' Rights**

In the event that a complaint is made to the COO alleging that a member has sexually abused a patient, that member has the right to:

- 1) Be notified of the complaint, including the name of the complainant and the nature of the allegations;
- 2) Respond to the complaint;
- 3) Receive assistance from legal counsel, or another person during the complaints process;
- 4) Be informed of the result of the complaint (i.e. the decision) and, in some cases, the reasons for the decision;
- 5) Receive fair treatment; and
- 6) In some cases, have the opportunity to make an appeal to the Health Professions Appeal and Review Board.

### **Orders**

If a matter is referred to the Discipline Committee, where the subsequent finding is that a member has sexually abused a patient, the panel may make an order to do one or more of the following:

- 1) Direct the Registrar to revoke the member's certificate of registration;
- 2) Direct the Registrar to suspend the member's certificate of registration for a specified period of time;
- 3) Direct the Registrar to impose specified terms, conditions and limitations on the member's certificate of registration for either a specified or indefinite period of time;
- 4) Require the member to appear before the panel to be reprimanded;
- 5) Require the member to pay a fine of not more than \$35,000 to the Minister of Finance; and
- 6) In an appropriate case, require the member to pay all or part the College's legal costs and expenses, its investigative costs and expenses, and its costs and expenses incurred in conducting the hearing.

If the panel finds that the member has committed an act of professional misconduct by sexually abusing a patient, then the panel is required to reprimand the member. It is also required to revoke the member's certificate of registration if the sexual abuse consisted of, or included, any of the following acts:

- 1) Sexual intercourse;
- 2) Genital to genital, genital to anal, oral to genital, or oral to anal contact;
- 3) Masturbation of the member by, or in the presence of, the patient;
- 4) Masturbation of the patient by the member; or
- 5) Encouragement of the patient by the member to masturbate in the presence of the member.

In addition, the Discipline Committee can also order the member to reimburse the College for any funding paid by the College for therapy or counselling for the patient related to the sexual abuse. Such funding is made available to the patient to provide greater access to the specialized care required for recovery, which may not be insured under the Ontario Health Insurance Plan (OHIP). The panel can also require the member to post security to guarantee payment of any amounts that the member is required to reimburse.

A finding by the Discipline Committee that a member has sexually abused a patient will be recorded on that portion of the College's register which is available to the public.

### **Complainant's Rights**

All members of the public have the following rights in the event that they are sexually abused by a member of one of Ontario's regulated health Colleges:

- 1) To file a complaint and to obtain a review of the complaint without fear of embarrassment or reprisal;
- 2) To be assured that the College will investigate the complaint on a confidential basis

between the patient and the member;

- 3) To be assisted by a person of the patient's choice during the complaints process;
- 4) To obtain information regarding the review of the patient's complaint. This information may be limited because of privacy or privilege considerations;
- 5) To be informed of the result of the patient's complaint that, when appropriate, may include corrective or disciplinary measures implemented as a result of the complaint;
- 6) To receive fair treatment;
- 7) In some cases, to appeal to the Health Professions Appeal and Review Board;  
and;
- 8) If a matter proceeds to discipline and the member is found to have committed an act of professional misconduct by abusing a patient, the complainant who is a patient is entitled to file a written statement with or make an oral statement to, the panel of the Discipline Committee, describing the impact that the sexual abuse has had on her or him, and the panel must consider it before making its order.

### **FUNDING FOR THERAPY OR COUNSELLING**

If a panel of the Discipline Committee has made a finding that a patient was sexually abused by an optician while being a patient of the respective optician, the patient may be entitled to funding from the College for therapy or counselling.