

Proposed Regulatory Amendment – Feedback Requested

The College is seeking your feedback on proposed amendment to the General Regulation (O. Reg 219/94) under the *Opticianry Act, 1991*. The proposed amendment would have the effect of exemption spouses from the sexual abuse provisions of the *Regulated Health Professions Act, 1991*.

General prohibition on treating spouses

Ontario law prohibits regulated health professions from treating their spouses. It is considered sexual abuse for a health professional to engage in any form of relationship, contact, behaviour or remarks of a sexual nature with a person that meets the definition of “patient” under the *Regulated Health Professions Act, 1991 (RHPA)*. The penalty for treating a spouse is mandatory revocation of the practitioner’s license to practice for five years.

Under the *RHPA*, however, a college may make a regulation permitting their registrants to treat spouses, as long as no sexual conduct, behaviour or remarks occur during the treatment. “Spouse” is defined to include both married spouses and common law spouses, but the exemption would not apply to persons who are in other forms of intimate relationships.

A small number of other health regulatory colleges have now made regulations permitting their registrants to treat spouses, including the College of Optometrists of Ontario.

What is the College of Opticians proposing to do?

The College of Opticians is proposing to amend its regulation to exempt spouses from the definition of “patient” for the purposes of the sexual abuse provisions of the *RHPA*. This means that if this regulation is approved, opticians in Ontario will be permitted to treat their spouse, as long as certain other conditions are met. This exemption will only apply to pre-existing spouses or common law relationships. It will still be considered sexual abuse for an optician to initiate a sexual relationship with an existing patient, and in some cases a former patient.

If approved, O. Reg. 219/94 (General) under the *Opticianry Act, 1991*, will be amended to add the following section:

PART V MISCELLANEOUS

24. The spousal exemption in subsection 1 (5) of the Health Professions Procedural Code applies in respect of the College.

Why is the College proposing to make this regulation?

The Board decided to pursue this regulatory amendment after considering a recommendation from the College’s Patient Relations Committee. There is an inherent power imbalance that exists between a health care practitioner and a patient, which is why it is crucial that there be strong legislative protections against any form of sexual abuse. Treating spouses, however, gives rise to unique

considerations that may be better addressed outside the scope of the existing sexual abuse provisions of the *RHPA*.

A spousal exemption regulation does not mean that opticians should routinely treat their spouses. If the regulation is approved, standards and/or guidelines will be developed to set parameters around when it would be appropriate for an optician to treat their spouse.

When will this regulation come into effect?

The Board is currently seeking feedback from registrants and other stakeholders on whether it should move forward with proposing a regulatory amendment that will permit opticians to treat their spouses. If, after reviewing the feedback, the Board decides to go forward, it will submit a proposal to the Ministry of Health for its review. Amendments to regulations must be approved by the Lieutenant Governor in Council, and the approval process can take a number of months, and often over a year. It is important to remember that while this regulation is being considered, opticians remain prohibited from treating their spouse.

Request for Feedback

Please complete this short [survey](#) to share your feedback on the College's proposal to make a spousal exemption regulation. The survey will be open until **July 28, 2021**.