

**DISCIPLINE COMMITTEE
OF THE COLLEGE OF OPTICIANS OF ONTARIO**

PANEL:

Rebecca Forte, Chair, Public Member
John Battaglia, Professional Member
Mark Priddle, Public Member

BETWEEN:

COLLEGE OF OPTICIANS OF ONTARIO (the “College”)	Anastasia-Maria Hountalas, for the College
David Gallo (the “Registrant”)	Andrew Graham, for the Registrant
	Heard: April 16, 2026

Reason for Decision on Motion to Withdraw Allegations

Overview

1. This matter came on for hearing before a Panel of the Discipline Committee on April 16, 2026. With the consent of the parties, this matter was heard by videoconference.
2. The Registrant, David Gallo, was not present, but was represented by counsel.

3. College counsel filed a motion seeking an order authorizing the withdrawal of the allegations as set out in the Notice of hearing, C23-03, dated April 15, 2025. Counsel for the Registrant joined in this request. The motion was brought pursuant to Rule 11.01 of the Discipline Committee's Rules of Procedure.
4. At the conclusion of the hearing, the Panel advised the parties that it would grant the requested order. The Panel's reasons granting the motion are set out in brief below.

Background and Evidence

5. The Notice of Hearing issued on April 15, 2025, alleges that the Registrant engaged in a concurrent sexual and treating relationship with a patient. In particular, the College alleged that the patient was the Registrant's patient until February and/or August 2021 and that the Registrant commenced a sexual relationship with the patient in approximately May 2021.
6. In or about February 2026, the Registrant provided new information to the College in respect of the alleged conduct, including an affidavit confirming that he did not provide treatment to the patient at the material time.
7. In the circumstances, the College advised the Panel that proceeding with the allegations set out in the Notice of Hearing is no longer appropriate.

Analysis

8. Rule 11.01 of the Discipline Committee Rules of Procedure provides the Panel with the authority to withdraw allegations without a full hearing, where the parties consent.

9. The Panel is satisfied that given the circumstances and the parties' consent, that granting the requested withdrawal is appropriate. The Panel received cases from other regulators which framed the decision-maker's role on a withdrawal motion as determining whether it is in the public interest to grant a consent withdrawal, rather than deciding whether the alleged acts occurred (see *British Columbia (Police Complaint Commissioner) v. Murphy et al*, 2003 BCSC 279); *Ontario (College of Massage Therapists of Ontario) v. Registrant P*, 2021 ONCMTO 38).
10. The same cases cited recognize that, where there are no proven or established facts and the College cannot prove the allegations, it is reasonable to grant a consent to withdraw same. Finally, as noted in the College's submissions and in the cases cited, the withdrawal of allegations is primarily a matter of prosecutorial discretion and that a discipline committee should defer to the College's decision to withdraw except in the most unusual circumstances.
11. Here, the Panel is satisfied that based on the new information received by the College from the Registrant, including his affidavit confirming that he did not provide treatment to the patient at a time concurrent with a sexual relationship, it is appropriate to grant the request to withdraw the allegations. There is no public interest or public safety reason to require the College and the Registrant to proceed to a hearing of this matter.
12. The Panel wishes to emphasize that, consistent with the approach taken in other consent-withdrawal decisions, granting this motion does not constitute a finding about whether the alleged conduct occurred. Rather, the effect of the order is simply to withdraw the Notice of Hearing without consideration of the allegations contained therein.

13. The Panel is satisfied that the order requested is fair, appropriate and in keeping with the public interest.

I, Rebecca Forte, sign this Decision and Reasons for the decision as the Chair of this Discipline panel.

Signed by:
Rebecca Forte
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April 17, 2026

Rebecca Forte, Chair

Date

John Battaglia, Professional Member
Mark Priddle, Public Member