

## ONTARIO REGULATION 828/93 – PROPOSED REVISIONS

### PROFESSIONAL MISCONDUCT

1. The following are acts of professional misconduct for the purposes of clause 51 (1) (c) of the Health Professions Procedural Code:

#### ~~The Practice of the Profession and the Care of, and Relationship with, Patients~~

1. ~~Contravening, by act or omission, a term, condition or limitation imposed on the member's certificate of registration.~~
2. ~~Contravening, by act or omission, a standard of practice of the profession or failing to maintain the standard of practice of the profession.~~
3. ~~Doing anything to a patient for a therapeutic, preventative, palliative, diagnostic, cosmetic or other health-related purpose in a situation in which consent is required by law, without such a consent.~~
4. ~~Delegating a controlled act in contravention of the Act, the *Regulated Health Professions Act, 1991*, the regulations under either of those Acts, or the standards of practice of the profession unless the delegation is authorized by the regulations.~~
5. ~~Permitting, counselling or assisting anyone who is not registered under the Act to perform an act which should be performed by a member.~~
6. ~~Permitting, counselling or assisting any person who is not a member to hold himself or herself out as a member of the profession.~~
- 7.5.4 ~~Permitting, counselling or assisting a registered student optician or a registered intern optician to dispense subnormal vision devices, contact lenses or eye glasses, except under the supervision or direction of a registered optician who is physically present in the place where the dispensing takes place, at the time it takes place.~~
86. ~~Abusing a client-patient or a person in the member's practice verbally, or physically, psychologically or emotionally.~~

~~79.~~ Practising the profession while the member's ability to do so is impaired by any substance.

~~108.~~ Discontinuing professional services contrary to the terms of an agreement between the member and a patient unless,

~~i.~~ the patient requests the discontinuation,

~~ii.~~ alternative services are arranged, or

~~iii.~~ the patient is given a reasonable opportunity to arrange alternative services, or

~~iv.~~ the patient has failed to make payment within a reasonable time for services or products received, and the services that are needed are not of an emergency nature.

~~119.~~ Practising opticianry while the member is in a conflict of interest.

~~120.~~ Giving information about a patient to a person other than the patient or his or her authorized representative except with the consent of the patient or his or her authorized representative or as required or allowed by law.

~~131.~~ Making false or derogatory statements about a member to any person.

~~12.~~ ~~Dispensing a contact lens to a patient, other than for diagnostic or emergency purposes, which the member knows, or ought to know, is not a new contact lens.~~

~~143.~~ ~~Failing to refer a patient to a registered physician when the member recognizes, or ought to recognize, a condition of the eye or adnexa that appears to require medical examination advise a patient to obtain services from, or refer a patient to another appropriate health professional where a member knew or ought to have known that a patient had a condition which was outside of the member's scope of practice or within the member's scope of practice but outside the member's competency to treat.~~

~~154.~~ Failing to advise a patient, a patient's representative or a member of the public, when requested, as to the procedure for submitting of his or her right to file a complaint to with the College.

~~165. Failing to supply in writing, when requested by a patient or a member of the public, the address and telephone number of the College provide to a patient, a patient's authorized representative or a member of the public, when requested, contact information for the College.~~

~~17. Failing to identify himself or herself, by name and certificate of registration number, upon request in the course of practising the profession.~~

~~186. Failing to reply without sufficient reason to a registered letter from the College appropriately within the time specified in the request or, if no time is specified, within 30 days to a written inquiry made by the College that requests a response. This does not include a member's decision not to make submissions to a committee of the College where there is no statutory obligation to do so.~~

#### ~~Representations about Members and their Qualifications~~

~~197. Inappropriately using a term, title or designation in respect of the member's practice: Identifying oneself to a patient as a person who is qualified to practise as a member of a health profession other than opticianry, unless lawfully entitled to do so in Ontario under the legislation governing the other profession.~~

~~2018. Using a term, title or designation indicating or representing that the member has a specialization in the practice of opticianry which the member does not hold.~~

~~4921. Using a name other than the member's name, as set out in the register, in the course of providing or offering to provide services within the scope of practice of opticianry.~~

~~220. Failing to maintain records as required by the regulations or standards of practice.~~

~~234. Falsifying a record relating to the member's practice.~~

242. Failing, without reasonable cause, to provide a report, or certificate or copy of a record relating to an examination or treatment performed by the member, within a reasonable time, to the patient or his or her authorized representative, after a patient or his or her authorized representative has they requested such a report, or certificate or copy of a record.
253. Signing or issuing, in the member's professional capacity, a document that the member knows or ought to know contains a false or misleading statement.

### Business Practices

264. Submitting an account or charge for services that the member knows or ought to know is false or misleading.
27. Counseling or assisting in the submission of false or misleading accounts or charges to patients or in respect of their care.
28. Failing to inform the patient or the patient's authorized representative of the fee to be charged for services before the commencement of the services except where the fee is incorporated into the amount to be charged for the product, or of the amount to be charged for a product that must be ordered or manufactured before the product is ordered or manufactured.
295. Failing to specify in an account the selling price of subnormal vision devices, eye glasses or contact lenses, if requested to do so by the patient, or by the person or agency who is to pay, in whole or in part, for them. Failing to itemize an account if requested to do so by the patient or the person or agency who is to pay the account, in whole or part. This does not require a member to disclose the profit margin on a product or any service fee incorporated into the amount to be charged for a product.
30. Offering, conferring, requesting or receiving a benefit in relation to the referral of a patient.
31. Improperly influencing or interfering with, or attempting to improperly influence or interfere with another health care provider's professional judgment.

32. Failing to attend an oral caution of the Inquiries, Complaints and Reports Committee or an oral reprimand of the Discipline Committee.
33. Failing to comply with an order or direction of a Committee or panel of a Committee of the College.
34. Failing to abide by a written undertaking to the College or to carry out an agreement entered into with the College.

#### Miscellaneous

- ~~26~~35. Contravening any provision of the Act, the *Regulated Health Professions Act, 1991* or the regulations under either of those Acts.
- ~~27~~36. ~~Contravening, by act or omission, a federal, provincial or territorial law, a municipal by-law or a by-law or rule of a hospital within the meaning of the *Public Hospitals Act* if,~~
- i. the purpose of the law, ~~by-law or rule~~ is to protect public health, or
  - ii. the ~~contravention act or omission~~ is relevant to the member's suitability to practice.
- ~~28~~37. Engaging in conduct or performing an act, in the course of practicing opticianry that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.
38. Engaging in conduct that, having regard to all of the circumstances, would reasonably be regarded by members as conduct unbecoming of an optician.
- ~~3~~29. Advertising or permitting advertising with respect to the member's practice in contravention of the regulations.
40. Providing or attempting to provide services or treatment that the member knows or ought to know to be beyond the member's knowledge, skill or judgment.

2. Omitted (provides for coming into force of provisions of this Regulation). O. Reg. 828/93, s. 2.