

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

PANEL: Ms. Eve Hoch, Chair, Public Member
Mr. Derick Summers, Appointed Optician Member
Ms. Gloria Baltazar, Public Member
Ms. Kim Brander, Appointed Optician Member
Mr. Roque Fernandes, Elected Optician Member

BETWEEN

COLLEGE OF OPTICIANS OF ONTARIO)	MELISSE WILLEMS for
)	College of Opticians of Ontario
)	
-and-)	
)	
Raymond Ladouceur, C-2022,)	No one appearing
)	
)	
)	MR. AARON DANTOWITZ
)	Independent Legal Counsel
)	
)	Heard: June 26th, 2012

DECISION AND REASONS

This matter came on for hearing before a panel of Discipline Committee on June 26, 2012 at the College of Opticians at Toronto.

The member, Raymond Ladouceur was not present, and Heather Devine, Counsel for the member was

not in attendance. However, Counsel for the College, Ms. Melisse Willems, advised that the parties had agreed on a joint submission and that she was authorized to act as Ms. Devine's agent.

Counsel for the College provided the panel with evidence that the Member had been sent the Notice of Hearing on March 3, 2010 and an Amended Notice of Hearing on January 25, 2011.

The Allegations

The allegations against Raymond Ladouceur, "Member" as stated in the Amended Notice of Hearing dated January 25th, 2011, are as follows.

IT IS ALLEGED that you have committed acts of professional misconduct as defined in section 5 (2) of the Opticianry Act, S.O. 1991, c. 34 and in section 1. paragraph 2, 26, and 28 of Ontario Regulation 828/93, as amended, promulgated pursuant to the Opticianry Act, S.O. 1991, c.34, in that you:

- (a) contravened standards of practice of the profession;
- (b) dispensed eyeglasses without a prescription from an optometrist or a physician, and
- (c) engaged in conduct or performed an act, in the course of practicing opticianry, that, having regard to all circumstances, would reasonably be regarded by members of the College of Opticians of Ontario as disgraceful, dishonourable or unprofessional.

FURTHER INFORMATION about the allegations is contained in Schedule "A" to this Notice of

Hearing (which is appended to these reasons).

Member's Plea

The member, Raymond Ladouceur, admits that he committed acts of professional misconduct as defined in section 5 (2) of the Opticianry Act, S.O. 1991, c.34, and in section 1, paragraphs 2, 26, and 28 of Ontario Regulation 828/93, as amended.

The Plea was signed by Mr. Raymond Ladouceur, Member, C-2022 and witnessed on June 21st, 2012, and was presented as Exhibit No. 3. The panel's attention was drawn to the fact that the particulars in the plea were virtually unchanged from the particulars in the Amended Notice of Hearing, except that paragraph 3 from the Amended Notice of Hearing was not part of the plea, and the word "incomplete" had been removed in two locations.

Ms. Willems, Counsel for the College presented the Plea Inquiry as Exhibit No. 4. Mr. Ladouceur stated, signed and had witnessed the following statement:

I have read, understood and answered all the questions concerning the admissions of professional misconduct contained the Agreed Statement of Facts that I have signed on the 21st of June 2012. I understand that the Plea Inquiry is used to ensure that my admissions are voluntary, informed and unequivocal.

The Panel received and read Exhibit No. 4, and accepted the Member's plea.

Agreed Statement of Facts

Counsel for the College advised the panel that agreement had been reached on the facts. The Agreed Statement of Facts (Exhibit 5) read as follows:

- (a) At all material times, Raymond Ladouceur was an optician member of the College of Opticians of Ontario (the “College”).
- (b) At all material times, Mr. Ladouceur did not have status with the College as a refracting optician;
- (c) At all material times, pursuant to the College’s Standard of Practice on Refraction, only registered opticians with refracted designation granted by the College were permitted to perform refractions;
- (d) At all material times, pursuant to the College of Physicians and Surgeons of Ontario’s “Prescribing Policy”, revised February 2005, it was an unacceptable prescribing practice for a physician to prescribe for a patient solely on the basis of mailed or faxed information, or an electronic questionnaire or for a physician to sign a prescription issued by an optician without proper assessment and diagnosis;

With respect to the patient, Kimberly Krmpotic:

- (e) On October 2, 2008, Mr. Ladouceur performed a refraction on a patient, Kimberly Krmpotic, using an EyeLogic Machine at Zellers Vision Center, 1899 Algonquin Avenue, North Bay, Ontario;

- (f) Mr. Ladouceur faxed the results of the refraction he performed on Ms Krmptic to Dr. Long, a physician, so that Dr. Long could prepare a prescription for Ms Krmptic based on the refraction;
- (g) Dr. Long prepared a prescription for eyeglasses for Ms Krmptic based solely on the faxed results of the refraction and faxed the prescription back to Mr. Ladouceur;
- (h) Dr. Long never examined or met or spoke with Ms Krmptic before preparing the prescription for her;
- (i) Mr. Ladouceur knew that Dr. Long had never examined or met or spoke with Ms Krmptic before Dr. Long prepared the prescription for her;
- (j) Mr. Ladouceur dispensed eyeglasses to Ms Krmptic based on the prescription prepared by Dr. Long;

With respect to the patient, Darnell Koosees:

- (k) On September 8, 2008, Mr. Ladouceur performed a refraction on Mr. Darnell Koosees using an EyeLogic Machine;
- (l) On September 8, 2008, Mr. Koosees was 17 years old;
- (m) Mr. Koosees' mother, Bernice Koosees, signed a "Customer History/Authorization and Consent" form on behalf of Mr. Koosees because he was still a minor at the time of the refraction;
- (n) Prior to September 8, 2008, the last time Mr. Koosees had received an eye exam or sight test was six or seven years previous;
- (o) Prior to September 8, 2008, Mr. Koosees did not wear corrective eyewear;

- (p) Mr. Ladouceur faxed the results of the refraction he performed on Mr. Koosees to Dr. Long, a physician, so that Dr. Long could prepare a prescription for Mr. Koosees based on the refraction;
- (q) Dr. Long prepared a prescription for eyeglasses for Mr. Koosees based solely on the faxed results of the refraction and faxed the prescription back to Mr. Ladouceur;
- (r) Dr. Long never examined or met or spoke with Mr. Koosees before preparing the prescription for him;
- (s) Mr. Ladouceur knew that Dr. Long had never examined or met or spoke with Mr. Koosees before Dr. Long prepared the prescription for him; and
- (t) Mr. Ladouceur dispensed eyeglasses to Mr. Koosees based on the prescription prepared by Dr. Long.

ADMISSIONS OF PROFESSIONAL MISCONDUCT

1. The Member admits that he committed acts of professional misconduct as defined in section 5 (2) of the *Opticianry Act*, S.O. 1991, c. 34, and in section 1, paragraphs 2, 26 and 28 of Ontario Regulation 828/93, as amended, in that he:
 - a. contravened standards of practice of the profession;
 - b. dispensed eyeglasses without a prescription from an optometrist or a physician; and
 - c. engaged in conduct or performed an act, in the course of practicing opticianry, that, having regard to all the circumstances, would reasonably be regarded by members of the College of Opticians of Ontario as disgraceful, dishonourable or unprofessional; and, more specifically, that he:
 - i. On or about October 2, 2008, he performed a refraction on Ms Krmptotic, using an EyeLogic Machine, when he had not applied for or received a refracting

designation from the College of Opticians of Ontario. In so doing, he contravened the Standard of Practice for Refraction of the College of Opticians of Ontario adopted May, 2008;

- ii. During the period between on or about October 2, 2008 and on or about October 7, 2008, he dispensed eyeglasses for vision or eye problems to Ms Krmptic without a valid prescription from an optometrist or a physician. In so doing, he contravened the Standards of Practice for Opticians adopted September, 2006, including Standard 2 (two) item 1 (one) and Standard 3 (three), item 1 (one) thereof;
- iii. During the period between on or about October 2, 2008 and on or about October 7, 2008, he performed a refraction on Ms. Krmptic using an EyeLogic Machine, the results from which he caused to be delivered to a Dr. Long, a physician, that he may prepare a prescription to send back to the Member. To the Member's knowledge Dr. Long prepared and then returned to him an invalid prescription for Ms Krmptic based upon the results of the Member's refraction. He knew Dr. Long had not seen or examined Ms Krmptic as a patient, and yet he dispensed eyeglasses to Ms. Krmptic on the basis of the invalid prescription provided to him by Dr. Long;
- iv. On or about September 8, 2008, he performed a refraction on Mr. Koosees, using an EyeLogic Machine, when he had not applied for or received a refracting designation from the College of Opticians of Ontario. In so doing, he contravened the Standard of Practice for Refraction of the College of Opticians of Ontario adopted May, 2008.

- v. During the period between on or about September 8, 2008 and on or about September 11, 2008, he dispensed eyeglasses for vision or eye problems to Mr. Kooses without a valid prescription from an optometrist or a physician. In so doing, he contravened the Standards of Practice for Opticians adopted September, 2006, including Standard 2 (two) item 1 (one) and Standard 3 (three), item 1 (one) thereof.
- vi. During the period between on or about September 8, 2008 and on or about September 11, 2008, he performed a refraction on Mr. Kooses using an EyeLogic Machine, the results from which he caused to be delivered to a physician, that he or she may prepare a prescription to send back to him. To his knowledge the physician prepared and then returned to him an invalid prescription for Mr. Kooses based upon the results of his refraction. He knew the physician had not seen or examined Mr. Kooses as a patient, and yet he dispensed eyeglasses to Mr. Kooses on the basis of the invalid prescription provided to him by the physician.

Decision and Findings (June 26, 2012)

Based on the Agreed Statement of Facts, the panel found Mr. Raymond Ladouceur was an optician member of the College of Opticians of Ontario. Mr. Ladouceur did not have status with the College as a refracting optician; pursuant to the College's Standard of Practice on Refraction, only registered opticians with refracted designation granted by the College were permitted to perform refractions.

Pursuant to the College of Physicians and Surgeons of Ontario's "Prescribing Policy", revised February 2005, it was an unacceptable prescribing practice for a physician to prescribe for a patient solely on the

basis of mailed or faxed information, or an electronic questionnaire or for a physician to sign a prescription by an optician without proper assessment and diagnosis.

The Member, Mr. Raymond Ladouceur admits that he committed acts of professional misconduct, as set out in the plea and in the Agreed Statement of Facts. The panel deliberated and decided to accept these admissions, concluding that the facts supported findings of professional misconduct.

The Discipline Committee therefore finds the member, Raymond Ladouceur, committed acts of professional misconduct as defined in section 5 (2) of the Opticianry Act, S.O. 1991, c. 34, and in section 1, paragraphs 2, 26 and 28 of Ontario Regulation 828/93, as amended, in that he:

(a) contravened standards of practice of the profession:

(b) dispensed eyeglasses without a prescription from an optometrist or a physician, and

(c) engaged in conduct or performed an act, in the course of practicing opticianry, that, having regard to all circumstances, would reasonably be regarded by members of the College of Opticians of Ontario as disgraceful, dishonourable or unprofessional.

Joint Submission on Penalty

Counsel for the College presented a joint submission on penalty, which read:

The College and the Member agree to an order by the Discipline Committee as follows:

1. a) A reprimand before a panel of the Discipline Committee and the fact of the reprimand to be noted in the register of the College.

b) A suspension for a period of two weeks/.

c) Costs to the College in the amount of \$3,000 payable within 30 days.

d) The Discipline Committee will direct the Registrar to impose a term, condition and limitation on Mr. Ladouceur's certificate of registration for a period of two years that the College, may without notice, conduct random inspections of the member's practice and Mr. Ladouceur shall permit the College or a representative of the College to observe his practice and examine his records as the College may require. The inspections shall be conducted at the sole discretion of the College and shall not exceed a total of four over the two year period.

Mr. Ladouceur shall pay to the College within 15 days of each inspection, costs in respect of each inspection to a maximum of \$500 per inspection. Mr. Ladouceur will cooperate with the inspections and will instruct his employees to do the same.

In addition, Mr. Ladouceur signed and had witnessed an Undertaking to the College of Opticians of Ontario in which he undertook:

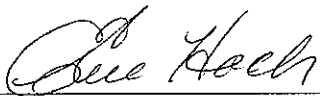
1. Not to perform refractions unless or until such time as I am granted refracting status by the College,
and

2. To dispose of any automated refracting equipment in his possession, including Eyelogic or other machine.

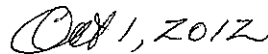
The panel deliberated and accepted the proposed penalty, and the Member's undertaking. In the panel's view, the proposed penalty and the Member's undertaking are comparable to other similar cases reviewed in the past. The panel also recognizes the importance of giving effect to agreed penalties and acknowledges the Member's willingness to be held accountable for his actions and activities. With this in mind, the panel feels that the proposed penalty and the Member's undertaking are sufficient and just, and will also act to deter others from engaging in similar activities in the future.

The panel therefore made the order proposed by the parties, with the addition of the words "commencing July 15, 2012" at the end of paragraph 1(b).

I, Eve Hoch, sign this decision and reasons for the decision as Chairperson of this Discipline panel and on behalf of the members of the Discipline panel as listed below:



Chairperson
Eve Hoch



Date

Derick Summers
Gloria Baltazar
Roque Fernandes
Kim Brander