

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

PANEL:

David T.J. Milne - Chairperson
Eve Hoch – Public Member
Balbir Dhillon – Professional Member
Tai-Ming Alain Chow – Professional Member
Guoying Zhang – Professional Member

BETWEEN:

COLLEGE OF OPTICIANS OF ONTARIO)	
)	REBECCA DURCAN for
)	College of Opticians of Ontario
- and -)	
)	
MOHSIN SHAIK C-4471)	MOHSIN SHAIK
REGISTRATION #)	
)	
)	PATRICIA LATIMER
)	Independent Legal Counsel
)	
)	
)	Heard: January 16, 2013

DECISION AND REASONS

This matter came on for hearing before a panel of the Discipline Committee on January 16, 2013 at the College of Opticians of Ontario (“the College”) at Toronto.

The Allegations

The allegations against MOHSIN SHAIK (the “Member”) as stated in the Notice of Hearing dated August 8, 2012, are as follows:

IT IS ALLEGED that you have committed acts of professional misconduct as defined in paragraphs 2, 5 and 28 of section 1 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) Permitted, counselled or assisted someone who is not registered under the *Opticianry Act*, *Optometry Act*, or *Medicine Act* to perform an act which should be performed by a member; 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.

Member's Plea

The Member admitted the allegations set out in the Notice of Hearing. The panel received a written plea inquiry which was signed by the Member. The panel also conducted an oral plea inquiry and was satisfied that the Member's admission was voluntary, informed and unequivocal.

Agreed Statement of Facts

Counsel for the College advised the panel that agreement had been reached on the facts and introduced an Agreed Statement of Facts (Exhibit 2), which provided as follows:

- I. At all material times, Mohsin Shaik (the "Member") was a member of the College of Opticians of Ontario (the "College"). At all material times, the Member was the only registered optician working at Loox Health Care Inc. located inside the Centennial Mall at 2-227 Vodden Street East, in Brampton, Ontario ("Loox").

2. Ishaq Shaik ("Mr. Shaik") is the Member's brother. Mr. Shaik is not, and never has been, a member of the College, the College of Optometrists of Ontario or the College of Physicians and Surgeons of Ontario.
3. At all material times, Mr. Shaik was the owner of Loox and the Member was an employee of Mr. Shaik.
4. On or about March 7, 2011 and on or about March 21, 2011, Mr. Shaik, while working at Loox, dispensed prescription eyeglasses to Lorand Sebestyen, an investigator posing as a patient, an act which should only be performed by a licensed individual.
5. The Member knew or should have known that Mr. Shaik was dispensing on or about March 7, 2011 and on or about March 21, 2011 without being authorized to do so.
6. The Member permitted, counselled or assisted Mr. Shaik to prescribe and dispense on or about March 7, 2011 and on or about March 21, 2011 without being authorized to do so.
7. From on or about January 1, 2011 to on or about May 31, 2011, the Member maintained patient files that did not comply with the *Professional Standards of Practice for Opticians in the Province of Ontario, Standard 6: Records* in that the records he maintained contained incorrect or incomplete information. In particular, numerous patient files did not identify the dispensing optician. The patient records also contained inaccuracies with respect to the date of sale or the date the glasses were dispensed.

8. Upon being made aware of the concerns of the College, the Member put in place measures which prevented Mr. Shaik from prescribing or dispensing.
9. The Member has co-operated with the College during the investigation.
10. The parties agree that the conduct described above constitutes professional misconduct on the part of the Member pursuant to paragraph 2 (contravening a standard of the profession), paragraph 5 (permitting, counselling or assisting someone who is not registered under the *Opticianry Act*, *Optometry Act* or *Medicine Act* to perform an act which should be performed by a member) and/or paragraph 28 (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 of the College as disgraceful, dishonourable or unprofessional) of section 1 of Ontario Regulation 828/93 under the *Opticianry Act*, S.O. 1991, c.34.

Decision

The panel considered the Agreed Statement of Facts and finds that the facts support a finding of professional misconduct and, in particular, finds that the Member committed an act of professional misconduct as alleged in the Notice of Hearing and as defined in paragraphs 2, 5 and 28 of section 1 of Ontario Regulation 828/93, as amended, promulgated pursuant to the *Opticianry Act*, S.O. 1991, c. 34, in that he:

- (a) Contravened standards of practice of the profession;

- (b) Permitted, counselled or assisted someone who is not registered under the *Opticianry Act*, *Optometry Act*, or *Medicine Act* to perform an act which should be performed by a member; 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.

Reasons for Decision

The panel has reviewed the allegations along with the agreed statement of facts and the admission of the member. The finding of the panel is that the facts as presented support a finding of professional misconduct and the panel does so find.

Penalty

Counsel for the College advised the panel that a Joint Submission as to Penalty had been agreed upon. The Joint Submission as to Penalty provides as follows:

1. The College of Opticians of Ontario ("the College") and Mohsin Shaik ("the Member") agree to an order by the Discipline Committee as follows:
 - a) The Member shall receive a reprimand, the fact of which shall be recorded on the public register of the College.
 - b) The Discipline Committee shall direct the Registrar to suspend the Member's certificate of registration for 3 (three) months, to commence on a date to be set by the Registrar.

- c) The Registrar will suspend 2 (two) months of the suspension ordered in paragraph 1 (b) herein if the Member successfully, in the opinion of the Registrar, complies with the remainder of this order.
- d) The Discipline Committee shall direct the Registrar to impose a specified term, condition and limitation on the Member's certificate of registration requiring him:
 - i. to complete a written self-evaluation of his documentation practices, no later than March 16, 2013, by reviewing ten (10) patient records using materials provided by the College.
 - ii. to meet with the College's Practice Advisor, or another appointed College representative, at the College, no later than April 16, 2013, to discuss the self-evaluation referred to in paragraph 1(d)(i) and the Discipline Committee's findings in this matter.
- e) The Member will sign an undertaking that he:
 - i. will not permit, counsel or assist unauthorized persons to dispense eyeglasses;
 - ii. will comply with the College's Standard on Records.
- f) The Member is required to pay the College a portion of its costs in this matter in the amount of \$1000, within 30 days of the date of this order.

Penalty Decision

The panel accepts the Joint Submission as to Penalty and accordingly orders the following:

- a) The Member shall receive a reprimand, the fact of which shall be recorded on the public register of the College.
- b) The Discipline Committee shall direct the Registrar to suspend the Member's certificate of registration for 3 (three) months, to commence on a date to be set by the Registrar.
- c) The Registrar will suspend 2 (two) months of the suspension ordered in paragraph 1(b) herein if the Member successfully, in the opinion of the Registrar, complies with the remainder of this order.
- d) The Discipline Committee shall direct the Registrar to impose a specified term, condition and limitation on the Member's certificate of registration requiring him:
 - i. to complete a written self-evaluation of his documentation practices, no later than March 16, 2013, by reviewing ten (10) patient records using materials provided by the College.
 - ii. to meet with the College's Practice Advisor, or another appointed College representative, at the College, no later than April 16, 2013, to discuss the self-evaluation referred to in paragraph 1(d)(i) and the Discipline Committee's findings in this matter.
- e) The Member will sign an undertaking that he:

- i. will not permit, counsel or assist unauthorized persons to dispense eyeglasses;
 - ii. will comply with the College's Standard on Records.
- f) The Member is required to pay the College a portion of its costs in this matter in the amount of \$1000, within 30 days of the date of this order.


Reasons for Penalty Decision

The panel concluded that the proposed penalty is reasonable and in the public interest. The Member has co-operated with the College and, by agreeing to the facts and a proposed penalty, has accepted responsibility for his/her actions.

I, David T.J.Milne, 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
David T.J.Milne



Date

Eve Hoch
Guoying Zhang
Balbir Dhillon
Tai-Ming Alain Chow