

# BRIEFING NOTE

**TO:** Board of Directors

**FROM:** Patient Relations Committee

**DATE:** October 6, 2020

**SUBJECT:** 13.1 Preventing Sexual Harassment Guideline

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**Purpose:**

To consider a new 'Preventing Sexual Harassment Guideline' as proposed by the Patient Relations Committee.

**Background:**

The Patient Relations Committee has a legislative mandate to develop measures for preventing and dealing with sexual abuse of patients.<sup>1</sup> These measures must include:

1. Educational requirements for registrants
2. Guidelines for the conduct of registrants with their patients
3. Training for College staff, and
4. The provision of information to the public.

In addition, the College is dedicated to upholding the best interest of patients in Ontario and endorses a zero-tolerance policy toward any forms of sexual abuse. The College regards any act of sexual abuse of a patient as unacceptable and such actions are subject to investigation as professional misconduct.

The College further recognizes that its mandate to protect patients from sexual abuse will be enhanced by ensuring that registrants also demonstrate personal and professional integrity toward non-patients, including colleagues, employees, other members of the public and any student or intern opticians that they supervise. Sexual harassment of non-patients does not meet the definition of "sexual abuse" within the meaning of the *Regulated Health Professions Act*, but it is nevertheless a form of professional misconduct and demonstrates an abuse of power that has the potential to negatively impact patient care.

In accordance with its legislative duty, the College publishes [guidelines](#) on the prevention of patient sexual abuse. In order to emphasize the central importance, the College's mandate to prevent patient sexual abuse, the document focuses only on the optician-patient relationship.

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<sup>1</sup> Health Professions Procedural Code, s. 84

Chapter 1 of the Jurisprudence Module was updated in 2016 to include an additional section on sexual harassment toward non-patients.

On May 27, 2020, the Committee discussed sexual harassment of non-patients, and in particular opticianry interns, students and staff.

**For Consideration:**

A new proposed Sexual Harassment Guideline can be found below in **Appendix A**.

Some of the issues the Committee considered included:

1. Staff employees victimized in the workplace may worry that they will not be believed or that their employer will retaliate against them. Many employees often fear losing their jobs or livelihood, and do not want to jeopardize their future career prospects by reporting workplace sexual harassment.
2. Students are relying on their mentors and senior ROs for the experience they need to graduate and become registered. They might not want to rock the boat and may fear losing their Internships. As a result, students/interns may find reporting sexual harassment difficult or uncomfortable as they could be perceived as someone who creates problems.
3. Students/interns and staff are vulnerable as targets of sexual harassment because they typically lack power in the workplace. Victims may feel invaded, shameful, fearful and blameworthy, while also being unaware of where they can go for help.
4. Opticians and/or their employers may not have a clear understanding of their professional obligations when it comes to anti-sexual harassment policies in the workplace which would alert all parties to their rights, roles and responsibilities.

**Public Interest Consideration:**

The atmosphere within an optical dispensary is set by its supervisors and/or managers and defines how staff interact with each other and with patients.

A hostile work environment creates animosity, stress, fear, anxiety, illness and low morale; and this toxic culture can cripple team cohesion and lead to poor job performance. In addition to the individual implications for targets of sexual harassment, the toxic effects on ROs, students, interns and dispensary employees may have a negative influence on the service provided to patients.

**Recommendation**

That the Board approve the Preventing Sexual Harassment Guideline recommended by the Patient Relations Committee.

## PREVENTING SEXUAL HARASSMENT

Opticians are prohibited from engaging in any form of sexual conduct with or toward a patient. Such conduct constitutes sexual abuse within the meaning of the *Regulated Health Professions Act*. In addition, engaging in sexual harassment in the workplace violates the Standards of Practice and Code of Ethics and is a form of professional misconduct.

The purpose of this document is to act as a guideline with respect to the prevention of sexual harassment by optician toward colleagues, employees, students, interns and other members of the public. For guidelines on the prevention of sexual abuse of patients and the maintenance of professional boundaries between opticians and patients, please see the [Sexual Abuse Prevention Guidelines](#).

### The College's Position on Sexual Harassment

The College is dedicated to upholding the best interest of patients in Ontario and endorses a zero-tolerance policy toward any form of patient sexual abuse. In addition, it is the position of the College that sexual harassment in any form is inherently unprofessional. Sexual harassment often involves an abuse of power, and it inappropriately sexualizes the health care setting. This type of conduct has the potential to compromise patient care by undermining the trust placed in opticians to conduct themselves with honour and integrity.

The College takes sexual harassment by opticians seriously and investigates any allegations of sexual harassment as professional misconduct.

### Definition of Sexual Harassment

Sexual harassment means engaging in a course of vexatious comment or conduct that is known or ought to be known to be unwelcome. In the workplace context, it is considered sexual harassment to engage in a course of vexatious comment or conduct against a worker because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome. It also includes making a sexual solicitation or advance when that person is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

A single incident can sometimes be enough to meet the definition of sexual harassment. Examples of sexual harassment include:

- Sexual advances or repeatedly requesting a date
- A poisoned work environment created by discussing one's sexual activities or teasing others with sexual language.
- Comments and actions that demean a person because of their gender (e.g., expressing views about "women's work").
- Any form of unwanted sexual touching such as hugs or patting or rubbing the body of a colleague.

## Professional Obligations

Opticians have a professional responsibility to prevent and address the sexual harassment of all persons with whom they interact in the course of their practice. This includes colleagues, employees, students, interns and any other member of the public.

It is an act of professional misconduct for an optician to engage in workplace sexual harassment. The [Standards of Practice](#) and [Code of Ethics](#) require opticians to:

- Engage in ethical behaviour and demonstrate professional integrity
- Uphold the honour and dignity of the profession.
- Act at all times with respect for other health care professionals and unregulated personnel.
- Report unethical practice by any regulated health professional to the appropriate college.

Opticians also have a professional responsibility to comply with Ontario law in the course of their practice, including the *Human Rights Code* and the *Occupational Health and Safety Act*. Employers and others with positions of authority in a workplace must take active steps to protect workers from harassment, including sexual harassment including, at a minimum:

- Preparing a policy on workplace harassment and reviewing that policy at least annually.
- Developing and maintaining a written program to implement the workplace harassment policy. The program must include measures and procedures for workers to report incidents of workplace harassment and set out how incidents or complaints will be investigated and dealt with.
- Properly investigating complaints of workplace harassment. Employers should also and take steps to impose discipline or consequences when a complaint is substantiated.

Employers also have an obligation to make sure that there is no retaliation against the person that made the complaint.

## Maintaining Professional Boundaries with Non-Patients

In order to meet their professional responsibilities with respect to preventing and addressing sexual harassment in the workplace, opticians should adhere to the following guidelines:

1. Treat all persons in the practice environment with respect.
2. Do not engage in unwelcome physical contact, sexual flirtations, advances or propositions.
3. Avoid jokes or remarks that could be perceived as sexual or that relate to a person's body or attire.

4. Do not display sexually explicit material in the workplace, even where it is out of view to patients.
5. If you employ or supervise others, ensure that:
  - a. All staff and persons under your supervision are provided with training on appropriate workplace conduct.
  - b. All staff and persons under your supervision are informed about all workplace policies and the process for reporting and investigating workplace sexual harassment.
  - c. You comply with your legal obligations as an employer to implement policies and investigate complaints of workplace sexual harassment
6. Make a report to the appropriate college if you have reason to believe that another optician or other regulated health professional is engaging in sexual harassment.