



One of the tasks of the Discipline Committee is to hear allegations of professional misconduct that have been referred by the Inquiries, Complaints or Reports Committee. Sexual abuse of a patient is one of the types of alleged professional misconduct that the Discipline Committee deals with.

“Close Up on Discipline” presents some of the issues that arise in hearings before the Discipline Committee. Ideally, pharmacists and pharmacy technicians will review the learnings that flow from the decisions of the Discipline Committee and incorporate those learnings into their own practice.

It can be helpful to understand the legislation that underpins the allegations made in a particular case, as well as the decision of the Discipline Committee regarding the allegations made.

THE LEGISLATION

Sexual abuse of a patient is defined as professional misconduct in section 51(1)(b.1) of the *Health Professions Procedural Code*, which is Schedule 2 of the *Regulated Health Professions Act, 1991*. Section 51(5) of the Code sets out that if a Panel finds that a member has committed sexual abuse of a patient, the Panel shall do the following (in addition to anything else it may do under subsection 51(2)):

1. Reprimand the member.
2. Revoke the member’s certificate of registration if the sexual abuse consisted of, or included, any of the following,
 - i. sexual intercourse,
 - ii. genital to genital, genital to anal, oral to genital, or oral to anal contact,
 - iii. masturbation of the member by, or in the presence of, the patient,
 - iv. masturbation of the patient by the member,
 - v. encouragement of the patient by the member to masturbate in the presence of the member.

THE DECISION OF THE DISCIPLINE COMMITTEE

In a case before the Panel of the Discipline Committee, the College alleged that a Member engaged in the following acts with the patient:

- sexual intercourse and/or
- other forms of physical sexual relations and/or
- touching of a sexual nature and/or
- behavior or remarks of a sexual nature

In a hearing before a Panel of the Discipline Committee, the sexual relationship was admitted, but whether

the sexual relationship and the pharmacist-patient relationship happened at the same time was contested. In the end, the Panel decided that this crucial connection had not been proven. The Panel made no finding of professional misconduct against the Member.

In its decision, the Panel also commented that the relationship, while not amounting to sexual abuse of a patient, was inappropriate, if not unprofessional. The Panel further expressed its view that knowledge of the prohibition of sexual relationships with patients is something that ought to be known to pharmacists, and that such knowledge is, in fact, an obligation for pharmacists.

COMMENTARY AND LEARNING FOR PRACTITIONERS

In a therapeutic relationship, it is the pharmacist’s responsibility to establish and maintain appropriate boundaries. Pharmacists have a fiduciary duty to their patients to protect the elements of the therapeutic relationship, and to not exploit or violate the trust a patient places on the pharmacist. Members of the College must be knowledgeable about the law, the ethical principles guiding their conduct, and any applicable policies or guidelines, to ensure that therapeutic relationships are both appropriate and professional.

The College has communicated the relevant legislation and guidelines regarding sexual abuse and sexual harassment to the membership. This information is available on the College’s website at <http://www.ocpinfo.com/regulations-standards/policies-guidelines/boundaries/>.

Members of the College must ensure that they understand the boundaries that apply to relationships with patients and take proactive steps to maintain those boundaries. Crossing boundaries or inappropriate/unprofessional behaviour towards a patient by a member of the College may result in the College taking appropriate action to protect the public. 