

Dr. Jerry Mackenzie – August 27, 2015

DISCIPLINE NOTICE: Publication under s. 39.3 of the Health Professions Act

PENALTY & COSTS: On [August 27, 2015](#), a panel of the Discipline Committee of the College of Optometrists of British Columbia released a decision on penalty.

The Discipline Committee decided that Dr. Mackenzie is “ungovernable” based on his repeated and wanton disregard and disrespect for the College’s regulatory process. The Discipline Committee based its finding of ungovernability on: (a) Dr. Mackenzie’s extensive discipline history with the College and the former Board of Examiners of Optometry; (b) Dr. Mackenzie’s disregard for the truth in an earlier discipline hearing by being evasive, lying about not receiving notice of a complaint despite proof of his signature on receipts, blaming all errors on the complainant patient and fabricating a referral note and altering records to falsely show that he discussed a cataract with the complainant when he had not; (c) Dr. Mackenzie’s attempts to deceive the Inquiry Committee during an investigation; (d) Dr. Mackenzie’s defiance in ignoring a three year suspension imposed in an earlier discipline committee penalty decision and his continued unauthorised practice which necessitated an application to BC Supreme Court for an injunction; (e) Dr. Mackenzie’s failure to dispose of patient files in accordance with the College bylaws following cancellation of his registration; (f) Dr. Mackenzie’s failure to comply with other aspects of the penalty decision including the failure to pay a \$10,000 fine and his failure to reimburse the complainant for her examination cost; (g) Dr. Mackenzie’s continuing disrespectful conduct towards the College post-cancellation of his registration; (h) Dr. Mackenzie’s failure to maintain professional boundaries by engaging in behaviour of a sexual nature towards another female patient by pressuring her into giving him a massage and engaging in a sexual relationship with her; and (i) Dr. Mackenzie’s failure to demonstrate any remorse or any understanding that he did anything wrong.

As Dr. Mackenzie voluntarily relinquished his registration with the College effective August 13, 2014 and his registration had already been cancelled, the Discipline Committee issued a reprimand, and a fine for the maximum amount of \$50,000 payable forthwith; awarded hearing costs to the College in the amount of \$15,879.26; and ordered that specific patients be reimbursed for expenses out of any fine proceeds.

The Discipline Committee decided against an order under s. 39(8) of the Act limiting eligibility for reinstatement, or setting conditions on practice after reinstatement, due to a possible lack of jurisdiction in the absence of an order under s. 39(2) suspending or cancelling registration, but decided that if Dr. Mackenzie had still been a registrant, it would have ordered that the Registrar cancel Dr. Mackenzie’s registration; that Dr. Mackenzie would not be eligible to apply for reinstatement of registration for ten years; that he not resume practice without completing a course on professional boundaries approved by the registrar; and that a condition of his resuming practice be a chaperone approved by the Registrar for all female patients, for a period of not less than two years, and until such time he provides a report, by a psychologist or psychiatrist approved by the Registrar, opining he is a low-risk for sexual misconduct. The panel has decided on these notional measures and ordered them entered on the College’s register under s. 21(2)(g)

and (5) of the Act, as notice to the Registration Committee, and to any other regulator to which Dr. Mackenzie might apply for registration.

VERDICT: On [March 27, 2015](#), a Panel of the Discipline Committee found that Dr. Mackenzie contravened various provisions of the Bylaws, which conduct also constituted professional misconduct, under section 39(1) of the Health Professions Act. The Discipline Committee found that despite an order by the Discipline Committee released on April 28, 2014 which, among other things, suspended his registration for three years, Dr. Mackenzie continued to practice optometry on four occasions, failed to reimburse a patient as ordered by the Discipline Committee, failed to pay a fine imposed by the Discipline Committee, held himself out as an optometrist while suspended, made appointments for patients or prospective patients while suspended, contacted or communicated with patients while suspended, continued to his name at his place of business in relation to optometry services during a suspension, failed to prominently display a notice of suspension while suspended, failed to dispose of patient files containing personal information within a reasonable period of his ceasing practice while suspended, and committed sexual misconduct in relation to a female patient.

Dr. Jerry Mackenzie – April 28, 2014

On [April 28, 2014](#), a panel of the Discipline Committee of the College of Optometrists of British Columbia released a decision on penalty issuing a reprimand to Dr. Jerry Mackenzie of Vancouver, B.C. and suspending his registration for a period of three years. Dr. Mackenzie cannot, by law, practice optometry until April 27, 2017, and may not apply to return to practice following the expiration of the suspension period until he has completed a significant number of steps. Prior to reinstatement, Dr. Mackenzie must successfully complete courses on professional ethics and clinical record-keeping at his cost, permanently convert to an electronic record-keeping system, arrange for supervision of his practice and pay for that supervision with a requirement that the supervisor report to the College monthly on Dr. Mackenzie's compliance with supervision, and cooperate with random chart audits at his cost for two years following return to practice. Dr. Mackenzie must also reimburse his patient the cost of the eye examination fee within 30 days, pay hearing costs in the amount of \$13,005.75, and a fine in the amount of \$10,000. This order of the Discipline Committee was made under section 39(2) and (8)(b) of the Health Professions Act.

Dr. Jerry Mackenzie – October 7, 2013

On [October 7, 2013](#), a Panel of the Discipline Committee found that Dr. Mackenzie contravened Standards of Conduct, a Consent Order dated March 9, 2010, and bylaws of the College, which conduct also constituted professional misconduct under section 39(1) of the Health Professions Act. In 2011, a patient filed a complaint alleging that Dr. Mackenzie had failed to conduct a proper eye examination when she presented with a complaint of deteriorating vision and failed to diagnose that she suffered from serious cataracts. Her general practitioner referred her to an ophthalmologist who immediately diagnosed that she had significant cataracts in her left eye. After the Inquiry Committee initiated an investigation, Dr. Mackenzie created a referral note to cover up the fact that he

failed to refer the patient to a specialist and altered his clinical records to falsely show that he discussed a cataract with her. He provided a copy of the false referral form and the altered clinical records to the Inquiry Committee. The Discipline Committee panel found that Dr. Mackenzie failed to refer the patient to a specialist as required under Part 6 of the Standards of Practice, and altered his clinical record to falsely show that he discussed a cataract with the patient, and that this conduct constituted unethical conduct and professional misconduct.

Dr. Jerry Mackenzie – March 9, 2010

March 9, 2010

COMPLAINT: A former employee filed a complaint against Dr. Mackenzie alleging that he engaged in improper billing of the Medical Services Plan and unprofessional conduct by rating the appearance of his female patients in his charts.

DESCRIPTION OF ACTION TAKEN: Following an investigation, the Inquiry Committee passed a motion to seek a consent order under s. 33(6) of the Health Professions Act from Dr. Mackenzie. The terms of the consent order, which was signed on March 9, 2010, require the Registrant to undertake to: (a) refrain from repeating the conduct of rating the appearance or any other aspect of his female patients in his clinical records; (b) undertake not to repeat conduct of performing incomplete or inadequate eye examinations; (c) refrain from the conduct of submitting inaccurate billings to Medical Services Plan; (d) undertake not to repeat the conduct of completing inaccurate clinical records; (e) receive training to improve his professional record-keeping from a supervisor/mentor appointed by the Quality Assurance Committee, at his own cost, within nine months of the date of the order; (f) attend a course on professional responsibility and ethics to be approved by the Inquiry Committee, at his own cost, within nine months of the date of the order; (g) consent to a reprimand in relation to his unprofessional conduct in relation to rating female patients, failure to maintain proper clinical records, failure to conduct complete and competent eye examinations and his inaccurate billing. The Registrant has also consented to random and scheduled audits, at his cost, by inspectors appointed by the Inquiry Committee for the next two year period for the purposes of ensuring that he is conducting competent eye examinations, completing proper clinical records and submitting accurate billing records to MSP and to pay the sum of \$6,182.45 towards the College's investigation costs.

REASONS FOR THE ACTION TAKEN: The Inquiry Committee determined that the complaint was substantiated. Dr. Mackenzie acknowledged that he used a rating system to rate the appearance of some of his female patients. He denied the other allegations. The Inquiry Committee conducted a review of the Registrant's clinical records over a six month period. Those records revealed billing concerns and concerns with the adequacy of eye examinations being performed and the adequacy and accuracy of the Registrant's clinical records. The Inquiry Committee considered the Registrant's history of past action with the College and determined that this was an appropriate case to seek a consent order with comprehensive terms to protect public safety and to improve the Registrant's standards of practice.