

PIPEDA FAQ

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ONTARIO ASSOCIATION OF OPTOMETRISTS

SECTIONS OF THIS OPTOMETRISTS' ADVISORY DOCUMENT PERTAINING TO OPTICIANS AND PRESCRIPTION RELEASE ARE AS FOLLOWS:

Question: Do I require the written consent of a patient to share their personal information with another regulated health professional?

Answer: No. Implied consent authorizes the transfer of personal information between health care providers.

The Acting Privacy Commissioner of Canada has indicated that implied consent is "acceptable for circle of care, or uses and disclosure of patient information to provide care and treatment". Patients understand that their personal information will be shared with other persons, including other regulated health professionals (optometrists, physicians and opticians) as part of their care and treatment. This disclosure is further acknowledged in the "Privacy Policy" template under "About Patients".

Question: Do I require the patient's written consent to send prescription information to an optician?

Answer: No. An optometrist can rely on implied consent to release a patient's prescription to an optician.

When an optician requests a copy of the patient's prescription, the information is implied by the optician to dispense eyeglasses or contact lenses to the patient. The patient knows that the optician requires the information to provide services - consent is implied. Furthermore, a policy obtaining written consent from a patient every time an optician requests a prescription would help to support the claim of some opticians that optometrists want to monopolize dispensing and restrict freedom of choice. If there is any question on the legitimacy of a request for patient information, express consent would be prudent.

Defining Implied Consent

"Implied" consent is consent that does not require the patient's specific prior approval. Patients understand that the collection, use and disclosure of their personal information are necessary in the provision of eye care. Optometrists can rely on implied consent for the collection, use and disclosure of patient personal information if the use of the information is for the purpose of providing optometric care and treatment.

Question: Is it necessary to obtain consent for the collection, use and disclosure of personal information for purposes other than patient care and treatment?

Answer: Yes. If personal information is collected, used and disclosed for purposes additional to patient care (for example, contacting the patient, either by the optometrist or others, sometime in the future to advise them of a special service or product) express consent would be necessary. Express consent would not be required for contacting the patient in circumstances of continuing care.

Express consent can be either verbal or written. If express consent is verbal, the optometrist should make a written notation of that consent or refusal of consent. Written express consent, in the form of the Patient Privacy Protection Form template is not a requirement; however, written consent would provide the best protection for the optometrist from any disputes or disagreements with patients over consent.