

Health Professions Regulatory Advisory Council (HPRAC) Recommendations

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Please e-mail completed forms by **June 30, 2006** to: RegulatoryProjects@moh.gov.on.ca (preferred), or

Send by mail to: RHPA Review Project, 80 Grosvenor Street, 8th Floor, Toronto ON M7A 1R3, or
Send by Fax to: 416-327-8879. Thank you.

Organization (if any)	Ontario Opticians Association & The Opticians Association of Canada					
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HPRAC Recommendation # Legislative Framework-Regulation of Opticians						<input type="checkbox"/> A
RHPA Reference (do not complete)	<input type="checkbox"/> Act	Section _____	Sub clause _____	<input type="checkbox"/>	New Profession	<input type="checkbox"/> B
	<input type="checkbox"/> Code	Section _____	Sub clause _____	<input type="checkbox"/>	Profession-Specific	<input type="checkbox"/> C

Feedback/ Concern	<i>Please describe briefly your (organization's) concern or feedback regarding an identified recommendation from HPRAC.</i> See Attached
Level of Concern to Your Organization	<i>On a scale of 1 -10, please indicate the relative importance of the matter where 10 represents a recommendation/issue that is a high degree of concern to yourself or your organization and 1 is a matter of lower concern.</i> Legislative Framework 10: Regulation of Opticians 10
Proposed Solution/ Alternative	<i>Please provide a description of an alternative solution that may address the concern noted above.</i> See Attached
How does your solution favour the public interest?	.See Attached



June 30, 2006.

Minister of Health and Long-Term Care - THE EXECUTIVE COUNCIL OF ONTARIO
Hepburn Block
10th Flr
80 Grosvenor St
Toronto, ON M7A 2C4

Dear Mr. Smitherman:

The Ontario Opticians Association (OOA) and the Opticians Association of Canada (OAC) are, respectively, the provincial and national associations representing opticians' interests in Ontario. There are over 2,000 opticians in Ontario alone representing close to 1/3 of all the opticians in Canada. We have been pleased to participate in the consultation process that has recently been completed by the Health Professions Regulatory Advisory Council (HPRAC) and herewith submit to you our comments on that document.

HPRAC has met the challenges presented by the complexities of this referral. Overall our two groups are pleased with the many innovative solutions HPRAC has recommended in matters of governance. We are also pleased that dispensing of eyeglasses will remain a controlled activity and are encouraged that HPRAC believes sight testing should be included within the opticians' scope of practice. This recommendation is a step forward from the position taken by a previous Minister, Elizabeth Witmer in that it enables the College of Opticians to exercise regulatory authority over its members who choose to provide a sight testing service.

The model for optician-performed sight testing may not be practical in light of its dependence on opticians seeking a collaboration with optometrists and physicians since both groups have shown reluctance in the past to provide enabling mechanisms.

The OOA and the OAC will continue to support the College of Opticians of Ontario and the Ministry of Health and Long Term Care as continued efforts are made to keep Ontario Health Professions legislation ahead of the curve.

Yours truly,

A handwritten signature in black ink, appearing to read "Lorne Kashin".

Lorne Kashin,
President OOA/OAC.



**Ontario Opticians Association
And
Opticians Association of Canada
Submission To
The Ontario Minister of Health & Long Term Care**

**Comments On The
HPRAC Document
NEW DIRECTIONS**

June 30, 2006.

The Ontario Opticians Association (OOA) and the Opticians Association of Canada (OAC) are in receipt of the report of the Health Professions Regulatory Advisory Council (HPRAC), *NEW DIRECTIONS* and would like to submit the following commentary.

EXECUTIVE SUMMARY

The OOA and the OAC commend HPRAC for its inclusion of optician-performed refracting as part of the profession's scope of practice. This recommendation will allow the College of Opticians of Ontario to move forward to develop and consolidate its Standards of Practice and Limitations on this activity and will also allow them to exercise regulatory authority over those individuals who decide to add this service to their practices. We are not hopeful that the Colleges of Optometrists and Physicians and Surgeons will wish to participate in this exercise as HPRAC has proposed but we are at the same time confident that the College of Opticians will make every effort to consult those two bodies.

In the preamble to the document HPRAC has stated that "without changes to the way health occupations are regulated, it would be difficult to practice human resources substitution or use multi-skilled workers." And, "This in turn requires an occupational regulatory system that allows experimentation and innovative approaches in human resources utilization, development and management." The OOA and the OAC support this spirit.

The fundamental principles of professional regulation and governance issues as set out in this document are appropriate to the needs of 21st Century health care. HPRAC clearly recognizes the need for inter-disciplinary collaboration not only in practice settings but in education and training as well as in matters of regulation. HPRAC espouses support for members of the public making their own decisions about health care and endorses career progression and new models of practice.

The OOA and the OAC are concerned the report could result in inconsistent applications of these principles. In particular, the report recommends that the practice of optician-performed refracting be developed in collaboration with Optometry. While the OOA and the OAC understand HPRAC's rationale in its recommendation, a working partnership with Optometry is likely not possible.

The report did not demonstrate a clear understanding of the challenges faced by colleges that represent memberships whose scopes of practice overlap with members of other professions. In vision care, for example, the unwillingness of optometry to enter into meaningful dialogue with opticians on the matter of optician-performed refractions has prevented opticians from taking even modest steps in the direction of positive collaboration.

As a result, the OOA and the OAC believe that the recommendation regarding optician-performed refracting needs to include the ability to perform independent refraction.

Insofar as regulatory structure is concerned the OOA and the OAC note that prior to the NEW DIRECTIONS document being published the College of Opticians of Ontario (COO) had already incorporated many of the governance measures recommended by HPRAC. For example the College has developed policies on delegation and, what's more, these policies have been recently revisited.

The OOA and the OAC have some concern that consideration was not given in the report to the challenges involved in implementation of some of the recommendations. Although HPRAC expressed concern in principle for the growing expense to the profession of self regulation some of the recommendations regarding the structure and governance of the college however innovative and interesting will clearly involve the colleges in more rather than less expense. Nonetheless, some of HPRAC's insights have potential to result in positive changes to regulatory protocols that will best reflect modern practice models.

The referral on regulation of eyeglasses was unexpected and came as a surprise to most stakeholders involved in responding. Agreement was reached amongst the stakeholder groups on the issue of regulating the dispensing of eyeglasses. All agreed that eyeglass dispensing should remain regulated. The OOA and the OAC are pleased that HPRAC has considered this non-controversial issue and endorsed the advice of stakeholders.

The OOA and the OAC have no objection in principle to the HPRAC recommendations on optometrists prescribing TPAs. However we believe that the impact of these recommendations can only be viewed in tandem with an analysis of the College of Optometrists of Ontario regulations, by-laws and policies. The OOA and the OAC caution that the recommended change to the optometrists' scope of practice will further consolidate optometry's vertically integrated domination of vision care and position them as gatekeepers to the vision care system. The RHPA does not support this type of unilateral control.

For opticians the most significant part of the referral concerned optician-performed refracting. In this matter the OOA and the OAC believe the NEW DIRECTIONS document is based on several misconceptions;

- 1. That the College of Optometrists of Ontario draft policy on delegation contains appropriate safeguards on the giving and receiving of delegation by its members and that their conflict of interest and professional misconduct policies enable cooperation, collaboration and collegiality between opticians and optometrists.**

They do not, as our attached submission to the College of Optometrists of Ontario points out.

2. That because refractions are part of an eye health examination they can only be done in conjunction with an eye health examination.

It is true that refraction can inform an eye health examination. However once an individual has had an eye health examination and it has been determined that the resolution of the issue is refractive and not medical, only marked changes in refractive correction can be seen as potential signals of incipient eye disease. Red flag changes have been recommended in the College of Opticians sight testing protocol as signals for referral.

3. That glasses are part of the treatment of eye diseases.

Glasses only compensate for refractive errors. They have no effect on eye diseases. In the age group targeted by the College of Opticians' recommended Standards of Practice and Guidelines, glasses do not cause the fundamental refractive error to improve. If you wear them you see better. If you don't wear them, you don't see better.

4. That symptoms of eye disease would be eliminated by prescribing glasses and therefore complaints that had prompted the individual to get new glasses would be camouflaged by new lens powers and eye disease would go untreated.

Symptoms of eye disease will not disappear when eyeglasses are prescribed. If blurred vision is a result of eye disease, the blur will remain in spite of newly prescribed glasses and a refracting optician would consequently make a referral.

5. That opticians would be providing refraction with incomplete knowledge.

This makes the assumption that candidates for optician-performed refraction are ignorant of their own health issues and opticians would be unaware of conditions that would place those candidates in an 'at risk' category. First of all this is a false assumption. At no time in history has health information been more easily available. And consumers access this information. A Kaiser Family Foundation survey of elderly Americans found that 24% of 50-64 year olds get a lot of health information on line¹. According to Stats Canada 2/3 of Canadians say they use the computer at home for personal use.

Secondly, the screening questionnaires and other checks and balances that the College of Opticians contemplates for optician-performed refracting, will provide additional opportunities to discover health information that the candidate may not have considered pertinent. Thirdly, the refracting process itself and the inability to achieve a required visual acuity would prompt immediate referral.

¹ E-Health and the Elderly: Kaiser Family Foundation

6. That the public is incapable of understanding the difference between an eye examination and a refraction.

Public education has been identified by governments in other jurisdictions and by opticians as the single most important element in introducing optician-performed refracting services. The explanation is simple and the College of Opticians proposed protocol requires refracting opticians to provide candidates for optician-performed refraction with the information and to confirm an understanding.

7. That refractions and dispensing cannot be done at different times from eye examinations by different health professionals safely and in accordance with any recommended frequency of eye health examinations.

It would certainly enhance the collaborative model if optometrists were open to working with opticians so that agreement could be reached on protocols for an exchange of pertinent information between professionals. Such an agreement was reached between the optometrists and family physicians. To date the optometrists have not been inclined to consider a similar agreement with opticians. In spite of that, once an individual has had an eye health examination on a schedule dictated by age and symptomology, refractions can and are done separate and apart from eye health examinations to keep people seeing well in between complete ocular evaluations.

In principle HPRAC believes it's report must lay the groundwork for 'maintaining Ontario's cherished position as a leader in the regulation of health professions' and also believes that 'health professionals must be able to adopt new technologies and changing methods of service delivery, while incorporating advanced knowledge into their practices'. With respect, the OOA and the OAC believe the data contained in the submissions of our two associations and the College of Opticians of Ontario are supported by those principles. If you add that data to the success of optician-performed refracting in other jurisdictions the result is a compelling case for the addition of what is a safe, convenient and affordable vision testing option for Ontario citizens. We anticipate that HPRAC and the Minister will give due consideration to our observations on the NEW DIRECTIONS document and are hopeful that there is still an opportunity to reshape the conclusions reached from the data received by HPRAC and through that committee by the Minister on optician-performed refracting to better achieve a positive result for opticians and for the citizens of Ontario.

OPTOMETRY REFERRAL

The OOA and the OAC do not philosophically object to optometrists obtaining an increase in scope of practice to be able to prescribe Therapeutic Pharmaceutical Agents (TPAs). However in spite of HPRAC's understanding that the College of Optometrists has drafted new regulations, by-laws and policies that allow for more collaboration and cooperation between optometrists and opticians, the opposite is true.

This proposed increase in scope for optometrists must be taken in context with the College of Optometrists' continued refusal even in their new Conflict of Interest and Professional Misconduct regulations, to allow for freedom of association between opticians and optometrists save for a relationship in which the optometrist has a dominant role. The increased scope would serve to further extend the integration into their practices of activities traditionally performed by medical practitioners while at the same time reaching into the retail marketplace by relaxing the strictures on the dispensing portion of their businesses.² The crafting of legislation, regulation, by-laws and policies for one profession should not have the effect of creating domination over another competing profession. Absent an increase in the scope of practice of opticians, the addition of prescribing TPAs to their scope of practice will serve to further consolidate an already vertically integrated monopoly in vision care.

On the specifics of the optometric referral the OOA and the OAC find an uneven application of principles as compared with the principles applied to the opticians referral.

1. On pages 115 and 119 of the NEW DIRECTIONS document HPRAC has cited the patient safety record in other jurisdictions that allow optometrists to prescribe TPAs yet has ignored the patient safety record in other jurisdictions where opticians perform refraction. There has been a decade of optician-performed refraction in the provinces of Alberta and British Columbia yet HPRAC has discounted this record.
2. On page 120 HPRAC has acknowledged but dismissed the advice of the senior professions who do not believe optometrists are properly trained to have an expanded scope of practice. Yet in the case of opticians HPRAC has accepted the advice of the senior professions in Ontario and ignored the endorsement of the senior professions in other jurisdictions where opticians are performing independent refractions. Alberta ophthalmologists have endorsed the practice of optician-performed refractions and the Standards of Practice and education that have been developed to support this activity. The Ministry of Health in British Columbia is on record as stating that the conclusion has been reached that optician-performed refracting is a safe practice.

² OOA/OAC submission commenting on Optometric regulations attached as an appendix

3. On page 123 HPRAC states it has in part based its decision on the willingness of the Ontario College of Family Physicians to work collaboratively with the optometrists on a community level. By this measure all a profession would have to do is continue to resist and undermine the career progression of an allied profession and the status quo would remain...except for that of the resistant profession. The willingness on the part of the Family Physicians to work collaboratively cannot automatically be understood as a measure of that group's endorsement of optometrists prescribing TPAs. They may or may not endorse the increase. But it is a measure of the mature wisdom of the senior group in acceding to give and take referrals in order to monitor safe practice should this increase in scope of practice for optometrists be instituted.

By contrast, Ontario optometrists have demonstrated contempt for any effort made by the College of Opticians of Ontario to broker discussion that would enable the development of Standards of Practice for optician-performed refracting or to explore ways in which a smooth referral protocol can be developed. When asked by the Health Professions Committee in Alberta what opticians would have to do in order to satisfy optometrists of their competence to perform refractions the President of the Canadian Association of Optometrists (CAO) answered they would have to become optometrists. By that measure optometrists should have to become ophthalmologists before continuing to increase their scope of practice to include those activities traditionally reserved for medical practitioners. The OOA and the OAC do not support this interpretation of the RHPA since it serves to undermine the concept of controlled acts.

4. The NEW DIRECTIONS document states on page 120 that by allowing optometrists to prescribe TPAs there would be an increased opportunity for clinical placements in practices that prescribe TPAs for students of optometric programs thus enhancing the educational program for optometrists in training. By parallel reasoning, if Ontario opticians were granted the increase of scope of practice to include independent refractions there would be more opportunity for clinical placement of students and the existing training programs for refraction would be enhanced.

The animus shown by optometrists to the concept of opticians adding a controlled act to their scope of practice, combined with the very narrow parameters on optician-performed refracting recommended by HPRAC do not provide any opportunity for opticians to acquire meaningful clinical practice.

5. The NEW DIRECTIONS document on page 123 states as a benefit that the broadened scope of practice for optometrists will provide
 - a) More access to care for Ontarians and
 - b) Make Ontario a more attractive location for optometrists to practice

On page 288 of the NEW DIRECTIONS document HPRAC reached the conclusion that there were more optometrists than were actually needed since the rate of increase of active optometrists has outstripped the growth in population.

And, as an argument against optician-performed refraction HPRAC has concluded on page 289 that "there are no indications that people could not receive care in a reasonable period of time from a professional who was appropriately trained". This would seem to place in question the perceived benefits of increased access and that of positioning Ontario as an attractive location in which optometrists can practice.

Another benefit of optometrists prescribing TPAs according to the document are that it will

c) Help address some of the physician-supply problems in the province

The OOA and the OAC support this conclusion by HPRAC. The increase in scope of practice will take some of the burden off physicians just as optician-performed refraction would shift some of the routine work of vision testing away from optometrists so they can devote more time to diagnosis and treatment.

A final benefit of optometrists prescribing TPAs as stated in the document is that it will provide

d) Support for the province's focus on multi-disciplinary teams and collaborative care.

This benefit can be viewed as authentic only if all stakeholders are accepted and respected as part of the multi-disciplinary team. Currently opticians have been marginalized as members of the vision care team and they will continue to be so as long as optometrists continue to be successful in convincing the Ministry that their scope of practice ambitions should be rewarded at the expense of reasonable career progression for opticians.

6. The HPRAC review speaks on page 126 to issues such as bridging measures that need to be developed by the College of Optometrists to allow optometrists currently in the field to become qualified but allows that should they not wish to become qualified there can be 'terms, conditions and limitations' on certificates of registration. Yet HPRAC expresses concern with regard to optician-performed refraction that creating another classification of optician would be confusing to members of the public and thus create a safety risk for consumers.

The foundation for this argument is based on the rationale used in recommending that eyeglass dispensing be retained as a controlled activity. On page 283 HPRAC correctly states that "regulating dispensing for only a subset of prescriptions would result in a tiered system where unregulated individuals would dispense a subset of eye wear to a subset of the

population” and that this would be “difficult to implement and monitor.” This is true in the case of dispensing eyeglasses since the lowest tier would be unregulated individuals who in a best case scenario would work on the same premises as regulated opticians and be employed by responsible owners of retail dispensaries. This scenario would create no greater problem for regulators than currently exists.

However, health professions legislation cannot depend upon the best case scenario. Those same unregulated individuals could, should they choose, set up independent retail outlets for eyeglasses wherein there are no regulated individuals and no regulatory requirements. Retail dispensaries are not regulated and neither are lens laboratories. Consequently there would be no standard imposed on the dispensing of eyeglasses by unregulated individuals in an unregulated environment save the reaction of the marketplace. As well, there would be nothing to stop the unregulated individuals from dispensing eyeglasses to the groups of individuals falling into the ‘at risk’ category and no impetus on them to explain the system of controlled acts to their clients.

On the other hand, in the case of optician-performed refractions, refracting opticians will work in a regulated environment and will themselves be regulated. As for public confusion, the situation would be no different from that of optometrists who will have designations on their certificates restricting them from prescribing TPAs if they have not taken the required training.

As well, there is already another tier for dispensing of eyeglasses in the sense that off-the-rack glasses are self-dispensed as a result of self-diagnosis. Lest there be some misunderstanding by other stakeholders about the position of the OOA and the OAC on off-the-rack glasses, this mode of delivery of eyewear is a choice that consumers make. Consumer choice is fundamental to the RHPA and the OOA and the OAC support the RHPA.

7. Another supporting argument on page 125 for recommending that optometrists have the authority to prescribe TPAs is that it won't cost the government anything. Allowing opticians the ability to provide independent refraction doesn't cost the government anything either but, as the report admits, denying optician-performed refractions does shift the expense of bundled refraction/eye health examination onto the shoulders of the segment of the population that requires refraction whatever the price for that service and denies them the choice of services. The OOA and the OAC do not believe this recommendation meets the test of public interest.

The OOA and the OAC fear that the HPRAC recommendation in favour of optometrists receiving an increase in scope of practice to prescribe TPAs is based on unevenly weighted arguments when compared with the recommendation

allowing opticians limited and severely proscribed authority to provide refractometry services.

OPTICIANS REFERRAL

1. The most frustrating argument made for denying opticians an increased scope of practice is found on page 281. "Requiring a prescription for eye wear ensures that changes in sight are monitored by a professional who can diagnose the cause of any impairment to eyesight in conjunction with other health conditions." The exception to the necessity for a professional diagnosis, according to the recommendation, is people who wear simple magnifiers which are not classified as eyewear. The OOA and the OAC do not wish to prevent consumers from opting for off-the-rack glasses. This practice is consistent with the belief that consumers should have choice. But this freedom of choice is limited to those who decide to self-diagnose and creates an economic disadvantage to someone who wants to have their glasses professionally dispensed.

The recommended timing of routine eye examinations is not related to refractive errors or refractions but to age and other factors. The American Academy of Ophthalmology (AAO) is an organization that is recognized worldwide as an authority on all matters concerning eye care. Although American its members are ophthalmologists from all countries of the world including Canada. The AAO has made recommendations for the desired frequency of eye examination for the whole population. These are based on age and other factors. Refractive errors, refractions and dispensing eyewear are not included as risk factors.

Several years ago the government of Ontario de-listed eye examinations as an insured service for all but those under 19 and over 64 and those with conditions known to cause individuals to be at risk for eye disease. An eye examination is not considered an essential service under the Canada Health Act. There is sound reasoning behind both.

Routine eye examinations are a screening process for eye disease in symptomless people. The need for refractive correction is not a symptom of disease. In all of medicine, screening tests have to meet certain standards to be worthwhile. These are:

- a) They must involve all the population at risk
- b) They must be disease specific
- c) They must have a high sensitivity rate
- d) They must have a high specificity rate.

Doing a routine eye examination at the time of dispensing glasses meets none of these criteria.

- a) This practice does not address the needs of the population at risk but only those individuals who require refractive correction. The ages at

which refractive errors change most frequently and at which eyewear is purchased are completely different from the ages of highest risk of eye disease. The four major threats to vision are age-related; cataracts (arguably not a disease but an aging of the crystalline lens and correctable with surgery), glaucoma, age-related macular degeneration and diabetic retinopathy.

- b) A routine eye examination is not disease specific whereas, for example, an eye health examination of an individual who has been diagnosed with diabetes is disease specific.
- c) Studies have demonstrated that routine eye health examinations have no greater sensitivity or specificity than a visual acuity test.

2. HPRAC's recommendations on optician-performed sight testing are curious in light of the recommendations made regarding the regulation of Hearing Instrument Practitioners (HIPs). HIPs are engaged in the testing of hearing and the selection, fitting, counseling and dispensing of hearing instruments based on a prescription from a physician or an audiologist. In this case the term 'prescription' is taken to mean an order from a prescriber to assess the hearing and to dispense an appropriate hearing device. The prescriber does not write down a set of numbers or specifications but merely indicates that there is no medical or surgical treatment that can improve hearing. HIPs are limited to assessing hearing loss for individuals 19 years of age and older. They use referral criteria developed in conjunction with the Ontario Medical Association and their Association (AHIP) known as the red flag system. HPRAC has recommended that HIPs become regulated and supports the current mode of practice.

By comparison opticians are proposing to engage in the testing of vision and the selection, fitting, counseling and dispensing of vision aids based on a prescription from a physician or optometrist. Additionally opticians are proposing to provide testing only for those individuals who have already had an eye health examination according to a schedule recommended by the AAO and for whom it has been concluded that visual correction is appropriate. The College of Opticians of Ontario has proposed a protocol that is parallel to that of the HIPs including the age limitations and a stringent red flag system that is based among other respected sources on the referral criteria of the Canadian Ophthalmological Society.

HPRAC has recommended that 'audiological assessment and communicating the results; communicating an audiological diagnosis; hearing testing; inserting air, gas or water under pressure, applying energy in the form of high sound pressure levels, inserting or removing instruments, devices, fingers or other objects into or from the ear canal, or performing cerumen management should not be made controlled acts under the Regulated Health Professions Act'. Yet HPRAC has

recommended that opticians be allowed to provide a vision test only for the purpose of 'informing a comprehensive ocular assessment' and only 'in collaboration with a physician or optometrist'.

It is unclear, in light of the decision regarding HIPs why HPRAC doesn't believe that an optician may safely provide refraction and dispense a vision appliance based on that refraction.

3. The NEW DIRECTIONS document outlines what HPRAC has concluded are the steps involved in delivering prescription eyewear to consumers. Those steps include an ocular examination, communicating a diagnosis, writing a prescription for eye wear, dispensing eye wear based on the prescription.

The NEW DIRECTIONS analysis is not strictly accurate.

- An initial ocular examination includes refraction as a test of visual function. However refraction may be provided subsequently as a standalone test to determine the corrective lenses a person requires. While a diagnosis may be communicated if the individual has presented with occult eye disease, the test may simply result in recording the power of lenses required to achieve best visual acuity.
- The prescriber does not write a prescription for eyewear, but instead records required lens powers which may be dispensed in a variety of fashions. By way of comment, if vision care professionals used the method of referral used by hearing care professionals the prescriber would simply write a prescription that indicates the individual requires vision correction and the refracting optician would discover what power of lenses would fill that need.
- Dispensing of eyewear may be based on a written record but may also be based on a duplication of an existing appliance.

There is a factual error on Page 288. The College of Opticians proposed strategy for mitigating risk incorporates a condition that those with prescription over -9.00 would be excluded as candidates for optician-performed refraction. The document indicates the level as being 'under' -9.00 .

HPRAC has equated the College of Opticians proposed Client Notice with a waiver designed to absolve the optician from responsibility for any consequences evolving from the refraction. In this context the Client Notice form is not intended to release opticians from any accountability. It is rather intended to provide refracting opticians, in addition to the requirements to provide printed and oral explanations, with a vehicle for impressing upon candidates the importance of understanding the limitations of a refraction and the significance of having a periodic eye health examination. Opticians are required by regulation to have a minimum of \$1m worth of liability

insurance. They are indeed aware of their responsibilities to clients. This type of form is consistent with forms that are used in chiropractic and dentistry.

On page 289 HPRAC refers to the public opinion studies that informed their recommendation citing that consumers did not have problems accessing the services of an optometrist. Whether consumers can make an appointment to see an optometrist is not the issue. What is the issue is that when they make an appointment to see an optometrist they will be compelled to have and pay for bundled services that they may not want and may not need. Were consumers asked when they visited the optometrist if they were given both an eye health examination and a refraction? Were consumers invited to say whether they made an appointment because they needed new eyeglasses? Were consumers consulted about whether they attended the optometrist's office because they had unexplained symptoms? Were consumers informed there could be a choice? The degree to which public opinion studies, polls and focus groups can be relevant to this evaluation depends materially on the way questions are framed and what questions are asked.

On page 289 HPRAC has concluded that it would not be in the public interest to endorse a change in health regulation that encourages the public to rely on opticians as their primary eye care provider. Opticians do not wish to position themselves as primary eye care providers. The OOA and the OAC believe that family physicians should be the centre of the health care team. Opticians will not see individuals who have not previously been seen by a primary eye care provider.

HPRAC has stated that "linking an optician's ability to perform a refraction to a professional who is authorized to prescribe mitigates the risks associated with stand-alone refractometry". Optometrists are commercial competitors of opticians in their dispensing functions. Optometrists have signaled time and time again through their tactics to prevent consumers from purchasing eyewear products at retail dispensaries, through their legislation, regulation, by-laws and policies that not only is it not in their best interest to work in this manner with opticians but that they have no intention of doing so. Consequently this idealized version of optician-performed refraction does not consider reality. Absent a directive from the Ministry to remove barriers to such collaboration, HPRAC's recommendation would effectively prevent Ontario consumers from accessing what in other provinces has been proved to be a safe choice in vision care.

HPRAC has summarized its findings on page 290 of the NEW DIRECTIONS document.

1. Implementation creates a two-tiered system that would be challenging to administer, difficult to oversee and confusing to the public.

We have commented on this earlier in this document. In a regulated environment a two-tiered or multi-certificate scenario is not difficult to regulate. As well there are many professions, some that are described in the NEW DIRECTIONS document that offer varying levels of service depending upon training. The multitude of health care professions and the nuances between specialties can be confusing. In a regulated environment it is the responsibility of the professions to undertake consumer education programs. In fact HPRAC has recommended governance procedures that focus on the necessity for public education throughout the health care system.

2. Patients may not disclose or be able to describe existing eye health conditions. The health consequences of incomplete or incorrect information may be substantial.

Developing an oral health history from candidates for optician-performed refraction is only one of the screening methods that opticians will be required to use to meet the College of Opticians Standards of Practice. There are other objective and subjective tests that will, together with the results of refraction, effectively identify those candidates who require referral rather than refraction.

3. Close to 15 per cent of optometric patients are unaware of an eye disease prior to a diagnosis. About half of these patients do not display symptoms prior to diagnosis. This poses a significant risk.

As per our previous comments, inability to achieve satisfactory visual acuity has been found to have the most sensitivity for signaling incipient eye disease. In addition, the American Academy of Ophthalmology policy on the recommended frequency of ocular examinations states that "the frequency of ocular examinations should be based on the presence of visual abnormalities and/or the probability of visual abnormalities occurring." The figures quoted in the HPRAC document are no doubt based on an optometric study that is frequently offered by optometrists to position optician-performed refraction as a health risk. That study was presented to the Health Professions Committee during the hearings on Optician-performed refracting in Alberta. It misrepresents the matter since by far the 'disease' that overwhelmingly appeared in the study group was cataract. Cataract is typically a problem of older age groups and the study admits that a large majority of their patients fall into that category. Cataract is not a disease in the commonly used sense of the word. It does not constitute an ocular emergency and is totally correctable through surgery. Other 'diseases' that skew the study results by their inclusion are common allergic reactions such as conjunctivitis, keratitis, contact lens complications and foreign body issues.

Upon applying the screening template proposed by the College of Opticians of Ontario and used successfully in other jurisdictions to assess the suitability of candidates for optician-performed refraction and focusing on what all stakeholders agree are the four major threats to vision, .03% or less of those studied were asymptomatic or unaware of the presence of eye disease.

4. There is increased risk of misjudging the cause of blurred vision as a refractive error when it can be the sign of other more serious vision conditions or chronic conditions such as thyroid disease or diabetes.

Blurred vision that is a symptom of a serious or chronic condition will not be improved by refractive correction. Consequently a referral will be made. But it is true that other assessments aside from a test of visual acuity are able to provide a more comprehensive evaluation of the suitability of candidates for optician-performed refraction. It is for this reason that tests for reactions such as peripheral vision, pupil response, and ocular motility are included in the curricula for sight testing opticians.

LEGISLATIVE FRAMEWORK

The recommendations regarding governance in the NEW DIRECTIONS document are best commented on by the College of Opticians. Consequently the OOA and the OAC can only make remarks about the implications of the structural changes HPRAC believes need to be incorporated based on our observation of the current practice at the College of Opticians of Ontario and on any impact the proposals could have on an optician's practice.

INEFFICIENCY OF REGULATORY APPROVAL PROCESS

The OOA and the OAC concur with the observations made by HPRAC about the inefficiency of the regulatory approval process. HPRAC has properly identified a situation where best practice is outstripping the ability of the Colleges to regulate since it takes so long to have a regulation changed. Examples of the frustration felt by other colleges have been detailed in the pages of the NEW DIRECTIONS document and the College of Opticians is no exception having been looking for changes to their regulation on registration of students for some time. This is an issue that the OOA and the OAC believe should be taken out of regulation as the College is in the best position to determine what conditions need to surround student registration. Page 71 of the NEW DIRECTIONS document makes an excellent recommendation that HPRAC should participate along with the Federation of health Regulatory Colleges and the Ministry in developing a mutually beneficial way of handling submissions to the Ministry.

MULTIDISCIPLINARY COLLABORATION

On page 25 of the NEW DIRECTIONS document HPRAC recommends an amendment of the procedural code that would allow colleges to deal with

multidisciplinary practice and 'send a signal' encouraging colleges to cooperate and share information. The wording of the recommendation suggests that these changes will 'encourage' colleges to cooperate. This is a positive sentiment but unless there is a method for enforcing and monitoring collaboration it does not promise a short term change in existing paradigms of interaction amongst colleges. The demonstrable antagonism amongst professions with overlapping scopes of practice will continue to allow domination by one profession over another. With that being said, it is our understanding that the College of Opticians of Ontario makes it a practice to reach out to the Colleges of allied professionals and as well that they are not only active participants but leaders in many provincial and national regulatory working groups.

PUBLIC RELATIONS AND TRANSPARENCY

Pages 25 through 32 deal with the necessity for public education programs about the regulatory regimes and in particular about access to public protection vehicles such as the complaints system. A companion recommendation is for transparency through publication of a variety of information. HPRAC places heavy emphasis on the use of websites as a vehicle for public relations material. As this document acknowledges, most people don't know that regulatory bodies exist and consequently wouldn't look for a college website. Even the use of the term 'college' to refer to the regulatory body is confusing as the common usage implies delivery of education. The meaning of professional titles is another confusing matter for consumers.

Websites are not necessarily costly but, other forms of PR that put information in the direct pathway of the public (such as media advertising) are cost prohibitive for the smaller colleges. This is perhaps one area where inter-disciplinary collaboration would be useful. Due to the importance of a coordinated public education program the Ministry should take some ownership of this important initiative and provide both human and financial resources.

MANDATORY REPORTING

The discussion on mandatory reporting instructs that members of regulated health professions must file a report with the College based on several areas of misconduct. Pages 51 & 52 deal with conditions and contents of such a report as well as with reporting by employers. There is no point in having a regulatory requirement unless it is enforceable. There are many reasons why an employer would not be inclined to report the dismissal of an employee not the least of which is that while professional misconduct is described by College policy, incompetence and incapacity can have flexible and subjective interpretation. As an additional impediment to enforcement, not all employers are regulated professionals and as such are not subject to the same obligations as members of the College.

The OOA and the OAC agree with the College of Opticians that insofar as members of the College are concerned, they must report to the College any of their employees or partners with whom they have terminated a relationship based on any activity that has the potential to pose risk of harm to members of the public.

THE DOCTOR TITLE

The NEW DIRECTIONS document discusses the issue of title protection and in particular the use of the designation of 'doctor'. On page 59 HPRAC has expressed the opinion that the use of this title is a social issue and not a health related matter and has recommended what amounts to an expanded use of the title 'doctor'.

The OOA and the OAC believe this is an incorrect interpretation of the issues evolving from the usage of the title. We believe that at the end of the day it *is* a health related matter. In other countries members of the public are used to the concept that 'doctor' is an academic title and that even medical practitioners who don't have academic doctorates don't refer to themselves by the title. In North America the mindset of the average citizen equates the title with medical qualifications. As such the advice given and pronouncements made carry much more weight and subsequent actions taken by consumers based on that advice could have harmful or unintended consequences. The privilege of using the title should consider the public confusion that results. In spite of regulations and policies developed by regulatory bodies that require a profession-specific descriptor to accompany the doctor title, there continues to be miscommunication about the meaning of the title whether deliberate or unintentional. Expansion of the terms of reference for the use of the doctor title will serve only to further confound an already confused public.

SHARED SERVICES BUSINESS MODEL

Page 84 of the document evaluates the merits of the Shared Services Business Model. It discusses the expense of running a College and deals with the increased expense to the profession of maintaining membership in both the College and the Association. On page 85 HPRAC states, "In any event, there is adequate flexibility in the Act for colleges to establish their business arrangements as they see fit, and no additional changes to the Act are required." This is certainly in keeping with recommendations elsewhere in the document regarding multi-disciplinary cooperation.

The OOA and the OAC wonder whether this philosophy could apply to a business arrangement with an association? Government has recognized that a regulated profession must be able to support both a college and an association. The college is maintained by mandatory annual licensing fees. The associations, on the other hand, have a voluntary membership base. Not all regulated professions are paid six-figure salaries. HPRAC's concerns acknowledge this problem.

Under these circumstances, frequently choices have to be made and where that choice is between renewing a license fee and renewing a membership fee in an association...there clearly is no choice. The association loses out. This does not alter the fact that the association must employ staff, pay rent and all the other overhead costs involved in being an effective advocate for the profession.

Consequently we wonder specifically whether a college could rent space to an association? Could the college supply an answering service for the association? In other words, so long as the college and association had secure supervision over their own documents and data, could the two bodies work out a mutually beneficial business arrangement?

REPORTING TO THE MINISTRY

HPRAC is recommending a fairly rigorous reporting regimen plus extensive postings on the college website. The OOA and the OAC can understand the underpinnings of these recommendations but also realize that both activities will require additional human and financial resources. Elsewhere in the report HPRAC has indicated that it is cognizant of the financial burden to the profession of maintaining the college at the level required for effective regulatory oversight. The OOA and the OAC can endorse the reasons for the recommendation but, as with other recommendations in this report we are concerned that not enough consideration has been given to implementation from the viewpoint of the college.

SUMMARY

The issues in this report are wide sweeping and in many cases the recommendations embody visionary ideals. The inconsistent standards brought to bear on some of the recommendations affecting opticians and optometrists and the lack of clarity on matters related to implementation of the recommendations notwithstanding, the OOA and the OAC appreciate the weight of responsibility and the complexity of the task undertaken by HPRAC in responding to the Minister's referral. In spite of the impediments to optician-performed refraction that we believe HPRAC's recommendation has imposed, the OOA and the OAC are committed to supporting the College of Opticians in its efforts to work with the Colleges of Optometry and Physicians and Surgeons as they hopefully move forward to develop Standards of Practice and a structure for collaborative practice.

APPENDICES



December 1, 2005.

Paula Garshowitz,
Assistant Registrar
College of Optometrists of Ontario
6 Crescent Road,
Second Floor,
Toronto, ON M4W 1T1

Dear Ms. Garshowitz:

The Ontario Opticians Association (OOA) and the Opticians Association of Canada (OAC) are pleased to comment on the draft proposal of the College of Optometrists of Ontario (COO) Conflict of Interest Regulation and Related Professional Misconduct Regulations. We submit for the consideration of your Ethics Committee the following commentary.

Yours truly,

Lorne Kashin RO

A handwritten signature in black ink, appearing to read "Lorne Kashin".

President OOA/OAC

CC: Alison Henry, MOHLTC



Ontario Opticians Association
And
Opticians Association of Canada
Submission To
The College of Optometrists of Ontario

Proposed Conflict of Interest Regulation and Amendments
to
Professional Conduct Regulation

Overview

The introduction to the draft proposal states that the catalyst for modifying the regulations is the College's desire to "reflect changing societal expectations and the nature of optometric practice." It also states that the proposed changes will "enable members to practise in a wider range of settings..." The changes are intended at the same time "to protect the public and prevent commercial enterprises from having a strong influence over the practice of optometry."

Some of the sentiments expressed are encouraging and the proposed changes that would allow optometrists to employ opticians are long overdue. Both the OOA and the OAC have always believed that it is in the best interest of the public to have fully qualified and regulated opticians employed in Optometric Dispensing offices.

However the draft regulation document falls short of fulfilling the promise of its introduction by prohibiting true freedom of association between optometrists and opticians. We believe in the end this gives optometry a "strong influence" over commercial enterprise by prohibiting competition and by allowing optometry to participate fully in commercial dispensing absent any real benefit to the public.

Restrictions on Employment

The ethical underpinnings of the regulation seem to be that an optometrist who is engaged in his/her own commercial enterprise will be able to separate professional recommendations to purchase optical appliances from the prospect of personal and commercial gain. On the other hand once the optometrist becomes the employee of an optician and/or of a dispensing corporation, ethical considerations of what is best for consumers may become at best a second priority-that as an employee an optometrist would more likely compromise what is best for the patient under pressure from the commercial enterprise. The concept suggests that an optometrist's integrity is quite fragile. This should be offensive to optometrists. It is certainly offensive to opticians.

In fact the argument has been considered and rejected by the Supreme Court of British Columbia.

Justice Lowry in the case of Costco V. the B.C. Board of Examiners of in Optometry stated in his 'Reasons For Judgment',

"The Board appears to presume that optometrists who sell what they prescribe will adhere to the standards of conduct set for the profession and be free of any adverse public perception regarding the independence of the advice they give. There is no evidentiary justification for assuming that other optometrists who may associate with non-optometrists will conduct or appear to conduct themselves any less professionally."

Conflict of Interest Inherent In Current Optometric Practice Model

No matter how it is framed the essential conflict of interest exists in the very nature of the typical optometric practice wherein an optometrist both prescribes product and sells product.

Strictly speaking if optometrists wish to eliminate the potential for conflict of interest the College should develop regulations that end the practice of optometrists maintaining dispensaries on site in their professional practices. Historically in spite of what has been an ongoing and clear conflict of interest governments, consumers and other eye care professionals have accepted assurances from optometry that as regulated professionals, optometrists are scrupulous in keeping their prescriptive recommendations aloof from their commercial decisions.

Once having accepted the ethical imperative that well-devised regulation and enforcement of regulation can protect the public from unprincipled practice it is difficult to conceive of adequate reasons why optometrists would not be able to perform ethically as employees of opticians and/or dispensing corporations. This is particularly true in light of the Ethics' Committee's decision to ease the regulations regarding optometric ownership of retail dispensaries as well as manufacturing and laboratory enterprises. The Committee appears to believe that the blatant potential for conflict of interest that is inherent in that model can be successfully managed.

Managing Conflict of Interest

Opticians provide optical services for consumers both as independent entrepreneurs and as employees of chain stores under the strict regulation of the College of Opticians of Ontario. This model has worked well to protect Ontario consumers for more than forty years. The suggestion that an optician practicing under regulation of the College of Opticians of Ontario is less concerned with public safety than an optometrist who practices under regulation of the College of Optometrists of Ontario is not only an inaccurate appraisal but it should not be used to justify a general prohibition on complete freedom of association between the two professional groups.

It is clear optometrists wish to extend their practices by embracing the commercial marketplace. Optometric owned retail dispensaries are a fact of life in the vision care marketplace across Canada. The OOA and the OAC do not suggest it should be otherwise. However, as the draft regulations now stand, Optometrists will assume an unnatural dominance of the commercial vision care world. The net result of this will be a model that will be riddled with conflict of interest, perceived or real, that surpasses any ethical conflicts an optometrist might face as an employee of an optician or of an optical chain.

The ministry has stated that a specific prohibition on association will be permitted only if the ministry is satisfied that the prohibition:

- Is required to ensure the College's effective regulation of the profession

- Is in the public interest, and
- Does not contravene the Canadian Charter of Rights and Freedoms

The overarching goal of the Guidelines for Drafting Conflict of Interest Regulations by Health Regulatory Colleges as set out by the MOHLTC is to ensure that real or perceived conflict of interest does not negatively impact public choice, public education, public protection or public confidence in the system. Employment of an optometrist by an optician does not undermine that goal.

As an employee of either an optician or a dispensing corporation an optometrist would not be relieved of regulatory obligations under the College of Optometrists of Ontario any more than employment of an optician by an optometrist releases the optician from observing the regulatory requirements of the College of Opticians of Ontario.

Independent Contractor or Employee

The draft regulations have introduced the concept of the optometrist as Independent contractor. In the pre-ambule to the draft regulation the College of Optometrists concedes that inter-professional business relationships could improve the public's access to optometric care. The OOA and the OAC agree. However under 3(2)(c) iv) an optometrist must not receive a 'benefit' from vendors or suppliers. In fact this reduces considerably the likelihood of an optometrist being associated as an Independent contractor by either an optician or a dispensing corporation.

In a typical retail dispensing business best use of optometric services is achieved where the optometrist is available at several locations on a rotating basis. Clause 3. (2)(c) iv) would obligate the Independent Contractor to incur expenses that would make such an arrangement cost prohibitive. Consequently while in theory the Independent Contractor concept appears to increase freedom of association between opticians and optometrists it does not in fact provide access to optometric services through retail dispensing operations save those that are owned in whole or in part by the optometrists themselves. The most efficient solution is for the optometrist to be employed by opticians or dispensing corporations. This will provide the public with much greater opportunity to access optometric services with the least amount of cost and the greatest amount of convenience.

Many of the clauses in the draft regulation document merely create a firewall between optometrists and their dispensing competitors: opticians and dispensing corporations. This places borders around the extension of optometric services to the maximum number of citizens and limits the variety of multi-discipline practice scenarios. Consider an optician in a remote setting who would like to employ an optometrist to travel to the setting one week out of every month. The proposed regulation would do nothing to enable the optician

to bring optometric services to people who would otherwise have to travel considerable distances to receive optometric services.

The regulatory regimes of both the College of Optometrists of Ontario and the College of Opticians of Ontario are a more than adequate buffer to protect the public from conflict of interest. The terms of reference for 'Independent Contractor' as described on pages 7 and 8 of the draft document should be sufficient to provide regulatory guidance to optometrists within the context of any business relationship.

Prescription Release

The OOA and the OAC note with concern that clause 14 (release of prescription) of the draft regulation on professional misconduct includes the phrase 'without reasonable cause'. The MOHLTC document on drafting conflict of interest regulations gives universal guidance for all health regulatory colleges including the medical profession. It states that where a health care professional recommends a prescription he/she must "provide the patient with the recommendation or prescription for the product or service, or the order or requisition, except where it is impractical to do so (e.g. in the case of an in-patient in hospital) to allow the patient to exercise his/her options." There is a distinct difference between 'except where it is impractical to do so' and 'without reasonable cause'. The latter phrase is subject to individual interpretation and would also be impossible to regulate effectively. The phrase used in the Ministry guideline including the example provided, state the excepting condition appropriately.

Conclusion

The proposed Optometric conflict of interest regulation as presented gives optometry significant leeway for the leadership to selectively apply punitive regulation to the detriment of those optometrists who choose to work in association with opticians.

One needs to look no further than British Columbia and the aforementioned superior court case. Despite the findings of the Court, the Board of Examiners continued to assert an agenda of preventing optometrists from associating with opticians. The subsequent disciplinary action the Board of Examiners initiated against the optometrist involved in this case supports our concern. The Board waited several years and at the first available opportunity removed the optometrist's registration and leveled punitive fines from which the optometrist may never recover.

The OOA and the OAC believe that the public interest is best served when fair competition is present and when a variety of vision care options are available in settings that meet the modern needs of consumers. Opticians and dispensing corporations have recognized for a long time that their clients would benefit from having onsite access to optometric services and have pursued that practice model. Many optometrists have found this model attractive and but have met

with a complexity of regulatory barriers. The OOA and the OAC strongly urge the College of Optometrists of Ontario and its Ethics Committee to reconsider the proposed regulation and eliminate any clause that would prevent optometrists, opticians and dispensing corporations from associating freely in either a professional or a commercial business relationship.

June 1, 2006

Dr. Linda Bathe O.D.
Chair, Ethics Committee
College of Optometrists of Ontario,
6 Crescent Rd.,
2nd Floor,
Toronto, ON. M4W 1T1.

To the Chair:

The Ontario Opticians Association and the Opticians Association of Canada are in receipt of your invitation to review the draft Professional Misconduct Regulation of the College of Optometrists of Ontario. The enclosed comments are a result of that review.

We are disappointed that the concerns we submitted on the draft Conflict of Interest Regulation have not been reflected in the changes you have made and which appear in draft 2. Fundamental to our concerns is the prohibition against optometrists working as employees of opticians. It seems at the heart of this prohibition is the belief of the College of Optometrists of Ontario that an optician who employed an optometrist would have the leverage as an employer to cause an optometrist to be placed in a conflict of interest situation which could lead to professional misconduct. This demonstrates a dismaying lack of regard for opticians as professionals.

The recommendations of the Health Professions Regulatory Advisory Council (HPRAC) which were recently released by the Minister of Health and Long Term Care place a strong emphasis on inter-professional collaboration and cooperation. The philosophical underpinning of the College of Optometrists of Ontario prohibition against reciprocal freedom of association undermines the ability of optometrists and opticians to develop the mutual respect such interaction requires. The OOA and the OAC are hopeful that there can be continued dialogue between our two professions on this matter.

We submit our observations on the Professional Misconduct Regulation in the hopes that they will be given balanced consideration.

Yours truly,



Lorne Kashin,
President OOA/OAC

CC: Marilyn Wang, Acting Director Health Professions Regulatory Policy & Programs Branch



Ontario Opticians Association
And
The Opticians Association of Canada
Submission To
The College of Optometrists of Ontario

Proposed Professional Misconduct Regulations

The Ontario Opticians Association (OOA) and the Opticians Association of Canada (OAC) are please to offer the following observations about the Consequential Amendments to the Professional Misconduct Regulations of the College of Optometrists of Ontario. The format in which the draft document has been presented has been very helpful since it has facilitated comparison of proposed changes to existing clauses of the regulation and most particularly since the explanatory notes have added some texture and interpretation.

Prescription Release

The removal of the phrase "who requests one" and the replacement of the phrase "an ophthalmic appliance which" with "vision correction that" in section 14 for the most part successfully addresses the matter of prescription release and as well more appropriately reflects our definition of what constitutes a prescription. We have some concern about how the College will interpret the phrase "without reasonable cause". We therefore request some clarification regarding what circumstances would prevent an optometrist from providing the patient a written record of the prescription in all circumstances.

The "without reasonable cause" condition re-occurs in section 14.1 and we would again request clarification.

Representations About Members and Their Qualifications

Sections 21.1 through 22.4 describe limitations on the use of the reserved title of 'doctor'. Due to the overlapping scopes of practice of optometrists and ophthalmologists and of optometrists and opticians, there has historically been public confusion about the roles of each. Consequently many consumers have mistakenly understood that optometrists are medical practitioners. In respecting these sections a member would be required to ensure there is no confusion.

However often it is the optometrist's ancillary staff who unwittingly perpetuates confusion by referring to the optometrist using the title 'doctor'. It would be appropriate therefore to add a section (22.5) that requires optometrists to instruct their ancillary staff in the appropriate title designation that should be used.

Section 25 deals with the professional text contained in advertising. On the whole it is appropriate. In recent years the OOA has had to submit complaints based on unprofessional advertising by members of the College of Optometrists of Ontario. While these complaints have been suitably dealt with by the College, the most egregious of the complaints was based on the member's unprofessional characterization of the qualifications and services provided by opticians who owned retail dispensaries in the same community as the member and in one case a physician's ethics were denigrated. We respectfully recommend 25 xi. should be amended to read "would be reasonably regarded by members as demeaning the integrity or dignity of the profession or allied professions or likely to bring the profession or allied professions into disrepute."

Fees and Costs Charged

There has always been confusion for members of the public when attempting to compare prices charged by optometrists for optical products with prices charged by opticians for the same optical products. While we don't question the authority of optometrists to use their own pricing strategy, in fairness to clients, terminology used by optometrists should be unequivocal in interpretation. Section 36.1 deals with providing statement or receipt for professional fees charged. Section 37 follows with providing statement or receipt for costs charged for ophthalmic material provided or dispensed. Subsection (5) describes costs as the amount paid by the member for the material plus reasonable overhead and administrative expenses. The use of the term 'costs' is misleading. An excerpt from the FAQ section of the College of Optometrists of Ontario website instructs as follows:

"In Ontario, most regulated health care practitioners (e.g. physicians, pharmacists, optometrists, and dentists) are required, when providing health care products to a patient, to charge the patient the costs incurred for the material plus a fee. The fees are called a variety of names, such as dispensing fees, treatment fees, or professional fees.

The amount of the fee is not established by law, but must be demonstrated to the patient on a receipt. The purpose of the law is to provide openness and honesty in the financial transactions between health care professionals and patients.

The dispensing fee or "fee for service" is charged rather than a mark-up on the material costs. Private health care practitioners must - from the fees for services charged - construct, equip, staff and maintain proper facilities for providing their services. The dispensing fee is meant to not only cover the services rendered but also to defray the overhead costs in providing the service to the public."

One would understand from this explanation that optometrists have no choice but to use the proscribed pricing formula. This is true to the extent that pricing is directed by the self-imposed optometric regulations but would mislead readers into thinking that government demanded the pricing regulation. The posted public information states there is no mark-up on the material costs. The reader would naturally assume the sum charged for the material is the sum the professional was charged by the supplier of the material or what would commonly be referred to as the wholesale cost. The dispensing fee is positioned as being the same as professional fees and both are characterized in the explanation as being flexible.

Consequently if the new Regulation is moving the pricing schedule to (Professional Fees) + (Material Costs + Overhead & Administrative Expenses), it needs to specify in 36.iii in the interest of transparency

that the statement of cost of any material used must be separated into material costs and overhead.