

 Ontario Opticians Association

November 29, 2006.

College of Opticians of Ontario,  
902-85 Richmond St. W.,  
Toronto, ON  
M5H 2C9

Att: Caroline MacIsaac-Power,  
Registrar

Dear Mrs. MacIsaac-Power:

Attached please find the comments of the Ontario Opticians Association (OOA) regarding the College's Draft Delegation Practice Policy. We believe that the areas we have identified require further refinement and/or changes and would like the opportunity to meet with the College committee that developed the draft with an eye to providing constructive solutioning.

Should you or the College committee require clarification of the OOA's commentary please feel free to contact me.

Yours truly,



Lorne Kashin R.O.,  
President,  
Ontario Opticians Association.



**Ontario Opticians Association  
Comments on  
College of Opticians of Ontario  
Draft Delegation Practice Policy**

## Summary Comments

The Ontario Opticians Association submits the following comments concerning the College of Opticians of Ontario (COO) Draft Practice Policy: Delegation. We acknowledge that the College has been instructed by the Health Practices Regulatory Advisory Committee to develop a less restrictive policy on delegation than its current policy which has been in place since 1998. However, we believe the draft document has some fundamental weaknesses that expose consumers to risk of harm and place regulated opticians in the position of endorsing unlicensed practice. We believe also that with an issue as important as delegation the College would be best served by receiving input from focus groups of Ontario opticians and other stakeholders. The OOA is prepared to organize and participate in such workshops.

The OOA realizes that reasonable delegation is fundamental to training future opticians and essential to running a retail business. Delegation should realistically reflect the necessity for public protection in the typical business model. It must be enforceable by the regulatory body and easily understood by the membership. Since opticians may be in a position both to receive delegation (as in the remote sight testing model) and to delegate (as in a typical dispensing situation) the standard should be *even* in its requirements under both circumstances.

The Practice Policy and the tasks targeted for delegation in the Definition of Dispensing are linked. A delegation policy is reasonable only if the tasks delegated are reasonable.

### **The Definition of Dispensing**

***Provision of Advice*** - The components of dispensing are not always performed in sequence. In a retail dispensary, ancillary staff play an important entry-to-purchase role and with training and supervision are competent to do so. But 'provision of advice' has been identified as one of the activities that may be delegated. The implication of advice is that it offers a recommendation or a direction for selection. Without the dispensing steps of interpretation of prescription - listed as a) in the definition of dispensing - and evaluation of a person's needs - listed as d) in the definition of dispensing - being first performed by an optician there can be no advice offered. Furthermore, without those steps performed a delegate would not have the appropriate guidance on taking measurements and preparing the final design of the product. Both of these tasks have also been identified as being eligible for delegation.

If a delegate is performing a dispensing task under the license of a regulated person it is the regulated person who is accountable should something go wrong. Consumers typically browse for optical products

and services. Eyeglasses and contact lenses are now being sold on the Internet. Information gathered by consumers from non-regulated personnel could be construed as professional recommendation with liability issues attached.

***Confusing Terms*** - The Definition of Dispensing contains confusing terms. In particular "...frame suitability with or without reference to a prescription..." is a contradiction. The word 'suitability' implies comparison to something. A product or a service can be suitable only if it meets a set of requirements. In the case of optical products reference to a prescription is essential. Only general information may be delivered without the prescription.

***Delegated Tasks too Broad*** - The sections of the definition that have been targeted for delegation cover too many areas of dispensing and need some refinement and/or explanation. Section h) has been highlighted for delegation and includes "fitting of subnormal vision devices, contact lenses or eyeglasses to the human face, eyes and or head". Contact lenses should be removed from the list of tasks eligible for blanket delegation. Contact lenses are typically dispensed in a closed room and if this task is delegated to an unlicensed individual the supervising optician could not truly be said to be present and available.

***Sequence of Tasks*** - Some form of delegation is appropriate only if the dispensing tasks listed in the Definition of Dispensing are performed in a logical sequence and only if it is required that the steps be performed in that sequence. Each step in the dispensing process builds on the previous step. It is not currently organized in a sequence nor has sequence been established as a requirement. For example, without the interpretation of a prescription and without the evaluation of a person's needs, both of which according to the draft must be performed by an optician, suitability of frame and lenses cannot be established. If both of these steps have been performed then it may be reasonable to delegate a frame or lens selection for a specific client to unlicensed personnel with the optician present and available on the premises.

Without a clear policy on delegation opticians become vulnerable and employers, who may not be regulated persons, are left to make their own best judgment on what is appropriate. Theoretically without the requirement of sequenced steps, all the highlighted sections of the definition could be performed by an unlicensed person and the order for a pair of eyeglasses could be drafted with the optician merely coming along at the end to perform the other functions. This business model would not be in the best interest of the client.

The College may believe that in requiring an optician to establish a patient/practitioner relationship it has implied that this is the primary

step in the dispensing transaction. The OOA believes that the sequence must be stipulated and not subject to interpretation.

This does not mean that unlicensed personnel could not provide general information about frames and lenses without delegation.

### **Conditions of Delegation**

The OOA finds that the draft document does not include benchmarks by which members can judge their compliance. Documentation of delegation as described in Condition #1 is a good example.

#### ***Condition #1***

The document refers to an optician having to keep a record of what activities have been delegated and to whom. There is a practical problem here.

- Under Condition #2 the document contemplates that there will be in effect, an optician of record who has established a patient/practitioner relationship for the file.
- The act of dispensing consists of several different components and in a retail environment these acts may be performed by several different people both regulated and non-regulated.

While many orders for products and services supplied by retail dispensaries are received and dispensed in the same day or on the same shift, there are many other orders that will be received on one day or shift and dispensed on another day or shift. In addition, the optician who established the patient/practitioner relationship retains ultimate responsibility for the dispensing transaction. As a practical matter it would be virtually impossible to record the name of every individual who has performed one of the dispensing tasks along with the tasks they performed. As well, when does a general conversation about frame style and colour become a patient-specific discussion about dispensing and therefore a task that requires delegation?

The phrase, "in a manner that suits the individual location" is vague and shifts accountability for the record keeping away from the optician and into the hands of the employer over whom the COO has limited authority. If it is the intention of this phrase to simply allow for either hard copy or electronic copy versions of the client file the wording needs to be more specific. If, on the other hand, the COO believes a specific format and content is required, it needs to develop a template so compliance is uniform.

#### ***Condition #2***

This condition requires the optician to notify the patient that the act is being delegated with the option for the patient to refuse service from

the delegate. It will be difficult for the COO to ensure compliance with this condition short of having the patient sign a waiver. An alternate solution would be to have template signage posted in each dispensary advising clients of their right to be seen by a licensed optician. This would also broadcast to consumers the fact that opticians have specialized training, skills and knowledge

The draft document contains a requirement that the optician must be physically present in the dispensary and able to intervene at the time the delegated task is being performed by the unregistered person. This places the responsibility on the delegate to request intervention since the condition does not include any guidance as to how many unlicensed persons may be supervised by a single optician. If there is an inadequate ratio of regulated to unregulated personnel, the optician who has become the optician of record may not be in a position to intervene as appropriate.

Further, due to the shift work nature of today's practice model, the delegate the optician has authorized may not be the individual who performs the final dispensing functions. This means that every optician in the dispensary must assure him/herself that all unlicensed personnel are trained and qualified to receive all delegated tasks.

As well, in a busy dispensary if the optician is fitting contact lenses he/she is not present and available. Where an optician is also a contact lens fitter, acts of dispensing should not take place unless there is a second optician present and available.

**Conditions #3 & #4** outline the responsibility of the optician to make certain the unlicensed person is able to perform the task safely. There are no benchmarks described. The OOA takes guidance from the National Competency Matrix which has been developed and agreed to by 9 optician regulatory agencies across Canada. Each dispensing task has been broken down into competencies and sub-competencies for the purpose of developing national standards of performance. In order to have an even level of delegation the optician should be required to make certain at a minimum that the unlicensed person is able to meet the national standard for those tasks being delegated.

### **Limited Authority of College Over Dispensary Owners**

One of the issues that is fundamental to this challenge of delegation is the fact that in Ontario owners of retail dispensaries are not required to be regulated opticians. As such, the College of Opticians of Ontario has limited authority over the business models employed by those owners. The College regulates the opticians and not the stores or store owners.

The OOA has examined other provincial opticians legislation looking for guidance. In Quebec no person may own an optical dispensing practice

who is not an optician. In Manitoba, although there is no restriction on who can own a retail dispensary, every dispensary is required to establish a 'license of record' thus appraising the regulatory body of where people are employed and when dispensaries are left without a license of record. However, both these regulatory plans would require an additional registry and would incur additional cost. Any additional cost to regulation inevitably causes the price of licensing to increase. Regulating dispensaries would also place a financial hardship on owners of independent dispensaries. We do not believe the burden for monitoring dispensaries should fall on the shoulders of opticians.

The fact remains it is a challenge for opticians to reconcile company policy with their responsibilities to the College of Opticians. It is not unreasonable to expect the College of Opticians to provide them with reasonable tools to do so.

The OOA understands that prohibiting delegation is not an option for a self-regulated profession. We understand that it is the role of the College to develop and enforce a policy on delegation. But with any draft document, there is opportunity for debate on content. The OOA is requesting an opportunity to meet with the legislative committee to explore ways in which the concerns stated in this document can be mitigated.