

The Ontario Opticians Association (OOA) and the Opticians Association of Canada (OAC) appreciate the opportunity to respond to the various submissions that have been made to HPRAC by stakeholders. The OOA and the OAC support HPRAC's process of consultation. It is only through surveying a variety of positions that best practice decisions can be made.

The OOA/OAC have submitted what they believe to be sound, evidence-based recommendations to HPRAC regarding the Minister's referral on Refractometry, the risk of harm in dispensing eyewear and on the optometrists' request for an increase in scope of practice to include prescribing therapeutic pharmaceutical agents.

With regard to Refractometry, opticians have performed due diligence.

- The primary educational programs that prepare opticians for licensing contain the knowledge base required to conduct Refractometry effectively, efficiently and safely.
- There are several educational programs in place that provide the necessary advanced training that will enable Opticians to safely prescribe eyewear based on the results of Refractometry. Two of these programs are offered in Ontario.
- In collaboration with physicians in Alberta and British Columbia Opticians have developed Standards of Practice & Limitations that have been proven to identify 'at risk' segments of the population that requires referral.
- The College of Opticians of Ontario in developing the Regulatory structure required in order to provide oversight of optician-performed Refractometry has weighed the risks to the public against the potential for public benefit and believes the outcome is very much on the side of public benefit.
- Opticians have expended best efforts to engage Ontario physicians and surgeons and Ontario optometrists, but have met with an unwillingness to dialogue. As a consequence the College has based its governance documents for Refractometry and prescribing from the results of Refractometry on guidance given by physicians to Alberta Opticians and to British Columbia Opticians.

The advice opticians have given to HPRAC that the risk of harm is equal for all components of dispensing activities is based on a belief that all Ontario consumers, regardless of age, are best protected physically, emotionally and financially by having their prescriptions for optical product filled by individuals who have been trained in the full range of products and services that are available.

The OOA/OAC believe it is reasonable to expect their submissions to be assessed by stakeholders with the same measured reason.

Scope of practice issues inevitably evoke passionate and often confusing debate amongst stakeholders. It is conceivable that constructive discussion will be overtaken by rhetoric and that the sheer volume of data and evidence both empirical and anecdotal can consequently divert measured and reasonable reaction. There are several issues related to the matter at hand that have drawn criticism from some stakeholders and have the potential to cause such diversion.

## Setting the Record Straight

### **Self Interest**

Some stakeholders have alleged that the submissions made by the COO, the OOA and the OAC are motivated by self-interest and based in commercially driven arguments. In their submissions the Ontario Medical Association (OMA), the Vision Council of Canada (VCC) and the Vision Institute of Canada (VIC) have made comments about what they consider to be the self-protecting and economic motives of the opticians groups, which they claim have been disguised by statements from those opticians groups about public concern, and risk of harm.

The VCC in particular has stated that the OOA/OAC's belief that the full scope of activities performed in dispensing eyewear constitutes risk of harm promotes the economic interest of the profession at the expense of the public interest. The VIC believes that the proposed model for optician-performed refractometry is an economically motivated model. Both groups allude to the opticians' stated concern for public welfare as being no more than a mask for self-promotion. Such accusations are in and of themselves self-serving.

Using a submission to HPRAC to criticize the economic interests of another stakeholder group without examining and admitting to the economic interests of one's own group is, to say the least, disingenuous. It is, after all, the members of the VCC who will benefit from a narrow definition of dispensing eyewear since they will no longer have to employ as many higher salaried regulated professionals. It is the members of the VCC who will benefit from requiring optometrists to allow total freedom of association between optometrists and opticians since it is only companies with deep pockets who will be able to afford to hire an optometrist. The VIC seeks to position itself apart from any self-interest by listing its

charitable and educational work and to thus add weight to its negative commentary yet it is optometrists who will benefit if opticians are prevented from performing refractometry.

The truth is any profession listed under the umbrella of the Regulated Health Professions Act is on that list because the government concluded the activities being performed by the profession represent a risk of harm to consumers. Changes to the list or to the activities performed by the professions on that list must be supported by documentation that relates to a variety of public interest issues including risk of harm. Consequently the profession proposing changes frames its proposal accordingly.

All stakeholders whose practices engage in controlled activities as listed in the RHPA stand in some measure to be economically impacted by any recommendations made by HPRAC to the Minister. That is the inevitable outcome of this referral and any other referral with which HPRAC is asked to deal.

The best interests of the public and the profession are not mutually exclusive. One of the nine criteria HPRAC listed in its June 2003 discussion paper Sunrise/Sunset And Changes in Scopes of Practice Criteria Review was that

*“The practitioners of the profession are sufficiently numerous to staff all committees of a governing body with committed members and are willing to accept the full costs of regulation. At the same time, the profession must be able to maintain a separate professional association.”*

The mandate of the regulatory body is to implement regulation in the best interest of the public without crippling the profession. The mandate of the professional association is to promote the best interests of the profession without endangering the public. At its best it is a collaboration that makes “optimum use of new technologies and evolving educational programs”<sup>1</sup> by “developing and enforcing appropriate accreditation standards that are reflective of the actual risk of harm”<sup>2</sup>.

The OOA and the OAC do not deny that the recommendations of HPRAC evolving from the Minister’s referral have the potential to affect the professional standing and economic interests of the profession. Similarly, they stand to have a significant affect on the business interests of the members of the VCC, as well as optometrists who are members of the OAO and who support the VIC.

In framing their remarks opticians are saying, “Yes. What we are proposing will be good for the profession but we have not ignored our duty to the public. We have examined the impact of the status quo and/or of these changes on consumers and believe our recommendations will result in public benefit.” The College of Opticians in submitting on behalf of the

---

<sup>1</sup> Sunrise/Sunset And Changes in Scopes of Practice Criteria Review

<sup>2</sup> Sunrise/Sunset And Changes in Scopes of Practice Criteria Review

regulatory body is saying, “We realize that the profession stands to benefit from their recommendations and for that reason we have performed due diligence in making certain there is a positive public benefit and that strictures are in place that will provide appropriate oversight.”

The best result for consumers occurs when there are safe choices of providers, safe choices of the service and competition in the marketplace. Optometrists and ophthalmologists practice in a competitive marketplace in spite of the fact that they don’t charge retail prices or work in storefront locations. But the consequence of regulation should not be to reward professional groups whose legislative aim is to restrict choice and competition by preventing other groups from implementing emerging technology and advanced practice education.

#### Off-The-Rack Reading Glasses

The second matter that has been seized upon and criticized by some stakeholders is the OOA and OAC’s proposal that off-the-rack reading glasses should be regulated. The OMA disagrees with this proposal. The Vision Council of Canada suggests that such a proposal serves only to protect opticianry without reference to the public interest.

The OOA and OAC agree that such a proposal is not feasible and we so stated in our original submission. We did, however, suggest that position to highlight the vision health risk that is represented by the huge number of adults who choose to purchase off-the-rack reading glasses instead of seeking an eye health examination and refraction. These are individuals who have not been required to wear vision correction until reaching the presbyopic stage and who never come into contact with any level of vision care provider. The volume of sales quoted in the OOA/OAC submission was intended to signify the large number of consumers who fall within this category and was not included to identify a market opticians covet.

All stakeholders agree that the biggest threats to vision are age-related diseases and that eye health examinations are important in diagnosing and treating those diseases. The question becomes, “How does the vision care community discover a way of educating the ‘grocery store reader’ set about the importance of regular eye health examinations?”

Viewing together the regulations that cover opticians, optometrists and ophthalmologists, only that portion of the public that seeks an eye examination is regularly exposed to information about the eye health choices available and about the risks to vision of age-related diseases. From that perspective even the regulations we currently have don’t adequately protect the emmetropic population.

The OOA and the OAC offered what they believe is a project all three ‘O’s can embrace and that is to encourage government to require those individuals who sell off-the-rack reading glasses to include literature about the importance of a regular eye health examination. We believe this recommendation has merit and certainly *does* have reference to public interest.

### Sight Testing Initiative In BC

A fourth issue that needs to be clarified is with respect to optician-performed refractometry/refracting in other jurisdictions. The VIC has stated that the model for optician-performed refracting as proposed by Ontario opticians groups has been rejected in British Columbia. This is a misrepresentation of the truth and is no more than another attempt by optometry to mislead HPRAC and to derail the legitimate legislative initiatives of opticians.

The Minister of Health in British Columbia announced in November of 2003 his intention to bring forward a regulation that would allow BC opticians to provide independent automated sight testing services to the citizens of British Columbia and to use the results of those tests to make eyeglasses. At that time the Minister announced a period of stakeholder consultation. Throughout the consultation period the government made clear its intentions to follow through with the regulation and that it sought only to receive advice on how to safely implement the regulation.

The optometrists' groups refused to join that dialogue in a specially convened meeting in spite of direct instruction from the Ministry representative that the Minister was not interested in an opinion on 'whether' the regulation should move forward but instead sought advice on 'how' it should move forward.

In a strategy designed to stall the consultation process, the optometrists' association submitted a 'Freedom of Information' request to the Ministry and indicated that their group was not prepared to submit a position paper until their FOI request had been satisfied. There were close to 8,000 pages of documentation that had to be scrutinized, redacted and copied. Once the request had been satisfied the optometrists submitted their position paper within days.

The British Columbia provincial election created a further delay to ongoing consideration by government of the opticians' regulation. In the recent election the incumbent government was returned to power and the house is in the process of organizing itself for the fall sitting of the legislature. There is no reason to believe that the Ministry has changed its affirmative position on optician-performed automated sight testing. In fact opticians have had encouraging signals that their regulation is still on track for implementation.

The Ontario model differs from the British Columbia model only insofar as in British Columbia refracting will be limited to the use of automated technology. Ontario opticians believe that with the appropriate training as is available through various educational institutions, manual refracting can generate results that are safe and accurate and that the restriction to using automated technology adds an unnecessary barrier to practice.

In Alberta the Minister of Health made a point of reaffirming the government's support of the current telehealth model of sight testing that is being performed by opticians. The telehealth modality is possible in Alberta since this protocol has the endorsement and cooperation of the physicians and surgeons groups as well as the ophthalmology groups in Alberta.

## The Referral

There are two components to any referral. The first component is the overarching matter of principle related to whether any proposed additions or deletions of controlled activities meet the terms of reference as laid out in the Regulated Health Professions Act. The OOA and the OAC respect the right of all health professionals to pass comment on this aspect of any referral since it is on these same terms of reference that they base their own regulatory authority.

The second component of the referral is profession-specific expert commentary related to the details of the activities under discussion that have a positive or negative impact on consumers. It is assumed that any group making strong recommendations that stand to impact another group either positively or negatively will be qualified by education or experience to do so. It is for this reason, for example, that the OOA/OAC have declined to comment on whether or not optometrists are properly trained and regulated to prescribe drug therapies and have instead restricted our comments to the impact of such an addition to their scope of practice on other stakeholders.

With that being said, we offer the following commentary.

### **Refractometry**

The OOA/OAC believe that consumers will benefit from the ability of Opticians to provide Refractometry/refracting/sight testing services to their clients. The OOA/OAC further believe that the ability of Opticians to practice the controlled act of prescribing for optical appliances will offer improved and economical consumer choice of service. Opticians believe safe performance of the controlled activity by Opticians should be restricted to a specific demographic of adults who are healthy or who are under the care of a physician who has authorized the Refractometry, or who have had an eye health examination within a prescribed length of time as set out in the College of Opticians of Ontario's Standards of Practice & Limitations. Whether considered separately or together, both activities are useful in the hands of opticians in pursuit of fulfilling the full spectrum of their dispensing functions. Opticians do not dispute the need for regular eye health check ups. The profession simply recognizes the gap in service to the public for interim refractive changes within a specified range, in low risk groups who understand the range of service being provided to them.

Refractometry is not listed as a controlled activity under the RHPA. Why, then do some stakeholders advise HPRAC against allowing opticians to provide this service to consumers? Clearly many cannot separate the non-controlled act of refractometry from the controlled activity of prescribing ophthalmic appliances. It is the controlled act that triggers the often-visceral reaction of some stakeholders.

It is true that Ontario opticians wish to be able to perform both activities and have included in their submissions documentation supporting this request but as a means of moving forward, the OOA and the OAC believe that each activity must be assessed on its individual merit. The Minister's referral in fact asks for advice on refractometry and has not contemplated prescribing.

#### Risk of Harm

The Ontario Medical Association (OMA) has made several salient observations in its submission. In particular in its analysis of the issue of Risk of Harm the OMA points out that in its view, while the RHPA is designed to protect the public, it is unrealistic to expect the performance of any controlled activity to be error free and/or totally absent of risk. The OOA and the OAC find this to be a sensible assessment.

It is the responsibility of the regulatory regime to design performance standards that minimize risks and to monitor performance. Opticians groups believe they have identified inherent risks and have undertaken to design and adopt appropriate measures.

There is no risk of harm inherent in optician-performed refractometry or in Opticians who are trained and practicing according to the COO Standards of Practice & Limitations prescribing optical appliances based on the results of Refractometry. Stakeholders concern revolves around two considerations: possible public confusion over the service they are receiving and the potential for signs of eye disease being overlooked.

#### *Public Confusion*

The first risk identified is the possibility that consumers will mistake this test for an eye health examination and will therefore neglect to seek such examination. This is one of the OAO's concerns. That group has stated that optician-performed Refractometry will confuse the public as to what service they have been provided. We believe that the educational training and the standards of practice optician stakeholders have developed in support of their case for optician-performed Refractometry will minimize any such risk of harm and, in fact, will encourage more people to seek an eye health examination. Any confusion created by optician-performed Refractometry will be no greater and no less than the current confusion that exists about the difference between an optometrist and an ophthalmologist. In the case of opticians, the COO Draft Standards of Practice & Limitations will require opticians to make certain prospective clients understand the difference prior to providing the Refractometry service. As well, the OOA/OAC are preparing a public education initiative to support the increase scope of practice using several vehicles such as educational literature, postings on websites and media releases. These pieces will be directed at clarifying the extent and limitations of an optician-performed Refractometry service.

A second concern has been expressed about validity of some of the benchmarks opticians have used in their pre-screening questionnaire in identifying individuals who require a full eye health examination. In other words, the question is asked, "Is it possible that opticians will miss identifying latent symptoms of eye disease thus allowing the disease to progress without proper intervention?" Finally some stakeholders have stated they believe that in conducting the questionnaire, opticians are performing the controlled act of diagnosing.

The OOA/OAC reiterate that the screening tools being proposed by the COO were developed with full consultation from physicians' groups and regulatory bodies in Alberta and British Columbia over the past 6 years. As well, many of the referral cues have been adopted from the referral policy of the Canadian Ophthalmological Society. No diagnosis is possible based on the answers given in the questionnaire. What the questionnaire does establish is a profile of the candidate that will allow the optician to place that person in what medical experts have concluded is an 'at risk' category. No possible diagnostic conclusion can be reached based on the results of the questionnaire.

*If Opticians Are Allowed To Prescribe Optical Appliances Are They Also Performing The Controlled Acts Of Communicating A Diagnosis?*

Strictly speaking a diagnosis is made with reference to the cause of a disease or disorder. Being shortsighted, farsighted, astigmatic or presbyopic does not mean the individual has a disease or disorder. Opticians take many measurements when preparing to dispense a pair of eyeglasses or contact lenses. They measure the separation between the **retinal centres** (PD). They measure the size and shape of bridge fitting required based on anatomical features of the individual. In recording that someone has PD of 62 or requires a 22 mm saddle bridge, opticians are not diagnosing. **We don't know why the person has a PD of 62 or requires a 22 mm saddle bridge. We only know what frame will offer best performance by the lenses.**

The numbers derived from performing Refractometry are a measurement of the refracting power of the person's visual system. Ordinarily they are a reflection of anatomical construction. We know from the Refractometry measurement what power of lens will offer best vision. Prescribing lenses based on the results of Refractometry cannot be construed as communicating a diagnosis.

It is true, underlying disease can aggravate each of these vision anomalies. As well there are certain categories of vision anomalies that place the individual into an 'at risk' category. Opticians groups, in collaboration with physicians, have developed their Standard of Limitations on the performance of Refractometry around those exceptions. Opticians propose to provide Refractometry services for individuals who have had an eye health examination within a prescribed period of time and who are known to have had otherwise healthy eyes and for individuals whose physicians have authorized optician-performed Refractometry.

The COO Draft Standards of Practice will require Opticians to lead prospective clients through a questionnaire that has been designed with input from Alberta and British Columbia physicians to exclude individuals whose health or family history profile places them in an 'at risk' category. Prior eye health examination will be a prerequisite for suitability as a candidate for optician-performed Refractometry as contained in the COO Standard of Limitations. Opticians will refer consumers for an eye health examination if such has not been obtained within a prescribed period of time. The education opticians receive is highly detailed; the examination process is stringent. Continuing Education is enforced to ensure that all opticians who hold a valid license are able to recognize risk factors in eye care.

As the OMA have pointed out, it is impossible to set a standard of practice that will result in risk free performance of any activity. It is not a standard they set for themselves and it is not a standard that should be expected from either optometrists or opticians.

Although missed diagnoses or misdiagnosis cannot be totally prevented, the system provides the best possible method of minimizing such instance through its regulatory regime. For example, the question is not, "Will there be some misdiagnosis if optometrists are allowed to prescribe drug therapies? The question might be better posed, "Does the College of Optometrists require its members to meet adequate educational and practice standards to minimize the possibility and is the College of Optometrist of Ontario capable of implementing its regulatory responsibilities should such an instance of misdiagnosis occur?"

In addition to the **strictures** the COO will impose on the performance of Refractometry, Opticians have many opportunities to pick up cues from their clients that may signal early onset of eye disease-possibly even more than optometrists and ophthalmologists. Consumers typically see their opticians more frequently than they do their optometrist or ophthalmologist, and refer them to a physician or to an optometrist. The responsibility of Opticians does not end with the sale of a pair of eyeglasses or contact lenses or the Refractometry service. The care period extends throughout the lifetime of the optical product.

Opticians are on the front line and must recognize whether the chief complaint is cosmetic, a function of the product or if it could have health implications. Opticians are provided training to fulfill this responsibility.

Since there is no formal referral process to Ophthalmology or Optometry from Opticianry, there is no documentation to prove how often Opticians refer problems to the appropriate health care provider. The anecdotal evidence is compelling and further supports the valuable service Opticians perform as frontline vision care professionals. The currently planned intercepts have been designed to funnel the general population in the direction of an eye health examination.

#### Consumer Choice

As the OMA rightly observes, the intent of the RHPA is to protect the public while at the same time providing the public with choice of his/her own health care provider. The Vision Council of Canada has reiterated this sentiment in support of its position that optometrists must allow total freedom of association so its members can offer a full service to their clients as an alternative to the total service offered by optometrists.

The OOA and the OAC would add to this that the RHPA aims to allow consumers to select the *level* of care he/she believes is necessary. The point has been strongly made by the OMA that consumers must be allowed to opt for the self-diagnosing modality of off-the-rack reading glasses instead of individually prescribed eyeglasses. It is inconsistent then, to suggest that consumers should not be allowed to opt for optician-performed refractometry. On the one hand the method of product delivery is absent any sort of educational material about the consequences of the choice being made. On the other hand an optician will be obliged under his/her regulatory regime to make certain such information is shared and understood.

Ontarians enjoy the freedom to determine the level of care they wish to receive. Many clients walk into a dispensary and wish to remake an old prescription regardless of the fact that it may be 10 years old. They have a right to do that. Currently an Optician is able to fill that 10-year-old prescription without verifying the visual acuity or determining whether any power changes might be recommended. Surely a better choice is to provide Opticians with this important refracting tool. An optician-performed refractometry service at this point can be of great value because the result might be to fine-tune the person's lens powers making his/her life better and safer. More importantly, with the Standards of Practice & Limitations imposed by the COO, the Optician has the ability to identify significant factors that would trigger referral for an eye health examination. One of these factors might be a marked change in lens power.

#### Who May Perform A Non-Regulated Activity?

The OAO, the VIC and the OMA believe that opticians should not perform Refractometry, a public domain activity. The VCC has stated it believes as a public domain activity Refractometry should nonetheless not be performed by individuals totally unassociated with the vision care professions. The CNO believes that as a form of assessment Refractometry is a public domain activity that may be performed by competent individuals. The OOA/OAC agree with the VCC and the CNO.

The OOA/OAC do not propose that refractometry should become a controlled activity. However it is an activity that is incidental and important to the functions performed by opticians and one which opticians are capable of undertaking. The use of Refractometry in the hands of opticians is a valuable tool that can be used to more effectively complete the dispensing of both eyeglasses and contact lenses. It is reasonable that opticians should be able to perform this activity but that, as the VCC rightly points out, dentists should not.

The VIC and the OAO have married refractometry to the regulated act of prescribing and have questioned what use refractometry is to opticians if they cannot use the result of the Refractometry to then prescribe ophthalmic appliances. The question itself indicates a lack of understanding of the steps opticians undertake in vetting the accuracy of an appliance and in troubleshooting for their clients. Separate and apart

from prescribing, optician-performed refractometry has a positive benefit for consumers.

Consider the case in which a consumer wishing to have new eyeglasses made presents the optician with 2, 3 or even 4 different prescriptions-all from different optometrists and all with different results. This is a common occurrence. The consumer is confused and doesn't know which prescription to use. With the ability to perform refractometry the optician can provide the consumer with a level of confidence and the ability to make an appropriate decision.

Consider as well the case in which a new pair of glasses has been made but the consumer finds he/she can read better with the old pair than with the new pair. Typically it's because the prescription was written to give best acuity without consideration for the distance at which the consumer wishes to hold his/her reading material. Refractometry allows the optician to troubleshoot this problem quickly and economically.

Opticians do not deny that their ultimate goal is to be able to provide both refracting and limited prescribing services for consumers. However, as numerous stakeholders have pointed out, Refractometry/refracting and prescribing are two different activities and need to be considered individually on their merits. Refractometry is a public domain activity and is not exclusive to the scope of practice of any health profession. Opticians perform the function of refracting as part of a group of skills required in the fitting contact lenses. Opticians believe it is an activity that enhances their ability to properly dispense both eyeglasses and contact lenses.

### **Dispensing**

The Minister's referral asks for advice on "Whether there is a risk of harm in dispensing eye wear and what aspects, if any, of this activity need to be controlled by the RHPA". The majority of stakeholders agree that all aspects of dispensing eyewear represent a risk of harm that is significant enough to require regulation. Some stakeholders differ with that opinion and use the criterion of age of the client as the basis for their definition of risk of harm.

It is impossible to isolate each separate dispensing function and evaluate the inherent risk of harm. For example, as an isolated function it could be argued there is little risk of harm in the taking of a bifocal segment height. In reality none of the measurements for a pair of eyeglasses are taken in isolation of other factors such as prescription power, posture, frame size and shape, or tilt of the frame. It is the combined assessment of all factors that leads to the decision about a segment height measurement. Uncoupling dispensing functions that are interdependent and allowing them to be performed by individuals with inconsistent education and without required standards of performance does not better serve the public.

### The Ontario Medical Association

The OMA supports its recommendation that dispensing eyewear does not pose a risk of harm for any save those who are 13 years of age and under by focusing on amblyopia and citing a study performed by Park, KH et al as published in EYE 2004. The OMA's previous position was that dispensing eyewear posed no risk to children over the age of 9. Another related study has shown effective treatment for amblyopia in children as old as 15 years of age. (J Pediatr Ophthalmol Strabismus. 2004 Mar-Apr; 41(2): 89-95.) It is reasonable to conclude that the outside age for treatment of amblyopia and other vision disabilities is limited only by the amount of time and money spent on research and that further study may reveal correction is achievable for those in much older age groups. The OOA/OAC believe that current regulation for dispensing serves to provide umbrella protection for the public at little cost and that segmented regulation of dispensing has no positive benefit for the public.

### The Vision Council of Canada

The VCC states that it is a non-profit organization created to represent the retail optical industry and that its members include large, mid-sized and small chains as well as a number of independents. They do not represent the retail optical industry as a whole. If that were true the positions of the COO, the OOA and the OAC would mirror that of the VCC. This is obviously not the case.

The VCC speaks for the corporations and individuals that own chains of retail stores. Fundamentally the economic interests of the VCC are best served by a very narrow definition of the risk of harm in dispensing that would eliminate in part or in whole a regulation that currently compels its members to employ licensed professionals to provide the entire spectrum of activities involved in dispensing eyewear. This economic benefit is particularly clear when you view the VCC's position on the risk of harm in dispensing eyewear in context with their recommendations that optometrists should eliminate their policy prohibiting optometrists from being hired to work in a retail-dispensing environment. Both serve to enhance the market position of large retail corporations.

Were the Minister to endorse both recommendations of the VCC, a chain that currently employs, for example, 5 licensed opticians working in a shopping mall could eliminate the opticians' salaries and with the money saved hire one optometrist with enough money left over to hire non-regulated staff to clerk and to dispense eyewear to those over the age of 13. Under a more limited definition of the risk of harm in dispensing eyewear as it is described by the VCC an optometrist employed by one of their members could provide dispensing services to those individuals less than 13 years of age. Even that restricted activity could be delegated to a non-regulated individual who acts under the delegation of the optometrist. Most opticians who are operators of single practice businesses could not

afford to hire an optometrist and the VCC members would consequently gain a huge market advantage with no gain in benefit to the consumer.

The VCC might argue that even with a very limited definition of risk of harm and consequently a more limited scope of regulation its members would maintain high standards of product and service and, giving them the benefit of the doubt that may be true. However, regulation is put in place not only to set a benchmark for current stakeholders but also to ensure that when new stakeholders enter the marketplace they are required to meet those same standards and not ad hoc standards that suit the business model of new entrants.

The B.C. College of Optics put it very succinctly in stating regulation is designed to protect the consumer “when marketplace forces fail to follow ethical practice or adhere to proper competency procedures.” It is not the marketplace that should determine the risk of harm in dispensing activities or set the standard for Eyecare. It is the professions who should make that determination.

#### Labour Mobility

The VCC believes that a narrow definition of risk of harm in dispensing eyewear in Ontario would have no affect on labour mobility or the Mutual Recognition Agreement that was signed by Canadian Optician regulators. The OOA/OAC believe this is a mistaken assessment of the facts.

Ontario and Quebec are unique in that opticians who are licensed in those provinces have an umbrella license that covers them for all aspects of dispensing including eyeglasses, contact lenses and sub-normal vision devices. The other eight provinces have a tiered form of licensing. The first mandatory tier is for eyeglass dispensing and sub-normal vision devices. The second tier is for contact lens fitting. Currently, in order to move to Ontario opticians from the eight provinces must register with the COO as a student optician and then take upgrading courses in Contact Lens Fitting. Consequently the affect on labour mobility of Ontario adopting a narrow definition of risk of harm in dispensing eyewear would be to make it very easy for licensed opticians from outside Ontario who have the first tier of qualifications but no contact lens qualifications to move into Ontario without the additional barrier of a further course of study. This would be very beneficial for any national corporation that wishes to move employees from one province to another.

For Ontario opticians wishing to move to other provinces there would be barriers. Those individuals who became licensed under the current terms of reference would continue to enjoy mobility to a point. The willingness of other provincial regulatory authorities to accept on a par the credentials of individuals from other provinces is based not only on prior education but as well on fulfillment of continuing education requirements and current standing with the home regulatory body. Although Ontario Opticians are all qualified to dispense contact lenses many choose to restrict their practice to dispensing of eyeglasses. There would be no reason for those individuals to continue to be part of the regulatory system if they limited

their practice to those aspects of dispensing that fell outside a narrow or segmented definition of risk of harm. In the event those individuals allow their licenses to lapse they would consequently fall outside the guidelines defined by the Mutual Recognition Agreement. Any individuals who came into the industry subsequent to any re-definition of risk of harm in dispensing eyewear and who chose not to take any regulatory approved education would likewise fall outside the guidelines.

So, in the event of Ontario adopting a much narrower definition of risk of harm in dispensing eyewear:

- The COO would still be able to honour its commitment to labour mobility for Opticians wishing to move from another province into Ontario.
- Since there would be no regulatory requirement for eyeglass dispensing labour mobility is not at issue for people wishing to move to Ontario and dispense eyeglasses with or without qualifications to do so.
- Since eight of the remaining provinces continue to have regulatory requirements for the full scope of activities involved in eyeglass dispensing Ontario Opticians would encounter regulatory barriers.

If the definition of risk of harm in dispensing eyewear becomes narrowly defined how will consumers benefit?

- Confidence in the marketplace- Currently All Opticians are required to meet a common standard of dispensing for the full range of activities involved in the dispensing of eyewear. Consumers do not have to be wary of the optical advice and recommendations they receive from regulated Opticians regardless of their age demographic or their prescriptive needs. They can have realistic expectation that the eyewear they receive will meet that common standard. Retail corporations say even with a more limited definition of risk of harm the marketplace will find its own level. They believe that those merchants who provide poor product and service will inevitably suffer a decline in business that will either compel them to increase their standards or close their doors. This places the onus on the public to regulate the marketplace and while eyeglasses do have a cosmetic or vanity retail component, the retail-dispensing marketplace remains nonetheless a healthcare marketplace.
- Risk of Harm-It's true that the simple solution to glasses that don't work properly is to take them off and get another pair. But in the meantime the client has driven back and forth to work for a couple of weeks and when the glasses are removed the client still can't see. Consequently that individual has to continue to wear the eyeglass product until a proper replacement can be produced. Logically if accurate vision keeps us safe in the workplace, on the streets and at home, the lack of accurate vision makes those environments unsafe.
- Complaint resolution- Currently the entire spectrum of dispensing functions falls under the complaints jurisdiction of the Opticians' regulatory body. The COO has demonstrated that its complaints resolution process is cost effective and timely. Consumers need only consult one agency for complaints resolution. A more narrow definition of risk of harm in dispensing eyewear would result in a more complex and confusing complaints resolution system for consumers.

- Range of Service-the OMA and the VCC propose the risk of harm in dispensing eyewear should be limited to eyewear dispensed to individuals who are 13 years of age and under. Consumers should be able to expect the complete range of dispensing services regardless of age and visual requirement. As prescriptions increase in power the visual consequences of failure of the product to meet standards increases. Opticians supply dispensing services to Low Visual Acuity (LVA) clients of all ages, to clients who have had IOL lens implants after cataract surgery, to clients who have had Keratoplasty, and to clients who have mental and physical challenges. If the Minister endorses a more limited definition of risk of harm in dispensing eyewear the level of dispensing services that are supplied for those demographics can be dictated by the marketplace instead of by professional standards.
- Cost of Regulation-Currently regulating the full range of dispensing activities of Opticians doesn't cost the public a single dime. The regulatory regime is totally financed through the membership fees paid by Ontario Opticians. Consumers are able to purchase eyewear today at lower prices than in any previous decade. The existence of regulation compels retailers to find a way to provide their competitive pricing while maintaining the required standard. Certainly all retail dispensaries could reduce their own costs by having a more flexible standard of optical tolerance. Large dispensing corporations could reduce wage costs by eliminating the need for licensed dispensers and, in instances where the corporation pays the license fees by also eliminating the expense of those fees. This would not necessarily result in a reduction of price to the consumer. The cost to Opticians of regulation has remained stable over several years. There was even a small reduction in the price of membership in the COO a few years ago. Typically the College's legal activities are not due to breaches of regulation by its members. Instead the College has been forced to take action against retailers who wish to function absent the **strictures** of regulation. A review of the COO website complaints resolution page reveals the majority of activity relates to chain dispensaries who hired unlicensed individuals to perform dispensing duties. Of note is the fact that while individuals and corporations who are convicted of this offense must pay a fine, that money is paid to the government of Ontario and does not serve to defray the cost of prosecution. Based on information shared by the College with its members at their Annual General Meeting the OOA/OAC are aware that there has also been a large number of mischief complaints lodged by Optometrists concerning optician-performed Refractometry. These complaints have been resolved without charges being laid or convictions sought but have nonetheless added to the legal costs of implementing regulation.
- Administrative Cost Increase- The College of Opticians of Ontario currently provides regulatory oversight for the full spectrum of dispensing functions following the administrative requirements of the RHPA. Annual membership dues support the cost of this administration. With a more limited definition of risk of harm the College of Opticians of Ontario would be obliged to provide the same regulatory oversight, with the same number of committees and the same complaints resolution process it currently administers but with fewer regulated members and consequently fewer funds from annual membership dues. This can only result in an increase in membership dues, which in turn will inevitably result in an increase in the cost of goods and services to consumers.

## CONCLUSION

The OOA/OAC believe the public domain activity of Refractometry is an activity that is closely associated with the common practices of Opticians and that it is an activity that, if performed by Opticians, will have a vision health benefit to consumers. The OOA/OAC further believe that Opticians should be allowed to offer the additional controlled activity of prescribing optical appliances within the strictures set out by the College of Opticians of Ontario. Finally, the OOA/OAC believe that the public is best served if the individual competencies that combine to make up the controlled activity of dispensing eyewear remain integrated. If these recommendations are implemented in tandem we believe consumers will be afforded a better balance of vision care options, a greater number of choices in the services and price of vision care they wish to receive while retaining a high standard of service and product.