

**INTERPROFESSIONAL COLLABORATION
IN EYE CARE**

SUMMARY REPORT

OPTICIANRY JURISDICTION REVIEW

October, 2009

Overview

HPRAC reviewed the regulatory frameworks for Opticians in 52 jurisdictions including Canada (13 provinces and territories), the United States of America (28 states and Puerto Rico), New Zealand, Australia, European Union (reviewed as one jurisdiction) and the United Kingdom (part of the EU but reviewed separately).

The review contained several topics including business practices, conflict of interest, advertising, records, dispensing, delegation and refraction.

The regulatory information reproduced on the charts should be viewed as a limited “snapshot” of regulation in that jurisdiction. To gain a complete understanding of opticianry regulation in a particular jurisdiction it would be necessary to review all relevant policies, guidelines and codes (including those that may relate generally to advertising, consumer protection or corporate practice) in the jurisdictions where they are applicable to opticians.

The information in these jurisdiction reviews was derived from on-line version of statutes and regulations and is neither the official version of the legislation nor an official statement of the law in the various jurisdictions. Wherever possible, the text was reproduced in order to maintain fidelity to the on-line versions and may contain spelling and grammatical errors. Material retrieved from websites is accurate as of the date it was accessed and cannot be guaranteed accurate when accessed at a later date.

Status of the Profession

Canada: In the majority of jurisdictions, opticians are a self-regulated health profession. In Alberta, Saskatchewan, Manitoba and New Brunswick the regulator performs a dual role protecting the public interest and advocating on behalf of the profession. Opticians are not regulated in the Northwest Territories, Nunavut or the Yukon.

USA: In approximately half of the United States, opticianry is regulated¹. Where regulated, a state department or a state-funded board performs licensing administration. Among the states that do regulate the profession, there is great variation in how it is regulated. Opticians may be regulated under the auspices of consumer protection, professional licensing, public safety or state health departments. In an approximately equal number of states reviewed, Opticianry is regulated as either a health profession or as a general profession or occupation. In Kentucky opticians are self-regulating in that the licensing board is funded by members’ fees rather than by a state department or

¹ According to the Opticians Association of America, there are no board or licensing requirements for opticians in 23 states. Accessed online at www.oaa.org/index.php?id=24 on October 16, 2009.

agency that regulates consumers, public health or professions. Texas is the lone state that regulates opticians on a voluntary basis.

Australia: Opticianry is not regulated in most Australian states. In New South Wales, where it is currently regulated as a health profession, the government signaled its intention to repeal the *Optical Dispensers Act* by July 1, 2010.

New Zealand: Opticians and Optometrists are regulated as health professions by the Optometrists and Dispensing Opticians Board.

United Kingdom: Similar to New Zealand, Opticians, Optometrists and Optical Businesses are regulated by the General Optical Council.

European Union: Generally, there are opticians, optometrists, refracting opticians and ophthalmologists providing eye care in the EU. In at least 8 EU countries opticianry is heavily regulated. In some countries, Opticianry and Optometry are regulated together, while in others, they are regulated separately. In yet others opticianry is not regulated, while optometry is not a recognized profession.

General Trends

Advertising

Most jurisdictions use general advertising rules that prohibit false, misleading or deceptive advertising. In some jurisdictions more specific rules exist and these rules apply not only to advertising by individual opticians but also to optical dispensaries. In the USA, advertising rules may relate to optical dispensaries and to prices. In the UK and New Zealand, advertising rules are general rather than specific.

Delegation

Delegation to non-opticians with supervision by the registered optician is permitted in some jurisdictions². Among these jurisdictions, there is variance in the extent to which the person to whom the dispensing is delegated must be supervised by the registered optician. In an almost equal number of jurisdictions, opticians are expressly prohibited from delegating their roles to non-opticians. And in another equal number of jurisdictions, delegation to non-opticians is either not addressed in the legislation or is not expressly permitted or prohibited³.

Dispensing

² HPRAC recognizes that delegation with supervision is not delegation as that term is used in the Ontario *Regulated Health Professions Act* and related health professional legislation.

³ In most jurisdictions delegation to student or apprentice opticians is addressed and usually some degree of supervision is required.

Many jurisdictions define dispensing or ophthalmic dispensing. In most jurisdictions dispensing occurs only pursuant to a prescription from a physician or an optometrist, opticians may duplicate eyeglass lenses without a prescription and special conditions surround the dispensing of contact lenses. Some jurisdictions also require the optician to verify that the final product matches the prescription.

Records

The majority of jurisdictions that have rules regarding records identify the professional as being responsible for the maintenance of patient confidentiality. Not all jurisdictions that have these rules address the transfer of, or access to, those records where an individual professional no longer practices at the premises in which the records are maintained.

Refraction

The majority of jurisdictions do not explicitly address whether opticians may or may not refract. Where jurisdictions do address the issue, there is often an accompanying prohibition against altering or issuing prescriptions. In a minority of jurisdictions, there may be limited exceptions to the prohibition against altering the prescription. One U.S. state prohibits the displaying of refracting machines in an optical dispensary.

Refracting opticians in the EU prescribe eyeglasses based on refractive tests but may not dispense contact lenses or perform examinations that search for or identify eye pathology.

Business Practices

It was difficult to identify general trends across jurisdictions, likely due to regulation under either consumer protection, health professional or professional/occupational legislative schemes. Accordingly, business practice trends are summarized by jurisdiction.

Canada: There is little uniformity in rules regarding business practices. They include permitted and prohibited business associations and corporate structures, regulation of optical dispensaries and designation of opticians-of-record for those dispensaries⁴. Sometimes prohibited business practices are defined grounds of professional misconduct. Conversely, some jurisdictions address business practices on a more general basis, providing that business arrangements should not compromise the professional's judgment in any way that could compromise patient care. In some jurisdictions, conflicts of interest are defined, may be included as a ground of professional misconduct and in at least one jurisdiction, may be mitigated by disclosure to the patient. In contrast with the USA, Quebec and PEI explicitly prevent the regulator from controlling or setting fees or prices.

⁴ The license of record must be on the premises of a practice or place of business and providing supervision. The degree of supervision required depends upon the particular jurisdiction.

USA: Most states use professional misconduct provisions and general codes of conduct to set out what constitutes acceptable or prohibited business practices. Some states (including Florida, New York and California) allow business associations, with minimal restrictions, between opticians, optometrists and physicians. Many other states prohibit such associations. Connecticut limits the dispensing of eyeglasses to opticians; optometrists and ophthalmologists may dispense contact lenses but require a special permit to dispense eyeglasses. In many states, prices are regulated to some extent.

Remote dispensing is specifically addressed in California, which requires out of state Internet suppliers of contact lenses to register if sending a product to an address in California. In Hawaii, an optician may dispense pursuant to a prescription from an optometrist or ophthalmologist from out-of-state as long as the 'wearer' is physically present or if the optician delivers the spectacles to the prescriber.

UK: In the UK, codes of conduct for individual registrants use a general approach indicating that professional standards should not be abused. Similarly, the code of conduct for business registrants emphasizes that individual professionals must freely exercise their professional judgment in the patient's best interest.