



December 9, 2009

VIA E-MAIL

Mr. Brian O'Riordan

Executive Coordinator

Health Professions Regulatory Advisory Council  
55 St. Clair Avenue West  
Suite 806, Box 18,  
Toronto, Ontario M4V 2Y7

Dear Mr. O'Riordan:

**Re: HPRAC Submissions**

Thank you for the opportunity to comment on the submissions made by stakeholders in response to the questions posed by HPRAC regarding interprofessional collaboration in the eye care sector.

First, we are pleased that almost all of the stakeholders acknowledge that the current optometry restrictions on association are hindering interprofessional collaboration and need to be changed.

Iris will confine its response to addressing one central point: to justify maintaining existing regulations, or enacting new regulations in the public interest, there must be actual evidence that there is a risk of harm to the public if the regulation in question was not in place.

That fundamental proposition must first inform HPRAC's analysis of the continued assertions by various stakeholders that there is an increased risk of conflicts of interest with certain types of association or relationships involving optometrists. No stakeholder has put forward any actual evidence to support the proposition that there is a greater risk of conflict of interest when an optometrist practices in association with an optical retailer or other third party, as opposed to practicing in a so-called "independent" practice. Simply put, regulations cannot be based on mere assumptions or beliefs, no matter how strongly held.

It must be acknowledged that all health professionals, regardless of mode of practice, are under the very same "pressure" or "conflict" by virtue of the fact that they are expected to derive profit from the services they provide. This fundamental premise was accepted over ten years ago by the British Columbia Supreme Court in *Costco v. Board of Examiners in Optometry*:

The feared conflict, or appearance of conflict, is said to arise through the blurring of diagnostic and dispensing roles in which optometrists could be, or more importantly, appear to be, motivated by profit or pressure to over prescribe optical remedies. Yet the Board has to accept that to be the norm in respect of

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the practices of many, if not most, of the optometrists practicing in this province who purchase what they prescribe from the manufacturers of optical appliances and then sell it to their patients. In contrast to the petitioners, who have allegedly been compromised by a relationship with optical retailers, the average optometrist is directly compromised, to as great if not a greater degree, by virtue of both prescribing eyeglasses and contact lenses and selling what he or she prescribes as a retail distributor.

.....Why there should be a concern sufficiently great to prohibit an optometrist from associating with an optician or an optical company selling what is prescribed defies explanation. (emphasis added).

It is to be noted that a wealth of unchallenged evidence was put forward in the *Costco* case which “strongly suggest[ed]” that restrictions on association “do not advance the public interest.” Since the *Costco* decision was handed down in 1998, there has been complete freedom of association for British Columbia optometrists (with new bylaws enacted earlier this year formally enshrining that freedom). There is no evidence from that jurisdiction that the public interest has in any way been harmed over the past eleven years.

Similarly Iris notes the lack of any evidence of risk of harm which could justify the present restriction on the use of trade names by optometrists, and the proposed regulation of dispensaries as called for by some stakeholders.

Please do not hesitate to contact us if any clarification or elaboration is required.

Sincerely,

Best,



Dr. Daryan Angle  
Vice President Professional Relations Ontario

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cc. Dr. Francis Jean, President and CEO, IRIS The Visual Group