



## Response to the Submissions made by Stake Holders to HPRAC

### COLLEGE OF OPTICIANS OF ONTARIO SUBMISSION

#### Protecting the Public:

The submission claims that the College of Opticians of Ontario has been vigilant and has been successfully cracking down on illegal dispensing and taking action against individuals who falsely represent themselves as registered health professionals, etc. For the past eight years, the current Council has been consumed with the issues of National Mobility, National Exam and every other initiative initiated from Western Canada, including British Columbia, Alberta and Manitoba, and in particular, the Opticians Association of Canada.

The long-time and very effective "College Inspector" program has been shelved and money has been channelled into items such as "External Affairs" budgets, etc. Opticians in Ontario have not seen a College Inspector visit their stores for a long time. The College Inspector program was a great deterrent to illegal dispensing.

Complaints about Opticians "refracting and prescribing illegally" seem to go unchecked. One specialty contact lens fitter appointed to serve on the College Council, has openly declared at College Council meetings that he not only refracts, but also prescribes, and will continue to do so. No disciplinary proceedings have been initiated against this member.

The greatest violation involves an Optician, who owns the Great Glasses franchise chain. This chain has expanded to well over 23 stores, uses Eyelogic system for performing sight testing and applies the results from automated refractions to prescribe and sell glasses. The dispensing part is also carried out by non-licensed individuals.

It was the College of Optometrists who initiated the court action against this group and won the case at all levels of judicial court system. The College of Opticians stayed on the sidelines with an intervener position.

Enclosed is the copy of an affidavit that was filed by Cathy Mietkiewicz, the former chair of the College of Opticians, for the case of Great Glasses. It seems that she is defending and protecting the lawbreaker! It can also be perceived that she is promoting the efficacy of the Eyelogic system.

The College of Opticians seems to be consumed with changing bylaws and introducing measures to muffle the voice of those few Council members who raise objections and concerns about the non-compliance with the mandate of the College.

Confidentiality between the College business and the Opticians Association of Canada seems to be nonexistent and on many occasions, officials from the British Columbia and Alberta Associations travel to Ontario to attend the Council meetings in order to influence the direction of the College.

## Education:

Under "Education" on page 4, the College of Opticians' submission rightly explains the Ontario based education programs. However, they have refrained from explaining the decision taken by the Council to accept a six-month BC private college course as "equivalent" to the Ontario community college diploma granting program.

Opticianry is a hands-on skills program and in the 1980's, the College required 2,000 hours of practical experience/externship. The Council had reduced this to 1,000 hours! Those Ontarians who have chosen the BC six-month course, have not gone through any practical training before receiving their degree and Ontario license.

The wave of "National Standards" and "National Examinations" has been exported from the west by the Optician's Association of Canada. The National Accreditation and National Examination drive, although looking very patriotic, resulted in the lowering of educational standards, reducing the passing marks to 50% and flooding the market with a large supply of licenses to meet the needs of the expanding retail optical industry.

Professional and Council members have been misled to believe that this was done on the directive of the Federal and Provincial government to facilitate labour mobility.

As we write, the two Ontario Colleges have gone through the "accreditation process" while the BC private school with its six-month program has opted out of this process. It will be interesting to see if the College of Opticians of BC will accept the graduates as meeting their licensing requirements.

## **Key Issues in the Eye Sector**

### Conflict of Interest Regulation:

The Society of Eyecare Professionals agrees that the proposed conflict of interest regulations of Optometrists should be passed and implemented as soon as possible. This will enable the collaboration between Opticians and Optometrists. Those Opticians working for Optometrists and Ophthalmologists will be able to perform "Refractions" under direct supervision.

However, the passage of this regulation has been bogged down by the position taken by the College of Opticians and the Opticians Associations that Optical corporations and Opticians should be able to "employ" Optometrists!

This situation is similar to Pharmacists wishing to employ Physicians. The potential for abuse is real and present. Refer to the "History of the Industry" document previously submitted by the Society.

We support the "Independent Contractor" status for Optometrists who wish to work in association with Opticians and Optical corporations.

### Response to Item B, Page 10, Optometrists Conflict of Interest:

The College of Opticians is trying to make a point that Optometrists have to gain financially by prescribing and selling their own prescriptions. Isn't this true that the College of Opticians has been

seeking "independent refraction" status for Opticians so that Opticians could do the same? This is the case of the 'pot calling the kettle black.'

Also, there are several Ophthalmologists, who do dispense Optical appliances from their offices. They employ Licensed Opticians to do the dispensing and comply with the policy guidelines of their college. It is erroneous to say that medicine does not dispense.

Dentists diagnose and sell dental prosthesis and similarly many other health professions dispense what they prescribe. Hence this objection is "mute".

#### Refraction:

Refraction is a mechanical skill. The automated refracting system (Eyelogic System) prints out a prescription. Those Opticians with refracting status want to dispense eyeglasses based upon this mechanically or computer generated prescription.

The present Opticians Act clearly states that Opticians can only dispense optical appliances based upon a valid prescription from a prescriber, i.e, Optometrist or an Ophthalmologist. There is no provision to alter, modify or tweak the prescription by 25% of a diopter. In the court case of Great Glasses, judges at all levels have declared that refraction by Eyelogic (automated sight testing equipment) poses a risk of harm and is not in the public interest.

In a 2006 HPRAC document (New Directions), HPRAC recommended that Opticians should only refract under direct supervision and that they should not prescribe from these results. Prescribing, under the current RHPA is a controlled ACT and any other profession who wishes to perform this controlled ACT will have to seek amendment to their scope of practice.

The College of Opticians of Ontario unilaterally developed the standards of practice and lifted the ban on refraction in 2007 and started registering Opticians in a special status "Refracting Opticians." It is important to note that the present ACT and regulations only stipulate three categories of Optician, Registered Optician, Intern Optician and Student Opticians.

There is no other subspecialty that has been included in the Optician's ACT or regulations. The very act of registering Opticians in this special register is contravention of the present ACT." Lifting the ban on refraction without consent from the Minister of Health was defiance of Ministerial directive.

It was in the summer of 2009 that Minister Caplan had to step in and send a very firm directive to the COO to comply with Ministry directives. A copy of the letter from Minister Caplan is enclosed.

The COO document goes further to refer to data provided by Eyelogic Systems about how 7,000 refractometry tests are performed per month in British Columbia and Alberta. Here we refer to the submission made by VCC on page 14 of their submission wherein they point out that Alberta Opticians are not yet regulated under the Health professions Act and that the Alberta GAO identifies that prescribing and dispensing corrective lenses as a restricted activity.

On page 15 of the VCC submission it implies that the British Columbia Opticians are in breach of their latest ACT passed in 2008, where in prescribing is listed as a restricted activity.

The College of Opticians of British Columbia, as per the VCC document states:

*This is not legislation or regulation; it is the College's perception of what opticians should do and it is clearly an advocacy statement.*

We are also enclosing a document entitled Health Professions ACT Standards of Practice published by the College of Physicians and Surgeons of Alberta. The current practice of generating prescriptions by using Eyelogic Systems and having it signed by a Physician seems to be in contravention of these standards. We have highlighted the sections, which would be in breach.

It is interesting to refer back to a quote in the article in Optik magazine of October 2009, wherein the former president of the Alberta Association of Opticians, Mr. Don Smith, was quoted as saying that the inventor of the Eyelogic Systems, an Ophthalmologist, had influenced that decision (support of CPSA)!

#### The College of Opticians as a Collaborator:

The College of Opticians of Ontario is promoting itself as "collaborator" with their "National Associations." The fact of the matter is that:

- The Opticians Council of Canada (OCC) does not exist in any jurisdiction as a registered not for profit entity. Its mandate is the promotion of Opticianry and has no bearing on governance of Opticians. Conflict of interest.
- Has approved a \$30,000.00 contribution to this organization annually with no time limit. So far the COO has paid \$60,000.00 to this organization and no one knows who cashes the cheque. This is the hottest issue under debate in the current council.
- The National Association of Canadian Opticianry Regulators (NACOR) is an organization created by OAC (Opticians Association of Canada) with start up funding provided by OAC. The organization has overlapping staff with OAC and is housed in the same premises in Winnipeg. In 1997, federal government paid \$40,000 to NACOR (as per Mary Field of the OAC) to facilitate dialogue between provinces and to arrange signing of the mutual recognition agreement (MRA). Yet, NACOR was only incorporated as a not for profit corporation in 2007. Where did the federal government funding go?

In summary, the Opticians Association of Canada (OAC) seems to have created a maze of associations whose roots and offices are based in Winnipeg, Manitoba and the same staff are playing various roles in all of these associations.

Our earlier submission has submitted details about the "business and revenue generating projects carried out by the OAC and it seems like that all these associations have become the source of revenue from different sources. It seems that the College of Opticians is not spending money on serving the mandate of public protection, but is facilitating the support of the professional association, whose mandate is totally opposite to the mandate of the College.

#### Collaborative Eye Care Teams:

On page 18 of the submission, isolated cases of handful of Opticians (less than 10) in the entire province are mentioned. Fitting of contact lenses for medical reasons is a commendable practice. However, a few of these Opticians have gone beyond the scope of their practice to start altering prescriptions and in cases where Orthokeratology is practiced, they are moulding and altering the shape of the cornea. Special investigations have to be conducted of such practices and any breaches of the RHPA should be investigated.

### Delegation:

Any form of delegation of the controlled act of dispensing corrective lenses is clearly prohibited in the "Professional Misconduct" section of the Opticians Regulation (1)(c).

### **SUBMISSION BY VCC:**

On Page 6 of their submission, VCC states:

*As we noted above, the Vision Council believes that given the current level of distrust and hostility, the only way these issues will be resolved is for the government to make and enforce decisions that are based on the public interest. The professions have demonstrated that they cannot act together to achieve this important goal, and no further delay should be tolerated.*

We agree with this position. With the issue of Refraction, Optometrists have already expressed willingness to agree as long as Refraction takes place under direct supervision and the results are not used for prescribing or changing or fine-tuning the prescription.

The College of Opticians of Ontario, the Ontario Opticians Association and the Opticians Association of Canada should be frank and forthcoming to declare that they seek expanded scope of practice to include Refraction for the purpose of Prescribing. The "back door" prescribing agenda has created a climate of distrust and is an impediment to the collaboration.

We recommend that Refraction itself be listed in the RHPA as a "restricted activity" and link it directly to prescribing. This will eliminate any possibility of abuse in the future.

A perfect example here is the situation in British Columbia and Alberta. As per VCC document page 14, it seems that the College of Opticians of British Columbia is not implementing its ACT which clearly prohibits any prescribing.

In Alberta, any physicians who are endorsing prescriptions generated by Opticians, seem to be in conflict of the " College of Physicians and Surgeons of Alberta: Health professions ACT Standards of Practice; dated September 11<sup>th</sup>, 2009.

### **THE ONTARIO COLLEGE OF FAMILY PHYSICIAN'S RESPONSE**

We applaud the presentation, which is not only factual but makes some concrete and useful recommendations

The Society of Eyecare Professionals and the Academy of Ophthalmic Education will work in close collaboration with the OCFP to launch many joint educational seminars so that the Family Physicians, (the point of first contact for the public with health issues) fully comprehend the extent and depth of each Eye Practitioners education and training. This will promote mutual respect and confidence in each other's training.

## THE SOCIETY OF EYECARE PROFESSIONALS RECOMMENDATIONS ISSUE BY ISSUE

- Clearly identify the difference between Refraction and prescribing. Refraction is in public domain and Prescribing is an RHPA controlled ACT.
- To avoid future issues, include Refraction in the controlled Acts and thus avoid all the controversy and possible abuse of "back door prescribing."
- The Ministry of Health should be clear and firm about their direction and order regulations that will plug these loop holes.
- Implement the earlier recommendations made by HPRAC in 2006, where in Opticians could Refract under direct supervision.
- Amend or modify the Physician's regulations to make it illegal to prescribe or endorse a prescription without personal and face to face contact with the patient and maintaining a full patient record.
- The Ministry of Health should quickly pass the Conflict of Interest regulations submitted by the College of Optometrists and this will:
  - o Permit Opticians to work with Optometrists
  - o Prescription release will become mandatory, where by the patient will have full freedom to choose the location for the purchase of their glasses.
- Passage of TPA regulations will move forward collaboration and better communications with Ophthalmology and Family Physicians.