

HPRAC, INTERPROFESSIONAL COLLABORATION PROJECT

Submission Details:

NAME: **Dr. Daryan Angle**

ORGANIZATION: **IRIS The Visual Group**

TITLE: **Vice President Professional Relations**

ADDRESS: [REDACTED]

CITY: [REDACTED] PROVINCE: [REDACTED] POSTAL CODE: [REDACTED]

E-MAIL ADDRESS: [REDACTED]

PHONE: [REDACTED] DATE OF SUBMISSION: **April 14, 2008**

- 1. Please comment on the above statement that HPRAC has used to focus this discussion and initiatives. Are there elements that should be added or removed? If so, what are they?**

No.

Eliminating Barriers to Collaboration among Colleges

- 2. Are there barriers in the *RHPA*, the health profession acts or their regulations that restrict or prevent collaboration among the Colleges? If so, what are they? Should they be eliminated? If so, how? (for example, do existing scopes of practice restrict or prevent collaboration among health professionals?)**

Yes, the following regulatory provisions restrict or prevent collaboration amongst eye care professionals:

Drug and Pharmacies Regulation Act, – Optometry R.R.O, Reg 550/93 (“Conflict of Interest”)

ss. 26(3)(c),(d), (4)(c)(e)(f)

26(3) It is a conflict of interest for a member where a member or a member of his or her family,

* * *

(c) rents or makes available premises to a tenant who is a person licensed or registered under any Act regulating a health discipline except at a rent normal for the area in which the premises are located and the amount of the rent is not related to the volume of business carried out in the premises by the tenant; or

(d) rents or uses any premises from a vendor of ophthalmic appliances, materials or equipment or from a person who has any association with such vendor, or from a person licensed or registered under any Act regulating a health discipline except at a rent normal for the area in which the premises are located and the amount of the rent is not related to the referral of patients to the landlord or to the referral of patients by the member or the amount of fees charged by the member.

(4) It is a conflict of interest for a member to,

* * *

(c) engage in the practice of optometry where any of the public entrances or exists of the member’s premises are within the premises of a retail merchant, optical company or ophthalmic dispenser or interconnecting therewith;

- (e) engage in the practice of optometry in association, partnership or otherwise with or while employing or under the employment of a vendor or ophthalmic appliances or an ophthalmic dispenser registered under the Ophthalmic Dispensers Act or with any other person or corporation under than,
- (i) with a member who is engaged in the practice of optometry,
 - (ii) with a legally qualified medical practitioner who is engaged in the practice of medicine provided that such practice is not inconsistent with Part V of the Act or regulations or by-laws;
 - (iii) as an employee or agent of a municipal or other government, agency of a municipal or other government, a university, hospital,
 - (iv) with a community health centre if the employment or any arrangement has been approved by Council, or
 - (v) with a corporation for the sole purpose of providing optometrical counsel and service to the employees of the corporation; or
- (f) own or financially benefit from the operation of a company, firm or business that manufactures, fabricates, supplies or dispenses ophthalmic appliances.

Professional Misconduct Regulation, R.R.O. 859/93 (pursuant to the Optometry Act, 1991)

ss. 1(1)(25)(ix), 2

1. (1) The following are acts of professional misconduct for the purposes of clause 51(1) of the Health Professions Procedural Code:

The Practice of the Profession and the Care of, and Relationship with, Patients

25. Causing, or permitting, directly or indirectly, a publication through any medium of communications that has a relation to or a bearing on a member's practice that,

ix. is part of any communication, advertisement, listing, promotion or offering of any product or service by a non-member

2 (1) Except as provided in subsections (2) and (3), a member shall not use a title, term or designation other than the member's name, as set out in the register, the occupational designation "optometrist" or "doctor of optometry" and the member's degrees and fellowships.

(2) If two or more members are in practice together in one office, the name of at least one member and the designation "and associate" or "and associates" may be used, provided that the names of all the members are posted in the office and the College is notified of those names.

- (3) If three or more members are in practice together in one office, the designation “optometric centre” or “optometric clinic”, either in conjunction with one or more of the member’s names or with a geographical location reasonably referable to the location of the practice may be used, provided that the names of all the members are posted in the office and the College is notified of those names.

All of these provisions, including the ban on trade names in section 2 of the *Professional Misconduct Regulation*, have the effect of restricting collaboration between optometrists and opticians, and contravene section 2(d) (and, for certain provisions, section 2(b)) of the *Canadian Charter of Rights and Freedoms* - see *Costco Wholesale Canada Ltd. v. British Columbia Assn. of Optometrists*, [1998] B.C.J. No. 646. They are protectionist in nature, and similar provisions in the United States have been found to increase costs and decrease access to eye care for consumers.

The College of Optometrists is currently proposing amendments to these regulations, and the Ministry of Health should take the firm position, supported by HPRAC, that any proposed amendments must be consistent with the *Charter* and with the policy of encouraging interprofessional collaboration. The current proposed amendments are inconsistent with both.

- 3. Are there barriers in other Acts or regulations that restrict or prevent collaboration among the Colleges? If so, what are they? Should they be eliminated? If so, how?**

See answer to 2.

- 4. Are there other policy and/or systems issues that act as barriers to collaboration among the Colleges? If so, what are they? Should they be eliminated? If so, how?**

See below in answer to question 5

- 5. Are there professional cultural issues that act as barriers to collaboration among the Colleges? What steps should be taken to minimize these barriers? Who should provide the leadership to eliminate them?**

Yes. There remains a culture in at least certain sectors of the optometry profession, including at the College level, that collaboration with opticians and other non-optometrists is “unprofessional” and not in the public interest. The language of “conflict of interest” is used to disguise what are fundamentally protectionist regulatory provisions that prohibit or restrict collaboration with opticians. There is also a poor working relationship between the College of Optometrists and College of Opticians, fuelled by mutual distrust and lack of respect. The Ministry, supported by HPRAC, should take a leadership role in encouraging collaboration between the two Colleges, including regular meetings between registrars and councils. The Ministry, again

supported by HPRAC, must ensure that that the optometry profession understands that it must foster a culture that encourages, rather than discourages, interprofessional collaboration. As above, a useful starting point is to provide leadership in respect of the current proposed amendments to the Regulations discussed above, which must be modified in order to conform with the Charter and the policy of encouraging collaboration.

Liability issues

6. Do you have evidence from your experience that liability issues are a barrier to interprofessional care?

No. Interprofessional collaboration can reduce liability by improving the quality of care.

7. Should all regulated health care professionals be required to hold minimum professional liability insurance coverage?

No. This is a personal choice of each professional and should be encouraged but not required.

8. If so, what would be the minimum expected terms and conditions for that insurance coverage?

Developing Enablers for Collaboration among the Colleges

9. What changes to the *RHPA*, the health profession acts or their regulations are needed to encourage, require, facilitate and enable collaboration among the Colleges?

First, the regulatory provisions referred to in our answer to Question #2 must be removed. That can be achieved through the amendment process that is already underway, but the Ministry and HPRAC must provide leadership in ensuring that any amended regulations are consistent with the *Charter* and the policy of encouraging interprofessional collaboration.

Second, the policy of encouraging interprofessional collaboration should be enshrined in the *RHPA* and other health profession acts. Legislative provisions which provide that all rules, regulations and bylaws enacted by the health professions must be consistent with the objective of fostering interprofessional collaboration would be a powerful instrument in ensuring that this objective is met.

10. What changes to other Acts or regulations are needed to encourage, require, facilitate and enable collaboration among the Colleges?

See answer to question #9.

11. What collaborative policy or program initiatives are needed to ensure support is provided to new Colleges as they are being established?

12. Are there administrative responsibilities within Colleges that could be shared with related Colleges? What barriers exist to shared administration services?

No. Colleges function as self-governing bodies specific to each unique profession and funded by members of that profession.

Structural Mechanisms

13. Should Ontario introduce a common framework, consisting of common structures and processes, for all regulated health professions to address complaints, investigations or disciplinary matters arising in and interprofessional care setting?

No. Colleges should remain self-governing and hold each of their members accountable to their own rules and regulations. As below, we do think it useful to provide authority to the health professions to conduct joint investigations where necessary.

14. If so, what should and should not be included in the common framework?

15. If not, should the *RHPA*, nonetheless, be amended to give individual Colleges greater flexibility to deal with complaints, investigations and discipline arising in an interprofessional care setting within their own already-established structures?

Subject to the authority to potentially conduct a joint investigation, discussed below, no additional amendments are required. Colleges should retain the jurisdiction, as self-governing bodies, to hold their members accountable for violations of their own rules and regulations.

16. If so, what should and should not be addressed in the amendment? For example, should the *RHPA* be amended to enable Colleges to establish joint committees to deal with complaints, investigations and discipline in respect of issues arising in an interprofessional care setting?

17. Considering reforms in other jurisdictions, what would be the merits of a single complaints model in Ontario? How should such a model be funded?

We do not support a single complaints model at this time. As below, we believe a more efficient way to proceed is to allow for the possibility of a joint investigation should the need arise.

18. Would the authority to conduct joint investigations following complaints or reports relating to professionals who work in a multidisciplinary setting or practice provide more efficient investigations of such cases?

Yes. We do not foresee joint investigations arising frequently in the eye care professions, but are of the view that giving the authority to the colleges to potentially conduct a joint investigation, if required, would be a much more efficient way to proceed.

19. Should the Colleges have further authority to collaborate in the disposition of complaints and reports relating to professionals in a multidisciplinary setting or practice provide more efficient investigations of such cases?

No. The ultimate disposition of a complaint should remain within the individual jurisdiction of the colleges. Efficiencies may be gained at the investigation stage, not at the stage of ultimate disposition.

20. Could such authority contribute to patient safety in interprofessional care?

No, ultimately the individual college is in the best position to enforce its own rules and regulations, and ensure that patient safety and the public interest are protected.

21. Is legislative change required to accomplish these goals?

As above, an amendment to the *RHPA* and other health profession acts is likely required to provide authority for joint investigations.

22. Would a joint quality assurance program among relevant Colleges enable the Colleges to develop common standards of practice or professional practice guidelines where the same or similar Controlled Acts are shared?

Such a program may be useful in the longer term in the eye care professions, but is not an immediate priority in the short term.

23. Would a joint quality assurance program among Colleges whose members have similar scopes of practice, share the same or similar Controlled Acts, or provide closely related services often involving the same areas of the body, provide the opportunities for enhanced continuing competence and exposure to best practices? If yes, how should program standards be jointly set and measured?

24. Is legislative change required to accomplish these goals?

25. Should an independent arm's-length organization facilitate and support collaboration among the Colleges, particularly with a view to the development of common standards of practice and professional practice guidelines?

Yes, Iris would support such an organization, with an immediate focus on facilitating collaboration between the Colleges of Optometry and Opticianry.

26. If so, what should its specific mandate include or not include? For example:

- Educate the Colleges, professions and the public on the regulatory model, the health professions and everyone's role within the regulatory system;
- Create common resource repositories (e.g, a data warehouse to track regulatory indicators, such as the level and nature of quality assurance activities, complaints and disciplinary actions and the cost of regulation);
- Research and develop standards of practice and professional practice guidelines, and disseminate best practices;
- Resolve disagreements among professions that share overlapping scopes of practice and the same or similar Controlled Acts;
- Address issues arising from conflicting legislation, and
- Have an oversight function over regulatory bodies, as in the United Kingdom.

Iris supports all of the above mandates, including the oversight function.

**27. Are there any existing bodies that could take on responsibilities in this area?
If so, what are they?**

HPRAC, or perhaps an offshoot of same.

**28. If not, should a new and independent oversight body be formed in this area?
If so, what are they?**

Yes, if necessary. A body similar to that created in the UK would be useful.

29. Should the Minister direct the Colleges, using his existing powers under the RHPA, to engage in specific collaborative initiatives (e.g. to develop instruments to support interprofessional care)? Why or why not?

Yes. As above, the Minister needs to provide leadership in this area, particularly with the College of Optometry. Specifically, clear direction to remove existing regulatory barriers to collaboration in the eye care professions is required.

30. If so, should the Minister provide financial or other incentives to the Colleges to undertake these activities?

Yes.

31. Should the Colleges be required to report to the Minister and/or the public on their collaborative activities on a regular basis? Why or Why not?

Yes. This will ensure that collaborative activities are taking place and reduce conflict through accountability.

32. Should the minimum guidelines, standards and policies concerning matters such as conflict of interest, advertising, record keeping, and the consent process be consistent across all Colleges? If yes, what guidelines, standards and policies could effectively be applied to all regulated health professions? If not, why not?

Yes. Conflict of interest should be consistently defined across the professions (recognizing that all health professions are technically in a conflict of interest by virtue of the fact that they derive income from the services they provide) to avoid the current situation of Colleges using the language of conflict of interest to disguise protectionist and anti-collaborative rules and regulations. There should be a universal requirement to disclose true conflicts of interests to patients, to engage in honest and truthful advertising, to maintain accurate record keeping and confidential storage of patient files, and to always require consent to treatment, express or implied.

33. What kinds of structures and processes could facilitate collaboration among Colleges to address issues related to standards of practice and professional practice guidelines for those professions that deal with closely related activities (e.g. dental hygiene, dental technology and denturism, or opticianry, optometry and ophthalmology)? (For example, joint colleges, collaborative Councils or independent bodies such as the Council for Healthcare Regulatory Excellence in the UK)

Iris supports the development of an independent body similar to that in the UK, and also regular meetings, collaboration and information sharing between colleges, mandated by government policy or otherwise. Joint colleges are not supported at this time.

34. Would the development of a *Collaboration Toolkit*, containing some or all of the elements suggested above serve to facilitate and support collaboration among Colleges?

Yes.

35. If so, what should be included in a *Collaboration Toolkit* and who should be responsible for developing it?

Iris supports the inclusion of all of the items mentioned in the Background section preceding this question. An independent body or the Ministry could develop it.

36. Should the standards of practice and professional practice guidelines that the Colleges adopt be legally enforceable? Why or Why Not?

We do not support this for the eye care profession at the present time because of the current content of the regulations, which we believe to be unconstitutional.

37. If so, should the Colleges be given statutory rule-making powers (as in New Brunswick) allowing them to enforce standards of practice and professional practice guidelines that they adopt? Why or why not?

See answer to 36.

38. What kinds of enforceable rules should the Colleges be able to make without needing Ministerial or legislative approval?

None.

39. What accountability must accompany any rule-making authority?

Any rule making authority must be subject to ministerial approval. There must also be complete transparency in the development of any rules.

Interprofessional Care at the Clinical Level

40. How will greater collaboration among the Colleges serve to enhance interprofessional care at the clinical level?

Interprofessional collaboration at the college level sets the example to be followed at the clinical level. Collaborative governing bodies will lead to greater collaboration at the clinical level.

41. Are any changes to the *RHPA*, the health professions acts or their regulations needed to encourage, require, facilitate and enable interprofessional care at the clinical level? If so, what are they?

See our answers to questions #2 and #9 above.

42. Should Ontario law have a requirement similar to the one in New Zealand?

As above in our answer to question #9, Iris supports the inclusion of a specific legislative provision in the RHPA (and other health profession acts) which would require all rules, bylaws, and regulations enacted by Colleges to be consistent with the objective of encouraging interprofessional collaboration.

43. If so, what should the requirement look like and should there be consequences for a failure to meet the requirement?

See our answer to question 42 above.