

# **INTERPROFESSIONAL COLLABORATION IN EYE CARE**

## **OPTOMETRY JURISDICTIONAL REVIEW: ONTARIO**

**1: RECORDS**

**2: ADVERTISING**

**NOVEMBER, 2009**

## **Note to Reader**

*Unless otherwise specified, the material in this review was accessed between September and November 2009. The material that was retrieved from websites is accurate as of the date it was accessed and cannot be guaranteed accurate when accessed at a later date.*

*This review includes statutory and regulatory materials that form the key regulatory frameworks for the professions of Optometry in Ontario and that are relevant for the scope of HPRAC's review. This review does not reference all legislation (and regulation) that is relevant to the practices of Optometry in Ontario.*

Regulatory Framework	Records	Advertising	Legislation, Regulation and Board References
<p>The profession of optometry is a self-regulating profession regulated by the College of Optometrists of Ontario. The college obtains its authority to regulate from the <i>Regulated Health Professions Act, 1991</i> and the <i>Optometry Act, 1991</i>. The <i>Health Professions Procedural Code</i>, Schedule 2 of the <i>RHPA</i> is deemed by section 4 of the <i>Regulated Health Professions Act, 1991</i> to be part of each health profession Act. Section 2(1) of the <i>Optometry Act</i> deems the <i>Health Professions Procedural Code</i> to be a part of that Act.</p> <p>The <i>Health Professions Procedural Code</i> provides that:</p> <p><b>Duty of College</b></p> <p><b>2.1</b> It is the duty of the College to work in consultation with the Minister to ensure, as a matter of public interest, that the people of Ontario have access to adequate numbers of qualified, skilled and competent regulated</p>	<p><b>The Professional Misconduct regulation (O. Reg. 859/93 made under the <i>Optometry Act, 1991</i>) provides that:</b></p> <p>1. (1) The following are acts of professional misconduct for the purposes of clause 51 (1) (c) of the Health Professions Procedural Code:</p> <p>17. Failing to maintain the standards of practice of the profession.</p> <p>Record Keeping and Reports</p> <p>26. Giving information concerning the condition of a patient or any services rendered to a patient to a person other than the patient or his or her authorized representative except with the consent of the patient or his or her authorized representative or as required by law.</p> <p>27. Failing to make and maintain records as required by the regulations.</p> <p>28. Falsifying a record relating to a member's practice, including records of observations, clinical findings or treatment of patients.</p> <p>29. Signing or issuing, in the member's professional</p>	<p><b>The Professional Misconduct regulation (O. Reg. 859/93 made under the <i>Optometry Act, 1991</i>) provides that:</b></p> <p>1. (1) The following are acts of professional misconduct for the purposes of clause 51 (1) (c) of the Health Professions Procedural Code:</p> <p>2. Exceeding the scope of practice of the profession.</p> <p>Representations about Members and their Qualifications</p> <p>22. Using a title, term or designation in respect of the member's practice in contravention of section 2.</p> <p>23. Using in any way with respect to the member's practice the name of another member whose practice the member acquired, after a period of three years from the date of the acquisition.</p> <p>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,</p> <p>i. is not relevant to the public's ability to make an informed choice,</p>	<p><i>Regulated Health Professions Act, 1991</i></p> <p><a href="http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_91r18_e.htm">http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_91r18_e.htm</a></p> <p><i>Optometry Act, 1991, S.O. 1991, c. 35</i></p> <p><a href="http://www.canlii.org/eliisa/highlight.do?text=optometrists&amp;language=en&amp;searchTitle=Ontario&amp;path=/en/on/laws/stat/so-1991-c-35/latest/so-1991-c-35.html">http://www.canlii.org/eliisa/highlight.do?text=optometrists&amp;language=en&amp;searchTitle=Ontario&amp;path=/en/on/laws/stat/so-1991-c-35/latest/so-1991-c-35.html</a></p> <p><i>General Regulation (O.Reg. 119/94 made under the <i>Optometry Act, 1991</i>)</i></p> <p><a href="http://www.canlii.org/en/on/laws/regu/o-reg-119-94/latest/o-">http://www.canlii.org/en/on/laws/regu/o-reg-119-94/latest/o-</a></p>

<sup>1</sup> Bill 179, The Regulated Health Professions Statute Law Amendment Act, carried at Third Reading in December, 2009, revises clauses (c) and (d) of subsection 5(1) of the RHPA to include a reference to the *Drug Interchangeability and Dispensing Fee Act*.

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<p>health professionals.</p> <p><b>Objects of College</b></p> <p>3. (1) The College has the following objects:</p> <ol style="list-style-type: none"> <li>1. To regulate the practice of the profession and to govern the members in accordance with the health profession Act, this Code and the <i>Regulated Health Professions Act, 1991</i> and the regulations and by-laws.</li> <li>2. To develop, establish and maintain standards of qualification for persons to be issued certificates of registration.</li> <li>3. To develop, establish and maintain programs and standards of practice to assure the quality of the practice of the profession.</li> <li>4. To develop, establish and maintain standards of knowledge and skill and programs to promote continuing evaluation, competence and improvement among the members.</li> <li>5. To develop, establish and maintain standards of professional ethics for the members.</li> <li>6. To develop, establish and maintain programs to assist individuals to exercise their rights under this Code and the <i>Regulated Health Professions Act, 1991</i>.</li> <li>7. To administer the health profession Act,</li> </ol>	<p>capacity, a certificate, report or similar document that contains a statement the member knows or should know is false, misleading or otherwise improper, or that withholds statements or information that the member knows or ought to know should be disclosed.</p> <p>30. Failing, without reasonable cause, to provide within a reasonable time any report or certificate requested by a patient or his or her authorized representative in respect of an examination or treatment provided by the member.</p> <p>31. Failing to make arrangements with a patient for access to or for transfer of the records of the patient to another member when requested to do so by the patient, or when the member closes an office location or retires from practice.</p> <p><b>The General Regulation (O.Reg 119/94 made under the <i>Optometry Act, 1991</i>) provides that:</b></p> <p><b>PART IV - RECORDS</b></p> <p>7. (1) A member shall take all reasonable steps necessary to ensure that records in relation to his or her practice are kept in accordance with this Part.</p> <p>(2) Reasonable steps under subsection (1) shall include the verification by the member, at reasonable intervals, that the records are kept in accordance with this Part.</p> <p>8. Every member shall keep a daily appointment record that</p>	<p>ii. is false or deceptive by reason of inclusion or omission of information including any suggestion that the member is a specialist unless the member holds a specialist certificate recognized by the College,</p> <p>iii. refers to any services that the member does not provide,</p> <p>iv. contains comparative or superlative statements or testimonials by patients, former patients, friends or relatives of patients or former patients,</p> <p>v. contains an endorsement by any person or organization,</p> <p>vi. refers to a particular drug or particular brand of product or equipment used to provide optometric service,</p> <p>vii. contains statements that are persuasive or create expectations of favourable results or appeals to the fears of the persons to whom the statements are directed,</p> <p>viii. is not factual, verifiable and readily comprehensible to the persons to whom it is directed;</p> <p>ix. is part of any communication, advertisement, listing, promotion or offering of any product or service by a non-member, or</p> <p>x. could be regarded by the profession as demeaning the integrity or dignity of the profession or being likely to bring</p>	<p><a href="http://www.collegeoptom.on.ca/reg-119-94.html">reg-119-94.html</a></p> <p><b><i>Professional Misconduct Regulation (O.Reg 859/93 made under the <i>Optometry Act, 1991</i>)</i></b></p> <p><a href="http://www.canlii.org/en/on/laws/regu/o-reg-859-93/latest/o-reg-859-93.html">http://www.canlii.org/en/on/laws/regu/o-reg-859-93/latest/o-reg-859-93.html</a></p> <p><b><i>Registration Regulation (O.Reg. 837/93 made under the <i>Optometry Act, 1991</i>)</i></b></p> <p><a href="http://www.canlii.org/en/on/laws/regu/o-reg-119-94/latest/o-reg-119-94.html">http://www.canlii.org/en/on/laws/regu/o-reg-119-94/latest/o-reg-119-94.html</a></p> <p><b><i>Optometry Regulation (Reg. 550) made under the <i>Drug and Pharmacies Regulation Act</i></i></b></p> <p><a href="http://www.e-laws.gov.on.ca/html/regs/english/elaws_regs_900550_e.htm">http://www.e-laws.gov.on.ca/html/regs/english/elaws_regs_900550_e.htm</a></p> <p>Optometric Practice Reference: <a href="http://www.collegeoptom.on.ca">http://www.collegeoptom.on.ca</a></p>

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<p>this Code and the <i>Regulated Health Professions Act, 1991</i> as it relates to the profession and to perform the other duties and exercise the other powers that are imposed or conferred on the College.</p> <p>8. To promote and enhance relations between the College and its members, other health profession colleges, key stakeholders, and the public.</p> <p>9. To promote inter-professional collaboration with other health profession colleges.</p> <p>10. To develop, establish, and maintain standards and programs to promote the ability of members to respond to changes in practice environments, advances in technology and other emerging issues.</p> <p>11. Any other objects relating to human health care that the Council considers desirable.</p> <p><b>Duty</b></p> <p>(2) In carrying out its objects, the College has a duty to serve and protect the public interest.</p> <p><b>The Council of the College is created under the <i>Health Professions Procedural Code</i>:</b></p> <p>4. The College shall have a Council that shall</p>	<p>sets out the name of each patient whom the member examines or treats or to whom the member provides any service.</p> <p>9. (1) Every member shall keep a financial record for each patient.</p> <p>(2) The financial record must include the member’s fees for services and any commercial laboratory costs charged to the member.</p> <p>10. (1) Every member shall keep a patient health record for each patient.</p> <p>(2) The patient health record must include the following:</p> <ol style="list-style-type: none"> <li>1. The name and address of the patient and the name of the member who provided the service.</li> <li>2. The date of each visit of the patient.</li> <li>3. The name and address of any referring health professional.</li> <li>4. The patient’s health and oculo-visual history.</li> <li>5. The clinical procedures used.</li> <li>6. The clinical findings obtained.</li> </ol>	<p>the profession into disrepute.</p> <p>25.1 Appearing in, or permitting the use of a member’s name in, an advertisement or communication that implies, or could be reasonably interpreted to imply, that the professional expertise of the member is relevant to the subject matter of the advertisement or communication.</p> <p>...</p> <p>43. Displaying or permitting the display of ophthalmic appliances that may be seen from the exterior of the premises in which a member is engaged in the practice of optometry.</p> <p>44. Contacting or communicating personally with, or causing or permitting any person to contact or communicate personally with, potential patients for the purpose of soliciting patients.</p> <p><b>The professional misconduct regulation (O.Reg 859/93 made under the <i>Optometry Act, 1991</i>) further states:</b></p> <p>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.</p>	<p><a href="#">/OPR_web-2009.pdf</a></p>

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<p>be its board of directors and that shall manage and administer its affairs.</p> <p><b>The College Council may make regulations under subsection 95(1) of the <i>Health Professions Procedural Code</i>:</b></p> <p><b>95.(1)</b> Subject to the approval of the Lieutenant Governor in Council and with prior review of the Minister, the Council may make regulations,</p> <p>...</p> <p>(e) defining specialties in the profession, providing for certificates relating to those specialties, the qualifications for and suspension and revocation of those certificates and governing the use of prescribed terms, titles or designations by members indicating a specialization in the profession;</p> <p>...</p> <p>(h) requiring and providing for the inspection and examination of premises used in connection with the practice of the profession and of equipment, books, accounts, reports and records of members relating to their practices;</p>	<p>7. The diagnosis, when possible.</p> <p>8. Every order made by the member for examinations, tests, consultations or treatments to be performed by any other person.</p> <p>9. Particulars of every referral to or from another health professional.</p> <p>10. Information about every delegation of a controlled act within the meaning of subsection 27 (2) of the <i>Regulated Health Professions Act, 1991</i>, delegated by the member.</p> <p>11. Information about a procedure that was commenced but not completed, including reasons for non-completion.</p> <p>12. A copy of every written consent to treatment.</p> <p>(3) Every part of a patient health record must be dated and have a reference identifying the patient or the patient health record.</p> <p>(4) Every entry in the patient health record must be dated and the person who made the entry must be readily identifiable.</p> <p>(5) Every patient health record shall be retained for at least 10 years following,</p>	<p>(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.</p> <p>(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.</p> <p><b>The College’s advertising policy, which acts as a guideline to members states:</b></p> <p>A member may be at risk of allegations of professional misconduct if she/he causes or permits, directly or indirectly, a publication through any medium of communications that has a relation to or a bearing upon a member’s practice that,</p> <ul style="list-style-type: none"> <li>i. is not relevant to the public’s ability to make an informed choice,</li> <li>ii. is false or deceptive by reason of inclusion or omission of information,</li> <li>iii. suggests that the member is a specialist unless the member holds a specialist certificate recognized</li> </ul>	

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<p>...</p> <p>(l) respecting the promotion or advertising of the practice of the profession;</p> <p>...</p> <p>(n) prescribing the standards of practice of the profession and prohibiting members from acting beyond the scope of practice of the profession in the course of practising the profession;</p> <p>(o) requiring members to keep prescribed records in respect of their practice;</p> <p>(p) regulating or prohibiting the use of terms, titles and designations by members in respect of their practices;</p> <p>95(1.1) A regulation under clause (1) (n) may adopt by reference, in whole or in part and with such changes as are considered necessary, any code, standard or guideline relating to standards of practice of the profession and require compliance with the code, standard or guideline as adopted. 1998, c. 18, Sched. G, s. 23 (1).</p> <p><b>Rolling incorporation</b></p> <p>(1.2) If a regulation under subsection (1.1) so provides, a scientific, administrative or technical document adopted by reference shall</p>	<p>(a) the patient’s last visit; or</p> <p>(b) if the patient was less than 18 years old at the time of his or her last visit, the day the patient became or would have become 18 years old.</p> <p><b>11.</b> (1) The following are acts of professional misconduct for the purposes of clause 51 (1) (c) of the Health Professions Procedural Code:</p> <p>1. Allowing any person to examine a patient health record or giving a copy of a document or any information from a patient health record to any person except as required by law or as required or allowed by this section.</p> <p>2. Failing to provide copies from a patient health record for which the member has primary responsibility, as required by this section.</p> <p>(2) A member shall provide copies from a patient health record for which the member has primary responsibility to any of the following persons on request:</p> <p>1. The patient.</p> <p>2. A personal representative who is authorized by the patient to obtain copies from the record.</p>	<p>by the College,</p> <p>iv. makes comparisons with another practice or member or would be reasonably regarded as suggestive of uniqueness or superiority over another practice or member,</p> <p>v. contains an endorsement of the practitioner by any person or organization</p> <p>vi. refers to a particular drug or particular brand of product or equipment used to provide optometric service,</p> <p>vii. is likely to create expectations of favourable results or to appeal to the public’s fears,</p> <p>viii. could be regarded by the profession as demeaning the integrity or dignity of the profession or being likely to bring the profession into disrepute.”</p> <p><b>Guidelines for members</b></p> <p>Generally, informational advertising, if it is truthful and understandable, serves the public interest. Persuasive advertising is professionally divisive and ethically objectionable, and may lead vulnerable members of society to personally or financially invest in health services, products or ventures that are not of benefit to them. This guideline has been created to delineate between informational and persuasive advertising.</p>	

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<p>be a reference to it, as amended from time to time, and whether the amendment was made before or after the regulation was made. 2007, c. 10, Sched. M, s. 74 (2).</p> <p><b>Third party external document</b>  (1.2.1) A document adopted under subsection (1.2) must be a document created by a recognized body and must not be a document created by the College. 2007, c. 10, Sched. M, s. 74 (2).</p> <p><b>Exception</b>  (1.2.2) Despite subsection (1.2.1), the incorporation by reference of a document created by the College that was made before the coming into force of that subsection remains valid until it is revoked. 2007, c. 10, Sched. M, s. 74 (2).</p> <p><b>Copies available for inspection</b>  (1.3) A copy of every code, standard or guideline adopted by reference under subsection (1.1) shall be available for public inspection during normal business hours in the office of the College and shall be posted on the College's website or be available through a hyperlink at the College's website. 2007, c. 10, Sched. M, s. 74 (2).</p> <p>Before proposed regulations take effect, they</p>	<p>3. If the patient is dead, the patient's legal representative.</p> <p>4. If the patient lacks capacity to give an authorization described in paragraph 2,</p> <p>i. a committee of the patient appointed under the <i>Mental Incompetency Act</i>,</p> <p>ii. a person to whom the patient is married,</p> <p>iii. a person, with whom the patient is living in a conjugal relationship outside marriage, if the patient and the person,</p> <p>A. have cohabited for at least one year,</p> <p>B. are together the parents of a child, or</p> <p>C. have together entered into a cohabitation agreement under section 53 of the <i>Family Law Act</i>,</p> <p>iv. the patient's son or daughter,</p> <p>v. the patient's parent.</p> <p>(3) It is not an act of professional misconduct under paragraph 2 of subsection (1) for a member to refuse to provide copies from a patient health record until the member is paid a reasonable fee.</p>	<p><i>Format</i></p> <p>Matters such as form, size, and advertising medium are not specified, and as such are left to the discretion of members as long as the regulatory requirements are met. Members are advised that in mediums such as directory listings (eg. Yellow Pages®), most profession listings are reserved in size and appearance. This serves to reduce costs for all members, while providing clear and non-persuasive information for the public.</p> <p><i>"Specialists"</i></p> <p>At present the College does not recognize "specialist certificates", however academic degrees, fellowships, and diplomat standing is recognized. Members are advised that the use of the title "Dr." or "Doctor" is appropriate but including an occupational designation such as "optometrist" is recommended for clarity (for example, Dr. John Doe, optometrist). The use of the title "Dr." or "Doctor" together with the academic degree "OD" is redundant</p> <p><i>Brand Names</i></p> <p>Informational advertising which makes reference to specific products, drugs, or instruments is permitted if it is directed to the member's patients only. (For example, this would allow informing patients, by newsletter, of a new diagnostic instrument within the practice, or informing patients of a manufacturer or supplier sponsored price reduction for contact lenses. Conversely, mass mailing or newspaper advertising of the same information is not permitted.)</p>	

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<p>must be circulated to the members of the college for 60 days prior to Council approval [s. 95(1.4)], reviewed by the Minister of Health and Long-Term Care and approved by the government [s.95(1)]. College Councils may apply to the Minister to abridge the circulation period or to eliminate it entirely [s.95(1.6)]. If the Minister requires a College Council to make a regulation, the requirement to circulate the regulation does not apply [s. 95(1.5)].</p> <p><b>College By-laws</b> The College Council also has authority to make by-laws about administrative and internal matters by virtue of s. 94(1) of the <i>Health Professions Procedural Code</i>. Government approval of by-laws is not required however some by-laws must be circulated to members before they are made [s.94(2)]. Ministerial approval is only required if the college wants to abridge or eliminate the period of circulation of the proposed by-law [s.94(2.1)].</p> <p><b>With regard to controlled acts, the RHPA states:</b></p>	<p>(4) A member may provide copies from a patient health record for which the member has primary responsibility to any person authorized by or on behalf of a person to whom the member is required to provide copies under subsection (2).</p> <p>(5) A member may, for the purposes of providing health care, allow a health professional to examine the patient health record or give a health professional a copy of a document or any information from the record.</p> <p><b>12.</b> For record keeping required by this Part, a member may use computer, electronic or other equipment for recording, storing and retrieval of records if,</p> <p>(a) the record keeping system provides ready access by an authorized investigator, inspector or assessor of the College, or the patient or the patient’s representative to the records;</p> <p>(b) ancillary equipment is readily available for the making of hard copies of the record at no expense to an authorized investigator, inspector or assessor of the College;</p> <p>(c) the equipment or software being used is such that no amendment, correction, addition or deletion can be made to any record which obliterates the original record or does not show the date of the change.</p> <p><b>The College’s website, accessed Oct. 29, 2009, indicates</b></p>	<p>Presentation of brand names on a web site is not permitted. Mass mailing or postal code mailing of informational material that does not contain a reference to specific brands of products, drugs or instruments is not considered solicitation provided it is not addressed, and as such is permissible.</p> <p><i>Maintaining Confidentiality</i> Testimonials are not permitted in advertising; and members are reminded that any reference to a patient by name, in promotional materials, is a breach of patient confidentiality unless the patient has consented to the release of this information.</p> <p><i>In Office Material vs. Advertising</i> Promotional materials for use within the office only are not considered advertising, and as such are not subject to these guidelines. However, web sites are accessible by the general public and are therefore considered to be advertising and are subject to these regulations.</p> <p>As always, your College’s foremost concern is to safeguard the interest of the public. These guidelines will allow for greater flexibility in the choice members have in advertising their practices while maintaining tasteful and appropriate public exposure for the profession.</p> <p>Source: <a href="http://www.collegeoptom.on.ca/AdvertisingPolicy.pdf">http://www.collegeoptom.on.ca/AdvertisingPolicy.pdf</a> accessed on October 23, 2009.</p>	

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<p><b>27(1)</b> No person shall perform a controlled act set out in subsection (2) in the course of providing health care services to an individual unless,</p> <p>(a) the person is a member authorized by a health profession Act to perform the controlled act; or</p> <p>(b) the performance of the controlled act has been delegated to the person by a member described in clause (a).</p> <p>(2) A "controlled act" is any one of the following done with respect to an individual:</p> <p>9. Prescribing or dispensing, for vision or eye problems, subnormal vision devices, contact lenses or eye glasses other than simple magnifiers.</p> <p><b>The Optometry Act, 1991 provides:</b></p> <p><b>Scope of practice</b></p> <p><b>3.</b> The practice of optometry is the assessment of the eye and vision system and</p>	<p><b>that the Optometric Practice Reference (OPR)</b> articulates the current regulatory and professional standards of practice for optometry in Ontario. It also provides voluntary guidelines for practitioners wishing to go beyond the basic requirements.</p> <p><b>College's Optometric Practice Reference states:</b></p> <p>Historical and clinical information is gathered in a manner respecting patient privacy. All records are kept confidential and secure. Release of information requires the consent of the patient or their representative(s), except as required or allowed by law, such as the <i>Personal Health Information Protection Act</i>.</p> <p>4.2 Required Clinical Information The provision of optometric care relies on acquiring, updating and maintaining a complement of information about a patient. Analysis of this data enables the optometrist to develop an accurate understanding of the patient's ocular status and to devise an appropriate management plan. Standards relating to required clinical information are intended to ensure the provision of optimal and efficient patient care.</p> <p>Regulatory Standard The Professional Misconduct Regulation (Regulation 859/93 under the <i>Optometry Act</i>) includes the following acts of professional misconduct:</p> <p>2. Exceeding the scope of practice of the profession. 3. Doing anything to a patient for a therapeutic,</p>	<p><b>Optometry regulation (Reg 550) under the Drug and Pharmacies Regulation Act:</b></p> <p><b>27.</b> (1) For the purposes of Part V of the Act, "professional misconduct" means:</p> <p>19. Publishing, displaying, distributing or using or permitting, directly or indirectly, the publishing, display, distribution or use of any advertisement related to the practice of optometry by a member other than,</p> <p>i. professional cards that contain only the name of the member, the vocational designation, the member's address, academic degrees, telephone number and office hours,</p> <p>ii. a professional card in a newspaper or a weekly or monthly periodical where the professional card,</p> <p>A. does not exceed one standard newspaper column in width and five centimetres in depth including the margins,</p> <p>B. is not part of an advertisement containing a reference to ophthalmic appliances, and</p>	

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<p>the diagnosis, treatment and prevention of,</p> <p>(a) disorders of refraction;</p> <p>(b) sensory and oculomotor disorders and dysfunctions of the eye and vision system; and</p> <p>(c) prescribed diseases.</p> <p><b>Authorized acts</b></p> <p><b>4.</b> In the course of engaging in the practice of optometry, a member is authorized, subject to the terms, conditions and limitations imposed on his or her certificate of registration, to perform the following:</p> <p>1. Communicating a diagnosis identifying, as the cause of a person’s symptoms, a disorder of refraction, a sensory or oculomotor disorder of the eye or vision system or a prescribed disease.</p> <p>2. Applying a prescribed form of energy.</p> <p>2.1 Prescribing drugs designated in the regulations.</p> <p>3. Prescribing or dispensing, for vision or eye</p>	<p>preventative, palliative, diagnostic cosmetic or other health-related purpose in a situation in which a consent is required by law, without such a consent.</p> <p>13. Failing to refer a patient to a regulated health professional when the member recognizes or should recognize a condition of the eye or vision system that appears to require such referral and examination.</p> <p>16. Recommending or providing unnecessary diagnostic or treatment services.</p> <p>17. Failing to maintain the standards of practice of the profession.</p> <p>Professional Standard Required clinical information to be obtained, when possible, at the patient’s first presentation includes:</p> <ul style="list-style-type: none"> <li>the chief concern or request(s);</li> <li>a review of ocular or visual symptoms or experiences;</li> <li>a general health history, with emphasis on eyes and vision, including medications used and applicable family history;</li> <li>the occupational and avocational visual environment and demands;</li> <li>the measurement and description of the patient’s ophthalmic appliances including purpose and effectiveness; and</li> <li>the results of the observation, examination or measurement of: <ul style="list-style-type: none"> <li>apparent and relevant physical, emotional and mental status of the patient;</li> <li>the external eye and adnexa;</li> </ul> </li> </ul>	<p>C. does not appear more than twice in any one issue of the newspaper or periodical,</p> <p>iii. appointment cards that do not contain more than the information contained in a professional card and the time and date of the appointment or appointments,</p> <p>iv. reminder notices to patients,</p> <p>v. announcement cards that do not state more than the information contained in a professional card and an announcement of the commencement of the practice of optometry, a change of location or a new association in practice,</p> <p>vi. one sign on the premises where the member is engaged in the practice of optometry, stating the name of the member and his or her vocational designation with lettering on the sign that does not exceed twenty centimetres in diagonal measurement,</p> <p>vii. door plates and listings on building directories on the premises where the member is engaged in the practice of optometry.</p> <p>20. Associating with or being employed by any person who published, displays, distributes or</p>	

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<p>problems, subnormal vision devices, contact lenses or eye glasses.</p> <p><b>The Minister of Health and Long-Term Care is given specific duties under section 3 of the RHPA:</b></p> <p>3. It is the duty of the Minister to ensure that the health professions are regulated and co-ordinated in the public interest, that appropriate standards of practice are developed and maintained and that individuals have access to services provided by the health professions of their choice and that they are treated with sensitivity and respect in their dealings with health professionals, the Colleges and the Board.</p> <p><b>Under the RHPA, the Minister has certain abilities:</b></p> <p>5(1) The Minister may,</p> <p>(a) inquire into or require a Council to inquire into the state of practice of a health profession in a locality or institution;</p> <p>(b) review a Council's activities and require the Council to provide reports and</p>	<p>pupillary function;  the <i>anterior segment</i> (OPR 6.1) and, when indicated, corneal thickness; ocular media;  the <i>ocular fundus</i> (OPR 6.2);  intraocular pressure in adults and, when indicated, in children;  presenting monocular visual acuities at distance and near;  refractive status and best-corrected monocular visual acuity;  accommodative function;  oculomotor status;  other sensory functions, when indicated, such as visual fields, colour vision, stereoacuity, sensory fusion and contrast sensitivity.  All required clinical information must be clearly documented in the patient's health record (OPR 5.1).  In emergency or urgent situations it may be impractical to obtain all information at the first visit. In this case, a specific assessment is appropriate (see OPR 4.6-Ocular Urgencies and Emergencies). Also, the full complement of required clinical information may not be necessary when providing specific assessments or consultation services for a referring optometrist, physician or nurse practitioner. In such cases, the optometrist will determine what is clinically necessary based on the reason for presentation.</p> <p>Clinical Guideline  A practitioner may choose to employ ancillary procedures in addition to the normal complement of required clinical information in order to enhance or refine a clinical</p>	<p>uses any advertisement related to the practice of optometry by the member other than that which is provided for by paragraph 19.</p>	

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<p>information;</p> <p>(c) require a Council to make, amend or revoke a regulation under a health profession Act or the <i>Drug and Pharmacies Regulation Act</i>;</p> <p>(d) require a Council to do anything that, in the opinion of the Minister, is necessary or advisable to carry out the intent of this Act, the health profession Acts or the <i>Drug and Pharmacies Regulation Act</i>.<sup>1</sup></p> <p><a href="#">(2)</a> If the Minister requires a Council to do anything under subsection (1), the Council shall, within the time and in the manner specified by the Minister, comply with the requirement and submit a report.</p> <p><a href="#">(3)</a> If the Minister requires a Council to make, amend or revoke a regulation under clause (1) (c) and the Council does not do so within sixty days, the Lieutenant Governor in Council may make, amend or revoke the regulation.</p> <p><a href="#">(4)</a> Subsection (3) does not give the Lieutenant Governor in Council authority to do anything that the Council does not have</p>	<p>diagnosis or management plan. This is particularly true when the rapid pace of scientific and technological advancement in equipment and instrumentation is considered (OPR 4.1). Examples of such procedures include, but are not limited to:</p> <ul style="list-style-type: none"> <li>Fundus photography, retinal tomography, optical coherence tomography, scanning laser ophthalmoscopy, and similar high-technology imaging/mapping systems;</li> <li>Corneal topography, pachymetry;</li> <li>Ophthalmic ultrasonography (A or B scan), ultrasound biomicroscopy;</li> <li>Advanced refractive technologies (e.g. wavefront analysis, aberrometry, etc).</li> </ul> <p>While these procedures may contribute valuable information in the assessment of specific clinical presentations, optometrists are reminded that patients should not be required or coerced to undergo ancillary procedures. Prior informed consent is necessary.</p> <p><b>5. Documentation</b>  <b>5.1 The Patient Health Record</b>  Description  The patient health record, or clinical record, provides comprehensive documentation of the patient’s health and oculo-visual history. An optometrist maintains the information contained within the record in trust, and in compliance with Ontario’s <i>Personal Health Information Protection Act</i>.</p>		

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<p>authority to do.</p> <p><a href="#">43. (1)</a> Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations,</p> <p>(b) exempting a person or activity from subsection 27 (1) or 30 (1);</p> <p>(c) attaching conditions to an exemption in a regulation made under clause (b);</p> <p>(d) allowing the use of the title "doctor", a variation or abbreviation or an equivalent in another language;</p> <p><b>Section 5 of the <i>Health Professions Procedural Code</i> sets out permitted terms for Council members:</b></p> <p><b>5. (1)</b> No term of a Council member who is elected shall exceed three years.</p> <p>(2) A person may be a Council member for more than one term but no person who is elected may be a Council member for more than nine consecutive years.</p>	<p>Regulatory Standard</p> <p>The optometrist shall take all reasonable steps necessary (including verification at reasonable intervals) to ensure that records in relation to his or her practice are kept in accordance with the regulations. The regulations guiding record keeping are contained in O.Reg.119/94, Part IV, s. 7-12 and include the following provisions:</p> <p>An optometrist must keep:</p> <ol style="list-style-type: none"> <li>1. A daily appointment record that sets out the name of each patient whom the optometrist examines or treats or to whom the optometrist provides any service.</li> <li>2. A financial record for each patient. This record must include the optometrist's fees for services and any commercial laboratory costs charged to the member.</li> <li>3. A patient health record for each patient which must include the following: <ul style="list-style-type: none"> <li>the name and address of the patient;</li> <li>the name of the optometrist who provided the service;</li> <li>the date of each visit of the patient;</li> <li>the date of every entry in the record;</li> <li>the name and address of any referring health professional;</li> <li>the patient's health and oculo-visual history;</li> <li>the clinical procedures used;</li> <li>the clinical findings obtained;</li> <li>the diagnosis, when possible;</li> <li>every order made by the optometrist for examinations, tests, consultations or treatments to be performed by any other person;</li> <li>particulars of every <i>referral</i> (OPR 4.5) to or from another health professional;</li> </ul> </li> </ol>		

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<p><b>The Optometry Act, 1991 states:</b></p> <p>6(1) The Council shall be composed of,</p> <p>(a) at least eight and no more than nine persons who are members elected in accordance with the by-laws;</p> <p>(b) at least seven and no more than eight persons appointed by the Lieutenant Governor in Council who are not,</p> <p>(i) members,</p> <p>(ii) members of a College as defined in the <i>Regulated Health Professions Act, 1991</i>, or</p> <p>(iii) members of a Council as defined in the <i>Regulated Health Professions Act, 1991</i>; and</p> <p>(c) one person selected, in accordance with a by-law made under section 12.1, from among members who are members of a faculty of optometry of a university in Ontario.</p> <p>Who can vote in elections</p> <p>(2) Subject to the by-laws, every member who practises or resides in Ontario and who is not in default of payment of the annual</p>	<p>information about every <i>delegation</i> (OPR 4.3) of a controlled act within the meaning of subsection 27(2) of the <i>Regulated Health Professions Act</i> delegated by the optometrist;</p> <p>information about a procedure that was commenced but not completed, including reasons for non-completion; and</p> <p>a copy of every written consent to treatment.</p> <p>The patient health record shall also:</p> <p>be dated and include patient identification information on each part;</p> <p>include a date for each entry and identify the person making the entry; and</p> <p>be retained for at least 10 years following the patient's last visit or 10 years after the patient became or would have become 18 years old.</p> <p>An optometrist using computer, electronic or other equipment for recording, storing and retrieval of records shall:</p> <p>have ancillary equipment readily available for the making of hard copies of the record at no expense to an authorized investigator, inspector or assessor of the College; and</p> <p>use equipment or software that allows no amendment, correction, addition or deletion to be made to any record that obliterates the original record or does not show the date of the change.</p> <p>Access to a Patient Health Record</p> <p>An optometrist must restrict access to a patient health</p>		

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<p>membership fee is entitled to vote in an election of members of the Council.</p> <p>7. The Council shall have a President and Vice-President who shall be elected annually by the Council from among the Council's members.</p> <p>12.1 The Council may make by-laws respecting the qualifications, selection and terms of office of Council members who are selected.</p> <p><i>Optometrists are also under a statutory obligation to report certain medical conditions of patients to the government authorities that license motorists, air pilots and boaters.</i></p>	<p>record and is not permitted to give a copy of a document or any information from a patient health record to any person except as required by law or regulation.</p> <p>An optometrist shall provide copies from a patient health record for which the optometrist has primary responsibility to any of the following persons on request:  the patient;  an authorized personal representative of the patient;  a deceased patient's legal representative; or  an incapacitated patient's representative as outlined in O.Reg. 119/94 Part IV 11.(2)4.i-v.</p> <p>Ready access to the patient record shall be provided to an authorized investigator, inspector, or assessor of the College.</p> <p>An optometrist may, for the purpose of providing health care, allow a health professional to examine the health record or give a health professional a copy of a document or any information from the record.</p> <p>An optometrist may refuse to provide copies from a patient health record until he or she is paid a reasonable fee.</p> <p>Professional Standard  A legible and complete optometric record serves to assist in the provision of care to a patient. The record also has a purpose in meeting professional regulatory requirements, and shall be available for use in Complaints, Discipline,</p>		

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	<p>Quality Assurance and other legal applications.            In addition to the regulatory requirements, the College expects that the patient health record shall also:</p> <ul style="list-style-type: none"> <li>include the proposal for care and advice offered to the patient;</li> <li>include a description of the care rendered and recommendations for ongoing care;</li> <li>allow easy identification and location of all documentation related to the provision of care to the patient, including professional correspondence, laboratory invoices, billing information, and fees charged;</li> <li>indicate deviations from usual care due to patient refusal or inability to cooperate; and</li> <li>make specific notation in the event that a test was performed or a question asked and the result was negative or normal.</li> </ul> <p><b>Relocation of a Patient Health Record</b>            Relocation of a clinical record requires that the optometrist entrusted with the maintenance of the record make a reasonable attempt to inform the patient of the intention to relocate the record. The optometrist is expected to comply with any direction of the patient to have that record maintained by another optometrist.</p> <p><b>Clinical Guideline</b>            Reliable records allow the optometrist to deliver quality patient care, as well as providing a documentation of patient interactions (i.e. administrative, clinical, correspondence and dispensing). They are also legal documents and the</p>		

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	<p>optometrist would want to ensure their authenticity for his or her own legal protection.</p> <p>The use of computerized records has brought several regulatory requirements with respect to those files. When using electronic records the following requirements must be followed:</p> <ul style="list-style-type: none"> <li>a) the record keeping system must provide ready access to the records by an authorized investigator, inspector or assessor of the College, or the patient or the patient's representative;</li> <li>b) ancillary equipment must be readily available for the making of hard copies of the record at no expense to an authorized investigator, inspector or assessor of the College;</li> <li>c) the equipment or software being used is such that no amendment, correction, addition or deletion can be made to any record which obliterates the original record or does not show the date of the change; and</li> <li>d) reliable backup systems are in place and are used on a regular basis.</li> </ul> <p>Hardware and software provisions for data protection are often part of the manufacturer's purchase options. Such protection varies as follows:</p> <ul style="list-style-type: none"> <li>the safety of the hardware from lightning strikes, hydro brownouts, water damage or theft;</li> <li>restrictions to access through passwords, the positioning of terminals to restrict the observation of sensitive data by unauthorized people (i.e. the data terminal at the front desk being seen by other patients standing there), and</li> </ul>		

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	<p>read-only format of data for the protection of its original content;</p> <p>back-up of files on removable media, allowing data recovery should a catastrophic system failure occur; and</p> <p>ensuring the patient’s privacy of personal information through the maintenance and transfer of data in compliance with Ontario’s <i>Personal Health Information Protection Act</i>.</p> <p>As new software technologies occur, the sophistication of programming allows for enhancements with the ease of use of the programs offered to the optometrist.</p> <p><i>Members of the college of Optometrists are also bound by rules regarding privacy of personal information and personal health information set out in the Protection of Personal Information and Electronic Documents Act (PIPEDA) and in the Personal Health Information Protection Act (PHIPA). The College posts Frequently Asked Questions regarding privacy issues and these are accessible from its website.</i></p>		