

**INTERPROFESSIONAL COLLABORATION
IN EYE CARE**

**SUMMARY REPORT
OPTOMETRY JURISDICTIONAL REVIEW**

November, 2009

Overview

HPRAC reviewed regulation of the practice of optometry in all Canadian provinces and territories, 23 states of the United States of America, New Zealand, Australia, the European Union (EU) and the United Kingdom (UK).

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 the regulation of the profession in a particular jurisdiction it would be necessary to review all relevant laws, 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 optometrists and other related health care professionals.

The information in these reviews was derived from on-line versions 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

In all Canadian jurisdictions, optometry is a regulated health profession. In all 10 provinces, the profession is self-regulated, although in three provinces, Manitoba, New Brunswick and Saskatchewan, the regulating body serves the dual role of protecting the public interest and advocating on behalf of the profession. Legislation affecting health professions in Manitoba has changed recently, and when it comes into force, the regulator will no longer serve as advocate for the profession. There are no optometrists registered in the Northwest Territories; ophthalmic medical assistants act under remote supervision by ophthalmologists.

In the US jurisdictions that were reviewed, optometry is regulated usually by an agency of the state government rather than by the profession itself. In the majority of Australian jurisdictions optometry is a self-regulating profession. In the UK, the General Optical Council regulates optometrists, dispensing opticians and optical businesses but complaints of a consumer nature are dealt with by the Optical Consumer Complaints Service, a non-government entity. Continuing education responsibilities are provided by the College of Optometrists.

Similar to the UK, in New Zealand optometrists and dispensing opticians are registered by the Optometrists and Dispensing Opticians Board. While members' fees finance the Board, complaints are handled by an agency of the government health department.

In the EU, Optometry and Opticianry are perceived as linked professions but there is great variance in the extent to which the professions are regulated, either by government or an agency of government. In some countries the professions are not regulated at all (Portugal). In others, they are partially regulated; and yet in others, heavily regulated. In a minority of European countries, optometrists use diagnostic drugs and a limited range of therapeutic drugs. Conversely, but again in a minority of countries, the practice of optometry is not permitted.

General Trends

Business Practices and Conflict of Interest

Canada: The majority of jurisdictions address permitted business practices but there is great variation in the specificity of those rules. Alberta and British Columbia define the meaning of practising in association and expressly permit association with others, whether regulated health providers or not, as long as optometrists maintain professionalism and preserve their fiduciary obligations toward their patients. Manitoba's proposed health professions legislation, although not yet in force, takes a similar approach. Manitoba's current legislation and PEI take a general approach to defining permitted business practices. Saskatchewan, Quebec, New Brunswick, Nova Scotia and Newfoundland set out very specific limitations on permitted practice arrangements. In most jurisdictions, rules about permitted business practices and permitted practice arrangements (i.e. business associations, including the corporate practice of a profession) often include references to conflicts of interest.

In many jurisdictions practising the profession while in a conflict of interest is defined as professional misconduct and relates to an activity that interferes with either the optometrist's professional judgment or ensuring that the optometrist acts in the best interests of the client, whether related to monetary gain or otherwise. Some provinces identify protections for mitigating conflicts of interest that allow continued provision of care as long as certain conditions are met (e.g. disclosing a proprietary interest in an optical establishment and obtaining the patient's consent to proceed).

A majority of jurisdictions in the US that were reviewed set out very specific rules regarding permitted business associations and practices. While many states prohibit optometrists being employed by opticians or retail optical establishments, many states permit such arrangements as long as certain conditions are met. A minority of states address the provision of contact lenses by out-of-state dispensers. Professional

misconduct provisions often prohibit specific business practices such as fee splitting and sharing referral fees with opticians, remuneration based on examinations performed or prescriptions filled and co-locating with opticians in a manner that suggests that the optometrist is not acting independently. Several jurisdictions require separate entrances and sealed doors where optometrists and opticians practice in physical proximity to each other. To mitigate against some of these potential conflicts of interest, many states include provisions guaranteeing optometrists' access to premises and patient records and clarify that the optometrist is independent.

In Pennsylvania, an optometrist may professionally incorporate with medical doctors and other health care professionals if the incorporation is authorized by the practice acts of the relevant professions.

In Australia, there is reference to unsatisfactory professional conduct including influencing the conduct of another registrant so as to compromise patient care; a prohibition against referral to a business that the provider or relative has an interest in or recommendation of products in which the provider has an interest, without disclosure of the interest; and over-servicing. In the Northern Territory, an optometrist may fee split with ophthalmologists as long as the patient is advised.

In the Northern Territory of Australia, there is provision for General Protocols regarding Shared Care between Optometrists and Ophthalmologists. The importance of communication, clear roles and responsibilities, accessibility to care and cost efficiency are highlighted.

In the UK and the EU, specific discussions about conflict of interest are not presented. In the UK the General Optical Council regulates optical businesses. The majority of the EU countries regulate the opening of retail optical establishments.

In New Zealand, general, rather than specific provisions address permitted business practices and conflict of interests by indicating that optometrists must disclose proprietary interests in recommended care options and must not act to compromise their professional integrity or judgment or encourage others to do so.

Advertising

The majority of the jurisdictions reviewed in Canada, the US, the UK and Australia prohibit the use of false, misleading or fraudulent information in advertising. In their advertising rules, Canadian and American jurisdictions also forbid an optometrist from claiming or implying superiority over another optometrist and frequently limit the use of titles or designations such as "Doctor", "Doctor of Optometry" and "specialist" in advertising materials. Some jurisdictions also address the use of trade names.

In Australia, several jurisdictions address the use of discounts in advertising and prohibit claims of superiority.

In the UK, the Advertising Standards Authority (a marketing industry-organized body) administers advertising rules that apply to optometrists, opticians and optical businesses.

In New Zealand, ethical standards for optometrists indicate that they should ensure any claims made when promoting their practices are sustainable, truthful and reflect their status as registered health practitioners.

Records

All jurisdictions reviewed recognize and emphasize the professional's duty to maintain the confidentiality of patient information. Jurisdictions in Canada, the UK and Australia limit the disclosure of patient information and require storage of patient records in a secure facility. The US jurisdictions, the UK and the Tasmanian and New South Wales states of Australia have rules that establish required record retention periods and the patient's right of access to his or her records. In New Zealand, rules limit the disclosure of patient information and specify which details must be kept in the patient record.