



Conflict of Interest Open Forum

Members meet to discuss proposed regulation

On November 3, 2005, the Ethics Committee held an informative open forum meeting in Markham, Ontario to discuss proposed amendments to the Conflict of Interest Regulation and related Professional Misconduct Regulations.

In September, all members were sent a detailed package of information including a DVD explaining the proposed changes. The forum was an added opportunity for members to meet with the Ethics Committee to ask questions and learn more about why the College feels the proposed changes are in the best interest of the public and the profession.

There was a lively discussion and public protection was among the issues raised by those in attendance as they reviewed the proposed changes to the regulation. Most of the discussion centered on business relationships, particularly those with corporations and optical retailers. There were also a number of questions and concerns raised regarding mandatory prescription release. The members of the Ethics Committee welcomed this opportunity to meet with members in person to discuss these issues.

In order for comments and feedback on the proposed Conflict of Interest and related Professional Misconduct Regulations to be considered by the Committee, they must be sent to the College **in writing** and be received prior to the deadline of **December 1, 2005**. Feedback forms were provided in the information package sent to all members; comments may be submitted to the College by mail, fax (416-962-4073), or e-mail (asstregistrar@collegeoptom.on.ca).

The Ethics Committee will compile and analyze all of the written responses from members and other stakeholders before presenting their final recommendation to Council for approval in January.

The Ethics Committee is also responsible for reviewing the Regulations that pertain to advertising and practice names. They expect to circulate proposed changes to these Regulations in the New Year and, once again, a request for your comments will accompany this document.

Upcoming Events

Membership Renewals Due

December 15, 2005

Council Meeting

January 16, 2006
Toronto, ON

2005 Council Election

Close of Nominations
February 7, 2006

Ballot Box Closed

March 8, 2006 (4:00 p.m.)

Election Day

March 9, 2006

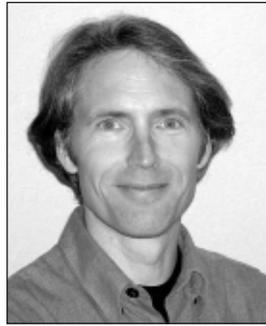
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A Word from the President

Anyone interested in conflict?

Mention “regulation amendment” and within a few seconds most optometrists’ eyes glaze over and their minds drift off to their home renovations, their kids, their last patient, or their next fishing trip. Anything, really anything, but a regulation amendment.



Mark Teeple, O.D., President

What if I were to tell you that this particular amendment is really important, that it has the potential to shape the practice of the profession for years to come? I am referring, of course, to the proposed Conflict of Interest (COI) Regulation and the supporting Professional Misconduct Regulation amendments. These have been circulated to members of the College and to all interested stakeholders for comment prior to being finalized and adopted by Council. The circulation package includes background material, an explanatory DVD and response forms. For members of the College, the package also includes a content related questionnaire that can be returned for continuing education credit.

What is so important about the proposed COI regulation? For one thing, it strikes to the very heart of what it means to be a professional. As optometrists, we know that the visual wellbeing of our patient takes precedence over our personal gain. We practice a health profession

“How is a patient to trust that you, their optometrist, will place their best interests first?”

that has a different ultimate purpose than a commercial endeavour. This is not to say that health professionals should not be appropriately compensated for their work. The COI regulation helps to protect and demonstrate that distinction. It enables the public to have confidence that optometrists place their patient’s interests above their own interests.

There are many, and new, forces within our society that tend to blur the distinction between professional and commercial business. The person who replaces your automobile muffler is referred to as a “professional”. Large corporations that are ultimately responsible for generating profit for their shareholders are involved in the provision of health care. How is a patient to trust that you, their optometrist, will place their best interests first? That message comes across in the many ways

you communicate with your patient. It is more than just the words you say, it is also the unspoken messages such as the appearance of the office, the signage and advertising, the training of your staff, the way you communicate fees, and of course your clinical expertise and ability to refer your patient to other qualified (and trustworthy) health professionals. The proposed COI regulation is in place to support all the ways you communicate professionalism to your patients.

Another reason COI is an important issue is that it shapes the interactions between health professionals. One goal of the proposed changes is to enable optometrists to work with other health professionals to better serve the needs of patients. In the past, too much time and energy has been spent competing with other providers – protecting turf. We are hopeful that the future will be characterized by increasing cooperation among optometrists, opticians, physicians and others so that each profession may practice to the full extent of their knowledge, skill and judgment within a setting that provides excellent care and protection for patients.

Increased freedom of association will require learning how to work with and within business interests. The Ethics Committee of the College, in understanding the different ultimate purposes of a health professional from a commercial entity, has drafted the proposed regulation to enable optometrists to work within a commercial enterprise but remain free from influences that may affect professional judgment and thereby impede patient care.

A final reason the proposed COI regulation is important is that it is the first such amendment to be circulated by a health College

“One goal of the proposed changes is to enable optometrists to work with other health professionals to better serve the needs of patients.”

since the government released its long anticipated guidelines for drafting such regulations. In some sense, the College of Optometrists is testing the water

for conflict of interest. The government is expecting that any proposed regulation will comply with the guidelines they have provided. The general principles of the guidelines are that there should not be broad prohibitions on business associations between health professionals, that conflict of interest cannot be completely eliminated but when it exists it must be disclosed to the patient, and that patients should have freedom to receive treatment from whomever they choose.

I encourage you to study the regulation amendment package that has been sent to you, discuss it with you colleagues, and send us your feedback. This is your profession – you should have a say in its future.

Mark Teeple, O.D.

Registrar's Report

Can we use diagnostic ultrasound?

The College is aware that more and more optometrists are using pachymeters in their practices, especially to assist in the diagnosis and management of glaucoma and to properly counsel their patients concerning refractive surgery procedures. Some members have inquired whether or not they can use instruments in their practices such as pachymeters and biomicroscopes that incorporate ultrasound technology. It appears that the reason for their concern is that ultrasound is a 'prescribed form of energy' under the *Regulated Health Professions Act*. Accordingly, only regulated health professionals who are members of a profession with the authority to apply or order the application of ultrasound can use this valuable diagnostic modality.

Section 4 of the *Optometry Act, 1991* sets out the controlled acts that are authorized to the profession of optometry. It reads, in part, as follows:

4. 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:

2. Applying a prescribed form of energy.

The Controlled Acts Regulation (O.Reg. 107/96, as amended) under the *Regulated Health Professions Act* sets out the forms of energy whose use is restricted. Included among those forms of energy is:

3. Soundwaves for,
- i. Diagnostic ultrasound,



Murray J. Turnour, O.D., Registrar

In that Regulation, some professions are given specific exemptions that allow their members to apply or order the application of specific forms of energy for specified purposes. This is the case even though some of these same professions already have the controlled act of applying or ordering the application of prescribed forms of energy authorized to them under their health profession Act. This situation has led to some confusion.

Out of an overabundance of caution, the College is moving forward with a request for an amendment to the Controlled Acts Regulation under the *Regulated Health Professions Act* that would give optometry an exemption to use ultrasound for diagnostic purposes.

“...the College believes that the current legislation gives optometrists the authority to apply diagnostic ultrasound in their practices.”

The College is taking this step only to ensure that our profession is treated in a manner consistent with other professions insofar as the regulation of the use of prescribed

forms of energy is concerned. Regardless of whether or not this regulatory amendment is made, the College believes that the current legislation gives optometrists the authority to apply diagnostic ultrasound in their practices.

Murray J. Turnour, O.D., M.Sc.



Delegation and Assignment

FAQs

In February 2005 the College published a new *Policy on Delegation and Assignment* in the *Bulletin*. Since that time, a number of members have called asking about the implementation of this new policy. Some of the more frequent questions are answered below:

Can I delegate the performance of a controlled act to someone who is not a regulated health professional?

Yes, however you must be confident in the knowledge, skill and judgment of the person performing the task. You are expected to establish a process for delegation and assignment that includes ensuring the currency of the delegate's knowledge, skills and ongoing competence, and maintaining appropriate supervision. These requirements remain the same regardless of the educational background or previous experience of the individual to whom you are delegating or assigning the task. You are reminded that you retain responsibility for every task that is assigned or delegated to a member of your staff.

I've never been comfortable performing gonioscopy and have avoided it for years. I recently hired someone who was educated as an optometrist overseas. He isn't registered with the College yet, he's working as my assistant, but his gonioscopy skills are very current. The next time I see a patient who should have gonioscopy, can I ask him to perform the procedure for me?

No, you may only delegate or assign those acts that form part of your regular practice and daily competence.

I've agreed to hire someone who recently graduated with an OD degree but who is not yet registered with the College (she expects to complete the registration process in the next few months). Is it OK for her to start working with me before she's a member of the College?

Yes, there is nothing to prevent you from hiring a recent graduate. However, while you may feel comfortable assigning a wider range of optometric tasks to her, the process requirements for delegation and assignment noted above still apply. You should also be aware that until she is registered with the College, you are liable for the work she does in your office.

How is supervising an optometry student different from hiring a recent graduate who is not yet registered with the College?

Students may perform controlled acts required during the course of their studies as long as they are supervised by a member of the profession. Their internship with you is an extension of their university program. Supervising a student intern in the performance of tasks within the scope of practice of optometry is not considered delegation.

I have a recent OD graduate (not yet registered with the

College) working in my office and her work is top notch. I'd feel very comfortable leaving her in charge while I take a couple of days off. Is that OK?

No, delegation can only take place if the optometrist is present in the office to ensure proper supervision of the task. The level of supervision required will vary according to the risk of harm of the delegated act.

The full College policy on Delegation and Assignment is available on the College website at: www.collegeoptom.on.ca

New Criminal Record Check Policy

Registration policy effective January 1, 2006

On August 16, 2005, the Registration Committee approved a new Criminal Record Check policy for individuals applying for registration with the College. This policy affects all applicants for registration submitting an application on or after January 1, 2006.

The new policy is not retroactive and does not affect members who are already registered with the College.

One of the requirements of registration as an optometrist in Ontario is that the applicant must not have been found guilty in relation to an offence under the *Criminal Code* (Canada), the *Controlled Drugs and Substances Act* (Canada), the *Food and Drugs Act* (Canada), or similar offence in any jurisdiction.

To provide evidence that an applicant has met this requirement, each applicant will be required to provide a Canadian Police Information Centre (CPIC) Criminal Record Synopsis as part of the registration process.

If there are positive findings on the CPIC check, the Registrar will refer the application to the Registration Committee for their consideration. The Registration Committee can exempt an applicant from the requirement that he or she must not have been found guilty in relation to a criminal or similar offence. In making this determination, the Committee will consider a number of factors including the seriousness of the offence, the circumstances surrounding the offence, the recency of the finding of guilt, and the relevance of the offence to the practice of optometry or applicant's suitability to be a member of the College.

The Registration Committee is aware that the Criminal Record Synopsis cannot guarantee the good character of the optometrist, however it will enhance the accountability of the College to the general public.

A copy of the new Criminal Record Check policy is available on the College website at: www.collegeoptom.on.ca

Privacy Matters:

Managing electronic files

It's easy to jot down notes on paper, however paper records can be misplaced or misfiled. They can require a significant amount of storage space, and locating a file you've stored outside your office is not always simple.

More and more frequently, members are choosing to manage and store their patient records using specialized computer software programs. If you choose to use one of these programs in your office, it's important to ensure your electronic records continue to meet College record keeping and confidentiality requirements.

In general, the optometric record assists in the provision of care

Ensure you have a recovery strategy and robust backup system that is tested regularly.

to the patient. The record must also meet professional regulatory requirements and may be used for legal purposes. The patient, the practitioner and the

College all have an interest in the clinical record, none of which takes precedence over another.

If you have already implemented an electronic record system, or are considering one, there are a number of things you should keep in mind:

- The information contained in a health record must be maintained confidentially. Ensure that your electronic records are secure and cannot be accessed by any unauthorized individuals.
- All clinical records, both paper and electronic, must identify the author of the information. Software for electronic records must not allow additions to the original entries without recording when, and by whom, the change was made. In addition, any alteration made to a record must not delete the original entry, the original entry must still be visible.
- Clinical records must be organized and maintained in ways that allow for ready access to the records by an authorized investigator, inspector or assessor of the College, the patient, or the patient's representative [O.Reg.119/94, Part IV s. 12. a)]. This means that you must maintain any software or technology you have used to create or store records. For example, if you stored patient records on a 5" floppy disk several years ago, you would be required to transfer that information to more current technology or keep a computer in working order that can read a 5" floppy.
- Records must be legible and understandable to other optometrists. If you choose to implement a customized software system, the recording of patient information

should not be customized to the point that it can't be easily read and understood by another optometrist.

- Ensure you have a recovery strategy and robust backup system that is tested regularly. There are no excuses for loss of data that results in an incomplete patient record. Your backup system must protect you from every sort of accident or disaster, from spilling coffee on your keyboard to a flood raining down on you from the office upstairs. You are responsible for maintaining a complete patient record for every patient.
- Be aware of humidity and temperature in your office; computers are sensitive to changes in the environment.

A final word of caution: failing to ensure that electronic records are accurate, up-to-date, properly secured and easily retrievable may lead to allegations of professional misconduct.

Communications Survey

Preliminary results

The preliminary results of the Communications Survey distributed in the last issue of the Bulletin show that 94% of respondents think that the College is doing a good or excellent job communicating with them.

While this is great news, the survey also identified areas where improvements can be made. There is a fairly high awareness of the College's website (83%) but less than half of those who are aware of the site seem to be using it as a source of information and advice.

Members were asked how they would feel about the College communicating with them more by e-mail. Currently, the College does not distribute the Bulletin electronically or use member e-mail addresses to provide updates on current issues. While members seem to like receiving the Bulletin by regular mail, nearly 70% of respondents indicated that an e-bulletin service would be of interest to them.

We would like to thank all of the members who took the time to respond to the survey. Once analysis of the survey results is complete, they will be used to help develop a communications plan to help us improve the way we share information with you.

Continuing Education Policy

Study groups will soon be eligible for CE credit

At its meeting on September 21, 2005, Council accepted a proposal from the Quality Assurance (QA) Committee to update the Continuing Education Policy for the 2006-2008 cycle. The Committee is recommending that members receive CE credit for participation in study groups.

Before developing the new policy, the QA Committee discussed areas other than a traditional lecture environment where members could participate in and benefit from lifelong learning exercises. They felt that the interaction and learning associated with a study group was worthy of recognition for continuing education (CE) credit.

Guidelines for study groups are currently under development and members will be expected to follow these guidelines to be eligible for CE credit. The guidelines will cover College expectations regarding the composition of each group, research prepared in advance of the group meeting, and meetings held via telephone or Internet. Study group participants will be required to fill out a Study Group Report Form recording the topic, the length of the discussion, and the names of all attendees.

Details of the policy, study group guidelines and a Study Group Report Form will be available on the College website in early 2006. The policy will also be distributed in the February 2006 edition of the Bulletin.

Members are reminded that December 31, 2005 marks the end of the current three-year Continuing Education cycle. This means that, in order to maintain their registration, members must have participated in a minimum of 60 hours of continuing education from January 1, 2003 through December 31, 2005. Members who obtain more than 60 hours CE during this current cycle may carry forward a maximum of 20 hours to the next cycle.

Need more CE credits before the end of the year? Members are reminded that the package of information you received in September regarding the proposed Conflict of Interest Regulation includes a questionnaire that can be completed and returned for continuing education credit.

Another option for CE credit is the Professionalism and Professional Ethics home study program developed by the College. If you are interested in enrolling in this program and obtaining continuing education credit, please contact Ms. Louise Kassabian (e-mail: registration@collegeoptom.on.ca). The cost of the program has been set at \$96.30 (\$90.00 plus GST). Six hours of continuing education credit will be issued. Please note that if you have completed this home study program in the past, you are not eligible to complete it again for CE credit.

2006 Council Election

Call for Nominations in February 2006

The College's annual election for Council will take place early in 2006. This is your opportunity to get more actively involved in our profession.

Council is currently made up of seventeen members, nine of whom are elected from among members of the College. Seven Council members are appointed by the Lieutenant Governor in Council (the Provincial Cabinet), and one member is selected to represent the University of Waterloo School of Optometry. The people who sit on Council serve the public of Ontario by guiding the profession and administering the legislation as it pertains to practising optometry.

The College's 2006 Council Election will be for two positions in the Provincial Electoral District. Your 2005 Annual Report Form (which you should already have received) indicates your electoral district.

There's no denying that acting as a member of Council involves a number of duties and obligations, which is appropriate given the Council's governing role and the College's mandate to serve and protect the public interest. However, participation in the business of the College as a Council member is a rewarding experience that easily balances the workload and time commitment. Working on Council will give you in-depth knowledge about how the profession is governed, help you develop a network of colleagues in the eye-care community, and give you the opportunity to become actively involved in issues that will change the face of optometry in Ontario.

A Call for Nominations and a Nomination Form will be sent to all members at the end of January 2006. We encourage you to consider running for election or nominating someone you feel would be an ideal member of Council. Don't miss this chance to make a difference!

How about volunteering for a College Committee?

The College currently has ten committees in place covering a wide variety of governance and professional practice areas. If you would like to get involved with the College but are not quite ready to run for Council, we encourage you to fill in the Volunteer Application Form that will be included with the Election Ballot mailed out in late February 2006.

Other News in Brief

Annual Report and 2006 Fees Due

Each year at this time we remind members that membership in the College of Optometrists of Ontario is a privilege and with this privilege comes an obligation to contribute to the operation of the College. As a member of the College, you will soon be receiving a notice that the 2006 annual fee is due no later than December 15, 2006. The fee has not been increased since 1994 and remains at \$802.50 (\$750.00 plus GST) for 2006.

Along with the Notice of Annual Fees, you will be asked to update and return your Annual Report Form detailing important information about you and your practice. As in past years, the information that the College has on record will be pre-printed on the Report Form and you are asked to correct and/or update this information.

Please remember that there is a \$50 late payment fee if either the Annual Fee or Annual Report Form is not returned by December 15, 2006.

Council Welcomes New and Returning Members

At its meeting in January, Council will be officially welcoming a new member to its ranks. Ms. Marny Motamedi was recently appointed by the Lieutenant Governor in Council as a new public member of the College Council. Ms. Motamedi is actively involved in a number of charitable organizations and her professional background includes computer systems analysis and design, public relations, publicity and real estate. Ms. Motamedi is from Thornhill.

Returning to Council for a second three-year term is Mr. Henry Hodowany, a public member from Toronto. Mr. Hodowany first joined Council in 2002 and is an active member of the Complaints Committee.

The University of Waterloo School of Optometry has also appointed a new representative to the College Council, Dr. Rodger Pace. Dr. Pace is currently acting as the School's Associate Director as well as the Assistant Clinic Director. In addition to these duties, Dr. Pace is a lecturer for UWSO with a cross appointment to the department of Health Studies and Gerontology. He is also an Adjunct Clinical Professor for the New England College of Optometry.

Optometry Act: Proposed Amendment

The Ministry of Health and Long-Term Care has asked for the College's cooperation in amending Section 11(2)4iii of the General Regulation to remove the phrase "of the opposite or same sex".

This edition of the Bulletin includes a memo from the Registrar explaining the proposed amendment to the *Optometry Act*, along with a copy of Section 11 of the General Regulation and a stakeholder feedback form.

Members are asked to send comments regarding the proposed amendment to the College, in writing, before January 30, 2006. Council will consider your feedback before they determine whether or not to ask the Ministry to amend the Regulation.



COLLEGE OF OPTOMETRISTS OF ONTARIO COUNCIL & COMMITTEE MEMBERS (2005-2006)

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Dr. Deborah Lowy

Eastern Electoral District/ district électoral de l'est

Dr. Michèle Martin

Northern Electoral District/ district électoral du nord

Dr. Paul Monk

Western Electoral District/ district électoral de l'ouest

Dr. Mark Teeple

Provincial Electoral District/ district électoral provincial

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Dr. Mike Cobean
Dr. Jim Wilkinson
Dr. David White

University of Waterloo/ Université de Waterloo

Dr. William Bobier

Lieutenant Governor in Council/ le lieutenant-gouverneur en conseil

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Mr./M. Henry Hodowany
Mr./M. Charles Korman
Ms./Mme. Mary J. Lenihan
Mr./M. James Lexovsky
Ms./Mme. Marny Motamedi
Ms./Mme. Nathalie Pardy

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Dr. Linda Bathe, Vice President
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