

Bulletin



FALL 2008

The Word from the President

What is constant in life is change. Our College is being bombarded with new changes coming from the provincial and federal governments. The Agreement on Internal Trade, for example, is being pushed through to satisfy a political end. I am not convinced that it will benefit the public that you and the College serves.



Richard Kniaziew, O.D.,
President

Provincial Trade Ministers agreed in September 2006 “to establish a new deadline of April 1, 2009, to ensure compliance of all regulatory bodies with the labour mobility provisions of the Agreement of the Internal Trade (AIT)”. In essence, governments agreed that there would be “mutual recognition” of qualified workers. “Mutual recognition” exists when qualified workers from other jurisdictions are recognized without any additional re-training, re-testing, or re-assessment. This may work well when all jurisdictions have the same or similar entry-to-practice requirements. For a number of reasons, requirements can differ between jurisdictions. What happens then? Should applicants be allowed to look for the jurisdiction with the easiest entry-to-practice requirements and then use labour mobility to move to their desired jurisdiction?

The College of Optometrists has, for more than three decades, served the public and its members by publishing guidelines and standards of practice. These guidelines and standards are used by optometrists to improve the quality of care they provide. We also have a robust quality assurance program. The result is that Ontario optometrists provide an exceptional level of eye care. For instance, optometrists in Ontario provide approximately 5 million eye services annually. The College receives approximately 30 – 40 complaints a year from Ontario patients about the eye care they received. In the whole scheme of things, this amounts to an infinitesimal percentage.

Some entities are advocating deregulation of health care services, and in particular, of the eye care professions in Ontario. I would suggest that deregulation of health care could result in a similar catastrophe to what is happening with sub-prime mortgages in the United States. If deregulation is allowed to undermine public protection, the quality of eye care delivery will decline. I’m suggesting that it’s time for all of us to reflect on what happened south of the border and take a pause before we deregulate eye care delivery in Ontario.

Yes, change is constant in life, but I’d suggest that gradual change – ensuring that the right checks and balances are in place to protect the public – is the appropriate approach. Making a series of small changes is, in my mind, a better approach than making wholesale changes and then finding out they don’t work! Implementing change without proper public protection can lead to chaos.

The College Council and its committees have been working hard dealing with all the challenges facing our profession. A lot of work remains to be done. As a profession, we rely on the willingness of Council and committee members to volunteer their time and work for the benefit of all Ontarians.

Upcoming Events

Council Meeting
January 26, 2009
Toronto, Ontario

Council Elections
March 12, 2009

**Jurisprudence Seminar
and Examination**
May 13-14, 2009
Waterloo, Ontario

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Continuing Education Policy

for the 2009-2011 CE Cycle

At the September 19, 2008 Council meeting, Council approved the Continuing Education Policy for the next CE cycle (2009 – 2011). Complete versions of the existing policy and the policy for the next cycle can be found on the College website at www.collegeoptom.on.ca. Below is a synopsis of the changes and important things to remember about the CE policy.

Important changes to the Policy include:

- An increase in CE hour requirement from 60 to 70 CE credits. That is, members are required to participate in CE activities that would amount to a minimum of 50 Category A credit hours, while credit for the remaining 20 credit hours may be obtained by participating in either Category A or B continuing education activities.
- Of the 50 Category A hours required, a minimum of 20 hours must be in topics reasonably related to ocular disease and management or related systemic disease.

Things to remember:

- Continuing education credits claimed must be related to **the maintenance of a member's standards of practice or continuing competence from an organized program of learning.**
- The College considers an organized program of learning a structured learning experience that is presented as a group lecture, a group or individual workshop, or as a text or an electronically provided course.
- The College recognizes two categories of continuing education - categories A & B.

- Category A* continuing education providers must be:
 - A Canadian or American national, provincial or state Optometric Association or Regulator;
 - A Canadian or American school or college of optometry, or an accredited university in another health discipline;
 - A not-for-profit optometric organization where the primary goal of the organization is to provide or promote optometric educational opportunities or provide clinical care; or
 - Any other provider in the provision of COPE-approved continuing education activities.
- * For complete details regarding Category A and B equivalencies and details regarding Category A educational opportunities, please consult the full CE Policy which can be found on the College website - www.collegeoptom.on.ca.
- Category B* continuing education may be obtained from **ANY** provider and represent participation in an organized program of learning that is relevant to a member's maintenance of his/her standards of practice and/or continuing competence.
- A participation verification certificate must be issued for all CE activities and must indicate:
 - The name and address of the participant
 - Certificate of registration number
 - Location and date of the course
 - Course title
 - Name of the instructor
 - Name of the provider
 - Number of CE hours awarded
 - Authorized signature or symbol of verification
- Members are required to report their continuing education activities on the Annual Report.
- It is the responsibility of the member **to only claim credit hours that represent an organized program of learning which is relevant to the member's maintenance of practice and/or continuing competence.**

Reminder – Random CE Audits will be starting in February 2009

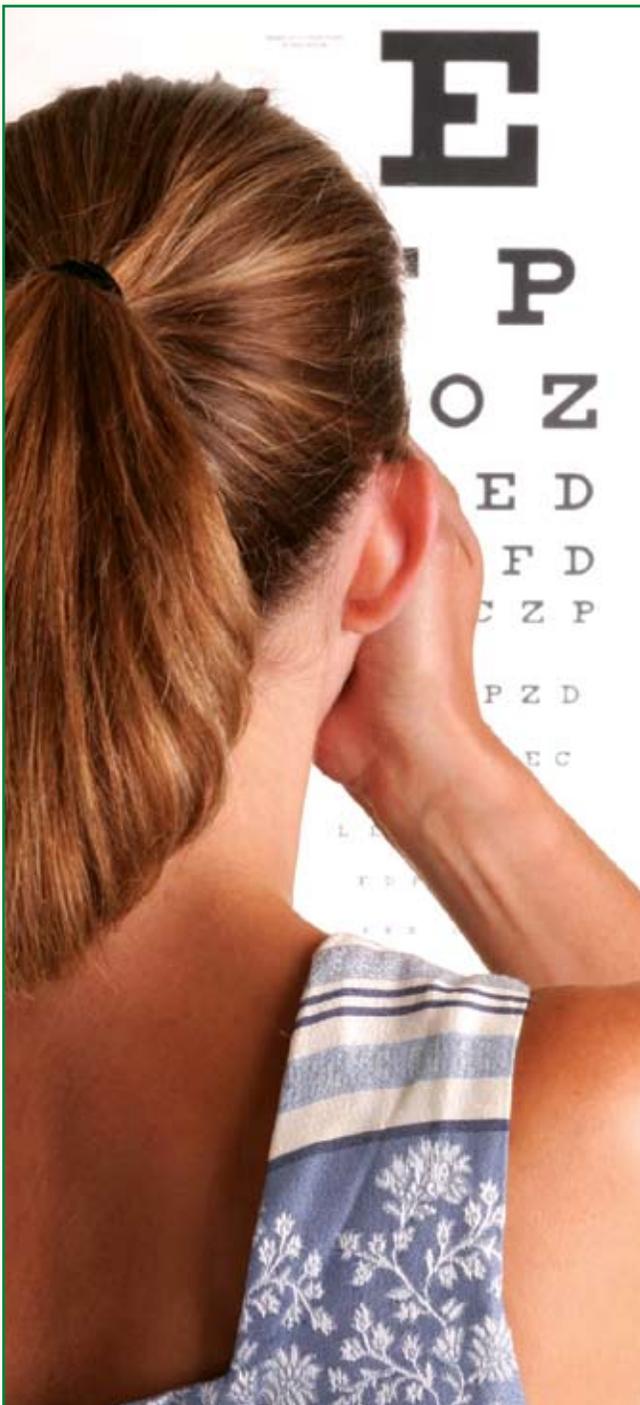
The College randomly selects members at the conclusion of each three-year reporting cycle to determine the accuracy of reporting. Accordingly, all members are encouraged to retain proof of continuing education activities for at least six months after the completion of a reporting cycle. For example, for the last CE period (January 1, 2006 to December 31, 2008), members should retain certificates of validation for all CE activities until at least June 2009.

The Regulations under the Optometry Act require the Registrar to refer members who fail to acquire the required number of CE credit hours to the Quality Assurance Committee for practice assessment.

Complaint Summary:

Responsibility for Staff Member Behaviour

The Committee considers many complaints that are not of a clinical nature but rather, are as a result of the behaviour of the optometrist or their staff person(s). In this matter, the complainant perceived that a staff person had “crossed the line” in her conversation with the complainant prior to her eye examination. It demonstrates the necessity for both optometrists and their staff members to be aware of issues related to cultural diversity in our increasingly culturally diverse society.



Complaint

The complainant wrote in a letter to the College that when she went to her optometrist's office for an eye examination, the optometrist's staff person treated her with profound disrespect. The staff person asked her some routine preliminary questions about her vision and then proceeded to ask her questions about her race and religion. She felt that these questions were totally irrelevant to her eye care. When she told the optometrist what had occurred, he did not understand how offensive these comments had been to the complainant. Subsequently, the complainant requested that the College investigate the incident.

Member's Response

In his response to the complaint, the optometrist wrote that when the complainant related what had just occurred in the waiting room, he immediately went out to ask the staff person what happened. The staff person explained that she had asked the patient about her country of origin and the complainant answered by stating her country of origin and religious affiliation. The staff person then asked the complainant a question about an article she had read in the newspaper that day, which discussed a very personal aspect of that religion. The staff person told the optometrist that when she realized that her question had offended the complainant, she apologized and believed that the complainant had accepted her apology. The optometrist wrote that when he returned to the examination room, he also offered an apology to the complainant. The optometrist explained that he also spoke to his staff person at the end of the day about the risks of engaging patients in conversation about personal matters.

The Committee's Review

The Committee concluded, from a review of the available information, that although the optometrist and his staff person had apologized to the complainant at the time, she was still left feeling that her concerns had not been taken seriously. It appeared from his response that the optometrist had not learned from this experience. The Committee concluded that the optometrist would benefit from educational activities to increase his awareness of issues related to cultural sensitivity.



The Committee was also concerned that the staff person had engaged in this conversation with the complainant in the first place, and did not see anything wrong with it until the complainant indicated to her that she had been offended. The responsibility for all services provided by optometrists and their staff rests squarely on the shoulders of the optometrist. Given that the optometrist is responsible for the content and tone of any communication between their staff and patients, it is of utmost importance to every optometrist that their staff understands the need for sensitivity and respect in all their dealings with patients. In addition, to treat all patients with sensitivity and respect requires that both the optometrist and their staff, be aware of the cultural nuances of their verbal and non-verbal communication with patients.

The Committee's Decision

Prior to finalizing its decision, the Committee asked the Registrar to canvass the optometrist's willingness to enter into a voluntary undertaking with the College to participate, at his cost, in an individualized program of coaching designed to improve his awareness of issues related to cultural diversity. The Committee acknowledged that the optometrist had agreed to enter into the undertaking with the College. The Committee also strongly recommended that he train his staff in this area.

In view of the serious nature of the inappropriate comments, the Committee issued a caution to the optometrist. A caution is intended to be educational to a member and also serves as a warning that any future complaints received by the College of a similar nature, will be considered in light of the decision and the opportunity for change that has been provided. The member was cautioned that he is responsible for the behaviour of his staff, and that all optometrists and their staff are expected to show courtesy and respect in all interactions with patients.

Copies of two articles from the November 2001 Bulletin that address these issues, were attached to the decision. The articles, "Misperceptions caused by Cultural Differences" and "Your Patients, Your Staff-Your Responsibility", can be found on the College website. The Committee believes that in this matter, both the caution and the optometrist's participation in the cultural sensitivity program will serve to protect the public.

Become a Quality Assurance Assessor

The Quality Assurance Committee (QAC) is currently recruiting members to act as Quality Assurance (QA) Assessors.

As a QA Assessor, you will be providing information to the QAC based on a review of your peers' files using set criteria. This is to ensure that the standards of practice are being met in accordance with the Optometric Practice Reference (OPR) and that patient management is optimal across the profession.

What some of our current assessors have said:

"I became a QA assessor because I thought it would be a really good learning experience and a way to contribute to the profession. In my 3 years as an assessor I've found that it has also become a great learning tool for me."

"Being a QA assessor for over 7 years has provided me with the opportunity to become a better practitioner because even though we're taught about proper record keeping in school, in a busy practice it's easy to fall into the habit of short forms and incomplete charting. I know I did it... Attending the training was an eye opener and it helped me understand that there is potential to have many eyes looking at my records, not just mine... One rule of thumb – if it wasn't recorded on the clinical record then it wasn't done."

"I was selected for a random assessment and I was really nervous having the College looking at my files. Then I received the results of the assessment with the recommendations from the Committee and realized that the whole process wasn't so bad after all. So my decision to become an assessor was based on going through the assessment process because I found it very helpful in incorporating some changes into my practice, not just with my charting but with the way our office staff, myself included, is accountable to our patients. I wanted to be as helpful to my peers as the assessor who reviewed my files was to me."

"Being an assessor is very valuable as a practitioner because it helps you to look at your own files in a more critical manner."



So, if you are

- Active in clinical practice and in good standing,
 - Interested in assisting your peers to help improve/enhance the knowledge, skill and judgment across the profession, and
 - An exceptional communicator,
- then the QAC wants to hear from you!

The Quality Assurance Committee is currently accepting resumes from optometrists who are interested in becoming assessors. The Committee expects that a training session for successful candidates will take place in early February 2009. Successful candidates and current assessors attending re-training will be able to claim Continuing Education credits for their attendance.

If you are interested in becoming an assessor, please forward your CV with a cover letter explaining why you would like to be an assessor, and why you think you would be a good assessor, on or before **December 31, 2008** to:

Wendy Maharaj

Manager, Quality Assurance Programs
6 Crescent Road, 2nd Floor
Toronto ON M4W 1T1

Telephone: 416-962-4071 or 1-888-825-2554

Fax: 416-962-4073

Email: qa@collegeoptom.on.ca



Prescribing Therapeutic Pharmaceutical Agents (TPAs)

This is a reminder that, until the College's proposed Designated Drugs Regulation is brought into force, members have no legal authority to prescribe therapeutic pharmaceutical drugs (TPAs). As mentioned previously, the College will notify its members when the Regulation is brought into force.

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Members are strongly advised not to leave the decision of securing the course too late.

Members have been forwarding their concerns regarding the TPA Policy to the College's Registration Committee. If upon reviewing the Policy members find that they are required to complete and pass a 100-hour course in the treatment and management of ocular disease that meets the criteria set by Council, it is the members' responsibility to secure the course. Members are strongly advised not to leave the decision of securing the course too late.

Court rejects appeal to lift \$1 million in fines

The Ontario Court of Appeal has rejected an appeal by Great Glasses to lift \$1 million in fines imposed by a lower court. In dismissing the appeal, the court also ordered that SHS Optical Ltd., a franchise chain based near Hamilton that goes by the name Great Glasses, pay an additional \$40,000 in court costs to the College.

The operators of the Great Glasses franchise (Mr. Bruce Bergez et al) had been ordered to pay a fine of \$50,000 a day for every day after November 24, 2006 (the date of the decision of a previous contempt of court action), up to and including October 10, 2007 (the date the latest decision was published). This resulted in a fine of more than \$15 million. A previous order remains in place prohibiting Great Glasses from dispensing eyeglasses or contact lenses without a prescription from an optometrist or a physician.

“This is a case of flagrant, protracted and deliberate disobedience of a court order,” the appeal court said of SHS Optical Ltd.

Background

The College has been involved in this case for a long time. In 2003, the College was successful in obtaining a court order requiring the owners of Great Glasses to cease dispensing spectacles on the basis of Eyelogic® test results and without a valid prescription. With evidence that the prohibited activity had continued, the College initiated a contempt of court action.

The matter was heard on October 25 and 26, 2006, and the judgment in the case was released on November 24, 2006. In that judgment, Justice Crane of the Superior Court found that the advertising by Great Glasses was “a gross deception on the public, putting his (Mr. Bergez’s) customers at risk of their health, done solely for the commercial profit of the respondents” and that the business conduct of Mr. Bergez was “highly provocative, arrogant and egregious”.

Justice Crane imposed a fine of \$1 million on Mr. Bergez et al and ordered Mr. Bergez to purge their contempt by posting signs in their stores advising customers that they must have a prescription from an optometrist or physician, and that glasses and contact lenses cannot be dispensed on the basis of the Eyelogic® test performed at their stores. The College was awarded costs.

On December 8, 2006, Mr. Bergez appealed Justice Crane’s decision. Upon filing the appeal, the provision ordering the payment of money (the \$1 million fine) is automatically stayed, however the non-monetary orders must still be complied with.

After determining that Great Glasses stores continued to dispense eyewear without a valid prescription from an optometrist or a physician, the College filed a new contempt of court action alleging that Mr. Bergez had not complied with Justice Crane’s decision. The Superior Court’s Justice Fedak heard the case in August 2007. In his decision, published on October 10, 2007, Justice Fedak found that “Bruce Bergez failed to purge his contempt by personally ensuring that dispensing only be done in accordance with a prescription from an optometrist or a physician as mandated by the Judgment of Justice Crane.” Great Glasses appealed this decision.

Excellence in Optometric Care

Serving the Public Interest by Guiding the Profession



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