

Bulletin



SUMMER 2009

Updated TPA Regulation

Optometrists will be able to prescribe for glaucoma

Optometrists in Ontario will soon be able to prescribe pharmaceutical agents for the treatment of open angle glaucoma.

Earlier this year, the Health Professions Regulatory Advisory Council (HPRAC) issued their Critical Links report recommending to the Minister of Health and Long-Term Care that optometrists be authorized to prescribe topical anti-glaucoma medications. The patient would be managed by the optometrist on an ongoing basis with referral to an ophthalmologist if the patient's condition changes. The College is very pleased that the Minister has accepted this recommendation and we are delighted at how this decision will improve access to timely eye healthcare for the public of Ontario.

HPRAC went on to recommend that optometrists be authorized to treat acute angle closure glaucoma in emergency situations with immediate referral to an ophthalmologist. This recommendation is consistent with the College's current Guideline on the Use of Drugs by Optometrists which recommends that if a patient presents with acute angle closure glaucoma, it would be appropriate for the optometrist to initiate treatment to break the attack and refer to a physician for further care.

Prior to the publication of the HPRAC report, the College submitted a draft TPA Regulation to the Ministry that did not include anti-glaucoma medication. The College will be withdrawing that draft and submitting an updated TPA regulation that includes pharmaceutical agents for the treatment of glaucoma. At a recent meeting with Ministry officials, the College was pleased to hear that we can expect this regulation to be moved forward as soon as the Legislature reconvenes in the Fall.

As we proceed through the regulation making process, members are reminded that until the required TPA regulation is in place, optometrists are not authorized to prescribe drugs. In addition, it is not yet known if the Ministry of Health and Long-Term Care will ask that TPA education requirements be housed in legislation. If that is the case, the College anticipates that the legislation would take into account the College's current TPA Education Policy, however we cannot guarantee that the policy and the regulation would be exactly the same. We will update members on this matter as soon as more information is available. In the meantime, we applaud those members who are proactively updating their education and preparing themselves for the use of TPAs in their practice.

Upcoming Events

**Jurisprudence Seminar
and Examination**
October 5-6, 2009
Toronto, Ontario

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A Word from the President

Conflict of Interest and Labour Mobility

At our Annual Meeting earlier this spring, there were a number of questions from members regarding the College's proposed Conflict of Interest (COI) Regulation, and the repercussions of the Agreement on Internal Trade (AIT).

First, I'll talk about COI. The work that has gone into crafting the new draft regulation is astounding. Consultation has been extensive as we grappled with one issue in particular – business and employment relationships.

Let's think about the nature of an employment relationship. An employer, by definition, has control over the actions of an employee. Common sense tells us that if you are my employee, you are expected to follow my policies and guidelines, written and unwritten, formal and informal. You may not always agree with them but if you don't comply, you may find yourself out of a job. In order that the employer/employee relationship does not have an impact on the practitioner/patient relationship, the current COI Regulation is very strict about who optometrists may work for. Generally, they may not work for a corporation or for a healthcare professional other than another optometrist or a medical doctor.

Which brings us to the real world. Collaboration among healthcare professionals is a priority of the current government. The College Council agrees that this is a worthwhile goal that we fully support but only – only – if our members maintain their professional independence. There must be no influence, real or perceived, on the healthcare options optometrists present to their patients.

The 'independent contractor' provisions in the draft COI regulation strike a balance between the need for optometrists to be able to work collaboratively in settings with other healthcare professionals while maintaining their professional independence. An independent contractor, as defined in the draft regulation, is not an employee. He or she has complete control of their practise of optometry including who they will accept as a patient, the professional services they provide and the fees charged or collected for those services. They also maintain custodianship of the patient's health record. I am hopeful that the Ministry will accept our draft COI regulation and open up the possibilities for collaboration and improved access to eye healthcare services across Ontario.



Richard Kniaziew, O.D.,
President

So, what about AIT? The Agreement on Internal Trade was signed in 1994 by all of Canada's provinces and territories. Chapter 7 of the AIT deals with labour mobility across Canada. In order to comply with Ontario's obligations under Chapter 7, the Ministry of Training, Colleges and Universities (MTCU) has introduced Bill 175, *Ontario Labour Mobility Act, 2009*. The government's goal is to achieve full labour mobility by August 1, 2009.

Labour mobility allows an individual certified for their occupation in one province/territory to be recognized as qualified for certification in another province/territory without additional 'material' training, experience, examinations or assessments. Provincial regulators who wished to continue with a 'material' requirement (e.g., an exam, training or assessment that takes more than half a day to complete) were given the opportunity to apply to their provincial government for an exception. An exception would be granted if the regulator could prove that the purpose of the requirement is to achieve one of the legitimate objectives identified by the government, the requirement is not more restrictive to labour mobility than necessary to achieve the legitimate objective, and the requirement does not create a disguised restriction to labour mobility. The legitimate objectives identified by the government include public security and safety, protection of human life and health, and protection of the health, safety and wellbeing of workers.

The College supports the objectives of the AIT and Bill 175, however there are variations in registration requirements across Canada that the College feels are significant and should be addressed. The College identified three registration requirements that we believe must be maintained in the public interest and for which we applied for an exception:

- successfully complete an entry-to-practice exam at some point in their career (this is not currently required in all provinces),
- successfully complete the Optometric Jurisprudence Exam, and
- show currency in their practice if they are not a recent graduate.

Our request to be allowed to maintain these requirements was denied. We continue to work through the Federation of Health Regulatory Colleges and directly with the Ministry of Training, Colleges and Universities and the Ministry of Health and Long-Term Care to identify solutions that will comply with the spirit of the AIT and Bill 175 while ensuring that registration standards are maintained in the public interest.

Richard Kniaziew, O.D.

Registrar's Report

Why did we change the By-laws?

The College recently invited members to comment on proposed amendments to the College By-laws dealing with the Register and information members are required to provide to the College. These By-law amendments are necessary as a result of two Government initiatives.



Murray J. Turnour,
O.D., Registrar

In December 2006, the Honourable George Smitherman, then Minister of Health and Long-Term Care, introduced into the Legislature Bill 171 – the *Health System Improvements Act* (HSIA). At 159 pages, this was a long and complicated Bill that would amend a number of other Acts including the *Regulated Health Professions Act*. Bill 171 was given Royal Assent on June 4, 2007. Implementation of some parts of the HSIA was delayed until June 2009.

The effects of the HSIA coming into force are wide-ranging and some are important to the practice of our profession and the College's duty to protect the public interest. One of those changes is an increase in the information about regulated professionals to which the public has access, i.e., the public Register. As of June 4, 2009, the College will be required to post this information on our website.

"It is also important to note that not all of the information that the College collects about its members is accessible to the public."

When we reviewed the information we would be required to post, it was obvious that there were gaps. For instance, with respect to suspensions, revocations and conditions on a certificate of registration, the public would reasonably want to know when the suspension, revocation or condition was put into effect and/or when it was lifted. We felt the public has a right to know some additional information, and so we drafted amendments to the By-laws that would close the gaps.

Another initiative affecting the information collected by the College is the Health Professions Database (HPD) being developed by the Ministry of Health and Long-Term Care. The Ministry is now requiring us to collect additional information that will assist them with their health human manpower planning. As a result, we had to amend our By-law to permit us to collect the information the Ministry is asking

for. Although the College is required to provide this information to the Government, I would like to assure you that safeguards have been put in place to anonymize the information such that it cannot be used to identify an individual optometrist.

It is also important to note that not all of the information that the College collects about its members is accessible to the public. The By-law amendments limit what information is and what is not accessible. Our members' home address and telephone numbers will not be included on the public Register. The College treats all personal information with strict confidentiality.

I would like to thank all of our members who took the time to provide their feedback during the circulation of the draft By-laws. Council approved the new By-laws at their meeting on April 2, 2009. If you have any questions about the new By-laws or how they affect you, please contact Valerie Browne, Director of Office and Membership Services at director@collegeoptom.on.ca.

Murray J. Turnour, O.D.

Welcome to our New Members

The College is pleased to welcome the following individuals who have become new members of the College from January 1 through May 1, 2009:

Name	Registration Number
Dr. Kevin Anderson	0917
Dr. Sivan Chong	0914
Dr. Richard Combden	0906
Dr. Hamid-Reza Dadvar	0908
Dr. Karen Feng	0916
Dr. Clara Hernandez Luna	0902
Dr. Patrick Ladage	0918
Dr. Steven Lee	0915
Dr. Vinod Lodhiya	0911
Dr. Michelle Markowitz	0913
Dr. Matthew Maruno	0919
Dr. Bitu Moeinifar	0907
Dr. Stephen Morris	0905
Dr. Ghassan Neema	0903
Dr. Ryan Quinn	0901
Dr. Wen Tang	0909
Dr. Hanaa Youssef	0910

Dispositions

The dispositions available to the ICRC are similar to those currently available to the Complaints Committee. A panel of the ICRC may:

- i) refer allegations of professional misconduct to the Discipline Committee;
- ii) refer a member to a panel of the ICRC for incapacity proceedings
- iii) require a member to appear before a panel of the ICRC to be cautioned; and/or
- iv) take action that is not inconsistent with the RHPA. This may include, for example, a written caution, warning or advice, or dismissing the complaint.

In addition, the ICRC may include in its decision the requirement for a member to complete a specified continuing education or remediation program related to the concerns raised in the complaint. These programs are intended to prevent concerns from becoming bigger problems.

The ICRC will send a copy of its decision and the reasons for its decision to both parties, including a notice of their right to request a review (appeal) before the Health Professions Appeal and Review Board. If an investigator's report or a mandatory report has been reviewed by the ICRC, a copy of the committee's decision and reasons for the decision will be sent to the member who is the subject of the report.

The ICRC processes are intended to further public protection through increased transparency with attention to ensuring reasonable timeframes for consideration and resolution of a matter. This will ensure that complaints and reports are dealt with in a timely fashion, with fairness to all parties involved.

OPR Update

Enclosed with this issue of the Bulletin are four revised Optometric Practice Reference (OPR) documents:

- 4.1 Clinical Equipment
- 4.2 Required Clinical Information
- 4.3 Delegation and Assignment
- 4.6 Ocular Urgencies and Emergencies

There are also three new OPR documents:

- 4.8 Collaboration and Shared Care
- 6.3 Refractive Assessment and Prescribing
- 6.4 Spectacle Therapy

An updated OPR Index is also included in the package. For those who prefer to use online reference materials, the OPR is available on the College website at www.collegeoptom.on.ca



College Annual Meeting

Members meet in Toronto

On April 3, 2009, more than 120 College members and other stakeholders attended our Annual Meeting at the Sheraton Centre in Toronto.

The meeting was called to order at 7:30 a.m. and Dr. Richard Kniaziew, the College President, began by introducing the Council members in attendance and presenting two departing Council members, Dr. David White and Ms. Nathalie Pardy, with a gift in appreciation of their many years of service to the College and the profession.

Dr. Kniaziew went on to review the many issues and initiatives dealt with by the College over the past year. He provided an update on the process for a TPA regulation to be approved by the Ministry, and labour mobility under the Agreement on Internal Trade that will be in effect as of August 1, 2009. He informed members that the draft Conflict of Interest Regulation had been approved by Council for submission to the Ministry pending a second legal opinion as to the appropriateness of the advertising provisions contained in the regulation. He also informed members that an updated Bylaw was passed by Council to ensure that information required by the *Health Systems Improvement Act* can be collected and added to the College's public register. Members will find more detailed information about each of these issues elsewhere in this issue of the Bulletin.

Following the meeting, the College sponsored a continuing education session open to all members of the College. The session was a review and update for members regarding how to write a prescription for therapeutic drugs.

The College would like to thank everyone who attended and we look forward to seeing you again next year!

Online Register and Web Updates

More information and improved access

The College's member register will soon be available online at www.collegeoptom.on.ca. Information about our members including practice address(es), registration status and referrals to the Discipline Committee (if applicable) will be available to the public. Private information, such as a member's home address, will not appear on the Register. As of June 4, 2009, the online publication of the Register is a requirement for all health regulatory colleges under the *Regulated Health Professions Act*, 1991. Making this information available online is designed to increase openness and accountability and assist the public by providing them with the information they need to make informed healthcare decisions.

Shortly after the Register goes online, we are looking forward to the launch of a fully redesigned College website. Information has been revised and updated. Our goal is to ensure that users are able to find the information they are looking for quickly and easily. We hope that the new website will become a 'go-to' resource for our members as well as members of the public.

Attention Non-practising and Non-resident Members: We need your practice address!

As of June 4, 2009, all members must provide the College with a practice address. This includes members who are not currently practising or residing in Ontario. Your practice address will be made publicly available on the College Register. Your practise address may be a post office box number. If you provide us with a practice address but wish to receive mail from the College at your home address, we are happy to comply and your home address will remain confidential. If, however, you provide the College with your home address as your practice address, it will be made available to the public on the College Register.

Attention members with an Optometry Professional Corporation: Be careful of the Corporation address you provide to the College!

As of June 4, 2009, information regarding Optometry Professional Corporations, including the corporation's address, will be publicly available on the College Register. Members are warned that if you are using your home address as your corporation address, your home address will be available to the public. For information about how to change your corporation address, please contact Ms. Sonya Kadarally at adminassist@collegeoptom.on.ca.

Health Professions Database

Better Information for Better Health

The College of Optometrists of Ontario, the Ontario government and 18 other health professional regulatory Colleges are working on a project to learn more about you. The expected result is improved healthcare for Ontarians.

The Ontario Ministry of Health and Long-Term Care is working with Colleges such as the College of Optometrists of Ontario to create the Health Professions Database. The Ministry and Colleges are collecting demographic, education and employment information from health professionals across the province. "We're building improved evidence so we can all make better decisions to promote the right supply and mix of health professionals," said Jeff Goodyear, director of the Health Human Resources Policy Branch for the Ministry of Health and Long-Term Care. "We're looking forward to learning more about health professionals and working with them so we all can help provide better patient care and access to care."

Regulatory Colleges, professional associations, government, researchers, post-secondary institutions and Local Health Integration Networks will all use the information from this database. They'll use it to shape research, policy and programs that will help build stronger healthcare teams. All of this will help toward offering you the best work environment possible so you can continue to serve the people you care for.

The Health Professions Database will be used to explore questions such as: Where do health professionals work? How many may retire over the next few years? How many work full-time and how many work part-time? What type of care do they provide?

The information for the Health Professions Database will come from professionals like you through registration renewal forms. So there will be more questions on the next form than previously.

"Some of the questions may seem simple, but they're important," says Goodyear. "We know you're providing the absolute best care possible for the people you serve. Now we all need to work on making the best healthcare system possible. And we need your help."

Complaint Summary

Review by the Health Professions Appeal and Review Board

Following the release of a decision by the Complaints Committee, both the complainant and the member have the right to appeal that decision to the Health Professions Appeal and Review Board (“the Board”). This is an independent appeal body established under the Regulated Health Professions Act. The Board is limited in its scope of review to a determination of the adequacy of the committee’s investigation and the reasonableness of its decision. The Board is provided with the record of investigation, which is all of the documents obtained by the College investigator, and holds a review in the matter. Both the complainant and the optometrist are encouraged to attend the review. In the following case, the complainant was dissatisfied with the Committee’s decision and requested a review by the Board.

Complaint

The complainant alleged that the optometrist had failed to diagnose glaucoma, even though he had been the optometrist’s patient for six years. At the time of the complaint, he had 75% peripheral field loss and was told by several doctors that glaucoma is easily detected. He lodged his complaint so the same thing would not happen to someone else.

The Optometrist’s Response

In his response to the complaint, the optometrist described when intraocular pressures are measured and the methods utilized to measure the pressure. He also described the conditions under which additional testing, including automated visual field testing, is performed. A referral is made to an ophthalmologist if the optometrist makes a diagnosis of glaucoma, glaucoma suspect or ocular hypertension.

The optometrist explained that no signs of glaucoma were evident in the complainant’s case at any time. Had there been any signs, the protocol would have been followed for additional testing and referral for further evaluation if indicated. If a patient tests borderline, then they would be followed closely as they may become positive at any time.

The Committee’s Review

The Committee reviewed the clinical record and noticed that the optometrist saw the complainant in 1999, 2001, 2003 and 2005. At each visit, the complainant’s intraocular pressure was measured using Goldmann tonometry and the optic nerve was observed and the results recorded. A review of the intraocular pressures on these visits found the readings within the normal range and showed no evidence at any time of a pattern of increasing intraocular pressure

measurements. In addition, no significant cupping of the optic nerve head was observed, suggesting that there was no apparent damage to the optic nerve.

The Committee reviewed the information sent to them by the ophthalmologists who were treating the complainant’s condition. It noted that the condition, which was diagnosed in March 2006, changed rapidly and dramatically between March 2006 and August 2006, almost a year after he last saw the optometrist.

The Committee’s Decision

The Committee concluded that the optometrist provided appropriate care each time he examined the patient and it found no clinical evidence to suggest glaucoma or the need for a referral to a specialist at any time when he examined the complainant. Accordingly, the Committee decided to take no further action in this matter.

The Board’s Review

In considering the adequacy of the investigation, the Board found nothing to suggest that the Committee’s investigation of the complaint was lacking in any respect and it had obtained all of the reasonable relevant information. Therefore, the Board found that the Committee’s investigation was adequate.

When considering the reasonableness of the decision, the Board does not decide if the Committee’s decision is correct or whether it would arrive at the same decision. Rather, it considers whether or not the Committee’s decision can be reasonably supported by the information that was before it and whether the reasons offered for the decision can withstand a somewhat probing examination. Upon reviewing the record of investigation and submissions of the parties, and taking into consideration the expertise of the Committee, the Board was of the view that the Committee’s findings were reasonable and supported by the information in the record.

It concluded that while the complainant felt that the optometrist should have diagnosed the glaucoma, the patient records indicated that the optometrist did conduct the necessary tests for glaucoma when he examined the complainant and that they did not reveal any evidence of glaucoma. The Committee’s conclusion that the optometrist provided appropriate care and its decision to take no further action was reasonable.

The Board’s Decision

The Board concluded that the Committee’s investigation was adequate and its decision reasonable. Accordingly, it confirmed the Committee’s decision to take no further action with respect to the complaint.

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