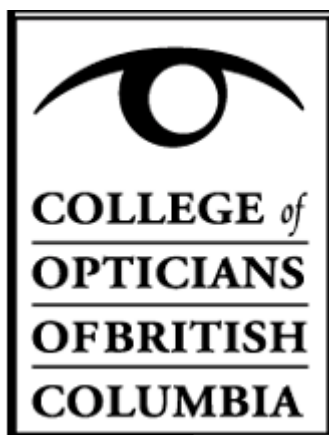


**Further Submission to the Ministry of Health
on the Proposed *Optometrists Regulation***

By



The College of Opticians of British Columbia
July 21, 2006

Introduction

The College of Opticians of British Columbia (the “COBC”) has previously provided to the Ministry of Health its submission of July, 2004 to the proposed *Optometrists Regulation* dated April 1, 2004 (“*Optometrists Regulation*”). This submission is supplemental and will not repeat the submission made there, which remains the position of the Board of the COBC.

In 2004, the Ministry circulated for comment drafts of the amended *Opticians Regulation* and the *Optometrists Regulation*. It is the view of the Board that the amended *Opticians Regulation* must proceed either in advance of the *Optometrists Regulation* or concurrent with it. If the *Optometrists Regulation* passes either in advance of the amended *Opticians Regulation* or in the absence of it the following adverse consequences are predictable:

- decreased public access to corrective eyewear resulting in:
 - increased costs
 - decreased health
 - decreased public safety
- decreased safety as untrained persons perform services
- increased health costs to the Province

The definition of “dispense” in the *Optometrists Regulation* includes, “prepare, fabricate, alter or sell.” This definition, combined with the definition of “prescribe” and the language of s.33(b) of the *Optometrists Act*, has the effect of importing into the definition of “Practice of Optometry” the preparation, fabrication, alteration and the selling of eyeglasses and contact lenses. While optometrists are, under the current legislative scheme, able to alter and sell eyewear, the draft regulation codifies the preparation and fabrication as part of the practice of optometry.

1. Vertical integration decreases public access to corrective eyewear

This expansion of the definition of the practice of Optometry into the laboratory and manufacturing areas invites a vertical integration of services and products relating to eye health which has the real potential for reducing access of British Columbians to products and services. Fewer choices and less competition tend inevitably to result in higher prices. To many British Columbians, higher prices will mean they will go without corrective

eyewear because they simply cannot afford it. This would adversely impact general health and productivity, and could also create unsafe conditions in the workplace and on the roads.

The invitation to create a monopoly on the provision of eyewear and the attendant increased costs to the Province is exacerbated by the absence of any requirement in the *Optometrists Regulation* or bylaws to require that optometrists provide patients access to their own prescriptions and criteria for limiting anti-competitive disclaimers on prescriptions. Although the British Columbia Health Professions Council has recommended that anti-competitive disclaimers be prohibited and prescription release mandatory, optometry has not acted on these recommendations. It is therefore incumbent upon the government to act on these recommendations in order to protect the public interest. Patients who cannot easily get a copy of their prescription have no choice but to return to the prescribing optometrist, even where optometric services are not necessary. For example, an elderly person who misplaces glasses or needs only an adjustment and does not have access to the prescription will incur the cost to the Province of an unnecessary visit to the optometrist. Mandatory prescription release should be a term of either the *Optometrists Regulation* or the draft bylaws.

2. Decreased safety as untrained "authorized" persons perform services.

Pursuant to the *Optometrists Regulation* services presently provided by opticians can be provided by entirely untrained persons as long as they are “authorized,” as opposed to supervised, by an optometrist to perform those functions.

These “authorized” persons are not subject to any regulation. Unlike opticians, these “authorized” persons are not required to take any specialized training or to participate in mandatory continuing education. While they can perform all of the dispensing functions of an optician they are not subject to regulatory scrutiny. Importantly, they are not subject under the *Optometrists Regulation* to any mandatory supervision by the Optometrist. British Columbians are not well served by untrained, unregulated and unsupervised persons providing health support services.

3. Increased Health Costs to the Province

British Columbians aged 19 to 64 are no longer eligible for MSP coverage for non-medical visits to an optometrist. Those with MSP coverage are frequently faced with substantial additional billing. These factors deter many British Columbians from obtaining attention in relation to corrective eyewear.

It can be predicted that if the *Optometrists Regulation* proceeds and the revised *Optician Regulation* is either delayed or abandoned, the result will be increased health care costs. Those persons covered by MSP who otherwise would go to an optician for replacement or eyewear adjustment may ultimately find that they are forced to go to an optometrist because there simply is not an optician available. This would be especially so in rural areas of the Province where optometrists' vertical integration results in monopolistic behaviour.

Conclusion

The most effective way to eliminate the multiple risks to the public interest described above is for the BC Government to ensure that the *Opticians Regulation* is amended in advance of or concurrent with the *Optometrists Regulation* and that the following specific issues are added to the *Optometrists Regulation*:

- The required supervision of persons “authorized” under the definition of “prescribe”;
- Mandatory provision of prescription release to patients; and
- A prohibition on anti-competitive disclaimers on prescriptions.

By enacting the *Opticians Regulations* and enshrining terms requiring supervision of untrained persons and mandatory provision of prescriptions, the ocular health and safety of British Columbians will be protected and increased costs to the BC Government will be avoided.

Given these multiple risks to the public interest, the COBC urges the BC Government to ensure:

- the *Optometrists Regulation* and by-laws are not passed until the *Opticians Regulation* is amended; and
- that the contents of the new *Optometrists Regulation* and by-laws take into account public health, safety, and access to services.