

SIGNIFICANT DEVELOPMENTS - PROPOSED 'SIGHT TESTING' BY OPTICIANS IN BRITISH COLUMBIA

2001 - Judge W. Oppal's decision (COBC vs. Moss) that, although opticians could (as could any layperson -not exclusively opticians) perform the technical task of the automated refraction, the purpose of this procedure was only as a data gathering function for informing a 'prescriber' – a physician or optometrist-, who would analyze that information contemporaneously with other data and then issue and be responsible for the optical prescription. BC optician's regulations specifically state that 'no registrant may conduct eye examinations or refractions'.

June, 2002 – the Canadian Medical Protection Association which provides professional liability insurance for medical practitioners stated it would not insure damages arising from remote refractions. This lack of protection poses a significant liability risk to the public and the practitioner.

March, 2003 – The College of Physicians and Surgeons of BC issues a policy "Provision of Prescriptions for Ocular Refraction by Physicians in British Columbia" which prohibits physicians from prescribing based on the results of autorefraction alone, without concurrent assessment of other aspects of ocular health by an eye doctor.

2004 - the BCAO challenged government statements concerning alleged 'studies' demonstrating the public safety of sight testing. A subsequent FOI search of all relative government documents proved there was no evidence supporting the safety of independent sight testing.

April 19, 2004 – the College of Physicians and Surgeons of BC (CPSBC) advises the Ministry of Health Services of its review of sight testing by opticians. The College confirms a new policy BCCPS guidelines prohibit the delegation of remote sight testing and prescribing on the basis of this one test, in isolation.

June 29, 2004 - Broad liability considerations were summarized in a comprehensive legal opinion provided to CAO by a legal expert.

August, 2004 - the BC College of Physicians and Surgeons (BCCPS) refused, in principle, to participate in a meeting with government to discuss the drafting of regulations concerning independent sight testing. The BCCPS was concerned about the Ministry's view that the regulation should proceed despite the opposition from Medicine and Optometry. Optometric representatives at that meeting agreed and similarly refused to participate in that meeting. Nevertheless, the meeting was considered to be 'consultation' by the Ministry.

March 23, 2006 - CAO received a letter from the Medical Devices division of Health Products and Food Branch of Health Canada stating that the Eyelogic system (used by BC opticians) was deemed to be a Class II medical device. This classification

requires Eyelogic to obtain licensure to sell to qualified prescribers as well as clearly explaining the manner of usage for this instrument. Appropriate steps should be taken to ensure that Eyelogic equipment is properly licensed in BC.

April 26, 2006 - CAO sent a letter to A/Director, Professional Regulation Minister, Daryl Becket expressing our concerns about the impropriety of creating advertising bylaws for a procedure (refraction) that was not even included (rather, specifically prohibited) in the opticians scope of practice. We therefore continue to believe that this bylaw proposal lacks legal standing and that the process should have involved meaningful stakeholder input with final approval by the BC Lieutenant Governor in Council. CAO is of the view that a delegated act be more appropriately included in the prescriber's guidelines rather than creating a reverse situation of 'assistants' or opticians dictating to the prescriber what the parameters and tolerances for this delegated activity should be.

May 19 2006 - the Health Professions Regulatory Advisory Council (HPRAC – Ontario) recommended that 'qualified opticians should be authorized to conduct refraction tests in those circumstances where such refracting is undertaken in collaboration with an optometrist or physician for the purpose of informing a comprehensive ocular assessment'. This independent arms length advisory council deliberated for over one year and reviewed 28 stakeholder submissions, conducted fourteen interviews, and reviewed literature from several jurisdictions. This report provides significant detail concerning its study and the rationale for its recommendations and should not be ignored without significant justification. In all other provinces and the United States, independent sight testing by opticians is prohibited and proposals to increase scope of practice have been rejected in the public interest.

Additional References:

1. Website of the British Columbia of Optometrists: www.optometrists.bc.ca
2. Website of the Canadian Association of Optometrists:
http://www.opto.ca/en/bc_cd/