



January 16, 2008

Dear Murray,

I am writing on behalf of the College of Opticians of Ontario to make you aware of our very grave concerns about the letter sent on or about January 4, 2008 to registrants of your College entitled "Business Relationship with a Registered Optician". The letter calls your registrants' attention to the regulation that prohibits them from practising "in association, partnership or otherwise with or while employing or under the employment" of a registered optician. The full text of the letter is attached.

It is indeed regrettable that the College of Optometrists chose to issue such a letter without any consultation with this College, either before or after. Obviously, the letter could be expected to have, and is in fact having, a major impact on many of our registrants. Some prior consultation, even simple notification, would seem to have been called for, even if only as a courtesy. As it is, this College has been left in an entirely reactive position in responding to our registrants' requests for information and advice after the fact.

We find the timing of the correspondence both remarkable and disappointing from three perspectives. Firstly, the regulation in question has been in place for many years, but has never before been the subject of such a notice, at least to our knowledge. What is the event or circumstance that compels the College of Optometrists to issue such a warning at this time? Secondly, the College of Optometrists has promised for some time to liberalize the restrictions in the regulation and has consulted with this College on the changes to be made. Lastly, the Competition Bureau's Study on the Professions (including optometry) released December 11, 2007 was critical of the restrictions relating to business structure that optometry regulatory bodies characteristically apply to the profession, including prohibitions against optometrists having business relationships with other professionals. The Bureau recommended *inter alia* that:

*"Colleges of optometry should remove restrictions that prohibit or discourage optometrists from working in multidisciplinary arrangements with opticians."*

While we fully recognize every College's duty and ability to enforce the legislation that is in place, we would have thought that these circumstances would have suggested, if not required, a reasonable measure of accommodation or regulatory forbearance. Instead, your College appears intent on aggressively enforcing the letter and intent of a regulation, despite a general consensus that it is outdated, excessively restrictive, anticompetitive, contrary to Ministry guidelines and, as such, in need of major amendment.

As it is, this College is now facing the prospect of a substantial number of opticians giving up their registration with this College in order to continue their current business arrangements with registered optometrists. Indeed a number of opticians have already taken this course of action as a result of your letter. This is clearly contrary to the spirit and intent of the *Regulated Health Professions Act* and makes it more difficult for this College to regulate the profession in the public interest.

We cannot undo the very serious damage that has been done by this letter. What we urge you and the Ministry to do without further delay is to obtain Cabinet approval for the necessary amendments to the regulation.

Furthermore and because of the clear anticompetitive nature of the regulation and the letter, we are also bringing this matter to the attention of the Competition Bureau for whatever action the Bureau deems fit.

Best Regards,

A handwritten signature in black ink, appearing to read 'Maclsaac-Power', written in a cursive style.

Caroline Maclsaac-Power  
Registrar

- c Hon George Smitherman, MPP, Deputy Premier and Minister of Health and Long-Term Care  
Sheridan Scott, Commissioner, Bureau of Competition Policy  
Marilyn Wang, Acting Director-Health Professions Regulatory Policy and Programs Branch  
Barbara Sullivan, Chair, Health Professions Regulatory Advisory Council  
Council of the College of Opticians of Ontario