On March 19th, 2010 the Ministry of Health Services of British Columbia announced changes to the regulations that govern the delivery of eyewear in the province. The government has proposed changes to the opticianry and optometry regulations that it claims will modernize the sale of eyewear and give British Columbians more choice. The changes will come into effect on May 1, 2010.

This article will be of interest to health care regulators and associations across the country as the new regulations are indicative of how governments are attempting to balance patient safety with patient choice.

This bulletin is intended to be a high-level overview of key elements of the proposed regulations. It is not intended to be a complete summary of the proposed regulations. We invite readers to contact the authors for more information.

Currently the dispensing of prescription eyeglasses and contact lenses is a restricted activity in British Columbia that can only be performed by optometrists and opticians. Optometrists are health professionals who perform ocular-visual assessments, diagnose refractive error and dispense eyeglasses and contact lenses. Opticians are health professionals who interpret prescriptions prepared by optometrists and ophthalmologists and dispense eyeglasses and contact lenses. The proposed regulations remove the restrictions on who may dispense eyeglasses and replacement contact lenses.

According to the British Columbia Ministry of Health Services, the amendments to the regulations were developed after lengthy consultation and in response to the recent decision by the British Columbia Court of Appeal in College of Opticians of British Columbia v. Coastal Contacts Inc. 2008 BCSC 617.

### Dispensing of Eyewear

Coastal Contacts Inc. ("Coastal Contacts") is an internet retailer of eyeglasses and contact lenses. In 2008 the College of Opticians of British Columbia (the "COBC"), the regulatory body for opticians in British Columbia, sought an injunction to prevent Coastal Contacts from selling prescription contact lenses online, claiming the sale violated the regulations. The COBC asserted that the governing legislation prohibited the sale of prescription contact lenses by non-licensed individuals. The BC Supreme Court found that the regulations permitted an unregistered person to dispense replacement contact lenses as long as the dispensing was supervised by an optician and the unregistered person did not fit the contact lenses. The COBC appealed the decision.

The Court of Appeal found that Coastal Contacts was in violation of the regulations because the system in place by Coastal Contacts could not ensure that their activities were confined to refilling prescriptions. The Court of Appeal granted the injunction but suspended its operation to May 1, 2010, allowing time for Coastal Contacts to seek legislative change to accommodate their business model, the objectives of which the Court considered consistent with the objectives of the regulation.

### The New Regulations

Under the new regulations, only the initial fitting and dispensing of contact lenses will have to be performed by an optician, an optometrist, or an ophthalmologist (medical doctor) using information contained in the prescription or sight-test assessment. The new regulations will permit anyone, including internet suppliers, to sell eyeglasses or replacement contact lenses. In order to ensure patients can easily order their eyeglasses or contact lenses through any source, the regulations require optometrists and opticians to provide their patients with a copy of the patient record, including all the fitting and lens specifications, regardless of whether the patient requests it. A copy must also be given to a third party eyewear seller or other person if requested by the patient. The measurement of the distance between the pupils, which is required for the proper fitting of eyeglasses, must be included in a prescription or sight-test assessment.

Patients will now be able to order eyeglasses or contact lenses online without having to give the seller a copy of their prescription, sight-test assessment or contact lens specifications.
Scope of Practice

Optometrists and ophthalmologists will no longer be the only professionals entitled to perform refractions. The scope of practice of opticianry has been expanded to include refraction or “sight-testing”. Previously opticians in British Columbia could perform sight-tests but were required to have the results approved by a physician. The amended regulation will permit opticians, who have completed a certification program, to perform sight-tests using an automated refraction suite on healthy individuals between the ages of 19 and 65 and dispense eyewear based on the results of the sight-test. A screening process will be put in place to ensure a patient is healthy enough to be eligible for the sight-test and is fully informed about the difference between a sight-test and an eye health exam. Patients who do not pass the screening process will be referred to an optometrist or an ophthalmologist for follow up.

The change in the scope of practice for opticians should not impact labour mobility provisions under the optician’s Mutual Recognition Agreement. British Columbia opticians should still be able to move to other provinces, as they can now, because the proposed regulations will not change the education and examination standards currently in place. The fact that the restrictions on the dispensing of eyeglasses and replacement contact lenses have been removed does not affect their status as opticians or registration requirements. Opticians from other provinces will still be able to obtain registration as an optician in British Columbia, however in order to perform refractions they will likely need to obtain the same education and certification in refraction as required under the proposed regulations for British Columbia opticians. The mobility of optometrists will not be affected as their scope of practice has not changed.

Despite the changes to the restricted activities the titles “optician” and “optometrist” remain protected titles meaning only individuals registered with the College of Opticians or the College of Optometrists will be able to hold themselves out as opticians or optometrists.

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