

## Records: Optometrists and Opticians Working Together

### Purpose

The College of Optometrists of Ontario and the College of Opticians of Ontario have developed this joint document to assist optometrists and opticians who work together. It explains the record keeping and record transfer obligations of each professional.

### Record Keeping

An **optometrist** engaged in the practice of optometry in an optical store or with an optician or with a corporation, must do so as an independent contractor, which means that he or she is self-employed. Ontario Regulation 119/94 requires that an independent contractor optometrist must have a **written agreement** with the optical store, optician or corporation that states that the optometrist is the Health Information Custodian<sup>1</sup> and must control the maintenance, custody, and access to optometric patient records.<sup>2</sup>

An **optician** is required to produce opticianry patient records that must be maintained separately from optometric records.<sup>3</sup> Either the optician or the optometrist may be the Health Information Custodian of opticianry patient records. This is true both where the optician is an independent contractor and where the optician is an employee. Practitioners are strongly encouraged to enter into a **written agreement** about the custody of opticianry records. An agreement should state that the optician is able to access the opticianry records for regulatory purposes, including complaints and quality assurance. A written agreement regarding custody is also recommended where more than two practitioners work together in a joint practice.

### When an Optometrist Leaves a Practice

When an optometrist closes his/her office or retires from practice, he/she must make arrangements to transfer a patient's records to,

- the patient;
- another optometrist, if the patient so requests; or
- another optometrist, with notice to the patient that his/her optometric patient records have been transferred to that optometrist<sup>4</sup>

Accordingly, when the agreement between an optometrist working as an independent contractor with an optician, optical store or corporation, is terminated, it is as if he/she closed an office. The optometrist cannot abandon the patient health records, nor leave them with the optical

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<sup>1</sup> A Health Information Custodian is responsible for collecting, using and disclosing personal health information on behalf of patients. The [Personal Health Information Protection Act, 2004](#), S.O. 2004, c.3, Sched. A. sets out the rules for the collection, use and disclosure of health information and the responsibilities of the Health Information Custodian. Visit the website of the Office of the Information and Privacy Commissioner of Ontario to learn more: <http://www.ipc.on.ca>.

<sup>2</sup> O. Reg. 119/94 Part II Conflict of Interest paragraph 4. (5)(e) under the *Optometry Act*.

<sup>3</sup> See College of Opticians [Standards of Practice](#), Standard 3

<sup>4</sup> O. Reg. 119/94 Part I Professional Misconduct paragraph 27 under the *Optometry Act*.

store, optician or corporation. The independent contractor optometrist must do one of the following:

- relocate his/her optometric patient records to another practice location, under his/her continued custodianship and with notice to patients of the new location of their records; or
- transfer optometric patient records to another optometrist, with notice to patients of the transfer<sup>5</sup>.

When an optometrist either relocates his/her patient records to another practice location under his/her continued custodianship or transfers patient records to another optometrist at the same or a different practice location, the optometrist must provide notice to patients of the location and identity of the ongoing optometrist custodian of their records.

### **When an Optician Leaves a Practice**

When an independent contractor optician closes his/her office or retires from practice, he/she must make arrangements to transfer a patient's records to:

- the patient;
- another optician, optometrist, medical doctor, or other person or entity that is a health information custodian, if the patient so requests or with notice to the patient; or
- the Archives of Ontario (or other archives, in certain circumstances).

The optician must make reasonable efforts to give notice to the patient before transferring the records to another health information custodian. If that is not reasonably possible, the optician must give notice as soon as possible after transferring the records.<sup>6</sup>

### **Cooperation Between Practitioners**

Optometrists and Opticians who work together must cooperate to ensure that both are able to meet their regulatory responsibilities.

Interference by an optometrist or optician with another practitioner's record keeping duties may result in a finding of professional misconduct.

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<sup>5</sup> [Optometric Practice Reference](#) 5.1 The Patient Record under Professional Standards

<sup>6</sup> *Personal Health Information Protection Act, 2004*, section 42