



## Optometrists and Dispensing Opticians Board

Te Poari o ngā Kaimātai Whatu me ngā Kaiwhakarato Mōhiti

# CONSULTATION – PROPOSAL TO IMPOSE DISCIPLINE LEVY FOR DISPENSING OPTICIANS

**Released: 31 October 2016**

**Submissions Due: 9 December 2016**

## Introduction

- 1 The Optometrists and Dispensing Opticians Board (the Board) is charged under the Health Practitioners Competence Assurance Act 2003 (the HPCA Act) with ensuring that optometrists and dispensing opticians are competent and fit to practise when they apply for registration and on an ongoing basis. Section 130 of the HPCA Act authorises the Board to prescribe fees in relation to its functions, which are:
  - (a) to prescribe the qualifications required for scopes of practice within the profession, and, for that purpose, to accredit and monitor educational institutions and degrees, courses of studies, or programmes:
  - (b) to authorise the registration of health practitioners under this Act, and to maintain registers:
  - (c) to consider applications for annual practising certificates:
  - (d) to review and promote the competence of health practitioners:
  - (e) to recognise, accredit, and set programmes to ensure the ongoing competence of health practitioners:
  - (f) to receive and act on information from health practitioners, employers, and the Health and Disability Commissioner about the competence of health practitioners:
  - (g) to notify employers, the Accident Compensation Corporation, the Director-General of Health, and the Health and Disability Commissioner that the practice of a health practitioner may pose a risk of harm to the public:
  - (h) to consider the cases of health practitioners who may be unable to perform the functions required for the practice of the profession:
  - (i) to set standards of clinical competence, cultural competence, and ethical conduct to be observed by health practitioners of the profession:

- (j) to liaise with other authorities appointed under this Act about matters of common interest:
- (k) to promote education and training in the profession:
- (l) to promote public awareness of the responsibilities of the authority:
- (m) to exercise and perform any other functions, powers, and duties that are conferred or imposed on it by or under this Act or any other enactment.

- 2 Money received from fees is the primary source of income to allow the Board to meet costs associated with its statutory obligations as outlined above. Costs comprise:
  - Direct costs which can be allocated to a single fee item. This may include staff and Board committee time, costs of materials and costs of external services spent specifically on a relevant matter;
  - Indirect costs which include all secretariat administration expenses and staff general administration time which cannot be charged to specific fee activities, such as insurance, accounting services, printing and stationery, Board time spent on general business, and consultations etc.
- 3 The Board is mindful of the impact a new fee or fee increase may have on practitioners and makes every effort to balance fulfilling its statutory responsibilities against such impacts.
- 4 Each year the Board needs to consider whether the fees it has set remain appropriate and sufficient. The main purpose of the review this year was to consider:
  - the status of the Board's general and discipline reserves; and
  - whether sufficient analysis had yet been performed to begin apportioning practitioner fees based on the average time spent regulating the two professions instead of on a per-practising-practitioner basis.
- 5 In order to consider this, the Board reviewed its current financial position, the level of its general and disciplinary financial reserves, expenditure on discipline cases in the last 12 months, and the results of almost three years' worth of analysis of staff activity for the two professions.

## **Reserve levels**

- 6 As at 31 March 2016, the Board had retained earnings totalling \$510,095. This was confirmed by the Board's Auditor at the conclusion of the Board's annual audit. When broken down between general and discipline reserves, the reserves are as follows:

General reserves as at 31 March 2016	\$420,736
Discipline reserves as at 31 March 2016	<u>\$ 89,359</u>
	\$510,095

7 The Board's *Policy on Financial Reserves* currently indicates that the Board will maintain, as far as possible, a general reserve balance of 3 months operating budget or \$150,000, whichever is the lesser. In addition, it stipulates that the Board will maintain a separate reserve of at least \$82,500 available to cover disciplinary cases while waiting for the proceeds of a disciplinary levy to be recovered from registrants. This reserve level is intended to cover three Professional Conduct Committee (PCC) cases (2 for optometrists and one for dispensing opticians) at an average of \$7,500 per case, and two Health Practitioners Disciplinary Tribunal (Tribunal) cases (one for each profession) at an average of \$30,000 per case.

**Discipline reserves**

8 Taking into account discipline costs incurred for the current year to date, discipline reserves are currently sitting at \$68,745.00 (\$20,815 DO & \$47,930 Optom). Based on the Board's above mentioned reserves policy levels, this leaves a small surplus in levy reserves for optometrists of \$2,930.00 and a significant deficit in levy reserves for dispensing opticians of \$16,685.00.

9 There have been three cases referred to PCCs for dispensing opticians in the last 12 months, including one which resulted in a charge being laid against a dispensing optician before the Tribunal which is undergoing completion now. The Board anticipates that there are further costs to be incurred in relation to this case of at least \$3,000.00. The Board has therefore determined that it will be necessary to charge a disciplinary levy of dispensing opticians for the 2017/18 practising/financial year to help replenish reserve levels. However, so that this levy is not unduly burdensome, the Board plans to recoup discipline reserves for dispensing opticians over a three-year period. This will equate to \$19,685.00 / 178 practising dispensing opticians (\$110.59). Across three years, this equates to approximately \$37 per year per practitioner assuming the number of practising dispensing opticians remains the same.

10 There have been no cases referred to PCCs for optometrists in the current practising year and discipline reserves remain at the above mentioned level noted under point 7. The Board therefore does not deem it necessary to charge a discipline levy of optometrists for the 2017/18 practising/financial year.

**General reserves**

11 The general reserve level is much greater at present than the \$150,000 stipulated in the Board's *Policy on Financial Reserves* due to a concerted effort by the Board to reduce its overall

expenses as well as to explore opportunities to achieve greater efficiency, for example, by co-locating with nine other regulatory authorities during 2016 and implementing a shared back-office services arrangement. It will take at least 12 months, or possibly more, to realise the true benefits of these new initiatives, both financial and non-financial. Furthermore, there are tasks currently being undertaken or due to be undertaken by the Board for which a proportion of the reserves will be required. Of note, the Board has not yet implemented electronic filing of practitioner records which had been planned for 2016, nor has it concluded its time analysis study determining the relative proportions of staff time spent between the two professions. This is underway and is due to finish on 31 March 2017. For these reasons, together with the Board's overall commitment to maximise stability in practitioner fees from year to year, the Board does not propose to make any changes to APC fees for either profession for the 2017/18 practising/financial year.

## **Time analysis and practising practitioner numbers**

- 12 As most practitioners and stakeholders will be aware, Board staff commenced an analysis of time spent between the two professions in 2013 in an attempt to ensure that neither profession is cross-subsidising the other. To date, non-profession-specific costs have been apportioned on a per-practising-practitioner percentage basis. For the last few years this has translated to roughly a 77% optometry and 23% optical dispensing split, although last year this worked out to be 80% optometry, 20% optical dispensing due to a decrease in practising dispensing opticians. Unfortunately, due to the unexpected departure of two staff members in 2014 and a period where the Board's office operated with just one staff member, this time analysis was disrupted and it was not feasible to use the data from 2014.
- 13 This has left the Board with data from a little over two and a half years so far and the Board does not believe that sufficient analysis has yet been performed to begin apportioning practitioner fees based on the average time spent regulating the two professions instead of on a per-practising-practitioner basis. The Board therefore intends to continue this analysis for a further period to 31 March 2017 before conducting another review of fee levels for the two professions. In the meantime, fees will continue to be calculated based on a per-practising-practitioner percentage basis.
- 14 The reasons for this decision are as follows:

- The analysis to date was not conducted over consecutive years and both 2013 and 2015 were end-of-recertification-cycle years for dispensing opticians, which would likely have a detrimental impact on the analysis results for the Dispensing Optician profession at this point in time. By 31 March 2017 an end-of-recertification-cycle for optometrists will have transpired and the results of this year will give the Board a truer reflection of the time involved in regulating the two professions
- The analysis does not take into account the time spent on either profession by the Board’s newly-appointed Professional Standards Advisor, who hadn’t been appointed at the time the analysis commenced, and the Board feels additional analysis of her time would add to the veracity of the results
- The Board believes the analysis would benefit from inclusion of analysis of time spent considering cases for either profession by the Professional Standards Committee as well as the Board’s two CPD Accreditation Committees, which may contribute significantly to the overall time spent by the Board on either profession.

## Proposal for 2017/18

15 Based on discussions above, it is proposed that APC fees remain the same for 2017/18, but that a small disciplinary levy be added for dispensing opticians. The following fee structure is proposed for the 2017/18 practising year:

<b>Profession:</b>	<b>APC Fee Excl. GST:</b>	<b>APC Fee Incl. GST:</b>
<b>Optometrist Full Year</b>	<b>\$656</b>	<b>\$754</b>
Optometrist Part Year <sup>1</sup>	\$437	\$503
<b>Dispensing Optician Full Year, incl. \$37 discipline levy</b>	<b>\$650</b>	<b>\$747</b>
Dispensing Optician Part Year, incl. \$25 discipline levy	\$434	\$499

## Unchanged fees

<sup>1</sup> Part year fee – a reduced ‘part-year’ APC fee is charged between 30 September and 31 March for the two professions. This fee is set at 2/3 of the full year fee.

- 16 The Board does not propose to make any changes to the following existing fees (inclusive of GST):

<i>Fees payable</i>	
All optometrists scopes - Application for an annual or interim practising certificate	\$754.00
All optometrist scopes - Application for an annual or interim practising certificate, where the application is received by the Board after 30 September in the APC year to which the application relates (includes new graduates)	\$503.00
Application for an annual or interim practising certificate - for practitioners on the Registers of Optometrists or Dispensing Opticians holding a practising certificate in the year 1 April to 31 March who apply for a certificate for the following year after the expiration of their current practising certificate (after 31 March) and who are still practising after 31 March ( <i>in addition to APC fee</i> ).	\$240.00
Application for registration from an applicant who holds a prescribed qualification, including TTMR applications and qualifications that have been accepted by the Board under section 15(2) of the Health Practitioners Competence Assurance Act	\$379.00
Application for registration – where the practitioner is a New Zealand or Australian trained graduate registering in their first year of practice since graduating.	\$265.00
Assessment of a qualification under section 15(2) of the Health Practitioners Competence Assurance Act	\$960.00
Maintenance of registration and communication for non-practising practitioners	\$100.00
Maintenance of registration and communication, and recording of continuing professional development credits, for non-practising practitioners	\$306.00
Application for change in scope of practice, where the application is received by the Board within one year of the date the relevant qualification was conferred.	\$153.00
Application for change in scope of practice, where the application is received by the Board more than one year after the date the relevant qualification was conferred.	\$368.00
Supervision session required by the Board	\$115.00
Certificate of Registration	\$30.00
Letter confirming authority to practise	\$30.00
Restoration of name to Register	\$100.00
Certificate of Good Standing	\$30.00
Copy of Register	\$30.00

Application for assessment by the CPD accreditation committee of an individual CPD dossier	\$204.00
Hourly fee for application for assessment of accreditation of online CPD activity	\$75.00
Hourly fee for application for assessment of accreditation of CPD where the activity is not open to all registrants	\$75.00

## Summary

- 17 The Board has provided details above of the proposed disciplinary levy for dispensing opticians for the 2017/18 practising year and the plan to recoup discipline reserves over a three-year period. The Board invites practitioners and stakeholders to provide submissions on this proposal. Attached as **Appendix 1** is a complete schedule of all fees proposed for the year commencing 1 April 2017, including GST.
- 18 A copy of the Board's Annual Report and financial statements for the year ending 31 March 2016 is available on the Board's website located at [www.odob.health.nz](http://www.odob.health.nz) under 'Publications and resources'.

## How to have your say

- 19 Your views on the proposal are welcome. If you wish to make submissions, please provide them in writing **by 9 December 2016**. The Board does not guarantee that submissions received at the Board's offices after this date will be considered as the Board will be on a tight deadline to consider feedback and make a decision in order to publish changes in the New Zealand Gazette early in the New Year.

### Submissions can be sent to:

The Registrar  
 Optometrists and Dispensing Opticians Board  
 PO Box 9644  
 Wellington 6141

Email: [Lindsey.Pine@odob.health.nz](mailto:Lindsey.Pine@odob.health.nz)

## Appendix 1

### Fee Schedule

<i>Fees payable</i>	
Dispensing optician - Application for an annual or interim practising certificate, including a disciplinary levy of \$37.00	\$747.00
All optometrists scopes - Application for an annual or interim practising certificate	\$754.00
Dispensing optician - Application for an annual or interim practising certificate, where the application is received by the Board after 30 September in the APC year to which the application relates, including a disciplinary levy of \$25.00 (includes new graduates)	\$499.00
All optometrist scopes - Application for an annual or interim practising certificate, where the application is received by the Board after 30 September in the APC year to which the application relates (includes new graduates)	\$503.00
Application for an annual or interim practising certificate - for practitioners on the Registers of Optometrists or Dispensing Opticians holding a practising certificate in the year 1 April to 31 March who apply for a certificate for the following year after the expiration of their current practising certificate (after 31 March) and who are still practising after 31 March ( <i>in addition to APC fee</i> ).	\$240.00
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