

CONSULTATION – REVISED STANDARDS OF ETHICAL CONDUCT FOR OPTOMETRISTS AND DISPENSING OPTICIANS

Released: 26 June 2020. Updated 3 July 2020

Submissions Due: 7 August 2020

Introduction

- 1 The principal purpose of the Health Practitioners Competence Assurance Act 2003 (the Act) is to protect public health and safety by ensuring that health practitioners are fit and competent to practise their professions. In accordance with this, one of the functions of the Optometrists and Dispensing Opticians Board (the Board), under section 118(i) of the Act, is to set the standards of clinical and cultural competence and ethical conduct to be observed by Optometrists and Dispensing Opticians in practising their professions competently.
- 2 The standards set by the Board are the *minimum* standards that the public and professions expect an Optometrist or Dispensing Optician to meet and are developed in consultation with these groups as well as other relevant stakeholders. They should be used by practitioners to monitor and reflect on their conduct and that of their colleagues, and by the public, as a guide for assessing the *minimum* ethical standard to expect of their practitioner and when there may have been a departure from these. They may also be relied upon in other contexts such as employment disputes, Court or disciplinary proceedings as a measure by which an Optometrist or Dispensing Optician can be held to.

Background

- 3 The Board's current standards of ethical conduct for the two professions were confirmed in 2011 for Dispensing Opticians and 2012 for Optometrists, and are therefore, well overdue for review. The current standards can be found under **Appendix 1a and 1b** below and are also available on the Board's website located at www.odob.health.nz.
- 4 In reviewing the ethical standards, the Board took a slightly different approach than it would usually take to review a Board standard, statement or policy. Typically, the Board would form a working party of Board members and co-opted members of the profession and/or professional associations and ask the working party to review the document and provide recommendations on suggested changes to the Board for consideration. These would then be considered, potentially slightly modified, and then be used to consult with practitioners and stakeholders before final decisions are made on changes to the document. On this occasion, the Board wanted to put a different lens on the review, specifically in terms of consumer expectations, and

therefore, the Board commissioned former Health and Disability Commissioner, Professor Ron Paterson, to review the standards and recommend revisions to the Board.

- 5 Attached as **Appendix 2** below is a discussion document that Professor Paterson prepared to accompany his review of the standards. This sets out the comprehensive process he followed as well as his critique of the current standards. Professor Paterson submitted draft revised standards (one set for the two professions), to the Board for consideration. These were considered and endorsed by the Board with minor additions to the opening statements in the document and can be viewed below under **Appendix 3**, the revised standards.

Summary

- 6 The Board proposes to replace the two current standards of ethical conduct in place for optometrists and dispensing opticians with the revised standards detailed in **Appendix 3** below. Stakeholders are now invited to provide submissions on the proposed new standards.

How to have your say

- 7 If you wish to make a submission, please provide this in writing **by 5.00 pm on 7 August 2020**. The Board does not guarantee that submissions received at the Board's offices after that date will be considered.

Submissions can be sent to:

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

Email: antony.mcfelin@odob.health.nz



ETHICAL STANDARDS FOR OPTOMETRISTS

Purpose

These ethical standards:

- Reflect the integrity of the profession of optometry;
- Reinforce the principles on which optometrists make ethical decisions;
- Assist optometrists to adopt legitimate and professionally acceptable behaviour in their practices;
- Enable people outside the profession of optometry to evaluate optometrist behaviour within their scope of practice.

These ethical standards have been developed in conjunction with the NZAO; however, it should be noted that the Board is a regulatory authority, not a professional association, and the Board's jurisdiction in considering ethical concerns raised about individual optometrists will be primarily focused on whether that optometrist's conduct or behaviour presents a risk to public health and safety.

Please note: The ethical standards listed below offer guidance only and are not exhaustive as the ambit of human behaviour is unlimited. A breach of these standards may or may not amount to professional misconduct or other conduct deserving of disciplinary action.

Other Obligations

As well as observing these Ethical Standards, each practitioner must also comply with all relevant laws and regulations which govern the practice of optometry in the New Zealand.

Ethical Standards for Optometrists

Responsibilities to the patient

Optometrists shall

1. Always respect their patient's rights, dignity, autonomy and access to continuity of care.
2. Avoid all forms of discrimination; treating all patients, staff and kindred professionals with fairness, honesty, courtesy, respect and understanding.
3. Understand the concept of duty of care.

4. Disclose any significant proprietary interest they have in the care options recommended and not permit pecuniary gain to affect their clinical judgement.
5. Endeavour to understand each patient's cultural perspective and level of background knowledge, in order to ensure effective communication.
6. Respect the confidentiality of the information received in the course of the professional consultation, only disclosing information where the patient consents or the law requires.

Professional responsibilities

Optometrists shall

7. Promote and maintain collegial, respectful and unselfish relationships with members of their own and other health professions.
8. Practice with conscience and integrity in a manner that is in the best interest of the informed patient, enhancing the status of the profession and promoting public confidence.
9. Ensure that their practice modalities, delegations, resources and the accurate and legible recording of clinical findings, diagnosis and management reflect the current standard of care.
10. Promote and advance high standards of contemporary professional competence and knowledge, ensuring the delivery of accurate diagnoses, advice and treatment.
11. Ensure that referrals and reports to and from colleagues and other health professionals are actioned in a manner appropriate to the patient's best interests.
12. Individually and collectively, strive to advance and disseminate the knowledge and learning of the profession for the benefit of the wider community.

Optometry and business practice

Optometrists shall

13. Ensure that any arrangement to reward effort or performance does not have the potential to bias a practitioner's clinical judgment toward decisions that may not be in the patient's best interests.
14. Seek the advice of a suitable colleague or organisation if they find themselves in a position or an environment of providing compromised patient care.
15. When promoting their practice or profession, ensure any claims made are valid, truthful and reflect their status as a trusted registered health practitioner.
16. Not enter, remain in or negotiate a practising scenario where commercial imperatives including the offering of incentives have the potential to conflict with the free exercise of clinical judgment and the upholding of an uncompromised standard of care.

Approved by the Board: June 2012



STANDARDS OF ETHICAL CONDUCT FOR DISPENSING OPTICIANS

Background

The principal purpose of the Health Practitioners Competence Assurance Act 2003 (Act) is to protect public health and safety by ensuring health practitioners are competent and fit to practise. The Optometrists and Dispensing Opticians Board (the Board) is charged with ensuring that dispensing opticians are competent and fit to practise when they apply for registration and on an ongoing basis.

Under section 118(i) of the Act the Board is required to set standards of:

- clinical competence
- cultural competence
- ethical conduct.

Policy

Dispensing opticians who believe, in good faith, that a colleague has breached ethical standards are obliged to bring that matter to the attention of the Registrar of the Board. The Board will consider how to proceed with the matter, but before doing so will usually seek a response from the dispensing optician about whom the matter was raised.

Options open to the Board in dealing with a potential breach may include:

- taking no further action
- in the case of a low level breach, writing to the practitioner with the Board's view on how the matter giving rise to the concern should have been dealt with, and/or a warning about expected behaviour
- where a complaint has been made that the practice or conduct of the dispensing optician has affected a health consumer, referring the matter to the Health and Disability Commissioner in accordance with section 64 of the Act
- referring the matter to a Professional Conduct Committee
- referring the matter to a more appropriate authority (eg Advertising Standards Authority, Privacy Commissioner).

Standards

1.0 Compliance and legislation

1.1 Dispensing opticians are personally responsible for adhering to all laws, regulations and Codes relevant to practice, including (but not limited to):

- Advertising Standards Authority Advertising Codes, including:
 - Therapeutic Products Advertising Code
 - Therapeutic Services Advertising Code
 - Advertising Code of Ethics
 - Code for Comparative Advertising
- Consumer Guarantees Act 1993
- Fair Trading Act 1986
- Health Act 1956 (s 22)
- Health and Safety in Employment Act 1992
- Health Information Privacy Code 1994
- Health (Retention of Health Information) Regulations 1996
- Health Practitioners Competence Assurance Act
- Privacy Act 1993
- The Health and Disability Commissioner (Code of Health and Disability Consumers' Rights) Regulations 1996

1.2 Regardless of individual practice and employment settings, Dispensing opticians must maintain a working knowledge of, and comply with all Board policies, guidelines and standards applicable to optical dispensing, including these Standards of Ethical Conduct.

2.0 Responsibility to the patient

2.1 The patient's welfare is paramount. The dispensing optician must ensure that their commercial interests or those of their employer are not permitted to override the independent exercise of their professional judgment with regard to a patient, or to compromise the standard of care provided, or to affect their cooperation with other healthcare providers. Dispensing opticians who are employers must likewise refrain from exerting pressures on their staff that may compromise patient welfare.

2.2 Patients have the right to be treated without discrimination.

2.3 Patients have the right to be provided with sufficient information to make informed decisions about their care.

2.4 Where a patient's needs are beyond the scope or skills of the dispensing optician, the dispensing optician will advise the patient of this, and will refer the patient to a practitioner who has the necessary skills, knowledge, qualifications and experience to address the patient's needs.

3.0 Standards of care

- 3.1 Dispensing opticians will only practise in those areas in which they are trained and competent.
- 3.2 Dispensing opticians must strive through continuing education and training to maintain a high standard of skill and knowledge to ensure competence is maintained.
- 3.3 Dispensing opticians shall ensure that comprehensive, accurate and up to date clinical records are kept, and that appropriate privacy provisions are in place.
- 3.4 Dispensing opticians should take reasonable steps to ensure that the person to whom a task is delegated, has the appropriate qualifications, experience, knowledge and skills to provide the care required. The dispensing optician must understand that although a delegating practitioner will not be accountable for the decisions and actions of those to whom he/she delegates, he/she remains responsible for the overall management of the patient, and for the decision to delegate.
- 3.5 Dispensing opticians should ensure that all non-qualified staff are aware of their legal and ethical obligations.

Approved by the Board: 28 January 2011

Date reviewed: May 2014

Date to be reviewed: May 2017

Revised Ethical Standards for Optometrists and Dispensing Opticians

Professor Ron Paterson, 10 February 2020

Background

As regulator, the Optometrists and Dispensing Opticians Board (ODOB) has the function, under the Health Practitioners Competence Assurance Act 2003 (HPCAA), of setting 'standards of clinical competence, cultural competence (including competencies that will enable effective and respectful interaction with Māori), and ethical conduct to be observed by health practitioners of the profession' (s 118(i)).

ODOB has fulfilled the function literally, by issuing documents entitled 'Standards of Clinical Competence for Optometrists' (2018) and 'Standards of Clinical Competence for Dispensing Opticians' (2016), which 'are to be observed' by members of the professions; 'Standards of Cultural Competence' (2018), 'to provide a benchmark by which practitioners [of both professions] can be guided'; and 'Ethical Standards for Optometrists' (2012), which 'offer guidance only', and 'Standards of Ethical Conduct for Dispensing Opticians' (2014), which are described simply as standards.

ODOB has also recently issued a 'Guideline on the Maintenance of Professional Boundaries for Optometrists & Dispensing Opticians' (2019), which covers a topic that is an important dimension of ethical practice.

Relevance of standards set by Board

Traditionally, codes of ethics have been issued by professional associations, such as the New Zealand Association of Optometrists, whose Code of Ethics (2011) forms the basis of the 'Ethical Standards for Optometrists' (2012) issued by ODOB. However, there is an important difference between a profession's own statement of its ethical values and principles. Such documents are often aspirational in tone – for example, the NZMA Code of Ethics (2014), principle 8: 'Honour the profession, its values and its principles in the ways that best serve the interests of patients.' In contrast, ethical standards set by regulators articulate a minimum standard that practitioners are required to comply with.

The position is well summarised in a leading text:

'In short, the law provides a minimum standard, while ethics acknowledges a minimum standard (which is not always the same as law) but strives for the maximal standard.'

'The community, through the judiciary, can challenge the professions to change their ethics standards so that the professions stay in touch with community expectations.'

'Code of ethics need to be more than window dressing, and there is a strong potential for criticism if the values enshrined in them are thought to be either rarely enforced or applied by practitioners. ... [P]rofessionals also need some mechanism for giving effect to those ethics, beyond that of the virtue of the individual health care worker.'

(C Berglund, *Ethics for health care*. OUP, 4th ed., 2012, pp 206, 207, 36).

Ethical standards promulgated by a responsible authority are given statutory recognition under the HPCAA. They become legally enforceable under right 4(2) of the Code of Health and Disability Services Consumers' Rights (the HDC Code), which states that 'Every consumer has the right to have services provided that comply with legal, professional, ethical, and other relevant standards'. Thus, breach of an ethical standard could form the basis of a complaint to HDC and, after investigation, a finding of breach of the Code. A serious lapse in ethical behaviour could also lead to a disciplinary finding of 'professional misconduct', which is defined to include conduct by a practitioner that is 'likely to bring discredit to the profession' (HPCAA, s 100(1)(b)).

Ethical standards issued by a board may also be relied on in other contexts, such as an employment dispute. In *Evans-Walsh v Southern District Health Board* (2018) 15 NZELR 840, the Employment Court upheld a DHB's actions in reporting bullying concerns about a nurse, who had resigned following an employment dispute, to the Nursing Council. The Court found that the 'Nursing Council's Domains and competencies go beyond patient care and apply to ethical matters such as the way in which nurses deal with each other. The Code of Conduct has a similar reach.' [44]

What have other NZ boards done?

Other health regulators in New Zealand have carried out their s 118(i) HPCAA functions in range of different ways. This suggests that there is no single 'right' way to issue standards. For example, the *Medical Council* has issued nine standards relating to 'Conduct and professionalism' which cover central ethical issues in practice. The Medical Council standards 'set out the behaviour the Council expects of doctors' but are not described as ethical standards. They include standards on: 'What to do when you have concerns about a colleague' (2010), 'Professional boundaries in the doctor-patient relationship' (2018), 'Sexual boundaries in the doctor-patient relationship', 'Statement on providing care to yourself and those close to you' (2016) and 'Doctors and health related commercial organisations' (2012).

The *Occupational Therapy Board* of New Zealand has issued a 'Code of Ethics' (2015), in pursuance of s 118(i), to describe 'the standards of ethical conduct expected of all occupational therapists registered to practise in New Zealand', with a two-fold purpose of informing and protecting current and potential clients, and protecting the integrity of the occupational therapy (OT) profession. The OT Code of Ethics is a set of three principles relating to (1) relationship with those receiving OT services; (2) relationship with society and potential clients; and (3) relationship with colleagues and the profession. Each principle is described as a series of duties that an OT 'shall' comply with.

There is an attractive simplicity to the OT Code, which in five pages sets out clear statements of expected ethical conduct, with cross references to relevant guidelines and legislation. For example, under principle 2, relationship with society and potential clients, it specifies:

- 2.1 Occupational therapists shall accurately represent their skills and competences.
Occupational therapists shall:
 - 2.1.1 accurately represent their skills and areas of competence to potential clients, including employers, whether those services are to be provided directly or indirectly. An area of competence will be supported by demonstrable training, knowledge, experience, and skill.

The *Dental Council* of New Zealand has issued a 'Standards Framework for Oral Health Practitioners' (2015), which sets out five ethical principles registered oral health practitioners 'must adhere to at all times': 1) put patients' interests first; 2) ensure safe practice; 3) communicate effectively; 4) provide good care; and 5) maintain public trust and confidence. The principles are backed by 28 mandatory professional standards (eg, for ethical principle 5, maintain public trust and confidence, professional standard 23 states: 'You must ensure your professional and personal conduct justifies trust in you and your profession'), with guidance provided for each standard.

The *Nursing Council* of New Zealand has issued a 'Code of conduct for nurses' (2012), in pursuance of s 118(i), 'describ[ing] the behaviour or conduct that nurses are expected to uphold', which 'provides guidance on appropriate behaviour for all nurses and can be used by health consumers, nurses, employers, the Nursing Council and other bodies to evaluate the behaviour of nurses'. The 48-page Code was developed after a lengthy consultation process with the profession, the health sector, Māori and consumer organisations. This included consultation on a draft Code (resulting in 74 submissions) and three focus groups with nurses and health consumers. There was strong support for a move to making standards of professional behaviour more explicit.

The Nursing Code of Conduct begins with a statement of eight core principles of ethical nursing practice, which are linked to four key ethical 'values underpinning professional conduct': respect, trust, partnership and integrity. The eight principles are underpinned by detailed standards – for example, principle 1, 'respect the dignity and individuality of consumers', lists ten standards, such as 1.7, 'Do not prejudice the care you give because you believe a health consumer's behaviour contributed to their condition.'

The most significant change in the new Nursing Code is the addition of a new principle, 'respect the cultural needs and values of health consumers', with six of ten standards under that principle devoted to working with Māori:

- 2.5 Work in partnership with Māori health consumers and their whānau/family to achieve positive health outcomes and improve health status.
- 2.6 Understand Māori health inequalities and pay particular attention to the health needs of the community you nurse in.
- 2.7 Ensure nursing care is culturally appropriate and acceptable to Māori health consumers and their whānau, and is underpinned by the recognition that Maori are a diverse population.
- 2.8 Acknowledge and respond to the identity, beliefs, values and practices held by Māori, and incorporate these into nursing care.
- 2.9 Integrate Māori models of health into everyday practice and when developing care plans.
- 2.10 Promote access to services which meet the needs of Māori health consumers.

The *Physiotherapy Board* has issued a Physiotherapy Standards framework (2018, 35pp) 'to provide a benchmark of minimum standards expected of physiotherapists in New Zealand'. As well as Physiotherapy Standards, which 'describe in detail the expected minimum clinical and cultural standards for ... physiotherapy', the framework includes a Physiotherapy Code of Ethics and Professional Conduct, which aims 'to cover areas of ethical concern most commonly experienced by physiotherapists', based on a set of ten principles. 'The Code is to be used by the Physiotherapy

Board as a standard by which a physiotherapist's conduct is measured'. The Code is expressed as rules that a physiotherapist *must* comply with. For example, Principle 1, 'Physiotherapists respect the patient and their whānau and families', states:

'The relationship between physiotherapist and their patient is one of trust, and as such physiotherapists must

- 1.1 respect the dignity, privacy, bodily integrity, and mental wellbeing of patients
- 1.2 conduct themselves in a respectful manner towards the patient as well as their whānau, family and carers.
- 1.3 practise with due care and respect for a patient's culture, needs, values, worldviews and beliefs, including Te Ao Māori.
- 1.4 not impose their own values and beliefs on patients or their whānau and family.'

Extensive cross-references are provided to relevant provisions of the Physiotherapy Standards, the HDC Code and other legislation.

Comparable regulators internationally

The *Optometry Board of Australia* (which regulates optometrists only) has issued a 'Code of conduct for optometrists' (2014, 15pp), pursuant to the discretionary function give to all National Boards under the Health Practitioner Regulation National Law, s 39, to 'develop and approve codes and guidelines', after 'widespread consultation' (s 40), which are then admissible 'as evidence of what constitutes appropriate professional conduct or practice' for the health profession (s 41).

The Code of conduct for optometrists 'seeks to assist and support optometrists to deliver effective health services within an ethical framework'. It contains 10 standards for optometrists' behaviour, in relation to:

1. providing good care
2. working with patients
3. working with other practitioners
4. working within the health care system
5. minimising risk
6. maintaining professional performance
7. professional behaviour
8. ensuring health
9. teaching, supervising and assessing
10. undertaking research.

Under each standard, specific examples of the relevant conduct are provided, for example:

1.2 Good care

Maintaining a high level of professional competence and conduct is essential for good care. Good practice involves:

- (a) recognising and working within the limits of an optometrist's competence and scope of practice ...

Many of the standards cover good practice in domains that, in New Zealand, are covered by the standards of Clinical Competence for Optometrists or Dispensing Opticians. One standard, 7, focuses on ethical behaviour, with sections relating to professional boundaries and conflicts of interest.

The *General Optical Council*, which regulates optometrists and dispensing opticians in the United Kingdom, has issued 'Standards of Practice for Optometrists and Dispensing Opticians' (2016, 15 pp), pursuant to its statutory function 'to promote and maintain public confidence in the professions' (Opticians Act 1989, s 1(2B)(c)). The Standards of Practice 'define the standards or behaviour and practice [expected by the regulator] of all registered optometrists and dispensing opticians. There are 19 standards, prefaced by the statement 'The care, well-being and safety of patients must always be your first concern.' Each standard lists relevant expected behaviours. For example, standard 7, 'Conduct appropriate assessments, treatment and referrals':

- 7.5 Only provide or recommend examinations, drugs or optical devices if these are clinically justified, and in the best interests of the patient.

As with the Code of conduct for optometrists in Australia, the General Optical Council Standards of Practice are a mix of standards related to good clinical practice and others more obviously related to ethical conduct (e.g., standard 13, show respect and fairness to others and do not discriminate; standard 15, maintain appropriate boundaries with others; standard 16, be honest and trustworthy).

Although it is not a regulator, the World Council of Optometry has published an Optometrist Code of Conduct that nicely summaries the ethical responsibilities of an optometrist:

1. Keep your patient's eye, vision and general health your first priority
2. Respect the rights and dignity of patients regarding their health care decisions
3. Advise your patients whenever consultation with, or referral to, another optometrist of other healthcare professional is appropriate
4. Ensure confidentiality and privacy of patients' health and other personal information
5. Strive to ensure that all people have access to eye and vision care
6. Advance your professional knowledge and skills
7. Maintain your practice in accordance with professional health care standards
8. Promote ethical and cordial relationships with all members of the health care community
9. Uphold the dignity, honour and integrity of the optometric profession.

Critique of current Standards of Ethical Conduct for Optometrists and Dispensing Opticians?

The current Standards were issued by ODOB for the two professions in 2012 and 2014. As noted earlier, the Ethical Standards for Optometrists mirror the NZAO Code of Ethics. Some of the statements read as quaint in 2020 ('treating all ... kindred professionals with fairness, honesty, respect and understanding', standard 2). Others are so general as to be meaningless ('understand the concept of duty of care', standard 3). Some seem more concerned with professional status than the wellbeing of patients ('enhancing the status of the profession', standard 8.) Some set a low bar for ethical behaviour ('disclose any *significant* proprietary interest ... in the care options recommended', standard 4).

The Standards of Ethical Conduct for Dispensing Opticians exhibit a different range of problems. They are a curious mix of policy (including the arguable claim that dispensing opticians 'who believe, in good faith, that a colleague has breached ethical standards are obliged to bring that matter to the attention of the Board'), legal rules (section 1.1 lists codes and statutes that DOs are required to comply with), standards relating to ethical matters (section 2.1, responsibility to the patient, covering patient welfare, non-discrimination, informed consent, and referral when necessary) and standards of care (which more naturally fall within the separate Standards of Clinical Competence).

Neither of the Ethical Standards covers the issue of the maintenance of professional boundaries between practitioners and patients – though ODOB has filled this gap by issuing a specific Guideline on the Maintenance of Professional Boundaries for Optometrists & Dispensing Opticians (2019). This guideline followed an HDC case in which a dispensing optician was criticised for making sexual advances to a patient, and the Deputy Commissioner recommended that ODOB 'consider implementing a standard that requires dispensing opticians to maintain professional boundaries with consumers at all times' (case 16HDC00916, 20 December 2017).

The new boundaries guideline is lax in some areas, notably treating friends and family, which is described as 'not unusual' and seemingly acceptable so long as it meets clinical and ethical standards (an inherent contradiction) and clinical objectivity is maintained. Self-care / prescribing is also not clearly frowned upon; instead, it is described as an area where, 'when in doubt, seek advice from an independent practitioner'. The ODOB Guideline on this issue may be contrasted with the Medical Council's 'Statement on providing care to yourself and those close to you' (2016).

The current Ethical Standards revision is an opportunity for ODOB to clearly state key ethical principles and values, and underline the minimum standard of ethical conduct expected of practitioners. Despite the differing training and practice of optometrists and dispensing opticians, there is no reason why the fundamental ethical standards should differ between the two professions. Interestingly, there has been discussion in Australia about moving to a common Code of Conduct (including ethical conduct) across the 15 health professions regulated by separate boards under the National Law.

Ethical issues in optometry

In my interviews with key practitioner informants during this review, similar ethical issues were raised by members of both professions. A common theme was concern about the risk of loss of professionalism with increasing moves to commercialisation and corporate practice. This is a longstanding issue – a history of the American Optometric Association noted that 'the problems of commercialism, of being labeled a business, of ethics, and of proper fee structure in large measure were inherited by optometry because of its very nature' (J Gregg, *American Optometric Association: A history*, 1972: 149-150).

Other ethics issues raised by interviewees related to duty of care (e.g., when to refer a patient; competence and the ageing practitioner) and respect for patients (especially the elderly). In discussion at the ODOB meeting in November 2019, informed consent and equity of access for Māori patients were noted as ethical concerns that should be highlighted in the revised ethical standards.

Emerging ethics issues include increased transparency of customer feedback via online reviews, and how to handle and respond to negative and positive feedback (see C Sykes, 'Facing the feedback, *NZ Optics*, 1 February 2018: <http://nzoptics.co.nz/articles/archive/facing-the-feedback/>). The maldistribution of the workforce, with eye care practitioners concentrated in Auckland and urban centres, has important implications for equitable access to eye care (see N Chapman, N Anstice, R Jacobs. Geographic distribution of eye care practitioners in Aotearoa / New Zealand: implications for future eye health workforce, *Clinical and Experimental Optometry*, online 30 November 2019).

The few reports of investigations into optometrists on the HDC website indicate that the quality of assessment and diagnosis is the main issue leading to breach findings (6 of 7 cases), with failure to provide sufficient information to a patient, and failure to refer to an ophthalmologist, also leading to breach findings. Thus duty of care and informed consent appear to be the underlying ethics issues canvassed in HDC reports on optometry cases: (<https://www.hdc.org.nz/search-site?keywords=optometry>)

One decision of the Health Practitioners Disciplinary Tribunal found an optometrist guilty of professional misconduct, cancelled her registration and censured her for failure to make appropriate arrangements to ensure continuity of care when her optometry business went into liquidation:

(*Re Buckingham*, HPDT Decision No 510/Opt12/217P, 14 February 2013, <https://www.hpdt.org.nz/portals/0/510POpt12217P.pdf>)

Recent amendments enacted by the Health Practitioners Competence Assurance Amendment Bill 2019 indicate areas of contemporary emphasis: enabling effective and respectful interaction with Māori (s 118(i)); promoting interdisciplinary collaboration and co-operation in the delivery of health services (s 118(j)); and transparency about regulatory performance, by regular, independent reviews of how effectively and efficiently a responsible authority is performing its functions, and publication of recommendations and actions taken (s 122A).

The revised standards also provide an opportunity to highlight a commitment to professionalism as one aspect of being an ethical practitioner. An analysis of professionalism in clinical training in optometry is the subject of project report from the College of Optometry (UK): *Professionalism in optometry: final project report* (2014). The project involved surveys of practitioners, interviews with stakeholders from universities, employers, regulators and representative organisations; and workshop with students and patients. There was broad agreement that professionalism in optometry is based on seven key qualities:

- communication
- ethics
- honesty
- being patient-centred
- integrity
- knowledge
- trustworthiness.

Professionalism in optometry was described as follows:

'An optometrist who is honest and knowledgeable, acting ethically in the best interests of patients through:

- applying own knowledge and improving competence and critical judgement
- communicating effectively with patients, colleagues, other health professionals and the wider community
- actively following professional guidance.'

Considerations for revised Ethical Standards

As noted above, the current revision of the ethical standards is being undertaken by ODOB to set 'standards of ... ethical conduct to be observed by health practitioners of the profession' (HPCAA, s 118(i)). It should be seen in the context of the overall public protective purpose of the HPCAA, 'to protect the health and safety of members of the public' (s 3(1)), with its focus on competence assurance, and the subsidiary purpose of 'a consistent accountability regime for all professions' (s 3(2)(a)).

Otago bioethics lecturer Lynley Anderson writes that the key requirements of a coherent code of ethics (and presumably also of ethical standards) are that the resulting document is comprehensible and accessible by both patients and clinicians (i.e., the public and the profession); unambiguous ('plainly expressed, clear in its requirements') and compatible with existing codes and laws. 'Excessive detail renders the code too long and unwieldy and threatens its usefulness.' (L Anderson, *Writing a new code of ethics for sports physicians: principles and challenges, British Journal of Sports Medicine* (2009) 43: 10791082.) Given the wish to develop common ethical standards for optometrists and dispensing opticians, consistency is a further aim of the revised standards.

Underlying ethical principles

Four ethical principles, introduced by American philosophers Tom Beauchamp and James Childress in their classic work, *Principles of Biomedical Ethics* (1985), have been widely accepted as a useful framework for thinking about ethics in health care. The principles are:

- autonomy – respecting individual choices and decisions
- beneficence – doing good
- non-maleficence – avoiding harm
- justice – striving for fairness and equity.

The draft revised Ethical Standards may be assessed against the four principles, with the suggested standards reflecting autonomy (standard 1, Respect patients), beneficence and non-maleficence (standards 2 and 3, Care for patients and Work collaboratively with others) and justice (standard 4, Contribute to improving the health of the community).



DRAFT Standards of Ethical Conduct for Optometrists and Dispensing Opticians

Introduction

Optometrists and Dispensing Opticians in Aotearoa New Zealand work with individuals, families, whānau and communities. Their role is to provide good eye care, making the patient's eye, vision and general health their first priority.

Te Tiriti o Waitangi (Te Tiriti) is the founding document of Aotearoa New Zealand. It shapes the diverse historical and contemporary realities of Māori and all other settlers and their descendants. The principles of Te Tiriti – partnership, protection and participation – should underpin the provision of optical services in Aotearoa New Zealand. Optometrists and Dispensing Opticians must understand the needs, values and beliefs of Māori, be alert to the health needs of Māori in their community and promote equitable access for Māori to good eye health care.

The Code of Health and Disability Services Consumers' Rights (the Code) affirms the central importance of respect for patient autonomy and informed consent in the provision of health services in Aotearoa New Zealand. The Health Practitioners Competence Assurance Act 2003 (the HPCA Act), under which these standards are issued by the Optometrists and Dispensing Opticians Board (the Board), recognises the community expectation that practising Optometrists and Dispensing Opticians will maintain their competence.

The purpose of these Standards of Ethical Conduct is to set clear expectations, for Optometrists and Dispensing Opticians, patients and the community, of professional behaviour and ethical conduct. Failure to uphold these standards could result in an employment, professional or disciplinary investigation and may be used to evaluate conduct by employers, commissioners, tribunals and courts.

These ethical standards should be read in conjunction with the Board's standards of clinical and cultural competence, scopes of practice, relevant statements and guidelines, as well as the HPCA Act, the Code, Te Tiriti and any relevant legislation.

The Standards

1. Respect patients

Optometrists and Dispensing Opticians shall respect patients by:

1. providing services in a way that respects individual dignity and independence
2. not discriminating on any prohibited ground, including age, disability, ethnicity, nationality, gender, sexual orientation or employment status
3. interacting with patients with courtesy and integrity
4. being sensitive to individual needs, values and beliefs and different cultures
5. involving family and whānau in accordance with the wishes of the patient
6. listening to patients and communicating effectively with them
7. giving patients the information they need to make decisions
8. respecting patient choices about treatment and services
9. always maintaining appropriate professional boundaries
10. avoiding conflicts of interest and disclosing any personal interest in recommended options
11. treating information about patients as confidential and respecting their privacy
12. respecting a patient's right to make a complaint and responding promptly and fairly.

2. Care for patients

Optometrists and Dispensing Opticians shall provide good care for patients by:

1. practising safely and effectively
2. taking good care in assessment, diagnosis, treatment and referrals
3. taking steps to alleviate patients' symptoms and distress, whether or not a cure is possible
4. maintaining a high level of professional competence and looking after their own health and wellbeing
5. accurately describing their skills and competencies
6. recognising and working within the limits of their competence
7. referring to another practitioner when appropriate

8. supporting a patient's right to a second opinion
9. delegating care only when appropriate and ensuring adequate supervision
10. ensuring that incentives and targets do not affect their clinical judgement
11. protecting patients by acting on concerns a colleague may not be practising safely, including by notifying an employer or appropriate authority
12. being open and honest when an adverse event occurs.

3. Work collaboratively with others

Optometrists and Dispensing Opticians shall work collaboratively with colleagues and other practitioners caring for the patient by:

1. communicating clearly and effectively
2. facilitating co-ordination and continuity of care
3. supporting teamwork and co-operation in the patient's best interests
4. advocating clear roles and responsibilities
5. appropriately acknowledging and respecting the role and expertise of others.

4. Contribute to improving the health of the community

Optometrists and Dispensing Opticians shall contribute to the health of the community by:

1. using health care resources wisely
2. promoting eye health through disease prevention and control
3. supporting community education and screening
4. promoting equitable access to services for Māori
5. advocating for improved eye health care for vulnerable groups, including the elderly, people with disabilities and people unable to access necessary care (eg, people in remote, rural areas or affected by poverty).

These Standards are an overarching statement by the Board of professional behaviour and ethical conduct. They are not intended to be an exhaustive statement of a practitioner's ethical responsibilities. Other documents, such as the 'Guideline on the Maintenance of Professional Boundaries for Optometrists and Dispensing Opticians' (2019) and the 'Statement on Internet and Electronic Communication' (2015) provide supplementary guidance on specific conduct areas.