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Medico-legal implications

welcome 



Overview

- Regulation of optometry practice
- Code of conduct
- Working with other health providers
- Working within the health system
- Duty of care
- What to do when things go wrong



Disclaimer: The information in this presentation is general information relating to legal and/or clinical issues within Australia (unless otherwise stated). It is not intended to be legal advice and should not be considered as a substitute for obtaining personal legal or other professional advice or proper clinical decision-making having regard to the particular circumstances of the situation.



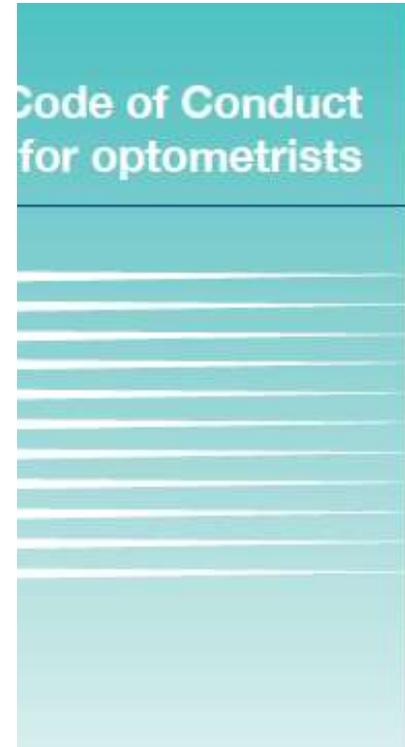
Regulation of Optometry – Protecting the public

- **Optometry Board of Australia (OBA)**
 - Develop standards, code and guidelines for optometrists
 - Handle notifications, complaints, disciplinary hearings
 - Approve accreditation standards, courses of study and assessment of overseas trained practitioners
- **Australian Health Practitioners Regulation Agency (AHPRA)**
 - Support the OBA in administration of regulation
 - Maintain register of practitioners
 - Audit compliance to standards
- **South Australian Health and Community Services Complaints Commissioner (HCSCC)**
 - Handle and manage complaints from consumers/patients
 - Against health services, concerning fees and charges, complaints not regarding public safety
 - Collaborates with national boards to ensure complaints are handled by appropriate body.



Code of Conduct

- Responsibilities:
 - providing **good care**, including shared decision making
 - working with **patients and other health practitioners**
 - working within the **health care system**
 - minimising risk
 - maintaining professional performance
 - professional behaviour and ethical conduct
 - ensuring practitioner(your own) health

The image shows the cover of a document titled "Code of Conduct for optometrists". The cover has a teal header with the title in white. Below the header, there are several horizontal teal lines of varying lengths, creating a stylized graphic effect. The background of the cover is a light teal color.

Code of Conduct
for optometrists



Good Care

- What are (some of) your obligations?
 - maintaining adequate knowledge and skills to provide safe and effective care
 - “Self-reflection and participation in relevant professional development, practice improvement and performance appraisal processes to develop continually an optometrist’s professional capabilities”
 - considering the balance of benefit and harm in all clinical management decisions
 - providing treatment options based on the best available information
 - **making responsible and effective use of the resources available**





Working with other health care practitioners

■ Delegation, referral and handover

- 'Referral' involves sending a patient to obtain an opinion or treatment from another practitioner and usually involves the transfer (in part) of responsibility for the person's care for a defined time and a particular purpose, such as care that is outside the first practitioner's expertise or scope of practice.
- Optometrist should always **communicate sufficient information about the patient and the treatment needed to enable the continuing care of the patient.**



Health Care system

- **Wise use of health care resources**
 - **not providing or arranging for unnecessary services**
 - upholding the right of patients to gain access to the necessary level of health care and whenever possible helping them to do so
 - supporting the transparent and equitable allocation of health care resources
 - **understanding that the use of resources can affect the access other patients have to health care resources.**



Duty of care

■ Referral

- **communicating sufficient information** to enable the continuing care of the patient.
- Duty of care is not discharged at the point of referral to another health practitioner or service.
- **duty is on the health professional** to make sure: patient **either attends** for referral / review, **or makes a conscious decision not to do so** after appropriate advice
 - Needs to be relative to clinical consequence for non-attendance
- If there is likely to be delay to care the optometrist should continue to monitor for change and update referral when required.



What to do when things go wrong?

Medical Malpractice Professional Indemnity Insurance



■ Claims Made Policy

- This policy is a claims made policy of insurance. **This means that the policy covers you for claims made against you and notified to us during the period of insurance.**
- Pursuant to section 40(3) of the Insurance Contracts Act 1984 (Cth) where **you give notice to us in writing of facts that might give rise to a claim as soon as was reasonably practicable after you become aware of those facts** but before the policy expires, you are covered for any claim made against you arising from those facts even if it is not made against you until after the period of insurance has expired.



What you need to tell us

You must tell **us** in writing as soon as practicable of any **incident** or **claim** including, but not limited to:

- a. a patient suffering a major complication; or
- b. there is an error made, causing harm; or
- c. an adverse outcome results in significant anger in **your** patient or their family; or **you** receive a letter from a solicitor indicating dissatisfaction or requesting a patient record; or
- d. **you** are concerned that an **incident** has occurred (including a **complaint**, investigation or inquiry) which **you** think may lead to a **claim**.

If **you** do not tell **us** of an **incident** or **claim** as soon as practicable, **you** may not be covered under this policy and **your** right to any cover may be significantly reduced by **us**.



What happens after you report an incident

- **Report the incident to your insurer in writing providing the details:**
 - Date of treatment and date you became aware of the claim
 - Patient name
 - Description (& opinion) of what happened

- **The insurer will:**
 - CHECK INDEMNITY
 - check the policy and advise you of decision
 - APPOINT CLAIMS MANAGER
 - appoint a claims manager as your contact person
 - ADVICE
 - Provide relevant medico-legal advice to manage incident



What happens after you report a claim

■ Report the claim to your insurer in writing providing the details:

- Date of treatment and date you became aware of the claim
- Patient name
- Description (& opinion) of what happened

■ The insurer will:

- CHECK INDEMNITY
 - check the policy and advise you of decision
- APPOINT CLAIMS MANAGER
 - appoint a claims manager as your contact person
- INFORMED
 - keep you informed as to claim status and what, if anything you need to do (attend court, supply documents)
- LIABILITY
 - Determine liability



Summary

■ Document

- Keep detailed medical records –they are your best defence

■ Communicate

- Gather and share all pertinent information when communicating with other practitioners

■ Duty of Care

- Continue monitoring for clinical change after referral, and update referral when appropriate

■ Notify insurer of incidents

- It will protect you if something arises



Questions

