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c 364 Ophthalmic Dispensers Act

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CHAPTER 364

Ophthalmic Dispensers Act

1. In this Act,

Interpre-
tation

- (a) "Board" means the Board of Ophthalmic Dispensers;
- (b) "ophthalmic appliances" means lenses, spectacles, eyeglasses, artificial eyes, contact lenses or appurtenances thereto for the aid or correction of visual or ocular anomalies of the eyes;
- (c) "ophthalmic dispenser" means a person registered under this Act;
- (d) "ophthalmic dispensing" means,
- (i) supplying, preparing and dispensing ophthalmic appliances,
 - (ii) interpreting prescriptions of legally qualified medical practitioners and optometrists, and
 - (iii) the fitting, adjusting and adapting of ophthalmic appliances to the human face and eyes in accordance with the prescriptions of legally qualified medical practitioners and optometrists;
- (e) "registrar" means the registrar of the Board;
- (f) "regulations" means the regulations made under this Act. R.S.O. 1970, c. 334, s. 1.

2.—(1) The Lieutenant Governor in Council may appoint a board consisting of not fewer than five members to be known as the Board of Ophthalmic Dispensers.

(2) Every member of the Board shall hold office for a period of two years, but any member is eligible for reappointment at the expiration of his term of office.

Vacancies

(3) Every vacancy on the Board caused by the death, resignation or incapacity of a member may be filled by the Lieutenant Governor in Council by the appointment of a person to hold office for the remainder of the term of such member. R.S.O. 1970, c. 334, s. 2.

Election of Board

3.—(1) Notwithstanding section 2, the Lieutenant Governor in Council may prescribe the constitution of the Board and provide for the election of its members by and from ophthalmic dispensers on a geographical basis or otherwise.

Repeal of s. 2

(2) As soon as the Board has been elected under this section, section 2 shall be deemed to be repealed. R.S.O. 1970, c. 334, s. 3.

Officers

4. The chairman, vice-chairman and secretary-treasurer of the Board shall be elected by the members of the Board from among themselves. R.S.O. 1970, c. 334, s. 4.

Status and function of Board

5. The Board is a corporation and it shall administer and enforce this Act and the regulations. R.S.O. 1970, c. 334, s. 5.

By-laws

6. The Board may pass by-laws providing for,

- (a) the calling and conduct of its meetings and proceedings;
- (b) the remuneration and expenses of persons employed by the Board while engaged upon the business of the Board;
- (c) the appointment and remuneration of teachers, examiners, inspectors and such other persons as the Board may employ, and prescribing the duties of such persons;
- (d) banking and finance and management of its property;
- (e) entering into an agreement or agreements with any university, school or college for such instruction, direction and lectures as may be necessary for the purposes of this Act;
- (f) all other matters reasonably necessary for carrying out the provisions of this Act. R.S.O. 1970, c. 334, s. 6.

7. Every applicant for registration as an ophthalmic dispenser who furnishes satisfactory evidence that he, ^{Registration requirements}

(a) is over twenty-one years of age and is of good moral character;

(b) has,

(i) completed a course of study in a school of ophthalmic dispensing approved under the regulations and has had practical training for one year in Canada with an ophthalmic dispenser or optometrist, or

(ii) completed at least three years training and experience in ophthalmic dispensing, at least one of which was in Canada, under the supervision of a legally qualified medical practitioner, wholesale optical company, ophthalmic dispenser or optometrist and has completed a home study course as prescribed by the regulations, or

(iii) in the opinion of the Board, the qualifications and experience equivalent to that set forth in subclause (i) or (ii) and has had one year's experience in Canada, under the supervision of a legally qualified medical practitioner, wholesale optical company, ophthalmic dispenser or optometrist;

(c) has passed the examinations of the Board; and

(d) has paid the prescribed fee,

shall be registered as an ophthalmic dispenser. R.S.O. 1970, c. 334, s. 7.

8.—(1) Notwithstanding section 7, the Board may establish a special register for the registration of persons and classes of persons designated by the regulations. ^{Special register}

(2) The persons registered in the special register may practise ophthalmic dispensing in the manner and subject to the conditions, limitations and restrictions prescribed by the regulations. R.S.O. 1970, c. 334, s. 8. ^{Practice of special registrants}

9.—(1) The registrar shall keep a register of all ophthalmic dispensers, showing their places of business or employment from time to time. ^{Register}

- Idem* (2) When the registrar is satisfied that an applicant for registration is entitled to be registered, he shall enter the name of the applicant in the register and shall issue a certificate of registration to the applicant.
- Idem* (3) If an application for registration is refused by the registrar or an entry is made in the register in error or by reason of misrepresentation, the Board may direct that the necessary entry, erasure or amendment be made in the register and the registrar shall make such entry, erasure or amendment. R.S.O. 1970, c. 334, s. 9.
- Renewal of certificate** **10.** Every certificate of registration shall be renewed annually at such times and upon such conditions and the payment of such fee as are prescribed by the regulations. R.S.O. 1970, c. 334, s. 10.
- Use of "optician", etc.** **11.** No person, other than an ophthalmic dispenser, shall assume or use the title "optician" or "ophthalmic dispenser". R.S.O. 1970, c. 334, s. 11.
- Un-authorized practice prohibited** **12.** Except as otherwise provided in this Act, no person, other than an ophthalmic dispenser, shall,
- (a) practise ophthalmic dispensing;
 - (b) prepare or dispense prescriptions of legally qualified medical practitioners or optometrists for ophthalmic appliances; or
 - (c) offer for sale or sell ophthalmic appliances. R.S.O. 1970, c. 334, s. 12.
- Where prescription required, exception** **13.** No ophthalmic dispenser shall supply or dispense an ophthalmic appliance except upon a prescription therefor of a legally qualified medical practitioner or an optometrist, but an ophthalmic dispenser may supply and dispense duplications, replacements, reproductions or repetitions of any ophthalmic appliance. R.S.O. 1970, c. 334, s. 13.
- Suspension and re-vocation of certificate** **14.—(1)** The Board may by order suspend or revoke the certificate of registration of any ophthalmic dispenser whom it finds has been guilty of unprofessional conduct as defined by the regulations, or of incompetency, fraud or misrepresentation in connection with his practice of ophthalmic dispensing.

(2) Before suspending or revoking the certificate of registration of an ophthalmic dispenser under subsection (1), the Board shall, by notice in writing, advise him of the complaint or charge that has been made against him and shall provide him with an opportunity of appearing before the Board at a public hearing and of presenting such evidence and making such representations as he may desire. ^{Public hearing}

(3) The Board may review at any time any order made under this section and may make such further order as it considers proper. ^{Review}

(4) A copy of any order made under this section shall be served on the person affected. R.S.O. 1970, c. 334, s. 14. ^{Service of order}

15.—(1) Any person affected by an order made under section 14 may appeal therefrom to a judge of the county or district court of the county or district in which he practises. ^{Appeal}

(2) Notice of appeal shall be given in writing within two weeks after service of the copy of the order of the Board on the person affected by filing a copy thereof with the clerk of the court and serving a copy thereof on the registrar. ^{Notice of appeal}

(3) The appellant shall apply to the judge to fix a date for the hearing of the appeal, and shall forthwith serve on the registrar notice of the date so fixed. ^{Date of hearing}

(4) The appellant may appear on the appeal in person or by counsel, and the Board may appear by any member thereof or by counsel. ^{Appearances}

(5) The hearing of the appeal shall be a trial *de novo* and the judge may hear all such evidence as he considers to be relevant, and may affirm the order of the Board, or amend it and affirm it as amended, or set it aside. R.S.O. 1970, c. 334, s. 15. ^{Trial de novo}

16. Every person who contravenes any of the provisions of this Act is guilty of an offence and on conviction is liable to a fine of not less than \$50 and not more than \$500. R.S.O. 1970, c. 334, s. 16. ^{Offences}

17. All fines recovered for offences against this Act shall be paid to the registrar for the use of the Board. R.S.O. 1970, c. 334, s. 17. ^{Disposition of fines}

18. Nothing in this Act applies to a legally qualified medical practitioner or an optometrist. R.S.O. 1970, c. 334, s. 18. ^{Saving as to physicians and optometrists}

Saving as
to certain
practices

19. Nothing in this Act prevents,

- (a) the practice of ophthalmic dispensing by a retail merchant at his ordinary place of business or the carrying on therein of an optical department, if an ophthalmic dispenser is in charge of the practice or of the optical department; or
- (b) the sale of protective glasses for industrial purposes, coloured glasses not embodying any ophthalmic corrective lens or lenses, goggles or simple magnifying glasses not sold or devised for the relief or correction of any visual or muscular error or defect of the eye. R.S.O. 1970, c. 334, s. 19.

Prices, etc.,
not to be
controlled

20. Nothing in this Act authorizes the Board to regulate, control or interfere with the prices that may be charged for ophthalmic appliances or the terms upon which the charges or fees may be paid. R.S.O. 1970, c. 334, s. 20.

Retail
merchants

21. Nothing in this Act prevents the sale or offering for sale by a retail merchant at his place of business of spectacles or eyeglasses, but the Lieutenant Governor in Council may make regulations governing or restricting such sale or offering for sale and prescribing the terms and conditions thereof and designating the nature and kind of spectacles and eyeglasses that may be sold under this section. R.S.O. 1970, c. 334, s. 21.

Regulations

22. The Board, subject to the approval of the Lieutenant Governor in Council, may make regulations,

- (a) prescribing the requirements for admission to schools of ophthalmic dispensing and the courses of instruction therein;
- (b) prescribing courses of home study;
- (c) providing for the holding of examinations for candidates for registration as ophthalmic dispensers who are in attendance at or graduates of schools of ophthalmic dispensing;
- (d) governing the registration of candidates for registration as ophthalmic dispensers and the suspension and cancellation of the registration of ophthalmic dispensers and the issue and renewal of certificates of registration;

- (e) prescribing the persons or classes of persons who may be registered in the special register and the manner in which, and the conditions, limitations and restrictions subject to which, they may practise ophthalmic dispensing;
- (f) defining unprofessional conduct for the purposes of this Act;
- (g) prescribing fees for the examination of candidates for registration as ophthalmic dispensers and for the registration thereof and for the renewal of certificates of registration;
- (h) prescribing the fees and expenses payable to members of the Board while carrying on their duties under this Act;
- (i) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 334, s. 22.

