

1950

c 266 Optometry Act

Ontario

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Bibliographic Citation

Optometry Act, RSO 1950, c 266

Repository Citation

Ontario (1950) "c 266 Optometry Act," *Ontario: Revised Statutes*: Vol. 1950: Iss. 3, Article 51.

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CHAPTER 266

The Optometry Act

1. In this Act,

Interpre-
tation.

- (a) "Board" means Board of Examiners in Optometry appointed under this Act;
- (b) "ophthalmic lens" means any form of lens or prism or the combination of the same, devised for the relief or correction of any visual or muscular error or defect of the eye;
- (c) "optician" means any person who dispenses any ophthalmic lens or lenses or spectacles or eye-glasses devised for the relief or correction of any visual or muscular error or defect of the eye, or fills any optometrist's or duly qualified medical practitioner's prescription for any such lenses, spectacles or eye-glasses;
- (d) "optometrist" means any person who practises optometry as herein defined;
- (e) "optometry" means the measurement of or the attempt to measure by any means, other than the use of drugs, the refractive or muscular condition of the eye, the prescribing of any ophthalmic lens or lenses or the prescribing of any spectacles or eye-glasses or ocular calisthenics to any person for the relief or correction of any visual or muscular error or defect of the eye;
- (f) "prescribe" includes the supply or loan by any person, or his agent, to any other person, of a mechanical instrument for the purpose of such other person, by means of such instrument, making a self-measurement of the refractive or muscular condition of the eye;
- (g) "regulations" means regulations made under this Act. R.S.O. 1937, c. 246, s. 1; 1939, c. 33, s. 1.

2.—(1) There shall be a board known as the Board of Examiners in Optometry which shall be composed of five persons who shall be appointed by and hold office during the

Board of
Examiners
in Op-
tometry.

pleasure of the Lieutenant-Governor in Council. R.S.O. 1937, c. 246, s. 2 (1); 1944, c. 45, s. 1 (1).

Chairman.

(2) The Lieutenant-Governor in Council may appoint one of the members to be chairman of the Board. R.S.O. 1937, c. 246, s. 2 (2); 1944, c. 45, s. 1 (2).

Secretary.

(3) The Board may appoint a secretary and fix his remuneration which shall be payable out of the funds of the Board. 1944, c. 45, s. 1 (3).

Regulations.

3.—(1) Subject to the approval of the Lieutenant-Governor in Council, the Board may make regulations,

- (a) providing for a course of instruction in any technical school or other institution in Ontario for the training of persons to become optometrists or opticians;
- (b) prescribing the requirements for registration under this Act;
- (c) fixing the fees payable for the trial of examinations and for registration;
- (d) providing for the issuance and renewal of certificates of registration and of exemption and for the fees payable for such issuance and renewal;
- (e) prescribing the procedure of the Board at its meetings;
- (f) fixing the remuneration of the members of the Board and providing for the payment of necessary expenses of the Board in the conduct of its business;
- (g) prescribing the duties of the secretary and other persons employed by the Board;
- (h) defining disgraceful conduct for the purposes of this Act;
- (i) regulating the advertising of spectacles and eyeglasses, the advertising of the prices thereof, and the advertising of the terms upon which they may be purchased;
- (j) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1937, c. 246, s. 3 (1); 1944, c. 45, s. 2; 1946, c. 68, s. 1.

Amending or
repealing
regulations.

(2) The Lieutenant-Governor in Council may at any time amend or repeal any of the regulations. R.S.O. 1937, c. 246, s. 3 (2).

4. The Board shall provide a register which shall be kept ^{Register.} by the secretary and in which shall be entered the name, address and qualification of every person registered as an optometrist or optician in Ontario and every person who is the holder of a certificate of exemption. R.S.O. 1937, c. 246, s. 4.

5. Every person who files with the secretary of the Board ^{Admission to registration.} an application, verified by oath or by statutory declaration, stating therein that the applicant is more than 21 years of age, is of good moral character, and possesses the qualifications as to general education, training and experience prescribed by the regulations, may be admitted to examination by the Board as to his qualifications as an optometrist or optician, and upon passing such examination shall be registered by the Board as possessing the qualifications required by this Act, and shall receive from the Board a certificate of such registration. R.S.O. 1937, c. 246, s. 5.

6. Every person who,

^{Certificate of exemption.}

- (a) on the 8th day of April, 1936, was carrying on business as an optometrist or optician in Ontario;
- (b) is a British subject by birth or naturalization;
- (c) is of good character;
- (d) possesses such education and technical qualifications as may be prescribed by the regulations,

shall be entitled to receive from the Board a certificate of exemption from registration under this Act upon furnishing proof of such facts to the satisfaction of the Board and complying with the requirements contained in the regulations. R.S.O. 1937, c. 246, s. 6; 1946, c. 68, s. 2.

7.—(1) The Board may by order suspend or revoke the ^{Suspension of certificate.} certificate of registration or exemption of any person whom it finds has been guilty of disgraceful conduct as defined by the regulations, or of incompetency, fraud or misrepresentation in connection with the practice of optometry or as an optician by such person.

(2) Before making a finding of disgraceful conduct, incom- ^{Hearing.} petency, fraud or misrepresentation in respect of any person under subsection 1, the Board shall, by notice in writing, advise such person of the complaint or charge which 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.

Review.

(3) The Board may review any finding or order made by it and make such further finding or order as it deems proper.

Power to
summon
witnesses.

(4) For the purposes of this section the chairman or acting chairman of the Board shall have all the powers that may be conferred upon a commissioner appointed under *The Public Inquiries Act*.

Rev. Stat.,
c. 308.

Appeal.

(5) An appeal shall lie from any order or finding of the Board to a judge of the Supreme Court by way of originating notice and such appeal shall be upon the evidence and representations presented and made to the Board and the judge may give such directions as he deems expedient and may make such finding and order as he deems proper and his decision shall be final. 1944, c. 45, s. 3.

Offences.

8.—(1) Every person not being the holder of a certificate under this Act or whose certificate is for the time being suspended or has been revoked, who practises optometry or as an optician or appends to his name the term "optometrist" or "optician" or any abbreviation thereof, or wilfully or falsely pretends to be, or wilfully or falsely takes or uses any name, title, addition, abbreviation or description implying or calculated to lead any person to believe that he is or is recognized by law as an optometrist or optician, as the case may be, or that he is registered or possesses a certificate as an optometrist or optician under this Act shall be guilty of an offence.

Peddling
prohibited.

(2) Every person, whether a holder of a certificate under this Act or not, who peddles or sells or offers for sale from door to door or who prescribes by mail spectacles or eyeglasses shall be guilty of an offence.

Penalties.

(3) Every person who is guilty of an offence under this Act shall on summary conviction be liable for a first offence to a penalty of not less than \$10 and not more than \$100 and for a second or subsequent offence to a penalty of not less than \$25 and not more than \$500. R.S.O. 1937, c. 246, s. 8.

Board may
establish
schools of
instruction.

9.—(1) The Board may enter into agreements and arrangements with any recognized university in Ontario for the establishment of a faculty school and may make agreements and arrangements with schools and other educational institutions for the establishment of courses of study for persons seeking to qualify themselves to practise as optometrists and opticians and may establish and carry on its own schools of instruction and appoint such professors, lecturers, instructors, officers, servants and employees thereof as may be deemed necessary.

Powers of
Board as
to using
moneys and
holding
ands.

(2) The Board may use any moneys that have heretofore or may hereafter come into its hands for any of the purposes

and objects mentioned in subsection 1, and shall have and possess all powers that may be necessary or convenient for such purposes and objects and shall be deemed trustees for such purposes and objects with power without licence in mortmain to acquire, hold, mortgage, charge, lease, sell or otherwise deal with real estate and to borrow money for such purposes and objects and to secure payment thereof by mortgage or pledge of the real and personal property vested in the Board.

(3) The Board may take and execute any deed, mortgage, lease or other instrument under the name of "The Board of Examiners in Optometry", and every such deed, mortgage, lease or other instrument given and made by the Board shall be deemed to be sufficiently executed when executed under the hand of the chairman and secretary of the Board and sealed with the seal of the Board, and the Board may sue and be sued by and under the said name. R.S.O. 1937, c. 246, s. 9.

Manner of execution of instruments by Board.

10.—(1) Nothing in this Act shall apply to a duly qualified medical practitioner or to any person, firm or corporation carrying on business in Ontario as a *bona fide* wholesale manufacturer of optical goods who does not prescribe directly or indirectly by mail or through an agent or travelling salesman or otherwise in any manner whatsoever, any ophthalmic lens or spectacles or eye-glasses devised for the relief or correction of any visual or muscular error or defect of the eye.

Exemption from operation of Act.

(2) Nothing in this Act shall authorize the Board to regulate, control or interfere with the prices which may be charged for eye-glasses or spectacles, the fees which may be charged for the examination of eyes or the prescribing of eye-glasses or spectacles or the terms upon which such charges or fees may be paid. R.S.O. 1937, c. 246, s. 10 (1, 2).

Interference with prices prohibited.

- (3) Nothing in this Act shall prevent,
- Act not to prevent certain practices.
- (a) the practice by a retail merchant of optometry or as an optician at his ordinary place of business or the carrying on therein of an optical department, if such practice and optical department are in charge of a registered optometrist or a duly qualified medical practitioner; or
 - (b) the selling or offering for sale by a retail merchant at his ordinary place of business of spectacles or eye-glasses; or
 - (c) the provision by a retail merchant at his ordinary place of business of a test card or chart, other than a mechanical instrument, so that customers therein

- may select spectacles or eye-glasses kept for sale by such retail merchant at his place of business; or
- (d) the furnishing or supplying through the mail by any person to any other person of a test card or chart, other than a mechanical instrument, whereby such other person may select spectacles or eye-glasses; or
 - (e) the unrestricted sale of protective glasses for industrial purposes, coloured glasses not embodying any ophthalmic 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. 1937, c. 246, s. 10 (3); 1944, c. 45, s. 4.
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