

1937

c 227 Dentistry Act

Ontario

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CHAPTER 227.

The Dentistry Act.

ROYAL COLLEGE OF DENTAL SURGEONS OF ONTARIO.

Royal
College of
Dental
Surgeons
of Ontario.

1. The Royal College of Dental Surgeons of Ontario, hereinafter called "the College," is continued, and every person who holds a valid and unforfeited certificate of license to practise dentistry granted to him by such College shall be a member of the corporation. R.S.O. 1927, c. 198, s. 1.

Power as to
real estate.

2.—(1) The College may purchase, take and possess for the purposes of the College, but for no other purpose, and, after acquiring the same, may sell, mortgage, lease or dispose of any real estate.

Consent to
alienation,
etc., re-
quired.

(2) Such real estate shall not be sold, mortgaged, leased or disposed of, except with the consent of the Board of Directors, given at a meeting duly called for that purpose and with the consent of the Minister of Education.

Notice of
meeting.

(3) Notice of such meeting shall be given to every member of the Board by letter mailed to his last registered address, seven days before the day appointed for such meeting, stating the object thereof. R.S.O. 1927, c. 198, s. 2.

BOARD OF DIRECTORS.

Board of
Directors.

3.—(1) There shall continue to be a Board of Directors of the College, hereinafter called "the Board." R.S.O. 1927, c. 198, s. 3 (1).

Number of
members.

(2) The Board shall consist of nine elected members each of whom shall be a member of the College and shall hold office for two years, and the Minister of Education and the Minister of Health for the Province of Ontario who shall be *ex officio* members of the Board. R.S.O. 1927, c. 198, s. 3 (2); 1931, c. 40, s. 2.

Quorum.

(3) The presence of at least five of the elected members of the Board shall be necessary to constitute a quorum.

One member
for each
electoral
district.

(4) One member shall be elected for each electoral district mentioned in Schedule A by the members of the College resident in such district, and every person so elected shall be

a resident of the electoral district for which he is elected and no person shall be eligible for election as a representative of an electoral district who is a member of any dental faculty and in receipt of salary or other remuneration for his services thereon.

(5) One member shall be elected by and from the Faculty of Dentistry of the University of Toronto. Member from Faculty of Dentistry.

(6) A member of the Board may at any time resign his office by giving notice of his resignation in writing to the secretary and in case of a vacancy occurring through resignation or otherwise,—

(a) where the vacancy occurs in the representation of an electoral district more than two months prior to the holding of a general election, an election shall be held for the electoral district to fill the vacancy, and where the vacancy occurs not more than two months prior to the date of the general election, no person shall be elected or appointed to fill the vacancy; Filling vacancies.

(b) where the vacancy is in the representation of the Faculty of Dentistry, the remaining members of the Faculty shall elect a duly qualified person to fill the vacancy. R.S.O. 1927, c. 198, s. 3 (3-6).

4. The Province of Ontario shall, for the purposes of this Act, be divided into the eight electoral districts described in Schedule A. R.S.O. 1927, c. 198, s. 4. Electoral districts.

5.—(1) An election of the Board shall be held on the second Wednesday of December in every second year, reckoning from the year 1926. Election of Board.

(2) No person shall be qualified to vote at such election if he is in arrear in respect of any fees payable by him. R.S.O. 1927, c. 198, s. 5 (1, 2). Qualification of voters.

(3) The votes at such election shall be given by closed voting papers. R.S.O. 1927, c. 198, s. 5 (3); 1934, c. 9, s. 2. How votes to be given.

(4) The manner of holding such election with respect to notification of the electors of the time and place of holding the election, the nomination of candidates, the presiding officer thereat, the taking and counting of the votes, the giving of a casting vote in case of an equality of votes, and other necessary details shall be determined by by-law of the Board, and in default of such by-law, may be prescribed by the Lieutenant-Governor in Council. R.S.O. 1927, c. 198, s. 5 (4). Manner of election.

First
meeting
of Board.

6.—(1) Every newly elected Board shall hold its first meeting in the City of Toronto on the first Monday in May, or at such other time as may be fixed by the retiring Board, and the members of the Board shall hold office until the first meeting of their successors.

Subsequent
meetings.

(2) Other meetings shall be held at such time and place as the Board appoints.

Special
meetings.

(3) Special meetings may be called by the president at any time, and on the request in writing of four members of the Board he shall call a special meeting. R.S.O. 1927, c. 198, s. 6.

OFFICERS OF BOARD.

President
and officers.

7.—(1) Every Board shall at its first meeting elect a president, a vice-president and a registrar, and shall appoint a treasurer and a secretary, and such other officers as the Board considers necessary.

Remunera-
tion of treas-
urer and
secretary.

(2) The treasurer and the secretary shall receive such remuneration for their services as the Board may fix.

President,
etc., *pro*
tempore.

(3) The Board shall, if the president and vice-president are absent, elect one of its members to preside at its meeting, who, while so presiding, shall have the same powers and exercise the same functions as the president.

Executive
committee.

(4) The Board shall annually appoint from among its members not more than five persons who shall constitute an executive committee to take cognizance of and action upon all such matters as may be delegated to it, or as may require immediate action or attention between meetings of the Board, but no action taken by the executive committee shall be valid unless agreed to by at least three members of the committee nor after the next ensuing meeting of the Board unless approved by the Board at that meeting, and the executive committee shall not have power to alter, amend or suspend any by-law of the Board. R.S.O. 1927, c. 198, s. 7.

Remunera-
tion of
members
of Board.

8. There shall be paid to the members of the Board such fees for attendances and such reasonable travelling expenses as may be fixed by by-law of the Board. R.S.O. 1927, c. 198, s. 8.

Funds pay-
able to the
treasurer.

9.—(1) All moneys under the control of the Board shall be paid to the treasurer, and shall be applied for the purpose of the College.

Grants for
certain
purposes.

(2) The Board may out of any funds in its hands from time to time make grants,—

- (a) for post graduate courses and kindred educational extension work;
- (b) for scholarship, lectureship and research work;
- (c) in aid of any fund which has for its purpose investigation in the interest of dental, medical and surgical science; and
- (d) in aid of any association or other body having for its object the protection of members of the College or the adjustment of claims against them for anything done in their professional capacity. R.S.O. 1927, c. 198, s. 9.

BY-LAWS OF BOARD.

10.—(1) The Board shall make such by-laws as it may deem necessary for the proper and better guidance, government, discipline and regulation of the Board, the College, the members of the College and the profession of dental surgery, and the carrying out of the provisions of this Act, and such by-laws shall be published for two consecutive weeks in the *Ontario Gazette*, and shall not take effect until so published.

(2) Such by-laws or any of them may be annulled by the Lieutenant-Governor in Council. R.S.O. 1927, c. 198, s. 10.

CERTIFICATES OF LICENSE.

11.—(1) The Board may appoint one or more examiners for the matriculation or preliminary examination of all students entering the profession, or may accept in lieu of such matriculation or preliminary examination evidence that a student has passed any other satisfactory examination.

(2) Such examination shall be passed prior to being entered as a student of dentistry. R.S.O. 1927, c. 198, s. 11.

12.—(1) The Board may prescribe a curriculum of studies to be pursued by students, and fix and determine the period for which every student shall be articulated and employed under a duly licensed practitioner, the examination necessary to be passed and the fees to be paid to the treasurer before a certificate of license to practise dental surgery is issued.

(2) The Board may prescribe the conditions upon which dentists residing elsewhere than in Ontario, and students and graduates from other dental colleges may be admitted to membership in the College. R.S.O. 1927, c. 198, s. 12.

Arrangements for education of students.

13. Subject to the approval of the Lieutenant-Governor in Council, the College may make arrangements with any university or college in Ontario for the use of any library, museum or property belonging to or under the control of such university or college, and may affiliate with any such university or college, and may enter into all arrangements necessary to that end upon such terms as may be agreed upon. R.S.O. 1927, c. 198, s. 13.

Annual examinations.

14.—(1) The Board, once at least in every year, shall cause to be held at a time fixed by the Board, an examination of the candidates for certificates and such titles as the Board has authority to grant.

How and by whom conducted.

(2) At every such examination the candidates shall be examined orally or in writing or otherwise, by examiners to be appointed for that purpose by the Board, in such subjects as the Board shall prescribe.

Fees of examiners.

(3) The examiners shall receive such remuneration as may be fixed by the Board.

Declaration by examiners.

(4) Each examiner shall, if required, subscribe and take the following declaration:

Form of declaration.

"I solemnly declare that I will perform my duty of Examiner without fear, favour, affection or partiality towards any candidate, and that I will not knowingly allow to any candidate any advantage which is not equally allowed to all."

Accepting other examination as substitute.

(5) The Board may dispense with such examination in the case of any person who proves to the satisfaction of the Board that he has passed in any university or college an examination which the Board deems of equal value. R.S.O. 1927, c. 198, s. 15.

Certificate of qualification to practise.

15.—(1) If the Board is satisfied by the examination that the candidate is duly qualified to practise the profession of dental surgery, and that he is a person of integrity and good moral character, it shall, subject to the by-laws, grant him a certificate of license and the title of "Licentiate of Dental Surgery," which certificate and title shall entitle him to all the rights and privileges conferred by this Act.

Designation of "Licentiate."

Annual meeting.

(2) The Board shall hold at least one meeting in each year in the City of Toronto for the purpose of granting such certificates and titles and for the transaction of such other business as may properly come before it. R.S.O. 1927, c. 198, s. 16.

Issue of certificate.

16. Every certificate of license shall be sealed with the corporate seal of the College and signed by the president

and secretary of the Board, and the production of such certificate of license shall be *prima facie* evidence in all courts and upon all proceedings of its execution and contents. R.S.O. 1927, c. 198, s. 17. Effect.

17. The secretary of the Board shall, on or before the 15th day of January in each year, transmit to the Provincial Secretary a certified list of the names of all persons to whom certificates of license have been granted during the year ending on the next preceding 31st day of December. R.S.O. 1927, c. 198, s. 18. Return of licenses granted.

18. Every person desirous of obtaining a license to practise dentistry in Ontario shall at least one month before the prescribed examination make application in the form prescribed by the Board and pay to the treasurer the prescribed fees, and deliver to the secretary the treasurer's receipt for the same, together with satisfactory evidence of his service under articles and compliance with the rules and regulations prescribed by the Board, and of his integrity and good morals. R.S.O. 1927, c. 198, s. 19. Prepayment of examination fees.

ANNUAL FEES.

19.—(1) Every member of the College engaged in the practice of dental surgery in Ontario shall, on or before the 1st day of January in each year, pay to the treasurer, or to a person deputed by him to receive the same, such annual registration fee, not exceeding \$10, as may be prescribed by by-law of the Board, and such fee shall be recoverable by suit in the name of the Royal College of Dental Surgeons of Ontario in the division court of the division in which the member in default resides. Annual fees.

(2) For any services rendered in the practice of dental surgery while he is in default in respect of any annual fee a member shall not be entitled to recover in any court. R.S.O. 1927, c. 198, s. 20 (1, 2). Result of default in payment of annual fee.

(3) Where default is made in payment of the annual fee and such default continues for a period of one month the license of a member so in default shall lapse but such license may be renewed thereafter upon payment of the fee and an additional sum not exceeding \$10 as may be prescribed by by-law of the Board and recoverable in the same manner as the annual fee as set out in subsection 1. R.S.O. 1927, c. 198, s. 2 (3); 1931, c. 40, s. 3. Default in payment of fee.

PENALTY FOR PRACTISING WITHOUT LICENSE.

Prohibition
against
practising
without
certificate.

Or using
designation.

Dental
equipment—
restriction
as to use
of by un-
qualified
person.

Prohibitions
as to persons
other than
College es-
tablishing
college, etc.

Penalties:

Saving as
to student.

Recovery
and applica-
tion.
Rev. Stat.
c. 136.

20.—(1) No person who is not a member of the College shall, by himself or by any other person, practise the profession of dental surgery, or perform any dental operation upon or prescribe any dental treatment for any person or shall pretend to hold or take or use any name, title, addition or description implying that he holds a certificate of license to practise dental surgery, or that he is a member of the College, or shall falsely represent or use any title representing that he is a graduate of any dental college or any title or description whatsoever which implies that he practises dentistry or any branch of dentistry or which contains the words "dentist," "dentistry," "dental" or any derivative of any such word or any letters, signs or abbreviation having the like significance. R.S.O. 1927, c. 198, s. 21 (1); 1931, c. 40, s. 4 (1).

(2) No person in pursuit of his business, trade or calling shall have in any place dental equipment of a character similar to that with which a place of business of a member of the College is equipped, and which equipment would enable the person generally to practise dental surgery or perform dental operations, and the presence of such equipment in such place shall be *prima facie* evidence that the practice of dental surgery and the performance of dental operations is being carried on therein. 1934, c. 9, s. 3.

(3) No person, other than the College, shall carry on in Ontario any school, college, laboratory or other institution for training or imparting instruction in any branch of dentistry or give instructions or courses in practise management without the consent of the Board but this shall not apply to any faculty of dentistry in a university in Ontario. R.S.O. 1927, c. 198, s. 21 (2); 1931, c. 40, s. 4 (2).

(4) Every person who contravenes any of the provisions of this section shall for the first offence incur a penalty of \$100, for the second offence a penalty of \$200, and for every subsequent offence a penalty of \$500, and he shall not be entitled to sue or recover in any court for any services which he performed or materials which he provided in the ordinary and customary work of a dental surgeon. 1931, c. 40, s. 4 (3).

(5) This section shall not prevent any duly articulated student of dental surgery from receiving instruction in clinics and practice under the personal supervision of a member of the College.

(6) The penalties shall be recoverable under *The Summary Convictions Act*, and shall be paid over by the convicting justice to the treasurer of the College. R.S.O. 1927, c. 198, s. 21 (4, 5).

21. In any prosecution under section 20 the burden of proof of qualification shall be upon the defendant. R.S.O. 1927, c. 198, s. 22.

SUSPENSION OR CANCELLATION OF CERTIFICATE.

22.—(1) The Board may suspend or cancel the certificate of license of a member of the College who has been heretofore or shall hereafter be convicted in Canada or elsewhere of an indictable offence if his conviction remains unreversed, or who has been or shall be guilty of any infamous, disgraceful or improper conduct in a professional respect and such infamous, disgraceful or improper conduct in a professional respect shall be deemed to include fraudulent and exorbitant charging of fees, but this power shall not be exercised if the conviction is for a political offence committed out of His Majesty's Dominions, or for an offence which, though indictable, ought not, either from its nature or from the circumstances under which it was committed, to disqualify the person convicted from practising dentistry. R.S.O. 1927, c. 198, s. 23 (1); 1931, c. 40, s. 5.

Power of Board to suspend or cancel certificates.

Saving.

(2) Where a member has been guilty of infamous, disgraceful or improper conduct in a professional respect the power conferred by subsection 1 may be exercised, notwithstanding that he has been acquitted of a criminal charge in respect of the same matter. R.S.O. 1927, c. 198, s. 23 (2).

Notwithstanding acquittal of criminal charge.

(3) The Board or the executive committee of its own motion may, or, upon the application in writing of four members of the College, the president shall instruct the discipline committee to inquire into any case in which it is alleged that a member of the College has become liable to the suspension or cancellation of his certificate of license for any of the causes mentioned in subsection 1. 1934, c. 9, s. 4.

Inquiry as to suspension or cancellation of certificate.

DISCIPLINE COMMITTEE.

23.—(1) The Board shall appoint and shall always maintain a discipline committee of its own body for the purpose of ascertaining the facts of each case which may become the subject of inquiry.

Discipline Committee.

(2) The committee shall consist of not more than five members, as the Board may prescribe, three of whom shall be a quorum.

Number.

(3) The Board may by by-law provide that the secretary of the Board shall be a member of the committee.

Secretary may be member.

By-laws as to tenure of office, proceedings.

(4) The Board may pass by-laws for determining the tenure of office of the members of the committee and for the regulation and conduct of its proceedings.

Time, place and notice of meetings.

(5) Subject to the provisions of this section and of the by-laws of the Board the committee may regulate the time and place for the holding, the manner of the convening and giving notice, and the conduct of its meetings.

Appointments to fill vacancies.

(6) If a vacancy occurs in the membership of the committee the remaining members may appoint a member of the Board to fill the vacancy, and the member appointed shall hold office until the next meeting of the Board.

Quorum of committee.

(7) Notwithstanding any vacancy in the committee, so long as there are at least three members thereof, it shall be competent for the committee to exercise all or any of its powers.

Employment of assistance.

(8) The committee may employ, at the expense of the Board, for the purposes of any inquiry, such legal or other assistance as the committee may deem necessary.

Appearance by counsel.

(9) The member whose conduct is the subject of inquiry shall have the right to be represented by counsel.

Place of meeting.

(10) All meetings of the committee for taking evidence or otherwise ascertaining the facts shall be held within the county or district in which the member whose conduct is the subject of inquiry resides unless such member and the Board agree to the meeting being held at the City of Toronto.

Notice of meeting.

(11) At least ten days' notice of the meeting of the committee for taking the evidence or otherwise ascertaining the facts shall be given to the member whose conduct is the subject of inquiry.

Contents of notice.

(12) The notice shall contain a statement of the matter which is to form the subject of the inquiry.

Evidence on oath.

(13) The testimony of the witnesses shall be taken under oath, which the chairman or any member of the committee may administer, and there shall be full right to cross examine all witnesses called and to adduce evidence in defence and in reply.

Effect of non-appearance.

(14) If the person whose conduct is the subject of the inquiry though duly notified does not attend, the committee may proceed in his absence, and he shall not be entitled to notice of the future meetings or proceedings of the committee.

Subpoenas.

(15) The committee and any party to the proceedings may obtain on *praecipe* from the Supreme Court a subpoena

for the attendance of witnesses and the production of books, documents and things, and disobedience thereof shall be deemed a contempt of court.

(16) Witnesses shall be entitled to the like allowances as Witness fees. witnesses attending upon the trial of an action in the Supreme Court.

(17) The committee shall report to the Board the evidence Report. adduced and the committee's findings thereon.

(18) The Board may act upon the report of the committee Acting upon report. and may make such order thereon as the Board may deem just.

(19) Where the complaint is found to be frivolous or vexatious the Board may pay such costs as to it may seem Costs of vexatious complaint. just to a member whose conduct has been the subject of inquiry.

(20) Where the Board directs the certificate of license of a member to be suspended or cancelled it may direct that the costs of and incidental to the inquiry be paid by such member, and after taxation of such costs by the taxing officer of the Supreme Court at Toronto, execution may issue out of the Supreme Court for the recovery thereof in like manner as upon a judgment in an action in that Court. Costs of inquiry.

(21) The costs to be taxed and allowed against a member, including the costs of appeal, if any, shall as far as practicable be the same or the like costs, as in an action in the Supreme Court and the taxing officer may also allow such fees and disbursements for work done or proceedings taken before notice of complaint as he may deem just. R.S.O. 1927, c. 198, s. 24. Costs to be similar to those in action in Supreme Court.

24. No action shall be brought against the Board or the committee or any member thereof for anything done in good faith under this Act on account of any want of form or irregularity in their proceedings, but a member whose certificate of license has been suspended or cancelled may, at any time within one month from the date of the decision of the Board, appeal from the decision of the Board to the Court of Appeal. No action to lie against Board or committee. Appeal from decision of Board. R.S.O. 1927, c. 198, s. 25; 1934, c. 9, s. 5.

25. The practice and procedure upon and in relation to an appeal shall be similar to that provided by *The County Courts Act* except that the proceedings and evidence shall be certified by the registrar to the Court of Appeal. Practice and procedure on appeal. Rev. Stat. c. 102. R.S.O. 1927, c. 198, s. 26.

Restoration
of certificate.

26. The Board may direct the restoration of the certificate of license of any member whose certificate has been cancelled under the powers conferred by this Act upon such terms and conditions as the Board may deem just. R.S.O. 1927, c. 198, s. 27.

Action for
malpractice,
etc.

27. No duly registered member of the College shall be liable to any action for negligence or malpractice, by reason of professional services requested or rendered, unless such action is commenced within six months from the date when in the matter complained of such professional services terminated. R.S.O. 1927, c. 198, s. 28.

Saving as to
qualified
medical
practitioners,
Rev. Stat.
c. 225.

28. Nothing in this Act shall affect or interfere with the rights and privileges conferred upon legally qualified medical practitioners by *The Medical Act*. R.S.O. 1927, c. 198, s. 29.

SCHEDULE A.

ELECTORAL DISTRICTS.

Electoral District No. 1 shall consist of the following counties: Ad-
lington, Carleton, Dundas, Frontenac, Glengarry, Grenville, Lanark,
Leeds, Lennox, Prescott, Russell, Renfrew and Stormont.

Electoral District No. 2 shall consist of the following counties: Dur-
ham, Haliburton, Hastings, Muskoka, Northumberland, Ontario, Prince
Edward, Peterborough and Victoria.

Electoral District No. 3 shall consist of the following counties and
districts: Algoma, Kenora, Manitoulin, Nipissing, Parry Sound, Rainy
River, Sudbury, Thunder Bay and Temiskaming.

Electoral District No. 4 shall consist of the City of Toronto.

Electoral District No. 5 shall consist of the following counties: Bruce,
Dufferin, Grey, Huron, Perth and Simcoe.

Electoral District No. 6 shall consist of the following counties: Elgin,
Essex, Kent, Lambton and Middlesex.

Electoral District No. 7 shall consist of the following counties: Brant,
Haldimand, Norfolk, Oxford, Waterloo and Wellington.

Electoral District No. 8 shall consist of the following counties: Halton,
Lincoln, Peel, Welland, Wentworth and York (except Toronto).

R.S.O. 1927, c. 198, Sched. A.
