Ontario: Revised Statutes

1980

c 115 Denture Therapists Act

Ontario
CHAPTER 115

Denture Therapists Act

1. In this Act, Interpretation

(a) “Appeal Board” means the Denture Therapists Appeal Board established under section 13;

(b) “Board” means the Governing Board of Denture Therapists under section 2;

(c) “Complaints Committee” means the Complaints Committee of the Board established under this Act;

(d) “dental surgeon” means a member of The Royal College of Dental Surgeons of Ontario;

(e) “denture therapist” means a person licensed under this Act to engage in the practice of denture therapy or the practice of supervised denture therapy;

(f) “Discipline Committee” means the Discipline Committee of the Board established under this Act;

(g) “Executive Committee” means the Executive Committee of the Board established under this Act;

(h) “incompetence” means the display of a lack of knowledge, skill or judgment in the professional care of a patient or disregard for the welfare of a patient of a nature or to an extent that demonstrates that the denture therapist is unfit to continue in the practice of denture therapy or the practice of supervised denture therapy, as the case may be;

(i) “licence” means a licence to engage in the practice of denture therapy or the practice of supervised denture therapy as may be specified in the licence, and includes a provisional licence to engage in the practice of denture therapy;
(j) "licensee" means a person who is licensed under this Act to engage in the practice of denture therapy or the practice of supervised denture therapy and includes a person who is provisionally licensed to engage in the practice of denture therapy;

(k) "Minister" means the Minister of Health;

(l) "practice of denture therapy" means,

(i) the taking of impressions or bite registrations for the purpose of, or with a view to, the making, producing, reproducing, constructing, furnishing, supplying, altering or repairing of any complete upper or complete lower prosthetic denture, or both, to be fitted to an edentulous arch;

(ii) the fitting of any complete upper or complete lower prosthetic denture or both, to an edentulous arch, and

(iii) the making, producing, reproducing, constructing, furnishing, supplying, altering and repairing complete upper or complete lower prosthetic dentures or both in respect of which a service is performed under subclause (i) or (ii);

(m) "practice of supervised denture therapy" means,

(i) the taking of impressions or bite registrations for the purpose of, or with a view to, the making, producing, reproducing, constructing, furnishing, supplying, altering or repairing of any removable prosthetic denture,

(ii) the fitting of any removable prosthetic denture, and

(iii) the making, producing, reproducing, constructing, furnishing, supplying, altering and repairing removable prosthetic dentures in respect of which a service is performed under subclause (i) or (ii);

(n) "professional misconduct" means professional misconduct as defined in the regulations;
(o) "Registrar" means the officer of the Board appointed as Registrar under subsection 2 (8);

(p) "Registration Committee" means the Registration Committee of the Board established under this Act;

(q) "regulations" means the regulations made under this Act. 1974, c. 34, s. 1.

2.—(1) There shall be a board to be known as the Governing Board of Denture Therapists composed of members appointed by the Lieutenant Governor in Council.

(2) The Board shall be composed of three members representing the public interest and six denture therapists.

(3) The Lieutenant Governor in Council shall designate one of the members of the Board to be the chairman. 1974, c. 34, s. 2 (1-3).

(4) Every member of the Board shall be appointed for a term of one, two or three years and is eligible for reappointment. 1980, c. 79, s. 1.

(5) Every vacancy on the Board caused by the death, resignation or incapacity of a member may be filled by the appointment by the Lieutenant Governor in Council of a person to hold office for the remainder of the term of such member.

(6) The Board is a corporation and for its purposes may purchase, acquire, hold, mortgage, lease and dispose of real and personal property.

(7) Five members of the Board, at least one of whom shall be a member appointed to represent the public interest, constitute a quorum.

(8) The Board may employ such officers and employees as are considered necessary for carrying out the duties and functions of the Board and shall appoint an officer of the Board as Registrar.

(9) The objects of the Board are,

(a) to regulate the practice of denture therapy and the practice of supervised denture therapy;
(b) to establish, maintain and develop standards of knowledge and skill among denture therapists;

(c) to establish, maintain and develop standards of qualification and practice for the practice of denture therapy and the practice of supervised denture therapy;

(d) to establish, maintain and develop standards of professional ethics among licensees,

in order that the public interest may be served and protected.

Duties

(10) The Board shall,

(a) review the operation of this Act and the regulations and make recommendations to the Minister thereon;

(b) approve or set courses of study and examinations for the qualification of applicants for licences;

(c) perform such other duties as are assigned to it by this Act or the regulations or by any other Act.

Remuneration

(11) The members of the Board shall be paid such remuneration for their services and allowances for expenses as are fixed by the Lieutenant Governor in Council. 1974, c. 34, s. 2 (5-10).

Practice of denture therapy

3.—(1) No person, other than a dental surgeon or a person licensed under this Act as a denture therapist, shall engage in or hold himself out as qualified or entitled to engage in the practice of denture therapy or the practice of supervised denture therapy.

(2) Subsection (1) does not apply to a student attending a course of study set or approved by the Board and acting under the personal supervision of a person licensed under this Act to engage in the practice of denture therapy for the purpose of completing qualifying studies or practical experience required under the regulations.

(3) For the purpose of subsection (1), proof of the performance of one act in the practice of denture therapy or the practice of supervised denture therapy on one occasion is sufficient to establish engaging in the practice of denture therapy or the practice of supervised denture therapy, as the case may be. 1974, c. 34, s. 3.

Issuance of licences

4.—(1) The Registrar shall issue a licence to any applicant therefor who is qualified under this Act and the regulations
and has passed such examinations as the Board may set or approve, and the Registrar shall refer to the Registration Committee every application for a licence that he proposes to refuse or to which he considers terms, conditions or limitations should be attached.

(2) The Registration Committee,

(a) shall determine the eligibility of applicants for licences and may require an applicant to take and pass such additional examinations as the Board may set or approve and pay such fees therefor as the Registration Committee fixes or to take such additional training as the Registration Committee specifies; and

(b) may exempt an applicant from any licensing requirement.

(3) The Registration Committee may direct the Registrar to issue or refuse to issue licences or to issue licences subject to such terms, conditions and limitations as the Committee specifies.

(4) The Registration Committee may review the qualifications of any licensee and may impose a term, condition or limitation on his licence pending the demonstration of such standard of competence through the completion of such experience, courses of study or continuing education as the Committee specifies.

(5) The Registrar shall maintain one or more registers in which is entered every person who is licensed to engage in the practice of denture therapy or the practice of supervised denture therapy, identifying the terms, conditions and limitations attached to the licence, and shall note on the register every revocation, suspension and cancellation of a licence and such other information as the Registration Committee or Discipline Committee directs.

(6) No licensee whose licence is limited to the practice of supervised denture therapy shall practise intra-oral procedures of denture therapy on a patient except in the office of a dental surgeon or dental clinic and under the direct supervision of a dental surgeon.

(7) A person who is licensed to engage in the practice of denture therapy may also engage in the practice of supervised denture therapy but shall not practise intra-oral procedures associated with the practice of supervised denture therapy that are not associated with the practice
of denture therapy on a patient except in the office of a
dental surgeon or dental clinic and under the direct super-
vision of a dental surgeon.

(8) Every dental surgeon who uses the services of a
denture therapist shall personally supervise the work of the
denture therapist on a patient and shall inform himself
of all aspects of the progress of the work.

(9) No licensed denture therapist shall perform any act
in the practice of dentistry except within the scope of the
practice of denture therapy or supervised denture therapy
performed in the manner required by this Act.

(10) The Registrar may cancel a licence for non-payment
of any prescribed fee after giving the licensee at least two
months notice of the default and intention to cancel, subject
to the continuing jurisdiction of the Board in respect
of any disciplinary action arising out of his professional
conduct while a licensee. 1974, c. 34, s. 4.

5.—(1) The Board shall establish and appoint as herein-
after provided the following committees,

(a) Executive Committee;

(b) Registration Committee;

(c) Complaints Committee;

(d) Discipline Committee,

and may establish such other committees as the Board
from time to time considers necessary.

(2) Where one or more vacancies occur in the membership
of any committee, the members remaining in office con-
stitute the committee so long as their number is not fewer
than the prescribed quorum. 1974, c. 34, s. 5.

6.—(1) The Executive Committee shall be composed of
three persons who are members of the Board of whom one
shall be a person appointed to represent the public interest.

(2) Two members of the Executive Committee constitute
a quorum.
(3) The Executive Committee shall perform such functions of the Board as are delegated to it by the Board, the by-laws or this Act and, subject to ratification by the Board at its next ensuing meeting, may take action upon any other matter that requires immediate attention between meetings of the Board, other than to make, amend or revoke a regulation or by-law. 1974, c. 34, s. 6.

7.—(1) The Registration Committee shall be composed of four members of the Board of whom one shall be a person appointed to represent the public interest.

(2) The Board shall name one member of the Registration Committee to be chairman.

(3) Three members of the Registration Committee constitute a quorum. 1974, c. 34, s. 7.

8.—(1) The Complaints Committee shall be composed of four members of the Board of whom one shall be a person appointed to represent the public interest.

(2) No person who is a member of the Discipline Committee shall be a member of the Complaints Committee.

(3) The Board shall name one member of the Complaints Committee to be its chairman.

(4) Three members of the Complaints Committee constitute a quorum. 1974, c. 34, s. 8.

9.—(1) The Complaints Committee shall consider and investigate complaints made by members of the public or members of the Board regarding the conduct or actions of any person licensed or provisionally licensed under this Act, but no action shall be taken by the Committee under subsection (2) unless.

(a) a written complaint has been filed with the Registrar and the person whose conduct or actions are being investigated has been notified of the complaint and given at least two weeks in which to submit in writing to the Committee any explanations or representations he may wish to make concerning the matter; and

(b) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.
(2) The Committee in accordance with the information it receives may,

(a) direct that the matter be referred in whole or in part to the Discipline Committee or to the Executive Committee for the purposes of section 12; or

(b) direct that the matter not be referred under clause (a); or

(c) take such action as it considers appropriate in the circumstances and that is not inconsistent with this Act or the regulations or by-laws.

(3) The Committee shall give its decision in writing to the Registrar for the purposes of section 15 and, where the decision is taken under clause (2) (b), written reasons therefor. 1974, c. 34, s. 9.

10.—(1) The Discipline Committee shall be composed of five members of the Board, of whom two shall be persons appointed to represent the public interest.

(2) Three or more members of the Discipline Committee, of whom one shall be a person appointed to represent the public interest, constitute a quorum and all disciplinary decisions require the vote of a majority of the members present at the meeting.

(3) The Board shall name one member of the Discipline Committee to be its chairman.

(4) Where a quorum of the Discipline Committee commences a hearing and the member thereof who represents the public interest is unable to continue to act, the remaining members may complete the hearing notwithstanding his absence.

(5) Notwithstanding any other provision of this Act, the Board or the Executive Committee may direct the Discipline Committee to hold a hearing and determine any specified allegation of professional misconduct or incompetence on the part of a licensee. 1974, c. 34, s. 10.

11.—(1) The Discipline Committee shall,

(a) when so directed by the Board, Executive Committee or Complaints Committee, hear and determine allegations of professional misconduct or incompetence against any licensee;
(b) hear and determine matters referred to it by the Board, Registrar, Executive Committee or Complaints Committee pursuant to this Act; and

(c) perform such other duties as are assigned to it by the Board.

(2) In the case of hearings into allegations of professional misconduct or incompetence, the Discipline Committee shall,

(a) consider the allegations, hear the evidence and ascertain the facts of the case;

(b) determine whether upon the evidence and the facts so ascertained the allegations have been proved;

(c) determine whether in respect of the allegations so proved the licensee is guilty of professional misconduct or incompetence;

(d) determine the penalty to be imposed as herein-after provided in cases in which it finds the licensee guilty of professional misconduct or of incompetence.

(3) A licensee may be found guilty of professional misconduct by the Committee if,

(a) he has been found guilty of an offence relevant to his suitability to practise, upon proof of such conviction; or

(b) he has been guilty in the opinion of the Discipline Committee of professional misconduct as defined in the regulations.

(4) The Discipline Committee may find a licensee to be incompetent if in its opinion he has displayed in his professional care of a patient a lack of knowledge, skill or judgment or disregard for the welfare of the patient of a nature or to an extent that demonstrates he is unfit to continue in practice.

(5) Where the Discipline Committee finds a licensee guilty of professional misconduct or incompetence it may by order,

(a) revoke the licence of the licensee;

(b) suspend the licence of the licensee for a stated period;
(c) impose such restrictions on the licence of the licensee for such a period and subject to such conditions as the Committee designates;

(d) reprimand the licensee, and if deemed warranted, direct that the fact of such reprimand be recorded on the register;

(e) direct that the imposition of a penalty be suspended or postponed for such period and upon such terms as the Committee designates,

or any combination thereof.

(6) Where the Discipline Committee is of the opinion that the commencement of the proceedings was unwarranted, the Committee may order that the Board reimburse the licensee for his costs or such portion thereof as the Discipline Committee fixes.

(7) Where the Discipline Committee revokes, suspends or restricts a licence on the grounds of incompetence, the decision takes effect immediately notwithstanding that an appeal is taken from the decision.

(8) Where the Discipline Committee revokes, suspends or restricts a licence on grounds other than for incompetence, the order shall not take effect until the time for appeal from the order has expired without an appeal being taken or, if taken, the appeal has been disposed of or abandoned.

(9) Where the Discipline Committee finds a licensee guilty of professional misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct or action of the licensee.

(10) Where a proceeding is commenced before the Discipline Committee and the term of office on the Board or on the Committee of a member sitting for the hearing expires or is terminated before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Committee for the purpose of completing the disposition of the proceeding in the same manner as if his term of office had not expired or been terminated. 1974, c. 34, s. 11.
12.—(1) In this section,

(a) "board of inquiry" means a board of inquiry appointed by the Executive Committee under subsection (2);

(b) "incapacitated licensee" means a licensee suffering from a physical or mental condition or disorder of a nature and extent making it desirable in the interests of the public or the licensee that he no longer be permitted to practise or that his practice be restricted.

(2) Where the Registrar receives information leading him to believe that a licensee may be an incapacitated licensee he shall make such inquiry as he considers appropriate and report to the Executive Committee who may, upon notice to the licensee, appoint a board of inquiry composed of at least two licensees and one member of the Board representing the public interest who shall inquire into the matter.

(3) The board of inquiry shall make such inquiries as it considers appropriate and may require the licensee to submit to physical or mental examination by such qualified person as the board designates and if the licensee refuses or fails to submit to such examination, the board may order that his licence be suspended until he complies.

(4) The board of inquiry shall report its findings to the Executive Committee and deliver a copy thereof and a copy of any medical report obtained under subsection (3) to the licensee about whom the report is made and, if in the opinion of the Executive Committee, the evidence so warrants, the Executive Committee shall refer the matter to the Registration Committee to hold a hearing and may suspend the licensee's licence until the determination of the question of his capacity becomes final.

(5) The Board, the person whose capacity is being investigated and any other person specified by the Registration Committee are parties to the hearing.

(6) A legally qualified medical practitioner is not compelled to produce at the hearing his case histories, notes or any other records constituting medical evidence but, when required to give evidence, shall prepare a report containing the medical
facts, findings, conclusions and treatment and such report shall be signed by him and served upon the other parties to the proceedings,

(a) where the evidence is required by the Board, at least five days before the hearing commences; and

(b) where the evidence is required by the person about whom the report is made, at least five days before its introduction as evidence,

and the report is receivable in evidence without proof of its making or of the signature of the legally qualified medical practitioner making the report but a party who is not tendering the report as evidence has the right to summon and cross-examine the medical practitioner on the contents of the report.

(7) The Registration Committee shall, after the hearing,

(a) make a finding as to whether or not the licensee is an incapacitated licensee; and

(b) where the licensee is found to be an incapacitated licensee by order,

   (i) revoke his licence,

   (ii) suspend his licence for such period as the Committee considers appropriate, or

   (iii) attach such terms and conditions to the licence as the Committee considers appropriate.

(8) Any party to the proceedings before the Registration Committee under this section may appeal from its decision or order to the Divisional Court in accordance with the rules of court and the provisions of section 20 apply with necessary modifications as if it were an appeal from a decision or order of the Discipline Committee. 1974, c. 34, s. 11a.

13.—(1) There shall be a board to be known as the Denture Therapists Appeal Board.

(2) The Appeal Board shall be composed of not fewer than five and not more than seven members who shall be
appointed by the Lieutenant Governor in Council and the Lieutenant Governor in Council shall designate one of the members of the Appeal Board to be chairman and one to be vice-chairman.

(3) No person who is employed in the public service of Ontario or of any agency of the Crown, or who is or has been a member of the governing body of a health discipline or who is or has been registered under this Act or any other Act governing a health practice shall be a member of the Appeal Board.

(4) The members of the first Appeal Board may be appointed for a term of one, two or three years and thereafter appointments and reappointments shall be for a term of three years.

(5) Every vacancy on the Appeal Board caused by the death, resignation or incapacity of a member, may be filled by the appointment by the Lieutenant Governor in Council of a person to hold office for the remainder of the term of such member.

(6) A majority of the members of the Appeal Board constitutes a quorum.

(7) The members of the Appeal Board shall be paid such remuneration and expenses as are determined by the Lieutenant Governor in Council.

(8) The Appeal Board may prescribe and adopt a seal.

(9) Such employees as are necessary to carry out the duties of the Appeal Board under this Act shall be employed under the Public Service Act. 1974, c. 34, s. 12.

14.—(1) The Appeal Board shall,

(a) conduct such hearings and perform such duties as are assigned to it by or under this Act; and

(b) submit an annual report on its activities to the Minister which shall include such additional information as the Minister may require and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the
Assembly if it is in session or, if not, at the next ensuing session.

(2) The Board may obtain expert or professional advice in connection with a hearing or complaint but the adviser shall be a person independent of,

(a) the parties in the case of a hearing; or

(b) the complainant and the licensee complained against in the case of a complaint,

and in the case of a hearing, the nature of the advice shall be made known to the parties in order that they may make submissions as to the advice. 1974, c. 34, s. 13.

15.—(1) Where the Complaints Committee has made a disposition of a complaint respecting a licensee in accordance with the provisions of this Act, the Registrar shall send to the licensee and to the complainant by prepaid first class mail, a copy of the written decision made by the Complaints Committee including reasons therefor, if any, together with notice advising the complainant of his right of review under subsection (2).

(2) A complainant or the licensee complained against who is not satisfied with the decision made by the Complaints Committee disposing of a complaint, except a decision to refer a matter to the Discipline Committee, may within twenty days of receipt of the written decision request the Appeal Board to review the decision and the Appeal Board shall require the Registrar to transmit to the Appeal Board within fifteen days of the Appeal Board’s request, a record of the investigation and all such documents and things upon which the decision was based and the Appeal Board shall review the decision after giving the complainant an opportunity to state his complaint and the licensee an opportunity to state his answer thereto, either personally, by his agent or in writing. 1974, c. 34, s. 14.

16. Where a complaint respecting a licensee has not been disposed of by the Complaints Committee within sixty days after the complaint is made, the Appeal Board upon application therefor may require the Complaints Committee to make an investigation and, where the investigation of the complaint has not been undertaken, completed and reported on to the Appeal Board by the committee within sixty days after the Appeal Board’s request, the Appeal Board shall undertake such investigation and possesses all the powers of investigation that the Complaints Committee or the Registrar has conferred upon it in this Act. 1974, c. 34, s. 15.
17.—(1) The Appeal Board may after review or investigation of a complaint under section 15 or 16 refer the complaint to the Complaints Committee and the Appeal Board may,

(a) confirm the decision, if any, made by the Complaints Committee;

(b) make such recommendations to the Complaints Committee as the Appeal Board considers appropriate; or

(c) require the Complaints Committee to take such action or proceedings as the committee is authorized to undertake under this Act.

(2) Three members of the Appeal Board constitute a quorum for purposes of investigation or review of a complaint or for a hearing.

(3) The Appeal Board shall give its decision and reasons therefor in writing to the complainant and the licensee complained against. 1974, c. 34, s. 16.

18.—(1) Where the Registration Committee proposes to refuse to grant a licence to an applicant, or proposes to attach terms, conditions or limitations to a registration, the Registrar on behalf of the committee shall serve notice of the proposal of the committee, together with written reasons therefor, on the applicant or licensee and a copy thereof to the Appeal Board.

(2) Subsection (1) does not apply to a refusal to grant a licence to a person who was previously licensed and whose licence was suspended or revoked as a result of a decision of the Discipline Committee.

(3) A notice under subsection (1) shall inform the applicant or licensee that he is entitled to a hearing by the Appeal Board or to a review by the Appeal Board of his application and documentary evidence in support thereof without oral evidence, if he mails or delivers within fifteen days after the notice under subsection (1) is served on him, notice in writing to the Appeal Board requiring a hearing or such review by the Appeal Board, as he specifies.

(4) Where an applicant or licensee does not require a hearing or review by the Appeal Board in accordance with subsection (3), the Appeal Board shall so notify the Registration Committee and the committee may carry out the proposal stated in its notice under subsection (1).
(5) The findings of fact of the Appeal Board pursuant to a hearing or review shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*.

(6) The provisions of subsections 19 (2) to (5) and 19 (7) and (8) apply with necessary modifications to proceedings before the Appeal Board under this section.

(7) The Appeal Board shall, after the hearing or review,

(a) confirm the proposed decision of the Registration Committee; or

(b) require the Registration Committee to permit the applicant to take qualifying examinations or additional training as a condition for licensing, or both as specified by the Registration Committee; or

(c) require the Registration Committee to direct the Registrar to register the applicant on any appropriate register subject to such conditions as the Appeal Board considers appropriate in cases where the Appeal Board finds that the applicant meets the requirements for licensing and that the committee has exercised its powers improperly; or

(d) refer the matter back to the Registration Committee for further consideration and the Appeal Board may make such recommendations as it considers appropriate in the circumstances.

(8) The Registration Committee and the applicant or licensee are parties to proceedings before the Appeal Board under this section.

(9) Any party to proceedings before the Appeal Board under this section may appeal from its decision or order to the Divisional Court in accordance with the rules of court and the provisions of section 20 apply with necessary modifications as if it were an appeal from a decision or order of the Discipline Committee. 1974, c. 34, s. 17.

19.—(1) In proceedings before the Discipline Committee, the Board and the licensee whose conduct is being investigated in the proceedings are parties to the proceedings.

(2) A licensee whose conduct is being investigated in proceedings before the Discipline Committee shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which shall be given in evidence at the hearing.
(3) Members of the Discipline Committee holding a hearing shall not have taken part before the hearing in any investigation of the subject-matter of the hearing other than as a member of the Board considering the referral of the matter to the Discipline Committee or at a previous hearing of the committee, and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the committee may seek legal advice from an adviser independent from the parties and in such case the nature of the advice shall be made known to the parties in order that they may make submissions as to the law.

(4) Notwithstanding anything in the Statutory Powers Procedure Act, hearings of the Discipline Committee shall be held in camera, but, if the person whose conduct is being investigated requests otherwise by a notice delivered to the Registrar before the day fixed for the hearing, the committee shall conduct the hearing in public except where,

(a) matters involving public security may be disclosed;

(b) the possible disclosure of intimate financial or personal matters outweighs the desirability of holding the hearing in public.

(5) The oral evidence taken before the Discipline Committee shall be recorded and, if so required, copies or a transcript thereof shall be furnished only to the parties at their own cost.

(6) Notwithstanding the Statutory Powers Procedure Act, nothing is admissible in evidence before the Discipline Committee that would be inadmissible in a court in a civil case and the findings of the Discipline Committee shall be based exclusively on evidence admitted before it.

(7) No member of the Discipline Committee shall participate in a decision of the committee pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties.

(8) Documents and things put in evidence at a hearing of the Discipline Committee shall, upon the request of the person who produced them, be released to him by the committee within a reasonable time after the matter in issue has been finally determined. 1974, c. 34, s. 18.

20.—(1) Any party to proceedings before the Discipline Committee may appeal from its decision or order to the Divisional Court in accordance with the rules of court.
Powers of court on appeal

(2) An appeal under this section may be made on questions of law or fact or both and the court may affirm or may rescind the decision of the committee appealed from and may exercise all powers of the committee and may direct the committee or the Board to take any action which the committee or the Board may take and as the court considers proper, and for such purposes the court may substitute its opinion for that of the committee, or the court may refer the matter back to the committee for rehearing, in whole or in part, in accordance with such directions as the court considers proper. 1974, c. 34, s. 19.

Restoration of licence

21.—(1) A person whose licence has been revoked or suspended for cause under this Act may apply in writing to the Registrar for the issuance of a licence or removal of the suspension, but such application shall not be made sooner than one year after the revocation or, where the suspension is for more than one year, one year after the suspension.

Reference to Discipline Committee or Registration Committee

(2) The Registrar shall refer the application to the Discipline Committee or, where the revocation or suspension was on the grounds of incapacity, to the Registration Committee, which shall hold a hearing respecting and decide upon the application, and shall report its decision and reasons to the Board and to the former licensee.

Procedures

(3) The provisions of this Act applying to proceedings of the Appeal Board on hearings and review in respect of applications for registration, except subsection 18 (9) apply, with necessary modifications, to proceedings of the Registration Committee and Discipline Committee under this section. 1974, c. 34, s. 20.

Investigation of members

22.—(1) Where the Registrar believes on reasonable and probable grounds that a licensee has committed an act of professional misconduct or incompetence, the Registrar may by order appoint one or more persons to make an investigation to ascertain whether such an act has occurred, and the person appointed shall report the result of his investigation to the Registrar.

Powers of investigator

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the practice of the licensee in respect of whom the investigation is being made and may, upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, records, documents and things relevant to
the subject-matter of the investigation, and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of the Public Inquiries Act, which Part applies to such inquiry as if it were an inquiry under that Act.

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, records, documents or things relevant to the subject-matter of the investigation.

(4) Where a provincial judge is satisfied, upon an ex parte application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, records, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under subsection (2), issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, records, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night.

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, records, documents or things examined under subsection (2) or (4) relating to the person whose practice is being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, records or documents, but such copying shall be carried out with reasonable dispatch and the books, records or documents in question shall be promptly thereafter returned to the person whose practice is being investigated.

(6) Any copy made as provided in subsection (5) and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as prima facie proof of the original book, record or document and its contents.

(7) The Registrar shall report the results of the investigation to the Board or the Executive Committee or to such other committee as he considers appropriate. 1974, c. 34, s. 21.
Matters confidential

23.—(1) Every person employed in the administration of this Act, including any person making an inquiry or investigation under section 22 and any member of the Board or a Committee shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, inquiry or investigation under section 22 and shall not communicate any such matters to any other person except,

(a) as may be required in connection with the administration of this Act and the regulations and by-laws or any proceedings under this Act or the regulations;

(b) to his counsel; or

(c) with the consent of the person to whom the information relates.

Testimony in civil suit

(2) No person to whom subsection (1) applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry or investigation except in a proceeding under this Act or the regulations or by-laws. 1974, c. 34, s. 22.

Regulations

24.—(1) Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Board may make regulations,

(a) respecting any matter ancillary to the provisions of this Act with regard to the issuing, suspension and revocation of licences;

(b) prescribing classes of licences and governing the requirements and qualifications for the issuing of licences or any class thereof and prescribing the terms and conditions thereof;

(c) providing for the maintenance and inspection of registers of persons permitted to practise;

(d) governing standards of practice for the profession;

(e) authorizing persons other than licensees to perform specified acts in the practice of denture therapy under the supervision or direction of a licensee;

(f) prohibiting the practice of denture therapy where there is a conflict of interest and defining the activities that shall constitute a conflict of interest for the purpose;
(g) defining professional misconduct for the purposes of this Act;

(h) providing for a program of continuing education of licensees to maintain their standard of competence and requiring licensees to participate in such continuing education;

(i) providing for the establishment and operation of an appraisal committee for the purposes of examining and assessing the standard of practice of licensees and reporting thereon to the Board and examining and assessing the standards of practice, qualifications and continuing education of licensees and making recommendations to the Registration Committee thereon;

(j) regulating, controlling and prohibiting the use of terms, titles or designations by licensees or groups or associations of licensees in respect of their practices;

(k) respecting the reporting and publication of decisions in disciplinary matters;

(l) providing for the compilation of statistical information on the supply, distribution and professional activities of licensees and requiring licensees to provide the information necessary to compile such statistics;

(m) respecting the duties and authority of the Registrar;

(n) requiring and providing for the inspection and examination of the office, records and equipment of licensees in connection with their practice;

(o) prescribing the records that shall be kept respecting patients;

(p) requiring the payment of annual fees by licensees and fees for licensing, examinations and continuing education, including penalties for late payment, and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;

(q) prescribing forms and providing for their use;

(r) providing for the exemption of any licensee from any provision of the regulations under such special circumstances in the public interest as the Board considers advisable.
(2) Where the Minister requests in writing that the Board make, amend or revoke a regulation under subsection (1) and the Board has failed to do so within sixty days after the request, the Lieutenant Governor in Council may make the regulation, amendment or revocation specified in the request. 1974, c. 34, s. 23.

25. — (1) The Board may pass by-laws relating to the administrative and domestic affairs of the Board not inconsistent with this Act and the regulations and without limiting the generality of the foregoing,

(a) prescribing the seal of the Board;

(b) providing for the execution of documents by the Board;

(c) respecting banking and finance;

(d) fixing the financial year of the Board and providing for the audit of the accounts and transactions of the Board;

(e) respecting the calling, holding and conducting of meetings of the Board and the duties of members of the Board;

(f) respecting the calling, holding and conducting of meetings of licensees;

(g) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;

(h) delegating to the Executive Committee such powers and duties of the Board as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;

(i) providing for a code of ethics;

(j) prescribing forms and providing for their use;

(k) providing procedures for the making, amending and revoking of the by-laws;

(l) respecting management of the property of the Board;

(m) respecting the application of the funds of the Board and the investment and reinvestment of any of its funds not immediately required, and for the safekeeping of its securities;
(n) providing for the entering into arrangements by the Board for licensees respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by licensees and exempting licensees or any class thereof from all or part of any such levy;

(o) respecting membership of the Board in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;

(p) providing for the appointment of inspectors for the purposes of this Act;

(q) respecting all of the things that are considered necessary for the efficient conduct of the affairs of the Board.

(2) A copy of the by-laws made under subsection (1) and amendments thereto,

(a) shall be forwarded to the Minister;

(b) shall be forwarded to each licensee; and

(c) shall be available for public inspection in the office of the Board. 1974, c. 34, s. 24.

26.—(1) Where it appears to the Board that any person does not comply with any provision of this Act or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights it may have, the Board may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application the judge may make such order or such other order as the judge thinks fit.

(2) An appeal lies to the Divisional Court from an order made under subsection (1). 1974, c. 34, s. 25.

27.—(1) Every person who is in contravention of section 3 is guilty of an offence and on conviction is liable for the first offence to a fine of not more than $2,000 and for each subsequent offence to a fine of not more than $2,000 or to imprisonment for a term of not more than six months, or to both.
(2) Every person who, not being a licensee, uses an occupational designation prescribed or prohibited by the regulations to be used by licensees or a like designation is guilty of an offence and on conviction is liable for the first offence to a fine of not more than $1,000 and for each subsequent offence to a fine of not more than $2,000.

(3) Any person who obstructs a person appointed to make an investigation under section 22 in the course of his duties is guilty of an offence and on conviction is liable to a fine not exceeding $2,000. 1974, c. 34, s. 26.

28.—(1) Except where otherwise provided, any notice or document required by this Act to be served may be served personally or by prepaid first class mail addressed to the person to whom notice is to be given at his last known address and, where notice is served by mail, the service shall be deemed to have been made on the fifth day after the day of mailing unless the person to whom notice is given establishes that he, acting in good faith, through absence, accident, illness or other cause beyond his control, did not receive the notice, or did not receive the notice until a later date.

(2) Every member of the Appeal Board and of the Discipline Committee has power to administer oaths and affirmations for the purposes of any of its proceedings. 1974, c. 34, s. 27.

29. Any statement containing information from the records required to be kept by the Registrar under this Act, purporting to be certified by the Registrar under the seal of the Board is admissible in evidence in all courts as prima facie proof of the facts stated therein without proof of the appointment or signature of the Registrar and without proof of the seal. 1974, c. 34, s. 28.

30. No action or other proceeding for damages shall be instituted against the Appeal Board, the Board, a committee of the Board or any member of the Appeal Board, the Board or committee, or any officers, employees, agents or appointees of the Appeal Board or the Board for any act done in good faith in the performance or intended performance of any duty or in the exercise or the intended exercise of any power under this Act, a regulation or a by-law, or for any neglect or default in the performance or exercise in good faith of such duty or power. 1974, c. 34, s. 29.

31. No licensee is liable to any action arising out of negligence or malpractice in respect of professional services requested or rendered unless such action is commenced
within one year from the date when the person commencing the action knew or ought to have known the fact or facts upon which he alleges negligence or malpractice. 1974, c. 34, s. 30.

32.—(1) Any person who makes or causes to be made any wilful falsification in any matter relating to a register or issues a false licence, certificate or document with respect to registration is guilty of an offence and on conviction is liable to a fine of not more than $5,000.

(2) Any person who wilfully procures or attempts to procure himself to be licensed or registered under this Act by knowingly making any false representation or declaration or by making a fraudulent representation or declaration, either orally or in writing, is guilty of an offence and on conviction is liable to a fine of not more than $5,000 and every person knowingly aiding and assisting him therein is guilty of an offence and on conviction is liable to a fine of not more than $5,000. 1974, c. 34, s. 31.

33. Where licensing under this Act is required to permit the lawful doing of any act or thing, if in any prosecution it is proven that the accused has done such act or thing, the burden of proving that he was so licensed under this Act rests upon the accused. 1974, c. 34, s. 32.