c 196 Health Disciplines Act

Ontario
CHAPTER 196

Health Disciplines Act

PART I

GENERAL

1.—(1) In this Act,

(a) "Board" means the Health Disciplines Board under section 6;

(b) "health discipline" means a health discipline to which a Part of this Act applies;

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

(d) "regulations" means the regulations made under this Act.

(2) In this Part,

(a) "College" means the corporate body of a health discipline or group of health disciplines as established for that discipline or group in a Part of this Act;

(b) "complaints committee" means the complaints committee of a health discipline or group of health disciplines as established for that discipline or group in a Part of this Act;

(c) "Council" means the governing body of a health discipline or group of health disciplines as established for that discipline or group in a Part of this Act;

(d) "discipline committee" means the discipline committee of a health discipline or group of health disciplines as established for that discipline or group in a Part of this Act;
"registration" means, (i) a licence to practise a health discipline or group of health disciplines issued under a Part of this Act requiring a licence to practise, or (ii) a certificate respecting the practising of a health discipline or group of health disciplines issued under a Part of this Act, the issuance of which is required to be entered on the register of the appropriate College, and "registered" has a corresponding meaning.

(3) Nothing in this Act shall be construed to require a hearing to be held within the meaning of the Statutory Powers Procedure Act unless the holding of a hearing is specifically referred to. 1974, c. 47, s. 1.

Administra- 

2. The Minister is responsible for the administration of this Act. 1974, c. 47, s. 2.

Duties of 

3.—(1) It is the duty of the Minister to ensure that the activities of health disciplines are effectively regulated and co-ordinated in the public interest, to have appropriate standards of practice developed and ensure that these are maintained and to ensure that the rights of individuals to the services provided by health disciplines of their choice are maintained and to these ends to,

(a) inquire into or direct the appropriate Council or Councils to inquire into the state of the practice of one or more health disciplines in any locality or institution;

(b) require Councils to provide such reports and information as the Minister requires for his purposes including information from the registers of the Colleges;

(c) review proposals by a Council for changes in legislation or regulations of concern to that Council;

(d) consider the by-laws of Councils and provide advice and guidance to Councils with respect to the proposed implementation or revision of such by-laws;
(e) request a Council to make, amend or revoke regulations respecting any of the matters specified in its applicable Part; and

(f) review legislation respecting the provision of health services by health disciplines.

(2) Where the Minister requests in writing that a Council make, amend or revoke a regulation under clause (1) (e) and the Council 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.

(3) The Minister may appoint such advisory committees as he considers desirable and appropriate to assist him in carrying out his duties under this Act. 1974, c. 47, s. 3.

4. Where the Minister or a Council proposes changes to be made in legislation or regulations respecting a health discipline, the Minister shall distribute the proposals to all health disciplines and all health disciplines are entitled to make submissions to the Minister with respect to such proposals. 1974, c. 47, s. 4.

5. Where a College has incurred expenses in complying with the directions of the Minister under this Part, the Minister may, out of moneys appropriated therefor by the Legislature, make appropriate payments to reimburse the College in whole or in part for the expenses incurred. 1974, c. 47, s. 5.

6.—(1) The Health Disciplines Board is continued.

(2) The 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 on the recommendation of the Minister, and the Lieutenant Governor in Council shall designate one of the members of the 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 a Council or who is or has been registered under this Act or any other Act governing a health practice shall be a member of the Board. 1974, c. 47, s. 6 (1-3).

(4) Appointments and reappointments of members of the Board shall be for terms of three years. 1974, c. 47, s. 6 (4), revised.
(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) A majority of the members of the Board constitutes a quorum.

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

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

(9) Such employees as are necessary to carry out the duties of the Board under this Act shall be employed under the Public Service Act. 1974, c. 47, s. 6 (5-9).

7.—(1) The Board shall,

(a) conduct such hearings and perform such duties as are assigned to it by or under this or any other 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 member 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. 47, s. 7.

8.—(1) Where a complaints committee has made a disposition of a complaint respecting a member of its College in accordance with the provisions of the applicable Part of this
Act governing that College, the Registrar of the College shall send to the member and to the complainant by prepaid first class mail, a copy of the written decision made by the complaints committee and reasons therefor, if any, together with notice advising the complainant of his right of review under subsection (2).

(2) A complainant or the member complained against who is not satisfied with the decision made by a 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 Board to review the decision and the Board shall require the Registrar of the College to transmit to the Board within fifteen days of the Board's request, a record of the investigation and all such documents and things upon which the decision was based and the Board shall review the decision after giving the complainant an opportunity to state his complaint and the member an opportunity to state his answer thereto, either personally, by his agent or in writing. 1974, c. 47, s. 8.

9. Where a complaint respecting a member of a College has not been disposed of by the complaints committee of the College within sixty days after the complaint is made, the 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 Board by the committee within sixty days after the Board's request, the Board shall undertake such investigation and possesses all the powers of investigation that the complaints committee or the Registrar has in the applicable Part of this Act. 1974, c. 47, s. 9.

10.—(1) The Board may after review or investigation of a complaint under section 8 or 9 refer the complaint to the complaints committee and the Board may,

(a) confirm the decision, if any, made by the complaints committee;

(b) make such recommendations to the complaints committee as the Board considers appropriate; or

(c) require the complaints committee to take such action or proceedings as the committee is authorized to undertake under the applicable Part of this Act.

(2) Three members of the Board constitute a quorum for purposes of investigation or review of a complaint under section 8 or 9 or a hearing under section 11.

(3) The Board shall give its decision and reasons therefor in writing to the complainant and the member complained against. 1974, c. 47, s. 10.
11.—(1) Where a registration committee proposes to refuse to grant registration 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 registrant and a copy thereof to the Board.

(2) Subsection (1) does not apply to a refusal to grant registration to a person who was previously registered and whose registration was suspended or revoked as a result of a decision of a discipline committee.

(3) A notice under subsection (1) shall inform the applicant or registrant that he is entitled to a hearing by the Board or to a review by the 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 Board requiring a hearing or such review by the Board, as he specifies.

(4) Where an applicant or registrant does not require a hearing or review by the Board in accordance with subsection (3), the Board shall so notify the registration committee making the proposal and the committee may carry out the proposal stated in its notice under subsection (1).

(5) The findings of fact of the 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 12 (2) to (5) and subsections 12 (7) and (8) apply with necessary modifications to proceedings before the Board under this section.

(7) The 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 registration, or both, as specified by the registration committee; or

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

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

(8) The registration committee and the applicant or registrant are parties to proceedings before the Board under this section.

(9) Any party to proceedings before the 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 13 apply with necessary modifications as if it were an appeal from a decision or order of a discipline committee. 1974, c. 47, s. 11.

12.—(1) In proceedings before the discipline committee of a College, the College and the member of the College whose conduct is being investigated in the proceedings are parties to the proceedings.

(2) A member whose conduct is being investigated in proceedings before a 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 will be given in evidence at the hearing.

(3) Members of a 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 Council 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 should 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; or

(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 a 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 a discipline committee that would be inadmissible in a court in a civil case and the findings of a discipline committee shall be based exclusively on evidence admitted before it.

(7) No member of a 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 a 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. 47, s. 12.

13.—(1) Any party to proceedings before a discipline committee may appeal from its decision or order to the Divisional Court in accordance with the rules of court.

(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 College to take any action which the committee or the College 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. 47, s. 13.

14.—(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 Health Disciplines Board and of the discipline committee of a College has power to administer oaths and affirmations for the purposes of any of its proceedings. 1974, c. 47, s. 14.

15. Any statement containing information from the records required to be kept by a Registrar under any Part of this Act, purporting to be certified by the Registrar under the seal of the College 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. 47, s. 15.

16. No action or other proceeding for damages shall be instituted against the Board, a College, a Council, a committee or any member of the Board, Council or committee, or any officers, servants, agents or appointees of the Board, or a College 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. 47, s. 16.

17. No duly registered member of a College 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. 47, s. 17.

18.—(1) Any person who makes or causes to be made any wilful falsification in any matter relating to a register or issues a false 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 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. 47, s. 18.
19. Where registration 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 registered under this Act rests upon the accused. 1974, c. 47, s. 19.

PART II

DENTISTRY

20.—(1) In this Part,

(a) "by-laws" means the by-laws made under this Part;

(b) "College" means the Royal College of Dental Surgeons of Ontario;

(c) "Council" means the Council of the College;

(d) "licence" means a licence for the practice of dentistry issued under this Part;

(e) "member" means a member of the College;

(f) "practice of dentistry" means any professional service usually performed by a dentist or a dental surgeon, and includes,

(i) the diagnosis or treatment of, and the prescribing, treating or operating for the prevention, alleviation or correction of any disease, pain, deficiency, deformity, defect, lesion, disorder or physical condition of, in or from any human tooth, jaw or adjacent structure or tissue or any injury thereto,

(ii) the making, producing, reproducing, constructing, fitting, furnishing, supplying, altering or repairing or prescribing or advising the use of any prosthetic denture, bridge, appliance or thing for any of the purposes indicated in subclause (i), to be used in, upon or in connection with any human tooth, jaw or associated structure or tissue or in the treatment of any condition thereof, or replacing, improving or supplementing any human tooth, associated structure or tissue, and

(iii) the taking or making, or the giving of advice or assistance or the providing of facilities for
the taking or making of any impression, bite, cast or design preparatory to, or for the purpose of, or with a view to the making, producing, reproducing, constructing, fitting, furnishing, supplying, altering or repairing of any such prosthetic denture, bridge, appliance or thing;

(g) "Registrar" means the Registrar of the College;

(h) "regulations" means the regulations made under this Part.

(2) The practice of dentistry is a health discipline to which this Part applies. 1974, c. 47, s. 20.

21.—(1) The Royal College of Dental Surgeons of Ontario is continued as a body corporate without share capital with power to acquire, hold and dispose of real and personal property for the purposes of this Part.

(2) The objects of the College are,

(a) to regulate the practice of dentistry and to govern its members in accordance with this Act, the regulations and the by-laws;

(b) to establish, maintain and develop standards of knowledge and skill among its members;

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

(d) to establish, maintain and develop standards of professional ethics among its members;

(e) to administer this Part and perform such other duties and exercise such other powers as are imposed or conferred on the College by or under any Act, in order that the public interest may be served and protected. 1974, c. 47, s. 21.

22.—(1) Every person licensed by the College is a member of the College subject to any term, condition or limitation to which the licence is subject.

(2) A member may resign his membership by filing with the Registrar his resignation in writing and his licence is thereupon cancelled, subject to the continuing jurisdiction
Cancellation for default of fees

(3) The Registrar may cancel a licence for non-payment of any fee prescribed by the regulations after giving the member at least two months notice of the default and intention to cancel, subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct while a member. 1974, c. 47, s. 22.

Council of College

23.—(1) The Board of Directors of the College is continued as the Council of the College, which shall be the governing body and board of directors of the College and shall manage and administer its affairs.

Composition of Council

(2) The Council shall be composed of,

(a) not fewer than nine and not more than twelve persons who are members elected in the number and manner determined by the regulations;

(b) not fewer than three and not more than five persons who are not members of a Council under this Act or registered or licensed under this Act or any other Act governing a health practice and are appointed by the Lieutenant Governor in Council; and

(c) one person who is appointed by the faculty of dentistry of each university in Ontario that conducts a course in dentistry and is authorized to grant degrees in dentistry, such person to be appointed from among the members of the faculty.

Remuneration of lay members

(3) The persons appointed under clause (2) (b) shall be paid, out of moneys appropriated therefor by the Legislature, such expenses and remuneration as is determined by the Lieutenant Governor in Council.

Expiration of appointment

(4) The appointment of every person appointed under subsection (2) expires at the first meeting of the Council following the election of members to Council held next after the effective date of his appointment, and a person whose appointment expires is eligible for reappointment.

Qualifications to vote

(5) Every member who,

(a) practises in Ontario; and

(b) is not in default of payment of the annual fee prescribed by the regulations,

is qualified to vote at an election of members of the Council.
(6) The Council shall elect a President and Vice-President from among its members.

(7) The Council shall appoint during pleasure a Registrar and such other officers and servants as may from time to time be necessary in the opinion of the Council to perform the work of the College.

(8) A majority of the members of the Council constitutes a quorum. 1974, c. 47, s. 23 (1-8).

24. In addition to his powers and duties under Part I, the Minister may,

(a) review the activities of the Council;

(b) request the Council to undertake activities that, in the opinion of the Minister, are necessary and advisable to carry out the intent of this Act;

(c) advise the Council with respect to the implementation of this Part and the regulations and with respect to the methods used or proposed to be used by the Council to implement policies and to enforce its regulations and procedures. 1974, c. 47, s. 24.

25. Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

(a) fixing the number of members to be elected to the Council and establishing electoral districts and regional representation for elections;

(b) respecting and governing the qualifications, nomination, election and term of office of the members to be elected, and controverted elections;

(c) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;

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

(e) 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;

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

(g) governing standards of practice for the profession;

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

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

(j) regulating the compounding, dispensing and sale of drugs by members and the containers and labelling therefor, prescribing the records that shall be kept and requiring reports to the Minister respecting such compounding, dispensing and sale;

(k) defining classes of specialists in the various branches of dentistry, prescribing the qualifications required, providing for the suspension or revocation of any such designation, and for the regulation and prohibition of the use of terms, titles or designations by members indicating specialization in any branch of dentistry;

(l) authorizing persons other than members to perform specified acts in the practice of dentistry under the supervision or direction of a member;

(m) prohibiting the practice of dentistry where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;

(n) defining professional misconduct for the purposes of this Part;

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

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

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

(r) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the information necessary to compile such statistics, for any purpose that may tend to advance scientific knowledge and maintain the standards of practice of dentistry;

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

(t) requiring the payment of annual fees by members 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;

(u) prescribing forms for the purposes of this Part and providing for their use;

(v) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable. 1974, c. 47, s. 25.

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

(a) prescribing the seal of the College;

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

(c) respecting banking and finance;

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

(e) providing procedures for the election of President and Vice-President of the College, the filling of a vacancy in those offices, and prescribing the duties of the President and Vice-President;
(f) respecting the calling, holding and conducting of meetings of the Council and the duties of members of Council;

(g) prescribing the remuneration of the members of the Council and committees, other than persons appointed by the Lieutenant Governor in Council, and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;

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

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

(j) providing for a code of ethics;

(k) providing for the appointment of inspectors for the purposes of this Part;

(l) prescribing forms and providing for their use;

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

(n) respecting management of the property of the College;

(o) respecting the application of the funds of the College and the investment and reinvestment of any of its funds not immediately required, and for the safekeeping of its securities;

(p) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;

(q) respecting membership of the College in any national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;
(r) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

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

(a) shall be forwarded to the Minister; and

(b) shall be available for public inspection in the office of the College.

(3) Any by-law or resolution signed by all the members of the Council is as valid and effective as if passed at a meeting of the Council duly called, constituted and held for that purpose. 1974, c. 47, s. 26.

27.—(1) Where a prosthetic denture is supplied, altered or repaired by a member or under the supervision of a member as set out in subsection 4 (8) of the Denture Therapists Act, the laboratory costs incurred in respect of the supplying, altering or repairing of the prosthetic denture and all fees for services in respect thereof shall be rendered by the member and the account therefor shall show such laboratory costs separately from such fees and separately from all other charges and fees.

(2) No person is liable to pay an account to which subsection (1) applies until the account is made to comply with the requirements of subsection (1). 1974, c. 47, s. 27.

28.—(1) No person shall engage in or hold himself out as engaging in the practice of dentistry unless he is licensed under this Part.

(2) For the purposes of subsection (1), proof of the performance of one act in the practice of dentistry on one occasion is sufficient to establish engaging in the practice of dentistry.

(3) Subsection (1) does not apply to a student of dentistry who practises dentistry within a prescribed training program under the supervision of a member who is physically present.

(4) Nothing done in the practice of denture therapy or the practice of supervised denture therapy as defined in the Denture Therapists Act by a denture therapist licensed or provisionally licensed thereunder shall be deemed to be a contravention of this section.
(5) A licence shall be deemed to authorize a member to engage in the practice of dentistry, notwithstanding that any part of such practice is included in the practice of any other health discipline.

(6) Part VI does not apply in respect of the compounding and dispensing and sale of drugs by a member for his own patients in accordance with this Part and the regulations. 1974, c. 47, s. 28.

29.—(1) The Council shall establish and appoint as hereinafter provided the following committees,

(a) Executive Committee;

(b) Registration Committee;

(c) Complaints Committee;

(d) Discipline Committee,

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

(2) Where one or more vacancies occur in the membership of the Council or any committee, the members remaining in office constitute the Council or committee so long as their number is not fewer than the prescribed quorum. 1974, c. 47, s. 29.

(3) The Council may give the Dentistry Review Committee under the Health Insurance Act such other duties as the Council considers appropriate and that are not inconsistent with its duties under that Act. 1975, c. 63, s. 1.

30.—(1) The Executive Committee shall be composed of the President and Vice-President of the Council and not more than three other members of the Council, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.

(2) A majority of the members of the Executive Committee constitutes a quorum.

(3) The Executive Committee shall perform such functions of the Council as are delegated to it by the Council, the by-laws or this Part and may take action upon any other matter that requires immediate attention between meetings of the Council, other than to make, amend or revoke a regulation or by-law. 1974, c. 47, s. 30.
31.—(1) The Registration Committee shall be composed of three persons who are members of the Council, one of whom shall be a person appointed to the Council by the Lieutenant Governor in Council.

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

(3) A majority of the members of the Registration Committee constitutes a quorum. 1974, c. 47, s. 31.

32.—(1) The Registrar shall issue a licence to any applicant therefor who is qualified under this Part and the regulations and has passed such examinations as the Council 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 Council may set or approve and pay such fee 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 member and may impose a further 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 practise dentistry, identifying any specialist status and the terms, conditions and limitations attached to the licence, and shall
Continuation
of licences
R.S.O. 1970,
c. 108

Complaints
Committee

Chairman

Quorum

Duties

Every licence issued under The Dentistry Act, being chapter 108 of the Revised Statutes of Ontario, 1970, and in effect immediately before the 14th day of July, 1975, continues in the same manner as if issued under this Part. 1974, c. 47, s. 33.

33. Every licence issued under The Dentistry Act, being chapter 108 of the Revised Statutes of Ontario, 1970, and in effect immediately before the 14th day of July, 1975, continues in the same manner as if issued under this Part. 1974, c. 47, s. 33.

34.—(1) The Complaints Committee shall be composed of three persons who are members of the Council, one of whom shall be a person appointed to the Council by the Lieutenant Governor in Council.

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

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

(4) A majority of the members of the Complaints Committee constitutes a quorum. 1974, c. 47, s. 34.

35.—(1) The Complaints Committee shall consider and investigate complaints made by members of the public or members of the College regarding the conduct or actions of any member of the College, 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 member 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 38; or

(b) direct that the matter not be referred under clause (a); or
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(c) take such action as it considers appropriate in the circumstances and that is not inconsistent with this Part or the regulations or by-laws.

(3) The Committee shall give its decision in writing to the Registrar for the purposes of section 8 and, where the decision is made under clause (2) (b), its reasons therefor. 1974, c. 47, s. 35.

36.—(1) The Discipline Committee shall be composed of eight members of the Council of whom two shall be persons appointed to the Council by the Lieutenant Governor in Council.

(2) The Council shall appoint one of the members of the Discipline Committee to be chairman.

(3) The Chairman of the Discipline Committee may assign a panel of five members of the Committee to hold a hearing of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.

(4) Three members of a panel assigned under subsection (3), of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council, constitute a quorum for a hearing and all disciplinary decisions require the vote of a majority of members of the Discipline Committee presiding at the hearing.

(5) Where a panel of the Discipline Committee commences a hearing and the member thereof who is appointed to the Council by the Lieutenant Governor in Council becomes unable to continue to act, the remaining members may complete the hearing notwithstanding his absence.

(6) Notwithstanding section 35, the Council 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 member. 1974, c. 47, s. 36.

37.—(1) The Discipline Committee shall,

(a) when so directed by the Council, Executive Committee or Complaints Committee, hear and determine allegations of professional misconduct or incompetence against any member;

(b) hear and determine matters referred to it under section 35, 36 or 39; and

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

(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 member is guilty of professional misconduct or incompetence;

(d) determine the penalty to be imposed as hereinafter provided in cases in which it finds the member guilty of professional misconduct or of incompetence.

Professional misconduct

(3) A member 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.

Incompetence

(4) The Discipline Committee may find a member 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.

Powers of Discipline Committee

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

(a) revoke the licence of the member or withdraw recognition of his specialist status, or both;

(b) suspend the licence of the member or recognition of his specialist status, or both, for a stated period;

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

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

(e) impose such fine as the Committee considers appropriate to a maximum of $5,000 to be paid by the
member to the Treasurer of Ontario for payment into the Consolidated Revenue Fund;

(f) 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 College reimburse the member for his costs or such portion thereof as the Discipline Committee fixes.

(7) Where the Discipline Committee revokes, suspends or restricts a licence or recognition of specialist status 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 the licence or recognition of specialist status on a ground 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 member 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 member.

(10) Where a proceeding is commenced before the Discipline Committee and the term of office on the Council 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. 47, s. 37.

38.—(1) In this section,

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

(b) "incapacitated member" means a member 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 member 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 member may be an incapacitated member, he shall make such inquiry as he considers appropriate and report to the Executive Committee who may, upon notice to the member, appoint a board of inquiry composed of at least two members of the College and one member of the Council appointed thereto by the Lieutenant Governor in Council who shall inquire into the matter.

(3) The board of inquiry shall make such inquiries as it considers appropriate and may require the member to submit to physical or mental examination by such qualified person as the board designates and if the member 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 member 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 member’s licence until the determination of the question of his capacity becomes final.

(5) The College, the person whose capacity is being investigated and any other person specified by the Registration Committee are parties to a proceeding under this section.

(6) A legally qualified medical practitioner is not compellable 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 proceeding,

(a) where the evidence is required by the College, 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 member is an incapacitated member; and

(b) where the member is found to be an incapacitated member 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) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration and appeals therefrom apply, with necessary modifications, to proceedings of the Registration Committee under this section, except that the decision takes effect immediately notwithstanding that an appeal is taken from the decision. 1974, c. 47, s. 38.

39.—(1) A person whose licence has been revoked or suspended for cause under this Part, or a predecessor of this Part, 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.

(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 Council and to the former member.

(3) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration, except subsection 11 (9), apply, with necessary modifications, to proceedings of the Registration Committee and Discipline Committee under this section. 1974, c. 47, s. 39.
40.—(1) Where the Registrar believes on reasonable and probable grounds that a member 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.

(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 member 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 justice of the peace 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 justice of the peace 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 justice of the peace, 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 member 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
member 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 in-
vestigation 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 investiga-
tion to the Council or the Executive Committee or such
other committee as he considers appropriate. 1974, c. 47,
s. 40.

41.—(1) Every person employed in the administration
of this Part, including any person making an inquiry or
investigation under section 40 and any member of the
Council 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 40 and shall not communicate any such matters to
any other person except,

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

(b) as may be required for the enforcement of the
Health Insurance Act;

(c) to his counsel; or

(d) with the consent of the person to whom the informa-
tion relates.

(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, employ-
ment, inquiry or investigation except in a proceeding under this
Part or the regulations or by-laws. 1974, c. 47, s. 41.

42.—(1) Where it appears to the College that any person
does not comply with any provision of this Part 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 College 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.
Appeal

(2) An appeal lies to the Divisional Court from an order made under subsection (1). 1974, c. 47, s. 42.

Penalties

43.—(1) Every person who is in contravention of section 28 is guilty of an offence and on conviction is liable to a fine of not more than $5,000 or to imprisonment for a term of not more than six months, or to both. 1974, c. 47, s. 43 (1).

(2) Subject to the provisions of Parts III and V, any person not licensed under this Part who takes or uses any name, title, addition or description implying or calculated to lead people to infer that he is licensed or registered under this Part or that he is qualified or recognized by law or otherwise as a dentist, dental surgeon, oral surgeon, orthodontist, periodontist, oral pathologist, endodontist or any other designated specialties in the practice of dentistry, or who assumes, uses or employs the description or the title “dentist”, “doctor” or “dental surgeon”, or any affix or prefix indicative of such titles or qualifications as an occupational designation relating to the treatment of human ailments or physical defects or advertises or holds himself out as such 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. 1975, c. 63, s. 2.

(3) Any person who obstructs a person appointed to make an investigation under section 40 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. 47, s. 43 (3).

Regulations re dental hygienists

44. Subject to the approval of the Lieutenant Governor in Council, the Council may make regulations,

(a) providing for the establishment, development, regulation and control of an ancillary body known as dental hygienists;

(b) regulating the conditions and prescribing the qualifications for admission to such body;

(c) prescribing the admission and annual fees payable by members of such body;

(d) generally for the defining, regulating and controlling of the practice of dental hygiene. R.S.O. 1970, c. 108, s. 12, revised.
PART III

MEDICINE

45.—(1) In this Part,

(a) "by-laws" means the by-laws made under this Part;
(b) "College" means the College of Physicians and Surgeons of Ontario;
(c) "Council" means the Council of the College;
(d) "licence" means a licence for the practice of medicine issued under this Part;
(e) "member" means a member of the College;
(f) "practice of medicine" includes the practice of surgery and obstetrics;
(g) "prescribed" means prescribed by the regulations or by-laws made under this Part;
(h) "Registrar" means the Registrar of the College;
(i) "regulations" means the regulations made under this Part.

(2) The practice of medicine is a health discipline to which this Part applies. 1974, c. 47, s. 45.

46.—(1) The College of Physicians and Surgeons of Ontario is continued as a body corporate without share capital with power to acquire, hold and dispose of real and personal property for the purposes of this Part.

(2) The objects of the College are,

(a) to regulate the practice of medicine and to govern its members in accordance with this Act, the regulations and the by-laws;
(b) to establish, maintain and develop standards of knowledge and skill among its members;
(c) to establish, maintain and develop standards of qualification and practice for the practice of medicine;
(d) to establish, maintain and develop standards of professional ethics among its members;
(e) to administer this Part and perform such other duties and exercise such other powers as are imposed or conferred on the College by or under any Act;

(f) such other objects relating to human health care as the Council considers desirable,

in order that the public interest may be served and protected. 1974, c. 47, s. 46.

Membership in the College

47.—(1) Every person licensed by the College is a member of the College subject to any term, condition or limitation to which the licence is subject.

Resignation of membership

(2) A member may resign his membership by filing with the Registrar his resignation in writing and his licence is thereupon cancelled subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct while a member.

Cancellation for default of fees

(3) The Registrar may cancel a licence for non-payment of any prescribed fee after giving the member at least two months notice of the default and intention to cancel subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct as a member. 1974, c. 47, s. 47.

Council of the College

48.—(1) The Council of the College is continued and shall be the governing body and board of directors of the College and shall manage and administer its affairs.

Composition of Council

(2) The Council shall be composed of,

(a) one person who is appointed by the faculty of medicine of each university in Ontario that conducts a course in medicine and is authorized to grant degrees in medicine, such person to be appointed from among the members of the faculty;

(b) not fewer than four and not more than six persons who are not members of a Council under this Act or registered or licensed under this Act or any other Act governing a health practice, and are appointed by the Lieutenant Governor in Council; and

(c) not fewer than twelve and not more than sixteen persons who are members and are elected by the members in the manner provided by the regulations.
(3) The persons appointed under clause (2) (b) shall be paid, out of moneys appropriated therefor by the Legislature, such expenses and remuneration as is determined by the Lieutenant Governor in Council.

(4) The appointment of every person appointed under subsection (2) expires at the first regular meeting of the Council following the election of members to Council held next after the effective date of his appointment, and a person whose appointment expires is eligible for reappointment.

(5) Every member who is,

(a) resident in Ontario;

(b) licensed to practise medicine and not limited to practising for educational purposes only; and

(c) not in default of payment of the prescribed annual fee,

is qualified to vote at an election of members of the Council.

(6) The Council shall elect annually a President and Vice-President from among its members.

(7) The Council shall appoint during pleasure a Registrar and such other officers and servants as may from time to time be necessary or desirable in the opinion of the Council to perform the work of the College.

(8) A majority of the members of the Council constitutes a quorum. 1974, c. 47, s. 48 (1-8).

49. In addition to his powers and duties under Part I, the Minister may,

(a) review the activities of the Council;

(b) request the Council to undertake activities that, in the opinion of the Minister, are necessary and advisable to carry out the intent of this Act;

(c) advise the Council with respect to the implementation of this Part and the regulations and with respect to the methods used or proposed to be used by the Council to implement policies and to enforce its regulations and procedures. 1974, c. 47, s. 49.
50. Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

(a) fixing the number of members to be elected to the Council and establishing electoral districts for elections;

(b) respecting and governing the qualifications, nomination, election and term of office of the members to be elected to the Council, and controverted elections;

(c) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;

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

(e) 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;

(f) providing for the maintenance and inspection of registers of persons permitted to practise and for the issuance of certificates of standing by the Registrar;

(g) governing standards of practice for the profession;

(h) defining classes of specialists in the various branches of medicine, prescribing the qualifications required, providing for the suspension or revocation of any such designation, and for the regulation and prohibition of the use of terms, titles or designations by members indicating specialization in any branch of medicine;

(i) regulating the compounding, dispensing and sale of drugs by members and the containers and labelling therefor, prescribing the records that shall be kept and requiring reports to the Minister respecting such compounding, dispensing and sale;

(j) governing the designation of life members of the College and prescribing their rights and privileges;

(k) authorizing persons other than members to perform specified acts in the practice of medicine under the supervision or direction of a member;
(l) prohibiting the practice of medicine where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;

(m) defining professional misconduct for the purposes of this Part;

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

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

(p) prescribing the minimum number of members who may constitute a clinic and the minimum range of medical services that shall be provided in a clinic;

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

(r) requiring and providing for the inspection and examination of books, accounts, reports and medical records of members in connection with their practice;

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

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

(u) requiring the payment of fees by members 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;

(v) prescribing forms and providing for their use;

(w) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable. 1974, c. 47, s. 50.

51.—(1) The Council may pass by-laws relating to the administrative and domestic affairs of the College not incon-
consistent with this Act and the regulations and without limiting the generality of the foregoing,

(a) prescribing the seal of the College;

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

(c) respecting banking and finance;

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

(e) providing procedures for the election of President and Vice-President of the College, the filling of a vacancy in those offices, and prescribing the duties of the President and Vice-President;

(f) respecting the calling, holding and conducting of meetings of the Council and the duties of members of Council;

(g) respecting the calling, holding and conducting of meetings of the membership of the College;

(h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;

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

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

(k) providing for a code of ethics;

(l) prescribing forms and providing for their use;

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

(n) respecting management of the property of the College;
(o) respecting the application of the funds of the College and the investment and reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;

(φ) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;

(q) providing for the establishment, maintenance and administration of a benevolent fund for needy practitioners in Ontario and the dependants of deceased members;

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

(s) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

(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 member; and

(c) shall be available for public inspection in the office of the College.

(3) Any by-law or resolution signed by all members of the Council is as valid and effective as if passed at a meeting of the Council duly called, constituted and held for the purpose. 1974, c. 47, s. 51.

52.—(1) No person shall engage in or hold himself out as engaging in the practice of medicine unless he is licensed under this Part.

(2) For the purposes of subsection (1),

(a) rendering first aid or temporary assistance in an emergency without fee; or
(b) the administration of household remedies by members of the patient’s household,

shall be deemed not to be engaging in the practice of medicine.

(3) Subsection (1) does not apply to a student of medicine engaging in a curriculum of studies at a medical school in a university in Ontario.

(4) For the purposes of this section, proof of the performance of one act in the practice of medicine on one occasion is sufficient to establish engaging in the practice of medicine.

(5) A member or person authorized by the regulations may engage in the practice of medicine, notwithstanding that any part of such practice is included in the practice of any other health discipline.

(6) Part VI does not apply in respect of the compounding and dispensing and sale of drugs by a member for his own patients in accordance with this Part and the regulations.

(7) Nothing in this Part shall be construed to affect the treatment of human ailments by the use of prayer or spiritual means in the exercise of a religion in accordance with the tenets of an established church by the members thereof. 1974, c. 47, s. 52.

53.—(1) The Council shall establish and appoint as hereinafter provided the following committees,

(a) Executive Committee;
(b) Registration Committee;
(c) Complaints Committee;
(d) Discipline Committee;
(e) Fitness to Practise Committee,

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

(2) The Council may give the Medical Review Committee under the Health Insurance Act such other duties as the Council considers appropriate and that are not inconsistent with its duties under that Act.

(3) Where one or more vacancies occur in the membership of the Council or any committee, the members remaining in office constitute the Council or committee so long as their
number is not fewer than the prescribed quorum. 1974, c. 47, s. 53.

54.—(1) The Executive Committee shall be composed of, Committee Executive

(a) the President, who shall be chairman of the Committee;

(b) the Vice-President; and

(c) three persons who are members of the Council, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.

(2) A majority of the members of the Executive Committee constitutes a quorum.

(3) The Executive Committee shall perform such functions of the Council as are delegated to it by the Council, the by-laws or this Part and, subject to ratification by the Council at its next ensuing meeting, may take action upon any other matter that requires immediate attention between meetings of the Council, other than to make, amend or revoke a regulation or by-law. 1974, c. 47, s. 54.

55.—(1) The Registration Committee shall be composed of Chairman

(a) one member of the Council who was appointed to the Council by a university;

(b) two members of the Council who were elected to the Council;

(c) one member of the Council who was appointed to the Council by the Lieutenant Governor in Council; and

(d) the President and Vice-President, ex officio.

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

(3) A majority of the members of the Registration Committee constitutes a quorum. 1974, c. 47, s. 55.

56.—(1) The Registrar shall issue a licence to any applicant therefor who is qualified under this Part and the regulations and has passed such examinations as the Council may set or approve, and the Registrar shall refer to the
Powers and duties of Registration Committee

(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 Council 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.

Review of qualifications

(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 member and may impose a further 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.

Registers of licensees

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

(6) Every licence issued under The Medical Act, being chapter 268 of the Revised Statutes of Ontario, 1970 and in effect immediately before the 14th day of July, 1975 continues in the same manner as if issued under this Part. 1974, c. 47, s. 56.

Complaints Committee

57.—(1) The Complaints Committee shall be composed of,

(a) two persons who are members of the College;

(b) one member of the Council who was appointed to the Council by a university;

(c) one member of the Council who was appointed to the Council by the Lieutenant Governor in Council.
(2) No person who is a member of the Discipline Committee shall be a member of the Complaints Committee.

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

(4) A majority of the members of the Complaints Committee constitutes a quorum. 1974, c. 47, s. 57.

58.—(1) The Complaints Committee shall consider and investigate complaints made by members of the public or members of the College regarding the conduct or actions of any member of the College, 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 member 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 62; 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 Part or the regulations or by-laws.

(3) The Committee shall give its decision in writing to the Registrar for the purposes of section 8 and, where the decision is made under clause (2) (b), its reasons therefor. 1974, c. 47, s. 58.

59.—(1) The Discipline Committee shall be composed of ten members of the Council of whom two shall be persons appointed to the Council by the Lieutenant Governor in Council.
Chairman

(2) The Council shall appoint one of the members of the Discipline Committee to be chairman.

Composition of panels

(3) The Chairman of the Discipline Committee may assign a panel of five members of the Committee to hold a hearing of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.

Disability of lay member

(4) Where a panel of the Discipline Committee commences a hearing and the member thereof who is appointed to the Council by the Lieutenant Governor in Council becomes unable to continue to act, the remaining members may complete the hearing notwithstanding his absence.

Quorum and votes

(5) Three members of a panel assigned under subsection (3), of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council, constitute a quorum for a hearing and all disciplinary decisions require the vote of a majority of members of the Discipline Committee presiding at the hearing, but in the event of a tie vote the chairman shall have a second or casting vote.

Reference by Council or Executive Committee

(6) Notwithstanding section 58, the Council 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 member. 1974, c. 47, s. 59.

Duties of Discipline Committee

60.—(1) The Discipline Committee shall,

(a) when so directed by the Council, Executive Committee or Complaints Committee, hear and determine allegations of professional misconduct or incompetence against any member;

(b) hear and determine matters referred to it under section 58, 59 or 63; and

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

Idem

(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 member is guilty of professional misconduct or incompetence;

(d) determine the penalty to be imposed as hereinafter provided in cases in which it finds the member guilty of professional misconduct or of incompetence.

(3) A member 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;

(b) if his rights or privileges under the Narcotic Control Act (Canada) or the Food and Drugs Act (Canada) or the regulations under either of them have been restricted or withdrawn, unless by his own request, upon proof thereof; or

(c) 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 member 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 member guilty of professional misconduct or incompetence it may by order,

(a) revoke the licence of the member, or withdraw recognition of his specialist status, or both;

(b) suspend the licence of the member or recognition of his specialist status, or both, for a stated period;

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

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

(e) impose such fine as the Committee considers appropriate to a maximum of $5,000 to be paid by the
member to the Treasurer of Ontario for payment into the Consolidated Revenue Fund;

(f) 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 College reimburse the member for his costs or such portion thereof as the Discipline Committee fixes.

(7) Where the Discipline Committee revokes, suspends or restricts a licence or recognition of specialist status 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 the licence or recognition of specialist status of a member 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 member 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 member.

(10) Where a proceeding is commenced before the Discipline Committee and the term of office on the Council 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. 47, s. 60.

61.—(1) The Fitness to Practise Committee shall be composed of twelve persons, of whom at least four shall be members of the Council and eight may be members of the College who are not members of the Council.

(2) The Council shall appoint one of the members of the Fitness to Practise Committee who is a member of the Council to be chairman of the Committee.
(3) The chairman of the Fitness to Practise Committee may assign a panel of three members to hold a hearing, of whom at least one shall be a member who is a member of the Council, and such panel constitutes a quorum of the Committee for a hearing.

(4) All decisions of the Fitness to Practise Committee require the vote of a majority of the members presiding at the hearing. 1974, c. 47, s. 61.

62.—(1) In this section,

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

(b) “incapacitated member” means a member 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 member 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 member may be an incapacitated member, he shall make such inquiry as he considers appropriate and report to the Executive Committee who may, upon notice to the member, appoint a board of inquiry composed of at least two members of the College and one member of the Council appointed thereto by the Lieutenant Governor in Council who shall inquire into the matter.

(3) The board of inquiry shall make such inquiries as it considers appropriate and may require the member to submit to physical or mental examination by such qualified person as the board designates and if the member 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 member 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 Fitness to Practise Committee to hold a hearing and may suspend the member’s licence until the determination of the question of his capacity becomes final.

(5) The College, the person whose capacity is being investigated and any other person specified by the Fitness to
Practise Committee are parties to a proceeding under this section.

(6) A legally qualified medical practitioner is not compellable 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 proceeding,

(a) where the evidence is required by the College, 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 Fitness to Practise Committee shall, after the hearing,

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

(b) where the member is found to be an incapacitated member, 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) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration and appeals therefrom apply, with necessary modifications, to proceedings of the Fitness to Practise Committee under this section, except that the decision takes effect immediately notwithstanding that an appeal is taken from the decision. 1974, c. 47, s. 62.
63.—(1) A person whose licence has been revoked or suspended for cause under this Part, or under a predecessor of this Part, 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 a period of more than one year, one year after the suspension.

(2) The Registrar shall refer the application to the Discipline Committee or, when the revocation or suspension was on the grounds of incapacity, to the Fitness to Practise Committee, which shall hold a hearing respecting and decide upon the application, and shall report its decision and reasons to the Council and to the former member.

(3) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration, except subsection 11 (9), apply, with necessary modifications, to proceedings of the Fitness to Practise Committee and Discipline Committee under this section.

(4) Notwithstanding subsections (1), (2) and (3), the Council or the Executive Committee may direct at any time that a licence be issued to a person whose licence has previously been revoked for cause or a suspension for cause be removed, subject to such terms, conditions or limitations as the Council or Executive Committee, as the case may be, considers appropriate. 1974, c. 47, s. 63.

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

(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 member 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 justice of the peace 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 justice of the peace 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 justice of the peace, 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 member 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 member 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 Council or the Executive Committee or to such other committee as he considers appropriate. 1974, c. 47, s. 64.

65.—(1) Every person employed in the administration of this Part, including any person making an inquiry or investigation under section 64, and any member of the Council 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 64 and shall not communicate any such matters to any other person except,

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

(b) as may be required for the enforcement of the Health Insurance Act;

(c) to his counsel; or

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

(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 Part or the regulations or by-laws.

66.—(1) Where it appears to the College that any person does not comply with any provision of this Part 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 College 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. 47, s. 66.

67.—(1) Every person who is in contravention of section 52 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. 1974, c. 47, s. 67 (1).

(2) Subject to the provisions of Parts II and V, any person not licensed under this Part who takes or uses any name, title, addition or description implying or calculated to lead people to infer that he is licensed or registered under this Part or that he is recognized by law or otherwise as a physician, surgeon, accoucheur or a licentiate in medicine, surgery or midwifery, or who assumes, uses or employs the
description or title "doctor", "surgeon" or "physician" or any affix or prefix indicative of such titles or qualifications as an occupational designation relating to the treatment of human ailments or physical defects, or advertises or holds himself out as such, is guilty of an offence and on conviction is liable for the first offence to a fine or not more than $1,000 and for each subsequent offence to a fine of not more than $2,000. 1975, c. 63, s. 3.

(3) Any person who obstructs a person appointed to make an investigation under section 64 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. 47, s. 67 (3).

PART IV
NURSING

68.—(1) In this Part,

(a) "by-laws" means the by-laws made under this Part;

(b) "certificate" means a current certificate issued under this Part authorizing the holder to hold himself out as competent to practise as a registered nurse or registered nursing assistant;

(c) "College" means the College of Nurses of Ontario;

(d) "Council" means the Council of the College;

(e) "Director" means the Director of the College;

(f) "member" means a member of the College;

(g) "register" means a register maintained by the Director under this Part, and "registered" and "registration" have corresponding meanings;

(h) "registered nurse" and "registered nursing assistant" means a person who is the holder of a certificate as a registered nurse or registered nursing assistant, respectively;

(i) "regulations" means the regulations made under this Part.

(2) The performance of nursing services by a registered nurse or a registered nursing assistant is a health discipline to which this Part applies. 1974, c. 47, s. 69.
69.—(1) The College of Nurses of Ontario is continued as a body corporate without share capital with power to acquire, hold and dispose of real and personal property for the purposes of this Part.

(2) The objects of the College are,

(a) to regulate the practice of nursing and to govern its members in accordance with this Act, the regulations and the by-laws;

(b) to establish, maintain and develop standards of knowledge and skill among its members;

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

(d) to establish, maintain and develop standards of professional ethics among its members;

(e) to administer this Part and perform such other duties and exercise such other powers as are imposed or conferred on the College by or under any Act;

(f) such other objects relating to human health care as the Council considers desirable,

in order that the public interest may be served and protected. 1974, c. 47, s. 70.

70.—(1) Every person who is the holder of a certificate is a member of the College subject to any term, condition or limitation to which his certificate is subject.

(2) A member may resign his membership by filing with the Director his resignation in writing and his certificate is thereupon cancelled, subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct while a member.

(3) The Director may cancel a certificate for non-payment of any prescribed fee after giving the member at least one month's notice of the default and intention to cancel, subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct while a member. 1974, c. 47, s. 71.

71.—(1) The Council of the College is continued and shall be the governing body and board of directors of the College and shall manage and administer its affairs.
Composition of Council

(2) The Council shall be composed of,

(a) not fewer than eighteen and not more than twenty-five persons, consisting of registered nurses and registered nursing assistants in the proportions determined by the regulations, who are resident or employed in Ontario and are elected by the members in the manner provided by the regulations; and

(b) not fewer than six and not more than eight persons who are not members of a Council under this Act or registered or licensed under this Act or any other Act governing a health practice, and who are appointed by the Lieutenant Governor in Council.

Remuneration of lay appointees

(3) The persons appointed under clause (2) (b) shall be paid out of moneys appropriated therefor by the Legislature such expenses and remuneration as is determined by the Lieutenant Governor in Council.

Expiration of appointment

(4) The appointment of every person appointed under subsection (2) expires at the first regular meeting of the Council following the election of members to Council held next after the effective date of his appointment, and a person whose appointment expires is eligible for reappointment.

Qualifications to vote

(5) Every member who is,

(a) resident or employed in Ontario; and

(b) not in default of payment of the annual fee prescribed by the regulations,

is qualified to vote at an election of members of the Council.

President and Vice-President

(6) The Council shall elect annually a President and Vice-President from among its members.

Director and staff

(7) The Council shall appoint during pleasure a Director and such other officers as may from time to time be necessary in the opinion of the Council to perform the work of the College and the Director shall be deemed to be the Registrar for the purposes of Part I.

Meetings of Council

(8) The Council shall meet at least twice a year.

Quorum

(9) A majority of the members of the Council constitutes a quorum. 1974, c. 47, s. 72 (1-9).
72. In addition to his powers and duties under Part I, the Minister may,

(a) review the activities of the Council;

(b) request the Council to undertake activities that, in the opinion of the Minister, are necessary and advisable to carry out the intent of this Act;

(c) advise the Council with respect to the implementation of this Part and the regulations and with respect to the methods used or proposed to be used by the Council to implement policies and to enforce its regulations and procedures. 1974, c. 47, s. 73.

73. Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

(a) fixing the number of members to be elected to the Council, the proportions thereof who shall be registered nurses and registered nursing assistants and establishing the regional and other representation for elections;

(b) respecting and governing the nomination, election and term of office of the members to be elected to the Council, the filling of vacancies on the Council and controverted elections;

(c) respecting any matter ancillary to the provisions of this Part with regard to the issuing, renewal, suspension and revocation of certificates;

(d) providing for the expiration of certificates and governing the requirements and qualifications for the issuing and renewal of certificates;

(e) providing for the maintenance and inspection of registers;

(f) governing standards of practice for the profession;

(g) prohibiting the practice of nursing by members where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;

(h) defining professional misconduct for the purposes of this Part;
(i) providing for a program for the continuing education of members to maintain their standard of competence and requiring members to participate in such continuing education;

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

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

(l) respecting the duties and authority of the Director;

(m) requiring the payment of annual fees by members and fees for certification and examinations, and prescribing the amounts thereof;

(n) prescribing forms and providing for their use;

(o) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable. 1974, c. 47, s. 74.

By-laws 74.—(1) The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act and the regulations and without limiting the generality of the foregoing,

(a) prescribing the seal of the College;

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

(c) respecting banking and finance;

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

(e) providing procedures for the election of President and Vice-President of the College, the filling of a vacancy in those offices, and prescribing the duties of the President and Vice-President;

(f) respecting the calling, holding and conducting of meetings of the Council and the duties of members of Council;
(g) respecting the calling, holding and conducting of meetings of the membership of the College;

(h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;

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

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

(k) providing for a code of ethics;

(l) prescribing forms and providing for their use;

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

(n) respecting management of the property of the College;

(o) respecting the application of the funds of the College and the investment and reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;

(p) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;

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

(r) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.
Distribution of by-laws

(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 member; and

(c) shall be available for public inspection in the office of the College. 1974, c. 47, s. 75.

Use of titles

75.—(1) No person shall hold himself out as competent to practise as a registered nurse or as a registered nursing assistant or otherwise as the holder of a certificate under this Part unless such person is the holder of the appropriate certificate under this Part.

(2) No person shall use the title "registered nurse" or the designation "Reg.N." or "R.N." or other designation representing the title unless such person is the holder of a certificate as a registered nurse under this Part.

(3) No person shall use the title "registered nursing assistant" or the designation "R.N.A." or other designation representing the title unless such person is the holder of a certificate as a registered nursing assistant under this Part. 1974, c. 47, s. 76.

Establishment of committees

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

(a) Executive Committee;

(b) Registration Committee;

(c) Complaints Committee;

(d) Discipline Committee,

and the appointments thereto shall include representation of both registered nurses and registered nursing assistants.

(2) The Council may establish such other committees as the Council from time to time considers necessary.

Vacancies

(3) Where one or more vacancies occur in the membership of the Council or any committee, the members remaining in office constitute the Council or committee so long as their number is not fewer than the prescribed quorum. 1974, c. 47, s. 77.
(1) The Executive Committee shall be composed of,
   (a) the President, who shall be chairman of the Committee;
   (b) the Vice-President; and
   (c) three persons who are members of the Council, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.

(2) The Executive Committee shall perform such functions of the Council as are delegated to it by the Council, the by-laws or this Part and, subject to ratification by the Council at its next ensuing meeting, may take action upon any other matter that requires immediate attention between meetings of the Council, other than to make, amend or revoke a regulation or by-law.

(3) A majority of the members of the Executive Committee constitutes a quorum. 1974, c. 47, s. 78.

(1) The Registration Committee shall be composed of nine persons who are members of the Council, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.

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

(3) A majority of the members of the Registration Committee constitutes a quorum.

(4) The Registration Committee shall submit an annual report of its activities to the Council and may make such other reports to the Council and Executive Committee as it considers appropriate. 1974, c. 47, s. 79.

(1) The Director shall issue a certificate or renewal thereof to any applicant therefor who is qualified under this Part and the regulations and has passed such examinations as the Council may set or approve, and the Director shall refer to the Registration Committee every application for a certificate or renewal thereof 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 certificates or renewals thereof and may require an applicant...
to take and pass such additional examinations as the Council 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 requirement for certification.

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

(4) For the purposes of Part I, a refusal to renew a certificate shall be deemed to be a refusal to grant the certificate.

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

(6) The Director shall maintain one or more registers in which is entered every person to whom a certificate has been issued identifying the terms, conditions and limitations attached to the certificate or the registration and every revocation, suspension, cancellation and expiration or other termination and every renewal of the certificate and such other information as the Registration Committee or Discipline Committee directs.

(7) Every person who was registered as a registered nurse or a registered nursing assistant under The Nurses Act, being chapter 301 of the Revised Statutes of Ontario, 1970, immediately before the 14th day of July, 1975 shall be deemed to be the holder of a certificate under this Part until it expires or is revoked, suspended or cancelled under this Part. 1974, c. 47, s. 80.

(80.—(1) The Complaints Committee shall be composed of five persons who are members of the Council, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.

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

(3) The Council shall name one member of the Complaints Committee to be chairman.
Three members of the Complaints Committee constitute a quorum. 1974, c. 47, s. 81.

81.—(1) The Complaints Committee shall consider and investigate complaints made by members of the public or members of the College regarding the conduct or actions of any member of the College, but no action shall be taken by the Committee under subsection (2) unless,

(a) a written complaint has been filed with the Director and the member 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 84; 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 Part or the regulations or by-laws.

(3) The Committee shall give its decision in writing to the Director for the purposes of section 8 and, where the decision is made under clause (2)(b), its reasons therefor. 1974, c. 47, s. 82.

82.—(1) The Discipline Committee shall be composed of ten persons who are members of the Council, of whom two shall be persons appointed to the Council by the Lieutenant Governor in Council.

(2) Five or more members of the Discipline Committee, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council, constitute a quorum, and all disciplinary decisions require the vote of a majority of the members of the Discipline Committee present at the meeting.
(3) Where the Discipline Committee commences a hearing and the member thereof who is appointed to the Council by the Lieutenant Governor in Council becomes unable to continue to act, the remaining members may complete the hearing notwithstanding his absence.

(4) The Council shall name one member of the Discipline Committee to be chairman.

(5) Notwithstanding section 81, the Council 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 member. 1974, c. 47, s. 83.

83. — (1) The Discipline Committee shall,

(a) when so directed by the Council, Executive Committee or Complaints Committee, hear and determine allegations of professional misconduct or incompetence against any member;

(b) hear and determine matters referred to it under section 81, 82 or 85; and

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

(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 member is guilty of professional misconduct or incompetence;

(d) determine the penalty to be imposed as hereinafter provided in cases in which it finds the member guilty of professional misconduct or of incompetence.

(3) A member 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;
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(b) he is in contravention of subsection 75 (1); or

(c) 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 member 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 member guilty of professional misconduct or incompetence it may by order,

(a) revoke the certificate of the member;

(b) suspend the certificate of the member for a stated period;

(c) impose such restrictions on the certificate of the member for such a period and subject to such conditions as the Committee designates;

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

(e) impose such fine as the Committee considers appropriate to a maximum of $5,000 to be paid by the member to the Treasurer of Ontario for payment into the Consolidated Revenue Fund;

(f) 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 College reimburse the member for his costs or such portion thereof as the Discipline Committee fixes.

(7) Where a certificate is suspended or restricted for a period under subsection (5), the suspension or restriction applies in respect of any renewal or right to renewal of the certificate for the duration of the period.
(8) Where the Discipline Committee revokes, suspends or restricts a certificate on the grounds of incompetence, the decision takes effect immediately notwithstanding that an appeal is taken from the decision.

(9) Where the Discipline Committee revokes, suspends or restricts the certificate of a member 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.

(10) Where the Discipline Committee finds a member 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 member.

(11) Where a proceeding is commenced before the Discipline Committee and the term of office on the Council 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. 47, s. 84.

84. — (1) In this section,

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

(b) "incapacitated member" means a member 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 member that he no longer be permitted to practise or that his practice be restricted.

(2) Where the Director receives information leading him to believe that a member may be an incapacitated member, he shall make such inquiry as he considers appropriate and report to the Executive Committee who may, upon notice to the member, appoint a board of inquiry composed of at least two members of the College and one member of the Council appointed thereto by the Lieutenant Governor in Council who shall inquire into the matter.

(3) The board of inquiry shall make such inquiries as it considers appropriate and may require the member to sub-
mit to physical or mental examination by such qualified person as the board designates and if the member refuses or fails to submit to such examination the board may order that his certificate 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 member about whom the report is made and if, in the opinion of any medical report obtained under subsection (3) to the Executive Committee shall refer the matter to the Registration Committee to hold a hearing and may suspend the member’s certificate until the determination of the question of his capacity becomes final.

(5) The board of inquiry, the person whose capacity is being investigated and any other person specified by the Registration Committee are parties to a proceeding under this section.

(6) A legally qualified medical practitioner is not compellable 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 proceeding,

(a) where the evidence is required by the College, 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 member is an incapacitated member; and

(b) where the member is found to be an incapacitated member, by order,
(i) revoke his certificate,

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

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

Procedures

(8) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration and appeals therefrom apply, with necessary modifications, to proceedings of the Registration Committee under this section, except that the decision takes effect immediately notwithstanding that an appeal is taken from the decision. 1974, c. 47, s. 85.

85.—(1) A person whose certificate has been revoked or suspended for cause under this Part, or registration has been suspended or cancelled for cause under a predecessor of this Part, may apply in writing to the Director for the issuance of a certificate or removal of the suspension, but such application shall not be made sooner than one year after the revocation or cancellation, or where the suspension is for more than one year, one year after the suspension.

(2) The Director 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 Council and to the former member.

Procedures

(3) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration, except subsection 11(9), apply, with necessary modifications, to proceedings of the Registration Committee and Discipline Committee under this section. 1974, c. 47, s. 86.

86.—(1) Every person, other than a patient, who employs a person as a registered nurse or registered nursing assistant and every agency or registry that procures employment for a person as a registered nurse or registered nursing assistant,

(a) shall ensure that such person is the holder of an appropriate certificate under this Part; and

(b) shall report to the College within thirty days any termination of such employment for reasons purport-
This page contains a legal text discussing the regulations and penalties for professional misconduct in the field of optometry. The text includes a subsection that outlines procedures for the College of Optometrists of Ontario to address non-compliance with its by-laws. It describes the consequences for such non-compliance, including potential fines and imprisonment. Additionally, it outlines the process for appealing such orders and the nature of the offenses that may result in these penalties. The document also introduces Part V of the law, titled OPTOMETRY, and provides interpretations for terms such as "by-laws," "College," "Council," "licence," "member," and "practice of optometry."
ment and assessment of vision, other than by the use of drugs, except such drugs for such purposes as are prescribed by the regulations, the prescribing and dispensing of ophthalmic appliances, and prescribing and providing orthoptics for the relief or correction of any visual or muscular error or defect of the eye;

(g) "Registrar" means the Registrar of the College;

(h) "regulations" means the regulations made under this Part.

(2) The practice of optometry is a health discipline to which this Part applies. 1974, c. 47, s. 91.

(1) The College of Optometrists of Ontario is continued as a body corporate without share capital with power to acquire, hold and dispose of real and personal property for the purposes of this Part.

(2) The objects of the College are,

(a) to regulate the practice of optometry and to govern its members in accordance with this Act, the regulations and the by-laws;

(b) to establish, maintain and develop standards of knowledge and skill among its members;

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

(d) to establish, maintain and develop standards of professional ethics among its members;

(e) to administer this Part and perform such other duties and exercise such other powers as are imposed or conferred on the College by or under any Act, in order that the public interest may be served and protected. 1974, c. 47, s. 92.

(1) Every person licensed by the College is a member of the College subject to any term, condition or limitation to which the licence is subject.

(2) A member may resign his membership by filing with the Registrar his resignation in writing and his licence is
thereupon cancelled, subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct while a member.

(3) The Registrar may cancel a licence for non-payment of any prescribed fee after giving the member at least two months notice of the default and intention to cancel, subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct while a member. 1974, c. 47, s. 93.

92.—(1) The Board of Directors of the College is continued as the Council of the College which shall be the governing body and board of directors of the College and shall manage and administer its affairs.

(2) The Council shall be composed of,

(a) one person who is appointed by the University of Waterloo from the faculty of the School of Optometry;

(b) three persons who are not members of a Council under this Act or registered or licensed under this Act or any other Act governing a health practice and are appointed by the Lieutenant Governor in Council; and

(c) six persons who are members and are elected by the members in the manner provided by the regulations.

(3) The persons appointed under clause (2) (b) shall be paid, out of moneys appropriated therefor by the Legislature, such expenses and remuneration as is determined by the Lieutenant Governor in Council.

(4) The appointment of every person appointed under subsection (2) shall be for a term not exceeding three years, and a person whose appointment expires is eligible for re-appointment.

(5) Every member who is,

(a) resident in Ontario; and

(b) not in default of payment of the annual fee prescribed by the regulations,

is qualified to vote at an election of members of the Council.
(6) The Council shall elect annually a President and Vice-President from among its members.

(7) The Council shall appoint during pleasure a Registrar, Treasurer, Secretary and such other officers and servants as may from time to time be necessary in the opinion of the Council to perform the work of the College.

(8) A majority of the members of the Council constitutes a quorum. 1974, c. 47, s. 94 (1-8).

93. In addition to his powers and duties under Part I, the Minister may,

(a) review the activities of the Council;

(b) request the Council to undertake activities that, in the opinion of the Minister, are necessary and advisable to carry out the intent of this Act;

(c) advise the Council with respect to the implementation of this Part and the regulations and with respect to the methods used or proposed to be used by the Council to implement policies and to enforce its regulations and procedures. 1974, c. 47, s. 95.

94. Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

(a) establishing electoral districts for the purposes of the election of members to the Council and respecting and governing the qualifications, nomination, election and term of office of the members to be elected, and controverted elections;

(b) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;

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

(d) 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;

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

(f) governing standards of practice for the profession;

(g) prescribing drugs that may be used in the practice of optometry for such purposes as are specified;

(h) providing for the designation of life members of the College and prescribing their rights and privileges;

(i) authorizing persons other than members to perform specified acts in the practice of optometry under the supervision or direction of a member;

(j) prohibiting the practice of optometry where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;

(k) defining professional misconduct for the purposes of this Part;

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

(m) providing for the establishment and operation of an appraisal committee for the purposes of examining and assessing the standard of practice in the profession and reporting thereon to the Council and examining and assessing the standards of practice, qualifications and continuing education of members and making recommendations to the Registration Committee thereon;

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

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

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

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

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

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

(t) requiring the payment of annual fees by members 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;

(u) prescribing forms and providing for their use;

(v) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable. 1974, c. 47, s. 96.

By-laws

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

(a) prescribing the seal of the College;

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

(c) respecting banking and finance;

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

(e) providing procedures for the election of President and Vice-President of the College, the filling of a vacancy in those offices, and prescribing the duties of the President and Vice-President;
(f) respecting the calling, holding and conducting of meetings of the Council and the duties of members of Council;

(g) respecting the calling, holding and conducting of meetings of the membership of the College;

(h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;

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

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

(k) providing for a code of ethics;

(l) prescribing forms and providing for their use;

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

(n) respecting management of the property of the College;

(o) respecting the application of the funds of the College and the investment and reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;

(p) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;

(q) respecting membership of the College in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;
(r) providing for the appointment of inspectors for the purposes of this Part;

(s) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

Confirmation of by-laws

(2) A by-law is effective when it is passed by the Council but expires with the close of the next annual meeting of members of the College held after its passing, unless it is confirmed by the meeting.

Distribution of by-laws

(3) 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 member; and

(c) shall be available for public inspection in the office of the College. 1974, c. 47, s. 97.

Licence to practise

96.—(1) No person shall engage in or hold himself out as engaging in the practice of optometry unless he is licensed under this Part.

Exceptions

(2) Subsection (1) does not apply to,

(a) a student enrolled in the School of Optometry at the University of Waterloo who practices optometry as required by the curriculum under the supervision of a member of the faculty or a member of the College;

(b) an applicant for a licence under this Part who practises optometry under the personal supervision of a member of the College for the purpose of completing qualifying studies or clinical experience required under this Part.

Proof of practice

(3) For the purposes of subsection (1), proof of the performance of one act in the practice of optometry on one occasion is sufficient to establish engaging in the practice of optometry.

Conflict with other health discipline

(4) A member or person authorized by the regulations may engage in the practice of optometry, notwithstanding that any part of such practice is included in the practice of any other health discipline. 1974, c. 47, s. 98.

Use of certain drugs prohibited

97. No member shall use drugs in his practice, except such drugs for such purposes as are prescribed by the regulations. 1974, c. 47, s. 99.

Establishment of committees

98.—(1) The Council shall establish and appoint as hereinafter provided the following committees,
(a) Executive Committee;  
(b) Registration Committee;  
(c) Complaints Committee;  
(d) Discipline Committee,

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

(2) Where one or more vacancies occur in the membership of the Council or any committee, the members remaining in office constitute the Council or committee so long as their number is not fewer than the prescribed quorum. 1974, c. 47, s. 100.

(3) The Council may give the Optometry Review Committee under the Health Insurance Act such other duties as the Council considers appropriate and that are not inconsistent with its duties under that Act. 1975, c. 63, s. 5.

99. — (1) The Executive Committee shall be composed of three persons who are members of the Council of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.

(2) Two members of the Executive Committee constitute quorum.

(3) The Executive Committee shall perform such functions of the Council as are delegated to it by the Council, the by-laws or this Part and, subject to ratification by the Council at its next ensuing meeting, may take action upon any other matter that requires immediate attention between meetings of the Council, other than to make, amend or revoke a regulation or by-law. 1974, c. 47, s. 101.

100. — (1) The Registration Committee shall be composed of,

(a) two members of the Council of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council; and

(b) two members of the College of whom one shall be a member of the faculty of the School of Optometry of the University of Waterloo.

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

(3) A majority of the members of the Registration Committee constitutes a quorum. 1974, c. 47, s. 102.

101. — (1) The Registrar shall issue a licence to any applicant therefor who is qualified under this Part and the regula-
Powers and duties of Registration Committee

(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 Council 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 member 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 practise optometry, 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) Every person who was registered as an optometrist under The Optometry Act, being chapter 335 of the Revised Statutes of Ontario, 1970, immediately before the 14th day of July, 1975 shall be deemed to be the holder of a licence under this Part for the unexpired portion of the term of the registration, unless sooner revoked, suspended or cancelled under this Part. 1974, c. 47, s. 103.

Complaints Committee

102.—(1) The Complaints Committee shall be composed of,

(a) three persons who are members of the Collège;

(b) two persons who are members of the Council one of whom was appointed to the Council by the Lieutenant Governor in Council.
(2) No person who is a member of the Discipline Committee shall be a member of the Complaints Committee.

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

(4) Three members of the Complaints Committee constitute a quorum. 1974, c. 47, s. 104.

103.—(1) The Complaints Committee shall consider and investigate complaints made by members of the public or members of the College regarding the conduct or actions of any member of the College, 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 member 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 106; 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 Part or the regulations or by-laws.

(3) The Committee shall give its decision in writing to the Registrar for the purposes of section 8 and, where the decision is made under clause (2) (b), its reasons therefor. 1974, c. 47, s. 105.

104.—(1) The Discipline Committee shall be composed of,

(a) three persons who are members of the College;

(b) three persons who are members of the Council, two of whom were appointed to the Council by the Lieutenant Governor in Council.

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

(3) Where a panel of the Discipline Committee commences a hearing and the member thereof who is appointed to the Council by the Lieutenant Governor in Council becomes unable to continue to act, the remaining members may complete the hearing notwithstanding his absence.

(4) The Council shall name one member of the Discipline Committee to be chairman.

(5) Notwithstanding section 103, the Council 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 member. 1974, c. 47, s. 106.

105.—(1) The Discipline Committee shall,

(a) when so directed by the Council, Executive Committee or Complaints Committee, hear and determine allegations of professional misconduct or incompetence against any member;

(b) hear and determine matters referred to it under section 103, 104 or 107; and

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

(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 member is guilty of professional misconduct or incompetence;

(d) determine the penalty to be imposed as hereinafter provided in cases in which it finds the member guilty of professional misconduct or of incompetence.
(3) A member 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;

(b) he is in contravention of section 97; or

(c) 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 member 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 member guilty of professional misconduct or incompetence it may by order,

(a) revoke the licence of the member;

(b) suspend the licence of the member for a stated period;

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

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

(e) impose such fine as the Committee considers appropriate to a maximum of $5,000 to be paid by the member to the Treasurer of Ontario for payment into the Consolidated Revenue Fund;

(f) 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 College reimburse the member 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 the licence of a member 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 member 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 member.

(10) Where a proceeding is commenced before the Discipline Committee and the term of office on the Council 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. 47, s. 107.

106.—(1) In this section,

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

(b) “incapacitated member” means a member 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 member 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 member may be an incapacitated member, he shall make such inquiry as he considers appropriate and report to the Executive Committee who may, upon notice to the member, appoint a board of inquiry composed of at least two members of the College and one member of the Council appointed thereto by the Lieutenant Governor in Council who shall inquire into the matter.

(3) The board of inquiry shall make such inquiries as it considers appropriate and may require the member to submit
to physical or mental examination by such qualified person as the board designates and if the member 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 member 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 member's licence until the determination of the question of his capacity becomes final.

(5) The College, the person whose capacity is being investigated and any other person specified by the Registration Committee are parties to a proceeding under this section.

(6) A legally qualified medical practitioner is not compellable 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 proceeding,

(a) where the evidence is required by the College, 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 member is an incapacitated member; and

(b) where the member is found to be an incapacitated member, 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) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration and appeals therefrom apply, with necessary modifications, to proceedings of the Registration Committee under this section, except that the decision takes effect immediately notwithstanding that an appeal is taken from the order. 1974, c. 47, s. 108.

107.—(1) A person whose licence has been revoked or suspended for cause under this Part, or registration has been suspended or cancelled for cause under a predecessor of this Part, 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 cancellation or, where the suspension is for more than one year, one year after the suspension.

(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 Council and to the former member.

(3) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration, except subsection 11 (9), apply with necessary modifications, to proceedings of the Registration Committee and Discipline Committee under this section. 1974, c. 47, s. 109.

108.—(1) Where the Registrar believes on reasonable and probable grounds that a member 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.

(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 member 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 justice of the peace 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 justice of the peace 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 justice of the peace, 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 member 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 member 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 Council or the Executive Committee or to such other committee as he considers appropriate. 1974, c. 47, s. 110.

109.—(1) Every person employed in the administration of this Part, including any person making an inquiry or investigation under section 108 and any member of the Council 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 108 and shall not communicate any such matters to any other person except,

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

(b) as may be required for the enforcement of the Health Insurance Act;

(c) to his counsel; or

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

R.S.O. 1980, c. 197

(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 Part or the regulations or by-laws. 1974, c. 47, s. 111.

110.—(1) Where it appears to the College that any person does not comply with any provision of this Part 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 College 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. 47, s. 112.

111.—(1) Nothing in this Part applies to the practice of ophthalmic dispensing by an ophthalmic dispenser registered under the Ophthalmic Dispensers Act.

(2) Nothing in this Part prevents,

(a) the sale of protective glasses for industrial purposes, coloured glasses not embodying any ophthalmic lens, 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; or

(b) 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 the sale or offering for sale referred to in clause (b) and prescribing the terms and conditions thereof and designating the nature and kind of spectacles and eyeglasses that may be sold under this subsection. 1974, c. 47, s. 113.

112.—(1) Every person who is in contravention of section 96 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. 1974, c. 47, s. 114 (1).

(2) Subject to the provisions of Parts II and III, any person not licensed under this Part who takes or uses any name, title, addition or description implying or calculated to lead people to infer that he is licensed or registered under this Part or that he is recognized by law or otherwise as an optometrist or who assumes or employs the title or description "doctor" or "optometrist" or any affix or prefix indicative of such titles or qualifications as an occupational designation relating to the treatment of human ailments or physical defects or advertises or holds himself out as such 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. 1975, c. 63, s. 6.

(3) Any person who obstructs a person appointed to make an investigation under section 108 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. 47, s. 114 (3).

PART VI

PHARMACY

113.—(1) In this Part,

(a) “by-laws” means the by-laws made under this Part;

(b) “College” means the Ontario College of Pharmacists;
(c) "Council" means the Council of the College;

(d) "drug" means any substance or preparation containing any substance,

(i) manufactured, sold or represented for use in,

1. the diagnosis, treatment, mitigation or prevention of a disease, disorder, abnormal physical or mental state or the symptoms thereof, in humans, animals or fowl, or

2. restoring, correcting or modifying functions in humans, animals or fowl,

(ii) referred to in Schedule C, D, E, F, G or N,

(iii) listed in a publication named by the regulations, or

(iv) named in the regulations,

but does not include,

(v) any substance or preparation referred to in subclause (i), (ii) or (iii) manufactured, offered for sale or sold as, or as part of, a food, drink or cosmetic,

(vi) any proprietary medicine as defined from time to time by the regulations made under the Food and Drugs Act (Canada) that does not contain any substance or preparation containing any substance referred to in Schedule C, D, E, F, G or N,

(vii) a substance or preparation named in Schedule A or B;

(e) "interchangeable pharmaceutical product" means a product containing a drug or drugs in the same amounts of the same active ingredients in the same dosage form as that directed by a prescription;

(f) "intern" means a person who is registered under this Part as an intern;

(g) "licence" means a licence to act as a pharmacist issued under this Part;

(h) "member" means a member of the College;
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(i) "Parcost C.D.I." means the Parcost Comparative Drug Index prescribed by the regulations;

(j) "pharmacist" means a person who is licensed under this Part as a pharmacist;

(k) "pharmacy" means a premises in or in part of which prescriptions are compounded and dispensed for the public or drugs are sold by retail;

(l) "prescriber" means a person who is authorized to give a prescription within the scope of his practice of a health discipline or profession;

(m) "prescription" means a direction from a prescriber directing the dispensing of any drug or mixture of drugs for a designated person or animal;

(n) "register" means a register maintained by the Registrar under this Part;

(o) "registered pharmacy student" means a person who is registered under this Part as a pharmacy student;

(p) "Registrar" means the Registrar of the College;

(q) "registration" means a registration as an intern or registered pharmacy student and "registered" has a corresponding meaning;

(r) "regulations" means the regulations made under this Part.

(2) A reference in this Part to Schedules A, B, C, D, E, F, G or N is a reference to such Schedule established by the regulations for the purposes of this Part.

(3) The practice of a pharmacist is a health discipline to which this Part applies. 1974, c. 47, s. 116.

114.—(1) This Part does not apply to,

(a) drugs compounded, dispensed or supplied in and by a hospital or a health or custodial institution approved or licensed under any general or special Act under the authority of a prescriber for persons under health care provided by such hospital or health or custodial institution;
(b) the selling of,

R.S.C. 1970, c. P-10  (i) any substance registered under the *Pest Control Products Act* (Canada) and sold in accordance with its provisions,

R.S.C. 1970, c. F-7  (ii) any feeding stuffs registered under the *Feeds Act* (Canada) and sold in accordance with its provisions,

R.S.O. 1980, c. 248  (iii) a drug by a person licensed under the *Live Stock Medicines Act*;

R.S.O. 1980, c. 522  (c) the practice of a veterinarian under the *Veterinarians Act*.

Idem  

(2) Nothing in this Part prevents any person from selling or dispensing a drug to a person authorized under this Act to dispense, prescribe or administer drugs. 1974, c. 47, s. 117.

**THE ONTARIO COLLEGE OF PHARMACISTS**

115.—(1) The Ontario College of Pharmacists is continued as a body corporate without share capital with power to acquire, hold and dispose of real and personal property for the purposes of this Part.

**Objects**

(2) The objects of the College are,

(a) to regulate the practice of pharmacists and to govern its members in accordance with this Act, the regulations and the by-laws;

(b) to establish, maintain and develop standards of knowledge and skill among its members;

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

(d) to establish, maintain and develop standards of professional ethics among its members;

(e) to establish, maintain and develop standards for the operation of pharmacies;

(f) to administer this Part and perform such other duties and exercise such other powers as are imposed or conferred on the College by or under any Act,
in order that the public interest may be served and protected. 1974, c. 47, s. 118.

116.—(1) Every person licensed by the College is a member of the College subject to any term, condition or limitation to which the licence is subject.

(2) A member may resign his membership by filing with the Registrar his resignation in writing and his licence thereupon cancelled subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct while a member.

(3) The Council may cancel a licence for non-payment of any prescribed fee after the member has been given at least two months notice of the default and intention to cancel, subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct while a member. 1974, c. 47, s. 119.

117.—(1) The Council of the Ontario College of Pharmacy is continued and shall be the governing body and board of directors of the Ontario College of Pharmacists and shall manage and administer its affairs.

(2) The Council shall be composed of,

(a) not fewer than thirteen and not more than nineteen persons who are members and are elected by the members in the manner provided by the regulations;

(b) not fewer than four and not more than six persons who are not members of a Council under this Act or registered or licensed under this or any other Act governing a health practice, and who are appointed by the Lieutenant Governor in Council; and

(c) the dean of each faculty of pharmacy in Ontario or, in his absence, a representative who is a member of the faculty and of the College appointed by the dean.

(3) The persons appointed under clause (2) (b) shall be paid, out of moneys appropriated therefor by the Legislature, such expenses and remuneration as is determined by the Lieutenant Governor in Council.

(4) The appointment of every person appointed under subsection (2) expires at the first regular meeting of the Council.
following the election of members to Council held next after the effective date of his appointment, and a person whose appointment expires is eligible for reappointment.

(5) Every member who is,

(a) resident in Ontario; and

(b) not in default of payment of the annual fee prescribed by the regulations,

is qualified to vote at an election of members of the Council.

(6) The Council shall elect a President and Vice-President from among its members.

(7) The Council shall appoint during pleasure a Registrar and may appoint a deputy registrar who shall have the powers of the Registrar for the purposes of this Part, and may appoint such other persons as are from time to time necessary or desirable in the opinion of the Council to perform the work of the College.

(8) A majority of the members of the Council constitutes a quorum.

(9) The Council shall meet at least twice a year. 1974, c. 47, s. 120 (1-9).

Powers of Minister

118. In addition to his powers and duties under Part 1, the Minister may,

(a) review the activities of the Council;

(b) request the Council to undertake activities that, in the opinion of the Minister, are necessary and advisable to carry out the intent of this Act;

(c) advise the Council with respect to the implementation of this Part and the regulations and with respect to the methods used or proposed to be used by the Council to implement policies and to enforce its regulations and procedures. 1974, c. 47, s. 121.

Regulations

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

(a) fixing the number of members to be elected to the Council and establishing the regional and other representation for elections;
(b) respecting and governing the qualifications, nomination, election and term of office of the members to be elected to the Council, and controverted elections;

(c) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;

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

(e) 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;

(f) prescribing the qualifications for and conditions of registration of students and interns and governing in-service training for students and interns;

(g) providing for the maintenance and inspection of registers;

(h) governing standards of practice for the profession;

(i) respecting the advertising of professional services;

(j) prescribing the books and records to be kept, returns to be made and information to be furnished with respect to pharmacies and the practice of pharmacists and providing for the examination and audit of such books and records as the regulations prescribe;

(k) regulating advertising by members;

(l) providing for the designation of honorary members of the College and prescribing their rights and privileges;

(m) prohibiting practice by pharmacists where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;

(n) defining professional misconduct for the purposes of this Part;

(o) providing for a program of continuing education of members to maintain their standard of competence and requiring members to participate in such continuing education;
(p) regulating, controlling and prohibiting the use of terms, titles or designations by members or groups or associations of members in respect of their practices;

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

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

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

(t) requiring the payment of annual fees by members, students and interns and fees for licensing, registration, 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;

(u) prescribing forms and providing for their use;

(v) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable.

Amendment
of electoral
divisions

(2) The number of members to be elected to the Council and the electoral divisions and other representation fixed and established under clause (1)(a) shall not be altered or amended more than once in any five year period. 1974, c. 47, s. 122.

By-laws

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

(a) prescribing the seal of the College;

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

(c) respecting banking and finance;

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

(e) providing procedures for the election of President and Vice-President of the College, the filling of a
vacancy in those offices, and prescribing the duties of the President and Vice-President;

(f) respecting the calling, holding and conducting of meetings of the Council and the duties of members of Council;

(g) respecting the calling, holding and conducting of meetings of the membership of the College;

(h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;

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

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

(k) providing for a code of ethics;

(l) providing for the appointment of inspectors for the purposes of this Part;

(m) prescribing forms and providing for their use;

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

(o) respecting management of the property of the College;

(p) respecting the application of the funds of the College and the investment and reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;

(q) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;
(r) respecting membership of the College in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;

(s) authorizing the making of grants for any purpose that may tend to advance scientific knowledge or pharmacy education, or maintain or improve the standards of practice in pharmacy or to support and encourage public information and interest in the past and present role of pharmacy in society;

(t) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

Distribution of by-laws

(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 member; and

(c) shall be available for public inspection in the office of the College. 1974, c. 47, s. 123.

Licence to act as pharmacist

121.—(1) Except as provided in this Part, no person shall act or hold himself out as acting as a pharmacist unless he is licensed under this Part.

(2) Any person who, in making or purporting to make a retail sale of a drug or substance in Schedule A or B, uses or associates therewith the title or designation of,

(a) pharmacist;

(b) pharmaceutical chemist;

(c) chemist;

(d) druggist;

(e) apothecary,

whether or not in combination with each other or with any other term shall be deemed to be holding himself out as acting as a pharmacist for the purposes of subsection (1).

(3) A licence shall be deemed to authorize a member to act as a pharmacist under this Part, notwithstanding that
such action is included in the practice of any other health discipline. 1974, c. 47, s. 124.

122.—(1) The Council shall establish and appoint as hereinafter provided the following committees,

(a) Executive Committee;
(b) Accreditation Committee;
(c) Registration Committee;
(d) Complaints Committee;
(e) Discipline Committee,

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

(2) Where one or more vacancies occur in the membership of the Council or any committee, the members remaining in office constitute the Council or committee so long as their number is not fewer than the prescribed quorum.

(3) Where the persons attending a meeting of any Committee duly called fail to constitute a quorum, the President may appoint such members of the Council as are required to complete the quorum to attend the meeting and act as a member of the Committee for the purposes of the meeting. 1974, c. 47, s. 125.

123.—(1) The Executive Committee shall be composed of,

(a) the President, who shall be chairman of the Committee;
(b) the Vice-President; and
(c) three members of the Council appointed by the Council, one of whom shall be the immediate past president, if he is a member of Council, and one of whom shall be a person appointed to the Council by the Lieutenant Governor in Council.

(2) A majority of the members of the Executive Committee constitutes a quorum.

(3) The Executive Committee shall perform such functions of the Council as are delegated to it by the Council, the by-laws or this Part and, subject to ratification by the
Council at its next ensuing meeting, may take action upon any other matter that requires immediate attention between meetings of the Council, other than to make, amend or revoke a regulation or by-law. 1974, c. 47, s. 126.

Registration Committee

124.—(1) The Registration Committee shall be composed of,

(a) one member of the Council who is the dean of a faculty of pharmacy, or his representative on the Council;

(b) two members of the Council who were elected to the Council; and

(c) one member of the Council who was appointed to the Council by the Lieutenant Governor in Council.

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

Quorum

(3) A majority of the members of the Registration Committee constitutes a quorum. 1974, c. 47, s. 127.

Licences and registrations

125.—(1) The Registrar shall issue a licence or registration to any applicant therefor who is qualified under this Part and the regulations and has passed such examinations as the Council may set or approve, and the Registrar shall refer to the Registration Committee every application for a licence or registration 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 registrations and may require an applicant to take and pass such additional examinations as the Council 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 admission requirement.

Conditions of licences

(3) The Registration Committee may direct the Registrar to issue or refuse to issue licences or make or refuse to make registrations or to issue licences and make registrations subject to such terms, conditions and limitations as the Committee specifies.
(4) The Registration Committee may review the qualifications of any member and may impose a further 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 or registered under this Part, identifying the terms, conditions and limitations attached to the licence or registration, and shall note on the register every revocation, suspension and cancellation or termination of a licence or registration and such other information as the Registration Committee or Discipline Committee directs.

(6) Every licence and registration issued or made under The Pharmacy Act, being chapter 348 of the Revised Statutes of Ontario, 1970, and in effect immediately before the 14th day of July, 1975 continues in the same manner as if issued or made under this Part. 1974, c. 47, s. 128.

126.—(1) The Accreditation Committee shall be composed of,

(a) three members of the Council who were elected to the Council; and

(b) one member of the Council who was appointed to the Council by the Lieutenant Governor in Council,

and shall exercise the powers and carry out the duties assigned to it under sections 135 and 136.

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

(3) The Council shall name one member of the Accreditation Committee to be chairman.

(4) A majority of the members of the Accreditation Committee constitutes a quorum. 1974, c. 47, s. 129.

127.—(1) The Complaints Committee shall be composed of,

(a) three members of the Council who were elected to the Council; and
(b) one member of the Council who was appointed to the Council by the Lieutenant Governor in Council.

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

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

(4) A majority of the members of the Complaints Committee constitutes a quorum. 1974, c. 47, s. 130.

128.—(1) The Complaints Committee shall consider and investigate complaints made by members of the public or members of the College regarding the conduct or actions of any member of the College, 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 member 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 131; 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 Part or the regulations or by-laws.

(3) The Committee shall give its decision in writing to the Registrar for the purposes of section 8 and, where the decision is made under clause (2) (b), its reasons therefor. 1974, c. 47, s. 131.

129.—(1) The Discipline Committee shall be composed of,

(a) four members of the Council who were elected to the Council; and
(b) one member of the Council who was appointed to the Council by the Lieutenant Governor in Council.

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

(3) Where the Discipline Committee commences a hearing and the member thereof who is appointed to the Council by the Lieutenant Governor in Council becomes unable to continue to act, the remaining members may complete the hearing notwithstanding his absence.

(4) The Council shall name one member of the Discipline Committee to be chairman.

(5) Notwithstanding section 128, the Council 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 member.

1974, c. 47, s. 132.

130.—(1) The Discipline Committee shall,

(a) when so directed by the Council, Executive Committee or Complaints Committee, hear and determine allegations of professional misconduct or incompetence against any member;

(b) hear and determine matters referred to it under section 128, 129, 132 or 136; and

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

(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 member is guilty of professional misconduct or incompetence;

(d) determine the penalty to be imposed as hereinafter provided in cases in which it finds the member guilty of professional misconduct or of incompetence.
(3) A member 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;

(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 member to be incompetent if in its opinion he has displayed in his professional responsibilities a lack of knowledge, skill or judgment or disregard for the welfare of the public he serves of a nature or to an extent that demonstrates he is unfit to carry out the responsibilities of a pharmacist.

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

(a) revoke the licence of the member;

(b) suspend the licence of the member for a stated period not exceeding twelve months;

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

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

(e) impose such fine as the Committee considers appropriate to a maximum of $5,000 to be paid by the member to the Treasurer of Ontario for payment into the Consolidated Revenue Fund;

(f) 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 College reimburse the member 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 the licence of a member 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 member 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 member.

(10) Where a proceeding is commenced before the Discipline Committee and the term of office on the Council 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. 47, s. 133.

131.—(1) In this section,

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

(b) "incapacitated member" means a member 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 member that he no longer be permitted to practise as a pharmacist or that his practice be restricted.

(2) Where the Registrar receives information leading him to believe that a member may be an incapacitated member, he shall make such inquiry as he considers appropriate and report to the Executive Committee who may, upon notice to the member, appoint a board of inquiry composed of at least two members of the College and one member of the Council appointed thereto by the Lieutenant Governor in Council who shall inquire into the matter.
Examination

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

Hearing by Registration Committee

(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 member 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 the Executive Committee may, on the recommendation of the Registration Committee, suspend the member's licence until the determination of the question of his capacity becomes final.

Parties

(5) The College, the person whose capacity is being investigated and any other person specified by the Committee are parties to a proceeding under this section.

Medical evidence

(6) A legally qualified medical practitioner is not compellable 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 proceeding,

(a) where the evidence is required by the College, 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.

Powers of Registration Committee

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

(a) make a finding as to whether or not the member is an incapacitated member; and
(b) where the member is found to be an incapacitated member, 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) The Registrar may give notice of an order made under this section to such persons as he considers appropriate in the public interest.

(9) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration and appeals therefrom apply, with necessary modifications, to proceedings of the Registration Committee under this section, except that the decision takes effect immediately notwithstanding that an appeal is taken from the decision. 1974, c. 47, s. 134.

132. — (1) A person whose licence has been revoked for cause under this Part, or registration has been suspended or cancelled for cause under a predecessor of this Part, 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 cancellation or, where the suspension is for more than one year, one year after the suspension.

(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 Council and to the former member.

(3) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration, except subsection 11 (9), apply, with necessary modifications, to proceedings of the Registration Committee and Discipline Committee under this section.

(4) Notwithstanding subsections (1), (2) and (3), the Council or the Executive Committee may direct at any time that a licence be issued to a person whose licence has previously
been revoked for cause or a suspension for cause be removed, subject to such terms, conditions or limitations as the Council or Executive Committee, as the case may be, considers appropriate. 1974, c. 47, s. 135.

133.—(1) Where the Registrar believes on reasonable and probable grounds that a member 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 act has occurred, and the person appointed shall report the result of his investigation to the Registrar.

(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 member 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 justice of the peace 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 justice of the peace 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 justice of the peace, 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 member 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 member 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 Council or the Executive Committee or such other committee as he considers appropriate. 1974, c. 47, s. 136.

134.—(1) Every person employed in the administration of this Part, including any person making an inquiry or investigation under section 133, shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, inquiry or investigation and shall not communicate any such matters to any other person except,

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

(b) as may be required for the enforcement of the *Health Insurance Act*;

(c) to his counsel; or

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

(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 Part or the regulations or by-laws. 1974, c. 47, s. 137.
135.—(1) No person shall establish or operate a pharmacy unless a certificate of accreditation has been issued in respect thereof.

(2) The Registrar shall issue a certificate of accreditation and renewals thereof to any applicant therefor where the applicant and the pharmacy and its proposed operation qualify under this Part and the regulations and shall refer to the Accreditation Committee every application for a certificate or renewal that he proposes to refuse or to which he considers terms, conditions or limitations should be attached.

Accreditation Committee

(3) The Accreditation Committee shall determine the eligibility of the applicant and the pharmacy or proposed pharmacy and its operation and may direct the Registrar to issue or refuse to issue the accreditation certificate or to issue the accreditation certificate subject to such terms, conditions or limitations as the Committee directs.

Procedures

(4) The provisions of Part I applying to hearings, review and appeals in respect of proceedings of the Registration Committee apply, with necessary modifications, in respect of proceedings of the Accreditation Committee.

136.—(1) Where the Accreditation Committee has reason to believe that a pharmacy or its operation fails to conform to the requirements of this Part and the regulations or to any term, condition or limitation to which its certificate of accreditation is subject, the Committee may refer the matter to the Discipline Committee for a hearing and determination.

Powers of Discipline Committee

(2) Where the Accreditation Committee refers a matter to the Discipline Committee and the Discipline Committee finds that a pharmacy or its operation fails to conform to the requirements of this Part and the regulations or to any term, condition or limitation to which its certificate of accreditation is subject, the Discipline Committee may,

(a) suspend the certificate of accreditation for a stated period; or

(b) revoke the certificate of accreditation.

Procedures

(3) The provisions of Part I and this Part applying to proceedings before the Discipline Committee in respect of professional misconduct and appeals therefrom apply to the proceedings before the Discipline Committee under this section.

(4) The Council may cancel a certificate of accreditation for non-payment of the prescribed fee after the person operating
the pharmacy has been given at least two months notice of default and intention to cancel. 1974, c. 47, s. 139.

137. Every person who permanently closes a pharmacy shall immediately remove all signs and symbols relating to the practice of pharmacy either within or outside the premises, shall remove and dispose of all drugs according to law and shall submit in writing to the Registrar such information and within such time as the regulations prescribe. 1974, c. 47, s. 140.

138.—(1) No corporation shall own or operate a pharmacy unless the majority of the directors of the corporation are pharmacists.

(2) No corporation shall own or operate a pharmacy unless a majority of each class of shares of the corporation is owned by and registered in the name of pharmacists.

(3) For the purposes of subsection (2), shares registered in the name of the personal representative of a deceased pharmacist shall, for a period not exceeding four years, be considered to be registered in the name of a pharmacist.

(4) Subsection (2) does not apply to any corporation operating a pharmacy on the 14th day of May, 1954.

(5) This section does not apply to the operation of a pharmacy by a non-profit corporation having as its objects and providing health services by members of more than one health discipline. 1974, c. 147, s. 141.

139. No person whose licence as a pharmacist has been revoked for cause or while his licence is suspended for cause, where licence revoked

(a) shall be employed or work in a pharmacy; or

(b) shall act as a director or vote as a shareholder in a corporation operating a pharmacy. 1974, c. 47, s. 142.

140.—(1) No person other than a pharmacist or a corporation complying with the requirements of section 138 shall own or operate a pharmacy.

(2) For the purposes of the ownership of a pharmacy, or for the purposes of the composition of the board of directors or ownership of shares of a corporation as required by section 138, the right to operate the pharmacy shall not be affected by,

(a) any suspension of the licence of a pharmacist; or
(b) the revocation of the licence of a pharmacist until after a period of six months has elapsed. 1974, c. 47, s. 143.

141.—(1) Where a person owning and operating a pharmacy becomes bankrupt, insolvent or makes an assignment for the benefit of creditors, he shall so notify the Registrar and the trustee in bankruptcy, liquidator or assignee, as the case may be, may own and operate the pharmacy for the purposes of the bankruptcy, insolvency or assignment.

(2) Upon the death of a pharmacist who was owning and operating a pharmacy at the time of his death, the personal representative of such deceased person may own and operate the pharmacy for a period of four years or for such further period as the Council may authorize.

(3) Every person authorized to own and operate a pharmacy under subsection (1) or (2) shall immediately upon becoming so authorized file with the Registrar evidence of his authority. 1974, c. 47, s. 144.

142.—(1) No person shall operate a pharmacy unless,

(a) it is under the supervision of a pharmacist who is physically present; and

(b) it is managed by a pharmacist so designated by the owner of the pharmacy.

(2) Where the drugs in a pharmacy are restricted to a part of the pharmacy that is not accessible to the public in accordance with the regulations, and while such part is not in operation, clause (1) (a) does not apply to the remaining premises of the pharmacy.

(3) Every pharmacist practising in a pharmacy shall publicly display his licence in the pharmacy except during such period, if any, as the licence is under suspension. 1974, c. 47, s. 145.

143. No person shall in connection with a retail business use the designation,

(a) drug store;

(b) pharmacy;

(c) drug department;

(d) drug sundries;

(e) drug or drugs;

(f) drug mart; or
(g) medicines,

unless the business is an accredited pharmacy. 1974, c. 47, s. 146.

144.—(1) An inspector appointed under a by-law may enter any pharmacy or other shop in the performance of his duties under this Part at all reasonable times.

(2) Any record required to be kept under this Part shall be open to inspection by any inspector appointed under a by-law. 1974, c. 47, s. 147.

DRUGS

145.—(1) Subject to section 150, no person other than a pharmacist or an intern or a registered pharmacy student acting under the supervision of a pharmacist who is physically present shall compound, dispense or sell any drug in a pharmacy.

(2) Where a pharmacist or an intern is present in the pharmacy and is available to the purchaser for consultation, subsection (1) does not apply to the sale in a pharmacy of a drug other than,

(a) a drug requiring a prescription for sale;

(b) a drug referred to in Part I of Schedule D; or

(c) a drug referred to in Schedule C. 1974, c. 47, s. 148.

146. No person shall knowingly sell any drug under the representation or pretence that it is a particular drug that it is not, or contains any substance that it does not. 1974, c. 47, s. 149.

147.—(1) No person shall sell a drug listed in Schedule D unless it is labelled in accordance with the regulations.

(2) No person shall sell by retail a drug listed in Part I of Schedule D unless a record of the sale is made in such manner as the regulations prescribe.

(3) Subsections (1) and (2) do not apply to a drug when it is dispensed pursuant to a prescription or forms part of the ingredients of a prescription. 1974, c. 47, s. 150.

148. Drugs referred to in Schedules D, E, F, G and Mailing N shall be sent through the mail only by registered mail. 1974, c. 47, s. 151.
149. The manager of every pharmacy shall keep or cause to be kept a record of every purchase and sale of a drug referred to in Schedule G or N in such form or manner as the regulations may prescribe. 1974, c. 47, s. 152.

150.—(1) No person shall sell by retail a substance listed in Schedule B unless it is labelled in accordance with the regulations.

(2) No person other than a pharmacist shall sell by retail a substance listed in Schedule B for the prevention or treatment of an ailment, disease or physical disorder, unless it is sold in the container in which it was received by the seller. 1974, c. 47, s. 153.

151.—(1) Subject to the regulations, no person shall sell by retail any drug referred to in Schedule E, F, G or N, except on prescription given in such form, in such manner and under such conditions as the regulations prescribe.

(2) Subsection (1) does not apply to drugs referred to in Part II of Schedule F that are sold in a container labelled by the manufacturer as for veterinary or agricultural use or sold in a form unsuitable for human use. 1974, c. 47, s. 154.

152.—(1) Every person who dispenses a drug pursuant to a prescription shall ensure that the following information is recorded on the prescription,

(a) the name and address of the person for whom the drug is prescribed;

(b) the name, strength (where applicable) and quantity of the prescribed drug;

(c) the directions for use, as prescribed;

(d) the name and address of the prescriber;

(e) the identity of the manufacturer of the drug dispensed;

(f) an identification number or other designation;

(g) the signature of the person dispensing the drug and, where different, also the signature of the person receiving a verbal prescription;

(h) the date on which the drug is dispensed;

(i) the price charged.
(2) The records required under subsection (1) shall be retained for not less than six years.

(3) The container in which the drug is dispensed shall be marked with,

(a) the identification number that is on the prescription;

(b) the name, address and telephone number of the pharmacy in which the prescription is dispensed;

(c) the identification of the drug as to its name, its strength and its manufacturer, unless directed otherwise by the prescriber;

(d) the quantity where the drug dispensed is in solid oral dosage form;

(e) the name of the owner of the pharmacy;

(f) the date the prescription is dispensed;

(g) the name of the prescriber;

(h) the name of the person for whom it is prescribed;

(i) the directions for use as prescribed. 1974, c. 47, s. 155.

158.—(1) Every person in respect of whom a prescription is presented to a pharmacist to be dispensed, unless otherwise directed by the prescriber, is entitled to have a copy of it marked as such, furnished to him, his agent, or a pharmacist acting on behalf of such person or agent.

(2) Prescriptions in a pharmacy that ceases to operate as a pharmacy shall be delivered to the persons, or agents of the persons, who presented the prescription or to another pharmacy that is reasonably readily available to such person or his agent, or failing either, to the College. 1974, c. 47, s. 156.

154. A pharmacist may dispense a drug pursuant to a written order signed by a physician or dentist licensed to practise in a province in Canada other than Ontario, if in the professional judgment of the pharmacist the patient requires the drug immediately, but such order shall not be refilled. 1974, c. 47, s. 157.

155.—(1) Every person who dispenses a prescription may, unless otherwise directed by the prescriber, select and dispense
an interchangeable pharmaceutical product other than the one prescribed, if the interchangeable pharmaceutical product dispensed is listed as interchangeable in the Parcost C.D.I., and is lower in cost than the drug prescribed.

(2) Where a drug prescribed is listed in the Parcost C.D.I. and the identity of the manufacturer is not specified by the prescriber every person who dispenses a prescription shall select and dispense an interchangeable pharmaceutical product listed in the Parcost C.D.I.

(3) No person shall knowingly supply an interchangeable product under subsection (1) or (2) at a price in excess of the cost of the lowest priced interchangeable pharmaceutical product in his inventory and the maximum dispensing fee as set out in the Parcost C.D.I.

(4) No action or other proceeding lies or shall be instituted against a prescriber or pharmacist on the grounds that an interchangeable pharmaceutical product other than the one prescribed was dispensed in accordance with this section. 1974, c. 47, s. 158.

Reports by pharmacists 156.—(1) Every person who operates or manages a pharmacy shall provide the Minister with such information from records required to be kept under section 152 as the Minister requests.

The Registrar shall provide the Minister with such information respecting substances referred to in the Schedules, except Schedule A, as the Registrar possesses and the Minister requests. 1974, c. 47, s. 159.

Sale of drugs by wholesale 157.—(1) No person shall sell by wholesale any drug for the purpose of sale by retail to any person who is not entitled to sell the drug by retail.

(2) Every person supplying drugs by wholesale in Ontario shall register with the College as a drug wholesaler and furnish the Registrar with a signed statement showing,

(a) his full name and address, or if a corporation the name of the corporation, the names and addresses of the president and directors thereof;

(b) the principal business address,

and with respect to his places of business where drugs are handled,

(c) the address of each place of business, agent or representative in Ontario;
(d) the name of the manager or person responsible for each place of business in Ontario;

(e) the date on which he proposes to commence business at each new location in Ontario. 1974, c. 47, s. 160 (1, 2).

(3) The information required by subsection (2) shall be furnished at least seven days before commencing business and any change in the information required by subsection (2) shall be furnished to the Registrar within seven days of the change. 1974, c. 47, s. 160 (3), revised.

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

(a) prescribing the substances that are included in Schedules A, B, C, D, E, F, G and N for the purpose of this Part;

(b) naming substances for the purposes of clause 113 (1) (d) and specifying the provisions of this Part that shall apply in respect of such substances;

(c) naming publications for the purposes of clause 113 (1) (d);

(d) prescribing the percentage of any substance to be contained in any preparation referred to in any Schedule;

(e) prescribing the manner in which prescriptions shall be given in respect of the drugs referred to in Schedules E, F, G and N and the conditions under which such prescriptions may be given;

(f) authorizing the refilling of prescriptions without further prescription and prescribing the conditions under which prescriptions may be refilled without further prescription;

(g) prescribing the manner in which records shall be kept of the purchase and sale of the drugs referred to in Schedules D, G and N;

(h) pertaining to the transfer of prescriptions and the records to be kept by the transferor and the transferee;

(i) designating substances listed in Schedule D that may be sold by persons not otherwise authorized under this Part and authorizing the sale of such sub-
stances by any persons or classes of persons not otherwise authorized under this Part and prescribing the conditions under which such substances shall be sold by such persons or classes of persons;

(j) prescribing the labelling of substances listed in Schedule B for the purposes of section 150;

(k) providing for the establishment and maintenance of patient record systems;

(l) prescribing the types of containers to be used for containing any drug and the designs, specifications and labelling of containers used for containing any drug;

(m) prescribing standards for accreditation of pharmacies including their operation and the maintenance, space, equipment and facilities required therefor;

(n) providing for applications for certificates of accreditation of pharmacies, and the issuance of such certificates and their expiration and renewal and requiring the payment of fees therefor and prescribing the amounts thereof;

(o) providing for the filing with the Registrar of information respecting the location of the place of practice and the residential address of pharmacists, the name and address of pharmacies in the Province of Ontario including the name and address of the owner and the manager of such pharmacies, and any changes therein, and the form of such information and the time of filing;

(p) providing for the information, instruments or documents to be filed with the Registrar by persons opening, acquiring, relocating or closing a pharmacy, the form thereof and the time of filing;

(q) prescribing standards for the subdivision of premises so that drugs are restricted to a specified area and so that the part of the premises to which the drugs are restricted may be rendered not accessible to the public, while the other part remains open;

(r) regulating the handling, location and storage of drugs in a pharmacy.

(2) The Lieutenant Governor in Council may make regulations,
(a) regulating the use of containers in which drugs may be dispensed and designating organizations to test, certify and designate containers that meet standards approved by the Minister for such purposes as may be specified in the regulations, and requiring the use of containers that are so certified and designated except under such circumstances as are prescribed;

(b) prescribing the Parcost C.D.I. for the purpose of this Part. 1974, c. 47, s. 161.

ENFORCEMENT

159.—(1) Where it appears to the College that any person does not comply with any provision of this Part 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 College 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. 47, s. 162.

160. A person who sells any drug in contravention of this Part or the regulations is not entitled to recover any charges in respect thereof. 1974, c. 47, s. 163.

161. Where a licence or certificate of accreditation is revoked or cancelled, the former holder thereof shall forthwith deliver the licence or certificate to the Registrar. 1974, c. 47, s. 164.

162.—(1) Every person who is in contravention of section 121 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 member uses an occupational designation prescribed by the regulations to be used by members 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) Every person who contravenes any provision of this Act or the regulations for which no penalty is otherwise provided
is guilty of an offence and on conviction is liable to a fine not exceeding $2,000. 1974, c. 47, s. 165.

163.—(1) Every owner or manager of a pharmacy is liable for every offence against this Part committed by any person in his employ or under his supervision with his permission, consent or approval, express or implied, and every director of a corporation operating a pharmacy is liable for every offence against this Part committed by any person in the employ of the corporation with his permission, consent or approval, express or implied.

Idem

(2) Where any person operates a pharmacy contrary to this Part or the regulations, the owner and manager of such pharmacy, or either of them, or any director of a corporation operating a pharmacy, may be proceeded against, and prosecution or conviction of either of them is not a bar to prosecution or conviction of the other. 1974, c. 47, s. 166.

Evidence

164. In any prosecution under this Part,

(a) a certificate as to the analysis of any drug or poison purporting to be signed by a Food and Drug Analyst or Provincial Analyst is admissible in evidence as prima facie proof of the facts stated therein without proof of the appointment or signature of the analyst;

(b) any article labelled as containing any drug is admissible in evidence as prima facie proof that the article contains the drug described on the label;

(c) the label of the container of a drug dispensed pursuant to a prescription is admissible in evidence as prima facie proof that the drug named in the prescription was dispensed;

(d) evidence that a drug is found in a shop or place in which business is transacted is admissible as prima facie proof that it was kept for sale;

(e) evidence of the publishing of a sign, title or advertisement containing the name of an establishment or the owner thereof is admissible in evidence as prima facie proof that the sign, title or advertisement was published by the owner of the establishment. 1974, c. 47, s. 167.