

**THE OPHTHALMIC DISPENSERS OF MANITOBA**

**HEAD OFFICE**

1. The Head Office of the Corporation shall be in the City of Winnipeg, in the Province of Manitoba, and at such place therein as the Council may from time to time determine.

**SEAL**

2. The seal, an impression whereof is stamped in the margin hereof, shall be the corporate seal of the Corporation.

**COUNCIL**

- 3.(1) The affairs of the Corporation shall be managed by a Council of eleven persons elected from the general membership of the Corporation.
- 3.(2) In addition, the eleven elected members may nominate and by resolution appoint one additional Council member from the general

public. The additional Council member shall not be a member of the Corporation but shall have all the rights and privileges of the eleven elected Council members.

4. The qualifications necessary to be elected as a member of Council are:

- a) that his name is entered in the register of the Corporation; and
- b) that he is the holder of a licence to practise ophthalmic dispensing in Manitoba under The Ophthalmic Dispensers Act.

5.(1) The term of office of a member of Council shall be from the date of the meeting at which the member is elected or appointed, until the member's succession is elected or appointed.

5.(2) A person appointed by Council to fill a vacancy on the Council shall hold office, for the balance of the unexpired term of the vacating member.

6. The office of a member of the Council shall be vacated

- a) if he becomes bankrupt or suspends payment or compounds with his creditors or makes an authorized assignment or is declared insolvent; or
- b) if he is found to be a lunatic

or becomes of unsound mind;  
or

- c) if he ceases to hold a licence to practise ophthalmic dispensing in Manitoba under The Ophthalmic Dispensers Act.

7.(1) Election of members of Council shall not be by ballot unless demanded by any member of the Corporation.

7.(2) The whole Council shall retire at the Annual Meeting at which members of Council are to be elected but shall be eligible for re-election if otherwise qualified.

8.(1) Council meetings may be held either at the Head Office or elsewhere as the members of the Council may from time to time determine.

8.(2) A meeting of the members of the Council may be convened by the President or any two members of Council, at any time, and the Registrar, by direction of the President or any two members of the Council, shall convene a meeting of the Council.

8.(3) Notice of such meeting shall be delivered or mailed or telegraphed to each member of the Council, not less than three days

before the meeting is to take place; but meetings of the Council may be held at any time without formal notice, if all the members of the Council are present or those absent have waived notice or have signified their consent in writing to the meeting being held in their absence.

8.(4) Notice of any meeting or irregularity in any meeting or notice thereof may be waived by any member of the Council.

9. Seven members of the Council shall form a quorum for the transaction of business.

10.(1) Questions arising at any meeting of the Council shall be decided by a majority of votes.

10.(2) In case of any equality of votes, the Chairman, in addition to his original vote, shall not have a second or casting vote.

#### **OFFICERS**

11.(1) The Council shall annually elect a President, a Vice-President, a Treasurer and a Registrar.

11.(2) A vote of the majority of the members of the Council shall

be necessary for the election or appointment of any of those officers.

11.(3) The members of the Council may from time to time elect or appoint such other officers and agents as it deems necessary, who shall have such authority and shall perform such duties as from time to time shall be prescribed by the Council.

12. The remuneration of all officers elected or appointed by the Council shall be determined from time to time by resolution of the Council.

13.(1) The President shall be the Chief Executive Officer of the Corporation; and shall, if present, preside at all meetings of the members of the Corporation or Council.

13.(2) He shall sign all instruments which require his signature and shall perform all duties incidental to his office and have such other powers and duties as may from time to time be assigned to him by the Council.

14. The Vice-President shall be vested with all powers and shall perform all the duties of the President in the absence or disability or refusal to act of the President.

15. The Registrar or some other officer specially charged with the duty shall keep or cause to be kept a book or books wherein shall be kept recorded

- a) all by-laws of the Corporation;
- b) the names, alphabetically arranged, of all persons who are or have been members of the Corporation; and
- c) the names and addresses of all persons who are or have been members of the Council, with the several dates at which each became or ceased to be such member.

16.(1) The Treasurer shall have the care and custody of all the funds and securities of the Corporation and shall deposit the same in the name of the Corporation, in such bank or banks or with such depository or depositories as the Council may direct.

16.(2) He shall, at all reasonable times, exhibit his books and accounts to any member of the Council upon application at the office of the Corporation during business hours.

16.(3) He shall sign or countersign such instruments as require his signature and shall perform all duties incidental to his office or that are properly required of him by the Council.

## MEETINGS

17. The general meeting of the members of the Corporation shall be held annually for the purpose of electing the Council and for such other business as may be brought before the meeting.
18. Other meetings of the members of the Corporation may be convened by order of the President or by any two members of the Council at any time and any place in the Province of Manitoba.
- 19.(1) A printed, written or typewritten notice stating the day, hour and place of meetings, and the general nature of the business to be transacted shall be served, either personally or by sending such notice to each member entitled to vote at such meeting, through the post in a prepaid wrapper or letter, ten days (exclusive of the day of mailing, but inclusive of the day for which notice is given) before the date of every meeting directed to such address as appears on the books of the Corporation, or, if no address be given therein, then to the last address of such member known to the Registrar; but meeting of the members may be held for any purpose, at any time and at any place, without notice, if all the members entitled to notice of such meeting are present in person at the meeting or if the absent members shall have signified their assent

in writing to such meeting being held.

19.(2) Notice of any meeting or any irregularity in any meeting or in the notice thereof, may be waived by any member.

20. The accidental omission to give notice of any meeting or the non-receipt of any notice by any member or members, either of the Corporation or the Council, shall not invalidate any resolution passed or any proceedings taken at any meeting.

21.(1) Every question submitted to any meeting of members shall be decided in the first instance by a show of hands and in the case of an equality of votes the Chairman shall neither on a show of hands or at a poll, have a casting vote in addition to the vote to which he is entitled as a member.

21.(2) At any meeting, unless a poll is demanded, a declaration by the Chairman that a resolution has been carried or carried unanimously or by any particular majority or lost or not carried by a particular majority shall be conclusive evidence of the fact.

21.(3) If at any meeting a poll is demanded on any question, it shall be taken in such manner and either at once or after adjournment

as the Chairman directs. The results of a poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

21.(4) A demand for a poll may be withdrawn.

22.(1) The Chairman may, with the consent of any meeting, adjourn the same from time to time, and no notice of such adjournment need be given to the members.

22.(2) Any business may be brought before or dealt with at any adjourned meeting which might have been brought before or dealt with at the original meeting in accordance with the notice calling the same.

23.(1) One-third of the members of the Corporation residing within Manitoba constitute a quorum for a meeting of the members of the Corporation.

23.(2) No business shall be transacted at any meeting unless a quorum is present, but where there is no quorum the Chairman may adjourn the meeting to a later time at which time, if there is a quorum present, the meeting may continue notwithstanding that no new notice of the time to which the meeting is adjourned is given to the members of the

Corporation.

### NOTICES

24. Any notice may be given by the Corporation to any member of the Corporation or member of the Council, either personally or by sending the same through the post in a prepaid envelope or wrapper or by telegram addressed to such member of the Corporation or of the Council at his address as the same appears in the books of the Corporation, or if no address be given therein, then to the last address of such member of the Corporation or of the Council known to the Registrar.

### DOCUMENTS

25. All cheques, drafts or orders for the payment of money and all notices and acceptances and bills of exchange shall be signed by such officers of the Corporation, and in such manner as the Council may from time to time designate.

26. The books of account of the Corporation shall be kept at the Head Office of the Corporation or at such other place in Manitoba as the Council may from time to time determine.

27.(1) Contracts, documents or any instrument in writing requiring the signature of the Corporation, may be signed by the President and the Registrar or the Treasurer, and all contracts, documents and instruments in writing so signed shall be binding upon the Corporation without any further authorization or formality.

27.(2) The Council shall have the power from time to time by resolution, to appoint any officer or officers, person or persons on behalf of the Corporation either to sign contracts, documents and instruments in writing generally or to sign specific contracts, documents or instruments in writing.

27.(3) The seal of the Corporation, may, when required, be affixed to contracts, documents and instruments in writing signed as aforesaid or by any officer or officers, person or persons, appointed by resolution of the Council.

#### **FISCAL YEAR**

28. The fiscal year of the Corporation shall terminate on such date as may be determined from time time by a resolution of the Council.

**REGISTRATION**

29.(1) The fee for registration in the register of the Corporation is \$75.00.

29.(2) The fee for an annual licence to practice ophthalmic dispensing shall be such amount as may be fixed from time to time by resolution passed at a general meeting of the members of the Corporation.

29.(3) Until a resolution is passed in accordance with the above paragraph fixing the fee for an annual licence to practise ophthalmic dispensing, the fee therefor is \$200.00.

30.(1) The Corporation may, by resolution or resolutions passed from time to time by a two-thirds affirmative vote of the members of the Council present at a meeting called for that purpose, establish a code of ethics which shall be binding upon the Corporation and its members.

30.(2) The code of ethics may be amended from time to time, by a two-thirds affirmative vote of the members of the Council present at a meeting duly called for that purpose.

31. Any member may be disciplined in accordance with the procedures and penalties set out in Section 32 herein for a breach of the code of ethics of the Corporation.

32.(1) The Council may order the Registrar to remove the name of a member of the Corporation from the register if the member fails to renew his licence and pay the accompanying prescribed fee therefor for a period of thirty days following the date prescribed by the Act as the expiry date for each annual licence if fourteen days notice of such failure was previously given to the member by registered mail addressed to his last known address.

32.(2) Every licensed Ophthalmic Dispenser who owns, manages or controls a practice or business of ophthalmic dispensing shall maintain a record of the licensed member, or members who are responsible for any practice or business of ophthalmic dispensing which the said ophthalmic dispenser owns, manages or controls. All practices, and each location where ophthalmic dispensing is carried on must display a notice identifying the current licence of record.

32.(3) Where a practice or business of ophthalmic dispensing owned,

managed or controlled by a member of the Corporation encompasses more than one business location or outlet that member shall ensure that each location or outlet is properly supervised by a licence of record and no member shall purport to supervise more than one location or outlet concurrently.

32.(4) The Council may cancel a licence issued under the Act and order the Registrar to remove the name of the member holding the licence from the Register or otherwise discipline a member:

- (a) Upon the Council being satisfied that the licence or entry of the name of the member in the register was procured by means of false or fraudulent representation or declaration;
- (b) Upon the Council being satisfied that the member has been convicted of an indictable offence of such a nature that it imputes unprofessional conduct to him or has been guilty of infamous or unprofessional conduct rendering him incapable of practising or unfit, to practice ophthalmic dispensing, or has permitted or allowed an unqualified person to practise under licence, or has been guilty of professional incompetence, negligence or misconduct to a degree that, in the opinion of Council, disqualifies the member from practising ophthalmic dispensing or

otherwise breached the by-laws of the Corporation herein;

- (c) Upon the Council being satisfied that the member has allowed his name to stand as the licensee of record for a business or practice of ophthalmic dispensing in the Province of Manitoba without ensuring that the business or practice of ophthalmic dispensing is being directly supervised by a licensed ophthalmic dispenser on a full time basis. For the purpose of this clause, supervision on a full time basis requires that a licensed ophthalmic dispenser be present during the normal business hours of the practice or the business of ophthalmic dispensing with the exception of reasonable annual vacation or vacations of the licensed ophthalmic dispenser of record. During vacation periods, the requirement of supervision on a full time basis shall be satisfied so long as nothing is actually dispensed without being first checked by a licensed ophthalmic dispenser.

32.(5) No cancellation of licence or removal of a member's name from the register or other form of discipline of one of the members shall be made until the Council has met to inquire into the conduct of the member in question, at which meeting the member has the right to appear and be heard, to call witnesses and to be represented by counsel, and the inquiry shall be held in accordance with the following requirements:

- a) At least one week before the inquiry a notice shall be served upon the member in question, the notice to contain a description of the complaint against such member or a statement of the subject matter of the inquiry and shall also specify the time and place of the meeting.
- b) Witnesses may be subpoenaed by the Corporation, the Council or the member who is the subject of the complaint in the same manner as witnesses in the Court of Queen's Bench and their testimony shall be taken under oath at the meeting. The oath shall be administered by a special examiner or other person entitled to administer oaths within the Province of Manitoba, and the witnesses are subject to cross-examination.
- c) The testimony of all witnesses called at the meeting shall be transcribed by a duly qualified special examiner or court reporter.
- d) Council may for the purpose of executing its duties under this by-law employ at the expense of the Corporation, and the Corporation on its own behalf may employ, such legal counsel as either of them shall consider necessary or proper in connection with the inquiry;

32.(6) After hearing the evidence adduced at the inquiry and notwithstanding the failure or refusal of the member in question to attend the inquiry, the Council upon the appearance of the member or upon proof of personal service of the notice referred to in paragraph

32.(5)(a) may

(a) dismiss the complaint,

or

(b) make an order for the cancellation or suspension of the licence of the member in question and for the removal of his name from the register, such order to be directed to and be acted upon by the Registrar of the Corporation, or

(c) if satisfied that the conduct of the member does not justify a cancellation or suspension order, may dispose of the inquiry or complaint by censuring or reprimanding the member concerned, by imposing an Order of costs or by fining the member concerned or by imposing a period of probation on the member subject to such conditions or restrictions on the right of the member to practise ophthalmic dispensing as it deems reasonable in the circumstances.

32.(7) When the Council makes an Order for the cancellation or suspension of a member's licence and removal of his name from the

register, the Order shall stipulate the period of time during which the cancellation or suspension is effective.

33.(1) Any person who considers himself aggrieved by an Order made by the Council under the by-laws of the Corporation may appeal from the order to a Judge of the Court of Queen's Bench as provided in The Ophthalmic Dispensers Act.

33.(2) Any person whose licence is cancelled and whose name is removed from the register under the provisions of this by-law shall not apply for re-registration under the Act until the expiration of the period of time stipulated in the order of Council during which the cancellation of the licence and removal of name from the register is effective; but when the period of cancellation or suspension ordered by Council exceeds two years, the member has the right to apply to Council for reinstatement at the end of a two year period, at which time the Council shall conduct a hearing with respect to the application for reinstatement.

33.(3) Where the removal of a member's name from the register is ordered by Council by reason of the member's failure to renew his licence and pay the prescribed fee, the member affected by the Order may, unless otherwise disqualified under the Act or the provisions of this by-law, within one year from the date of the Order, apply for

re-registration by paying the then current year's licence fee to the Corporation and as an additional fee, the sum of \$100.00 and he shall thereupon be reinstated to the full privileges enjoyed by any other registered practitioner or any other ophthalmic dispenser under the Act.

33.(4) All the powers of the Council under section 12 of The Ophthalmic Dispensers Act and under the by-laws of the Corporation to govern and discipline the members of the Corporation may be exercised by a Judicial Committee of the Council, which shall include such members of the Council as are so designated by the Council from time to time and have a quorum of members which is not less than that of the quorum of Council itself.

33.(5) In the event that 3 or more of the Council members are disqualified from sitting on the Judicial Committee pursuant to Section 34.(4) then the quorum of the Judicial Committee shall be reduced to three members of the Council.

34.(1) The Judicial Committee or the Council itself shall hold an inquiry into all complaints that are forwarded to its attention by the Discipline Committee of Council.

34.(2) The Council shall set up a Discipline Committee consisting of no fewer than 3 members of Council, which shall receive, investigate and evaluate such complaints with respect to members of the Corporation as are received from other members of the Corporation or the general public.

34.(3) The Discipline Committee shall refer such complaints to the Judicial Committee or the Council for an inquiry as it believes warrant an inquiry into the conduct of the member in question.

34.(4) A Council member shall not sit as a member of the Judicial Committee with respect to any inquiry where

- (a) The Council member or any other member of the Councillor's business or practice is the complainant or has advised the complainant in connection with the subject matter of the complaint; or
- (b) the Council member or any other member of the Councillor's business or practice will be a witness; or
- (c) the Councillor or any member of his business or practice is the member whose conduct or competence is the subject of the inquiry; or
- (d) The Council member has sat as a member of the Discipline Committee or the Education Committee when it was dealing with the matter which is the subject of the inquiry.

34.(5) Where the Registrar or Discipline Committee receives a complaint which involves or may involve a member of the Corporation, and the Registrar or Discipline Committee has sent a letter to the member

requesting a reply, the member shall within ten days after the letter was sent to him, file a written answer with the Registrar or Discipline Committee, as the case may be, and failure of the member to do so in the absence of a reasonable excuse, shall in itself constitute professional misconduct.

### EDUCATION COMMITTEE

35. The Council shall in each and every year appoint an Education Committee to consist of a Chairman elected by the Council from among the members of the Council, and four other members appointed from among the members of the Corporation, who may or may not be members of Council.

36.(1) The Education Committee of the Corporation shall arrange a yearly examination for applicants for registration.

36.(2) An examination for an applicant for registration shall consist of

- (a) a written theory exam on which a passing mark is 63 1/3% of the total possible marks; and

- (b) a practical exam on which a passing mark is 70% of the total possible marks.

37. Upon being notified by Council that there are applicants, who are otherwise qualified under the Act, desirous of submitting to an examination, the Education Committee shall

- (a) arrange for the writing and supervision of the theory part of the examination by each applicant and appoint a member of the Association to conduct the practical part of the examination for each applicant;
- (b) notify each applicant of the examination fee to be determined by the Council and of the time, date and place of the examination and prescribe for each applicant texts for study purposes; each applicant to be given at least thirty days notice in regard to his examination unless such applicant consents to shorter notice being given; and
- (c) mark or arrange to have marked the theory part of the examination and upon obtaining the applicant's mark for the practical part of the examination from the appointed examiner, submit the total result of the examination to Council for appropriate action.

38. If an applicant for registration fails to obtain the required

pass mark in the theory part or the practical part of his examination, he shall be entitled to submit to a second examination on the next occasion when examinations are prepared and arranged by the Education Committee in either or both parts, as the case may be, and in the event that the same applicant fails to obtain the required pass mark on his second examination, he shall be required to wait at least one year before submitting himself to a further examination; in the event that the applicant again fails to obtain the required pass mark on that occasion, he will not be allowed to submit any further examination in order to qualify for registration under the Act unless Council otherwise orders.

39.(1) The Education Committee is responsible for certification of the licensed members of the Corporation who intend to fit contact lenses.

39.(2) The procedure for certification under subsection (1) shall recognize the following two categories of members:

- (a) All members as of January 17th, 1984 who wish to continue fitting contact lenses.
- (b) Those members who are licensed after January 17th, 1984 and who wish to fit contact lenses as part of their practice.

40. With respect to category 39.(2)(a) the Education Committee

shall conduct an examination wherein all members in this category are required to demonstrate that they possess a reasonable level of competence in contact lens fitting.

41. If a member in category 39.(2)(a) fails to pass the initial certification examination, the member is entitled to continue fitting contact lenses for a period not to exceed a further 3 months following the initial examination and during the third month, the Committee shall give the member the opportunity to be re-examined so as to demonstrate that he possesses a reasonable level of competence in contact lens fitting, and if the member fails the second examination, that member shall be placed in category 39.(2)(b) and shall be required to cease fitting contact lenses until he meets all the certification requirements of that category.

42. With respect to category 39.(2)(b) the Education Committee shall ensure that all members in that category attend such course or courses in contact lens fitting as are designated by the Education Committee for the purposes of contact lens certification and upon completion of such courses, the Education Committee shall conduct an examination wherein all members of this category will be required to demonstrate that they possess a reasonable level of competence in contact lens fitting.

43. The Education Committee shall arrange for a continuing

education program for the benefit of all certified contact lens fitters in Manitoba.

44.(1) The Council of the Ophthalmic Dispensers may require a member to attend a minimum of hours of continuing education on an annual basis in order to maintain certification.

44.(2) The Committee shall give notice in writing on an annual basis to all certified members of the minimum number of hours that will be required in order to maintain their certification and to give further notice from time to time of the number of hours of credit to be attached to each approved education program.

44.(3) If a member fails to attend the required number of hours of continuing education, the Education Committee may, in the absence of a reasonable excuse being provided by the member, withdraw the member's certification.

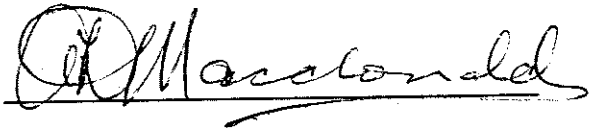
44.(4) Any decision by the Education Committee to withdraw certification may be appealed to the Council of the Ophthalmic Dispensers.

45. No member of the Corporation shall fit contact lenses unless that member is certified as a contact lens fitter by the Education

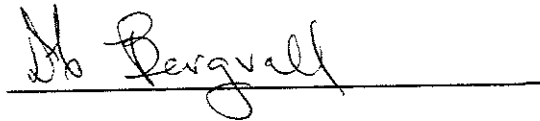
Committee.

46. All by-laws of the Corporation heretofore made by the Council are hereby rescinded.

Done and enacted by the Council of The Ophthalmic Dispensers of Manitoba at The City of Winnipeg this 18<sup>th</sup> day of JANUARY A.D. 1984.

A handwritten signature in cursive script, appearing to read "D. Macdonald", written over a horizontal line.

PRESIDENT

A handwritten signature in cursive script, appearing to read "N. Bergvall", written over a horizontal line.

REGISTRAR