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C.C.S.M. c. O60

The Opticians Act

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Manitoba, enacts as follows:

Definitions

1 In this Act,

"corporation" means The Opticians of Manitoba continued under section 2; (« Association »)

"council" means the council of the corporation for which provision is made in section 6; (« conseil »)

"member" means any person who receives a licence to practise opticianry under this Act; (« membre »)

"minister" means the minister appointed by the Lieutenant Governor in Council to administer this Act; (« ministre »)

"optician" means a person who

(a) prepares and dispenses lenses, including contact lenses, spectacles, eye-glasses, and appurtenances thereto, or any of those things, to the intended wearers thereof, on the written prescriptions of duly qualified medical practitioners or of the holders of certificates of registration under *The Optometry Act*; and

(b) in accordance with such prescriptions interprets, measures, adapts, fits, and adjusts, such lenses, including contact lenses, spectacles, eye-glasses and appurtenances thereto, or any of those things, to the human face for the aid of vision or the correction of visual or ocular anomalies of human eyes; (« opticien »)

"registrar" means the registrar of the corporation elected by the council as provided in section 11. (« registraire »)

[S.M. 1999, c. 26, s. 3; S.M. 2005, c. 39, s. 41.](#)

Continuation

2 The Opticians of Manitoba is continued as a body corporate.

[S.M. 1999, c. 26, s. 4.](#)

Objects of corporation

3 The general objects of the corporation are to promote and increase the knowledge, skill, efficiency, and proficiency of its members in all things relating to opticianry, business organization, administration, and ethics, to encourage, promote, and extend the science of opticianry and to maintain, disseminate, and advance, ethical concepts and standards of knowledge in that science.

[S.M. 1999, c. 26, s. 5.](#)

Membership

[4](#) The corporation consists of the persons who have obtained a licence to practise opticianry in Manitoba.

[S.M. 1999, c. 26, s. 6.](#)

Powers with regard to property

[5](#) The corporation may acquire and hold real and personal property for its corporate purposes, and may alienate, exchange, lease, mortgage, or otherwise charge or dispose of it, or any part thereof, as occasion may require.

Constitution of council

[6](#) The affairs and business of the corporation shall be controlled, managed, and regulated by a council, which shall consist of at least seven members, four of whom constitute a quorum, and who shall hold office for a term of one year and until their successors are elected.

Vacancies on council

[7](#) When a vacancy occurs in the council from any cause, the council shall appoint any member of the corporation to fill the vacancy until the next annual meeting of the corporation.

Annual meeting

[8\(1\)](#) A 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.

General meeting

[8\(2\)](#) A general meeting of the corporation shall be held at such time and place, upon such notice, and otherwise, as is provided in the by-laws of the corporation.

Voters qualifications

9 The persons qualified to vote at elections of members of the council are members of the corporation resident in Manitoba.

Retiring members eligible for re-election

10 Retiring members of the council, if otherwise qualified, are eligible for re-election.

Election of officers

11 The council shall elect from its members a president, a treasurer, and a registrar who shall also be the secretary; and the council may elect or appoint such other officers and employees as may be provided for in the by-laws of the corporation.

By-laws

12(1) The council may pass by-laws, respecting

- (a) the professional ethics of the members of the corporation;
- (b) the government and discipline of its members;
- (c) the management of its property;
- (d) banking and finance;
- (e) the appointment, duties and removal of officers or servants of the corporation, and their remuneration;
- (f) the time and place when and where the annual meeting and other meetings of the corporation shall be held, and the notice necessary therefor;
- (g) the registration of members of the corporation and the issue of registration certificates;
- (h) the removal of names from the register and the cancellation of licences;
- (i) the examinations of applicants for registration, and the fees therefor;
- (j) agreements with any university, school, or college for such instruction, direction, and lectures as may be necessary for the purposes of the corporation;

- (k) the necessary examinations to qualify as an optician;
- (l) the fees for registration as a member of the corporation and the fees for licences to practise opticianry;
- (m) the limitation or restriction of a member's licence based on the competence, education and training of the member;
- (n) all other matters reasonably necessary for the carrying out of the provisions in this Act.

When by-laws effective

[12\(2\)](#) No by-law of the corporation takes effect until approved by the Lieutenant Governor in Council.

Subpoenas

[12\(3\)](#) The council or a duly appointed committee thereof and any party to a hearing held or to be held with respect to the government and discipline of a member of the corporation, may obtain on praecipe from the Court of Queen's Bench subpoenas for the attendance of witnesses or the production of books, documents and things related to the hearing, or both.

Evidence under oath

[12\(4\)](#) Witnesses to a hearing mentioned under subsection (3) shall give their evidence under oath, which may be administered by a member of council, and are subject to examination and cross-examination, as the case may require, at the hearing.

[S.M. 1999, c. 26, s. 7.](#)

Requirements for person to be registered

[13\(1\)](#) A person is entitled to have his or her name entered in the register established under section 18, and to receive a certificate of registration, if the person

- (a) passes an examination in opticianry given under this Act;
- (b) provides evidence satisfactory to the registrar that he or she has completed

- (i) a two year course of study in a school of opticianry recognized by the council as maintaining a satisfactory standard, and one year of practical training, or
- (ii) at least four years of training and experience in opticianry that the council considers satisfactory; and
- (c) pays the registration fee.

Registration of person licensed in other jurisdiction

[13\(2\)](#) A person is entitled to have his or her name entered in the register established under section 18, and to receive a certificate of registration, if the person pays the registration fee and provides evidence satisfactory to the registrar that he or she is currently licensed to practise opticianry and is in good standing as an optician in another jurisdiction that is recognized by the council as having licensing requirements equivalent to those under this Act.

[S.M. 1999, c. 26, s. 8.](#)

Issue of licence

[14](#) Any person whose name is entered in the register is entitled to receive a licence to practise opticianry under this Act, on payment of the prescribed fee.

[S.M. 1999, c. 26, s. 9.](#)

Expiration of licences

[15\(1\)](#) Subject to subsection (2), each licence expires on December 31 next following the issue thereof.

Renewals of licences

[15\(2\)](#) Every person who holds a valid and subsisting licence to practise opticianry under this Act for any year, may annually, on or before December 15 in that year, apply to the registrar for a renewal thereof for the next ensuing year; and the renewal shall be issued upon payment of the prescribed fee.

[S.M. 1999, c. 26, s. 10.](#)

Unlicensed practice prohibited

16 No person shall practise as an optician unless the person holds a valid and subsisting licence issued under this Act.

[S.M. 1999, c. 26, s. 11.](#)

Authority for dispensing, etc.

17 The service and appliances relating to opticianry shall be dispensed, furnished, or supplied, to the intended wearer or user thereof only upon prescription issued by a duly qualified medical practitioner or by the holder of a certificate of registration under *The Optometry Act*; but duplications, replacements, reproductions, or repetitions, may be dispensed, furnished or supplied, without prescription.

[S.M. 1999, c. 26, s. 12.](#)

Use of titles

17.1 No person except a member shall use the title "optician", "dispensing optician", "ophthalmic dispenser" or "certified contact lens optician", or a variation or abbreviation of those titles, or an equivalent in another language that implies the person is registered as a member of the corporation or entitled to practice as an optician.

[S.M. 1999, c. 26, s. 13.](#)

Register of members

18 The registrar shall keep a register in which he shall enter the names and business addresses of all persons who are entitled to have their names entered in the register; and those persons only whose names are inscribed in the register are entitled to receive an annual licence.

[19](#) Repealed.

[S.M. 1999, c. 26, s. 14.](#)

Appeal from decision of registrar

[20](#) Every person who applies to have his name entered in the register may appeal to the council from any decision of the registrar thereon; and the council shall hear the appeal and determine the matter in question.

Appeal from decision of council

[21\(1\)](#) A person whose application for registration is refused by the council, or any person who considers himself or herself aggrieved by a disciplinary order made by the council under the by-laws of the corporation, may appeal the decision to the Court of Queen's Bench by filing a notice of appeal within 30 days after the date on which the applicant is served with notice of the decision.

Powers of court on appeal

[21\(2\)](#) After hearing an appeal based on the record of the proceedings before the council, the court may

(a) confirm, vary or rescind the decision of the council; or

(b) refer the matter back to the council for further consideration in accordance with any direction of the court.

[S.M. 1999, c. 26, s. 15.](#)

Offence and penalty

[22](#) A person who contravenes a provision of this Act for which no other penalty is provided is guilty of an offence and is liable, upon summary conviction, to a fine, not exceeding \$1,000. or to imprisonment for a term not exceeding three months, or to both.

[S.M. 1998, c. 32, s. 9](#); [S.M. 1999, c. 26, s. 16](#).

Funds deposited in bank

23 The funds of the corporation shall be deposited in a bank to the credit of the corporation, and the expenses of the corporation shall be paid therefrom.

Act not applicable to physicians, optometrists and others

24 Nothing in this Act applies to any duly qualified medical practitioner or the holder of a certificate of registration under *The Optometry Act* or to persons who sell complete ready-to-wear glasses as merchandise from a permanent place of business.

Confidentiality of information

25(1) Subject to section 26, every person employed, appointed or retained for the purpose of administering this Act, and every member of the council or a committee of the council, shall preserve secrecy about all information that comes to his or her knowledge in the course of his or her duties, and shall not communicate any information to any other person, except

(a) to the extent the information is available to the public, or is required to be disclosed, under this Act;

(b) in connection with the administration of this Act, including, but not limited to, the registration of members, complaints about members, allegations of members' incapacity, unfitness, incompetence or acts of professional misconduct, or the governing of the profession;

(c) to a body that governs the practice of a health profession pursuant to an Act of the Legislature, to the extent the information is required for that body to carry out its mandate under the Act; or

(d) to a body that governs the practice of ophthalmic dispensing in a jurisdiction other than Manitoba.

Offence

25(2) A person who contravenes subsection (1) is guilty of an offence and is liable, on summary conviction, to a fine of not more than \$50,000.

[S.M. 1998, c. 32, s. 9](#); [S.M. 2005, c. 39, s. 42](#).

Registrar to collect information

[26\(1\)](#) In addition to any other information maintained in administering this Act, the registrar must collect and record each member's

- (a) date of birth;
- (b) sex; and
- (c) education or training, as required for registration and renewal of registration.

Member to provide information

[26\(2\)](#) A member must provide the registrar with the information required under subsection (1), in the form and at the time set by the registrar.

Minister may require information

[26\(3\)](#) The minister may request in writing that the registrar provide information on members — including personal information — contained in the register or collected under subsection (1), to establish and maintain an electronic registry of health service providers to be used for the following purposes:

- (a) to validate the identity of a provider seeking access to a patient's personal health information maintained in electronic form;
- (b) to generate information — in non-identifying form — for statistical purposes.

Registrar to provide information to minister

[26\(4\)](#) The registrar must provide the minister with the information — including personal information — requested under subsection (3), in the form and at the time set by the minister after consulting with the registrar.

Minister may disclose information

[26\(5\)](#) Despite any other provision of this Act or any provision of another Act or a regulation, the minister may

- (a) disclose — in non-identifying form — information provided under subsection (4) to any entity authorized to receive it under subsection (6); and

(b) impose conditions respecting the use, retention and further disclosure of the information.

An entity must comply with any conditions imposed by the minister.

Authorized entities

[26\(6\)](#) The following entities are authorized to receive information — in non-identifying form — under subsection (5):

- (a) a regional health authority established or continued under *The Regional Health Authorities Act*;
- (b) Regional Health Authorities of Manitoba, Inc.;
- (c) CancerCare Manitoba;
- (d) The Manitoba Centre for Health Policy;
- (e) a government or organization with which the Government of Manitoba has entered into an agreement to share information for the purposes stated in subsection (3).

[S.M. 2005, c. 39, s. 43.](#)

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