

Bill No. 62 of 1950.

A BILL TO REGULATE THE PRACTICE OF  
OPTOMETRY AND TO INCORPORATE THE  
ALBERTA OPTOMETRIC ASSOCIATION.

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NOTE.

This Bill enacts a new Act to be known as "*The Optometry Act, 1950*" which repeals and replaces *The Optometry Act*, being chapter 296 of the Revised Statutes of Alberta, 1942.

The new Act provides for a Board of Examiners to be appointed by the Lieutenant Governor in Council instead of by the General Faculty Council of the University of Alberta.

Compulsory membership in the Association is to continue but licenses to practise are to be issued by the Department of the Provincial Secretary instead of by the Association, and are to be issued when the applicant has been registered as a member of the Association after receipt by the Association of a certificate of qualification from the Board.

Sections 4 to 9 deal with The Alberta Optometric Association which is continued as a body corporate and politic under the same name as in the former Act. Membership in the Association is compulsory and the internal management remains as it was under the former Act. A fee not exceeding fifty dollars shall be paid by each applicant for registration or interim registration and the total of the levies, contributions and membership fees required in any one year shall not exceed the sum of fifty dollars for each member.

The holder of a certificate of approval for registration issued by the Board shall, within fourteen days of the filing of the certificate with the registrar of the Association, be granted a certificate of registration by the Association. Provision is also made for the issue of an interim certificate of registration pending examination of the applicant by the Board.

The Lieutenant Governor in Council may appoint a Board of Examiners not exceeding ten in number, one of whom shall be chairman, and the Board shall be responsible for fixing the qualifications of all applicants applying for registration. The duties of the Board shall be to set the examinations or tests for persons applying for certificates of approval for registration. The Board shall determine the course of study to be followed and the subjects of examination to be taken by applicants for admission to practise. The Board may exempt from examination any person who

is a graduate of an accredited school or other institute for the training of persons to become optometrists, and who possesses the qualifications required under the Act.

The Board is required to report to the Minister the results of every examination and to file with the Minister a report dealing with the qualifications of applicants exempted from examination under the Act.

Every person registered under the provisions of the former Act shall be entitled to receive from the Association a certificate of registration under this Act. The fees required for the certificates and the licenses are provided for.

Nothing in the Act shall prevent the practise by a retail merchant of optometry at his ordinary place of business or the carrying on therein of an optical department if such practice is in charge of a registered optometrist or a duly qualified medical practitioner; or the selling or offering for sale by a retail merchant at his ordinary place of business of spectacles or eye-glasses; or the provision of a test card or chart, other than a mechanical instrument, for the use of his customers in selecting spectacles or eye-glasses kept for sale by such retail merchant, and a test card or chart may be furnished through the mail. The section also exempts the unrestricted sale of protection glasses for industrial purposes, coloured glasses not embodying any ophthalmic lens or lenses, 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.

A person who is the holder of a certificate or interim certificate of registration, is entitled to receive from the Minister a license or interim license to practise as an optometrist. The license must be displayed in a conspicuous place and may be cancelled or suspended by the Minister if the certificate of registration of the holder of the license has been cancelled, suspended or revoked.

The Act makes it an offence for any person not licensed to practise optometry within the Province. Any person found guilty of an offence against the Act is subject to a penalty not exceeding one hundred dollars for a first offence; not less than one hundred dollars and not exceeding five hundred dollars for a second offence; and not less than five hundred dollars and not exceeding one thousand dollars, or to imprisonment for a term not exceeding three months or to both fine and imprisonment for any subsequent offence. The onus of proof of registration under the Act is upon the person charged with the offence.

The Provincial Secretary is the Minister charged with the administration of the Act.

KENNETH A. MCKENZIE,  
*Acting Legislative Counsel.*

*(This note does not form any part of the Bill but offered in explanation of its provisions.)*

# BILL

No. 62 of 1950.

An Act to Regulate the Practice of Optometry and to Incorporate The Alberta Optometric Association.

(Assented to \_\_\_\_\_, 1950.)

**H**IS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

## Short Title.

1. This Act may be cited as "*The Optometry Act, 1950*".

## Interpretation.

2. The practise of optometry means the examination of the human eye by the employment of subjective or objective mechanical means,—

- (a) to ascertain the presence of defects or abnormal conditions which, or the effect of which, may be corrected, relieved or remedied by the use of lenses or prisms;
- (b) to determine the accommodative or refractive conditions, the range of powers of vision or muscular equilibrium;
- (c) to correct, relieve or remedy any such defect or abnormal condition or its effect by the adaption or adjustment of lenses or prisms; and
- (d) the supplying of lenses or prisms.

3. In this Act, unless the context otherwise requires,—

- (a) "Association" means The Alberta Optometric Association;
- (b) "Board" means the Board of Examiners in Optometry appointed under the authority of this Act;
- (c) "certificate of approval for registration" means a certificate issued by the Board stating that the holder is qualified to practise optometry in the Province;
- (d) "certificate of registration" means a certificate showing the holder to be registered as a member of the Association and entitled to a license to practise optometry;
- (e) "council" means the council of management of the Association;
- (f) "Minister" means the Provincial Secretary;

**The Alberta Optometric Association.**

**4.—(1)** “The Alberta Optometric Association” heretofore constituted and the members thereof are hereby continued as a body corporate and politic under the same name and shall have perpetual succession and a common seal, with powers,—

- (a) to acquire, hold, mortgage, lease, sell or otherwise charge or dispose of real estate and personal property for the purposes of the Association;
- (b) to borrow money for its purposes and to secure the repayment thereof by mortgage on its real and personal property; and
- (c) to sue and be sued.

(2) The Association may invest such portion of its funds as is not required for its immediate purposes in any securities specified in section 3 of *The Trustee Act*.

(3) The membership of the Association shall consist of all persons holding certificates of registration.

**5.—(1)** The existing by-laws of the Association, in so far as they are not in conflict with the provisions of this Act, shall remain in full force and effect, until others are enacted to replace them pursuant to the provisions of this Act.

(2) The Association may pass by-laws not inconsistent with any Act or law in force in the Province providing for,—

- (a) the government, discipline and welfare of its members;
- (b) the management of its property;
- (c) the maintenance of the Association by levying contributions or otherwise;
- (d) all such other purposes as may be deemed necessary or convenient for the working or management of the Association or the advancement of the profession of optometry;
- (e) the payment of a fee not exceeding fifty dollars by each applicant for registration or interim registration; and
- (f) the payment of fees by the members of the Association.

(3) The total of the levies and contributions and membership fees required under subsection (1), clauses (c) and (f) in any year shall not exceed the sum of fifty dollars for each member.

(4) All by-laws or amendments thereto,—

- (a) shall be ratified by the Association at an annual general meeting or at a general meeting called for that purpose; and
- (b) shall be filed with the Minister and published in *The Alberta Gazette*; and

(c) shall come into force upon publication or upon such later date as may be specified in the by-laws.

**6.—**(1) There shall be a council of management of the Association consisting of such number of persons and including such officers as the Association enacts from time to time by by-law.

(2) The members thereof shall be elected by the Association for such term and in such manner as the by-law may provide, but in no case shall a member hold office without re-election for a longer term than until the second annual meeting following his election.

(3) The majority, or, in case of an even number, one-half, of the members of the council shall constitute a quorum.

(4) The council, in addition to such other powers as may be conferred upon it by the Association, may discipline the members of the Association and may suspend or expel any member thereof for misconduct or for failure to comply with any by-law of the Association imposing suspension or expulsion as a penalty for the breach thereof.

(5) No person shall be suspended or expelled under the provisions of section 9 or otherwise for failure to comply with any by-law except a by-law which imposes suspension or expulsion as a penalty for the breach thereof, which has been approved by the Lieutenant Governor in Council.

(6) Notwithstanding the provisions of this section or of section 9, the council may suspend the certificate of registration of any member who is in default of payment of his annual fee, including levies and contributions, for a period of sixty days and shall reinstate a certificate so suspended at any time upon payment of the said annual fee and a further sum of five dollars.

#### **Membership in the Association.**

**7.—**(1) The holder of a certificate of approval for registration shall, within fourteen days of the filing of the certificate with the registrar of the Association, be granted a certificate of registration.

(2) All certificates issued by the registrar shall be numbered consecutively and recorded in a register kept by the registrar for that purpose and a copy of each certificate shall be sent to the Minister.

**8.—**(1) Every applicant having made an application to the Board for a certificate of approval for registration pursuant to section 11 and having submitted himself for examination by the Board may be granted an interim certificate of registration by the council enabling him to practise optometry but only at the usual place of business and in the employ of a person duly registered and licensed under this

Act and in good standing, and such applicant shall be deemed to be registered under this Act during the period for which he holds a valid interim certificate of registration.

(2) The council may at any time revoke an interim certificate of registration.

(3) An interim certificate of registration shall cease to be valid on the expiration of thirty days from the date upon which the result of the holder's examination by the Board is published, unless renewed by the council, in which case the same shall cease to be valid on the expiration of thirty days from the date upon which the results of the next following examinations of the Board are published, and shall not be further renewed.

(4) No person shall be granted more than one interim certificate of registration.

(5) A copy of each interim certificate of registration granted by the council shall be sent to the Minister.

9.—(1) The council may, in its discretion, suspend or expell from the Association any member thereof whom they find guilty of improper conduct, incompetency or contravention of any by-law of the association imposing suspension or expulsion as a penalty for the breach thereof, but the council shall not take action until a complaint, verified by statutory declaration, has been filed with the registrar of the Association and a copy thereof has been forwarded to the accused member.

(2) No member shall be suspended or dismissed without first being summoned to appear before the council in order to be heard in his own defence.

(3) The council shall not suspend or dismiss any member without having heard the evidence under oath in support of the complaint and on behalf of the accused member, in case such member wishes to be heard.

(4) The chairman of the council or the person acting in his absence, may administer any oath.

(5) All evidence offered by the complainant and the accused member shall be taken down in shorthand by a competent stenographer.

(6) Any member suspended or dismissed from the Association may appeal within fourteen days after the date of the order or resolution of suspension or dismissal is made, or within such further time as a judge of the Supreme Court of Alberta may order, to a judge of the court against the order or resolution by giving one week's notice in writing to the council.

(7) On the request of the appellant, a copy of the evidence taken at the hearing before the council shall be filed with the clerk of the court for the judicial district in which the appellant resides.

(8) The judge, on the appeal, may make such order or direction and as to costs as the justice of the case may require.

(9) The council shall notify the Minister of the suspension or dismissal of a member of the Association.

#### **Board of Examiners.**

**10.**—(1) There shall be a board to be known as the Board of Examiners which shall be composed of not more than ten persons who shall be appointed by and hold office during the pleasure of the Lieutenant Governor in Council.

(2) The Lieutenant Governor in Council may appoint one of the members to be chairman of the Board and may also appoint a secretary of the Board.

(3) The duties of the Board shall be to set the examination or tests for, and conduct the examination of, all persons who have applied for a certificate of approval for registration.

(4) The majority of the members of the Board shall constitute a quorum.

(5) The Board shall determine,—

- (a) the course of study to be followed and the subjects of examinations to be taken by applicants for admission to practise;
- (b) the schools or colleges whose graduates may be admitted to qualify.

(6) The Lieutenant Governor in Council may prescribe by regulation the fees and allowances for expenses to be paid to members of the Board.

**11.**—(1) Every person who files with the Minister an application, verified by oath or by statutory declaration, stating therein that the applicant,—

- (a) is more than twenty-one years of age;
- (b) has been a resident of the Province for three months prior to the date of the application;
- (c) is of good moral character; and
- (d) possesses the qualifications as to general education, training and experience prescribed by the Board;

may be admitted to examination by the Board as to his qualifications as an optometrist.

(2) The application shall be filed in triplicate and one copy shall be sent by the Minister to the registrar of the Association, and one copy shall be sent by the Minister to the Board.

(3) Upon passing the examination such person shall receive from the Board a certificate of approval for registration.

(4) The Board may exempt from examination any person,—

- (a) who is a graduate of an approved school or other institute for the training of persons to become optometrists; and
- (b) who, in the opinion of the Board, possesses the qualifications required by this Act.

(5) The council may appeal to the Lieutenant Governor in Council from any decision of the Board exempting an applicant from examination or approving any school or institute.

(6) The Board shall report to the Minister the results of every examination held pursuant to the provisions of this section and shall file with the Minister a report dealing with the qualifications of applicants exempted from examination under subsection (4).

**12.** Every person duly registered under the provisions of *The Optometry Act*, being chapter 296 of the Revised Statutes of Alberta, 1942, shall be entitled to receive from the Association a certificate of registration under this Act.

#### **Fees.**

**13.** The following fees shall be payable to the Minister:

- (a) by every applicant for a certificate of approval for registration, the sum of.....\$50.00
- (b) for every certificate issued by the Minister,  
the sum of ..... 2.00  
and
- (c) for every license or interim license, the sum  
of ..... 10.00

**14.** Nothing contained in this Act shall prevent,—

- (a) the practise by a retail merchant of optometry at his ordinary place of business or the carrying on therein of an optical department, if such practice and optical department are in charge of a registered optometrist or a duly qualified medical practitioner; or
- (b) the selling or offering for sale by a retail merchant at his ordinary place of business of spectacles or eye-glasses; or
- (c) the provision by a retail merchant at his ordinary place of business of a test card or chart, other than a mechanical instrument, so that customers therein may select spectacles or eye-glasses kept for sale by such retail merchant at his place of business; or
- (d) the furnishing or supplying through the mail of any person to any other person of a test card or chart, other than a mechanical instrument, whereby such other person may select spectacles or eye-glasses; or



- (c) the unrestricted sale of protection glasses for industrial purposes, coloured glasses not embodying any ophthalmic lens or lenses, 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.

**15.**—(1) A person who is the holder of a certificate or interim certificate of registration and who pays the license fee, shall be entitled to receive from the Minister a license or interim license which entitles that person to practise as an optometrist in the Province.

(2) Every optometrist shall display his certificate of registration and license in a conspicuous place in his office or place wherein he usually practises.

(3) The Minister shall cancel or suspend a license issued pursuant to subsection (1) if the certificate of registration of the holder of the license has been cancelled, suspended or revoked.

**16.**—(1) No person, who is not duly registered and licensed under the provisions of this Act, or whose license has been suspended, shall practise optometry within the Province or carry on business under any title, name or description implying that he is registered and licensed under this Act.

(2) The use of test lenses, trial frames or other appliances for testing the vision of the human eye shall be deemed *prima facie* evidence of the practise of optometry.

(3) Any person, who is not registered under this Act and who practises optometry within the Province or carries on business under any title, name or description as aforesaid, shall be guilty of an offence and liable on summary conviction to a fine,—

- (a) not exceeding one hundred dollars for the first offence;
- (b) not less than one hundred dollars and not exceeding five hundred dollars for the second offence;
- (c) not less than five hundred dollars and not exceeding one thousand dollars or to imprisonment for a term not exceeding three months or to both fine and imprisonment for any subsequent offence.

(4) The onus of proof of registration under this Act shall be upon the person charged with any offence under this Act.

**17.** *The Optometry Act*, being chapter 296 of the Revised Statutes of Alberta, 1942, is hereby repealed.

**18.** This Act shall come into force on the first day of July, 1950.

No. 62

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THIRD SESSION  
ELEVENTH LEGISLATURE  
14 GEORGE VI  
1950

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**BILL**

An Act to Regulate the Practice of  
Optometry and to Incorporate The  
Alberta Optometric Association.

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Received and read the

First time .....

Second time .....

Third time .....

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HON. MR. GERHART.

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