

Bill No. 68 of 1950.

A BILL TO AMEND THE DENTAL ASSOCIATION  
ACT.

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NOTE.

This Bill amends *The Dental Association Act*, being chapter 291 of the Revised Statutes of Alberta, 1942.

The main purposes of these amendments are to bring out the distinction between registration and licensing and to confer disciplinary powers on the board subject to an appeal to the court. Registration is the procedure which occurs when a dentist first becomes enrolled as a member of the Alberta Dental Association. Licensing, on the other hand, refers to the yearly license to practise. The disciplinary powers which are added give the governing body of the association disciplinary powers over its own membership. At present the dentists are the only professional body which do not have statutory power to discipline their own membership. The findings of the disciplinary committee are subject to an appeal to the courts. There are several other more or less minor amendments designed to improve the sequence of the Act, the wording of individual sections and to facilitate its administration.

Section 2 is amended. This section sets out the powers of the board and the effect of the amendment is to give the association power to borrow money.

Section 5 is amended in three different subsections. The effect of these amendments is to speed up the machinery of elections for the board of directors of the association.

Section 11 is amended to provide that the directors may exercise all the powers of the association. A new subsection (2) enables the Board by by-law to delegate the performance of duties of a dental nature to persons who are not members of the association. A new subsection (3) is also added to provide rules, regulations and by-laws of the association may be proved in court by the production of a certified copy thereof.

Section 12 is amended to provide that the annual fees payable by members of the association shall not exceed the sum of one hundred dollars. The present annual fee is thirty-five dollars and of this twenty-five dollars is required to be paid to the Canadian Dental Association. The balance does not leave sufficient to the Alberta Dental Association to meet its ordinary expenses. The effect of the amendment is that the board of the association may fix any fee deemed necessary so long as it does not exceed the sum of one hundred dollars.

Section 14 is struck out and a new section is substituted. This section provides for representation of the Alberta Dental Association upon the Dominion Dental Council. The Dominion Dental Council is a national examining board the certificates of which are accepted without further qualifications by all provincial dental associations represented upon the Dominion Dental Council. The section provides that if the Dominion Dental Council cancels the certificate of any dentist the certificate of registration of that dentist under this Act is automatically null and void.

Section 15 is amended to refer to a certificate of registration rather than a license to practise. This section refers to becoming enrolled as a member of the Alberta Dental Association for the first time as distinguished from the annual licensing.

Section 16 is struck out and a new section is substituted. This section provides for the form of the certificate of registration and the proof of the issue and contents of a certificate of registration.

Sections 17 to 25 inclusive are struck out and new sections are substituted in their stead. The new section 17 provides for the registration of persons as members of the association and the issue to them of certificates of registration. A person to be registered must hold the degree of Doctor of Dental Surgery from the University of Alberta or have equivalent qualifications. He must also produce proof of his reputation and good moral character and undertake to practise the profession in a proper manner in accordance with the provisions of this Act and the by-laws of the association. The applicant is also required to be a Canadian citizen or to have filed a declaration of intention of becoming a Canadian citizen and must pay the registration fee.

Section 18 which dealt with interim certificates is repealed as these certificates are no longer issued. The new section 18 enables the board to issue a certificate of registration to any person who has outstanding academic and professional training without the necessity of examination.

Section 19 outlines the duty of the registrar in keeping the register and prescribes what information the register shall contain.

The new section 20 deals with the registration of degrees and qualifications of persons who are entered on the register.

The new section 21 provides for the annual license fee and annual certificates. The annual license fee has to be paid by every member of the association actually engaged in practice. On receipt of the fee the annual certificate is issued which entitles the holder to practise for the calendar year commencing on the first of January and ending on the thirty-first of December.

The new section 22 provides for an extra payment or penalty if the annual fee is not paid within a reasonable time.

The new section 23 provides for the keeping of an annual roll and prescribes its form and contents.

The new section 24 provides that all members of the association who hold subsisting annual certificates are entitled to practise dentistry and dental surgery and to charge reasonable fees for their services.

Section 25 provides that a certificate signed by the registrar under the seal of the association shall be received in evidence in any court simply by production of the certificate without proof of the signature or seal. The certificate is declared to be *prima facie* evidence of the truth of the statements it contains and as to whether or not any person named in the certificate is registered or licensed under the Act.

Section 29 is amended by deleting a reference to section 34 which is repealed by this Bill.

Section 31 which is the penalty section is reworded for purposes of clarification. The amended section provides penalties for any person who contravenes the provisions of section 28 or 30.

Section 34 is struck out. This section dealt with discipline and it is now being replaced by several sections appearing later in the Act which set out the disciplinary procedure in much greater detail.

Section 36 has been struck out and a new section substituted which has been reworded for purposes of clarification. It prohibits a dentist from employing persons to assist him who are not properly qualified to perform either the surgical or mechanical dental operations required on any patient.

Sections 38, 39 and 40 are struck out and replaced by two new sections. The effect of the repeal of section 38 is that all fines under this Act will henceforth be paid to the Province rather than one-half being paid to the Dental Association. The new section 38 is similar to the former section 39. However, the limitation provision provides that prosecutions may be commenced within twelve months rather than six months as formerly. The new section 39 is similar to the present section 40. Subsection (2) of this section dealing with proof of an offence in a prosecution under this Act is similar to provisions in other professional Acts.

Section 42 is struck out and a new section is substituted. This section provides that an action for damages on account of negligence or malpractice must be commenced within one year from the date when the professional services ter-

minated. The limitation period applicable at present under the terms of *The Limitation of Actions Act* is two years.

Sections 45 to 57 are added at the end of the Act.

The new provisions relating to discipline of members of the association by the association itself are found in sections 45 to 57. These provisions are similar to disciplinary provisions contained in other professional Acts in this Province and in the professional Acts relating to dentists in other provinces.

These sections provide for a discipline committee consisting of members of the association. The discipline committee is required to inquire into any complaint against a member of the association which is referred to the committee by the board. At least ten days' notice is required to be given to any member of the association whose conduct is being investigated. The member whose conduct is being inquired into may be represented by counsel. The evidence of witnesses is required to be taken on oath and there is full right of cross-examination. The discipline committee, after the hearing, then makes a written report giving a summary of the evidence heard and the findings of the committee. The board of the Dental Association may then act upon the report of the committee. The board may order the erasure of any member's name from the register and may suspend him from practice. A member of the dental association disciplined in this fashion may appeal to a judge of the Supreme Court. The judge, after hearing the appeal, may confirm the order of the board, cancel, reduce or lengthen the suspension of the dentist from practice or make such other order as appears just.

The Schedule is struck out and a new Schedule is substituted containing four forms of various documents that are required pursuant to the provisions of the Act.

KENNETH A. MCKENZIE,  
*Acting Legislative Counsel.*

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

# BILL

No. 68 of 1950.

An Act to amend The Dental Association Act.

(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:

1. *The Dental Association Act*, being chapter 291 of the Revised Statutes of Alberta, 1942, is hereby amended as to section 2 by adding immediately after the words "places whatsoever," the words "may borrow or raise or secure the payment of money".

2. The said Act is further amended as to section 5,—

- (a) by striking out the word "sixty", where it occurs in subsection (2) and by substituting the word "thirty";
- (b) by striking out the word "thirty" where it occurs in subsection (4) and by substituting the word "fifteen";
- (c) by striking out the words "twenty-one" where they occur in subsection (5) and by substituting the word "ten".

3. The said Act is further amended as to section 11,—

- (a) by renumbering the same as subsection (1);
- (b) by adding immediately after the word "directors" where it occurs in subsection (1) the words "may exercise all the powers of the association and";
- (c) by adding immediately after subsection (1) the following new subsections:

"(2) Notwithstanding any provision of this Act the Board by by-law may delegate to any class or classes of persons, not members of the association, the performance of such duties of a dental nature as may be specified in the by-law.

"(3) All such rules, regulations and by-laws may be proved in any court of justice in the Province by the production of a copy thereof purporting to be certified under the hand of the registrar and the seal of the association."

4. The said Act is further amended as to section 12 by striking out the words "thirty-five" where they occur in the proviso and by substituting the words "one hundred".

5. The said Act is further amended by striking out section 14 and by substituting the following:

“14.—(1) The board may appoint one or more members of the association as representatives of the association upon the Dominion Dental Council.

“(2) The board, so long as it is represented on the Dominion Dental Council, shall accept the certificate of qualification of the Dominion Dental Council as a qualification sufficient without further examination for the granting to the holder thereof of a certificate of registration as a member of the association, if the applicant,—

“(a) satisfactorily complies with clauses (b), (c), (d) and (e) of section 17; and

“(b) satisfies the board that his qualifications, academic, preprofessional and professional are at least the equivalent of the qualifications required for graduation from the Faculty of Dentistry of the University of Alberta.

“(3) In any case where the certificate of the Dominion Dental Council which was issued to a practitioner who has procured a certificate of registration under the provisions of this section is cancelled for any cause by the Dominion Dental Council, the certificate of registration of the practitioner issued under this Act shall thereupon be and become null and void and the registrar shall remove the name of such person from the register.

“(4) In the event of any council or other body being established in substitution for or in succession to the Dominion Dental Council, all of the provisions of this section shall apply to such council or body.”.

6. The said Act is further amended as to section 15,—

(a) by striking out the words “license to practise” and by substituting the words “certificate of registration”;

(b) by striking out the words “certificate or license” where they occur in the proviso and by substituting the words “certificate of registration”.

7. The said Act is further amended by striking out section 16 and by substituting the following:

“16.—(1) A certificate of registration issued under the provisions of this Act shall be sealed with the seal of the association and shall be signed by the president and the registrar.

“(2) The production of a certificate of registration purporting to be so sealed and signed shall be *prima facie* evidence of the issue and contents thereof.

“(3) A certificate of registration may be in Form A in the Schedule or to like effect.”.

8. The said Act is further amended by striking out sections 17 to 25 inclusive and by substituting the following:

**"Registration of Members.**

**"17.—**(1) The academic standing and examination of candidates for admission to study or to practise the profession of dentistry in the Province shall be under the control of the University of Alberta.

(2) The following persons in addition to those designated by section 3 may be entered on the register as members of the association and receive a certificate of registration, namely, any person,—

"(a) who,—

"(i) holds the degree of Doctor of Dental Surgery from the University of Alberta; or

"(ii) satisfies the General Faculty Council of the University of Alberta that his qualifications, academic, preprofessional and professional are at least the equivalent of the qualifications required of students for graduation from the Faculty of Dentistry of the University of Alberta, and who produces a certificate from the Registrar of the University so certifying; and

"(b) who produces to the board of directors evidence satisfactory to the Board of his reputation and good moral character; and

"(c) who executes a solemn declaration,—

"(i) declaring his willingness to uphold the honour and dignity of the profession; and

"(ii) undertaking to practise the profession of dentistry in a professional and becoming manner and in accordance with the provisions of this Act and the by-laws of the association; and

"(d) who is a Canadian citizen, or if not, who has filed a declaration of intention under *The Canadian Citizenship Act*; and

"(e) who pays the registration fee prescribed by this Act.

"(3) If a person who has filed a declaration of intention under *The Canadian Citizenship Act* does not produce to the registrar within six years after his name has been entered on the register a certificate of citizenship issued to him under the said Act the registrar shall erase such person's name from the register.

"(4) Any such person, on becoming a Canadian citizen, may reapply to have his name entered on the register.

**"18.** The board, in its discretion, upon payment of the registration fees prescribed by this Act may enter on the register as a member of the association and issue a certificate of registration to any person who has given outstanding service to the dental profession and who, in the opinion of the board, has both academic and professional training and qualifications equivalent to those required by

the General Faculty Council of the University of Alberta for award of the degree of Doctor of Dental Surgery.

**"19.—**(1) The registrar shall keep the register in accordance with this Act and the by-laws of the board.

(2) The register shall contain the names of the members of the association with their addresses and degrees and professional qualifications and any subsequent changes therein and may be in Form B in the Schedule.

**"20.—**(1) No degree or qualification shall be entered on the register either on the first registration or by way of addition to the registered name unless the registrar is satisfied by proper evidence that the applicant is duly entitled thereto.

(2) Any appeal from the decision of the registrar shall be decided by the Board.

(3) If it is at any time established to the satisfaction of the board that the name of any person has been entered in the register who is not entitled under this Act to be so registered such name shall be erased therefrom by order of the board.

#### **"Annual License Fee and Annual Certificate.**

**"21.—**(1) Each member of the association actually engaged in the practise of the profession of dentistry or dental surgery shall pay to the association the annual license fee prescribed by the board.

(2) The annual license fee is due and payable on the first day of January in each year.

(3) Each member of the association on paying such annual license fee shall be entitled to receive from the registrar an annual certificate signed by the registrar stating that such member is entitled to practise the profession of dentistry and dental surgery in the Province.

(4) The registrar upon payment of the fee and any fees in arrears shall issue the annual certificate which may be in Form C in the Schedule.

(5) All annual certificates shall expire on the thirty-first day of December in each year.

**"22.** Where default is made in the payment of the annual fee and such default continues for a period of two months the annual certificate of the member so in default shall only be issued thereafter upon payment of the fee and such additional sum not exceeding ten dollars as may be prescribed by the board.

#### **"Annual Roll.**

**"23.—**(1) The registrar, as early as possible in each year, shall make and prepare an annual roll.

(2) The annual roll shall contain the name and the place of residence of each member of the association who has paid his annual fees for the current year and has had issued to him an annual certificate.



"(3) The annual roll shall be divided according to electoral districts and the names of the members residing in each district shall be listed in alphabetical order for that district.

"(4) The annual roll may be in Form D in the Schedule.

"(5) If it is at any time established to the satisfaction of the board that the name of any person has been entered in the annual roll who is not entitled to be so entered such name shall be erased therefrom by order of the board.

#### **"Persons Entitled to Practise.**

"24.—(1) All members of the association who hold subsisting annual certificates issued hereunder and no others shall be entitled to,—

"(a) practise the profession of dentistry and dental surgery in the Province; and

"(b) demand and recover from any person or patient in any court of law reasonable charges for professional aid, advice or services and the cost of any medicines, materials or appliances rendered or supplied by him to such person or patient.

"(2) No person shall recover in any court any fee or remuneration in respect of professional services rendered or materials provided in the practise of the profession of dentistry or dental surgery unless at the time the services were rendered or materials provided he was the holder of a subsisting annual certificate.

"25. In any action, prosecution or other proceeding, the fact that a person is or is not registered or licensed as required by this Act, may be proved in any court of justice in the Province by the production of a certificate signed by the registrar of the association under the seal of the association, and any certificate purporting to be so signed and sealed shall be received in evidence without any proof of the signature of the person signing the same or of his official position or of the authenticity of the seal, and shall be *prima facie* evidence of the truth of any statements therein contained as to whether or not at the date of the certificate or at any time or times stated therein any person named therein was or was not duly registered or licensed as required by this Act."

9. The said Act is further amended as to section 29, subsection (3) by striking out the words ", within the meaning of section 34".

10. The said Act is further amended by striking out section 31 and by substituting the following:

"31. Any person who contravenes any of the provisions of sections 28 or 30 shall be guilty of an offence and liable upon summary conviction to the same penalty as is provided for in section 33."

**11.** The said Act is further amended by striking out section 34.

**12.** The said Act is further amended by striking out section 36 and by substituting the following:

**"36.** No member of the association shall employ any person who is not registered and who is not for the time being the holder of a subsisting annual certificate for the purpose of performing any dental operation, either surgical or mechanical, on any patient."

**13.** The said Act is further amended by striking out sections 38, 39 and 40 and by substituting the following:

**"38.** No prosecution shall be commenced in respect of any contravention of the provisions of this Act except within twelve months after the date of such contravention.

**"39.—(1)** In any prosecution or trial under this Act the onus of proof of being a duly registered member of the association and the holder of a subsisting annual certificate shall be upon the person charged.

**"(2)** In any prosecution under this Act it shall be sufficient proof of an offence under this Act if it is proved that the accused has done or committed a single act of unlicensed practice, or has committed on one occasion any of the acts prohibited by this Act."

**14.** The said Act is further amended by striking out section 42 and by substituting the following:

**"42.** No duly registered member of the association shall be liable in any action for negligence or malpractice by reason of professional services requested or rendered unless the action is commenced within one year from the date when the professional services terminated in respect of the matter that is the subject of the complaint."

**15.** The said Act is further amended by adding immediately after section 44 the following new headings and sections:

**"Discipline.**

**"45.** The board may order the erasure of any member's name from the register or may suspend any member from practice who,—

**"(a)** has been convicted of an indictable offence; or

**"(b)** has violated any of the provisions of this Act or of the by-laws or rules of professional ethics of the board; or

**"(c)** has been guilty of malpractice or unbecoming, improper, unprofessional or criminal conduct in the practice of his profession or otherwise.

**"46.—(1)** The board shall appoint and shall always maintain a discipline committee.

**"(2)** The committee shall consist of at least three members of the association of whom three shall constitute a quorum.

"(3) The membership of the committee may be altered by the board at any time.

"(4) The board may appoint a chairman of the committee and in default of the board so doing the committee may appoint its own chairman.

"(5) If any vacancy occurs in the membership of the committee and such vacancy is not filled by appointment made by the board, the committee may appoint a member of the association to fill the vacancy, but such member shall only hold office until the next meeting of the board.

"(6) Notwithstanding any vacancy in the committee, so long as there are at least three members thereof it shall be competent for the committee to exercise all or any of its powers.

"47.—(1) The committee shall inquire into and ascertain the facts of any matter of complaint against a member of the association which may be referred to the committee by the board or the president.

"(2) Unless otherwise instructed by the board or determined by the committee, all meetings of the committee shall be held at the city of Edmonton or at the city of Calgary.

"(3) Subject to the provisions of this section and of the by-laws, the committee may regulate,—

"(a) the convening, notice, place, management, conduct and adjournment of its meetings;

"(b) the mode of deciding questions; and

"(c) generally the transaction and management of business.

"(4) The committee may employ at the expense of the board for the purposes of any inquiry such legal or other assistance as the committee may deem necessary.

"48.—(1) At least ten days' notice of the meeting of the committee for taking the evidence or otherwise ascertaining the facts shall be served on the member whose conduct is the subject of inquiry.

"(2) The notice shall contain a statement of the matter which is to form the subject of the inquiry.

"(3) If the person whose conduct is the subject of inquiry, though duly notified, does not attend, the committee may proceed in his absence.

"49.—(1) The member whose conduct is the subject of inquiry shall have the right to be represented by counsel.

"(2) The evidence of the witnesses shall be taken under oath which the chairman or any member of the committee may administer.

"(3) There shall be full right to cross-examine all witnesses called and to adduce evidence in defence and in reply.

"50.—(1) The committee and any party to the proceedings may obtain on praecipe from the Supreme Court a subpoena for the attendance of witnesses and the production of books, documents and things.

"(2) Witnesses shall be entitled to the like allowances as witnesses attending upon the trial of an action in the Supreme Court.

**"51.—**(1) The committee shall report in writing to the board giving,—

"(a) a summary of the evidence adduced; and

"(b) its findings; and

"(c) such recommendations as it may deem advisable.

"(2) The board may act upon the report of the committee and may make such order thereon as the board may deem just.

"(3) A copy of the order shall be served upon the member whose conduct is the subject of inquiry.

"(4) Where the complaint is found to be frivolous or vexatious the board may pay such costs as it considers just to the member whose conduct has been the subject of inquiry.

**"52.—**(1) Where the board orders the erasure of any member's name from the register or suspends any member from practice, it may direct that the costs of and incidental to the inquiry be paid by such member.

"(2) After taxation of such costs by the taxing officer of the Supreme Court at Edmonton or Calgary execution may issue out of the Supreme Court for the recovery thereof in like manner as upon a judgment in an action in that court.

"(3) The costs to be taxed and allowed against a member shall, as far as practicable, be the same or the like costs as in an action in the Supreme Court.

"(4) The taxing officer may also allow such fees and disbursements for work done or proceedings taken before notice of complaint as he may deem just.

**"53.** No action shall lie against the board or the committee or any member of either body for any proceedings taken in good faith or orders made or enforced under the disciplinary provisions of this Act.

**"54.—**(1) Any person whose name has been erased from the register or who has been suspended from practice may appeal from such order to a judge of the Supreme Court at any time within two months from the date of the service of the order of the board upon him.

"(2) Notice of any such appeal shall be filed in the office of the Supreme Court at Edmonton or Calgary within the required time and a copy thereof served upon the registrar of the Association.

"(3) The registrar, after the service of notice of appeal and upon request, shall furnish to the appellant a copy of all documents which are required to be considered by the judge.

**"55.—**(1) The judge shall consider,—

"(a) the proceedings before the discipline committee and the evidence taken;

"(b) the report of the discipline committee; and

"(c) the order of the board certified by the chairman of the discipline committee or by the registrar.

"(2) The judge, in his discretion, may receive further evidence either by oral examination or by affidavit.

"(3) The judge, on the hearing of the appeal, may,—

"(a) confirm the order of the board;

"(b) restore such person's name on the register;

"(c) cancel, reduce or lengthen the suspension of such member from practice;

"(d) make such other order as to him may seem just;

"(e) award costs in his discretion.

"56.—(1) Service of any notice, order or other document required to be served by this Act may be made by double registered mail.

"(2) Every such document shall be deemed to be served if the post office receipt for the registered mail purporting to be signed by the person required to be served is received and produced.

"(3) Every such document shall be deemed to be served on the day of the date of the receipt which purports to be signed by the person required to be served.

"57.—(1) The board at any time may,—

"(a) order the restoration of the name of any person whose name has been erased from the register; or

"(b) cancel or reduce the suspension of such person from practice;

upon such terms and conditions as the board deems just.

"(2) This section shall not apply where an appeal has been heard and determined by a judge.

16. The said Act is further amended by striking out the Schedule and by substituting the following:

"SCHEDULE.

"FORM A.

"(Section 16.)

"CERTIFICATE OF REGISTRATION.

"THE ALBERTA DENTAL ASSOCIATION.

"KNOW YE THAT.....of the.....  
of..... in the.....of....., having  
presented the Certificate of Qualification issued by the  
.....dated the..... day of.....,  
A.D., 19....., and having agreed to abide and be governed  
by *The Dental Association Act* and to conform with the  
by-laws and rules of professional ethics of the Alberta  
Dental Association from time to time in force, the board  
of directors doth hereby certify that the said.....  
is duly registered as a member of the Alberta Dental As-  
sociation and entitled to practise the profession of dentistry  
in the Province upon payment of the annual license fee in  
each and every year.

"IN TESTIMONY WHEREOF the seal of the said association has been hereunto affixed under the hands of the president and registrar thereof, this.....day of ....., A.D. 19.....

.....  
*"President.*

.....  
*"Registrar.*

"FORM B.

"(Section 19.)

"REGISTER.

"THE ALBERTA DENTAL ASSOCIATION.

No.	Name	Residence	Qualifications	School of Graduation	Year of Graduation	Year of Registration	Remarks

"FORM C.

"(Section 21.)

"ANNUAL CERTIFICATE.

"THE ALBERTA DENTAL ASSOCIATION.

"Annual Certificate No.....

"This is to certify that.....is a member in good standing of the Alberta Dental Association and is entitled to practise the profession of dentistry and dental surgery in the Province until the thirty-first day of December, A.D. 19.....

"Dated the.....day of.....A.D. 19.....

.....  
*"Registrar.*

"FORM D.

"(Section 23.)

"ANNUAL ROLL.

"THE ALBERTA DENTAL ASSOCIATION.

Name	Residence
"Electoral District of.....	.....

**17.** This Act shall come into force on the first day of May, 1950.

THIRD SESSION  
ELEVENTH LEGISLATURE

14 GEORGE VI

1950

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**BILL**

An Act to amend The Dental  
Association Act.

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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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