

No. 52

2nd Session, 14th Legislature, Alberta
9 Elizabeth II

BILL 52

A Bill to amend The Dental Association Act

HON. DR. ROSS

Explanatory Note

2. A definition of “dentistry” is added to the Act.

3. Section 4, subsection (2) reads:

“(2) The annual value of the real estate held by the Association shall at no time exceed five thousand dollars.”.

4. Section 9 reads:

“9. The board of directors at its first meeting shall elect from among its members a president and a vice-president, and shall appoint as secretary-treasurer-registrar a person who is not a member of the board.”.

BILL

No. 52 of 1961

An Act to amend The Dental Association Act

(Assented to _____, 1961)

HER 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 82 of the Revised Statutes is hereby amended.

2. The following new section is added immediately after section 1:

1a. In this Act "dentistry" means any professional service usually performed by a dentist or dental surgeon and includes

- (a) the diagnosis or treatment of, and the prescribing, treating or operating for the prevention, alleviation or correction of any disease, pain, deficiency, deformity, defect, lesion, disorder or physical condition of, in or from any human tooth, associated structure or tissue or any injury thereto,
- (b) the making, producing, reproducing, constructing, fitting, furnishing, supplying, altering or repairing or prescribing or advising the use of any prosthetic denture, bridge, appliance or thing for any of the purposes indicated in clause (a), or to replace, improve or supplement any human tooth, or to prevent, alleviate, correct or improve any condition upon or in connection with any human tooth, associated structure or tissue, or in the treatment of any condition thereof, and
- (c) the taking or making, or the giving of advice or assistance or the providing of facilities for the taking or making of any impression, bite, cast or design preparatory to, or for the purpose of, or with a view to the making, producing, reproducing, constructing, fitting, furnishing, supplying, altering or repairing of any such prosthetic denture, bridge, appliance or thing.

3. Section 4 is amended by striking out subsection (2).

4. Section 9 is amended

5. Section 11 reads:

"11. The board has no power to transact any business of the Association unless a majority of the members of the board is present."

6. Section 13 reads:

"13. The board may also fix and determine the annual fees payable by each member of the Association which shall not in any case exceed the sum of one hundred dollars."

7. Substitution of name of national organization. Section 15 reads:

"15. (1) The board may appoint one or more members of the Association as representatives of the Association upon the Dental Council of Canada.

(2) While the board is represented on the Dental Council of Canada, the board shall without further examination accept the certificate of qualification of the Dental Council of Canada as sufficient evidence of the qualification of the holder to be granted on application a certificate of registration as a member of the Association, so long as the applicant also complies satisfactorily with the requirements of clauses (b), (c), (d) and (e) of subsection (1) of section 20.

(3) If the certificate of the Dental Council of Canada issued to a practitioner who has procured a certificate of registration under this section is cancelled for any cause by the Dental Council of Canada, the certificate of registration issued under this Act thereupon becomes null and void and the registrar shall remove the name of such practitioner from the register.

(4) If a council or other body is established in substitution for or in succession to the Dental Council of Canada, the provisions of this section apply to such council or body."

8. Section 17, subsection (3) reads:

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

Form A is being struck out by clause 20 of this Bill.

9. Self-explanatory.

- (a) by renumbering the section as subsection (1),
- (b) by adding immediately after the renumbered subsection (1) the following:

(2) The board of directors may appoint a person who is not a member of the board as assistant secretary-treasurer-registrar and may authorize him to exercise such functions of the secretary-treasurer-registrar as the board considers desirable.

5. Section 11 is struck out and the following is substituted:

11. (1) Subject to subsection (2), no business of the Association shall be transacted by the board of directors except at a meeting of the board at which a majority of the members of the board is present.

(2) A resolution signed by all the directors is as valid and effective as if passed at a meeting of the board duly called, constituted and held.

6. Section 13 is struck out and the following is substituted:

13. (1) The board may by by-law fix and determine the annual fees payable by each member of the Association.

(2) A by-law passed pursuant to subsection (1) is of no effect until it is confirmed by the vote of at least eighty per cent of the members of the Association present at a regular meeting of the Association.

7. Section 15 is amended by striking out the words "Dental Council of Canada" wherever they occur and by substituting the words "National Dental Examining Board of Canada".

8. Section 17 is amended by striking out subsection (3).

9. The following new section is added immediately after section 23:

23a. (1) The board may establish and maintain a register to be known as the "Educational Register".

(2) The registrar may register in the Educational Register any undergraduate dental student who as part of his training and under the supervision of a dentist is working

- (a) under the Faculty of Dentistry of the University of Alberta,
- (b) in a hospital approved for undergraduate training by the Faculty of Dentistry of the University of Alberta, or

10. Section 30 reads:

"30. A person who, for a fee, salary, reward or commission, paid or to be paid by an employer to him, or for fee, money or compensation, paid or to be paid either to himself or an employer or any other person

- (a) examines, diagnoses or advises on any condition of the tooth or teeth in the jaw or jaws of any person,
- (b) directly in the oral cavity of any person takes, makes, performs or administers any impression, operation or treatment or any part of any impression, operation or treatment of any kind of or upon the tooth or teeth or jaw or jaws, or of, for or upon any disease or lesion of the tooth or teeth or jaw or jaws, or the malposition thereof, in the mouth of any person,
- (c) fits any artificial denture, tooth or teeth, in, to or upon the jaw or jaws of a person, or
- (d) advertises or holds himself out as being qualified or entitled to do all or any of the above things,

shall be deemed to be practising the profession of dentistry within the meaning of this Act."

"Dentistry" is defined in the new section 1a. See clause 2 of this Bill.

11. A reference to the repealed section 30 is removed.**12. Section 37 reads:**

"37. A person not holding a valid certificate of registration and a subsisting annual certificate who

- (a) practises the profession of dentistry within the Province either publicly or privately for hire, gain or hope of reward,
- (b) voluntarily and falsely pretends to be entitled under this Act to practise the profession of dentistry, or
- (c) assumes a title, addition or description implying or calculated to lead people to infer or believe him to be entitled under this Act to practise the profession of dentistry,

is guilty of an offence and liable on summary conviction to a fine not exceeding two hundred dollars and not less than fifty dollars for the first offence, and to a fine of four hundred dollars for each and every subsequent offence."

13. The cancellation or suspension of certificates of registration is more properly dealt with under the disciplinary provisions, sections 48 to 60. Section 38 reads:

"38. (1) A holder of a certificate of registration who is convicted of any malpractice shall forfeit his certificate.

(2) The board may restore the certificate to such person if it thinks fit and proper to do so, and in such event shall give notice for two consecutive weeks in some local newspaper selected by the board."

And see clauses 18 and 19 of this Bill.

14. Section 39 reads:

"39. No member of the Association shall employ a person who

- (a) is not registered, and
- (b) 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."

15. Section 40 reads:

"40. Notwithstanding any other provision of this Act,

- (a) a dental hygienist may perform any dental hygiene duties, and
- (b) a member of the Association may employ a dental hygienist for the purpose of performing dental hygiene duties."

This is now covered by the new subsection (2) to section 39. See clause 14 above.

16. A reference to the repealed section 30 is removed and a reference to the new definition of "dentistry" is substituted. Section 44, subsection (2) reads:

"(2) In a prosecution under this Act it is sufficient proof of an offence under this Act if it is proved that the accused

- (a) has, while not holding the necessary certificate of registration and a subsisting annual certificate, done or committed a single one of the acts that by section 30 are deemed to be the practice of the profession of dentistry, or
- (b) has committed on one occasion any of the acts prohibited by this Act."

(c) in a public health service.

(3) The fee for registration in the Educational Register may not exceed ten dollars.

10. Section 30 is repealed.

11. Section 36 is amended by striking out the words and figures "Sections 30 and" and by substituting the word "Section".

12. Section 37 is amended

- (a) by renumbering the section as subsection (1),
- (b) as to the renumbered subsection (1)
 - (i) by striking out the words "for hire, gain or hope of reward" in clause (a),
 - (ii) by striking out the words "of four hundred dollars for each and every subsequent offence" and by substituting the words "not exceeding four hundred dollars and not less than two hundred and fifty dollars for a second offence and to imprisonment for a term of not less than two months and not more than six months for a third and every subsequent offence",
- (c) by adding the following after the renumbered subsection (1) :
 - (2) A member who is suspended pursuant to section 48 or 53a is not, during the period of suspension, the holder of a subsisting annual certificate.

13. Section 38 is repealed.

14. Section 39 is amended

- (a) by renumbering the section as subsection (1),
- (b) by adding the following after the renumbered subsection (1) :
 - (2) Subsection (1) does not apply so as to prohibit a member of the Association from employing
 - (a) a dental hygienist as defined in section 41,
 - (b) a dental auxiliary licensed under *The Dental Auxiliaries Act*, or
 - (c) a dental technician registered under *The Dental Technicians Act*,
 to perform any duties that such person is qualified and permitted by law to perform.

15. Section 40 is amended by striking out clause (b).

16. Section 44, subsection (2), clause (a) is amended by striking out the words and figures "section 30 are deemed to be" and by substituting the words and figure "section 1a are included in".

17. Section 47, subsection (1) reads:

"47. (1) All moneys forming part of the funds of the Association shall be paid to the treasurer and shall be applied to carrying on the objects of this Act."

18. A power, similar to that found in The Medical Profession Act, is given to impose a fine in addition to or in lieu of suspension. Section 48 reads:

"48. The board may order the removal from the register of the name of a member or may order the suspension from practice of a member who

- (a) has been convicted of an indictable offence,
- (b) has violated any of the provisions of this Act or of the by-laws or rules of professional ethics of the Association, or
- (c) has been guilty of malpractice or unbecoming, improper, unprofessional or criminal conduct whether in the practice of his profession or otherwise."

19. Power is given to the discipline committee to suspend a member in certain cases. This is similar to the power exercised by the discipline committee under The Medical Profession Act.

17. Section 47, subsection (1) is amended by striking out the word "Act" and by substituting the word "Association".

18. Section 48 is amended

- (a) by renumbering the section as subsection (1),
- (b) by adding immediately after clause (c) of the re-numbered subsection (1) the following:
 "and in addition to or in lieu of suspension the board may impose such other penalty or fine of not more than one hundred dollars as in its judgment the offence warrants and order the registrar to have the finding carried out",
- (c) by adding the following subsections after the re-numbered subsection (1):
 - (2) If the member of the Association against whom a penalty or fine is adjudged by the board does not within thirty days after receiving a written notice from the registrar of the finding of the board comply with the judgment, the registrar shall suspend the member from the privileges of membership in the Association until the judgment is complied with.
 - (3) Any penalty collected pursuant to this section shall be placed in the scholarship fund of the Association.

19. The following new section is added immediately after section 53:

53a. (1) If the discipline committee considers that an offence is of such gravity or importance as to warrant suspension of the member from the privileges of a member until such time as the board can deal with the matter, it may suspend him until the next meeting of the board.

(2) The discipline committee may make such recommendations to the board as it deems advisable.

(3) The board may adopt, amend or reject the recommendations of the discipline committee and if it thinks fit may impose such other penalty or condition permissible under this Act as the offence warrants.

(4) If the discipline committee finds that a member has been guilty of an offence that warrants his suspension but no previous misconduct or suspension is proved against him, the board may, notwithstanding any other provisions of this Act, fix the sentence to be imposed on the member by way of suspension from practice or fine or both, and order that the execution of the sentence be withheld upon such terms and conditions as the board may impose.

(5) A suspension from practice imposed by the discipline committee pursuant to subsection (4) shall not exceed three months.

20. Section 55, subsection (1) is amended to conform to the amendment made to section 48. (See clause 18 of this Bill). Section 55, subsection (1) presently reads:

“55. (1) When the board orders the removal of a member's name from the register or orders the suspension of a member from practice, it may direct that the costs of and incidental to the inquiry be paid by the member.”.

21. The prescribed form of certificate of registration is removed to enable the Association to prescribe its own form.

(6) Where the board has ordered a sentence to be withheld, the board may, at any time,

(a) call the member before it and order that the sentence previously imposed be carried out, or

(b) release the member from the suspended sentence.

(7) A member under a suspended sentence as provided under subsection (4) may continue to practise his profession subject to the conditions, if any, imposed upon him by the board.

20. Section 55, subsection (1) is amended by adding immediately after the words "from practice" the words "or imposes a fine or penalty upon a member".

21. The Schedule is amended by striking out Form A.

22. This Act comes into force on the day upon which it is assented to.

No. 52

SECOND SESSION

FOURTEENTH LEGISLATURE

9 ELIZABETH II

1961

BILL

An Act to amend The Dental
Association Act

Received and read the

First time.....

Second time.....

Third time.....

HON. DR. ROSS
