

1968 Bill 40

First Session, 16th Legislature, 17 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ~~ALBERTA~~

BILL 40

An Act to amend The Dental Association Act

THE MINISTER OF HEALTH

First Reading

Second Reading

Third Reading

Printed by L. S. Wall, Queen's Printer, Edmonton

BILL 40

1968

An Act to amend The Dental Association Act

(Assented to _____, 1968)

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* is hereby amended.

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

5. (1) The business of the Association shall be transacted and carried on by a board of directors consisting of seven members of the Association or such greater number as the by-laws prescribe.

(2) Except as otherwise provided in the by-laws, the term of office of a director is two years.

(3) A director may at any time resign by letter directed to the secretary, and in the event of any such resignation, or in the event of any vacancy occasioned by death or otherwise, the remaining members of the board or a majority of the remaining members shall elect some fit and proper person from among the members of the Association to fill the vacancy.

(4) In the event of a tie between any candidates at an election, the president of the Association at the time the election is held may declare which of the persons affected by the tie is elected.

3. Section 6, subsection (1) is amended

(a) by striking out the word "and" at the end of clause (d),

(b) by adding the following after clause (e):

(f) the division of the Province into electoral divisions and the number of directors to be elected from each,

(g) the term of office of each director elected and its date of commencement, and

(h) the number of directors to be elected and the members of the Association who are *ex officio* directors.

Explanatory Notes

1. This Bill amends chapter 82 of the Revised Statutes.

2. This is a recast of the present subsections (1), (8) and (9) of section 5 which presently reads :

5. (1) The business of the Association shall be transacted and carried on by a board of directors consisting of seven members of the Association in good standing, each of whom

(a) shall be resident at the time of his election in the district for which he is elected, and

(b) holds office for a period of two years from the date of his election or until his successor is elected, except as otherwise provided in subsections (5), (6) and (7).

(8) A director may at any time resign by letter directed to the secretary, and in the event of any such resignation, or in the event of any vacancy occasioned by death or otherwise, the remaining members of the board or a majority of the remaining members shall elect some fit and proper person from among the members of the Association to fill the vacancy.

(9) In the event of a tie between any candidates at an election, the president of the Association at the time the election is held may declare which of the persons affected by the tie is elected.

3. Section 6 (1) empowers the Association's directors to make by-laws governing elections of directors. The new clauses (f), (g) and (h) replace the content of subsections (2) to (7) of section 5 which are to be repealed: see clause 2 of this Bill. Clause (h) will permit the designation of certain persons as ex officio directors, e.g., a past president.

4. Section 9 is amended

- (a) as to subsection (1) by striking out the words "at its first meeting",
- (b) by adding after subsection (2) the following:

(3) After an election, and before the date of commencement of the terms of office of the directors elected, the persons who will constitute the board of directors at that commencement date may make any elections or appointments under this section to be effective not earlier than that commencement date.

5. Section 13 is amended

- (a) as to subsection (2) by striking out the words "the vote of at least eighty per cent" and by substituting the words "a majority vote",
- (b) by adding the following subsection after subsection (2):

(3) A by-law under this section may provide that no annual fee is payable by a life member of the Association or that the annual fee payable by a life member of the Association be an amount less than that payable by other members.

6. Section 14 is repealed.

7. Section 15 is amended by striking out subsection (2) and by substituting the following:

(2) While the board is represented on the National Dental Examining Board, a person who

- (a) is the holder of a certificate of qualification of the National Dental Examining Board,
- (b) satisfies the board as to his professional competence at the time of his application for registration, and

(c) complies with the requirements of subsection (1) of section 20 other than clause (a) of that subsection, shall be entered on the register as a member of the Association and shall receive a certificate of registration.

8. Section 16 is struck out and the following is substituted:

16. No person shall be entered in the register as a member of the Association unless he complies with the requirements of section 15, 20 or 21.

9. Section 18 is amended

- (a) as to subsection (1) by striking out the words "University of Alberta" and by substituting the words "Universities Co-ordinating Council",

4. Section 9 deals with the appointment by the directors of the officers of the Association. Under subsection (1), the president and others must be appointed at the first meeting of the board. The effect of the amendment is to permit them to be made before or after the commencement of the terms of office of newly elected directors.

5. Section 13 deals with by-laws setting annual fees for members. The 80 per cent majority vote of the general meeting of the Association is reduced to a simple majority vote. The new section 27b to be added by this Bill will enable the appointment of life members and the new subsection (3) will enable the board to pass by-laws waiving fees by life members or setting them at a lesser amount.

6. Section 14 reads:

14. The registration fee shall be one hundred dollars except for an actual bona fide student of the University of Alberta whose registration fee shall be fifty dollars.

The content of this section is being re-enacted as section 20 (1) (e): see clause 11 of this Bill.

7. Section 15 (2) presently reads:

(2) While the board is represented on the National Dental Examining Board, the board shall without further examination accept the certificate of qualification of the National Dental Examining Board 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.

The effect of the change is to permit the board to examine an applicant under this section as to his professional competence. At present, the board must accept the certificate of the National Dental Examining Board in all cases.

8. Section 16 reads:

16. (1) On receipt of a certificate from the secretary of the Universities Co-ordinating Council that the person to whom the certificate relates is duly qualified to practise the profession of dentistry as herein provided, the board shall issue to that person a certificate of registration on payment by him of the necessary registration fee.

(2) Notwithstanding subsection (1), no certificate of registration shall be granted to a person who is under twenty-one years of age or who does not comply with the requirements of section 20.

The present subsection (1) is removed as redundant, the same subject being covered in section 20 (1). The age requirement in subsection (2) is being put in section 20 (1): see clause 11 of this Bill. The new section 16 retains the remainder of subsection (2) but adds reference to sections 15 and 21, as registration can be obtained under section 15, 20 or 21.

9. References up-dated as a result of The Universities Act.

- (b) as to subsections (2) and (3), by striking out the words "General Faculty Council of the University of Alberta" wherever they occur and by substituting the words "Universities Co-ordinating Council".

10. Section 19 is amended

- (a) as to subsection (1), by striking out clause (b) and by substituting the following:
 - (b) has passed the examinations, if any, prescribed by the Universities Co-ordinating Council and produces a certificate from the secretary of the Council so stating.
- (b) as to subsection (2), clause (a),
 - (i) by striking out the words "General Faculty Council of the University of Alberta" and by substituting the words "Universities Co-ordinating Council",
 - (ii) by striking out the word "Registrar" and by substituting the words "secretary of the Council",
- (c) as to subsection (2), by adding the following clause after clause (a):
 - (a1) has passed the examinations, if any, prescribed by the Universities Co-ordinating Council and produces a certificate from the secretary of the Council stating either that he has passed the prescribed examinations or that the Council has waved the requirement to take examinations, and
- (d) as to subsection (2), clause (b), by striking out the words "satisfies the board of directors," and by substituting the words "produces evidence in accordance with the by-laws,".

11. Section 20 is amended

- (a) by striking out clause (b) of subsection (1) and by substituting the following:
 - (b) produces to the board of directors evidence satisfactory to the board
 - (i) of his reputation and good moral character, and
 - (ii) as to whether or not any of the circumstances referred to in subsection (2) exist at the time of the application for registration,
- (b) by striking out clause (e) of subsection (1) and by substituting the following:
 - (e) pays the registration fee of \$100, or, in the case of a graduate of the Faculty of Dentistry of the University of Alberta, \$50, and

10. Section 19 (2) presently reads:

- (2) A candidate shall be deemed to have satisfactory academic qualifications who
 - (a) satisfies the Universities Co-ordinating Council that his qualifications, academic, pre-professional and professional at the time they were acquired were at least the equivalent to those required for registration in the Province at that time and who produces a certificate from the Registrar so certifying, and
 - (b) satisfies the board of directors,
 - (i) if he graduated in dentistry at least five years before the date of his application for registration, that he has been active in the practice of dentistry throughout the major part of the five years immediately preceding the date of his application, or
 - (ii) if he graduated in dentistry less than five years before the date of his application for registration, that he has been in the active practice of dentistry or engaged in post graduate study thereof throughout the major part of the time between his graduation and his application for registration.

The amendments in clauses (a) and (b) up-date references as a result of The Universities Act. The new clause (a1) of subsection (2) provides for the taking of examinations by candidates for registration other than Alberta graduates, in addition to the existing educational qualifications.

The amendment to clause (b) of subsection (2) will permit by-laws to prescribe the kinds of evidence that can be produced to satisfy the requirements of that clause, so that the board will not have to deal with each case individually.

11. Section 20 (1)(b) and (e) presently read:

- 20. (1) The following persons, in addition to those designated by clause (a) of section 3, shall be entered on the register as members of the Association and receive a certificate of registration, namely, a person who
 -
 - (b) produces to the board of directors evidence satisfactory to the board
 - (i) of his reputation and good moral character, and
 - (ii) that his name has not been removed from the register of any dental licensing body in Canada or elsewhere as the result of misconduct or unbecoming, improper or criminal conduct, professional or otherwise,
 - (c) 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 this Act and the by-laws of the Association,
 -
 - (e) pays the registration fee prescribed by this Act.

The amendments will permit the board to refuse registration to a dentist whose registration has been cancelled or who is under suspension or facing disciplinary proceedings in another jurisdiction. At present, if the evidence submitted shows that the applicant's registration outside Alberta was cancelled for disciplinary reasons, the application must be refused even if it is shown that the applicant was later reinstated in the other jurisdiction. These circumstances will no longer operate as a bar to registration but will permit the board to look into the case and refuse or permit registration. The new clauses (e) and (f) incorporate the content of section 14 and the age requirement now in section 16 (2).

- (f) produces proof in accordance with the by-laws that he is at least 21 years of age.
- (c) by adding the following subsection after subsection (1) :
 - (2) Where an application for registration is made and it is found
 - (a) that any registration or licence previously granted to the applicant for registration to practise as a dentist or dental surgeon in any jurisdiction in Canada or elsewhere has been cancelled or is at the time of the application under suspension, as a result of disciplinary action against him for unbecoming, improper or criminal conduct, whether in the practice of his profession or otherwise, or
 - (b) that, at the time of the application, there is pending in any jurisdiction in Canada or elsewhere any investigation, review or proceedings conducted by the dental licensing body of that jurisdiction, or by a court or other tribunal on appeal from that body, that could result in the cancellation or suspension of his registration or licence to practise as a dentist or dental surgeon in that jurisdiction,
 then, notwithstanding anything in section 15 or in subsection (1) of this section, the applicant is not entitled to be registered unless the board decides otherwise.

12. Section 21 is amended by striking out the words "the registration fees prescribed by this Act" and by substituting the words "a registration fee of \$100".

13. Section 22 is struck out and the following is substituted:

22. The registrar shall keep a register of the members of the Association in accordance with the by-laws.

14. The following section is added after section 23b:

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

(2) The registrar may register in the Courtesy Register any person who

- (a) is the holder of a degree in dentistry or dental surgery and is entitled to practise as a dental surgeon in a jurisdiction outside Alberta, and
- (b) desires registration solely for the purpose of
 - (i) presenting a graduate or undergraduate training course, or

12. Section 21 permits registration in an exceptional case of a person who is considered to have equivalent training and qualifications of an Alberta graduate. The amendment as to fees is the result of the repeal of section 14.

13. Section 22 presently reads:

22. (1) The registrar shall keep the register in accordance with this Act and the by-laws of the Association.

(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 the register may be in Form B in the Schedule.

The by-laws will prescribe the information to be contained in the register. Form B will be repealed as a consequence.

14. The new section 23c will provide for a Courtesy Register to afford legal protection to dentists coming into Alberta only temporarily as instructors, clinicians or researchers. See also clause 19 of this Bill.

- (ii) conducting or engaging in a clinical presentation or research program,
at or under the sponsorship of the Faculty of Dentistry of the University of Alberta or under the sponsorship of a dental group recognized by the Association.
- (3) The registrar
 - (a) shall in registering a person in the Courtesy Register, show the purpose for which that person is registered and the period of duration of that person's registration, and
 - (b) may from time to time on application, extend the period of duration of that person's registration and amend the Courtesy Register accordingly.
- (4) Notwithstanding subsection (3), the registrar shall cancel the registration of any person in the Courtesy Register when directed to do so by the board.

15. Section 24, subsection (4) is amended by striking out the words "in Form C in the Schedule" and by substituting the words "in the form prescribed in the by-laws".

16. Section 25 is struck out and the following is substituted:

25. (1) Where a member of the Association has not paid his annual fee for any year on or before the first day of January of that year the member is suspended from practice as of the next succeeding second day of January.

(2) Where a member of the Association is suspended from practice under this section, his suspension terminates upon the payment of the annual fee and a penalty in an amount prescribed in the by-laws but not exceeding \$25.

17. Section 26 is amended by striking out subsection (4) and by substituting the following:

(4) The annual roll may be in the form prescribed in the by-laws.

18. The following sections are added after section 27:

27a. (1) The board by resolution may appoint any person an honorary member of the Association.

(2) An honorary member of the Association may attend and participate in any meeting of the Association but is not entitled to be notified of or to move or second any motion or to vote at any meeting of the Association or to any other rights or privileges of members of the Association.

27b. The board may by resolution appoint as a life member of the Association any person who has been

15. Section 24 (4) now reads:

(4) The registrar upon payment of the fee and any fees in arrears shall issue the annual certificate referred to in subsection (3), which may be in Form C in the Schedule.

The Schedule of forms will be repealed so that the form of annual certificate may be prescribed by the by-laws.

16. Section 25 presently reads:

25. Where default is made in payment of the annual fee, and the 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.

Non-payment of annual fees will result in automatic suspension with a penalty for reinstatement. The penalty itself is increased from \$10 to \$25.

17. Section 26 (4) presently reads:

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

The Schedule of Forms is being repealed, as forms will be prescribed by by-law.

27a. Honorary members.

27b. Life members of the Association.

practising dentistry for a period or periods totalling at least 50 years and is, at the time of the appointment, a member of the Association engaged in the practice of dentistry.

19. Section 28, subsection (4) is amended by adding the word "or" at the end of clause (b) and by adding the following clause:

- (c) a person registered in the Courtesy Register who performs dentistry during the period of his registration and in accordance with the purpose for which he is so registered.

20. Section 33 is struck out and the following is substituted:

33. (1) No person shall advertise or hold himself out to the public as a specialist or as being specially qualified in any particular branch of dentistry or as limiting his practice to a particular branch of dentistry unless he is the holder of

- (a) a certificate of qualification as a specialist issued by the Universities Co-ordinating Council, and
- (b) a licence to practise as a specialist issued under the by-laws.

(2) The board of directors may make by-laws

- (a) providing for the issue of licences under clause (b) of subsection (1),
- (b) prescribing the period of duration of the licences, and
- (c) prescribing the conditions to be met before the licences may be renewed.

(3) The secretary of the Universities Co-ordinating Council may, upon the request of the registrar issue a certificate stating that the holder of a certificate of qualification as a specialist has completed a specified training program to the satisfaction of the Council and stating the period during which the training program was carried out.

(4) A breach of this section by a member of the Association may be held to be unbecoming and improper conduct.

21. Section 41 is amended

- (a) by renumbering the section as subsection (1),
- (b) as to the renumbered subsection (1), by striking out the words "General Faculty Council of the University of Alberta" and by substituting the words "secretary of the Universities Co-ordinating Council",
- (c) by adding the word "or" at the end of clause (b) of the renumbered subsection (1) and by adding after that clause the following:

19. Section 28 (4) sets out two cases in which a person may perform dentistry without being members of the Association. The amendment adds a third category, viz., persons registered in the Courtesy Register: see Clause 14 of this Bill.

20. Section 33 presently reads:

33. (1) No person shall advertise or hold himself out to the public as a specialist or as being specially qualified in a particular branch of dentistry or dental work without having received from the secretary of the Universities Co-ordinating Council a certificate of having complied with such conditions relating to qualification or fitness as may be prescribed by the Universities Co-ordinating Council.

(2) The conditions referred to in subsection (1) may be based either upon the possession of certain diplomas or other professional qualifications, or upon compliance with prescribed tests, by way of examination or otherwise.

(3) A breach of this section shall be deemed to be unbecoming and improper conduct.

The section will now require that specialists will require a special licence from the Association in addition to having their academic qualifications certified by the Universities Co-ordinating Council.

21. Section 41 now reads:

41. In section 40 "dental hygienist" means a person who is certified by the General Faculty Council of the University of Alberta

(a) to be a graduate in dental hygiene of the Faculty of Dentistry of the University of Alberta, or

(b) to be a graduate of a school of dental hygiene at which the standards required for graduation are at least equal to the standards required by the Faculty of Dentistry of the University of Alberta.

(c) to be the holder of qualifications which, at the time they were obtained, were at least the equivalent of the standards required for certification as a dental hygienist under this Act at that time.

(d) by adding the following subsection:

(2) A certificate shall not be issued under clause (c) of subsection (1) to a person whose qualifications were obtained prior to the period of five years immediately preceding the date of the application, unless that person

(a) produces evidence satisfactory to the secretary of the Universities Co-ordinating Council that she has been active in practice as a dental hygienist throughout the major part of that five-year period, or

(b) satisfies the Universities Co-ordinating Council of her competence as a dental hygienist by examination or otherwise.

22. Section 47 is amended by striking out subsection (2) and by substituting the following:

(2) The board of directors may invest in the name of the Association any moneys not immediately required for the purposes of the Association and in so doing is not subject to the provisions of *The Trustee Act* governing the investment of trust funds.

(3) All fees, penalties, fines, costs or other moneys required to be paid a member of the Association under this Act or the by-laws shall be paid to the treasurer and form part of the funds of the Association.

23. Section 48 is amended

(a) as to subsection (1) by striking out the words "one hundred dollars" and by substituting the figures "\$500",

(b) by adding the following after subsection (1):

(1a) Without limiting the generality of clause (c) of subsection (1), a member may be found guilty of unprofessional conduct under that clause by reason of professional incompetence, gross carelessness or the charging of exorbitant fees.

(c) by striking out subsection (3),

(d) by adding after subsection (4) the following:

(5) Where the board orders the suspension from practice under this section, the order may

(a) require the member to satisfy the board, by examination or otherwise, of his professional competence and undergo any further training that the board prescribes, and

22. Section 47 (2) now reads:

(2) The board of directors may invest in the name of the Association any moneys, not required to be immediately expended, in such securities as trustees are authorized to invest in, and the income derived therefrom shall form part of the ordinary income of the Association.

23. Section 48, subsections (1) and (3) presently read:

48. (1) 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,

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.

(3) Any penalty collected pursuant to this section shall be placed in the scholarship fund of the Association.

Subsection (3) is repealed as a result of the new subsection (3) of section 47: see clause 22 of this Bill. The new subsection (5) will permit the board to require a suspended member to take further training and to satisfy the board of his professional competence. Satisfying these requirements will be a condition on which the suspension would terminate.

- (b) direct that the suspension terminates
 - (i) on a date stated in the order, or
 - (ii) on the date of a resolution of the board showing that the member has complied with the requirements prescribed pursuant to clause (a),whichever date is the later.

24. Section 60 is amended by adding the following subsection:

- (3) Where a former member applies to the board to have his name restored to the register, the board may
 - (a) require the former member to satisfy the board, by examination or otherwise, of his professional competence and undergo any further training that the board prescribes, and
 - (b) defer its decision on the application until it is satisfied that the former member has complied with the requirements made pursuant to clause (a).

25. The Schedule is repealed.

26. This Act comes into force on July 1, 1968.

24. Section 60 (1)(a) permits the board to restore the name of a former member to the register. Under the new subsection (3) the former member may be required to take further training and satisfy the board as to his competence before the board will deal with his application for restoration.

25. The Schedule consists of the forms of the register, an annual certificate and the annual roll. These forms will be prescribed by the Association's by-laws.