

1974 Bill 77

Third Session, 17th Legislature, 23 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 77

THE OPHTHALMIC DISPENSERS AMENDMENT ACT, 1974

THE MINISTER OF HEALTH AND SOCIAL DEVELOPMENT

First Reading

Second Reading

Third Reading

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1974

THE OPHTHALMIC DISPENSERS AMENDMENT ACT, 1974

(Assented to _____, 1974)

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

1. *The Ophthalmic Dispensers Act is hereby amended.*

2. *Section 4 is amended by striking out subsection (1) and by substituting the following subsection:*

4. (1) A person is entitled to be registered as a member of the Guild upon payment of the enrolment fee and annual fee, if that person

- (a) is the holder of a certificate of competency, or
- (b) on July 1, 1965, had been practising as an ophthalmic dispenser or optician in Alberta for a continuous period of not less than three years prior to that date and has never been suspended from practice or had his name removed from the register pursuant to this Act, or
- (c) obtains an order under section 4.1, subsection (2), clause (b).

3. *The following section is added after section 4:*

4.1 (1) Where any dispute arises as to whether or not a person is entitled to be registered as a member of the Guild pursuant to section 4, subsection (1), clause (b), the person requesting registration may apply by originating notice of motion to the Supreme Court of Alberta for an order directing the registrar to register him as a member of the Guild.

(2) Upon hearing the application and such evidence either oral or by affidavit as may be required, the court may

- (a) refuse the application, or
- (b) grant the application and order the registrar to register the applicant as a member of the Guild, with or without costs in any case.

Explanatory Notes

1. This Bill will amend chapter 269 of the Revised Statutes of Alberta 1970.

2. Membership. Section 4, subsection (1) presently reads:

4. (1) A person is entitled to be registered as a member of the Guild who pays the enrolment fee and annual fee, if any, and who is the holder of a certificate of competency.

3. Application to Court in the event of dispute.

4. Section 31 is amended

- (a) *as to subsection (3) by adding after the word "Health" the words "and Social Development", and*
- (b) *by adding the following subsection after subsection (3):*
 - (4) Members of the Board or its delegates, other than employees of the Government, shall receive such expenses, allowances and remuneration for their services as the Minister may prescribe.

5. Section 32 is amended

- (a) *by striking out clause (d) and by substituting the following clause:*
 - (d) prescribing the qualifications which applicants for certificates of competency must possess in order to take either written or practical examinations set by the Board,
- (b) *as to clause (k) by adding after the word "Health" the words "and Social Development".*

6. Section 33 is amended

- (a) *as to subsection (1) by striking out clauses (c) and (d) and by substituting the following clauses:*
 - (c) set and conduct practical examinations,
 - (d) set written examinations, and
- (b) *by adding the following subsection after subsection (2):*
 - (3) The Board may, by resolution approved by the Minister, delegate
 - (a) to a committee consisting of members of the Board, any of the Board's duties under subsection (1) either generally or in respect of any class of applicant, or
 - (b) to any person who in the opinion of the Board is qualified for the purpose, any of the Board's duties under subsection (1), clauses (b), (c) or (e) either generally or in respect of any class of applicant.

7. Section 34 is struck out and the following section is substituted therefor:

34. (1) A certificate of competency shall be issued to a person who

- (a) passes a written examination set by the Board, or

4. To correct a reference and to provide for payment to members of the Ophthalmic Dispensers Examining Board or delegates.

5. This amendment includes a provision for setting qualifications for taking exams and corrects a reference in clause (k). Section 32, clauses (d) and (k) presently read:

32. Subject to the approval of the Lieutenant Governor in Council, the Board may make regulations

- (d) prescribing the qualifications of applicants for certificates of competency that may be accepted by the Board without the necessity for the taking of examinations,
- (k) prescribing the fees payable to the Department of Health in connection with applications to the Board, the issuing of certificates, examinations, or any service provided by the Board,

6. Duties of the Board may be delegated. Duties of the Board now include setting practical exams. Section 33, subsection (1) presently reads:

33. (1) The Board shall

- (a) prescribe a program of studies and training for student ophthalmic dispensers,
- (b) evaluate the credentials of applicants for certificates,
- (c) exempt from examination a candidate who in the opinion of the Board
 - (i) qualifies by reason of his training and experience, and
 - (ii) possesses the qualifications required under the regulations,
- (d) set examinations or tests, and
- (e) evaluate the qualifications of applicants and the proof of their qualifications submitted to the Board.

7. Certificate of competency and special certificate of competency. Section 34 presently reads:

34. (1) A certificate of competency shall be issued to a person who

- (a) passes the examinations set by the Board, or
- (b) proves to the satisfaction of the Board that he has qualifications that may be accepted by the Board without the necessity of the taking of examinations,

and who pays any prescribed fees and otherwise qualifies under the regulations.

(2) A special certificate of competency in dispensing contact lenses shall be issued to a holder of a certificate of competency who

- (a) passes the examinations prescribed by the Board, or
- (b) proves to the satisfaction of the Board that he has qualifications that may be accepted by the Board without the necessity for the taking of examinations,

and who pays any prescribed fee and otherwise qualifies under the regulations.

(b) passes a practical examination set by the Board, and who pays any prescribed fees and otherwise qualifies under the regulations.

(2) A special certificate of competency in dispensing contact lenses shall be issued to a holder of a certificate of competency who

(a) passes a written examination set by the Board, or

(b) passes a practical examination set by the Board and who pays any prescribed fee and otherwise qualifies under the regulations.

(3) Notwithstanding subsections (1) and (2), a certificate of competency or a special certificate of competency shall be issued to an applicant who obtains an order under section 34.1, subsection (2), clause (b), passes a practical examination set by the Board and pays any prescribed fee.

8. The following section is added after section 34:

34.1 (1) Where the Board refuses to allow an applicant for a certificate of competency, or a special certificate of competency, to take a practical examination set by the Board on the grounds that the applicant is not qualified to take the examination, the applicant may apply by originating notice of motion to the Supreme Court of Alberta for an order directing the Board to permit the applicant to take that examination.

(2) Upon hearing the application and such evidence, either oral or by affidavit as may be required, the Court may

(a) refuse the application, or

(b) grant the application and order the Board to permit the applicant to take a practical examination set by the Board,

with or without costs in any case.

9. The following section is added after section 37:

37.1 (1) Notwithstanding section 37, a person who

(a) becomes registered as a member of the Guild prior to April 1, 1975 pursuant to section 4, subsection (1), clause (b) or (c), or

(b) obtains a certificate of competency or a special certificate of competency prior to April 1, 1975 upon passing a practical examination set by the Board, is not guilty of an offence for any contravention of section 35, subsection (1) or (2) or section 36 committed prior to April 1, 1975.

(2) The Board or the Court, in assessing the qualifications of any applicant for registration as a member of the

8. Application to Court where dispute arises as to qualifications to take the practical examination.

9. Exemption from prosecution for persons becoming members or obtaining certificates before April 1, 1975.

Guild, or for a certificate of competency or a special certificate of competency, may credit the applicant with any experience in Alberta prior to April 1, 1975, notwithstanding that it was or may have been in contravention of section 35, subsection (1) or (2) or section 36.

10. Section 38, clause (a) is amended by striking out the words "works under the direct supervision of a member of the Guild," and by substituting the words "is apprenticing in accordance with the regulations,".

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

10. Section 38, clause (a) presently reads:

38. Nothing in this Act prohibits

- (a) an optician who is employed in a wholesale or retail optical laboratory or an apprentice ophthalmic dispenser who works under the direct supervision of a member of the Guild, from performing work or services ordinarily performed by an ophthalmic dispenser, or