

1991 BILL 37

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Third Session, 22nd Legislature, 40 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

**BILL 37**

**PROFESSIONAL STATUTES AMENDMENT ACT, 1991**

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MRS. MIROSH

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First Reading .....  
Second Reading .....  
Committee of the Whole .....  
Third Reading .....  
Royal Assent .....

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*Bill 37*  
*Mrs. Mirosh*

## **BILL 37**

1991

### **PROFESSIONAL STATUTES AMENDMENT ACT, 1991**

*(Assented to , 1991)*

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

#### **Ophthalmic Dispensers Act**

*1(1) The Ophthalmic Dispensers Act is amended by this section.*

*(2) The title is repealed and the following is substituted:*

#### **OPTICIANS ACT**

*(3) Section 1 is amended*

*(a) by renumbering clause (a) as clause (a.1) and by adding the following before clause (a.1):*

*(a) "Association" means the Alberta Opticians Association;*

*(b) in clause (a.1) by striking out "Ophthalmic Dispensers" and substituting "Opticians";*

*(c) by repealing clause (e);*

*(d) by repealing clause (i);*

*(e) by repealing clauses (k) and (l) and substituting the following:*

*(k) "optician" means a person who is registered as a member of the Association under this Act;*

*(f) by adding the following after clause (m):*

## **Explanatory Notes**

### **Ophthalmic Dispensers Act**

**1(1)** This section will amend chapter O-8 of the Revised Statutes of Alberta 1980.

**(2)** The title presently reads:

#### *OPHTHALMIC DISPENSERS ACT*

**(3)** Section 1(a), (e), (i), (k) and (l) presently read:

*1 In this Act,*

*(a) "Board" means the Ophthalmic Dispensers Examining Board appointed under this Act;*

*(e) "Guild" means The Alberta Guild of Ophthalmic Dispensers;*

*(i) "ophthalmic dispenser" means a person who performs services of ophthalmic dispensing;*

*(k) "ophthalmologist" means a physician who is entitled to practise as a specialist in ophthalmology;*

*(l) "optometrist" means a person registered under the Optometry Profession Act;*

(m.1) "prescription" means a record of the power of the spherical lenses and of the power and axis of the cylindrical lenses required to correct the refractive error of the patient's eyes, including the measurement of the distance of those lenses from the eyes where appropriate;

(g) *by striking out "Guild" wherever it occurs and substituting "Association".*

*(4) The heading preceding section 2 and section 2 are repealed and the following is substituted:*

### **The Association**

**2** The Alberta Guild of Ophthalmic Dispensers is continued as a corporation under the name "Alberta Opticians Association".

*(5) Section 3 is amended*

(a) *in subsection (1) by adding "and" at the end of clause (a) and by repealing clauses (b) and (c) and substituting the following:*

(b) meets the requirements for registration in the regulations.

(b) *by repealing subsection (3);*

(c) *by striking out "Guild" wherever it occurs and substituting "Association".*

*(6) Section 4 is repealed.*

- (4) The heading preceding section 2 and section 2 presently read:

*The Guild*

*2 The Alberta Guild of Ophthalmic Dispensers heretofore established is continued as a corporation under that name.*

- (5) Section 3(1) and (3) presently read:

*3(1) A person is entitled to be registered as a member of the Guild on payment of the enrolment fee and annual fee, if that person*

*(a) is the holder of a certificate of competency,*

*(b) on July 1, 1965, had been practising as an ophthalmic dispenser or optician in Alberta for a continuous period of not less than 3 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(2)(b).*

*(3) Unless otherwise provided in the by-laws, the enrolment fee shall be \$25.*

- (6) Section 4 presently reads:

*4(1) If a dispute arises as to whether or not a person is entitled to be registered as a member of the Guild pursuant to section 3(1)(b), the person requesting registration may apply by originating notice to the Court of Queen's Bench for an order directing the registrar to register him as a member of the Guild.*

*(2) On hearing the application and any evidence either oral or by affidavit that may be required, the Court may*

*(a) refuse the application, or*

*(7) Section 10 is repealed and the following is substituted:*

**10(1)** The council of the Association shall consist of the following:

- (a) not fewer than 6 participating members or a greater number that may be prescribed by or determined in accordance with the by-laws, each of whom shall be elected in accordance with the by-laws;
- (b) when the number of persons elected under clause (a) does not exceed 10, 2 members of the public or, when the number of persons elected under clause (a) is more than 10, 3 members of the public, who shall be appointed for a term of not more than 3 years by the Lieutenant Governor in Council after consultation with the council;
- (c) members, if any, appointed by the council by virtue of their office.

(2) A member of the public referred to in subsection (1)(b) continues to hold office after the expiry of his term of office until he is reappointed or his successor is appointed.

(3) Notwithstanding subsection (2), a member of the public referred to in subsection (1)(b) may hold office for not more than 6 consecutive years.

(4) The Lieutenant Governor in Council may revoke the appointment of a member of the public referred to in subsection (1)(b).

(5) The Minister may pay to a member of the public referred to in subsection (1)(b) travelling and living expenses incurred by that member for his attendance at a meeting of the council while away from his usual place of residence and fees in an amount prescribed by the Minister.

(6) The powers, duties and operations of the council under this Act, the regulations and the by-laws are not affected by

- (a) the fact that no one is appointed as a member of the council under subsection (1)(b),

*(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.*

(7) Section 10 presently reads:

*10 The council of the Guild shall consist of the president, the vice-president and any other number of participating members that may be prescribed in the by-laws of the Guild.*

- (b) the revocation under subsection (4) of the appointment of a member of the council, or
- (c) the resignation from the council of a member appointed under subsection (1)(b).

(7) The failure of a member of the public appointed under subsection (1)(b) to attend a meeting of the council shall not be construed as affecting or restricting the council in exercising any powers or performing any duties under this Act or the by-laws at that meeting.

(8) The members of the council elected under subsection (1) shall elect from among themselves the officers of the Association specified in section 8 and the by-laws in the manner and for the term prescribed by the by-laws.

(9) A person who is a member by virtue of his office does not have voting rights on the council.

(8) *Section 11 is amended*

- (a) *in subsection (2) by striking out "Guild" wherever it occurs and substituting "Association";*
- (b) *in subsection (3) by adding "not fewer than" after "hold".*

(9) *Section 12 is repealed and the following is substituted:*

**12** The council shall manage and conduct the business and affairs of the Association and may exercise all the rights and powers of the Association.

(10) *The following is added after section 12:*

**12.1(1)** The council shall submit to the Minister an annual report on those matters of the business and affairs of the Association as the Minister requires in a form satisfactory to the Minister.



(8) Section 11 presently reads:

*11(1) A quorum of the council must not be fewer than 1/2 the members.*

*(2) When a vacancy occurs in the council by reason of the suspension from practice of a council member or the removal of a council member's name from the register or from any other cause or when the council declares a vacancy by reason of the physical or mental disability of a council member, the council shall appoint a participating member of the Guild to fill the vacancy until the next annual meeting of the Guild.*

*(3) The council shall hold 2 meetings in each year at the times and places that are from time to time fixed by the council.*

(9) Section 12 presently reads:

*12 The council shall manage and conduct the business and affairs of the Guild and may exercise all powers of the Guild.*

(10) Requirement for an annual report.

(2) The Minister, on receipt of the annual report of the Association, shall lay it before the Legislative Assembly if it is then sitting, and if it is not then sitting, within 15 days after the commencement of the next ensuing sitting.

*(11) The heading preceding section 13 is repealed and the following is substituted:*

### **Regulations and By-laws**

*(12) Sections 13, 14 and 15 are repealed and the following is substituted:*

**13(1)** The council may make regulations

- (a) respecting procedures for the registration of persons as participating and non-participating members of the Association;
- (b) establishing conditions, including character requirements, to be met by applicants for registration as members of the Association;
- (c) respecting conditions to be met by applicants for annual enrolment as a member of the Association;
- (d) respecting the procedures for hearings, inquiries and preliminary investigations by the registrar or a person appointed by him, the discipline committee or the council in respect of the practice of a member of the Association against whom a complaint has been made;
- (e) respecting the costs payable by a member of the Association that may be awarded under section 26(1);
- (f) governing the publication of a notice of suspension or cancellation of a certificate of registration or of a reprimand in a form and manner prescribed by the council;
- (g) prescribing standards of practice for ophthalmic dispensing;
- (h) respecting the establishment and operation by the council of a compulsory continuing education program for participating members of the

(11) The heading preceding section 13 presently reads:

*By-laws of the Guild*

(12) Sections 13, 14 and 15 presently read:

*13(1) All by-laws of the Guild are subject to the approval of the Lieutenant Governor in Council.*

*(2) A by-law of the Guild may only be passed by the Guild at an annual general meeting or at a general meeting called for that purpose.*

*14(1) The Guild may make by-laws providing for*

*(a) the government and discipline of the members of the Guild;*

*(b) the purchase, management and sale of the property of the Guild;*

*(c) the maintenance of the Guild by levy or contributions or otherwise;*

*(d) the management of the Guild generally;*

*(e) the advancement of the standards of ophthalmic dispensers;*

*(f) the advancement of standards for ophthalmic appliances;*

*(g) enrolment fees and annual fees;*

*(h) the calling and conduct of its meetings and proceedings;*

*(i) the appointment, duties and removal of officers or servants of the Guild and their remuneration;*

*(j) the time and place of the annual meeting and other meetings of the Guild and the necessary notice.*

*(k) any other matter or thing pertaining to the management and affairs of the Guild.*

Association;

- (i) respecting any restrictions on advertising by members of the Association;
- (j) prescribing the standards of quality of ophthalmic appliances supplied by members of the Association.

(2) A regulation under subsection (1) does not come into force unless it is approved by

- (a) a majority of the participating members of the Association
  - (i) present and voting at a general meeting, or
  - (ii) voting in a mail vote conducted in accordance with the by-laws, and
- (b) the Lieutenant Governor in Council.

**14(1)** The council may make by-laws

- (a) providing for the government of the Association and the management and conduct of its affairs;
- (b) respecting the purchase, management and sale of the property of the Association;
- (c) respecting the calling and conduct of meetings of the Association;
- (d) subject to this Act, respecting the nomination, election, number and terms of office of council members other than members appointed under section 10(1)(b) and officers of the Association;
- (e) respecting the division of Alberta into electoral districts;
- (f) providing for the appointment of acting members and those who are members by virtue of their office and prescribing their procedures, duties and functions;
- (g) subject to this Act, governing the appointment of members to the Discipline Committee, the designation of the chairman and vice-chairman,

*(2) An annual fee prescribed by the by-laws must not exceed \$150 in any year.*

*15 The Guild may make by-laws governing the election of the president, the vice-president and the members of the council and without restricting the generality of the foregoing the by-laws may provide for*

- (a) the time and place of the election;*
- (b) the division of Alberta into electoral districts;*
- (c) the nomination and qualifications of candidates;*
- (d) the appointment of a presiding officer;*
- (e) the form of ballot to be used;*
- (f) the procedure for the holding of the election and determining the persons elected;*
- (g) the duration of the terms of office of the persons elected.*

and the procedures for filling any vacancy;

- (h) governing the establishment, operation and procedures of committees, the appointment of members and the procedures for filling vacancies;
- (i) establishing honorary or other non-practising categories of membership in the association and prescribing the privileges and obligations of such membership;
- (j) providing for the delegation, with or without conditions, of any power or duty of the council under this Act, the regulations or the by-laws, except the power to make, amend or repeal regulations or by-laws;
- (k) prescribing fees and expenses payable to members of the council and members of committees established under this Act or the by-laws for attending to the business of the Association;
- (l) respecting the fees, duties and levies payable to the Association by participating and non-participating members;
- (m) requiring members to maintain an address in Alberta and to inform the registrar of any change to that address;
- (n) authorizing the council to prescribe forms for registration or any other documents required under this Act;
- (o) prescribing the date on which annual registrations expire;
- (p) respecting the holding of votes by mail.

(2) A by-law under subsection (1) does not come into force unless it is approved by a majority of the members of the Association

- (a) present and voting at a general meeting, or
- (b) voting in a mail vote conducted in accordance with the by-laws.

(3) The *Regulations Act* does not apply to by-laws of the Association.



*(13) Section 18 is amended*

*(a) in subsection (2)*

- (i) by striking out “and home”;*
- (ii) by striking out “Guild” and substituting “Association”;*

*(b) by adding the following after subsection (6):*

**(7)** The registrar shall permit any person to inspect the annual roll during regular office hours.

*(14) Section 19 is repealed.*

*(15) Sections 20 to 30 are repealed and the following is substituted:*

**20** For the purposes of sections 21 to 29.2,

- (a)** “chairman” means the chairman of the Discipline Committee and includes a vice-chairman;
- (b)** “conduct” includes any act or omission;
- (c)** “investigated person” means
  - (i)** a member of the Association, or
  - (ii)** if section 21(3) applies, a former member of the Association

with respect to whose conduct an investigation or hearing is held under this Act;

- (d)** “preliminary investigator” means a person appointed to conduct a preliminary investigation under this Act.

**20.1(1)** There is hereby established a Discipline Committee composed of not fewer than 4 persons as follows:



(13) Section 18(1), (2) and (6) presently read:

*18(1) The registrar shall prepare an annual roll in June of each year.*

*(2) The annual roll shall contain the name and the business and home address of each participating and non-participating member of the Guild who has paid his annual fee for the current year.*

*(6) The registrar when called on to do so shall provide the Minister with a copy of an annual roll.*

(14) Section 19 presently reads:

*19 Notwithstanding anything in this Act, the council may suspend a member who is in default of payment for a period exceeding 3 months of an amount owing by him to the Guild as an annual fee, levy or contribution, but on payment of the amount owing and a fee of \$5, the suspension is thereby cancelled.*

(15) Sections 20 to 30 presently read:

*20(1) The council may order*

*(a) the removal of the name of a member from the register,  
or*

*(b) the suspension from practice of a member for a fixed period,*

*when that member is guilty of conduct unbecoming an ophthalmic dispenser.*

*(2) The question of whether a member of the Guild is guilty of conduct unbecoming an ophthalmic dispenser shall be determined by the council or, on appeal, by the Court of Queen's Bench.*

*(3) For the purposes of subsection (1), the following acts are deemed to be conduct unbecoming an ophthalmic dispenser:*

*(a) supplying frames and lenses of poor optical and mechanical quality or supplying any ophthalmic appliance that is of a lesser standard of quality than that prescribed by the Board;*

*(b) making unreasonable charges to the public;*

- (a) not fewer than 3 members of the Association appointed by the council in accordance with the by-laws, and
- (b) one member of the public who is appointed for a term of not more than 3 years by the Lieutenant Governor in Council in consultation with the council.

(2) Notwithstanding subsection (3), a member of the Discipline Committee appointed under subsection (1)(b) may hold office for not more than 6 consecutive years.

(3) A member of the Discipline Committee appointed under subsection (1)(b) continues to hold office after the expiry of his term of office until he is reappointed or his successor is appointed.

(4) The Minister may pay to the member of the Discipline Committee appointed under subsection (1)(b) travelling and living expenses incurred by that member for attendance at a meeting of the Committee away from his usual place of residence and fees in an amount prescribed by the Minister.

(5) The Lieutenant Governor in Council may, after consultation with the council, revoke the appointment of the member of the Discipline Committee appointed under subsection (1)(b).

(6) The powers, duties and operations of the Discipline Committee are not affected by

- (a) the fact that no member of the public is appointed as a member of the Committee under subsection (1)(b),
- (b) the revocation under subsection (5) of the appointment of a member of the public, or
- (c) the resignation as a member of the Committee of a member of the public.

(7) The failure of a member of the public appointed under subsection (1)(b) to attend a meeting of the Discipline Committee shall not be construed as affecting or restricting the Committee from exercising any powers or performing any duties at that meeting.

**20.2(1)** Any conduct of an investigated person that, in the opinion of the Discipline Committee,

*(c) soliciting or canvassing from house to house or place to place or by mail;*

*(d) advertising of his practice or business premises by means prohibited by the by-laws of the Guild;*

*(e) allowing a person who is not a member of the Guild to practise ophthalmic dispensing with him, in his name, or under his patronage, or under any style in his business premises;*

*(f) the committing of an indictable offence;*

*(g) the committing of an offence under this Act or the regulations;*

*(h) any act specified by the by-laws of the Guild to be conduct unbecoming an ophthalmic dispenser.*

*21(1) The council shall appoint an investigating committee of 3 members of the Guild to inquire into and ascertain the facts of any matter of complaint against a member of the Guild which may be referred to the committee by the council or the president.*

*(2) The committee, subject to this Act and the by-laws of the Guild, may regulate*

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

*(b) the mode of deciding questions,*

*(c) its rules of procedure and evidence, and*

*(d) generally, the transaction and management of its business.*

*22(1) At least 10 days' notice of the date, time and place of the meeting of the committee for taking 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 complaint against the member.*

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

*(4) The meetings of the committee shall be held in private.*

*23(1) The member whose conduct is the subject of inquiry may*

- (a) is detrimental to the best interests of the public,
- (b) contravenes this Act or the regulations,
- (c) harms or tends to harm the standing of the profession of ophthalmic dispensing generally, or
- (d) displays a lack of knowledge of or lack of skill or judgment in the practice of ophthalmic dispensing,

whether or not that conduct is disgraceful or dishonourable, may constitute either unskilled practice of ophthalmic dispensing or professional misconduct, whichever the Discipline Committee finds.

(2) If an investigated person contravenes this Act, the regulations or the by-laws and the contravention is, in the opinion of the Discipline Committee, of a serious nature, the contravention may be found by the Committee to be professional misconduct whether or not it would be so found under subsection (1).

**21(1)** A person may complain in writing to the registrar about the conduct of a member of the Association, and the complaint shall be dealt with in accordance with this Act and the regulations.

(2) A complaint under subsection (1) shall be accompanied by a mailing address for service on the complainant.

(3) A complaint respecting the conduct of a member of the Association whose membership has been cancelled or suspended pursuant to this Act may, notwithstanding the cancellation or suspension, be dealt with within 5 years following the date of cancellation or suspension as if the cancellation or suspension had not occurred.

**21.1** If a complaint is made to the registrar under section 21, the registrar, forthwith on receipt of the complaint, may commence or appoint a preliminary investigator who is not a member of the Discipline Committee or the council to commence a preliminary investigation into the conduct of the member of the Association and shall notify the member of the Association in writing that a preliminary investigation into his conduct will be conducted, giving reasonable particulars of the matter to be investigated.

**21.2(1)** A preliminary investigator may

*be represented by counsel.*

*(2) The evidence of the witnesses shall be taken under oath.*

*(3) The chairman of the committee may administer oaths to witnesses.*

*(4) There shall be full right to cross-examine all witnesses called, and examine all documents and reports, and to adduce evidence in defence and in reply.*

*24(1) The committee and any party to the proceedings may obtain by praecipe from the Court of Queen's Bench a subpoena for the attendance of witnesses and the production of relevant books, documents and things.*

*(2) Witnesses are entitled to the same allowances as witnesses attending on the trial of an action in the Court of Queen's Bench.*

*25(1) The committee shall report in writing to the council giving a summary of the evidence adduced, its findings and any recommendations it considers advisable.*

*(2) The absence of one member of the committee during the inquiry does not invalidate the report.*

*(3) On considering the report of the committee the council shall dismiss the complaint or make an order under section 20(1).*

*(4) Any member of the council who has been a member of the committee investigating the particular complaint shall not participate in any proceedings of the council relating to that complaint.*

*(5) A copy of the order, with the council's findings and reasons, shall be served on the member whose conduct was the subject of the inquiry.*

*(6) When the complaint is found to be frivolous or vexatious the council may order the payment by the Guild or the person making the complaint of any costs it considers just to the member whose conduct has been the subject of the inquiry.*

*26(1) When the council 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 that member.*

*(2) After taxation of the costs by the taxing officer of the Court at Edmonton or Calgary, execution may issue out of the Court of Queen's Bench for the recovery thereof in like manner as on a*

- (a) request any person to answer any questions and to produce to him any models, charts, documents, papers, notes, records and other materials and things relevant to the investigation, and
- (b) copy and keep copies of any of the things that are produced to him under clause (a).

(2) A preliminary investigator may investigate any other matter related to the professional conduct or skill in practice of the investigated person that arises in the course of the investigation.

(3) If a member of the Association does not co-operate with a preliminary investigator, the preliminary investigator may make a complaint in writing to the Discipline Committee, and the failure or refusal to co-operate may be held by the Committee to be professional misconduct.

(4) A preliminary investigator shall forthwith on concluding the preliminary investigation report his findings to

- (a) the registrar, if the registrar is not conducting the preliminary investigation, or
- (b) a member of the Discipline Committee, if the registrar is conducting the preliminary investigation.

**22(1)** The registrar or the member of the Discipline Committee to whom a report is provided under section 21.2(4) shall forthwith

- (a) direct that no further action be taken, if he is of the opinion that
  - (i) the complaint is frivolous or vexatious, or
  - (ii) there is insufficient evidence of unskilled practice of ophthalmic dispensing or professional misconduct,

or

- (b) refer the matter under investigation in writing to the Discipline Committee.

(2) The registrar or the member of the Discipline Committee shall serve on the investigated person and on the complainant, if any, a notice that no further action will be taken or that the

*judgment in an action in that Court.*

*(3) The costs to be taxed and allowed shall, as far as practical, be the same as the like costs in an action in the Court.*

*(4) The taxing officer may also allow any fees and disbursements for work done or proceedings taken before notice of complaint he considers just.*

*(5) Any costs that are not ordered to be paid by the member whose conduct was the subject of the inquiry or by the person who made the complaint shall be paid by the Guild.*

*27 No action lies against the Guild, the council or the committee or any member thereof for any act done in proceedings taken in good faith or orders made or enforced under the disciplinary provisions of this Act or the by-laws of the Guild.*

*28 A person whose name has been removed from the register or who has been suspended from practice by order of the council may appeal from the order either*

*(a) to a general meeting of the Guild by ordinary resolution, or*

*(b) directly to a judge of the Court of Queen's Bench in chambers by originating notice.*

*29(1) The judge shall consider*

*(a) the proceedings before the committee and the evidence taken,*

*(b) the report of the committee, and*

*(c) the order of the council certified by the chairman of the committee or by the registrar.*

*(2) The judge may*

*(a) receive further evidence by oral examination or by affidavit, or*

*(b) direct a trial to determine any or all of the matters in issue.*

*(3) The judge on the hearing of the appeal may*

*(a) confirm the order to the council,*

*(b) restore the name of the appellant to the register,*

matter has been referred to the Committee, as the case may be.

**22.1(1)** A complainant who is served with a notice under section 22 that no further action will be taken may, within 30 days of the receipt of the notice, by notice in writing to the registrar, appeal that direction to the Discipline Committee.

(2) On an appeal under subsection (1), the Discipline Committee shall determine whether

- (a) the complaint is frivolous or vexatious, or
- (b) there is sufficient evidence of unskilled practice or professional misconduct, and the matter under investigation should be the subject of a hearing,

and shall notify the complainant in writing of its decision.

**22.2(1)** The Association and the investigated person may be heard and be represented by counsel at a hearing before the Discipline Committee.

(2) The Discipline Committee may be represented by counsel at a hearing before the Committee.

(3) A hearing before the Discipline Committee shall be open to the public unless

- (a) the complainant requests that the hearing be held in private because of the confidential nature of the matters to be heard, or
- (b) in the opinion of the Committee, the interests of any person other than the investigated person would be detrimentally affected if the hearing were not held in private.

**23(1)** On referral to it of a matter under section 22(1)(b) or on determining under section 22.1(2)(b) that a hearing should be held, the Discipline Committee shall hold a hearing.

(2) The registrar shall cause to be served on the investigated person at least 30 days before the hearing date a notice of hearing stating the date, time and place at which the Discipline Committee will hold a hearing and giving reasonable particulars of the complaint or matter in respect of which the hearing will be held.

**23.1** The Discipline Committee may investigate and hear any other matter related to the professional conduct or skill in



*(c) cancel, reduce or lengthen the appellant's suspension from practice, or*

*(d) make any other order that to the judge seems just, and award costs in his discretion.*

*30 Except during the period that an appeal is pending before a judge, the council at any time may*

*(a) order the restoration to the register of the name of a person whose name has been removed, or*

*(b) cancel or reduce the period of suspension of a person from practice,*

*on any terms and conditions the council considers just.*

practice of the investigated person that arises in the course of an investigation or hearing, but in that event the Committee shall serve that person at least 15 days before the hearing of the matter with notice of its intention to do so, giving reasonable particulars of the matter to be investigated.

**23.2(1)** Evidence may be given before the Discipline Committee in any manner that the Committee considers appropriate, and the Committee is not bound by the rules of law respecting evidence applicable to judicial proceedings.

(2) For the purposes of an investigation, hearing or review under this Act, the registrar, a preliminary investigator and any member of the council or the Discipline Committee are conferred with the powers of a commissioner for oaths under the *Commissioners for Oaths Act*.

**24(1)** The investigated person and any other person who, in the opinion of the Discipline Committee, has knowledge of the complaint or matter being investigated is a compellable witness in any proceeding under this Act.

(2) A witness may be examined under oath on all matters relevant to the investigation or hearing before the Discipline Committee and shall not be excused from answering any question on the ground that the answer might tend to

- (a) incriminate him,
- (b) subject him to punishment under this Act, or
- (c) establish his liability
  - (i) to a civil proceeding at the instance of the Crown or of any other person, or
  - (ii) to prosecution under any Act,

but if the answer so given tends to incriminate him, subject him to punishment or establish his liability, it shall not be used or received against him in any civil proceedings, in a prosecution under this Act or in any proceeding under any other Act, except in a prosecution for or proceedings in respect of perjury or the giving of contradictory evidence.

(3) For the purpose of obtaining the testimony of a witness who is out of Alberta, a judge of the Court of Queen's Bench on an application made ex parte by the Association may direct the issuing of a commission to obtain the evidence of the witness, and the commission shall be issued and the evidence taken



pursuant to the Rules of Court.

**24.1(1)** The attendance of witnesses before the Discipline Committee and the production of models, charts, documents, papers, notes, records and other materials and things may be enforced by a notice issued by the registrar requiring the witness to attend and stating the date, time and place at which the witness is to attend and the models, charts, documents, papers, notes, records and other materials and things, if any, he is required to produce.

(2) On the written request of the investigated person or of his counsel or agent, the registrar shall, without charge, issue and deliver to that person or his counsel or agent any notices that he requires for the attendance of witnesses or for the production of any item under subsection (1).

(3) A witness other than the investigated person who has been served with a notice to attend or a notice for production under subsection (1) or (2) is entitled to be paid the same fees in the same manner as are payable to a witness in an action in the Court of Queen's Bench.

**24.2(1)** Proceedings for civil contempt of court may be brought against a witness

(a) who fails

(i) to attend before the Discipline Committee in compliance with a notice to attend, or

(ii) to produce any models, charts, documents, papers, notes, records and other materials or things in compliance with a notice to produce them,

or

(b) who refuses to be sworn or to answer any question he is directed to answer by the Discipline Committee.

(2) If the witness referred to in subsection (1) is the investigated person, his failure or refusal may be held to be professional misconduct.

**25** The Discipline Committee, on proof of service of the notice of hearing in accordance with this Act on the investigated person, may



- (a) proceed with the hearing in the absence of the investigated person, and
- (b) act, decide or report on the matter being heard in the same way as though the investigated person were in attendance.

**25.1(1)** The Discipline Committee may find that the conduct of an investigated person constitutes neither unskilled practice of ophthalmic dispensing nor professional misconduct.

**(2)** The Discipline Committee may find that the conduct of an investigated person constitutes unskilled practice of ophthalmic dispensing or professional misconduct, or both, and shall deal with the investigated person in accordance with this Act.

**25.2(1)** If the Discipline Committee finds that the conduct of an investigated person constitutes unskilled practice of ophthalmic dispensing or professional misconduct, or both, the Committee may make any one or more of the following orders:

- (a) that the investigated person be reprimanded;
- (b) that the membership in the Association of the investigated person be suspended, either generally or with respect to any field of the practice of ophthalmic dispensing for a stated period;
- (c) that the membership in the Association of the investigated person be suspended, either generally or with respect to any field of the practice of ophthalmic dispensing, until
  - (i) he has completed a specified course of studies or obtained supervised practical experience, or
  - (ii) the Committee is satisfied as to the competence of the investigated person generally or in that specified field of practice;
- (d) that, in place of a suspension, the investigated person undertake to limit his practice;
- (e) that conditions be imposed on the investigated person's practice of ophthalmic dispensing generally or in any field of the practice, including any of the following conditions:



- (i) that he practise under supervision;
  - (ii) that he not engage in sole practice;
  - (iii) that he permit periodic inspections by a person authorized by the council;
  - (iv) that he report to the Committee or the council on specific matters;
- (f) that the investigated person pass a particular course of study or satisfy the Committee or council as to his practical competence generally or in any field of the practice of ophthalmic dispensing;
  - (g) that the investigated person satisfy the Committee that a disability or addiction can be or has been overcome, and that the person's membership in the Association be suspended until the Committee is so satisfied;
  - (h) that the investigated person take counselling that in the opinion of the Committee is appropriate;
  - (i) that the investigated person waive, reduce or repay a fee for services rendered by the investigated person that, in the opinion of the Committee, were not rendered or were improperly rendered;
  - (j) that the membership in the Association of the investigated person be cancelled.

**(2)** If the Discipline Committee is satisfied that an investigated person has contravened an order under subsection (1), it may, without the necessity of a further hearing, cancel or suspend his membership in the Association subject to any terms it considers appropriate and shall serve the investigated person with notice of the cancellation or suspension.

**26(1)** The Discipline Committee may, in addition to or instead of dealing with the conduct of an investigated person in accordance with section 25.2, order that the investigated person pay, within the time set by the order,

- (a) all or part of the costs of the hearing or appeal, as determined in accordance with the regulations,
- (b) to the Association, a fine not exceeding \$5000 for





each finding of unskilled practice or professional misconduct and \$10 000 in the aggregate for all such findings arising out of the hearing, or

- (c) both the costs under clause (a) and the fine under clause (b).

(2) If a person ordered to pay a fine, costs or both under subsection (1) fails to pay the fine or costs within the time ordered, the council may suspend the person's membership in the Association until he has paid the fine and costs and shall serve the person with notice of the suspension.

(3) A fine or costs ordered to be paid to the Association under this section are a debt due to the Association and may be recovered by the Association by civil action for debt.

**26.1** The Discipline Committee shall, within a reasonable time after the conclusion of a hearing before it, give its decision in writing, in which it shall

- (a) describe each finding made by it,
- (b) state the reasons for each finding made by it, and
- (c) state any order made under section 25.2 or 26.

**26.2(1)** The Discipline Committee shall forward to the registrar

- (a) the decision, and
- (b) the record of the hearing, consisting of all evidence presented before it, including
  - (i) all exhibits,
  - (ii) all documents, and
  - (iii) a transcript of all testimony given before it, whether recorded electronically, mechanically or in handwritten form.

(2) The registrar shall, on receiving the decision of the Discipline Committee and the record of the hearing referred to in subsection (1), serve

- (a) a copy of the decision on the investigated person and the council, and



- (b) a notice of the decision on the complainant, if any.

**27** The investigated person may examine the record or any part of the record of the proceedings before the Discipline Committee and hear any recording or examine any mechanical or handwritten form of record of any testimony given before the Committee.

**27.1** If there is new evidence available that was not available or for good reason was not presented at the hearing held under section 23, the Discipline Committee may, with the consent of the investigated person, rehear any matter already heard by it and, for that purpose, has the same power and authority and is subject to the same duties as it had and was subject to in connection with the first hearing.

**27.2(1)** A decision of the Discipline Committee remains in effect pending an appeal to the council unless the council on application stays the decision pending the appeal.

(2) A decision of the council remains in effect pending an appeal to the Court of Appeal unless the Court on application stays the decision pending the appeal.

**28(1)** An investigated person or the Association may appeal to the council a finding or an order of the Discipline Committee.

(2) An appeal under subsection (1) shall be commenced by a written notice of appeal, which shall

- (a) describe the finding or order appealed, and
- (b) state the reasons for the appeal.

(3) A notice of appeal under this section shall be served on the registrar within 30 days after the date on which the decision of the Discipline Committee is served

- (a) on the investigated person, if he is appealing the decision, or
- (b) on the council, if the Association is appealing the decision.

(4) The registrar shall, on receiving a notice of appeal under subsection (3), give to each member of the council a copy of the notice of appeal and make the record of the hearing available to each member of the council.



**28.1(1)** The registrar shall, on receiving a notice of appeal under section 28, cause to be served on the investigated person a notice of hearing of an appeal stating the date, time and place at which the council will hear the matters appealed.

(2) The council shall hear the appeal within 90 days after the date of service of the notice of appeal.

(3) The council may, on the written request of the investigated person or the Association, extend the period referred to in subsection (2) for one or more additional periods, but no one extension may be for a period of more than 90 days.

**28.2(1)** The Association and the investigated person may appear, be heard and be represented by counsel at the hearing of an appeal before the council of the Association.

(2) A member of the Discipline Committee who is also a member of the council may participate in an appeal before the council but shall not vote in a decision of the council on the appeal.

(3) The appeal to the council shall be founded on a copy of the record of the proceedings before the Discipline Committee and the decision and order of the Committee.

(4) Sections 23.2 to 25 apply to proceedings before the council.

(5) The council on an appeal may

- (a) grant adjournments of the proceedings or reserve the determination of the matters before it for a future meeting of the council,
- (b) on granting special leave for that purpose, receive further evidence, and
- (c) draw inferences of fact and make a determination or finding that, in its opinion, ought to have been made by the Discipline Committee.

(6) A hearing of an appeal before the council shall be open to the public unless, in the opinion of the council, the interests of any person other than the investigated person would be detrimentally affected if the hearing were not held in private.

(7) The council shall, within 90 days from the date of the conclusion of all proceedings before it, do all or any of the following:



- (a) make any finding that in its opinion ought to have been made by the Discipline Committee,
- (b) quash, vary or confirm the finding or order of the Discipline Committee or substitute or make a finding or order of its own, or
- (c) refer the matter back to the Discipline Committee for further consideration in accordance with any direction that the council may make.

(8) The council may make any award as to the costs of the proceedings, whether before it or the Discipline Committee, that it considers appropriate.

(9) The council shall, within a reasonable time after the conclusion of the proceedings before it, give its decision in writing, in which it shall

- (a) describe each finding made by it,
- (b) state the reasons for each finding, and
- (c) state any order made by it

and shall forward the decision to the registrar.

(10) The registrar shall serve

- (a) a copy of the decision on the investigated person and the council, and
- (b) a notice of the decision on the complainant, if any.

**29(1)** An investigated person or the Association may appeal to the Court of Appeal any finding or order made by the council under section 28.2.

(2) An appeal under this section shall be commenced

- (a) by filing a notice of appeal with the Registrar of the Court at Edmonton or Calgary, and
- (b) by serving a copy of the notice of appeal
  - (i) on the council where the investigated person is the appellant, or





- (ii) on the investigated person where the Association is the appellant,

both within 30 days from the date on which the decision of the council is served on the appellant.

**29.1(1)** The appeal to the Court of Appeal shall be founded on a copy of the record of the proceedings before the council and a copy of the decision, findings and orders of the council and any further evidence received by the council, all of which shall be certified by the registrar.

(2) The procedure in an appeal shall be the same, with the necessary changes, as that provided in the Rules of Court for appeals from a judgment of a judge of the Court of Queen's Bench to the Court of Appeal.

**29.2(1)** The Court of Appeal on hearing the appeal may

- (a) make any finding that in its opinion ought to have been made,
- (b) quash, confirm or vary the order or decision of the council or any part of it,
- (c) refer the matter back to the council for further consideration in accordance with any direction of the Court, or
- (d) direct that a trial of any mixed questions of law and fact related to a finding or order or both a finding and an order of the council under section 28.2 be held before the Court of Queen's Bench.

(2) The Court of Appeal may make any award as to the costs of an appeal to it that it considers appropriate.

*(16) The heading preceding section 31 is amended by striking out "Ophthalmic Dispensers" and substituting "Opticians".*

*(17) Section 31 is amended*

- (a) in subsection (1)
  - (i) by striking out "Ophthalmic Dispensers" and substituting "Opticians";

(16) The heading preceding section 31 presently reads:

*Ophthalmic Dispensers Examining Board*

(17) Section 31 presently reads in part:

*31(1) There is hereby established a board to be known as the Ophthalmic Dispensers Examining Board consisting of 7 members appointed by the Minister*

*(a) 2 of whom must be members of the Guild,*

- (ii) *by striking out "7 members" and substituting "5 members";*
- (iii) *by repealing clauses (a) to (d) and substituting the following:*
  - (a) 3 of whom must be members of the Association, and
  - (b) 2 of whom must be members of the public.
- (b) *by adding the following after subsection (1):*

(1.1) A member of the Board may hold office for not more than 6 consecutive years.
- (c) *by repealing subsections (2) and (3) and substituting the following:*

(2) The Minister shall appoint one of the members of the Board who is an optician as chairman and one of the members of the Board who is an optician as vice-chairman.

(3) The Minister may provide the Board, at no cost to the Board, with supplies and the services of administrators and other employees of the Government under his administration to carry out any work that, in the opinion of the Minister, may be required by the Board.

*(18) Section 32 is amended*

- (a) *by repealing clauses (a) to (h) and substituting the following:*
  - (a) respecting the academic and experiential qualifications required of individuals applying for registration as a member of the Association;
  - (b) respecting temporary certificates in ophthalmic dispensing or contact lens fitting, who may hold a temporary certificate, the conditions under which a certificate may be issued and the procedures a holder may perform;
  - (c) respecting additional academic and experiential qualifications to be met by opticians who dispense contact lenses;

- (b) one of whom must be a physician,*
- (c) 2 of whom must be members of the public at large, and*
- (d) one of whom must be the secretary appointed under subsection (3).*

*(2) The Minister shall appoint one of the members of the Board as chairman and may appoint one of the members as acting chairman.*

*(3) The Minister may appoint a secretary of the Board who must be an employee of the Government whose position is under the Minister's administration.*

(18) Section 32 presently reads:

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

- (a) prescribing standards of competency and proficiency to be maintained and observed by members of the Guild;*
- (b) prescribing standards of quality of ophthalmic appliances supplied by members of the Guild;*
- (c) governing the time, place and manner of examinations of applicants for certificates of competency and for special certificates of competency in dispensing contact lenses;*
- (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;*

- (d) respecting examinations of applicants for certificates of competency or special certificates of competency in dispensing contact lenses;
- (b) *by repealing clauses (j) to (n).*

(19) *The following is added after section 32:*

**32.1** The Minister may make regulations

- (a) prescribing fees payable to the Provincial Treasurer respecting applications to the Board, the issue of certificates, the conduct of examinations or any other service provided by the Board;
- (b) prescribing forms for use in matters concerning the Board.

(20) *Section 33 is repealed.*

*(e) prescribing the manner of proof as to technical qualifications, experience, education and good character;*

*(f) providing for any matter in connection with applications for or the issuing of certificates of competency or special certificates of competency in dispensing contact lenses;*

*(g) prescribing the conditions under which a certificate of competency or a special certificate of competency in dispensing contact lenses may be cancelled;*

*(h) providing for the maintenance of records of the Board;*

*(i) providing for the establishment of educational training and apprenticeship programs and prescribing the qualifications of persons to be admitted to apprenticeship and the length of apprenticeship;*

*(j) providing for the rules of procedure of the Board;*

*(k) prescribing the fees payable to the Department under the Minister's administration in connection with applications to the Board, the issuing of certificates, examinations, or any service provided by the Board;*

*(l) prescribing forms for use in connection with the regulations;*

*(m) specifying the contraventions of the regulations that constitute offences;*

*(n) governing any other matter considered necessary to carry out the purposes of this Act.*

(19) Ministerial regulations.

.. (20) Section 33 presently reads:

*33(1) The Board shall*

*(21) Section 34(1) and (2) are repealed and the following is substituted:*

**34(1)** The Board shall issue a certificate of competency to a person who

- (a) has the academic and experiential qualifications required under the regulations, and
- (b) has passed any examinations required under the regulations.

**(2)** The Board shall issue a special certificate of competency in contact lens dispensing to a person who

- (a) has the academic and experiential qualifications required under the regulations, and
- (b) has passed any examinations required under the regulations.



*(a) prescribe a program of studies and training for student ophthalmic dispensers,*

*(b) evaluate the credentials of applicants for certificates,*

*(c) set and conduct practical examinations,*

*(d) set written examinations, and*

*(e) evaluate the qualifications of applicants and the proof of their qualifications submitted to the Board.*

*(2) A certificate of competency or a special certificate of competency in dispensing contact lenses shall be issued on behalf of the Board by the chairman or, in his absence, by the acting chairman.*

*(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)(b), (c) or (e) either generally or in respect of any class of applicant.*

*(21) Section 34(1) and (2) presently read:*

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

*(22) Section 36 is repealed.*

*(23) Section 37 is amended*

*(a) in subsection (1)*

*(i) by striking out "ophthalmic dispenser" and substituting "optician";*

*(ii) by striking out "Guild" and substituting "Association";*

*(b) by repealing subsection (2) and substituting the following:*

*(2) No person other than a member of the Association shall use the designation "optician", "registered optician", "ophthalmic dispenser", "registered ophthalmic dispenser", "optical dispenser" or any other style or designation implying that he is an optician.*

*(c) by repealing subsection (4) and substituting the following:*

*(4) No person whose registration as a member of the Association has been cancelled or suspended shall practise as an optician or do any act of ophthalmic dispensing until the registration has been reinstated or the suspension has ended.*

*(24) Section 38 is amended*

*(a) by striking out "Guild" and substituting "Association";*

*(b) by striking out "complete prescription of, and subject to the direction of and under the supervision of, an ophthalmologist or optometrist" and substituting "prescription".*

(22) Section 36 presently reads:

*36 The Board or the Court, in assessing the qualifications of any applicant for registration as a member of the 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 37(1) or (2) or 38.*

(23) Section 37 presently reads:

*37(1) No person shall practise as an ophthalmic dispenser or perform any act of ophthalmic dispensing unless he is a member of the Guild.*

*(2) No person other than a member of the Guild shall use the designation "ophthalmic dispenser", "registered ophthalmic dispenser", "optical dispenser" or any other style or designation implying that he is an ophthalmic dispenser.*

*(3) When a member uses any designation mentioned in subsection (2) he shall use the full designation and not an abbreviation of it.*

*(4) No member of the Guild whose certificate of competency has been cancelled shall practise as an ophthalmic dispenser or do any act of ophthalmic dispensing until a new certificate of competency has been issued to him.*

(24) Section 38 presently reads:

*38 No person shall*

*(a) supply or prepare a contact lens, or*

*(b) measure, adjust or adapt a contact lens for an intended wearer,*

*unless he is a member of the Guild and the holder of a certificate of competency in dispensing contact lenses and does so in accordance with a complete prescription of, and subject to the direction of and under the supervision of, an ophthalmologist or optometrist.*

(25) *The following is added after section 38:*

**38.1** After a member of the Association completes all the services required to dispense contact lenses, the member shall give the patient a written copy of the specifications of the contact lenses dispensed and shall advise the patient in writing to return to the person who prescribed the contact lenses for an evaluation.

(26) *Section 39 is amended by striking out “section 37 or 38” and substituting “section 37, 38 or 38.1”.*

(27) *Section 40 is amended*

(a) *by repealing clause (a) and substituting the following:*

(a) a person who is employed in a wholesale optical laboratory that does not sell directly to the public or who is apprenticed as an optician in accordance with the regulations from performing work or services ordinarily performed by an optician,

(b) *by striking out “Guild” wherever it occurs and substituting “Association”.*

(28) *Section 42 is repealed and the following is substituted:*

**42** Nothing in the *Optometry Profession Act* shall be construed as prohibiting a member of the Association from practising as an optician or performing any act of ophthalmic dispensing, including using testing devices for ophthalmic dispensing.

(29) *Section 44 is amended*

(a) *by striking out “or the regulations”;*

(b) *in clause (a) by striking out “\$500” and substituting “\$2000”;*

(25) Requirement for written contact lens specifications.

(26) Section 39 presently reads:

*39 A person who contravenes section 37 or 38 is guilty of an offence.*

(27) Section 40 presently reads:

*40 Nothing in this Act prohibits*

*(a) an optician who is employed in a wholesale or retail optical laboratory or an apprentice ophthalmic dispenser who is apprenticing in accordance with the regulations, from performing work or services ordinarily performed by an ophthalmic dispenser,*

*(b) the sale of protective glasses for industrial purposes, coloured glasses that are not ophthalmic appliances, goggles or magnifying glasses not sold or designed for the relief, prevention or correction of visual or ocular anomalies of the eyes, or*

*(c) any person from operating a business devoted wholly or partly to the supplying of ophthalmic appliances for intended wearers, if at all times a member of the Guild is in charge of supplying the ophthalmic appliances and all ophthalmic dispensing done in the course of the operation of that business is performed by members of the Guild.*

(28) Section 42 presently reads:

*42 Nothing in the Optometry Profession Act shall be construed as prohibiting a member of the Guild from practising as an ophthalmic dispenser or performing any act of ophthalmic dispensing.*

(29) Section 44 presently reads:

*44 A person who is guilty of an offence under this Act or the regulations is liable*

*(a) for a first offence to a fine of not more than \$500 and in*

- (c) *in clause (b) by striking out “\$1000” and substituting “\$4000”;*
- (d) *by repealing clause (c) and substituting the following:*
  - (c) *for a 3rd and every subsequent offence, to a fine of not more than \$6000 or to imprisonment for a term of not more than 6 months or to both a fine and imprisonment.*

*(30) Section 45 is amended*

- (a) *by striking out “or the regulations” wherever it occurs;*
- (b) *in subsection (2) by striking out “, as the case may be”.*

*(31) In the following provisions “Guild” is struck out wherever it occurs and “Association” is substituted:*

sections 5 to 9;  
sections 16 and 17;  
section 43;  
sections 46 and 47.

*(32) The Alberta Health Care Insurance Act is amended*

- (a) *by repealing section 1(p) and substituting the following:*
  - (p) “optician” means
    - (i) with reference to goods and services provided in Alberta, a person who is a member of the Alberta Opticians Association and holds a certificate of competency under the *Opticians Act*, and
    - (ii) with reference to goods and services provided in a place outside Alberta, a person lawfully entitled to practise ophthalmic dispensing in that place;
- (b) *in section 1(x) by striking out “ophthalmic dispenser” and substituting “optician”;*

*default of payment to imprisonment for not more than 30 days,*

*(b) for a 2nd offence to a fine of not more than \$1000 and in default of payment to imprisonment for not more than 60 days, and*

*(c) for a 3rd or subsequent offence to imprisonment for not more than 6 months.*

(30) Section 45 presently reads:

*45(1) A prosecution under this Act or the regulations may be commenced within one year from the day the alleged offence was committed, but not thereafter.*

*(2) In a prosecution under this Act or the regulations it is sufficient proof of an offence if it is proved that the accused has committed a single act prohibited by this Act or the regulations, as the case may be.*

(31) Consequential to the change to the name of the organization.

(32) Consequential to the change to the name of the organization.

(c) *by repealing section 8(4)(g) and substituting the following:*

(g) the council of the Alberta Opticians Association,  
when the practitioner concerned is an optician;

(d) *by repealing section 13(8)(g) and substituting the following:*

(g) the council of the Alberta Opticians Association  
or the Discipline Committee of that Association,

### **Optometry Profession Act**

*2(1) The Optometry Profession Act is amended by this section.*

*(2) Section 1 is amended by adding the following after clause (h):*

(h.1) “prescription” means a record of the power of the spherical lenses and of the power and axis of the cylindrical lenses required to correct the refractive error of the patient’s eyes, including the measurement of the distance of those lenses from the eyes where appropriate;

*(3) Section 8 is repealed and the following is substituted:*

**8(1)** The Council shall consist of

(a) not fewer than 9 registered optometrists or a greater number that may be prescribed in the by-laws, each of whom shall be elected in accordance with the by-laws, and

(b) when the number of persons elected under clause (a) is not more than 10, 2 members of the public or, when the number of persons elected under clause (a) is more than 10, 3 members of the public, who shall be appointed by the Lieutenant Governor in Council for a term of not more than 3 years.

(2) A member of the Council appointed under subsection (1)(b) may hold office for not more than 6 consecutive years.

(3) The Minister may pay to a member of the Council appointed under subsection (1)(b) fees in an amount determined by the Minister and travelling and living expenses incurred by that



### **Optometry Profession Act**

2(1) This section will amend chapter O-10 of the Statutes of Alberta, 1983.

(2) Section 1(h) presently reads:

*1 In this Act,*

*(h) "Practice Review Board" means the Practice Review Board established under section 25;*

(3) Section 8 presently reads:

*8(1) The Council shall consist of*

*(a) at least 9 registered optometrists or a greater number that may be prescribed by the by-laws, each of whom shall be elected by and from among registered optometrists, at the time, in the manner and for the period provided by the by-laws, and*

*(b) ex officio members, if any, appointed by the Council.*

*(2) An ex officio member does not have voting rights on the Council.*

member for his attendance at a meeting of the Council away from his usual place of residence.

(4) The Lieutenant Governor in Council may revoke the appointment of a member of the Council appointed under subsection (1)(b).

(5) The powers, duties and operations of the Council are not affected by

- (a) the fact that no member is appointed under subsection (1)(b),
- (b) the revocation under subsection (4) of the appointment of a member of the Council, or
- (c) the resignation from the Council of a member appointed under subsection (1)(b).

(6) The failure of a member appointed under subsection (1)(b) to attend a meeting of the Council shall not be construed as affecting or restricting the Council in exercising any powers or performing any duties at that meeting.

*(4) Section 12 is repealed and the following is substituted:*

**12** There is hereby established a Registration Committee consisting of not fewer than 5 members who are appointed by the Council and who, in the opinion of the Council, have a combination of knowledge and experience suitable for determining the academic qualifications and training requirements necessary for a person to engage in the practice of optometry.

(4) Section 12 presently reads:

*12(1) There is hereby established a Registration Committee consisting of not fewer than 5 members as follows:*

*(a) the Council shall appoint at least 4 registered optometrists who, in the opinion of the Council, have a combination of knowledge and experience suitable for determining the academic qualifications and training requirements necessary for a person to engage in the practice of optometry, and*

*(b) the Minister shall appoint 1 member of the public nominated by the Council who is not a registered optometrist.*

*(2) If the Council fails, within a reasonable period of time after being requested to do so by the Minister, to make a nomination for the purposes of subsection (1)(b), the Minister may appoint a member of the public to the Registration Committee without the Council's nomination.*

*(3) The Minister may pay to the member of the Registration Committee appointed under subsection (1)(b) travelling and living expenses incurred by that member for attendance at a hearing of the Committee away from his usual place of residence and fees in an amount prescribed by the Minister.*

*(5) Section 25 is repealed and the following is substituted:*

**25** There is hereby established the Practice Review Board consisting of 5 members who are appointed by the Council and who, in the opinion of the Council, have a combination of knowledge and experience suitable for determining the academic qualifications and training requirements necessary for a person to continue to engage in the practice of optometry.

*(4) The Minister may, after consultation with the Council, revoke the appointment of the member of the Registration Committee appointed under subsection (1)(b).*

*(5) The powers, duties and operations of the Registration Committee under this Act, the regulations and by-laws are not affected by*

*(a) the fact that no member of the public is appointed as a member of the Committee under subsection (1)(b),*

*(b) the revocation under subsection (4) of the appointment of a member of the public, or*

*(c) the resignation as a member of the Committee of a member of the public.*

*(6) The failure of a member of the public appointed under subsection (1)(b) to attend a meeting of the Committee shall not be construed as affecting or restricting the Committee from exercising any powers or performing any duties under this Act, the regulations and the by-laws at that meeting.*

*(5) Section 25 presently reads:*

*25(1) There is hereby established the Practice Review Board consisting of not fewer than 5 members as follows:*

*(a) the Council shall appoint at least 4 registered optometrists who, in the opinion of the Council, have a combination of knowledge and experience suitable for determining the academic qualifications and training requirements necessary for a person to continue to engage in the practice of optometry, and*

*(b) the Minister shall appoint 1 member of the public nominated by the Council who is not a registered optometrist.*

*(2) If the Council fails, within a reasonable period of time after being requested to do so by the Minister, to make a nomination for the purposes of subsection (1)(b), the Minister may appoint a member of the public to the Practice Review Board without the Council's nomination.*

*(3) The Minister may pay to the member of the Practice Review Board appointed under subsection (1)(b) travelling and living expenses incurred by that member for attendance at a hearing of the Board away from his usual place of residence and fees in an amount prescribed by the Minister.*

*(4) The Minister may, after consultation with the Council, revoke the appointment of the member of the Practice Review Board*

*(6) Section 29 is repealed and the following is substituted:*

**29(1)** There is hereby established a Discipline Committee consisting of

- (a) not fewer than 3 registered optometrists appointed by the Council in accordance with the by-laws, and
- (b) one member of the public appointed by the Lieutenant Governor in Council for a term of not more than 3 years.

(2) The member of the Discipline Committee appointed under subsection (1)(b) may hold office for not more than 6 consecutive years.

(3) The Minister may pay to the member of the Discipline Committee appointed under subsection (1)(b) fees in an amount determined by the Minister and travelling and living expenses incurred by that member for attendance at a hearing of the Committee away from his usual place of residence.

(4) The Lieutenant Governor in Council may revoke the appointment of the member of the Discipline Committee appointed under subsection (1)(b).

(5) The powers, duties and operations of the Discipline Committee are not affected by

*appointed under subsection (1)(b).*

*(5) The powers, duties and operations of the Practice Review Board under this Act, the regulations and by-laws are not affected by*

*(a) the fact that no member of the public is appointed as a member of the Board under subsection (1)(b),*

*(b) the revocation under subsection (4) of the appointment of a member of the public, or*

*(c) the resignation as a member of the Board of a member of the public.*

*(6) The failure of a member of the public appointed under subsection (1)(b) to attend a meeting of the Board shall not be construed as affecting or restricting the Board from exercising any powers or performing any duties under this Act, the regulations and the by-laws at that meeting.*

*(6) Section 29 presently reads:*

*29 There is hereby established a committee called the Discipline Committee composed of not fewer than 3 members appointed by the Council in accordance with the by-laws to exercise the powers and perform the duties set out in this Part.*

- (a) the fact that no member is appointed under subsection (1)(b),
- (b) the revocation under subsection (4) of the appointment of a member of the Committee, or
- (c) the resignation from the Committee of a member appointed under subsection (1)(b).

(6) The failure of the member appointed under subsection (1)(b) to attend a meeting of the Committee shall not be construed as affecting or restricting the Committee in exercising any powers or performing any duties at that meeting.

(7) *Section 40 is amended by adding the following after subsection (2):*

(3) A hearing before the Discipline Committee shall be open to the public unless

- (a) the complainant requests that the hearing be held in private because of the confidential nature of the matters to be heard, or
- (b) in the opinion of the Committee, the interests of any person other than the investigated person may be detrimentally affected if the hearing is not held in private.

(8) *Section 54 is amended by adding the following after subsection (3):*

(4) A hearing of an appeal before the Council shall be open to the public unless, in the opinion of the Council, the interests of any person other than the investigated person may be detrimentally affected if the hearing is not held in private.

(9) *The following is added after section 63:*

**63.1** If a registered optometrist prescribes an ophthalmic or visual appliance or other aid, the registered optometrist shall give the patient a written copy of the prescription to be filled.



(7) Requires that a hearing before the Discipline Committee be in public unless the Committee decides otherwise.

(8) Requires that an appeal before the Council be in public unless the Council decides otherwise.

(9) This section requires an optometrist to give a patient a copy of a prescription.

## **Psychology Profession Act**

*3(1) The Psychology Profession Act is amended by this section.*

*(2) Section 2 is amended by adding the following after subsection (3):*

**(3.1)** No person except a chartered psychologist or registrant who has obtained an earned doctoral degree in a program in psychology approved by the Universities Co-ordinating Council shall use the title "Doctor" or the abbreviation "Dr." or "Ph. D." in connection with the practice of psychology.

*(3) Section 8 is amended*

*(a) by repealing subsection (1)(b) and substituting the following:*

**(b)** when the number of persons elected under clause (a) does not exceed 10, 2 members of the public or, when the number of persons elected under clause (a) is more than 10, 3 members of the public who shall be appointed for a term of not more than 3 years by the Lieutenant Governor in Council after consultation with the Council.

*(b) by adding the following after subsection (3):*

**(3.1)** A member of the public appointed under subsection (1)(b) may hold office for not more than 6 consecutive years.

*(c) in subsection (4) by striking out "Minister" and substituting "Lieutenant Governor in Council".*

*(4) Section 15 is repealed and the following is substituted:*

**15** An application for registration as a chartered psychologist shall not be approved by the Registration Committee unless the applicant

**(a)** produces

**(i)** a certificate of approval from the Universities Co-ordinating Council showing that the applicant has obtained an earned master's degree from an

## **Psychology Profession Act**

**3(1)** This section will amend chapter P-25.01 of the Statutes of Alberta, 1985.

**(2)** Section 2(3) presently reads:

*(3) No person, except a chartered psychologist, shall represent or hold out, expressly or by implication, that he is a chartered psychologist.*

**(3)** Section 8(1) and (4) presently read:

*8(1) The Council shall consist of*

*(a) at least 10 chartered psychologists or a greater number that may be prescribed by or determined in accordance with the by-laws, each of whom shall be elected in accordance with the by-laws,*

*(b) when the number of persons elected under clause (a) does not exceed 10, 1 member of the public or, when the number of persons elected under clause (a) is more than 10, 2 members of the public, who shall be appointed by the Minister after consultation with the Council for a 1-year term of office, and*

*(c) ex officio members, if any, appointed by the Council.*

*(4) The Minister may, after consultation with the Council, revoke the appointment of a member of the public appointed under subsection (1)(b).*

**(4)** Section 15 presently reads:

*15(1) An application for registration as a chartered psychologist shall not be approved by the Registration Committee unless the applicant*

*(a) produces*

*(i) a certificate of approval from the Universities Coordinating Council showing that the applicant has obtained an earned doctoral degree from an approved program of psychology,*

approved program of psychology, or

- (ii) documentation satisfactory to the Registration Committee that shows that the Universities Co-ordinating Council is satisfied that his academic qualifications are substantially equivalent to a master's degree from an approved program of psychology,

and

- (b) meets the character and other requirements set out in the regulations.

*(5) Section 27 is amended*

- (a) by repealing subsection (1)(b) and substituting the following:*
  - (b) one member of the public appointed for a term of not more than 3 years by the Lieutenant Governor in Council after consultation with the Council.
- (b) by repealing subsection (2);*
- (c) by adding the following after subsection (3):*

*or*

*(ii) documentation satisfactory to the Registration Committee that shows that the Universities Co-ordinating Council is satisfied that his academic qualifications are substantially equivalent to a doctoral degree from an approved program of psychology,*

*and*

*(b) meets the character and other requirements set out in the regulations.*

*(2) Notwithstanding subsection (1), for a period of 5 years following the date on which this Act comes into force, an applicant for registration as a chartered psychologist who*

*(a) produces*

*(i) a certificate of approval from the Universities Co-ordinating Council showing that he has an earned master's degree from an approved program of psychology, or*

*(ii) documentation satisfactory to the Registration Committee that shows that the Universities Co-ordinating Council is satisfied that his academic qualifications are substantially equivalent to a master's degree from an approved program of psychology,*

*and*

*(b) meets the character and other requirements set out in the regulations*

*shall be deemed to have the necessary qualifications required for registration as a chartered psychologist and may maintain his registration notwithstanding subsection (1).*

**(5) Section 27(1), (2) and (5) presently read:**

*27(1) There is hereby established a committee called the Discipline Committee composed of no fewer than 5 persons as follows:*

*(a) at least 4 chartered psychologists appointed by the Council in accordance with the by-laws, and*

*(b) 1 person who is appointed by the Minister from a list of no fewer than 3 members of the public nominated by the Council.*

(3.1) A member of the Discipline Committee appointed under subsection (1)(b) may hold office for not more than 6 consecutive years.

(d) *in subsection (5) by striking out “Minister” and substituting “Lieutenant Governor in Council”.*

(6) *Section 36(3) is repealed and the following is substituted:*

(3) A hearing before the Discipline Committee shall be open to the public unless

(a) the complainant requests that the hearing be held in private because of the confidential nature of the matters to be heard, or

(b) in the opinion of the Discipline Committee, the interests of any person other than the investigated person would be detrimentally affected if the hearing were not held in private.

(7) *Section 37(2) is amended by striking out “90 days” and substituting “120 days”.*

(8) *Section 40 is amended*

(a) *in subsection (1) by striking out “chartered psychologist or registrant” and substituting “person”;*

(b) *in subsection (2) by striking out “or in any proceedings under this Part or any other Act” and substituting “, in a prosecution under this Act or in any proceedings under any other Act, except in a prosecution for or in proceedings in respect of perjury or the giving of contradictory evidence”.*

*(2) If the Council fails, within a reasonable period of time after being asked to do so by the Minister, to make nominations for the purposes of subsection (1)(b), the Minister may appoint a member of the public to the Discipline Committee without the Council's nomination.*

*(5) The Minister may, after consultation with the Council, revoke the appointment of the member of the Discipline Committee appointed under subsection (1)(b).*

(6) Section 36(3) presently reads:

*(3) Proceedings before the Discipline Committee or the Council shall be held in camera.*

(7) Section 37(2) presently reads:

*(2) The hearing referred to in subsection (1) shall be scheduled for a date not more than 90 days after the date on which the matter is referred to the Discipline Committee or the determination is made, or within such other period as may be prescribed by the Council for the matter.*

(8) Section 40(1) and (2) presently read:

*40(1) The investigated person and any other chartered psychologist or registrant who, in the opinion of the Discipline Committee, has knowledge of the complaint or matter being investigated are compellable witnesses in any proceeding under this Part.*

*(2) A witness referred to in subsection (1) may be examined under oath on all matters relevant to the investigation or hearing before the Discipline Committee and shall not be excused from answering any question on the ground that the answer might tend to*

*(a) incriminate him,*

*(b) subject him to punishment under this Act, or*

*(9) Section 54 is amended by adding the following after subsection (5):*

**(5.1)** A hearing of an appeal before the Council shall be open to the public unless, in the opinion of the Council, the interests of any person other than the investigated person would be detrimentally affected if the hearing were not held in private.

*(10) Section 60(1)(m) is amended by striking out “for any service administered or provided”.*



*(c) establish his liability*

*(i) to a civil proceeding at the instance of the Crown or of any other person, or*

*(ii) to prosecution under any Act,*

*but if the answer so given tends to incriminate him, subject him to punishment or establish his liability, it shall not be used or received against him in any civil proceedings or in any proceedings under this Part or any other Act.*

(9) Provides for appeals before the council on discipline matters to be held in public.

(10) Section 60(1)(m) presently reads:

*60(1) The Council may make by-laws*

*(m) respecting the fees, dues and levies payable to the Association by chartered psychologists, registrants and other members of the Association or by applicants under this Act for any service administered or provided;*