

Optometry Regulations
made under Sections 19 and 20 of the
Optometry Act

S.N.S. 2005, c. 43

O.I.C. 2007-638 (December 17, 2007, effective November 12, 2007), N.S. Reg. 453/2007
amended to O.I.C. 2020-265 (effective October 6, 2020), N.S. Reg. 142/2020

Citation

1 These regulations may be cited as the *Optometry Regulations*.

Definitions

2 (1) In these regulations,

“Act” means the *Optometry Act*;

“conduct unbecoming the profession” means conduct by an optometrist in a personal or private capacity that discredits optometrists or the profession of optometry;

“incapacity” means a medical, physical, mental or emotional condition, a disorder or an addiction that renders an optometrist unable to practise competently or endangers the health or safety of others;

“incompetence” means an optometrist’s lack of knowledge, skill or judgment in the practice of optometry that renders it unsafe for the optometrist to practise without remedial assistance;

“optometrist’s staff” means a person employed by the optometrist.

“reinstatement committee” means the reinstatement committee appointed by the Board under these regulations;

“respondent” means an optometrist who is the subject of a complaint.

(2) In clause 2(1) of the Act, “surgery” means all forms of surgery, including laser surgery.

Registration and Licensing

Eligibility for registration

3 To be eligible for registration, an applicant must meet all of the following qualifications:

- (a) the applicant must successfully complete 1 or more examinations by an examining body approved by the Board;
- (b) the applicant must successfully complete the Canadian Assessment of Competence in Optometry or its equivalent;
- (c) the applicant must possess the professional liability insurance required by Section 33;
- (d) the applicant must pass a test of language proficiency in French or English.

Applying for registration

4 (1) An applicant for a licence to practise optometry must provide the Registrar with a completed application form sworn before a notary public or a commissioner of oaths.

(2) All of the following information and documentation must be included on or with an application for registration:

- (a) proof that the applicant meets all of the qualifications in Section 3;
- (b) certified copies of the applicant's academic transcripts from all post-secondary educational institutions attended by them and proof of the applicant's scholastic record;
- (c) at least 2 character references about the applicant;
- (d) the processing fee prescribed in the by-laws;
- (e) a declaration by the applicant that
 - (i) they are of good moral character,
 - (ii) no health professional regulatory college or association in Canada or elsewhere has refused to licence, register or regulate the applicant, or, if a health professional regulatory college or association has refused to license, register or regulate the applicant, the applicant's explanation of this refusal,

- (iii) no health professional regulatory college or association in Canada or elsewhere has removed the applicant's name from its register; or, if a health professional regulatory college or association has removed the applicant's name from its register, the applicant's explanation of this removal,
 - (iv) there are no current proceedings against the applicant for unprofessional conduct, conduct unbecoming the profession, incompetence or incapacity in any jurisdiction where the applicant provided health services; or, if there are such proceedings against the applicant, the applicant's description of these proceedings;
- (f) any information that the Registrar requires to determine the applicant's suitability to be registered.
- (3) The Board must give the Registrar directions for determining the registration eligibility of applicants who
 - (a) are not graduates of a recognized post-secondary educational institution; or
 - (b) have not satisfactorily completed examinations by an examining body approved by the Board.
- (4) The Registrar must consider each application and be satisfied that the statements in the application are true, and that the applicant's qualifications for registration are consistent with those approved by the Board.
- (5) The Registrar must notify an applicant of whether they have been accepted for registration, as well as the appeal process under subsection (6) that applies when registration is denied.
- (6) Any applicant who is denied registration may appeal the decision by delivering written notice to the chair of the registration committee established under the by-laws.

Obtaining and renewing a licence

- 5** (1) To renew a licence, an applicant must supply all of the following to the Registrar:
- (a) confirmation that the optometrist has met or is in the process of meeting the requirements for practice hours in Section 6 and continuing education in Section 7;
 - (b) confirmation that the optometrist possesses the professional liability insurance required by Section 33;

(c) a declaration by the applicant that

- (i) no health professional regulatory college or association in Canada or elsewhere has refused to licence, register or regulate the applicant, or, if a health professional regulatory college or association has refused to license, register or regulate the applicant, the applicant's explanation of this refusal,
- (ii) no health professional regulatory college or association in Canada or elsewhere has removed the applicant's name from its register; or, if a health professional regulatory college or association has removed the applicant's name from its register, the applicant's explanation of this removal,
- (iii) there are no current proceedings against the applicant for unprofessional conduct, conduct unbecoming the profession, incompetence or incapacity in any jurisdiction where the applicant provided health services; or, if there are such proceedings against the applicant, the applicant's description of these proceedings,
- (iv) the optometrist is not the subject of a professional complaint process that may lead to discipline, and that the optometrist has not been subject to discipline by a professional regulatory college or association in Canada or elsewhere;

(d) the licence renewal fee;

(e) any information the Registrar requires to determine whether the applicant's licence should be renewed.

(2) An optometrist whose licence is revoked must, on the Registrar's request, return the licence to the Registrar.

Minimum hours of practice

6 In every 3-year period before, consisting of, and after January 1, 2008, to December 31, 2010, an optometrist must provide at least 750 hours of primary optometric care to patients in Canada or a jurisdiction recognized by the Board, in a manner approved by the Board.

Continuing education requirements

- 7
- (1) Except as provided in subsection (2), an optometrist must complete at least 55 hours of approved continuing education in optometry in each 3-year period referred to in Section 6.
 - (2) An optometrist must complete the following hours of approved continuing education for the 3-year period referred to in Section 6 in which they graduate from a school, college or examining body by the Board:
 - (a) 23 hours, if they graduate in the 1st year of a 3-year period;
 - (b) 12 hours, if they graduate in the 2nd year of a 3-year period;
 - (c) 0 hours, if they graduate in the 3rd year of a 3-year period.
 - (3) An optometrist who earns more than the approved continuing education hours required for a 3-year period referred to in Section 6 may carry up to 9 of those excess hours to the next 3-year period as follows:
 - (a) 5 of those excess hours to the next 3-year period, if they graduated in the 1st year of a 3-year period;
 - (b) 3 of those excess hours to the next 3-year period, if they graduated in the 2nd year of a 3-year period; and
 - (c) 0 hours, if they graduated in the 3rd year of a 3-year period.

Approved continuing education

- 8 The Board may publish an approved list of lectures, courses, seminars, workshops, services, studies and achievements that satisfy its continuing education requirements.

Failing to comply with continuing education

- 9
- (1) No later than 60 days after the last day of any 3-year period referred to in Section 6, the Registrar must contact each optometrist who appears to have failed to meet the continuing education requirements of Section 7.
 - (2) The Registrar and any optometrist who fails to meet the continuing education requirements in Section 7 must agree in writing on a final date for rectifying the situation.
 - (3) The College may suspend the licence, without notice, of any optometrist who fails to meet a deadline under subsection (2) or may initiate a complaint of unprofessional conduct against the optometrist.

Professional Discipline

Unprofessional conduct

10 Unprofessional conduct is professional misconduct which includes, but is not limited to, the following:

- (a) contravening the Act, regulations or by-laws;
- (b) contravening other laws applicable to the profession;
- (c) contravening the code of ethics;
- (d) breaching the standards of professional practice;
- (e) jeopardizing the health or safety of patients or the public;
- (f) failing to abide by the terms, conditions or limitations of a licence;
- (g) failing to exercise appropriate discretion in respect of the disclosure of confidential information;
- (h) failing to maintain complete and accurate patient records;
- (i) signing, issuing, maintaining or submitting a document that the optometrist knows or ought to know contains false, incomplete or misleading information;
- (j) inappropriately using professional status for personal gain;
- (k) failing or refusing to comply with a mediated resolution, settlement agreement or disposition facilitated by a complaints committee or hearing committee;
- (l) practising optometry on behalf of a professional corporation that does not meet the requirements of the Act or these regulations;
- (m) failing to comply with a direction or request of the practice enhancement committee, a complaints committee, a hearing committee or a reinstatement committee.

Code of ethics

11 An optometrist must do all of the following, which constitutes the code of ethics for optometry:

- (a) practise based on expert clinical knowledge, always with a primary concern for the health and well-being of patients by constantly endeavoring to achieve appropriate clinical outcomes;
- (b) execute professional responsibilities in a competent, efficient and effective manner;
- (c) obtain appropriate consent from a patient before undertaking any diagnostic or therapeutic procedure;
- (d) limit services to a level that is commensurate with their competence and refer and consult when appropriate;
- (e) maintain the privacy of all patient information, unless required or authorized by law to provide patient information to third parties;
- (f) behave in a truthful and forthright manner in their dealings with patients, colleagues and the public;
- (g) promote and maintain cordial and unselfish relationships with members of the optometric profession for the benefit of patients and the public;
- (h) avoid any conflict of interest, including conflicts outlined in the Act, regulations, by-laws, standards of practice and college policies;
- (i) report any suspected breach of this code of ethics to the chair of a complaints committee;
- (j) provide optometric services with equal diligence to all patients;
- (k) act with integrity, honesty, respect and fairness in all dealings with patients, other optometrists and the College;
- (l) respond promptly to all communications from the College if a response is requested or required;
- (m) cooperate with all inquiries from the College.

Confidentiality

11A (1) All information received by and all proceedings of a complaints committee, a hearing committee or a reinstatement committee that are not open or available to the public must be kept confidential.

(2) Despite subsection (1), if it is consistent with the purposes of the College,

- (a) the Registrar may disclose information to an optometrist's counsel in connection with the proceedings of a complaints committee, hearing committee or reinstatement committee;
- (b) a complaints committee or hearing committee that has reasonable grounds to believe that a member has committed, is committing or is about to commit a criminal offence may direct the Registrar to disclose to law enforcement authorities such limited information as is necessary to alert the authorities to the suspected activity;
- (c) the Registrar may disclose information with respect to a complaint or a matter before a complaints committee, hearing committee or reinstatement committee to another optometry regulatory body if it concerns the fitness of the optometrist for membership in that other optometry regulatory body;
- (d) the Registrar may disclose information about a complaint for the purpose of administration of the Act or to comply with the purposes of the College.

Cooperation during complaints process

- 11B (1)** A respondent must cooperate with the College during the complaints process.
- (2)** A respondent must refrain from contacting the complainant until the complaint is concluded, unless such contact is authorized by a complaints committee chair or, if the complaint has been referred to a hearing committee, a hearing committee chair.

Report to Registrar

- 11C (1)** An optometrist must immediately make a report to the Registrar if the optometrist
- (a) has been charged with, pleaded guilty to, been convicted of or been found guilty of any offence in a jurisdiction within or outside of Canada that is inconsistent with the professional behaviour of an optometrist, including a conviction under the *Criminal Code* (Canada), the *Food and Drug Act* (Canada) or the *Controlled Drug and Substances Act* (Canada), unless a pardon has been issued;
 - (b) has been found guilty of a disciplinary finding in another jurisdiction;
 - (c) has had a licensing sanction imposed by another jurisdiction;
 - (d) is in breach of a settlement agreement;
 - (e) is in violation of a limitation on practise imposed under the Act;

- (f) is the subject of an investigation or disciplinary process in any jurisdiction.
- (2) The Registrar may, without limiting the general authority of clause 28(b) of the Act, refer a matter reported under subsection (1) to the chair of a complaints committee.
- (3) For the purpose of clause (1)(a), a certificate of conviction is conclusive evidence that the optometrist committed the offence stated in the certificate unless it is proved that the conviction has been quashed or set aside.

Submitting and referring complaints

- 12** All complaints must be submitted to the Registrar who must refer them to the chair of a complaints committee.

Appointment of complaints committee chair

- 13** The Board must appoint the chair of a complaints committee.

Dismissal of complaint by complaints committee chair

- 14** (1) The chair of a complaints committee may dismiss a complaint for any of the following reasons:
- (a) the complaint is outside the jurisdiction of the College;
 - (b) the complaint is frivolous or vexatious;
 - (c) the complaint constitutes an abuse of process;
 - (d) the complaint does not allege facts that, if proven, would constitute unprofessional conduct, conduct unbecoming the profession, incompetence or incapacity.
- (2) The chair of a complaints committee must notify the complainant and respondent if the complaint is dismissed under subsection (1).
- (3) If the chair of a complaints committee does not dismiss the complaint under subsection (1), the chair of a complaints committee must forward a copy of the complaint to the respondent.
- (4) The respondent must respond to a complaint received under subsection (3) within 30 days of receipt or any other period of time the chair of a complaints committee considers appropriate.

Complaints committee meeting

15 (1) On receipt of the response to a complaint under subsection 14(4), the chair of a complaints committee must convene a meeting of a complaints committee.

(2) A complaints committee may do one or more of the following:

- (a)** dismiss the complaint and notify the complainant and the respondent of the dismissal, if a complaints committee decides that any of the following apply:
 - (i)** the complaint is outside the jurisdiction of the College,
 - (ii)** the complaint cannot be substantiated,
 - (iii)** the complaint is frivolous or vexatious,
 - (iv)** the complaint constitutes an abuse of process,
 - (v)** the complaint does not allege facts that, if proven, would constitute unprofessional conduct, conduct unbecoming the profession, incompetence or incapacity;
- (b)** attempt to resolve the matter informally;
- (c)** refer the complaint to mediation if the complainant and the respondent consent and a complaints committee considers that the complaint may be satisfactorily resolved in a manner consistent with the objects of the College.

No resolution of complaint

16 If, after a complaints committee meets under Section 15, the complaint is not resolved through dismissal, informal resolution or mediation, a complaints committee must commence a formal investigation of the complaint under Section 17.

Formal investigation by complaints committee

17 (1) A complaints committee may do everything necessary to conduct a formal investigation, including requiring the respondent to

- (a)** participate in a practice audit conducted by one or more persons designated by the committee;
- (b)** participate in an inspection of the equipment used by the respondent to practise optometry;

- (c) participate in a competence assessment or other assessment or examination to determine whether the respondent is competent to practise optometry and authorize the assessment or examination report to be given to the committee;
 - (d) subject to subsection (2), participate in physical or mental examinations conducted by one or more persons designated by the committee and authorize the reports from the examinations to be given to the committee;
 - (e) produce any records or documents in the respondent's possession or control that are requested by the committee.
- (2) Before requiring a respondent to submit to a physical or mental examination under clause (1)(d), a complaints committee must have reasonable and probable grounds to believe that the respondent has an issue that constitutes incapacity.
- (3) If a complaints committee has, under subsection (1), required a respondent to participate in an inspection or audit of their practice, a competency assessment, or physical or mental examinations, the committee must provide the respondent with a copy of any report it receives.

Other matters arising in the complaints process

- 18** A complaints committee may investigate any matter relating to a respondent that arises in the course of an investigation that may constitute unprofessional conduct, conduct unbecoming the profession, incompetence or incapacity.

Actions taken by complaints committee after a formal investigation

- 19** After conducting a formal investigation, a complaints committee must do one or more of the following:
- (a) refer the matter or matters in whole or part to a hearing committee;
 - (b) dismiss the matter;
 - (c) provide any guidance the committee considers useful to the complainant or to the respondent;
 - (d) counsel the respondent;
 - (e) caution the respondent;
 - (f) with the respondent's consent, reprimand the respondent;

- (g) enter into an agreement with the respondent to do one or more of the following:
 - (i) place conditions or restrictions or both on the respondent's licence or the respondent's ability to obtain a licence,
 - (ii) require the respondent to undergo or participate in one or more of the following:
 - (A) medical treatment,
 - (B) psychological counselling,
 - (C) a course of study or re-education program related to the practice of optometry,
 - (D) a practice review,
 - (iii) require the respondent to pay all or a portion of the costs incurred by the College in the investigation of the complaint,
 - (iv) with the respondent's consent, authorize the respondent's resignation from the practice of optometry and direct the Registrar to remove the respondent's name from the applicable registers once the respondent has resigned,
 - (v) any other action a complaints committee considers appropriate.

Notice of referral

- 20** When a complaints committee refers a matter to a hearing committee under clause 19(a), the chair of a complaints committee must issue a notice of referral to a hearing committee outlining each matter referred.

Notice of hearing

- 21** (1) After a complaints committee issues a notice of referral under Section 20, a notice of hearing must be forwarded by the Registrar to the respondent and the complainant at least 60 days before the hearing.
- (2) Subject to subsection (3), the notice of hearing must contain the following information:
- (a) the name of the respondent;

- (b) the nature of the matter or matters referred to a hearing committee;
 - (c) the details of the allegations against the respondent;
 - (d) a statement that the respondent may be represented by legal counsel.
- (3) A complaints committee may give direction to the Registrar regarding the content of the public notice.
- (4) The Registrar must publish the notice of hearing in any publications the Registrar considers necessary in order to inform the public.

Registrar fixes hearing date

22 If a complaints committee refers a matter to a hearing committee, the Registrar must fix a date, time and place for the hearing.

Appointment of hearing committee chair

22A The Board must appoint an optometrist as the chair of a hearing committee.

Hearing committee parties and rights

22B (1) In a proceeding before a hearing committee, the parties are the respondent and the College.

(2) Each party has the right to

- (a) natural justice;
- (b) be represented by legal counsel at the party's own expense;
- (c) present evidence, make submissions and cross-examine witnesses;
- (d) know all the evidence considered by a hearing committee;
- (e) receive written reasons for a decision within a reasonable time.

Powers of hearing committee

22C (1) In addition to the powers conferred to a hearing committee under Section 41 of the Act, the chair of a hearing committee may

- (a) order and direct the times, dates and places for pre-hearing procedures, including private pre-hearing conferences;

- (b) order that a hearing, part of a hearing or a pre-hearing conference be conducted using a means of telecommunication that permits the parties and the committee to communicate simultaneously;
 - (c) administer oaths and solemn affirmations;
 - (d) prescribe the disclosure obligations of the parties before a hearing;
 - (e) compel, at any stage of a proceeding, any person to provide information or to produce a document or other material that may be relevant to the matter before it;
 - (f) adjourn or postpone a proceeding from time to time;
 - (g) amend or permit the amendment of any document filed in connection with the proceeding, including the notice of hearing.
- (2) A hearing committee may order the respondent to do one or more of the following:
- (a) participate in a practice audit conducted by one or more persons designated by the committee;
 - (b) participate in an inspection of the equipment used by the respondent to practise optometry;
 - (c) participate in a competence assessment or other assessment or examination to determine whether the respondent is competent to practise optometry and authorize the assessment or examination report to be given to the committee;
 - (d) subject to subsection (3), participate in physical or mental examinations conducted by one or more persons designated by the committee and authorize the reports from the examinations to be given to the committee;
 - (e) produce any records or documents in the respondent's possession or control that are requested by the committee.
- (3) Before requiring a respondent to submit to a physical or mental examination under clause (2)(d), a hearing committee must have reasonable and probable grounds to believe that the respondent has an issue that constitutes incapacity.
- (4) If a hearing committee has, under subsection (2), required a respondent to participate in an inspection or audit of their practice, a competency assessment, or physical or mental examinations, the committee must provide the respondent with a copy of any report it receives.

Effect of settlement agreement on hearing

22D When a settlement agreement is tendered to a complaints committee under the Act, a complaints committee may ask the chair of a hearing committee to postpone the hearing until a complaints committee decides whether to recommend that a hearing committee accept the settlement agreement.

Hearing committee procedure

- 22E** (1) The chair of a hearing committee determines the procedure at all hearings, including the method of receiving evidence.
- (2) The chair of a hearing committee's decisions regarding procedure are binding and conclusive.

Evidence at hearing committee

- 22F** (1) Each party must be given,
- (a) in the case of written or documentary evidence, an opportunity to examine the evidence;
 - (b) in the case of evidence of an expert, a copy of the expert's written report or, if there is no written report, a written summary of the evidence;
 - (c) in the case of a witness, the identity of the witness.
- (2) If subsection (1) was not complied with, a hearing committee may allow the introduction of evidence under whatever conditions the committee considers necessary to ensure that no party is prejudiced.

Respondent fails to appear

22G If a respondent fails to appear at the appointed time and place for a hearing, the hearing may proceed in the respondent's absence if there is proof that the respondent was served with the notice of hearing and a hearing committee may render its decision and take any other action it is authorized to take under the Act or these regulations without further notice to the respondent.

Public attendance at hearing committee proceeding

- 22H** (1) Except as provided in subsection (2), a proceeding before a hearing committee is open to the public.

- (2) At the request of a party, a hearing committee may order that the public, in whole or in part, be excluded from all or part of a proceeding if a hearing committee is satisfied that any of the following apply:
 - (a) a person or the public may be adversely affected by the public disclosure of personal, medical, financial or other matters during the proceeding;
 - (b) the safety of a person may be jeopardized by permitting public attendance.
- (3) A hearing committee may make an order that the public be excluded from a part of a proceeding concerning a request for an order to exclude the public from the proceeding under subsection (2).

Hearing committee may make orders

- 22I** (1) A hearing committee may make any order that it considers necessary, including an order prohibiting publication or broadcasting of the hearing, to prevent the public disclosure of matters disclosed in the hearing.
- (2) A hearing committee must state at a hearing its reasons for any order made under this Section or Section 22H.
- (3) Despite an order to exclude the public under this Section or Section 22H, a complainant may attend a hearing unless a hearing committee directs otherwise.

Disposition by hearing committee

- 22J** A hearing committee that finds unprofessional conduct, conduct unbecoming the profession, incompetence or incapacity on the part of the respondent may do or make an order to do one or more of the following:
- (a) reprimand the respondent;
 - (b) require the respondent to pay a fine to the College by a deadline;
 - (c) require the respondent to pay all or part of the costs of the proceeding by a deadline;
 - (d) suspend the respondent's licence to practise for a period of time;
 - (e) impose conditions or restrictions or both on the respondent's licence to practise;

- (f) impose conditions or restrictions or both on the respondent's ability to obtain a licence, including suspending the respondent's ability to obtain a licence for a specified period of time;
- (g) require the respondent to undergo or participate in one or more of the following:
 - (i) medical treatment,
 - (ii) psychological counselling,
 - (iii) a course of study or re-education program related to the practice of optometry,
 - (iv) a practice review;
- (h) revoke the respondent's licence;
- (i) authorize the respondent's resignation from the practice of optometry and direct the Registrar to remove the respondent's name from the applicable registers once the respondent has resigned.

Costs or fine ordered

- 22K (1)** Any costs or fine ordered by a hearing committee must be paid by the deadline ordered by a hearing committee.
- (2)** If a respondent fails to pay the costs or fine by the deadline, the Registrar may suspend the respondent's licence to practise until the College receives payment for the costs or fine or arrangements for payment are made to the satisfaction of a hearing committee.

Recording, transcript and report of hearing committee proceedings

- 22L (1)** The proceedings at a hearing must be recorded but do not have to be transcribed unless an appeal is made under Section 44 of the Act.
- (2)** The party initiating the appeal must order and pay for the transcript of the proceedings.
- (3)** Regardless of whether a transcript of the proceedings is ordered, a hearing committee must prepare a written report of the hearing signed by the chair of a hearing committee which serves as conclusive evidence of the proceedings.

- (4) A hearing committee must provide a copy of the report of the hearing to all of the following within a reasonable time:
- (a) the Board;
 - (b) the respondent;
 - (c) the complainant.
- (5) A report of the hearing must be stored indefinitely in a secure manner.

Applying for reinstatement

22M (1) A person whose licence to practise optometry in Nova Scotia has been resigned or revoked may apply to be reinstated in accordance with these regulations.

- (2) An application for reinstatement may not be made until after the latest of the following dates:
- (a) one year after the licence was resigned or revoked;
 - (b) the date that a hearing committee determined that the applicant is eligible to apply for reinstatement;
 - (c) one year after any previous application for reinstatement was rejected.

Reinstatement application

22N An application for reinstatement must be in writing and must include all of the following:

- (a) the applicant's contact information;
- (b) a summary of the applicant's professional history;
- (c) at least 2 character references;
- (d) if the applicant's licence was revoked due to incapacity, medical information confirming, to the satisfaction of the reinstatement committee, the applicant's fitness to practise optometry;
- (e) information confirming, to the satisfaction of the reinstatement committee, the applicant's competence to practise optometry;
- (f) certificates of standing from all jurisdictions within or outside Canada in which the applicant is or has been an optometrist;

- (g) any additional information that the committee deems necessary to determine whether to grant reinstatement.

Reinstatement committee

- 22O** (1) On receiving an application for reinstatement, the Board must appoint a reinstatement committee to review the application and perform any other duties set out in these regulations.
- (2) A reinstatement committee must consist of at least two optometrists and at least one person who is not an optometrist.
- (3) Despite subsection (2), any two members of a reinstatement committee constitute a quorum.

Reinstatement committee chair

- 22P** Upon being appointed by the Board, the reinstatement committee must convene a meeting and elect an optometrist to act as chair of the committee.

Rights of parties in reinstatement proceeding

- 22Q** In a proceeding before the reinstatement committee, an applicant and the College have the right to
- (a) be represented by legal counsel or another representative at their own expense;
 - (b) receive full disclosure of any information provided to the committee;
 - (c) present a response and make submissions.

Reinstatement hearing

- 22R** The reinstatement committee may, if it is in the public interest to do so, hold a hearing to review a reinstatement application and must advise the applicant and the College of the date of the hearing no later than 14 days prior to the hearing.

Powers of chair of reinstatement committee

- 22S** The chair of the reinstatement committee may
- (a) order and direct the times, dates and places for pre-hearing procedures, including private pre-hearing conferences;

- (b) order that a hearing, part of a hearing or pre-hearing conference be conducted using a means of telecommunication that permits the parties and the committee to communicate simultaneously;
- (c) prescribe the disclosure obligations of the parties before a hearing;
- (d) adjourn or postpone a proceeding from time to time;
- (e) amend or permit the amendment of any document filed in connection with the proceeding, including the notice of hearing.

Attendance at hearing for review of reinstatement application

- 22T (1)** Except as provided in subsection (2), a hearing to review a reinstatement application is open to the public.
- (2)** At the request of a party, the reinstatement committee may order that the public, in whole or in part, be excluded from all or part of a hearing to review a reinstatement application if the reinstatement committee is satisfied that any of the following apply:
- (a) a person or the public may be adversely affected by the public disclosure of personal, medical, financial or other matters during the proceeding;
 - (b) the safety of a person may be jeopardized by permitting public attendance.
- (3)** The reinstatement committee may make an order that the public be excluded from a part of a proceeding concerning a request for an order to exclude the public from the proceeding under subsection (2).

Decision of reinstatement committee

- 22U (1)** After considering the evidence and the representations from the applicant and the College, the reinstatement committee must approve or deny a reinstatement application.
- (2)** The reinstatement committee must communicate its decision under subsection (1), and the reasons for that decision, in writing to the applicant and the Registrar.
- (3)** If the reinstatement committee approves a reinstatement application, the committee must state the effective date of the reinstatement and may impose any restrictions and conditions it considers appropriate relating to the reinstatement of the applicant.

Costs

22V Whether an application for reinstatement is approved or denied, the reinstatement committee may make an order to recover costs from the applicant.

Publication of reinstatement committee's decision

22W The reinstatement committee's decision must be published and disclosed in the manner directed by the reinstatement committee, subject to any publication bans it has imposed.

Conditions and restrictions remain

22X Any unexpired conditions or restrictions on an optometrist's previous licence remain in effect on any subsequent licence issued to the optometrist.

Therapeutic and Diagnostic Drugs

Optometric drug licence

- 23** (1) An optometrist must not use diagnostic drugs or therapeutic drugs unless they have an optometric drug licence or therapeutic drug certificate, in accordance with these regulations.
- (2) An optometrist may only use the diagnostic drugs or therapeutic drugs authorized by these regulations.
- (3) An optometrist who holds an optometric drug licence may use any of the following ophthalmic drugs applied topically on the eye when practising optometry:
- (a) topical anaesthetics;
 - (b) topical diagnostic dyes and stains;
 - (c) topical mydriatics to dilate a pupil and to facilitate examining the fundus of the eye;
 - (d) topical cycloplegics to inactivate the accommodative reaction and to dilate the pupil to facilitate measuring the refractive error of the eyes.
- (4) An optometrist who was issued an optometric drug licence by the Registrar or by the Board of Examiners under the former Act may use any of the drugs listed in subsection (3) when practising optometry.
- (5) The Registrar may suspend or revoke an optometrist's drug licence if the optometrist fails to adhere to standards respecting the use of ophthalmic drugs in the practice of optometry.

Therapeutic drug licence

24 (1) In this Section, a “therapeutic drug licence” means a licence granted to an optometrist to use specified therapeutic pharmaceutical agents.

(2) The Registrar may issue a therapeutic drug licence that authorizes an optometrist to use the therapeutic drugs listed in subsection (3) to an optometrist who meets all of the following qualifications:

(a) if they graduated on or after January 1, 1995,

- (i) they graduated from a post-secondary educational institution approved by the Board,
- (ii) they successfully completed the ocular therapeutic (O.T.) Section of the Canadian Standards Assessment Examinations administered by the Canadian Examiners in Optometry, and
- (iii) they completed at least 40 hours of clinical training in administering and prescribing therapeutic drugs in a post-secondary educational setting approved by the Board;

(b) if they graduated before January 1, 1995,

- (i) they graduated from a post-secondary education institution approved by the Board,
- (ii) they successfully completed a post-graduate course approved by the Board in administering and prescribing therapeutic drugs, and
- (iii) they passed an examination approved by the Board dealing with the use of therapeutic drugs.

(3) An optometrist who holds a therapeutic drug licence may use the following topical drugs for the treatment of disorders of the eye or its adnexa:

- (a) mydriatics;
- (b) cycloplegics;
- (c) non-steroidal anti-allergy medications;
- (d) non-steroidal anti-inflammatory medications;

- (e) anti-infective medications;
 - (f) topical ocular steroids;
 - (g) anti-glaucoma medications.
- (4) An optometrist who holds a therapeutic drug licence may use oral anti-infective medications for the treatment of disorders of the eye and its adnexa.
- (5) [repealed]

Practice Management

Optometric practice associations

25 (1) In this Section,

“optometric practice association” means a business association between an optometrist and a separately-owned ophthalmic dispensary.

- (2) Except as exempted under subsection (3) an optometric practice association must meet all of the following conditions:
- (a) the location of the optometric practice must be accessible by the optometrist, the optometrist’s staff and patients 24 hours a day;
 - (b) any public entrances or exits of the optometric practice that are within an ophthalmic dispensary must be sealed when the optometrist or optometrist’s staff is not present;
 - (c) the practice must have stationery, prescription pads, telephone services, mail delivery systems and digital or electronic records that are independent and separate from the ophthalmic dispensary;
 - (d) telephone service provided by the optometrist, the optometrist’s staff or the optometrist’s representative under a service contract must be delivered in a professional manner that conforms to privacy legislation;
 - (e) the optometrist must have control and access over the patient files and the optometrist must ensure that access to patient files is limited to the optometrist and the optometrist’s staff;

- (f) the optometric practice must have a secure facility for storing patient files and the optometrist must ensure that access to the facility is limited to the optometrist and the optometrist's staff;
 - (g) the optometric practice must have a secure facility for storing diagnostic and therapeutic pharmaceutical agents and the optometrist must ensure that access to the facility is limited to the optometrist and the optometrist's staff;
 - (h) advertising respecting an optometric practice or optometrist by the practice association must be in accordance with these regulations;
 - (i) except when approval is granted by the Registrar operating within Board policy for an alternate arrangement, any rent paid by the optometrist to the practice association must be reasonable for the market area of the optometric practice and must be unrelated to the volume of patients seen or number of patient referrals made to the practice association;
 - (j) if an optometrist's office and a dispensary are in close physical proximity, any signage on display to the general public must clearly indicate that the optometrist's office and the dispensary are separate and independent businesses and operations.
- (3) A practice association that includes an ophthalmic dispensary is not required to meet the conditions in subsection (2) if the ophthalmic dispensary is owned or controlled by an optometrist.

Indirect supervision

26 (1) In this Section,

“indirect supervision” means routine assessment by an optometrist of any work they delegate to an optometric assistant.

- (2) An optometrist must have some form of regular practice audit in place to ensure that delegated services meet the College's standard of practice and must be prepared to certify that the optometrist has complied with the College's standards of practice.
- (3) Only the following optical dispensing tasks may be delegated by an optometrist to an optometric assistant under indirect supervision:
 - (a) assisting a patient with selecting frames, to the extent that the task is limited to the aesthetics of frames;
 - (b) any of the following tasks, to the extent that the task does not affect the functionality of the eyewear for its intended purpose:

- (i) replacing temples, temples tips, nose pads,
 - (ii) cleaning frames and lenses,
 - (iii) tightening screws if inserting a lens is not required;
- (c) training a patient to insert, remove and maintain contact lenses, as long as the optometric assistant does not insert lenses in or remove lenses from the patient's eyes.

Direct supervision

27 (1) In this Section,

“direct supervision” means review and approval by an optometrist of any eyewear or optical appliance before the eyewear or optical appliance is delivered to the patient.

- (2) Measuring segment heights only may be delegated by an optometrist to an optometric assistant under direct supervision if the patient is at least 10 years old.

Professional corporations

- 28** (1) An application to renew a professional corporation's permit under subsection 51(3) of the Act must be made no earlier than October 1, and no later than December 1.
- (2) A professional corporation must display its current registration in a prominent place in its premises at all times.
- (3) A professional corporation that proposes to change its corporate name or operate under a business name other than its corporate name must first satisfy the Registrar that the proposed corporate name or business name is appropriate.
- (4) The Act, these regulations and the by-laws relating to professional discipline apply with the necessary changes to a professional corporation.
- (5) The Registrar may ask to inspect the minutes book of any professional corporation.
- (6) The Registrar may make any inquiries they consider appropriate to satisfy the Registrar that a professional corporation fulfils all the conditions in subsection 51(1) of the Act.

Titles optometrists may use

- 29** (1) An optometrist may only use one or the other of the following titles when communicating with the public in respect of their practice:
- (a) the prefix “Dr” in association with the optometrist’s name, as long as the descriptor “optometrist” or “optometry” is also used and is prominently and clearly connected with the name;
 - (b) the designation “O.D.” in association with the optometrist’s name, if applicable.
- (2) When communicating with the public in respect of their practice, a professional corporation associated with an optometrist or optometrists must include the name of at least 1 optometrist, and must comply with the requirements for titles in subsection (1).

Information to public

- 30** (1) Any information relating to an optometrist’s practice that is made publicly available must be in accordance with any direction provided by the Board and must meet all of the following:
- (a) it must be communicated in a professional and tasteful manner;
 - (b) it must be of a professional nature and in good taste;
 - (c) it must serve the public interest;
 - (d) it must clearly indicate that the optometrist or the optometrist’s professional corporation is engaged in the practice of optometry.
- (2) Information relating to an optometrist’s practice that is made publicly available may include price advertising as long as the optometrist complies with the requirements for advertising set out in these regulations.
- (3) An optometrist may send recall letters or cards advising a patient of a proposed date for further visual care, by mail, to patients whose examination record the optometrist has on file.

Advertising

- 31** (1) An optometrist must ensure that any advertising that includes the price of optometric services meets all of the following conditions:
- (a) it must specify the nature and extent of services included in the price advertised;

- (b) it must indicate whether expenses or disbursements are included in the price advertised;
 - (c) it must indicate whether additional services might be required that are not included in the price advertised;
 - (d) it must specify the period that the advertised price is available.
- (2) An optometrist must not advertise in a manner that does any of the following:
- (a) compares the optometrist's abilities, services or goods to those of another optometrist;
 - (b) discloses the names of patients;
 - (c) uses superlatives, endorsements or testimonials about the optometrist;
 - (d) creates unjustifiable expectations or appeals to the public's fears;
 - (e) refers to discounts, allowances, terms of credit or similar information without specifying whether they are applied to ocular visual exams or treatment services and without giving sufficient information about the nature and degree of the financial consideration on offer to allow the public to clearly understand the nature, scope and extent of the financial consideration;
 - (f) uses logos or business trade names that do not include the optometrist's name and the word "optometrist" or "optometry";
 - (g) anything that may be seen to bring the profession of optometry into disrepute.
- (3) Any advertising for an optometrist must not be part of any communication, advertising, promotion or offering by persons or corporate entities not regulated by the Act.
- (4) A person, firm or corporation by whom or with whom an optometrist is employed or associated in the practice of optometry must only advertise in a manner that is consistent with these regulations.

Conflicts of interest

- 32 (1) An optometrist must not practise optometry if the optometrist has a conflict of interest, as defined in subsection (2), in the by-laws or by the Board.

- (2) It is a conflict of interest for an optometrist to do any of the following in the optometrist's own name, the name of any member of the optometrist's firm or in the name of another person, firm or corporation that employs or engages the optometrist:
- (a) accept rebates or gifts without consideration from a vendor of ophthalmic appliances, materials or equipment;
 - (b) accept credit from a vendor of ophthalmic appliances, material or equipment, unless:
 - (i) the terms of the credit provide a reasonable time for repayment and a reasonable rate of interest on the amount outstanding at any time during the period of credit, and
 - (ii) the credit is not related to referring patients to the creditor;
 - (c) except when approval is granted by the Registrar, operating within Board policy for an alternate arrangement, rent premises from a vendor of ophthalmic appliances, materials or equipment, unless:
 - (i) the rent is reasonable for the area in which the premises are located, and
 - (ii) the amount of rent is not related to the referral of patients by the optometrist or the amount of fees charged by the optometrist;
 - (d) share fees with any person who refers a patient to them, receive fees from any person to whom the optometrist refers a patient, or engage in any form of fee sharing, rebate or other indirect remuneration.

Professional liability insurance

33 An optometrist must possess at least 2 million dollars of professional liability insurance.