



CHAPTER 61

An Act respecting Dispensing Opticians

[Assented to, the 14th of June, 1940]

WHEREAS the science of mechanical optics is an **Preamble.**
art requiring special knowledge and it is necessary and in the public interest that it should be better organized, both in the interests of the art and in the interests of those who are obliged to have recourse to it;

Whereas the founding of schools is extremely important and the practice of the art by persons having diplomas would greatly help the development of the science and the improvement of the methods used so far;

Whereas it is important, in the interest of public health, that persons who do not have the necessary knowledge should not be allowed to sell at retail and to adjust ophthalmic glasses, the purpose of which is principally to correct eyesight;

Whereas it is expedient to organize dispensing opticians into a corporation and to grant to said corporation the powers required for its development and the furtherance of its art;

Therefore, His Majesty, with the advice and consent of the Legislative Council and of the Legislative Assembly of Quebec, enacts as follows:

1. This act may be cited as the "Dispensing Opticians Act". Short title.

DIVISION I

Declaratory and Interpretative Provisions

Interpreta-
tion:

2. In this act the following words and expressions, save in the case of incompatibility with the context, shall be interpreted as follows:

"The Cor-
poration";

a. "The Corporation" means the Corporation of Dispensing Opticians of the Province of Quebec;

"Council";

b. "Council" means the council of the Corporation of Dispensing Opticians of the Province of Quebec;

"Members of
the Cor-
poration";

c. "Members of the Corporation" mean the persons who are incorporated under this act and those who shall be admitted later as members by the Council of the Corporation and who shall comply with the by-laws of the Corporation;

"Dispensing
opticians";

d. "Dispensing opticians" mean all persons, being members of the Corporation and whose art consists in filling the prescriptions of physicians or optometrists for ophthalmic glasses, adjusting the mountings of ophthalmic glasses and repairing such glasses;

"Ophthalmic
glasses";

e. "Ophthalmic glasses" mean any spherical, cylindrical or prismatic glass of help to vision;

"Person" or
"persons".

f. "Person" or "persons" means every individual, association, company or corporation having a legal existence.

Name of
Corporation.

3. The Corporation is constituted under the name of "The Corporation of Dispensing Opticians of the Province of Quebec".

First mem-
bers thereof.

4. Richard N. Taylor, Roland F. Baril, W. S. Johnston, all of the city of Montreal, Etienne Lamontagne, of the city of *Trois-Rivières*, John Gagnon, of the city of Quebec, Henri Bilodeau, of the town of Jonquières, Henri Fortier, of the city of Sherbrooke, and R. Robichaud, of the village of Deschaillons, all dispensing opticians, are the first members of the Corporation.

Future
members.

5. Every person who shall comply with this act and with the provisions of the by-laws which shall be enacted by the Corporation may, in the future, be admitted as a member by the Council of the Corporation.

6. The members of the Corporation shall remain members as long as they shall comply with this act and the provisions of the by-laws of the Corporation. Continuance of membership.

7. The Corporation shall have perpetual succession. Succession.

DIVISION II

Powers of the Corporation

8. The Corporation shall possess all the powers required to attain its objects and more generally those that may be exercised by ordinary corporations and, without in any way limiting the generality of the terms of this section, it may:

- a. Appear before the courts;
- b. Acquire and possess any moveable properties;
- c. Acquire and possess immoveable properties within the Province up to a value of fifty thousand dollars;
- d. Administer, sell, rent, exchange, make over all or part of its properties or otherwise dispose of them;
- e. Contract obligations as well as borrow upon the credit of the Corporation and to secure the fulfilment of these obligations or the reimbursement of its loans, hypothecate, mortgage and pledge all or part of the properties of the Corporation, present, or present and future, either by deed of hypothec or by trust deed or in any other manner that it shall deem expedient;
- f. Enact any by-laws which appear useful or necessary for its internal management, the administration and the disposal of its property; amend, repeal or replace such by-laws as often as it shall deem expedient;
- g. Establish any school and establish any curriculum of studies that may appear proper for the advancement of the art, appoint such professors as it shall see fit, affiliate itself to any school as it shall deem it useful or necessary and make with such school such contracts as it shall deem proper.

9. The head office of the Corporation shall be in the city of Montreal. Head office.

Administration of the Corporation

10. The business of the Corporation shall be administered by a council composed of five of its mem- Council.

bers elected each year at the annual meeting and whose duties shall continue as long as they shall not have been replaced.

First mem-
bers of
Council.

11. The persons whose names appear in this act shall be the first members of the Council of the Corporation.

First annual
meeting.

12. The first annual meeting shall be held within six months after the sanction of this act. It shall be convened by the president or by two members of the council, by means of a written notice of not less than five days, sent by ordinary mail to each member of the Corporation, stating the place and time of the meeting.

By-laws sub-
mitted at first
meeting, etc.

13. The council of the Corporation shall submit at this first meeting the general by-laws it shall have adopted concerning specially the holding and the convocation of the annual and special meetings of the Corporation, the date of the annual meeting, the holding and the convocation of the meetings of the council, the appointment and duties of the officers of the Corporation, including an auditor, the quorum at meetings of the members of the Council, the replacement of members of the council, and, at this first meeting, members of the council shall be elected.

All questions
decided by
majority of
votes cast.

President has
casting vote.

14. All questions submitted to the meetings of the Corporation, as well as to the meetings of the Council, shall be decided by the majority of votes cast, each member of the Corporation or of the Council being entitled to one vote. In case of tie, the president of the meeting or of the Council shall have a casting vote.

Jurisdiction
of Council.

15. The Council of the Corporation shall determine the conditions and formalities to be complied with for the admission of the members of the Corporation and for their dismissal, and, also, prescribe the disciplinary measures it may impose upon its members for failure to fulfil their duties and to comply with the provisions of the by-laws of the Corporation. No fine imposed under this section may exceed the sum of fifty dollars.

Dismissals.

16. No member of the Corporation may be dismissed unless the decision is concurred in by at least

four members of the Council. Any member thus dismissed may appeal from the decision of the Council to the next general or special meeting, provided that he shall give a notice of his intention to appeal within ten days of the notification of his dismissal. Upon receipt of such a notice on behalf of the member dismissed, a meeting of the members of the Corporation to decide such appeal shall be convened forthwith in the ordinary manner. The decision of the Council may be overruled at such meeting, only by a vote of the two-thirds of the members present.

Practice of the Art

17. No one may practise as dispensing optician, sell ophthalmic glasses at retail, nor fit spectacle mountings with ophthalmic glasses, unless he is a member of the Corporation of Dispensing Opticians and has complied with the by-laws of the said Corporation.

18. In the Province of Quebec, the following persons only may sell, supply, adjust or replace, at retail, mounted or unmounted ophthalmic glasses:

a. Any optometrist within the meaning of the Optometrists' and Opticians' Act (1 George V, chapter 122);

b. Any physician within the meaning of chapter 213 of the Revised Statutes of Quebec, 1925, and amendments;

c. Any dispensing optician, on a prescription from a physician or an optometrist;

d. Any dispensing optician who, after a course of study for one scholastic year and serving a period of probation in mechanical optics with a dispensing optician or in a wholesale manufacturing establishment for at least two years, has successfully undergone the examinations required by the by-laws of the Corporation under this act;

e. Hospital dispensaries and university or municipal clinics acting upon an optometrist's or physician's prescription or order;

f. Any retailer operating a department of optics and optometry in conformity with the second paragraph

of section 22 of the Optometrists' and Opticians' Act (1 George VI, chapter 122).

Subjects for
examinations.

19. The examinations mentioned in section 18, paragraph *d*, shall be upon the following subjects: mathematics, applied mechanical optics and other matters deemed necessary for the advancement of the art and for filling, according to the art, a prescription for ophthalmic glasses and adjusting the same.

Application
for license.

20. The persons mentioned in section 18, paragraph *c*, shall, within ninety days from the sanction of this act, apply to the Corporation to obtain a dispensing optician's license, and the Corporation is hereby vested with the prerogatives necessary to award such licenses, provided that such licenses be approved by four councillors of the said Corporation.

Id., by
petition.

21. The application mentioned in the preceding section must be made by petition under oath addressed to the Corporation, setting forth that the applicant is within the conditions required under and determined by section 18. At its first monthly meeting, the council shall render its decision upon such petition. In the event of the rejection of the petition by the Corporation, such decision shall be subject to appeal to the Superior Court within fifteen days, by an ordinary petition served upon the Corporation.

Fee.

22. The Corporation may collect an annual fee not exceeding twenty-five dollars from each dispensing optician and, upon payment, deliver a registration certificate and license. Failing payment, the Corporation may cancel such certificate and such license.

Offence and
penalty.

23. Any person who, not being a member of the Corporation in good standing under its by-laws:

a. Practises in the Province as dispensing optician, either with or without pecuniary remuneration;

b. Infringes this act;

c. Allows it to be falsely believed or understood, or to be falsely presumed, either by a designation or by a qualification which he assumes or by having his name preceded or followed by letters or signs likely to cause the belief, or, in any other manner whatsoever, makes believe that he is authorized to practise the profession,

or makes use, without right, of the name of a dispensing optician,—

is guilty of an offence against this act and liable to a fine of not less than ten dollars nor more than twenty-five dollars for the first offence, and of not less than twenty-five nor more than fifty dollars for any subsequent offence.

24. No person authorized in virtue of section 18 to sell, supply, adjust or replace ophthalmic glasses, at retail, in the Province of Quebec, shall, directly or indirectly, advertise expressly or allow to be implied by his advertisements, that he: Certain advertising prohibited.

- a. examines eyesight gratuitously;
- b. gives free consultations;
- c. gives free services;
- d. grants premiums;
- e. grants rebates, discounts or reductions;
- f. grants free trial or so many days' trial;
- g. promises return or reimbursement of money.

Each act mentioned in this section shall constitute a separate infringement of this statute. Separate infringement.

The provisions of this section shall not apply to the institutions mentioned in paragraph e of section 18. Institutions excepted.

25. No person authorized in virtue of section 18 to sell, supply, adjust or replace ophthalmic glasses, at retail, in this Province, may, directly or indirectly: Prohibition as to certain advertising.

a. By radio, advertise or cause himself to be advertised in such capacity, or advertise his optical products or cause them to be advertised;

b. By radio or written publicity, advertise or cause himself to be advertised in such capacity or cause his optical products to be so advertised by a business house;

c. Advertise or cause himself to be advertised in such capacity, advertise or cause his optical products to be advertised, anonymously or under a firm name or so as to evade the law;

d. Publish or cause to be published in any newspaper, review, periodical, circular or other printed matter, or cause to be distributed advertisements containing anything other than his name, his professional titles, his address, his specialty, his office hours and telephone

number; such advertisement not to exceed a space (text and margin) of sixteen square inches;

e. Advertise, in any manner, prices or conditions of payment for ophthalmic glasses, mounted or unmounted, or for mountings alone.

Separate infringement.

Each act mentioned in this section shall constitute a separate infringement of this statute.

Institutions excepted.

The provisions of this section shall not apply to the institutions mentioned in paragraph *e* of section 18.

Offence and penalty.

26. Any person violating the provisions of this act shall be liable to a fine of not less than one hundred dollars for the first offence, and of not less than two hundred dollars for each subsequent offence, with costs.

Operating as a corporation.

27. Nothing in this act shall prevent the members of the Corporation from engaging in their art or business as a corporation, with the same privileges as if acting individually or in partnership, provided that such corporation shall have a dispensing optician in its permanent employ and that it existed as carrying on the business of dispensing optician prior to the passing of this act.

Proviso.

General Provisions

Persons not subject to provisions of this act.

28. The provisions of this act apply neither to doctors legally authorized to practise medicine in this province, nor to members of the Association of Optometrists and Opticians of the Province of Quebec, nor to a retailer operating an optical and optometrical department in conformity with the second paragraph of section 22 of the Optometrists' and Opticians' Act (1 George VI, chapter 122), nor do they apply in any municipality, as long as there shall not be, within its limits, a member of the Corporation or of the Association of Optometrists and Opticians residing therein.

Rights safeguarded.

29. Nothing in this act, nor in the by-laws that the Corporation may enact, may prohibit the wholesale trade of spectacles or ophthalmic glasses, nor the free trade of artificial eyes, of field glasses, of protection glasses for industrial purposes, of colored glasses without ophthalmic lenses, nor of magnifying glasses not made or sold to relieve or correct defective eyesight.

30. Nothing in this act authorizes the Corporation to regulate nor control the prices of spectacles or other ophthalmic glasses nor the conditions of payment thereof.

Restriction upon powers of Corp.

31. Fines imposed by this act or by the by-laws that the Corporation is authorized to adopt belong to the Corporation and may be sued for by it before any Justice of the Peace, or before a Judge of Sessions of the Peace, or before a Magistrate's Court in civil matters, having jurisdiction in the locality where the offence was committed or in the locality where the summons or the complaint was served.

Fines.

32. The Corporation shall furnish the Optometrists' and Opticians' Association, yearly, with a complete list of its members, and shall also communicate to it any changes in such list as they occur.

List of members furnished to Optometrists' and Opticians' Association.

33. This act shall come into force on the day of its sanction.

Coming into force.

