



## CHAPTER 122

An Act to consolidate the charter of The Association of Optometrists and Opticians of the Province of Quebec

[Assented to, the 20th of May, 1937]

**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 *Optometrists' and Opticians' Act*. Short title.

### DIVISION I

#### *Declarative and Interpretative*

2. In this act, the following words and expressions, unless the interpretation is repugnant to the subject or inconsistent with the context, shall be interpreted as follows: Interpretation:

1. "Association" means The Association of Optometrists and Opticians of the Province of Quebec; "Association";
2. "Council" means the Council of the Association of Optometrists and Opticians of the Province of Quebec; "Council";
3. "Member", "optometrist", "optometrist-optician", "optician", or "optometrist and optician" means any person who has obtained from the council a certificate of registration and a license entitling him to practise optometry in this province and who is in good standing with the Association; "Member", etc.;

- "Ophthalmic glass"; 4. "Ophthalmic glass" means any spherical, cylindrical or prismatic glass to help vision;
- "Person". 5. "Person" or "persons" means corporations as well as individuals or private associations.

## DIVISION II

### *Corporate Powers of the Association*

- Continuing in existence of corporation. **3.** The corporation originally known under the name of "The Association of Opticians of the Province of Quebec" and now under the name of "The Association of Optometrists and Opticians of the Province of Quebec" is continued in existence with all the rights, privileges and obligations with which it was vested by the acts incorporating it.
- Seal, etc. It shall continue to have perpetual succession and a common seal, with the power to alter, change, break or renew the same at its discretion.
- Power to sue, etc. Under its present name it may sue and be sued before any court in this Province or elsewhere, and may purchase and possess all moveables and immoveables, provided the immoveables so held shall not exceed the value of fifty thousand dollars, and it may hypothecate, sell and alienate the same, and acquire others in lieu thereof.
- Powers. It shall possess all the powers conferred upon civil corporations by the laws of this Province.
- Power to create, etc., colleges, etc. Without in any way limiting the powers of the Association, it may, for the advancement of the science of optics and optometry, create, found and maintain anywhere in the Province, colleges, schools, laboratories, chairs and special courses; define the conditions of admission to the study and to the practice of the profession, as well as the courses of studies and subjects of examination; grant diplomas and certificates of fitness and capacity to those wishing to take up the practice of optometry; regulate the practice of such profession; promote the social advancement of the members and see to the carrying out of the provisions of this act.
- Composition of corporation. **4.** The corporation, in addition to the present members of the Association, shall consist of all such persons as may hereafter follow the courses and successfully

undergo the examinations required by the by-laws of the Association and by this act. All such members shall contribute to the funds of the said corporation as shall be provided by its by-laws. Contributions by members.

**5.** The corporate seat of the Association shall be in the city of Montreal. Corporate seat.

### *Council of the Association*

**6.** The affairs of the Association shall be managed and administered by a council consisting of nine members elected as hereinafter mentioned. Council of administration.

Five members shall form a quorum. Quorum.

**7.** The council shall elect a president and a vice-president from among the members thereof at the first meeting to be held after the selection of the council. It shall also elect a secretary who may be selected outside of the councillors, provided that he be a member of the Association. Election of president, etc.

The present councillors shall remain in office until the 31st of December, 1937. Present councillors.

The secretary shall be the custodian of the seal of the Association. Seal.

**8.** The council may, by by-law, fix the time and place of its meetings and the manner of calling same and enact that the council may hold general and special meetings. The council may fix the fees payable to the officers and other officials of the Association. Fixing of meetings, etc.

**9.** In the event of the death, resignation or removal of a member of the council or of an auditor, it shall be lawful for the members of such council themselves to appoint or elect a person, who must be a member of the said Association, to fill the place left vacant by the said member of the council or the said auditor, and the person so appointed shall, in all respects and until the expiration of his term, represent the person in whose place he shall have been appointed. Filling of vacancies in council.

Applying of  
disciplinary  
penalties.

**10.** It shall be lawful for the council at any of its meetings, with the consent of the majority of the members present, after notice to the accused, to apply the disciplinary penalties contemplated by section 42.

Duties, etc.,  
of council.

**11.** The council of the said Association, either itself or through any competent person whom it may deem advisable to appoint, shall examine and decide upon the admission of the members of the said Association, shall grant the certificates and diplomas it may deem expedient to grant to those whom it may consider qualified to become members, and may elect honorary members of the Association, who shall enjoy all the privileges conferred by it. The said council shall also appoint and may remove all subordinate officers of the Association, and shall have the exclusive control and the administration of the moveables and immoveables of the Association, subject to the by-laws thereof; but no property of the Association shall be sold or hypothecated without the approval and concurrence of a general meeting of the members, specially convened for the purpose.

Adopting,  
etc., of by-  
laws, etc., by  
council.

**12.** The council shall have power to adopt all statutes, rules and by-laws which may be deemed necessary for carrying out the purposes of this act, to impose a penalty not exceeding ten dollars for each infringement of the by-laws, which fine shall be paid to the Association, and it may, from time to time, amend or repeal the said statutes, rules or by-laws, or substitute others in lieu thereof; but such by-laws, rules or statutes, and such amendments, repeals or substitutions shall only have effect after their approval by the majority of the members present at a general meeting at which not less than thirty members are present, provided that a prior special notice of fifteen days has been given, by letter, to all the members in the form provided in the by-laws.

Decisions of  
council.

**13.** No decision of the council, within its exclusive jurisdiction, can be overruled or set aside except by a vote of the majority of the members present at a general meeting of not less than thirty members.

**14.** The council may, by by-law, order that who-<sup>By-laws concerning admission to Association.</sup> ever wishes in future to belong to the Association, shall have previously followed the course given by the college of the said Association.

It may also order by by-law that such course shall be followed in any university of this Province to which the college is affiliated or may be affiliated, subject to all the conditions imposed by any such university in the contract of affiliation, and that only the holder of a diploma from such university constituting him an optometrist shall, hereafter, be admitted by the Association.<sup>Id., concerning following of courses.</sup>

**15.** Whenever courses in optometry are given in any university of the Province of Quebec, the diploma granted by it shall give the holders thereof all the rights and privileges conferred upon members of the Association, and shall constitute them members of the Association on payment of the fees required by the latter.<sup>Rights conferred by university diploma.</sup>

#### *Election of the Council*

**16.** The members of the council shall be elected in accordance with the by-laws which may be adopted by the council, and, for such purpose, the council may divide the Province into as many electoral districts as it may deem advantageous; define the boundaries of such districts; determine each district's representation in the council, the qualification of candidates and of members either for nominating candidates or for voting at the election; fix the day for nomination and for election; appoint the election officers; determine their powers and remuneration; fix the term of office of the members of the council and the date of their entering into office; change, amend the by-laws or replace them by others as it may deem expedient for the benefit of the Association and its members.<sup>Election of members of council.</sup>

In default of such by-laws, the Lieutenant-Governor in Council may fix the time and manner of holding such elections.<sup>In default of by-laws.</sup>

The interval between elections must not exceed two years.<sup>Elections.</sup>

*Practice of Optometry*

**Definition of optometry.** **17.** Optometry is defined to be the employment of any means other than the use of drugs for the detecting and the measurement of errors of refraction such as hypermetropia, myopia, presbyopia, astigmatism and asthenopia by the adaptation of ophthalmic glasses for the aid thereof.

**Examinations included in definition.** It also includes any examination of the sight by any means whatsoever other than the use of drugs for determining, correcting or improving acuteness of vision.

**Deemed unlawful practising.** **18.** It shall be unlawful for any person to practise optometry in this Province unless he has first obtained a certificate of registration and a license from the council.

**License must be signed.** The license to practise optometry in this Province must be signed by the president and the secretary. The seal of the Association must be thereunto affixed.

**Rights safeguarded.** **19. 1.** Nothing in this act or in any by-law of the Association shall prohibit:

*a.* Freedom in carrying on commerce in spectacles or ophthalmic glasses, subject to section 26;

*b.* Freedom in carrying on commerce in artificial eyes, field-glasses, protective spectacles for industrial purposes or in green or other coloured spectacles, without ophthalmic lenses, or in magnifying glasses neither manufactured nor sold to relieve or correct defects of vision.

**2.** Nothing in this act shall authorize the Association to regulate or control the prices of spectacles or other ophthalmic glasses, or the conditions of payment of such prices.

**Fees., etc.** **20.** Any optometrist who desires to practise optometry in this Province shall annually pay to the secretary of the Association a fee of from ten to twenty-five dollars per annum, at the discretion of said council, and he shall receive a certificate of registration and a license, and, in default of such payment, his certificate may be cancelled by the council of the Association, upon thirty days' notice.

**21.** No optometrist shall keep more than one establishment or office unless each additional establishment or office is under the control or management of an optometrist in good standing with the Association. Keeping of more than one office, etc.

**22.** No optometrist shall lend his name to an unqualified person or aid him to practise optometry in contravention of this act. Lending name prohibited.

**23.** After the 1st of May, 1937, no optometrist shall practise optometry under any name other than his lawful name. Practising under assumed name prohibited.

**24.** No optometrist, nor any person authorized to sell, furnish or replace ophthalmic glasses at retail in this Province, shall advertise, explicitly or implicitly, free examination or free consultation regarding eyesight or free services, or premiums, rebates, free tests, or so many days' trial, or return or refund of money, nor shall he publish cases of cures or treatment. Certain advertising prohibited.

**25.** No optometrist, optician or other person shall sell or canvas for the sale of ophthalmic glasses from door to door. Door to door selling, etc.

**26.** No person lawfully authorized to sell, supply or replace ophthalmic glasses by retail in this Province may advertise nor cause himself to be advertised by radio, nor may he publish in any newspaper, review, periodical, circular or other printed matter any advertisement other than his name, his professional or commercial titles, his address, his specialty, a vignette, his office hours and telephone number, such advertisement not to exceed a space of sixteen square inches. Restrictions as to certain advertising.

No such person may, moreover, in any manner, advertise prices or conditions of payment for ophthalmic glasses, mounted or unmounted, or for mountings alone, nor advertise discounts or reductions. Idem.

The provisions of the last preceding paragraph, however, shall not apply to a person who manufactures or produces ophthalmic glasses wholesale in his laboratory and who, for the distribution of the said glasses to the persons lawfully authorized to sell, supply or replace Application of preceding paragraph.

same by retail, forwards catalogues containing the advertisement of the prices of ophthalmic glasses, mounted or unmounted, or of the mountings only.

Offence and penalty.

**27.** Any person violating the provisions of sections 21, 22, 23, 24 and 26 of this act shall be liable to a fine of not less than fifty dollars for the first offence, and of not less than one hundred dollars for each subsequent offence, with costs.

Idem.

**28.** Any person who practises optometry without a license from the Association or who violates the provisions of section 25, shall be liable to a penalty of not less than one hundred dollars for the first offence, and of not less than two hundred dollars for any subsequent offence, with costs.

Idem.

**29.** Every person, who, in an advertisement, assumes a title, name or description calculated to lead to the belief that he is duly registered or qualified to practise optometry, unless he be duly authorized and registered in this Province under this act, shall in each case be liable to a fine of not less than fifty dollars for the first offence, and of not less than one hundred dollars for each subsequent offence, with costs.

Examination in certain event.

**30.** No person who was received into the Association as a member from the time of its founding until the opening of the courses in 1911, either under an exemption diploma or a certificate of capacity, shall, notwithstanding any by-law or law to the contrary, again begin the practice of optometry in this Province if he has ceased to practise since 1922, unless he undergo and successfully pass examinations on optometry.

#### *Prosecutions*

Recovery, etc., of fines.

**31.** The fines imposed by this act shall be recoverable, with costs, by action in the name of the Association, and shall belong to the said corporation for its use.

Recovery of monies due to corporation.

**32.** All sums of money, subscriptions, fees and penalties due and payable to the corporation shall be

recoverable, with costs, before any competent court of civil jurisdiction in accordance with the Seventh Part of the Code of Civil Procedure, and the penalties shall also be recoverable by prosecution before a justice of the peace in accordance with the provisions of Part XV of the Criminal Code.

**33.** In any proceeding brought, in virtue of this act, for the recovery of the penalties or fines imposed therein, the burden of proving registration shall lie upon the defendant. Burden of certain proof.

**34.** In default of the immediate payment of the fine and costs imposed by this act, the defendant shall be liable to imprisonment for a term of not more than fifteen days in the common jail of the district in which sentence was pronounced, unless such fine and costs be sooner paid. Liability to imprisonment in certain event.

**35.** The official or court pronouncing the sentence may, however, instead of ordering the immediate imprisonment of the defendant, grant him a delay for payment. Delay for payment.

**36.** When, in default of immediate payment, the defendant is condemned to immediate imprisonment, the warrant of imprisonment shall be signed and issued without delay by the prothonotary or clerk of the court, or the official, as the case may be, without it being necessary to make a demand for the same. Signing, etc., of warrant of imprisonment.

**37.** Every warrant of imprisonment, in default of payment within the delay fixed by the official or court pronouncing the sentence, shall be signed and issued by the prothonotary or the clerk of the court or the official, as the case may be, on the *fiat* of the advocate for the prosecutor alleging that the amount of the sentence and the costs are still wholly or partly due. Signing, etc., on fiat of advocate.

The aforesaid warrant may be, *mutatis mutandis*, in accordance with the forms relating to Part XV of the Criminal Code, and be executed by any bailiff or constable. Form of warrant.

*General Meetings*

General meetings. **38.** The general meetings of the Association shall be held from time to time as hereinunder stated. The quorum shall be determined by the council.

Majority vote. At every general meeting, the majority of the members present, entitled to vote thereat, shall decide the questions submitted at such meeting and the chairman shall, in the case of a tie, have a second vote.

Time and place of general meetings. **39.** It shall be lawful for the members of the corporation to have general meetings once a year, and also special general meetings as the council may deem advisable from time to time. The annual general meetings shall take place in the city of Montreal or in any other city on the first Monday in November of each year or the nearest day thereto as may be decided by the council; and moreover, upon a written requisition of ten members of the corporation having the right to vote calling upon the council to call a special general meeting of the members of the corporation for the purpose of taking into consideration the objects specified in the requisition, a meeting shall accordingly be convened by the said council within such delay as the latter may deem advisable, after notice thereof and of its object shall have been given, in accordance with the requirements of the by-laws of the corporation.

*Board of Discipline*

Board of discipline. **40.** A board of discipline shall be appointed by the president. Such board may make by-laws for its government and the procedure to be followed before it.

Reports. The reports of the board of discipline shall be submitted to the council.

Enquiring into complaints, etc. It shall be the duty of the council to enquire into, hear and decide, but subject to appeal to the members of the Association in general meeting assembled, under section 13 of this act, any charge or complaint against a member of the Association for an infringement of his professional duties or any act derogatory to the honour or dignity of the profession.

**41.** The following acts are declared to be derogatory Acts declared derogatory to professional honour. to professional honour:

1. The fact of being found guilty of any criminal offence before a court of competent jurisdiction;
2. The habitual abuse of alcoholic liquor, cocaine, or any drug or narcotic preparation.

**42.** The disciplinary penalties, which may be imposed upon the members by the council for the derogatory acts specified in section 41, are: Disciplinary penalties.

- a. Deprivation of the right to be elected to the council, for a period not exceeding two years;
- b. Deprivation of the right to vote at elections of members of the council for a period not exceeding two years;
- c. Censure;
- d. Dismissal from the council;
- e. Suspension from the practice of the profession of optometrist-optician, which shall *ipso facto* entail during suspension the dismissal of such member from the Association.

There shall always be appeal to the Superior Court. Appeal.

### *Miscellaneous*

**43.** If there be a divergence in this act in the French and English versions, the French text shall prevail. Divergence in texts.

**44.** The acts 6 Edward VII, chapter 89; 9 Edward VII, chapter 130; 2 George V, chapter 110; 4 George V, chapter 120; 9 George V, chapter 129; 16 George V, chapter 87; 17 George V, chapter 102; 20 George V, chapter 150, and 24 George V, chapter 124, are repealed. Provisions repealed.

**45.** Notwithstanding any provision in this act, the suits taken by or against the Association may be continued by or against it under the acts under which they were brought and the penalties incurred under the authority of the said acts may be recovered under the authority of the same. Continuing, etc., of suits, etc.

No medica-    **46.** No optometrist or optician shall prescribe, sell,  
ments.        give or employ any medicament, patented or not, inten-  
ded for the treatment of eye diseases or any other  
disease.

Application    **47.** The provisions of this act shall not be construed  
restricted.     to apply to physicians duly licensed to practise medicine  
under the laws of this Province.

Coming into    **48.** This act shall come into force on the day of its  
force.         sanction.

---