

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

Citation

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

Definitions

2 (1) In these regulations,

(a) “Act” means the *Optometry Act*;

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

(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 Standard Assessment of 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 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 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, 2011, to December 31, 2013, 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) 35 hours, if they graduate in the 1st year of a 3-year period;
 - (b) 20 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** (1) In the Act and these regulations, “unprofessional conduct” is professional misconduct, and includes conduct unbecoming the profession, infamous conduct or conduct harmful to the reputation, dignity or honour of the College or the profession.
- (2) Unprofessional conduct by an optometrist includes, but is not limited to, the following:
- (a) displaying a lack of competence, skill or judgment in providing professional services, including services related to diagnostic and therapeutic optometric drugs;
 - (b) contravening the Act, regulations or the by-laws;
 - (c) contravening other laws applicable to the profession;
 - (d) failing or refusing to comply with a mediated resolution or hearing disposition;
 - (e) practicing optometry on behalf of a professional corporation that does not meet the requirements of the Act or regulations;
 - (f) engaging in conduct that harms the integrity of the profession or its reputation with the public;

- (g) failing to comply with a direction of the practice enhancement committee, a complaints committee or a hearing 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 the complaints committee.

Complaints committee constituted

12 A complaints committee is constituted to investigate complaints relating to optometrists.

Investigation by complaints committee

13 (1) In response to a complaint of unprofessional conduct, the complaints committee may conduct an investigation of an optometrist's practice by appointment and at reasonable hours.

- (2) On receiving a written complaint against an optometrist, including a complaint that failed to be resolved by mediation under Section 14, the chair of the complaints committee shall convene a meeting of the complaints committee.
- (3) An investigation may include:
 - (a) inspection of any of the following:
 - (i) the optometrist's records,
 - (ii) the equipment used by the optometrist for practising optometry; and
 - (b) interviewing the optometrist and the complainant.

Complaints resolved by mediation

- 14** (1) Before referring a complaint for investigation, the chair of the complaints committee must review the complaint and decide whether the complaint should be referred to a mediator.
- (2) The chair of the complaints committee must request the consent of the complainant and the optometrist to refer a complaint to a mediator before the complaint can be mediated.
- (3) Once consent is received, the Registrar must refer the matter to a mediator approved by the Registrar for possible resolution.
- (4) Any complaint resolved by mediation is considered satisfactorily resolved once the agreed upon disposition is implemented.
- (5) A complaint that the chair of the complaints committee decides is unsuitable for mediation must be dealt with by the chair according to the procedure used for complaints of unprofessional conduct under Section 13.

Complaints committee dismisses or refers complaint

- 15** After investigating a complaint and considering the submissions of the optometrist who is the subject of the complaint, the complaints committee must do one of the following:
 - (a) if the complaint is viewed to be frivolous, vexatious or malicious, dismiss the complaint and notify the optometrist and the complainant;
 - (b) if the optometrist complained of appears to have engaged in unprofessional conduct other than as set out in Section 16, refer the complaint to a hearing committee and notify the optometrist and the complainant.

Suspension of licence by complaint committee

- 16 (1)** In addition to the powers to suspend or restrict an optometrist's licence under the Act for professional misconduct or conduct unbecoming, after an investigation of the complaints committee the complaints committee may immediately suspend the licence of an optometrist or immediately impose temporary restrictions on the licence of that optometrist under the procedures set out in Section 33 of the Act, if the conduct complained of discloses any of the following:
- (a) a breach of the code of ethics;
 - (b) a breach of the rules of professional practice;
 - (c) infamous conduct that threatens the safety or the protection of the public.
- (2)** A suspension or limitation on an optometrist's licence imposed by the complaints committee remains in effect until a hearing takes place.

Notice of hearing

- 17** When the chair of the complaints committee refers a complaint to a hearing committee, the chair of the complaints committee must notify the optometrist complained of and the complainant by registered mail or personal service no later than 14 days before the hearing date.

Postponing hearing when settlement agreement tendered

- 18** If a settlement agreement has been tendered to the complaints committee under the Act, the complaints committee may ask the hearing committee to postpone the hearing until the complaints committee decides whether to recommend that the hearing committee accept the proposed settlement agreement.

Hearing committee procedures

- 19 (1)** An optometrist whose conduct is complained of has the right to attend the hearing and the right to be represented by legal counsel at the optometrist's own expense.
- (2)** If an optometrist whose conduct is complained of fails to appear at the appointed time and place for a hearing, the hearing may proceed in the optometrist's absence and the hearing committee may make its findings without further notice to the optometrist.
- (3)** An optometrist whose conduct is complained of has the right to submit to the hearing committee any statements, evidence, arguments and witnesses that are relevant to the optometrist's defence.

- (4) The chair of a hearing committee may require any optometrist to appear at the hearing and give evidence or produce any books, papers, documents or copies in the optometrist's possession.
- (5) The evidence of all witnesses must be taken under oath and all parties have the right to cross-examine witnesses called.
- (6) The chair of a hearing committee determines the procedure at all hearings, including the method of receiving evidence, and the chair's decisions on procedure are binding and conclusive.
- (7) The chair of a hearing committee may adjourn the hearing at any time.

Recording evidence at hearing

- 20 (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, in which case, a transcript of the proceedings may be ordered and paid for by the optometrist initiating the appeal.
- (2) If a transcript of the proceedings of a hearing is not ordered, the report of any hearing signed by the chair of the hearing committee is conclusive evidence of the proceedings and must be stored indefinitely in a secure manner.

Hearing committee orders

- 21 (1) A hearing committee that finds an optometrist guilty of unprofessional conduct may include any of the following in the order of the committee disposing of the matter:
 - (a) a reprimand of the optometrist;
 - (b) a provision that the optometrist pay a fine to the College;
 - (c) a provision that the optometrist be responsible for the costs of the proceedings, or a portion of the proceedings, as assessed by the hearing committee;
 - (d) a provision that the optometrist's licence to practise be suspended or restricted for a period of not more than 1 year on such terms and conditions as the hearing committee determines;
 - (e) a provision that the optometrist must undergo 1 or more of the following:
 - (i) treatment,
 - (ii) re-education,

- (iii) practice enhancement;
 - (f) a provision that the optometrist's licence be revoked and that they be precluded from further practice.
- (2) Any fine or costs ordered by a hearing committee must be paid no later than 30 days after the date the order is made and, if an optometrist fails to pay the costs before the deadline, the optometrist is suspended from practising until the payment is made.

Hearing committee report

22 A hearing committee must report the disposition of any hearing in writing to all of the following in the manner specified:

- (a) the Board;
- (b) the optometrist complained of, by registered mail or personal service;
- (c) the complainant, by registered mail or personal service.

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 ocular anterior segment disorders:
 - (a) mydriatics;

- (b) cycloplegics;
 - (c) non-steroidal anti-allergy medications;
 - (d) non-steroidal anti-inflammatory medications;
 - (e) anti-infective medications;
 - (f) topical ocular steroids, but only in the manner set out in subsection (4).
- (4) An optometrist who holds a therapeutic drug licence may use topical ocular steroids and steroid and anti-infective combination drugs to treat specific conditions of the ocular surface and adnexa, meaning eyelids, eyelashes, conjunctiva and related tissue, when there is no corneal ulceration present.
- (5) An optometrist may treat with topical ocular steroids, either alone or in combination with anti-infectives, for short term therapy only, meaning less than 4 weeks' duration in most cases, and may prescribe only a single non-refillable course of these drugs.

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 ~~or~~ [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.