

**OPTICIANS ASSOCIATION OF NEW BRUNSWICK**

**INDEX TO REGULATIONS**

**SECTIONS**

< Definitions .....	1
< Secretary .....	2-4
< Treasurer .....	5
< Registrar .....	6
< Office .....	7-11
< Honourary Members .....	12
< Associate Members .....	13
< Applications For Admission And Special Qualification .....	14-20
< Apprenticeship Agreements .....	21-23
< Sponsorship Agreements .....	24-25.1
< Certificates .....	26
< Contact Lens Fitting .....	27
< Continuing Education .....	28
< Reinstatement .....	29
< Fees And Assessments .....	30-33
< Council Business .....	34
< Association Business .....	35-36
< Enactment Of Regulations .....	37
< Elections And Appointments .....	38-39
< Hours Of Business .....	40
< Standard For Lenses .....	41

< Patient Records .....	42
< Professional Liability Insurance . . . . .	42.1
< General Power.....	43
< Saving And Transitional.....	44
< Repeal .....	45

**VERSION 2016**  
**REGULATIONS OF**  
**THE OPTICIANS ASSOCIATION OF NEW BRUNSWICK**

**Definitions**

1 In these Regulations,

"Act" means the *Opticians Act*;

"approved lectures" means approved continuing education lectures, as provided for in Section 28 of these Regulations;

"Association" means the Opticians Association of New Brunswick;

"Examining Committee" means the Examining Committee established under the Act;

"contact lens fitter" means a registered optician who has a certificate of special qualification to fit and dispense contact lenses;

"contact lens student" means a person registered in an approved course for a certificate of special qualification;

"Council" means the Executive Council of the Association;

"optical appliances" means contact lenses, whether corrective or cosmetic, lenses, spectacles, eyeglasses, artificial eyes, low vision aids, or appurtenances thereto for the aid or correction of visual or ocular anomalies of the eyes;

"optical dispensing" means the interpreting and filling of a prescription for optical appliances and includes measuring, fitting, adjusting and adapting optical appliances;

"prescriber" means an optometrist or medical practitioner who prepares a prescription;

"prescription" means the written record for a particular patient, including the date of examination, prepared by a prescriber, of the power of a lens to correct the refractive error of an eye and, when appropriate, reading add, prisms, back vertex distance and any medical contra-indications;

"registered apprentice" means a person who is registered with the Association as an apprentice;

"Registrar" means the Registrar of the Council;

"Secretary" means the Secretary of the Association.

## **Secretary**

2 The Secretary shall have custody of the seal of the Association and shall counter-sign any instruments to which the seal is affixed.

3 If the Secretary is absent or unable to perform his or her duties, the Council may appoint another person to perform these duties.

4 The Secretary shall

- (a) attend all meetings of the Association and Council;
- (b) keep the minutes of the proceedings of the Association and the Council;
- (c) conduct the correspondence of the Association and the Council;
- (d) manage the office of the Association; and
- (e) perform all other duties assigned to him or her by these Regulations or by the Council, or which are incidental to his or her office.

**Treasurer**

5 The Treasurer shall

- (a) receive all monies payable to the Association;
- (b) hold or invest the monies of the Association subject to the order of the Council;
- (c) make a report at the annual meeting of the Association, or at such other times as may be required by the Council, of all moneys received and paid out by him or her in the last fiscal year of the Association;
- (d) keep the records and other documents of the Association and the Council relating to financial matters;
- (e) make provision to pay all legitimate debts incurred on behalf of the Association, without prior authorization of the Council, up to the amount of \$300.00, out of the moneys of the Association; and

- (f) perform all other duties assigned to him or her by these Regulations or by the Council, or which are incidental to the Treasurer's office.

### **Registrar**

6 The Registrar shall

- (a) record the names of all members of the Association, and
- (b) issue Certificates of Registration to all members of the Association,

in accordance with the Act and these Regulations.

### **Office**

7 (1) All moneys of the Association shall be deposited in a financial institution authorized by the Council.

(2) The signing officers for the accounts of the Association shall be such persons as may be designated from time to time by the Council.

8 The Council shall fix the salary, if it is deemed necessary, of the Secretary and of the Treasurer which shall be paid out of the moneys of the Association.

9 The Council may appoint counsel to act on behalf of the Association in any matter and authorize payment for such counsel out of the moneys of the Association.

10 The Council shall instruct and authorize the Treasurer to pay all legitimate debts of the Association over the amount of \$300.00 out of the moneys of the Association.

11 Employees of the Association shall have such duties and be paid such salary or wages out of the moneys of the Association as the Council may determine.

### **Honourary Members**

12 (1) The Council may make any person it considers worthy an honorary member of the Association.

(2) At the beginning of the fiscal year following the sixty-fifth birthday of any member in good standing, every such member shall be deemed to have honorary status.

(3) No annual registration fee is payable to the Association by honorary members.

(4) Honourary members have the right to attend meetings of the Association, and retain the right to vote.

(5) Every member who continues optical dispensing after his sixty-fifth birthday shall acquire continuing education hours as specified in Section 28 of these Regulations.

### **Associate Members**

13 (1) The Council may grant associate membership in the Association, for a fee equal to 25% of the annual registration fee, to any member in good standing who for a period of time ceases to practise optical dispensing in the Province of New Brunswick. Every person requesting associate membership shall apply for a "non-practising" waiver, which may be granted by the Council upon the condition that where such person practises optical dispensing in New Brunswick at any time during the financial year for which the waiver was requested, the remaining 75% of the full registration fee automatically becomes due.

(2) Associate members shall acquire continuing education hours as specified in Section 28 of these regulations.

(3) Associate members shall receive all general mailings and may attend all general meetings as voting members.

**Applications For Admission And Special Qualification**

14 (1) The Council may cause an inquiry into an application for admission of a person as an optician or as a registered apprentice by

- (a) making an inquiry itself,
- (b) referring the application to the Examining Committee to make an inquiry, or
- (c) instructing the Registrar to make an inquiry.

(2) On an inquiry into an application under this section, the Council or the Examining Committee or the Registrar may require and receive evidence as to the character, habits and education of the applicant and as to any other matters relating to the application into which the Council considers fit to cause an inquiry.

(3) The Council or the Examining Committee or the Registrar may require an interview with the applicant as part of the inquiry.

(4) Where the Council refers the application to the Examining Committee or the Registrar, the Examining Committee or the Registrar shall report any findings to the Council and the Council shall make the final decision on the application.

15 (1) To qualify for registration as an optician, every person applying must show that he or she is of suitable character and habits for admission as an optician authorized to carry on business in the Province.

(2) To qualify for registration as a registered apprentice, every person applying must show that he or she is of suitable character and habits for admission as a registered apprentice aspiring to registration as an optician in the Province.

16 To qualify for admission as a registered apprentice every person applying must

- (a) present proof of having obtained at least a Grade 12 diploma equivalent to that granted by the Province of New Brunswick; and
- (b) have entered into an apprenticeship agreement with a duly qualified sponsoring optician.

17 To qualify for registration as an Optician, any applicant must |

- (a) have successfully completed
  - (i) an ophthalmic dispensing eyeglasses course which has been approved by Council, and
  - (ii) an assessment process which has been approved by council, or
- (b) qualify by virtue of a mutual recognition agreement in force at the time of the application for registration.

18 To qualify for a certificate of special qualification, an optician shall have taken and successfully completed a course and assessment process which is approved by the Council at the time of application, or qualify by virtue of a mutual recognition agreement in force at such time.



19 (1) An application for admission as a registered apprentice shall be filed with the Secretary.

(2) The application shall

(a) state the date of birth, the educational qualifications, and the citizenship of the applicant;

(b) name the optician with whom the applicant has entered into the apprenticeship agreement;

(c) state whether the applicant has ever been convicted of a criminal offence and, if so, the particulars thereof; and

(d) be accompanied by at least three character references.

(3) The applicant shall cause an official transcript or equivalent document certifying his or her studies to be sent to the Secretary or shall attach a transcript to his application.

(4) The applicant shall attach to this application a copy of his or her apprenticeship agreement.

(5) The applicant shall include with his or her application the prescribed registration fee.

20 (1) An application for admission as a registered apprentice, accompanied by all requisite documentation and the registration fee, shall be placed before Council, which shall consider the applicant and may conduct or cause an inquiry respecting the applicant in accordance with the provisions of Section 14.

(2) Where Council has considered the application and any inquiry pursuant to Section 14 is complete, the Council shall, if it finds the applicant qualified for admission as a registered apprentice, admit the applicant as a registered apprentice.

(3) The admission of a person as a registered apprentice by the Council is effective from the date his or her application for admission is filed with the Secretary.

## **Apprenticeship Agreements**

21 (1) In this section, unless the context otherwise requires,

"apprenticeship agreement" means an agreement between a sponsoring optician and a registered apprentice, or person intending to apply for registration as a registered apprentice, in order to prepare the registered apprentice for admission as an optician;

"Sponsoring optician" means an optician who has entered into an apprenticeship agreement with a registered apprentice, or a person intending to apply for registration as a registered apprentice.

(2) A person intending to apply for registration as a registered apprentice shall, before making his or her application enter into an apprenticeship agreement with a sponsoring optician,

(a) who has his or her principal place of business within the Province of New Brunswick,

(b) who is not already sponsoring more than one apprentice or contact lens student, and

(c) who is a member in good standing of the Association.

(3) Apprenticeship agreements are for the purpose of making an application,

(a) for admission as a registered apprentice, or

(b) for the transfer of an apprenticeship agreement.

(4) An apprenticeship agreement continues in effect until

(a) the sponsoring optician ceases to be a regular member of the Association, is suspended from the Association, or otherwise ceases to be qualified to act as an optician,

(b) a transfer of the apprenticeship agreement to another sponsoring optician is approved by Council,

- (c) the registered apprentice is registered as an optician, or
- (d) such time as the Apprentice has failed to register for a course as referred to in Section 17 of these Regulations on the second opportunity for the Apprentice to do so, or
- (e) the Apprentice withdraws from the course as referred to in Section 17 of these Regulations, and does not re-register for the course at the next opportunity to do so, or
- (f) five years have passed since the initial registration of the Apprentice, and the Apprentice has not qualified for licensure.

(5) A registered apprentice may apply to transfer his apprenticeship agreement from one sponsoring optician to another sponsoring optician by requesting such a transfer from the Council.

(6) An apprenticeship agreement shall be signed by the sponsoring optician and the registered apprentice.

(7) A sponsoring optician shall teach, instruct and employ the registered apprentice, or cause the registered apprentice to be taught, instructed, and employed in the practice of optical dispensing, and shall use best endeavours to cause the registration of the registered apprentice as an optician.

(8) During the term of apprenticeship, a registered apprentice must serve a period or periods aggregating not less than 2000 hours

- (a) in the employment of his or her sponsoring optician, or

(b) with the prior written consent of his or her sponsoring optician, in the employ of another optician who would be qualified to act as a sponsoring optician.

(9) No optical appliance prepared by a registered apprentice shall be dispensed to a client until it has been approved by an optician.

(10) An Apprentice shall be supervised by the sponsoring optician or by any other optician who would be qualified to act as a sponsoring opticians, (the “supervising optician”), in accordance with the provisions of Schedule A attached hereto, which forms part of these Regulations.

22 Notwithstanding Section 21 of these Regulations, any person may enter into an apprenticeship agreement and serve his or her qualifying time as a Registered Apprentice with a duly qualified optometrist, and Section 21 shall apply with all necessary changes.

23 (1) For the purposes of registration pursuant to Section 15 of the Act, no applicant shall be deemed to have successfully completed the assessment process for registration until he or she satisfies the Council that he or she is of good character and repute.

(2) Where a person has fulfilled all necessary qualifications and conditions to be registered as an optician, the Council shall instruct the Registrar to issue to that person a certificate of registration, and admit him or her as a member of the Association.

### **Sponsorship Agreements**

24 (1) In this section, unless the context otherwise requires,

"contact lens sponsor" means an optician holding a certificate of special qualification to dispense contact lenses, a dispensing optometrist, or a dispensing ophthalmologist who has been pre-approved by the Council to sponsor a particular contact lens student, and subsequently signs a sponsorship agreement with that student;

"contact lens student" means a registered optician who is enrolled in the contact lens distance delivery program approved by the Council, or who is actively engaged in completing the practical component of such a course;

"sponsorship agreement" means an agreement between a contact lens student and a contact lens sponsor to the effect that the contact lens sponsor shall supervise and instruct the student in the fitting of contact lenses and all measurement and instrumentation pertinent thereto.

(2) Before December 31<sup>st</sup> in the year a contact lens student begins the first year contact lens course, he or she shall sign a sponsorship agreement with a contact lens sponsor who has been pre-approved by the Council, and who is not already sponsoring more than one apprentice or contact lens student.

(3) In order to fulfil the requirements of the contact lens course, a student may sign multiple sponsorship agreements, which may run concurrently.

(4) No contact lens sponsor shall sponsor more than two contact lens students at any one time.

(5) No contact lens student may take ocular measurements for contact lenses, fit or adjust contact lenses except in the same dispensary where his or her contact lens sponsor works.

(6) A contact lens student must complete the number of fittings and practical hours prescribed by the course he or she is registered in, to be considered to have successfully completed the course.

(7) No contact lens fitting shall be completed by a contact lens student until the fitting has been approved by an optician holding a certificate of special qualification, a dispensing optometrist, or a dispensing ophthalmologist.

25 Where a contact lens student has successfully completed all practical and written components of the contact lens course, and has passed the National Standard examination, and has paid the prescribed fees, the Council shall instruct the Registrar to issue to him or her a certificate of special qualification to dispense contact lenses.

25.1 For greater certainty, a contact lens student shall be deemed to continue to be registered in an approved course for a certificate of special qualification

- (a) for any periods of time between sessions of such approved course, and
- (b) for such period of time between completion of the approved course and issuance of a certificate of special qualification as described in Section 25 hereof,

but in no case shall a contact lens student be deemed to continue to be registered in an approved course for any period in excess of 5 years from the date such student first enrolled in the approved course.

**Certificates**

26 (1) Every optician shall ensure that his or her certificate of registration is prominently displayed for public viewing in his or her primary place of business.

(2) Every contact lens fitter shall ensure that his or her certificate of special qualification is prominently displayed for public viewing in his or her primary place of business.

**Contact Lens Fitting**

27 (1) No contact lens fitter shall dispense contact lenses to a patient for the first time, whether the contact lenses are to be corrective or cosmetic, unless the contact lens fitter has

- (a) taken the patient's history,
- (b) performed a slit-lamp examination,
- (c) assessed fit,
- (d) issued appropriate cautions,
- (e) satisfied himself or herself that the patient is capable of insertion and removal of the lenses,
- (f) satisfied himself or herself that appropriate lens care has been explained to the patient, and
- (g) advised the patient as to any appropriate follow-up which is indicated in the circumstances.

(2) No contact lens fitter shall fit or dispense contact lenses unless he or she has access to the use of a keratometer, a slit-lamp, and trial lenses appropriate for the fitting or dispensing of contact lenses.

(3) For the purposes of this section, the onus of proof that a contact lens fitter has access to the use of the equipment referred to in the preceding paragraph, and the appropriateness of the said equipment, shall be on the contact lens fitter concerned.

(4) Every contact lens fitter who acts in breach of paragraph (1) or (2) hereof is guilty of professional misconduct.

### **Continuing Education**

28 (1) The Association shall provide a minimum of twice the number of approved continuing education lectures which are required by members within every three year period.

(2) Approved lectures, seminars, workshops, tapes or written education modules, regardless of length, shall be accorded the number of credits which Council determines they are worth.

(3) Every optician who does not hold a certificate of special qualification shall complete at least 19 approved credits within each three-year period.

(4) Every optician who holds a certificate of special qualification shall complete at least 22 approved credits within each three year period, at least 6 of which credits shall pertain to contact lenses.

(5) Where an optician completes more than the minimum number of credits pursuant to subsections (3) and (4) hereof, credits acquired in excess of the minimum may not be carried forward to fulfil the requirements of any subsequent 3 year period.



(6) The curriculum of approved lectures shall be determined by the Council, and may be changed from time to time as the Council sees fit.

(7) The Council shall be responsible for organizing the approved lectures within the Province of New Brunswick. The Registrar shall be responsible for keeping records of attendance, and for the general administration of this section.

(8) (a) The approved lectures referred to herein shall be held at such time or times, and in such place or places within the Province of New Brunswick, as may be designated by resolution of Council, and for such fee as may be prescribed by resolution of Council, but notwithstanding the foregoing, the Council may designate lectures attended outside the Province of New Brunswick as constituting approved lectures for the purposes of this section, and may allow credits from taped materials, written education modules, internet modules, or other sources as may be approved by Council.

(b) members resident in New Brunswick for at least  $\frac{1}{2}$  of any three year period shall acquire a minimum of  $\frac{1}{3}$  of their required credits in that three year period from approved lectures organized in the province of New Brunswick by the Council

(c) Associate members may acquire 100% of required credits in any three-year period from approved tapes, written modules, internet modules or other sources approved by Council.

(9) (a) The Council may approve for continuing education purposes any lectures which are hosted by a professional association, regulatory body, optical supplier, employer or other reputable company or organization.

(b) Notwithstanding the provisions of subsection (9)(a), the Council has no obligation to approve any lecture not organized by the Council if the member claiming the credit did not have the credit pre-approved, or if proof of attendance is not acceptable to Council.

(10) The onus of proof of compliance with the requirements set out in subsections (3) and (4) of this Section shall be upon the optician, and the attendance records of the Registrar

shall be deemed to be *prima facie* evidence of the attendance or non-attendance of the optician.

(11) Where at the end of any three year period an optician has not fulfilled the requirements of subsections (3) and (4) of this Section, Council may order that optician to submit to such written or oral examinations as it sees fit, to determine his competence as an optician.

(12) Where an optician fails to submit to an examination or examinations pursuant to subsection (11), or where the Council, in its discretion, finds that the results of the examinations prescribed pursuant to subsection (11) demonstrate a lack of competence on the part of an optician, Council may

- (a) suspend the licence or certificate of special qualification, or both, of the optician until such time as he or she satisfies Council of his or her competence to practise; or
- (b) make such other Order as Council considers just.

(13) For the purposes of this section a three year period shall comprise a predetermined period of three consecutive calendar years.

(14) (a) Notwithstanding the foregoing, where a registered apprentice becomes registered as an optician or where an optician receives a certificate of special qualification during the first year of a three year period, the newly registered optician shall require only two-thirds of the requirements of subsection (3) and the optician who has newly received a certificate of special qualification shall require only two-thirds of the requirements of subsection (4).

(b) Where a registered apprentice becomes registered as an optician or where an optician receives a certificate of special qualification during the second year of a three

year period, the newly registered optician shall require only one-third of the requirements of subsection (3) and the optician whoa has newly received a certificate of special qualification shall require only one-third of the requirements of subsection (4).

(15) Council, in its discretion, may exempt a member, or the membership, from compliance with this Section, or any part thereof, for any three year period.

(16) Notwithstanding the foregoing, registered apprentices shall be exempt from the provisions of this Section.

### **Reinstatement**

29 (1) In this section "former member" means a person who was formerly a member of the Association and who ceased to be a member by reason of resignation or suspension, but does not include a person seeking reinstatement under Section 82 of the Act.

(2) To qualify for readmission as an optician, a former member must

- (a) pay the Association all fees, fines or penalties in respect of which the former member was in arrears at the time he or she resigned or was suspended,
- (b) successfully pass any examinations which the Council may require, and
- (c) comply with all other conditions which the Council considers fit.

(3) Notwithstanding subparagraph (2)(a), the Council, for cause established to its satisfaction, may waive all or part of any fees, fines or penalties in respect of which the former member was in arrears at the time he resigned or was suspended.

(4) When a former member has satisfied all requirements for readmission under subsection (2), the Council shall direct the Registrar to reinstate the member's certificate of registration, and issue a licence to him or her.

### **Fees And Assessments**

30 Fees for the following matters, and for annual licensing, shall be established as needed by resolution of Council and shall take effect on the dates specified by resolution of Council, and shall be payable to the Treasurer for the use of the Association.

- (a) for admission as a registered apprentice, not more than .....\$350.00
- (b) for annual licensing of an apprentice who, though entitled to be enrolled in the dispensing course, has not chosen to do so, not more than .....\$350.00
- (c) for initial setup of a file for an applicant from out of province, not more than.....\$200.00
- (d) to undergo assessments
  - (i) In Province PLAR Assessment, Eyeglasses, not more than.....\$800.00
  - (ii) In Province PLAR Assessment, Contact Lenses, not more than.....\$800.00
  - (iii) Assessments for reinstatement of licence to dispense eyeglasses, not more than .....\$800.00
  - (iv) Assessments for reinstatement of certification to dispense contact lenses, not more than.....\$800.00
- (e) Upon late payment of the Annual Licensing Fee or Associate Fee, not more than..... \$100.00

31 (1) Annual fees are payable by each member of the Association on or before the first day of August in each year as follows:

- (a) Licensing fee for member of the Association entitled to use the title optician, not more than.....\$700.00
- (b) Licensing fee for an optician holding a certificate of special qualification for contact lens fitting, not more than.....\$900.00
- (c) Renewal fee for associate member, not more than..... \$175.00

(2) This section does not apply to honorary members.

32 The Association may from time-to-time, by resolution of Council, levy a special assessment of the members to cover extraordinary expenses of the Association.

33 (1) Subject to subsection (3),the licence of any member who fails to pay the licence fees prescribed by Section 31 on or before the first day of August in each year is automatically suspended, until such fees, as well as the late payment fee pursuant to Section 30(e), are paid.

(2) Subject to subsection (3), the licence of any member who fails to pay any costs or other amounts for which the member is liable to the Association under the Act or these Regulations, is automatically suspended until such costs or other amounts are paid.

(3) If, in the opinion of the Registrar, payment has not been made under subsections (1) or (2) for reasons beyond the control of the member, the Registrar may extend the time for payment, during which extension the member is not suspended.

**Council Business**

34 (1) The Council shall consist of eight elected councillors, two councillors appointed by the Lieutenant-Governor In Council, and the past-President. All members of the Council shall be voting members, except the past-President.

(2) Regular meetings of the Council shall be held at least four times a year, unless the Council determines otherwise, at such times and places as are fixed by resolution of the Council, and immediately before and after the annual meeting of the Association.

(3) In a case of urgency or in the absence of a resolution of the Council fixing time and place of the next meeting, the President, or in the President's absence, the Vice-President, may call a meeting of the Council and fix the time and place thereof.

(4) The Secretary shall inform each member of the Council at least seven days, or in a case of urgency, three days, prior to the date fixed for the meeting, but no unintentional error or omission in the giving of the notice shall invalidate the meeting or any business transacted thereat.

(5) Formal written notice of any meeting of the Council may be dispensed with provided that two-thirds of the members of the Council waive the notice at the time such meeting is set.

**Association Business**

35 (1) Special meetings of the Association for the transaction of any business may be called at any time by the Council or the President, or in the President's absence, the Vice-President.

(2) Special meetings of the Association shall be at such place as the Council may fix.

(3) The Secretary shall send by regular prepaid mail or by telephone transmission producing a facsimile of the document a notice of every annual or special meeting of the Association to each regular member in good standing at their last known address at least seven days prior to the date fixed for such meeting, but no unintentional error or omission in the mailing of the notice shall invalidate the meeting or any business transacted thereat.

(4) Twenty-five regular members in good standing constitute a quorum for the transaction of any business at a meeting of the Association.

(5) In the absence of both the President and the Vice-President at any meeting of the Association, the members of the Association present shall elect a chairperson for the meeting.

36 (1) At each meeting of the Association, the Minutes of the previous meeting shall be submitted and after being approved as submitted or amended shall be signed by the Chairperson.

(2) The order of proceedings at meetings of the Association, unless otherwise decided by vote of the meeting, shall be as follows:

- (a) submission of the Minutes of the last meeting,
- (b) business arising out of the Minutes,
- (c) receipt and consideration of reports of Committees,

- (d) receipt and consideration of the reports of the Council and Treasurer,
- (e) election of Directors, and
- (f) any other business.

(3) The election of officers of the Association shall take place at a meeting of the Council to be held following the annual meeting of the Association and shall take precedence over all other business at that time.

(4) The proceedings of the Association shall be conducted as nearly as possible according to ordinary parliamentary procedure.

### **Enactment Of Regulations**

37 (1) Notice of motion of any Regulation to be submitted to a meeting of the Council for confirmation or adoption shall be sent by regular prepaid mail or by telephone transmission producing a facsimile of the document by the Secretary to each regular member of the Association at their last known address at least 14 days prior to the date of the meeting of Council to which the Regulation is to be submitted.

(2) A copy of the Regulation to be submitted or a statement of the effect thereof shall be attached to the notice of motion, but the notice of motion shall constitute sufficient notice of motion of any Regulation which is approved by the Council as a consequence thereof, whether the regulation is approved in the form attached to the notice of motion or in some altered form either as to wording or as to effect.



(3) Any defect in any notice of motion of a Regulation to be submitted to a meeting of the Council for confirmation or adoption may be waived by a resolution passed by the majority of the regular members present and voting at any meeting of the Council.

### **Elections And Appointments**

38 (1) The chairperson of the meeting at which an election takes place shall appoint scrutineers for the conduct of the election.

(2) Each election shall begin with a call for nominations.

(3) No nomination may be accepted unless it is consented to by the person nominated either verbally at the meeting or in writing.

(4) Nominations for any election may be closed by motion of the meeting or, if no nominations are received after three successive calls for nomination, by declaration of the Chairperson.

39 (1) The election of the President and the Vice-President shall be held at a meeting of the Council following the annual meeting of the Association.

(2) The election of the President shall be held first.

(3) The election of the Vice-President shall follow the election of the President.

(4) The appointment of the Registrar, the Secretary and the Treasurer of the Association shall follow the election of the Vice-President.

### **Hours Of Business**

40 No optical dispensary shall be open for business to the public on Sundays, statutory holidays, or for more hours per week than could reasonably be staffed by the number of opticians employed in the dispensary.

### **Standard For Lenses**

41 The standard for acceptable margins of error in corrective lenses which are dispensed by opticians in New Brunswick shall be the ANSI Z80.1 American National Standards Chart, which shall be available for inspection by any person free of charge, at the head office of the Association, at all reasonable times during business hours.

### **Patient Records**

42 (1) Every optician shall make records for each patient to whom he or she dispenses an optical appliance.

(2) The records to be kept for each patient shall include

- (a) the name and address of the patient;
- (b) a copy of the most recent prescription available to the optician for the patient;
- (c) every report received respecting the patient from any other optician or health care professional; and

- (d) any other documents, records, or data, whether electronic or otherwise, which ought in the opinion of the optician to be included in the patient's record.
- (3) The records required by regulation shall be
- (a) legibly written or typed or, if in electronic or coded format, available to be produced in decoded and legible hard copy format;
  - (b) kept in a systematic manner;
  - (c) kept in a manner which maintains reasonable security from unauthorized access;
  - (d) kept, if electronic, with regular backups; and
  - (e) kept, if electronic, either together or with links leading from any one set of records to all other records for that patient.
- (4) Patient records shall be kept for a minimum of seven years from the date of the patient's most recent visit.
- (5) Where an optician retires, or ceases to practise for any reason, such optician shall either
- (a) return each patient's record to such patient; or
  - (b) make adequate provision with another optician or the Registrar so that each patient's records shall be maintained and available to such patient for seven years from the date

of the patient's most recent visit to the optician who has ceased to practise.

(6) Where an optician provides patient records to the Registrar, the Registrar shall release the patient's records to that patient, upon receipt of reasonable evidence as to the person's identity, and shall be under no further obligation in respect of such records, once they have been released.

(7) Where the Registrar has maintained a patient's record for seven years from the date of the patient's last visit to the optician, and no request has been made for such records to the Registrar, the Registrar may destroy such records.

### **Professional Liability Insurance**

42.1 (1) No optician shall engage in optical dispensing unless he or she is insured under a policy of professional liability insurance with limits of at least one million dollars per occurrence.

(2) As a condition for the issuance, renewal, or re-instatement of a licence, the Registrar may demand an optician provide proof of insurance as set out in subsection (1), and every optician shall provide such proof of insurance as is satisfactory to the Registrar.

(3) The onus of proof of compliance with subsection (1) and subsection (2) of this Section shall be upon the optician.

(4) Failure to comply with subsection (1) or subsection (2) hereof shall constitute professional misconduct for the purposes of Section 67(d) of the Act.

5) This Section also applies to professional corporations which engage in optical dispensing, with all necessary modifications.

(6) This Section comes into effect as of January 1, 2005.

### **General Power**

43 The Council may from time-to-time do or have performed any matter which it considers necessary or advisable for carrying out effectively the intent and purposes of the Act, and of these regulations.

### **Saving And Transitional**

44 (1) No proceeding, no matter or thing done or relied upon pursuant to Regulations enacted pursuant to *An Act to Incorporate the New Brunswick Guild of Dispensing Opticians*, chapter 68 of the Acts of New Brunswick, 1976, shall be deemed to be invalid only by reason of the repeal of said Regulations.

(2) Any proceeding, matter or thing commenced under the Regulations referred to in the preceding paragraph shall be continued, dealt with and concluded as nearly as possible in accordance with the procedure set out in these Regulations, but nothing herein shall affect any thing, right, title or interest acquired before the commencement of these Regulations, or any legal proceedings or remedy in respect of any such thing, right, title or interest.

### Repeal

45 The Regulations enacted pursuant to **An Act To Incorporate The New Brunswick Guild Of Dispensing Opticians**, Chapter 68 of the Acts Of New Brunswick, 1976, are repealed.

## **“SCHEDULE A”**

### **SUPERVISION OF APPRENTICES**

1. In this Schedule,

“approved ophthalmic dispensing eyeglasses course” means a course referred to in Section 17 of these Regulations;

“supervising optician” means the sponsoring optician or any other optician who would be qualified to act as a sponsoring optician;

“task” means any task or tasks within the meaning of “optical dispensing”

2. A registered apprentice may perform any task the supervising optician deems the registered apprentice to be capable of performing in a competent manner, the onus being on the supervising optician to demonstrate to the Council, upon the demand of Council, that the registered apprentice was, indeed, capable of performing the delegated task at the relevant time.

(a) A registered apprentice who has not yet successfully completed the midterm examination of the first year of an approved ophthalmic dispensing eyeglasses course may not perform any tasks when there is no supervising optician present in the dispensary, but may be left unsupervised in the dispensary without performing such tasks for a maximum of 4 hours per week.

(b) A registered apprentice who has successfully passed the midterm examination of the first year of an approved ophthalmic dispensing eyeglasses course may perform optical dispensing tasks approved by the supervising optician for a maximum of five (5) hours per calendar week without a supervising optician present in the dispensary, provided the registered apprentice does not violate Section 21 (9) of these Regulations.

(c) A registered apprentice who has successfully passed the final examination of the first year of an approved ophthalmic dispensing eyeglasses course may perform optical dispensing tasks approved by the supervising optician for a maximum of seven (7) hours per calendar week without a supervising optician present in the dispensary, provided the registered apprentice does not violate Section 21 (9) of these Regulations.

(d) A registered apprentice who has successfully passed the midterm examination of the second year of an approved ophthalmic dispensing eyeglasses course may perform optical dispensing tasks approved by the supervising optician for a maximum of twelve (12) hours per calendar week without a supervising optician present in the dispensary, provided the registered apprentice does not violate Section 21 (9) of these Regulations.

(e) A registered apprentice who has successfully passed the final examination of the second year of an approved ophthalmic dispensing eyeglasses course may perform optical dispensing tasks approved by the supervising optician for a maximum of sixteen (16) hours per calendar week without a supervising optician present in the dispensary, provided the registered apprentice does not violate

Section 21 (9) of these Regulations.

4. A registered Apprentice who has successfully passed the final examination of the second year of an approved ophthalmic dispensing eyeglasses course remains subject to subsection 3 (e) of this Schedule until he or she successfully completes an approved practical assessment process, as referred to in Section 17 of these Regulations.
5. A registered Apprentice who fails the practical assessment, or who does not opt to take the approved practical assessment within 1 year of passing the final examination of the second year of the approved ophthalmic dispensing eyeglasses course for any reason, is subject to the condition of subsection 3 (d) of this Schedule until such time as the practical assessment has been successfully completed.
6. Upon Council being satisfied that a registered apprentice has successfully passed an approved practical assessment process, the registered apprentice shall no longer require supervision by an optician in the performance of any tasks of optical dispensing.
7. Notwithstanding anything contained in this regulation, the council of the Association has absolute discretion to make allowances for unusual circumstances in any case where inadequate supervision of a registered apprentice has been alleged, and may consider any extenuating circumstances brought forth by the registered apprentice, the sponsoring optician, the supervising optician, or any other optician employed by the same company as the registered apprentice.

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