



PRINCE EDWARD ISLAND  
ÎLE-DU-PRINCE-ÉDOUARD

# **OPTOMETRY ACT**

## PLEASE NOTE

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This document is *not* the official version of the Act. The Act and the amendments as printed under the authority of the Queen's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the *Table of Public Acts* on the Prince Edward Island Government web site ([www.princeedwardisland.ca](http://www.princeedwardisland.ca)).

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## OPTOMETRY ACT

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## OPTOMETRY ACT

### CHAPTER O-6

#### 1. Interpretation

In this Act

- (a) “**Association**” means the Prince Edward Island Association of Optometrists;
- (b) “**bylaws**” means the bylaws of the Association;
- (c) “**Council**” means the Council of the Association;
- (d) “**College**” means the Prince Edward Island College of Optometrists continued under section 9;
- (d.1) “**Committee**” means the Therapeutic Drug Prescription Committee established under section 11.1;
- (d.2) “**diagnostic drug**” means a drug that is administered topically for examination, investigation or diagnosis of disease, injury, or other abnormal conditions of the visual system;
- (d.3) “**drug**” means a drug as defined in the *Pharmacy Act* R.S.P.E.I. 1988, Cap. P-6.1;
- (e) “**license**” means license of entitlement to practise as an optometrist;
- (e.1) “**licensed optometrist**” means an optometrist who holds a valid and subsisting license;
- (f) “**Minister**” means the Minister of Health and Wellness;
- (g) “**optometrist**” means a person who has graduated from a recognized school of optometry and is skilled in the practice of optometry;
- (h) “**optometric assistant**” means any person, in the employ or under the direct supervision of a licensed optometrist, to whom part of the practice of optometry is delegated by the College;
- (i) “**practice of optometry**” means those functions usually performed by an optometrist, including
  - (i) the examination of the human eye and its adnexa using instruments, devices or diagnostic drugs to diagnose visual defects or abnormal conditions,
  - (ii) the treatment of visual defects or abnormal conditions of the human eye or its adnexa by the prescription or application of lenses or other devices, and, subject to this Act and the regulations, the prescription or application of therapeutic drugs, and
  - (iii) the removal of superficial foreign bodies from the human eye or its adnexa;
- (j) “**Registrar**” means the Registrar of the College;
- (k) “**regulations**” means regulations made by the College under this Act;
- (l) “**therapeutic drug**” means a drug that is administered topically for the prevention, treatment or management of disease, injury, or other abnormal conditions of the

anterior segment of the human eye. *1981, c.25, s.1; 2005, c.40, s.24; 2008, c.23, s.1; 2010, c.31, s.3; 2014, c.39, s.66(2).*

## **2. Continuation of Association as a corporation**

The Prince Edward Island Optometrical Association as incorporated by chapter 13 of the Acts of the Legislature for the year 1922 shall continue to be a body corporate under the name of the Prince Edward Island Association of Optometrists subject to this Act and to the bylaws of the Association now in force until altered pursuant to this Act. *1981, c.25, s.2.*

## **3. Objects**

The objects of the Association are to

- (a) promote the professional interests of members;
- (b) improve the proficiency of optometrists in all matters of professional practice, particularly through the dissemination of information and the encouragement of continuing education;
- (c) foster relations with associations of optometrists in other provinces and with other professional bodies. *1981, c.25, s.3.*

## **4. Powers**

- (1) The Association in addition to all other powers vested in corporations may
  - (a) acquire, hold, lease and dispose of real property;
  - (b) borrow money for the purpose of carrying on the affairs of the Association and give security for any money so borrowed on any of the real or personal property of the Association by way of mortgage, pledge, charge or otherwise howsoever;
  - (c) act in negotiations with any government or government agency as to the fees for performance of optometric functions;
  - (d) enter into agreements on behalf of the Association with any person or association of persons as may be necessary for or incidental or conducive to the carrying out of the powers of the Association;
  - (e) make, amend and repeal bylaws relating to the management of the Association and the functions of the officers of the Association;
  - (f) do all such other matters and things as may be necessary for the carrying on and management of the affairs of the Association.

### **Delegation of powers**

- (2) The Association may, subject to the provisions of this Act and bylaws, delegate the exercise of any of its powers to the Council or any committee of the Association. *1981, c.25, s.4.*

## **5. Annual and other meetings**

- (1) The Association shall, in the manner provided by the bylaws, hold an annual meeting in each year and such other meetings as are required.

### **Voting at meetings**

- (2) Only a member shall be entitled to vote as a meeting of the Association. *1981, c.25, s.5.*



**6. Council**

- (1) There shall be a Council of the Association consisting of the President, Vice-President, Secretary-Treasurer and one other member, who shall be elected in the manner provided by the bylaws.

**President**

- (2) The President shall hold office until his successor is elected and shall act as presiding officer at the meetings of the Council and of the Association, voting only when the votes are evenly divided, and shall perform the duties assigned to him by this Act and the bylaws.

**Vice-President**

- (3) The Vice-President shall have all the powers of the President in his absence.

**Secretary-Treasurer**

- (4) The Secretary-Treasurer shall perform the duties assigned to him by the bylaws.

**Reimbursement of Council members**

- (5) The members of the Council and other officers shall be paid such fees and expenses as are prescribed by the bylaws.

**Functions of the Council**

- (6) The Council, in addition to performing the duties provided by this Act and bylaws, shall provide for the general management of the affairs and business of the Association and shall carry on and transact the same in accordance with this Act and the bylaws. *1981, c.25, s.6.*

**7. Bylaws**

- (1) The Council may make, amend and revoke bylaws, not inconsistent with this Act, relating to the management of the Association and the functions of its officers and, without prejudice to the generality of the foregoing, regarding
- (a) fees for membership;
  - (b) the assessment of members for any ordinary or extraordinary expenditures that may be considered necessary or expedient in exercising any of the powers of the Association;
  - (c) the appointment of officers of the Association, their terms of office, duties and remuneration;
  - (d) the calling and conduct of meetings;
  - (e) the establishment of committees; and
  - (f) the engagement of persons whom the Association may employ or contract with.

**Bylaws lapse unless confirmed**

- (2) Bylaws made under subsection (1) are effective when made by the Council but lapse at the close of the next general meeting after they are made unless confirmed by the members at that meeting.

**Copies to Minister**

- (3) A copy of all bylaws made under subsection (1) shall be forwarded by the Secretary-Treasurer to the Minister and to each member of the Association.

**Inspection**

- (4) Bylaws made under this section shall be made available for inspection by the public on request to the Secretary-Treasurer. *1981, c.25, s.7.*

**8. Registration of members**

- (1) Any person shall be entitled to be registered as a member of the Association upon filing with the Secretary-Treasurer satisfactory proof that such person has tendered the fees prescribed by the bylaws and is the holder of a license to practise as an optometrist.

**Idem**

- (2) Every person who, in the opinion of the Council, expressed by resolution thereof, has complied with the provisions of subsection (1) shall be registered as a member. *1981, c.25, s.8.*

**9. Continuation of college as a corporation**

- (1) The Prince Edward Island College of Optometrists as established by chapter 13 of the Acts of the Legislature for the year 1922 is hereby continued as a body corporate under the same name and is vested with all of the rights and assumes all of the obligations of the Prince Edward Island College of Optometrists.

**Continuation of membership**

- (1.1) Every person who, immediately before the date this section comes into force, is a member of the Prince Edward Island College of Optometrists, is deemed, on the date this section comes into force, to be a member of the College for the unexpired portion of his or her term of office, unless the person sooner ceases to be a member.

**Membership**

- (2) The College shall be composed of no fewer than five members appointed by the Minister upon nomination by the Council; a majority of the members shall be licensed optometrists, and at least one member shall be a lay person not associated with any particular health discipline.

**Term**

- (3) Appointments shall be for a maximum of three years and members may be *re*-appointed.

**Chairperson**

- (4) The College shall elect as its chairperson one of its members who is a licensed optometrist.

**Registrar**

- (5) The College shall appoint one of its members as Registrar.

**Procedure**

- (6) The College may determine its own procedure.

**Bylaws**

- (7) The College may make, amend, and revoke bylaws, not inconsistent with this Act, relating to the management and operation of the College, including bylaws respecting
- (a) the election or appointment, terms of office, duties and remuneration of officers of the College;
  - (b) the making, amendment and revocation of bylaws; and





- (c) the fees that are payable for
  - (i) an application for a license,
  - (ii) the examination of an applicant for a license,
  - (iii) the issuance or renewal of a license, or
  - (iv) an application for a written confirmation under section 15.1. *1981, c.25, s.9; 2008, c.23, s.2.*

## 10. Purpose

- (1) The purpose of the College is to regulate the practice of optometry in the province so as to promote a high standard of oculo-visual care and safeguard the public's welfare with regard to optometry.

### Functions

- (2) The functions of the College are to
  - (a) prescribe educational standards and proficiency qualifications for licensure as an optometrist;
  - (b) examine the qualifications, credentials and competency of candidates applying for licensure as optometrists;
  - (c) grant licenses to practise optometry;
  - (d) keep the official register of persons entitled to practise optometry;
  - (e) adopt, and promote adherence to, professional ethical guidelines and standards of quality to govern the practice of optometry; and
  - (f) investigate complaints against and exercise discipline of optometrists in regard to professional competency and conduct. *1981, c.25, s.10.*

## 11. Regulations

- (1) The College may, after consultation with the Association and subject to the approval of the Lieutenant Governor in Council, make regulations, consistent with the provisions of this Act, concerning matters necessary to the performance of its purpose and functions, including
  - (a) the educational qualifications required of applicants for licenses, including the designation of universities and schools whose programs for preparing optometrists the College approves;
  - (b) the setting and holding of examinations for applicants for licenses, including those which may be established under a central examining board for the purpose of interjurisdictional standardization;
  - (c) the specific requirements and procedures for licensure and relicensure;
  - (d) the standards that govern the advertisement of optometric services; and
  - (e) the training and education required of licensed optometrists to competently give a prescription for a therapeutic drug or class of therapeutic drugs.

### Copy to Minister

- (2) Repealed by *1994, c.45, s.1. 1981, c.25, s.11; 1994, c.45, s.1; 2008, c.23, s.3.*

### 11.1 Therapeutic Drug Prescription Committee

- (1) There is hereby established a committee to be called the Therapeutic Drug Prescription Committee.

**Composition**

- (2) The Committee shall be composed of the following persons:
- (a) the Registrar;
  - (b) the Registrar of the College of Pharmacists;
  - (c) a representative of the Department of Health and Wellness, appointed by the Minister.

**Term of office and reappointment**

- (3) The member of the Committee representing the Department of Health and Wellness shall be appointed for a term of two years, and may be reappointed.

**Advice respecting therapeutic drugs optometrist may prescribe**

- (4) The Committee shall
- (a) compile, maintain and provide to the College a list of therapeutic drugs or classes of therapeutic drugs that the Committee is satisfied a licensed optometrist may be competent to give a prescription for if the College confirms the licensed optometrist's qualifications and authorizes him or her to do so; and
  - (b) provide advice to the Minister as requested by the Minister under section 15.2 or otherwise.

**Expert advice**

- (5) The Committee may, from time to time, seek the advice of other health professionals where the Committee deems such advice is required.

**Chairperson**

- (6) The Registrar shall be the chairperson of the Committee.

**Meetings**

- (7) The Committee shall meet at least once a year and as requested by the Registrar or the Minister.

**Quorum**

- (8) A Quorum of the Committee shall consist of a majority of the members of the Committee.

**Decision**

- (9) Decisions shall be made at Committee meetings based on a majority vote, and in the event of a tie vote the decision favoured by the chairperson shall prevail. *2008,c.23,s.4; 2010,c.31,s.3; 2014,c.39,s.66(3).*

**12. License, requirements**

- (1) A person seeking to be licensed to practise as an optometrist shall apply to the College and shall provide proof of
- (a) graduation from a school of optometry whose program is approved by the College;
  - (b) successful completion of such practical training and professional experience as may be prescribed;
  - (c) professional competency, as demonstrated by such examination as may be prescribed;



- (d) knowledge and acceptance of the laws directly applicable to the practice of optometry, and of prescribed standards of practice and ethical guidelines, as demonstrated in such manner as may be prescribed; and
- (e) currency of professional knowledge and skills, as indicated by such requirements as may be prescribed regarding recency of professional education, examination, active practice or refresher program.

**Refusal**

- (2) The College may refuse to issue a license to an applicant who
  - (a) has been or is being investigated or disciplined for professional misconduct, negligence or incompetence by a regulatory authority or professional organization, until such time as the said authority or organization declares the applicant to be in good standing; or
  - (b) has been convicted of an offence of such a nature and direct relevance to professional practice that, in the judgment of the College without any negative vote, the applicant would pose a danger to patients in the context of practice. *1994, c.45, s.2.*

**13. License, issue**

The Registrar shall, upon receipt of payment of such fee as may be established by the bylaws, issue a license to practise as an optometrist to every person who has met the requirements of section 12. *1994, c.45, s.3; 2008, c.23, s.5.*

**14. Register**

The Registrar shall maintain a register in which shall be entered the name, address and qualifications of every person licensed to practise as an optometrist under this Act and the register shall be available for public inspection at all reasonable times without charge. *1981, c.25, s.14.*

**15. Expiry**

- (1) Unless a shorter term has been imposed by the College, a license expires one year from the date on which it comes into effect.

***Idem***

- (2) The College may determine the effective date and expiry date of licenses.

**Application for renewal**

- (3) A person who holds a license may apply, before its expiry, to the Registrar for renewal for the ensuing year.

**Renewal**

- (4) The College shall renew a license if
  - (a) the College has no reason to believe that the person is in violation of the Act, regulations or any terms or conditions affecting the validity of the person's license;
  - (b) the person meets the prescribed requirements for currency of professional competency; and
  - (c) the person pays the prescribed renewal fee.

**Lapse**

- (5) The holder of a license who fails to renew it on or before the expiry date, or to make a special arrangement for extension or deferred renewal that is satisfactory to the College, ceases to be registered.

**Reinstatement**

- (6) Subject to subsection (4), a person whose license has lapsed under subsection (5) is entitled to have it renewed if application is made and the fee paid within two years of the expiry.

***Idem*, lapse for more than two years**

- (7) If the lapse extends for a period of more than two years, the person must apply as if for initial licensure and the College may *re-issue* a license according to such special terms and conditions as it considers appropriate. *1994, c.45, s.3.*

**15.1 Application for authorization**

- (1) A licensed optometrist who wishes to apply for a written authorization from the College to prescribe a therapeutic drug or class of therapeutic drugs, shall(a) submit an application to the College in the form required by the College that specifies the therapeutic drugs or classes of therapeutic drugs that the applicant wishes to be authorized to prescribe;
- (b) provide proof satisfactory to the College that the applicant meets the prescribed training and education requirements; and
- (c) pay to the College the application fee, if any, established by the bylaws.

**Issuance of written authorization**

- (2) The College shall, on receipt of an application made in accordance with subsection (1), issue a written authorization to the applicant respecting a specified therapeutic drug or class of therapeutic drugs if the College is satisfied that the licensed optometrist has the prescribed training and education to competently prescribe the specified therapeutic drug or class of therapeutic drugs.

**Contents of written authorization**

- (3) A written authorization issued by the College under this section shall
- (a) indicate the name of the licensed optometrist in respect of which the authorization is given;
- (b) specify the date on which the authorization is given; and
- (c) specify each therapeutic drug or class of therapeutic drugs that the licensed optometrist is authorized to prescribe.

**Copy to College of Pharmacists**

- (4) Upon issuing a written authorization under this section, the College shall promptly provide a copy of the authorization to the College of Pharmacists. *2008, c.23, s.6; 2014, c.39, s.66(4).*

**15.2 College may request advice of Committee before issuing authorization**

The College may, before issuing a written authorization under section 15.1, request the Committee to provide advice regarding the therapeutic drugs or classes of therapeutic drugs specified in the application that the Committee is satisfied that the licensed optometrist is competent to prescribe if authorized to do so by the College. *2008, c.23, s.6; 2014, c.39, s.66(4).*



**16. Investigation**

- (1) If the College has cause to believe that a licensed optometrist is
- (a) in violation of the Act or regulations;
  - (b) (i) unfit to practise, or  
(ii) guilty of conduct contrary to the public interest by reason of negligence, incompetence, professional misconduct or other comparable failing which may harm a patient,

the College shall conduct an investigation, and shall give the affected optometrist the opportunity of a hearing, with legal counsel if desired.

**Notice to affected optometrist**

- (2) The College shall not carry out a full investigation without first giving the licensed optometrist written notice of its intent to do so, and the notice shall include a statement of what the complaint or concern is, the assurance of a hearing and the right to be represented by legal counsel if desired.

**Discipline**

- (3) If the College, after the investigation and hearing, determines that the licensed optometrist is in violation of the Act or regulations, unfit to practise or guilty of conduct contrary to the public interest, it may, following guidelines in regulations or written policy, disqualify, discipline or seek to remedy the professional performance of the optometrist by
- (a) suspending or cancelling the license;
  - (b) imposing conditions on the license;
  - (c) reprimanding the optometrist;
  - (d) requiring the optometrist to take a course or educational or rehabilitative treatment program;
  - (e) requiring the optometrist to pay the costs of the investigation and discipline; or
  - (f) imposing any combination of these measures or other such sanction as the College considers appropriate.

**Appeal**

- (4) An optometrist whose license has been suspended or revoked under subsection (3) may appeal that decision to the Supreme Court by filing a notice of appeal with the court, and so informing the College, within thirty days of receiving notification of the decision of the College.

**Effective date of suspension, etc.**

- (5) The suspension or revocation of a license takes effect only after thirty days following the date in which the College has made its decision known to the optometrist or, if an appeal is made, after the court has dismissed the appeal.

**Reinstatement**

- (6) The College may subsequently upon application reinstate a revoked license or remove a suspension, if the applicant meets the requirements for licensure set out in section 12. *1994, c.45, s.4; 2008, c.20, s.72(68).*

**17. Partnerships etc. ineligible for registration or license**

A partnership, association of persons or a body corporate shall not as such be enrolled as a member of the Association or licensed to practise. *1981, c.25, s.17.*

**18. Offences**

- (1) No person, unless he is the holder of a license to practise which has not been suspended or revoked under the provisions of this Act, shall
- (a) practise optometry, or any portion of the art peculiar to optometry;
  - (b) use verbally or otherwise the title "Optometrist" or any abbreviation of such title, or any name, title, description or designation that may lead any person to believe that such person is an optometrist, a member of the Association, licensed to practise or entitled to practise as an optometrist;
  - (c) advertise, hold out or conduct himself in any way implying or leading any person to believe that such person is an optometrist, a member of the Association, licensed to practise or entitled to practise as an optometrist.

**Evidence of practice**

- (2) The use of trial lenses, trial frames or other such appliance, instrumentation or techniques used in an optometric oculo-visual examination for the purpose of estimating or treating refractive error or muscle functions shall, if the College so determines, be *prima facie* proof of the practice of optometry. *1981, c.25, s.18.*

**18.1 Giving prescriptions - authorization required**

- (1) No licensed optometrist shall give a prescription for any drug unless the licensed optometrist holds an authorization to do so issued by the College.

**Administration of therapeutic drug**

- (2) No licensed optometrist shall administer any drug other than a diagnostic drug unless the licensed optometrist holds an authorization referred to in subsection (1) to give a prescription for that drug. *2008, c.23, s.7; 2014, c.39, s.66(5).*

**19. Exclusion, certain physicians**

The provisions of this Act shall not apply to ophthalmologists or to those medical practitioners who have an optometric qualification from an approved university or school and whose entitlement to perform optometric services has been registered by the Medical Council in accordance with the *Medical Act R.S.P.E.I. 1988, Cap. M-5*; nor shall the provisions of this Act prevent a duly qualified medical practitioner, as defined by the *Medical Act*, from performing in an emergency any function of optometry for the purpose of the prevention of disease or the relief of pain. *1981, c.25, s.19.*

**20. Exclusion, armed forces optometrist**

Notwithstanding section 18, any person who is engaged in optometry in Her Majesty's forces may, while on the active list of such forces, practise optometry in this province in connection with active personnel of the said forces. *1981, c.25, s.20.*



**21. Exclusion, optical dispensing**

Notwithstanding section 18, this Act shall not prevent the holder of a valid certificate of registration under the *Dispensing Opticians Act* R.S.P.E.I. 1988, Cap. D-12, from practising optical dispensing within the limits of that Act. *1981, c.25, s.21.*

**22. Optometric assistants**

- (1) Notwithstanding section 18, the College may, subject to approval by the Lieutenant Governor in Council, make regulations
  - (a) providing for the delegation to optometric assistants of the performance, under direct control and supervision of a registered optometrist, of such services as the College may determine;
  - (b) generally for the defining, regulating and controlling of the practice of optometric assistants.

**Consultation**

- (2) Where regulation of optometric assistants pertains to the practice of optical dispensing as governed by the *Dispensing Opticians Act*, such regulations shall be made after consultation by the College with the Board of Dispensing Opticians.

**Qualifications**

- (3) An optometric assistant employed for duties, the performance of which is regulated under any other enactment governing the practice of health disciplines, must be duly qualified for such duties in accordance with the relevant enactment. *1981, c.25, s.22.*

**23. Advertising**

- (1) Advertising that conveys accurate information to the public, and that does so fairly and in good taste, is consistent with the profession's public responsibilities.

**Idem**

- (2) Advertisements that contain or consist of claims of superiority or that are false, deceptive or misleading in a material respect, or that may tend to bring the profession of optometry into disrepute, are prohibited and constitute a proper subject for professional discipline.

**Idem**

- (3) Advisory opinions will be given by the College in advance, if requested, as to whether or not a proposed advertisement is likely to be viewed as being in contravention of the prohibition. *1981, c.25, s.23.*

**24. Conflict of interest**

It is a conflict of interest for a person to engage in the practice of optometry with any person or corporation other than

- (a) with a person who is engaged in the practice of optometry;
- (b) subject to the approval of the College, with a legally qualified medical practitioner who is engaged in the practice of medicine;
- (c) subject to the approval of the College, as an employee or agent of a municipal or other government agency, a university or hospital;
- (d) subject to the approval of the College, with a community health centre; or

- (e) subject to the approval of the College, with a corporation for the sole purpose of providing optometrical advice and service to the employees of the corporation. *1981, c.25, s.24.*

**24.1 Liability**

The College, or a member or officer of the College, is not liable for any loss or damage suffered or incurred by any person as a result of anything done or not done, or any proceedings taken or not taken, in good faith by the College, or by the member or officer, pursuant to this Act or the regulations. *2008, c.23, s.8.*

**25. Penalty**

Any person who violates section 18 or 24 is guilty of an offence and is liable on summary conviction to a fine not exceeding \$2,000. *1981, c.25, s.25; 1994, c.45, s.5.*

**26. Recovery of charges**

No person practising optometry in the province in violation of this Act shall recover any charges in respect thereof in any court. *1981, c.25, s.26.*

**27. Proof of license**

A certificate purporting to be under the hand of the Registrar and bearing the seal of the College shall be *prima facie* evidence in any court or elsewhere of the issuance of a license to practise, or of the non-issuance thereof. *1981, c.25, s.27.*

