

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

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Schedule A Supervision of Apprentices

Definitions

1 In these Regulations,

"Act" means the *Opticians Act*;

"approved lectures" means approved professional development lectures, as provided for in Section 28 of these Regulations;

"Association" means the Opticians Association of New Brunswick;

"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;

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

"Identity Badge" means a document issued by the Association, which includes the name and photo of the bearer, and identifies the bearer as a licensed optician, with other specifications of such document to be as determined from time to time by the Registrar, at their discretion;

"Offence" or "charge" or "conviction" respectively mean an offence or charge or conviction under the *Criminal Code of Canada* or under any other federal statute of Canada, including but not limited to the *Controlled Drugs and Substances Act*, or an offence, charge or conviction in respect of similar statutes in any jurisdiction outside of Canada;

"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;

"Temporary Non-Commercial Permit" means a permit issued under regulation 13.1.

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 their 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 them by these Regulations or by the Council, or which are incidental to their 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 them 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 them 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 may authorize the Secretary, Registrar or 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.

Honorary Practising Members

- 12** (1) The Council may make any person it considers worthy an honorary practising 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 practising status.
- (3) No annual registration fee is payable to the Association by honorary practising members.
- (4) Honorary practising members have the right to attend meetings of the Association, and retain the right to vote.

(5) Every member who continues optical dispensing after their sixty-fifth birthday shall acquire professional development 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 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 professional development 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.

Temporary Non-Commercial Permit

13.1 A Temporary Non-Commercial Permit may be issued to an applicant who is licensed to practise optical dispensing in a province or territory in Canada upon the following conditions:

(1) such Temporary Non-Commercial Permit may only be issued to allow the practice of optical dispensing at a specific event or during an emergency situation;

(2) the definition of a specific event or an emergency shall be on a case-by-case basis as determined by Council from time to time;

- (3) the Temporary Non-Commercial Permit shall only be valid for the length of the specific event or emergency situation, as the case may be, for which the Permit was issued;
- (4) the application form and requirements for a Temporary Non-Commercial Permit shall be as determined and approved by Council from time to time; and
- (5) the Registrar shall confirm that the applicant is currently registered and in good standing in the province or territory in Canada where the applicant is licensed.

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) instructing the Registrar to make an inquiry.
- (2) On an inquiry into an application under this section, the Council 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 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 they are of suitable character and habits for admission as an optician authorized to carry on business in New Brunswick.

(2) To qualify for registration as a registered apprentice, every person applying must show that they are of suitable character and habits for admission as a registered apprentice aspiring to registration as an optician in New Brunswick.

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 New Brunswick; and
- (b) have entered into an apprenticeship agreement with a duly qualified sponsor.

17 (1) To qualify for registration as an Optician, any applicant must

- (a) have successfully completed
 - (i) an accredited ophthalmic dispensing eyeglasses course which has been approved by Council, and
 - (ii) the national optical science examinations, or
- (b) qualify by virtue of a mutual recognition agreement in force at the time of the application for registration; and
- (c) provide a current (within the last 60 days) copy of a criminal background check including a vulnerable sector screening.

(2) All applicants for registration as an optician with one or more outstanding charges or convictions for an offence are assessed according to the following criteria to determine eligibility for membership and shall provide such information as the Registrar requires, including but not limited to:

- (a) the nature of the behavior for which the charge or conviction was made, and, if repeated, the threat to patient safety and to the member's ability to operate safely and efficiently;

- (b) the circumstances of the charge or conviction and the particulars of the offence(s) involved; and
- (c) in the case of a conviction, efforts made at rehabilitation, likelihood of recurrences, and accomplishments of the individual since the conviction.

(3) Subject to section 17(4) below, applicants who are serving or subject to a sentence, which includes parole, suspended sentence, house arrest, conditional and absolute discharge, probation or other incomplete disposition by a court for an offence are not eligible for membership.

(4) Notwithstanding section 17(3), an application for registration as an optician with outstanding charges or convictions may be approved if all of the following criteria are met:

- (a) satisfactory references;
- (b) in the case of a conviction, documentation supporting that the applicant has been of good character since the conviction;
- (c) there are no special circumstances that lead the Registrar to reasonably believe the applicant is not of good character; and
- (d) there are no circumstances that lead the Registrar to reasonably believe that the applicant should not be practising optical dispensing or that the registration of the applicant would constitute a danger to the public or that the registration of the applicant would adversely affect the good name of the Association or the optician profession.

17.1 (1) All renewal applicants who have responded yes to the question(s) on the renewal application respecting offences, charges and convictions, must satisfy the Registrar of their good character. The applicant must provide evidence of good character which includes but may not be limited to:

- (a) a current (within the last 60 days) copy of a criminal background check including a vulnerable sector screening;
- (b) satisfactory references from present or previous employers;
- (c) no record of outstanding charges or convictions relevant to the practice of an optician and membership in the Association;
- (d) no record of outstanding investigations or other disciplinary proceedings; and
- (e) no history of dishonest behavior or misrepresentation on an application for membership.

(2) Sections 17(2) to (4) apply to applications for renewal of membership.

18 To qualify for a certificate of special qualification, an optician shall have taken and successfully completed an accredited 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 sponsor 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 their studies to be sent to the Secretary or shall attach a transcript to their application.

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

(5) The applicant shall include with their 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 their application for admission is approved by Council.

Apprenticeship Agreements

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

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

"sponsor" means an optician or optometrist 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 their application enter into an apprenticeship agreement with a sponsoring optician or optometrist,
 - (a) who has their principal place of business within 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 or the New Brunswick Association of Optometrists.
- (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 sponsor ceases to be a registered member of their Association, is suspended from their Association, or otherwise ceases to be qualified to act as an optician or optometrist,
 - (b) a transfer of the apprenticeship agreement to another sponsoring optician or optometrist is approved by Council,
 - (c) the registered apprentice is registered as an optician, or
 - (d) such time as the registered apprentice has failed to register for a course as referred to in Section 17 of these Regulations on the second opportunity for the registered apprentice to do so, or
 - (e) the registered 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 registered apprentice, and the registered apprentice has not qualified for licensure.

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

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

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

(8) The registered apprentice is expected to complete the tasks/competencies required by their school or course provider during their apprenticeship. A sponsor is expected to use best efforts to facilitate the registered apprentice's completion of the tasks/competencies required.

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

(10) A registered apprentice shall be supervised by the sponsor or by any other optician or optometrist who would be qualified to act as a sponsor, in accordance with the provisions of Schedule A attached hereto, which forms part of these Regulations.

22 (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 they satisfy the Council that they are 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 them as a member of the Association.

Sponsorship Agreements

23 (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 apprentice or optician who is enrolled in an accredited contact lens course approved by the Council;

"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) A contact lens student shall sign a sponsorship agreement with a contact lens sponsor, who is not already sponsoring more than one apprentice or contact lens student.

(3) To fulfill the requirements of the contact lens course, a contact lens 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 their contact lens sponsor works.

(6) A contact lens student must complete the number of fittings and/or practical hours prescribed by the course in which they are registered, 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.

(8) 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 between completion of the approved course and issuance of a certificate of special qualification as described in Section 24 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.

24 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 them a certificate of special qualification to dispense contact lenses.

Certificates

25 (1) Every optician shall ensure that their certificate of registration is prominently displayed for public viewing in their primary place of business.

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

Identity Badges

26 (1) All practising opticians shall provide to the Registrar either two (2) physical copies or one (1) electronic copy in an acceptable format as determined by Council from time to time, of an identical untouched photograph of themselves, for display upon the Identity Badge to be issued by the Association.

(2) Every applicant for licensing as an optician shall, at the time of their application, comply with the requirements set out in the preceding subsection.

(3) Each optician shall submit a new pair of duplicate photographs or one new electronic copy to the Registrar, to update their Identity Badge, by the fifth (5th) anniversary of their most recent previously submitted photographs, or at any time specified by and at the request of Council.

(4) Every optician, while serving a member of the public, shall wear their current Identity Badge, secured to their person by lanyard, retractable badge reel, snap hook, or similar clip assembly.

(5) Identity Badges shall be worn at or above chest height, allowing the bearer's photograph and face to be readily compared by visual inspection.

(6) All photographs submitted to the Registrar shall be in colour, and must be:

- (a) clear, sharp and in focus at size 2" in width x 2³/₄" in height,
- (b) taken with uniform lighting, without shadows, glare or flash reflections,
- (c) taken straight on, with face and shoulders centered and squared to the camera,

- (d) taken in front of a plain white or light coloured background, with a clear difference between the face and the background,
 - (e) taken within the last year and reflect subject's current appearance, and
 - (f) professionally printed on plain, high-quality photographic paper, or submitted electronically in an acceptable format as determined by Council from time to time.
- (7) Head coverings that conceal any visible portion of the head (i.e. ball caps, bandanas or headscarves) should not be worn in the photographs described in subsection (6), unless they constitute a religious obligation.
- (8) Eyewear, if such is normally worn, are to be maintained for the photograph, but not sunglasses, unless the individual has a certifiable requirement to wear them.
- (9) Two (2) copies of the Identity Badge shall be issued to each optician following each submission of new photographs by the optician, together with two (2) lanyards and two (2) badge holders, and replacements provided thereafter at cost.
- (10) Identity Badges remain the property of the Association, and any member whose registration has been revoked or whose licence or certificate of special qualification has been suspended or revoked shall immediately return said documents to the Registrar.
- (11) Failure to comply with any provision of this section shall constitute professional misconduct.

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 they have 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.

Professional Development

- 28** (1) For the purposes of this section an "education cycle" shall comprise a predetermined period of 1 (one) calendar year.
- (2) Approved in-person, virtual or online lectures, seminars, workshops, or written education modules, regardless of length, shall be accorded the number of credits which the National Alliance of Canadian Optician Regulators ("NACOR") or Council determines they are worth.
- (3) Every optician shall complete at least 8 (eight) approved credits within each one-year education cycle, 1 (one) of which shall be a special education credit, when and as determined by Council.
- (4) Every optician who holds a certificate of special qualification shall complete at least 10 (ten) approved credits within each one-year period, at least 4 (four) of which credits shall pertain to contact lenses, and 1 (one) of which shall be a special education credit, when and as determined by Council.
- (5) Opticians transferring licences from another province to New Brunswick, must provide certificates (proof of attendance), for all credits acquired within the year to the registrar with their application for membership. Acceptable credits will be added to the transferring optician's professional development record.
- (6) 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 period.
- (7) The Registrar shall be responsible for keeping records of credits, and for the general administration of this section.

(8) The onus of proof of compliance with the requirements set out in subsections (3) and (4) 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.

(9) (a) The Council may approve for professional development 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) Where at the end of any education cycle an optician has not fulfilled the requirements as set out in subsections (3) and (4), Council may order that optician to submit to such examinations as it sees fit, to determine their competence as an optician.

(11) Where an optician fails to submit to an examination or examinations pursuant to subsection (10), or where the Council, in its discretion, finds that the results of the examinations prescribed pursuant to subsection (10) 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 that optician satisfies Council of their competence to practise; or

(b) make such other Order as Council considers just.

(12) 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 half of a one-year education cycle, the newly

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

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

(14) 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 they resigned or were 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 they resigned or were 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 them.

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 Association:

- (a) for admission as a registered apprentice, not more than\$500.00
- (b) for initial setup of a file for an applicant from out of country, if applicable, not more than\$200.00
- (c) late payment of the Annual Licencing Fee or Associate Fee, not more than\$150.00

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\$1,000.00
- (b) Renewal fee for associate member, not more than\$250.00

(2) This section does not apply to honorary practising 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(c), 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 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 and fix a time and place of a meeting of the Council.

(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 of the meeting, but no unintentional error or omission in the giving of the notice shall invalidate the meeting or any business transacted thereat.

(5) Members of Council may only serve on Council for three (3) consecutive two (2) year terms.

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 mail or by electronic transmission a notice and supporting documents 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 of such meeting, but no unintentional error or omission in the mailing of the notice shall invalidate the meeting or any business transacted.
- (4) Fifteen percent of 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 mail or by electronic transmission, including supporting documents, 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 they dispense 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 they are 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.

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.

43.1 Whenever amendments are made to these regulations, consequential editorial changes may be made to these regulations by the Council, as required.

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 anything, 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;

"supervisor" means the sponsoring optician or optometrist or any other optician or optometrist who would be qualified to act as a supervisor;

"task" means any activities within the meaning of "optical dispensing"

2. A registered apprentice may perform any task the supervisor deems the registered apprentice to be capable of performing in a competent manner, the onus being on the supervisor 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 supervisor 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 supervisor for a maximum of five (5) hours per calendar week without a supervisor 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 supervisor for maximum of seven (7) hours per calendar week without a supervisor 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 supervisor for a maximum of twelve (12) hours per calendar week without a supervisor 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 supervisor for a maximum of sixteen (16) hours per calendar week without a supervisor 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 they successfully complete 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 one (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 these Regulations, Council 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 sponsor, the supervisor, or any other optician or optometrist employed by the same company as the registered apprentice.