

The Opticians Act

being

[Chapter O-5.1*](#) of *The Statutes of Saskatchewan, 2010*
(effective June 18, 2011).

***NOTE:** Pursuant to subsection 33(1) of *The Interpretation Act, 1995*, the Consequential Amendment sections, schedules and/or tables within this Act have been removed. Upon coming into force, the consequential amendments contained in those sections became part of the enactment(s) that they amend, and have thereby been incorporated into the corresponding Acts. Please refer to the Separate Chapter to obtain consequential amendment details and specifics.

NOTE:

This consolidation is not official and is subject to House amendments and Law Clerk and Parliamentary Counsel changes to Separate Chapters that may be incorporated up until the publication of the annual bound volume. Amendments have been incorporated for convenience of reference and the official Statutes and Regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the official Statutes and Regulations, errors that may have appeared are reproduced in this consolidation.

Table of Contents

1	Short title	28	Professional conduct committee
2	Interpretation	29	Investigation
	COLLEGE	30	Temporary suspension
3	Association continued as college	31	Discipline committee
4	Duty and objects of the college	32	Discipline hearing
5	Membership	33	Disciplinary powers
6	Property	34	Continuity of committee
7	Meetings	35	Criminal conviction
	COUNCIL	36	Duty to report
8	Council	37	Suspension
9	Public appointees	38	Review by council
10	Resignation	39	Appeal to court
11	Vacancy	40	Effect of appeal
12	Officers and employees	41	Effect of expulsion or suspension
13	Committees	42	Reinstatement
	BYLAWS		GENERAL
14	Procedures	43	Immunity
15	Bylaws	44	Offence and penalty
16	Filing of bylaws	45	Limitation of prosecution
17	Ministerial bylaws	46	Report of termination of employment
	MEMBERSHIP AND REGISTRATION	47	Review by Legislative Assembly
18	Membership	48	Record of revocation and notification
19	Register	49	Annual register
20	Registration	50	Annual report
21	Delegation and review	51	Compliance
	PROHIBITION	52	Service of notices, etc.
22	Protection of title		REPEAL, TRANSITIONAL, CONSEQUENTIAL AMENDMENTS AND COMING INTO FORCE
23	Authorized practices	53	R.S.S. 1978, c.O-5 repealed
	DISCIPLINE	54	Transitional – bylaws
24	Interpretation re discipline provisions	55	Transitional – council
25	Proceedings against former members	56	S.S. 1984-85-86, c.O-6.1, section 47 amended
26	Professional incompetence	57	Coming into force
27	Professional misconduct		

CHAPTER O-5.1

An Act respecting the Profession of Opticians and making a consequential amendment to *The Optometry Act, 1985*

Short title

1 This Act may be cited as *The Opticians Act*.

Interpretation

2 In this Act:

- (a) “**administrative bylaw**” means a bylaw made for a purpose set out in subsection 15(1);
- (b) “**business day**” means a day other than a Saturday, Sunday or holiday;
- (c) “**bylaws**” means the valid and subsisting bylaws of the college;
- (d) “**college**” means the Saskatchewan College of Opticians continued pursuant to section 3;
- (e) “**council**” means the council of the college;
- (f) “**court**” means the Court of Queen’s Bench;
- (g) “**member**” means a member of the college who is in good standing;
- (h) “**minister**” means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (i) “**practising member**” means a member to whom a current licence to practise has been issued pursuant to section 20;
- (j) “**record**” means any information that is recorded or stored in any medium or by means of any device, including a computer or electronic media;
- (k) “**register**” means the register kept pursuant to section 19;
- (l) “**registrar**” means the registrar appointed pursuant to subsection 12(2);
- (m) “**regulatory bylaw**” means a bylaw made:
 - (i) for a purpose set out in subsection 15(2); or
 - (ii) pursuant to section 17.

c. O-5.1

OPTICIANS

COLLEGE

Association continued as college

3 The Saskatchewan Ophthalmic Dispensers Association is continued as a corporation to be known as the Saskatchewan College of Opticians.

2010, c.O-5.1, s.3.

Duty and objects of the college

4(1) It is the duty of the college at all times:

- (a) to serve and protect the public; and
 - (b) to exercise its powers and discharge its responsibilities in the public interest.
- (2) The objects of the college are:
- (a) to regulate the practice of the profession and to govern the members in accordance with this Act and the bylaws; and
 - (b) to assure the public of the knowledge, skill, proficiency and competency of members in the practice of opticianry.

2010, c.O-5.1, s.4.

Membership

5 The membership of the college consists of:

- (a) those persons who are members of the Saskatchewan Ophthalmic Dispensers Association on the day before this Act comes into force; and
- (b) those persons who are admitted as members of the college pursuant to this Act and the bylaws.

2010, c.O-5.1, s.5.

Property

6(1) The college may acquire, hold, mortgage, lease, sell or dispose of any property.

- (2) All fees, fines and penalties receivable or recoverable pursuant to this Act are the property of the college.
- (3) The college may:
 - (a) invest its funds in investments in which trustees are authorized to invest pursuant to *The Trustee Act*; and
 - (b) sell or otherwise dispose of those investments and reinvest the proceeds in similar investments.

2010, c.O-5.1, s.6.

OPTICIANS

c. O-5.1

Meetings

- 7(1) An annual meeting of the college is to be held at the time and place that is determined by the council in accordance with the bylaws.
- (2) A special meeting of the college for the transaction of the business that is specified in the resolution or demand is to be held:
 - (a) on resolution of the council; or
 - (b) on the demand, in writing, of the number of members specified in the bylaws.
- (3) The procedure at an annual or special meeting is to be determined by bylaw.
- (4) The council shall send a notice of an annual meeting or special meeting to each member in the manner prescribed in the bylaws.
- (5) Notwithstanding subsection (4), the council shall give notice of a special meeting within 60 days after a resolution or demand for a special meeting.

2010, c.O-5.1, s.7.

COUNCIL

Council

- 8(1) The council shall manage and regulate the affairs and business of the college.
- (2) The council consists of:
 - (a) the number of members prescribed in the bylaws, that is not to be less than five members, elected by the members in accordance with this Act and the bylaws; and
 - (b) the persons appointed pursuant to section 9.
- (3) No member is eligible to be elected as a member of the council unless that member resides in Saskatchewan.
- (4) Members of the council elected pursuant to clause (2)(a) are entitled to remuneration and reimbursement for expenses in the amounts prescribed in the bylaws.
- (5) Each member of the council elected pursuant to clause (2)(a) holds office for the term prescribed in the bylaws.

2010, c.O-5.1, s.8.

Public appointees

- 9(1)** The Lieutenant Governor in Council may appoint three persons who reside in Saskatchewan as members of the council.
- (2) Where the Lieutenant Governor in Council appoints a person as a member of the council, the term of office of that person is not to exceed three years.
- (3) Subject to subsection (4), a member of the council appointed pursuant to this section holds office until that person's successor is appointed and is eligible for reappointment, but is not eligible to hold office for more than two consecutive terms.
- (4) A member of the council appointed pursuant to this section ceases to hold office if that person ceases to be a resident of Saskatchewan.
- (5) A member of the council appointed pursuant to this section may exercise rights and serve as a member of committees to the same extent as other members of the council.
- (6) At least one member of the council appointed pursuant to this section shall be a member of the discipline committee.
- (7) The absence or inability to act as a member of the discipline committee by a member of the council appointed pursuant to this section or the failure to appoint a member of the council pursuant to this section does not impair the ability of the other members of the discipline committee to act.
- (8) The minister shall remunerate and reimburse for expenses the members of the council appointed pursuant to this section at the rate determined by the Lieutenant Governor in Council.

2010, c.O-5.1, s.9.

Resignation

- 10(1)** An elected member of the council may resign by giving written notice of his or her resignation to the council.
- (2) A member of the council appointed pursuant to section 9 may resign by giving written notice of his or her resignation to the minister.
- (3) The resignation of a member of the council is effective on the date stated on the written notice or, if no date is stated:
- (a) in the case of a resignation of an elected member, on the date the written notice is received by the council; or
 - (b) in the case of the resignation of a member of the council appointed pursuant to section 9, on the date the written notice is received by the minister.

2010, c.O-5.1, s.10.

OPTICIANS

c. O-5.1

Vacancy

11(1) When a vacancy occurs in the elected membership of the council, the remaining members of the council may appoint another member to fill the vacancy until the earlier of:

- (a) the expiry of the term of office of the council member who ceased to be a member of the council; and
- (b) the day on which a member is elected to fill the vacancy in accordance with this Act and the bylaws.

(2) A vacancy in the membership of the council does not impair the power of the remaining members of the council to act.

(3) If the licence of a member serving as an elected member of the council is suspended, the member's powers and duties as an elected member of the council are suspended for the same period.

(4) If a member serving as an elected member of the council is expelled from the college, the member ceases to be an elected member of the council on the day the member is expelled.

2010, c.O-5.1, s.11.

Officers and employees

12(1) The officers of the college are to be those that are:

- (a) prescribed in the bylaws; and
- (b) appointed or elected in accordance with the bylaws.

(2) The council shall appoint a registrar.

(3) The council may engage any employees that it considers necessary to carry out the duties and functions of the college.

(4) Subject to this Act and the bylaws, the council shall determine the duties, responsibilities and remuneration of employees of the college.

2010, c.O-5.1, s.12.

Committees

13(1) The council may establish any committees that are provided for by the bylaws or that it considers necessary.

(2) The council shall appoint persons to any committees that are provided for by this Act or the bylaws or that it has established pursuant to subsection (1).

(3) Subject to this Act and the bylaws, the council, on any terms or conditions that it may determine, may delegate any of its powers or duties to a committee provided for by this Act or the bylaws or established pursuant to subsection (1).

(4) The council shall not delegate the power to make bylaws.

(5) Subject to this Act and the bylaws, a committee may establish its own procedures.

2010, c.O-5.1, s.13.

BYLAWS

Procedures

14(1) The council, with the approval of not less than a two-thirds majority of the members of the council, may make bylaws for any purpose set out in section 15.

(2) A bylaw made by the council pursuant to subsection (1) has effect only until the next annual or special meeting of the college and, unless confirmed or varied by the members in accordance with subsection (3), ceases to have any effect after that time.

(3) With the approval of a two-thirds majority of those members who vote at an annual or special meeting, the college may:

- (a) make bylaws for any purpose set out in section 15; and
- (b) confirm, vary or revoke any bylaw made by the council pursuant to subsection (1).

(4) The variation or revocation of a bylaw pursuant to subsection (3) does not affect the operation or application of the bylaw before its revocation or variation, and everything done, omitted to be done or authorized pursuant to the bylaw is valid and effective against all persons notwithstanding the revocation or variation.

(5) The registrar shall forward copies of proposed bylaws to all members at least 10 business days before the date of the annual or special meeting at which the bylaws are to be presented.

(6) The registrar shall notify each member of each bylaw made pursuant to subsection (1) or (3), or confirmed, varied or revoked pursuant to subsection (3), within 150 days after the bylaw is made, confirmed, varied or revoked.

(7) Failure to comply with subsection (6) does not invalidate a bylaw.

(8) No regulatory bylaw made by the council or the college comes into force until it is:

- (a) approved by the minister pursuant to section 16; and
- (b) published in the Gazette.

(9) An administrative bylaw comes into force on the later of:

- (a) the day on which it is filed pursuant to subsection 16(4); and
- (b) the date specified in the bylaw.

Bylaws

15(1) Subject to this Act, administrative bylaws may be made pursuant to section 14 for the following purposes:

- (a) prescribing the seal of the college;
- (b) providing for the execution of documents by the college;
- (c) respecting the banking and financial dealings of the college;
- (d) fixing the fiscal year of the college and providing for the audit of the accounts and transactions of the college;
- (e) respecting the management of the property of the college;
- (f) prescribing the number and terms of office of elected members of the council;
- (g) prescribing the officers of the college and governing the procedure for the appointment, election or removal of those officers;
- (h) prescribing the duties of members of the council and officers and employees of the college;
- (i) prescribing the remuneration and reimbursement for expenses for elected members of the council and committee members;
- (j) governing the procedures for the election of members of the council;
- (k) prescribing the organization, powers and procedures of the council and regulating the council in the performance of its duties;
- (l) respecting the holding and procedures of meetings of the council and annual and special meetings of the college;
- (m) prescribing the amount of registration, licensing and other fees payable to the college, the times of payment and the penalties for late payment;
- (n) providing for the receipt, management and investment of contributions, donations and bequests;
- (o) establishing and governing scholarships, bursaries and prizes;
- (p) regulating joint participation by the college with any educational institution or any person, group, association, organization or body corporate having goals or objectives similar to those of the college;
- (q) establishing any committees that the council considers necessary, prescribing the manner of election, appointment or removal of committee members, determining the duties of committees and establishing procedures for the operation of committees;
- (r) providing for any other thing that is necessary for the effective administration of the college.

(2) Subject to this Act, regulatory bylaws may be made pursuant to section 14 for the following purposes:

- (a) prescribing the qualifications, standards and tests of competency for:
 - (i) the registration of persons or any category of persons as members; and
 - (ii) the issuing of licences;
- (b) prescribing:
 - (i) the procedures governing registration of persons or any category of persons as members;
 - (ii) the procedures governing the issuing of licences; and
 - (iii) the terms and conditions of licences;
- (c) setting standards of professional conduct, competency and proficiency of members;
- (d) providing for a code of ethics for members;
- (e) setting standards regarding the manner and method of practice of members;
- (f) prescribing procedures for:
 - (i) the review, investigation and disposition of complaints by the professional conduct committee or the mediation of complaints alleging that a member is guilty of professional misconduct or professional incompetence;
 - (ii) hearings by the discipline committee of complaints alleging that a member is guilty of professional misconduct or professional incompetence; and
 - (iii) reviews pursuant to subsection 21(4);
- (g) establishing categories of membership in the college and prescribing the rights and privileges of each category;
- (h) respecting the optician education programs required to be successfully completed for the purposes of registration pursuant to this Act;
- (i) prescribing the circumstances under which members are required to attend re-entry education programs and courses and prescribing programs and courses for that purpose;
- (j) setting standards for continuing education and the participation of members in continuing education;

- (k) governing the reinstatement of a member who has been expelled;
- (l) setting requirements for maintenance of membership;
- (m) establishing categories of practice and prescribing the requirements for admission to each of those categories and the practising rights and privileges associated with each category;
- (n) regulating advertising by members;
- (o) prescribing the number of members required to demand a special meeting of the college;
- (p) governing persons who practise pursuant to restricted licences issued pursuant to subsection 20(3);
- (q) prescribing the minimum amount of liability protection that members are required to obtain;
- (r) prescribing the form, content and maintenance of the register and the information to be provided by members for the purposes of the register;
- (s) respecting the reporting and publication of decisions and reports of the council and committees;
- (t) respecting the types and service of notices that may be served electronically;
- (u) establishing programs for the assessment of the competency of members;
- (v) defining activities that constitute a conflict of interest and prohibiting the participation of members in those activities;
- (w) prescribing any other matters considered necessary for the better carrying out of this Act.

2010, c.O-5.1, s.15.

Filing of bylaws

16(1) The college shall file with the minister two copies, certified by the registrar to be true copies, of:

- (a) all regulatory bylaws; and
- (b) any amendment to a regulatory bylaw together with two certified copies of the regulatory bylaw to which the amendment relates.

(2) Where the minister does not advise the college in writing within 90 days after receiving copies of the regulatory bylaw or amendment that the minister approves the regulatory bylaw or amendment, the regulatory bylaw or amendment is deemed not to be approved.

(3) Where the minister approves a regulatory bylaw or an amendment to a regulatory bylaw, the minister shall file with the Ministry of Justice and Attorney General two copies, certified by the registrar to be true copies, of the regulatory bylaw or amendment.

c. O-5.1

OPTICIANS

(4) Within 30 days after an administrative bylaw or an amendment to an administrative bylaw is made, the council shall file with the Ministry of Justice and Attorney General two copies, certified by the registrar to be true copies, of the administrative bylaw or amendment.

(5) Where an administrative bylaw or an amendment to an administrative bylaw is not filed within the 30-day period mentioned in subsection (4), the administrative bylaw or amendment is deemed to be revoked on the expiration of the period.

2010, c.O-5.1, s.16.

Ministerial bylaws

17(1) The minister may request the council to amend or revoke a regulatory bylaw or to make a new regulatory bylaw if the minister is satisfied that it is necessary or advisable.

(2) Where the minister makes a request pursuant to subsection (1), the council shall be provided with the reasons for the request and, if the minister considers it appropriate, a draft of a bylaw to amend or revoke the regulatory bylaw or a draft of a new regulatory bylaw.

(3) If the council does not comply with a request pursuant to subsection (1) within 90 days after the date of the request, the minister may amend or revoke the existing regulatory bylaw or make the new regulatory bylaw in accordance with that request.

(4) A regulatory bylaw made pursuant to this section or an amendment or revocation of a regulatory bylaw pursuant to this section comes into force on the day it is published in the Gazette.

(5) Where the minister makes, amends or revokes a regulatory bylaw, the minister shall file with the Ministry of Justice and Attorney General two copies of the regulatory bylaw, amendment or revocation.

2010, c.O-5.1, s.17.

MEMBERSHIP AND REGISTRATION

Membership

18(1) The council, in accordance with this Act and the bylaws, may register persons as members.

(2) The council may issue licences to members.

2010, c.O-5.1, s.18.

Register

19(1) In accordance with the bylaws, the council shall keep a register in which the name, address and category of membership of every member is to be recorded.

(2) The register is to be:

- (a) kept at the head office of the college; and
- (b) open for inspection by all persons, without fee, during normal office hours of the college.

(3) The following documents are admissible in evidence as proof, in the absence of evidence to the contrary, of their contents without proof of the registrar's appointment or signature:

- (a) a certificate purporting to be signed by the registrar and stating that:
 - (i) a named person was or was not, on a specified day or during a specified period, a member according to the register; or
 - (ii) the licence of a named person was or was not, on a specified day or during a specified period, suspended according to the register; or
- (b) an extract from the register that is certified by the registrar.

2010, c.O-5.1, s.19.

Registration

20(1) The council may register as a member, and issue a licence to practise to, a person who produces evidence establishing to the satisfaction of the council that the person:

- (a) has paid the prescribed fees;
- (b) has complied with the bylaws with respect to registration as a member;
- (c) has successfully completed an optician education program that is prescribed in the bylaws; and
- (d) has successfully passed the examinations prescribed or recognized by the council pursuant to the bylaws.

(2) Notwithstanding subsection (1), the council may register as a member, and issue a licence to practise to, a person who produces evidence establishing to the satisfaction of the council that the person:

- (a) has paid the prescribed fees;
- (b) has complied with the bylaws with respect to registration as a member; and
- (c) is a member of an association, society, institute or body of opticians established pursuant to the legislation of another jurisdiction in Canada and is a member in good standing in that jurisdiction.

c. O-5.1

OPTICIANS

(3) The council may register as a member, and issue a restricted licence to practise to, a person who:

- (a) does not fully meet the requirements of clause (1)(c) or (d);
- (b) agrees to practise in accordance with the conditions or restrictions specified on the restricted licence;
- (c) has paid the prescribed fees; and
- (d) has complied with the bylaws with respect to registration as a member with a restricted licence.

(4) A member granted a restricted licence to practise shall comply with the bylaws governing restricted licences.

2010, c.O-5.1, s.20.

Delegation and review

21(1) The council may delegate to the registrar the power to:

- (a) register persons as members;
- (b) issue licences to members; or
- (c) do both of the things mentioned in clauses (a) and (b).

(2) Where a power is delegated pursuant to this section, the exercise of that power by the registrar is deemed to be an exercise of the power by the council.

(3) The council may impose any terms and conditions that it considers appropriate on a delegation of its powers.

(4) A person who is aggrieved by a decision of the registrar made pursuant to a delegated power may apply to the council to review that decision.

(5) On a review pursuant to subsection (4), the council shall hear the review and may:

- (a) direct the registrar to exercise the power in a manner that the council considers appropriate; or
- (b) confirm the registrar's decision.

(6) On a review pursuant to subsection (4), the person aggrieved by the decision of the registrar has the right to appear in person before the council in support of the application.

(7) The council shall cause the applicant to be informed, in writing, of its decision regarding the review.

2010, c.O-5.1, s.21.

OPTICIANS

c. O-5.1

PROHIBITION

Protection of title

22 No person other than a member shall use the title “Optician”, “Ophthalmic Dispenser”, “Contact Lens Technician” or “Contact Lens Practitioner” or any word, title or designation, abbreviated or otherwise, to imply that the person is a member.

2010, c.O-5.1, s.22.

Authorized practices

23(1) Subject to the terms, conditions and limitations of that member’s licence, a member may perform the following authorized practices:

- (a) interpret a prescription and adapt an ophthalmic appliance in accordance with the regulatory bylaws;
- (b) verify corrective lenses and provide eyeglasses and follow-up care in accordance with the regulatory bylaws; and
- (c) fit and dispense contact lenses and provide follow-up care in accordance with the regulatory bylaws.

(2) No person shall perform any of the authorized practices described in subsection (1) unless:

- (a) the person is a member who is authorized by his or her licence to perform that practice; or
- (b) the person is authorized pursuant to another Act to perform that practice.

2010, c.O-5.1, s.23.

DISCIPLINE

Interpretation re discipline provisions

24 In sections 25 to 42, “**member**” includes a former member.

2010, c.O-5.1, s.24.

Proceedings against former members

25(1) No proceedings conducted pursuant to this Act shall be commenced against a former member more than two years after the day he or she became a former member.

(2) For the purposes of this section, a proceeding is commenced when the professional conduct committee, pursuant to subsection 29(1), is requested by the council to consider a complaint or is in receipt of a written complaint alleging that a member is guilty of professional misconduct or professional incompetence.

2010, c.O-5.1, s.25.

Professional incompetence

26 Professional incompetence is a question of fact, but the display by a member of a lack of knowledge, skill or judgment or a disregard for the welfare of a member of the public served by the profession of a nature or to an extent that demonstrates that the member is unfit to:

- (a) continue in the practice of the profession; or
- (b) provide one or more services ordinarily provided as a part of the practice of the profession;

is professional incompetence within the meaning of this Act.

2010, c.O-5.1, s.26.

Professional misconduct

27 Professional misconduct is a question of fact, but any matter, conduct or thing, whether or not disgraceful or dishonourable, is professional misconduct within the meaning of this Act if:

- (a) it is harmful to the best interests of the public or the members;
- (b) it tends to harm the standing of the profession;
- (c) it is a breach of this Act or the bylaws; or
- (d) it is a failure to comply with an order of the professional conduct committee, the discipline committee or the council.

2010, c.O-5.1, s.27.

Professional conduct committee

28(1) The professional conduct committee is established consisting of at least three persons appointed by the council, the majority of whom are to be practising members.

(2) No member of the council or member of the discipline committee is eligible to be a member of the professional conduct committee.

2010, c.O-5.1, s.28.

Investigation

29(1) Where the professional conduct committee is requested by the council to consider a complaint or is in receipt of a written complaint alleging that a member is guilty of professional misconduct or professional incompetence, the committee shall:

- (a) review the complaint; and
- (b) investigate the complaint by taking any steps it considers necessary, including summoning before it the member whose conduct is the subject of the complaint or assessing the member's competence.

- (2) On completion of its investigation, the professional conduct committee shall make a written report to the discipline committee recommending:
- (a) that the discipline committee hear and determine the formal complaint set out in the written report; or
 - (b) that no further action be taken with respect to the matter under investigation because:
 - (i) the matter has been resolved with the consent of the complainant and the member who is the subject of the investigation; or
 - (ii) in the opinion of the professional conduct committee, no further action is warranted on the facts of the case.
- (3) The formal complaint set out in a written report made pursuant to clause (2)(a) may relate to any matter disclosed in the complaint received pursuant to subsection (1) or the investigation conducted pursuant to subsection (1).
- (4) A report signed by a majority of the professional conduct committee is the decision of that committee.
- (5) The professional conduct committee shall provide, or cause the registrar to provide, a copy of a written report made pursuant to clause (2)(b) to:
- (a) the council;
 - (b) the complainant, if any; and
 - (c) the member whose conduct is the subject of the complaint mentioned in subsection (1).

2010, c.O-5.1, s.29.

Temporary suspension

30(1) Where the professional conduct committee is of the opinion that, on the basis of the allegations or the nature of the case, a member's licence should be suspended or a member should be prohibited from performing any practice or procedure pending the outcome of an investigation or hearing, it may, with the prior approval of the council, apply to a judge of the court for an order:

- (a) suspending the licence of the member whose conduct is the subject of an investigation pursuant to subsection 29(1) or against whom a formal complaint has been made pursuant to clause 29(2)(a); or
- (b) temporarily prohibiting the member described in clause (a) from performing any specified practice or procedure.

c. O-5.1

OPTICIANS

(2) An order of suspension or prohibition shall not extend past the earliest of the following:

- (a) 90 days after the date of the order;
 - (b) the date of a report of the professional conduct committee made pursuant to clause 29(2)(b);
 - (c) where the discipline committee finds that a member is not guilty of professional misconduct or professional incompetence, the day of its decision;
 - (d) where the discipline committee finds that a member is guilty of professional misconduct or professional incompetence, the day that an order is made pursuant to section 33.
- (3) The professional conduct committee may apply to the court for an extension of an order of suspension or prohibition made pursuant to subsection (1).

2010, c.O-5.1, s.30.

Discipline committee

31(1) The discipline committee is established consisting of at least three persons appointed by the council, the majority of whom are to be practising members and one of whom is a member of the council appointed pursuant to section 9.

(2) No member of the professional conduct committee and no elected member of the council is eligible to be a member of the discipline committee.

(3) Subject to this Act and the bylaws, the discipline committee may make rules regulating its business and proceedings.

2010, c.O-5.1, s.31.

Discipline hearing

32(1) Where a report of the professional conduct committee recommends that the discipline committee hear and determine a formal complaint, the registrar shall, at least 10 business days before the day on which the discipline committee is to sit:

- (a) send a copy of the formal complaint to the member whose conduct is the subject of the hearing; and
 - (b) serve notice on the member whose conduct is the subject of the hearing of the date, time and place of the hearing.
- (2) The professional conduct committee shall prosecute or direct the prosecution of the formal complaint, but its members shall not participate in any other manner in the hearing of the formal complaint except as witnesses when required.

- (3) The discipline committee shall hear the formal complaint and shall determine whether or not the member is guilty of professional misconduct or professional incompetence, notwithstanding that the determination of a question of fact may be involved, and the discipline committee need not refer any question to a court for adjudication.
- (4) The discipline committee may accept any evidence that it considers appropriate and is not bound by rules of law concerning evidence.
- (5) The discipline committee may employ, at the expense of the college, any legal or other assistance that it considers necessary, and the member whose conduct is the subject of the hearing, at his or her own expense, may be represented by counsel.
- (6) The testimony of witnesses is to be under oath or affirmation administered by the chairperson of the discipline committee.
- (7) At a hearing by the discipline committee, there is to be full right:
- (a) to examine, cross-examine and re-examine all witnesses; and
 - (b) to present evidence in defence and reply.
- (8) On application and payment of the appropriate fee, the local registrar of the court at any judicial centre shall issue writs of *subpoena ad testificandum* or *subpoena duces tecum* to:
- (a) a member whose conduct is the subject of a hearing pursuant to this Act;
 - (b) a member of the professional conduct committee; or
 - (c) a member of the discipline committee.
- (9) Where a writ issued pursuant to subsection (8) is disobeyed, the proceedings and penalties are those applicable in civil cases in the court.
- (10) Subject to *The Evidence Act* and section 58 of *The Regional Health Services Act*, and notwithstanding any other Act or the regulations made pursuant to any other Act, the records of any facility operated by a regional health authority or affiliate, within the meaning of *The Regional Health Services Act*, may be brought before the discipline committee, without special order, by writ of *subpoena duces tecum* issued pursuant to subsection (8) and served on the chief executive officer of the regional health authority or affiliate.
- (11) Where the member whose conduct is the subject of the hearing fails to attend the hearing, the discipline committee, on proof of service of the notice mentioned in subsection (1), may proceed with the hearing in the member's absence.
- (12) If, during the course of a hearing, the evidence shows that the member whose conduct is the subject of the hearing may be guilty of a charge different from or in addition to any charge specified in the formal complaint, the discipline committee shall notify the member of that fact.

c. O-5.1

OPTICIANS

- (13) If the discipline committee proposes to amend, add to or substitute the charge in the formal complaint, the discipline committee shall adjourn the hearing for any period that the discipline committee considers sufficient to give the member an opportunity to prepare a defence to the amended formal complaint, unless the member consents to continue the hearing.
- (14) The person, if any, who made the complaint pursuant to section 29:
- (a) is to be advised orally or in writing by the registrar of the date, time and place of the hearing; and
 - (b) subject to subsection (16), is entitled to attend the hearing.
- (15) Subject to subsection (16), the discipline committee shall conduct all hearings in public.
- (16) The discipline committee may exclude members of the public and the person who made the complaint from any part of the hearing where the committee is of the opinion that evidence brought in the presence of the person or persons to be excluded will unduly violate the privacy of a person other than the member whose conduct is the subject of the hearing.

2010, c.O-5.1, s.32.

Disciplinary powers

33(1) Where the discipline committee finds a member guilty of professional misconduct or professional incompetence, it may make one or more of the following orders:

- (a) an order that the member be expelled from the college and that the member's name be struck from the register;
- (b) an order that the member's licence be suspended for a specified period;
- (c) an order that the member's licence be suspended pending the satisfaction and completion of any conditions specified in the order;
- (d) an order that the member may continue to practise, but only under conditions specified in the order, which may include, but are not restricted to, an order that the member:
 - (i) not do specified types of work;
 - (ii) successfully complete specified classes or courses of instruction;
 - (iii) obtain medical or other treatment or counselling or both;
- (e) an order reprimanding the member;
- (f) any other order that the discipline committee considers just.

OPTICIANS

c. O-5.1

- (2) In addition to any order made pursuant to subsection (1), the discipline committee may order:
- (a) that the member pay to the college, within a fixed period:
 - (i) a fine in a specified amount not exceeding \$5,000; and
 - (ii) the costs of the investigation and hearing into the member's conduct and related costs, including the expenses of the professional conduct committee and the discipline committee and costs of legal services and witnesses; and
 - (b) where a member fails to make payment in accordance with an order pursuant to clause (a), that the member's licence be suspended.
- (3) After the conclusion of its hearing pursuant to section 32, the discipline committee shall:
- (a) make its decision as soon as possible; and
 - (b) within 10 business days after the decision, send to the member whose conduct is the subject of the complaint and the person, if any, who made the complaint:
 - (i) a copy of its decision; and
 - (ii) if the discipline committee makes an order pursuant to this section, a copy of the order.
- (4) Where a member is expelled from the college or a member's licence is suspended, the registrar shall strike the name of the member from the register or indicate the suspension on the register, as the case may be.
- (5) The discipline committee may inform a member's employer of the order made against that member where that member has been found guilty of professional misconduct or professional incompetence.

2010, c.O-5.1, s.33.

Continuity of committee

34 Where an investigation is commenced by the professional conduct committee or a hearing is commenced by the discipline committee and the term of office of a member of the committee expires or is terminated before the investigation or hearing is disposed of, the person shall remain a member of the professional conduct committee or the discipline committee, as the case may be, for the purposes of completing the investigation or hearing, in the same manner as if the member's term of office had not expired or been terminated.

2010, c.O-5.1, s.34.

Criminal conviction

35 The discipline committee may make any order pursuant to section 33, where:

- (a) the member has been convicted of an offence pursuant to the *Criminal Code*, the *Controlled Drugs and Substances Act* (Canada) or the *Food and Drugs Act* (Canada);
- (b) a report of the professional conduct committee is made to the discipline committee respecting the conviction mentioned in clause (a);
- (c) the discipline committee has given the member mentioned in clause (a) an opportunity to be heard; and
- (d) the discipline committee finds that the conduct of the member giving rise to the conviction is professional misconduct.

2010, c.O-5.1, s.35.

Duty to report

36 Where the professional conduct committee in its investigation pursuant to section 29 or the discipline committee at the conclusion of its hearing pursuant to section 32 believes that the member whose conduct is the subject of the investigation or hearing may be guilty of a criminal offence, the committee may immediately discontinue its investigation or hearing, as the case may be, and shall make a report of its findings to:

- (a) the president of the College; and
- (b) the Deputy Minister of Justice.

2010, c.O-5.1, s.36.

Suspension

37 A judge of the court, on the application of the council, may direct that a member's licence be suspended pending the disposition of a criminal charge where:

- (a) a criminal charge is laid against the member; and
- (b) the member has applied to the court for a stay of any disciplinary proceedings against the member.

2010, c.O-5.1, s.37.

Review by council

38(1) A member may appeal a decision or any order of the discipline committee to the council by serving the registrar with a notice of appeal within 30 days after the decision or order where:

- (a) the member has been found guilty of professional misconduct or professional incompetence by the discipline committee; or
- (b) the member is subject to an order made pursuant to section 35.

OPTICIANS

c. O-5.1

- (2) An appellant shall set out the grounds of appeal in a notice of appeal mentioned in subsection (1).
- (3) On receipt of a notice of appeal, the registrar shall file with the council a true copy of:
- (a) the formal complaint sent and notice served pursuant to section 32 or the report of the professional conduct committee made pursuant to clause 35(b);
 - (b) the transcript of the evidence presented to the discipline committee; and
 - (c) the decision and order of the discipline committee.
- (4) The appellant or the appellant's solicitor or agent may obtain from the registrar a copy of the documents filed pursuant to subsection (3) on payment of the costs of producing them.
- (5) On hearing an appeal, the council may:
- (a) dismiss the appeal;
 - (b) quash the finding of guilt;
 - (c) direct a new hearing or further inquiries by the discipline committee;
 - (d) vary the order of the discipline committee; or
 - (e) substitute its own decision for the decision appealed from.
- (6) The council may make any order as to costs that it considers appropriate.
- (7) A member of council who is a member of the discipline committee shall not participate in the hearing of an appeal pursuant to this section.

2010, c.O-5.1, s.38.

Appeal to court

39 A member whose conduct is the subject of an order of the council pursuant to section 38 may appeal that order to a judge of the court within 30 days after the date of the order of the council, and section 38 applies, with any necessary modification.

2010, c.O-5.1, s.39.

Effect of appeal

40 The commencement of an appeal pursuant to section 38 or 39 does not stay the effect of the decision or order appealed from, but, on five days' notice to the registrar, the appellant may apply to the court for a stay of the decision or order pending the disposition of the appeal.

2010, c.O-5.1, s.40.

Effect of expulsion or suspension

41 When a member is expelled from the college or a member's licence is suspended, that member's rights and privileges as a member are removed for the period during which he or she is expelled from the college or his or her licence is suspended.

2010, c.O-5.1, s.41.

Reinstatement

42(1) A person who has been expelled as a member may apply to the council for reinstatement.

(2) Subject to the bylaws, on receipt of an application pursuant to subsection (1), the council shall:

- (a) review the application; and
- (b) investigate the application by taking any steps it considers necessary.

(3) On completion of its investigation, the council may:

- (a) where it is satisfied that the person's subsequent conduct and any other facts warrant reinstatement, order that the person be reinstated as a member on any terms and conditions that the council considers appropriate; or
- (b) by order, refuse to reinstate the person.

(4) Where, on an application pursuant to subsection (1), the council refuses to reinstate the person as a member, the person, within 30 days after the date of the order, may appeal the order of the council to a judge of the court, and the judge may allow or disallow the appeal.

(5) On an appeal pursuant to subsection (4), the judge shall consider:

- (a) the proceedings before the council on the application for reinstatement;
- (b) the past record of the appellant as shown by the books and records of the college; and
- (c) the evidence taken before the council and any committee that dealt with the expulsion and application for reinstatement and the report of that committee.

(6) A person whose application for reinstatement is refused or whose appeal of a refusal is dismissed may make another application for reinstatement, based on new information, at any time.

2010, c.O-5.1, s.42.

GENERAL

Immunity

43 No action lies or shall be instituted against:

- (a) members of the council;
- (b) the professional conduct committee;
- (c) the discipline committee;
- (d) any member of any committee; or
- (e) any officer, employee or agent of the college;

for any loss or damage suffered by a person by reason of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done by any of them pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the bylaws or in the carrying out or supposed carrying out of any decision or order made pursuant to this Act or the bylaws or any duty imposed by this Act or the bylaws.

2010, c.O-5.1, s.43.

Offence and penalty

44 Every person who contravenes section 22 or section 23 is guilty of an offence and liable on summary conviction:

- (a) for a first offence, to a fine of not more than \$2,000;
- (b) for a second offence, to a fine of not more than \$4,000; and
- (c) for each subsequent offence, to a fine of not more than \$6,000, to imprisonment for a term of not more than six months, or to both.

2010, c.O-5.1, s.44.

Limitation of prosecution

45 No prosecution for a contravention of section 22 or 23 is to be commenced:

- (a) after the expiration of 24 months from the date of the alleged offence; and
- (b) without the consent of the Minister of Justice or the council.

2010, c.O-5.1, s.45.

Report of termination of employment

46 Any employer who terminates for cause the employment of a member shall report the termination to the college where the employer reasonably believes the cause is professional incompetence or professional misconduct.

2010, c.O-5.1, s.46.

c. O-5.1

OPTICIANS

Review by Legislative Assembly

47(1) One copy of each bylaw and amendment filed with the Ministry of Justice and Attorney General pursuant to section 16 or 17 is to be laid before the Legislative Assembly by the Minister of Justice in accordance with *The Tabling of Documents Act, 1991*.

(2) Where any bylaw or amendment laid before the Legislative Assembly is found by the Legislative Assembly to be beyond the powers delegated by the Legislature or in any way prejudicial to the public interest, that bylaw or amendment ceases to have any effect and is deemed to have been revoked.

2010, c.O-5.1, s.47.

Record of revocation and notification

48(1) Where it appears from any Votes and Proceedings of the Legislative Assembly that any bylaw or amendment has ceased to have effect, the Clerk of the Legislative Assembly shall immediately:

- (a) forward two copies of the Votes and Proceedings to the Deputy Minister of Justice; and
- (b) advise him or her that the copies are forwarded pursuant to this subsection.

(2) On receipt of the copies mentioned in subsection (1), the Deputy Minister of Justice shall immediately:

- (a) file one of the copies with the bylaw or amendment to which it relates;
- (b) forward the other copy to the college; and
- (c) advise the college that the copy is forwarded pursuant to this subsection.

2010, c.O-5.1, s.48.

Annual register

49 On or before February 1 in each year, the college shall file with the Minister of Justice a list, certified by the registrar to be a true list, showing:

- (a) the names of all members as at December 31 in the preceding year;
- (b) the addresses of the members mentioned in clause (a) as shown by the records of the college; and
- (c) the respective dates of admission of the members mentioned in clause (a).

2010, c.O-5.1, s.49.

Annual report

50 The college shall file an annual report with the minister in the form, with the contents and in the time prescribed by the minister.

2010, c.O-5.1, s.50.

Compliance

51 Every member shall comply with this Act and the bylaws.

2010, c.O-5.1, s.51.

Service of notices, etc.

52(1) Unless otherwise provided for in this Act or the bylaws, any notice or other document that is required to be served pursuant to this Act may be served by:

- (a) personal service made:
 - (i) in the case of an individual, on that individual;
 - (ii) in the case of a partnership, on any partner; or
 - (iii) in the case of a corporation, on any officer or director; or
 - (b) registered mail addressed to the last business or residential address of the person to be served that is known to the registrar.
- (2) A notice or document sent by registered mail is deemed to have been served on the tenth business day following the date of its mailing, unless the person to whom it was mailed establishes that, through no fault of that person, the person did not receive the notice or document or received it at a later date.
- (3) If it is for any reason impractical to effect service of any documents in the manner provided for in subsection (1), the court may, on an application that may be made *ex parte*, make an order for substituted service.
- (4) A document served in accordance with the terms of an order mentioned in subsection (3) is deemed to have been properly served.

2010, c.O-5.1, s.52.

**REPEAL, TRANSITIONAL, CONSEQUENTIAL
AMENDMENTS AND COMING INTO FORCE**

R.S.S. 1978, c.O-5 repealed

53 *The Ophthalmic Dispensers Act* is repealed.

2010, c.O-5.1, s.53.

Transitional – bylaws

54 Every bylaw of the Saskatchewan Ophthalmic Dispensers Association that is in force on the day before the coming into force of this Act continues in force as a bylaw of the college to the extent that the bylaw is not inconsistent with this Act.

2010, c.O-5.1, s.54.

Transitional – council

55 A person who was a member of the council of the Saskatchewan Ophthalmic Dispensers Association on the day before this Act comes into force continues as a member of the council of the Saskatchewan College of Opticians until the earlier of:

- (a) the day on which members of the council are elected or appointed pursuant to this Act; and
- (b) the day on which the member dies, resigns or otherwise ceases to be a member of the council.

2010, c.O-5.1, s.55.

56 Dispensed. This/these section(s) makes consequential amendments to another/ other Act(s). Pursuant to subsection 33(1) of *The Interpretation Act, 1995*, the amendments have been incorporated into the corresponding Act(s). Please refer to the Separate Chapter to obtain consequential amendment details and specifics.

Coming into force

57 This Act comes into force on proclamation.

2010, c.O-5.1, s.57.