

Excerpts of Relevant Legislation

REGISTRATION REGULATION (O. Reg. 837/93) under the *Optometry Act, 1991, S.O. 1991, c. 35*, as amended

GENERAL CERTIFICATES OF REGISTRATION

2. (1) The requirements and qualifications for the issuing of a general certificate of registration to an applicant are:

[...]

4. Where the applicant has previously practised optometry, there must not be any finding of, or of any current proceeding involving an allegation of, professional misconduct, incompetence or incapacity or any like finding or proceeding against the applicant.

5. The applicant must not have been found guilty in relation to a criminal offence in any jurisdiction. For the purposes of this paragraph, a “criminal offence” includes, without being limited to, an offence under the *Criminal Code* (Canada), the *Controlled Drugs and Substances Act* (Canada) and the *Food and Drugs Act* (Canada).

[...]

(2) An applicant shall be deemed not to have satisfied the requirements for a certificate of registration if the applicant made a false or misleading statement or representation in his or her application. O. Reg. 837/93, s. 2 (2).

[...]

2.1 (1) Where section 22.18 of the Health Professions Procedural Code applies to an applicant for a general certificate of registration, the applicant is deemed to have met the requirements of paragraphs 2 and 7 of subsection 2 (1) of this Regulation. O. Reg. 279/12, s. 2.

(2) It is a non-exemptible registration requirement that an applicant referred to in subsection (1) provide a certificate, letter or other evidence satisfactory to the Registrar or a panel of the Registration Committee confirming that the applicant is in good standing as an optometrist in every jurisdiction where the applicant holds an out-of-province certificate. O. Reg. 279/12, s. 2.

(3) Without in any way limiting the generality of subsection (2), “good standing” shall include the fact that,

- (a) the applicant is not the subject of any discipline or fitness to practise order or of any proceeding or ongoing investigation or of any interim order or agreement as a result of a complaint, investigation or proceeding;
- (b) the applicant has complied with the continuing competency and quality assurance requirements of the regulatory authority that issued the applicant that out-of-province certificate as an optometrist.

[...]

3. It is a condition of a general certificate of registration that the member shall provide the College with details of either of the following that relate to the member and that occur or arise after the member is registered:

- 1. Where the member is or has been registered or licensed to practise optometry in another jurisdiction, a finding of professional misconduct, incompetence or incapacity or any like finding against the member.
- 2. A finding of guilt in relation to an offence in any jurisdiction. O. Reg. 224/03, s. 2; O. Reg. 279/12, s. 3.

[...]

ACADEMIC CERTIFICATES OF REGISTRATION

5. (1) The requirements and qualifications for issuing an academic certificate of registration are:

[...]

- 5. Where the applicant has previously been registered or licensed as an optometrist in any jurisdiction, or has previously practised optometry, there must not be any finding of, or current proceeding involving an allegation of, professional misconduct, incompetence, incapacity or any like finding or proceeding against the applicant.
- 6. The applicant must not have been found guilty in relation to a criminal offence in any jurisdiction. For the purposes of this paragraph, a “criminal offence” includes, without being limited to, an offence under the *Criminal Code* (Canada), the *Controlled Drugs and Substances Act* (Canada) and the *Food and Drugs Act* (Canada).

[...]

(2) An applicant shall be deemed not to have satisfied the requirements for a certificate of registration if the applicant made a false or misleading statement or representation in his or her application. O. Reg. 837/93, s. 5 (2).

5.1 (1) Where section 22.18 of the Health Professions Procedural Code applies to an applicant for an academic certificate of registration, the applicant is deemed to have met the requirements of paragraph 3 of subsection 5 (1) of this Regulation. O. Reg. 279/12, s. 7.

(2) It is a non-exemptible registration requirement that an applicant referred to in subsection (1) provide a certificate, letter or other evidence satisfactory to the Registrar or a panel of the Registration Committee confirming that the applicant is in good standing as an optometrist in every jurisdiction where the applicant holds an out-of-province certificate. O. Reg. 279/12, s. 7.

(3) Without in any way limiting the generality of subsection (2), “good standing” shall include the fact that,

- (a) the applicant is not the subject of any discipline or fitness to practise order or of any proceeding or ongoing investigation or of any interim order or agreement as a result of a complaint, investigation or proceeding;
- (b) the applicant has complied with the continuing competency and quality assurance requirements of the regulatory authority that issued the applicant that out-of-province certificate as an optometrist.

[...]

6. An academic certificate of registration is subject to the following terms, conditions and limitations:

[...]

3. The member must provide the College with details of either of the following that relate to the member and that occur or arise after the member is registered:

- i. where the member is or has previously been registered or licensed as an optometrist in another jurisdiction, a finding of professional misconduct, incompetence, incapacity or any like finding or proceeding against the member, or
- ii. a finding of guilt in relation to an offence in any jurisdiction. O. Reg. 224/03, s. 4; O. Reg. 279/12, s. 8.

[...]

9. (1) All qualifications or requirements for the issuing of a general certificate of registration are non-exemptible, other than requirements listed in paragraph 3, 4 or 5 of subsection 2 (1). O. Reg. 224/03, s. 4.

(2) All qualifications or requirements for the issuing of an academic certificate of registration are non-exemptible, other than requirements listed in paragraph 4, 5 or 6 of subsection 5 (1). O. Reg. 224/03, s. 4.

[...]

Health Professions Procedural Code, being Schedule 2 to the Regulated Health Professions Act, 1991, S.O. 1991, c. 18

REGISTRATION

Registration

- 15.** (1) If a person applies to the Registrar for registration, the Registrar shall,
- (a) register the applicant; or
 - (b) refer the application to the Registration Committee. 1991, c. 18, Sched. 2, s. 15 (1).

Referrals to Registration Committee

(2) The Registrar shall refer an application for registration to the Registration Committee if the Registrar,

(a) has doubts, on reasonable grounds, about whether the applicant fulfils the registration requirements;

(a.1) is of the opinion that terms, conditions or limitations should be imposed on a certificate of registration of the applicant and the applicant is an individual described in subsection 22.18 (1);

(b) is of the opinion that terms, conditions or limitations should be imposed on a certificate of registration of the applicant and the applicant does not consent to the imposition; or

(c) proposes to refuse the application. 1991, c. 18, Sched. 2, s. 15 (2); 1993, c. 37, s. 6; 2009, c. 24, s. 33 (3).

Notice to applicant

(3) If the Registrar refers an application to the Registration Committee, he or she shall give the applicant notice of the statutory grounds for the referral and of the applicant's right to make written submissions under subsection 18 (1). 1991, c. 18, Sched. 2, s. 15 (3).

Terms, etc., attached on consent

(4) If the Registrar is of the opinion that a certificate of registration should be issued to an applicant with terms, conditions or limitations imposed and the applicant consents to the imposition, the Registrar may do so with the approval of a panel of the Registration Committee selected by the chair for the purpose. 1991, c. 18, Sched. 2, s. 15 (4).

Panels for consent

(5) Subsections 17 (2) and (3) apply with respect to the panel mentioned in subsection (4). 1991, c. 18, Sched. 2, s. 15 (5).

Disclosure of application file

16. (1) The Registrar shall give an applicant for registration, at his or her request, all the information and a copy of each document the College has that is relevant to the application.

Exception

(2) The Registrar may refuse to give an applicant anything that may, in the Registrar's opinion, jeopardize the safety of any person. 1991, c. 18, Sched. 2, s. 16.

Panels

17. (1) An application for registration referred to the Registration Committee or an application referred back to the Registration Committee by the Board shall be considered by a panel selected by the chair from among the members of the Committee. 1991, c. 18, Sched. 2, s. 17 (1); 2007, c. 10, Sched. M, s. 24 (1).

Composition of panels

(2) A panel shall be composed of at least three persons, at least one of whom shall be a person appointed to the Council by the Lieutenant Governor in Council. 2007, c. 10, Sched. M, s. 24 (2).

Quorum

(3) Three members of a panel constitute a quorum. 1991, c. 18, Sched. 2, s. 17 (3).

Consideration by panel

18. (1) An applicant may make written submissions to the panel within thirty days after receiving notice under subsection 15 (3) or within any longer period the Registrar may specify in the notice.

Orders by panel

(2) After considering the application and the submissions, the panel may make an order doing any one or more of the following:

1. Directing the Registrar to issue a certificate of registration.
2. Directing the Registrar to issue a certificate of registration if the applicant successfully completes examinations set or approved by the panel.
3. Directing the Registrar to issue a certificate of registration if the applicant successfully completes additional training specified by the panel.
4. Directing the Registrar to impose specified terms, conditions and limitations on a certificate of registration of the applicant and specifying a limitation on the applicant's right to apply under subsection 19 (1).
5. Directing the Registrar to refuse to issue a certificate of registration.

Idem

(3) A panel, in making an order under subsection (2), may direct the Registrar to issue a certificate of registration to an applicant who does not meet a registration requirement unless the requirement is prescribed as a non-exemptible requirement.

Order on consent

(4) The panel may, with the consent of the applicant, direct the Registrar to issue a certificate of registration with the terms, conditions and limitations specified by the panel imposed. 1991, c. 18, Sched. 2, s. 18.

Application for variation

19. (1) A member may apply to the Registration Committee for an order directing the Registrar to remove or modify any term, condition or limitation imposed on the member's certificate of registration as a result of a registration proceeding. 1991, c. 18, Sched. 2, s. 19 (1).

Limitations

(2) The right to apply under subsection (1) is subject to any limitation in the order imposing the term, condition or limitation or to which the member consented and to any limitation made under subsection (7) in the disposition of a previous application under this section. 1991, c. 18, Sched. 2, s. 19 (2).

Panels

(3) An application to the Registration Committee under subsection (1) or an application referred back to the Registration Committee by the Board shall be considered by a panel selected by the chair from among the members of the Committee. 1991, c. 18, Sched. 2, s. 19 (3); 2007, c. 10, Sched. M, s. 25 (1).

Idem

(4) Subsections 17 (2) and (3) apply with respect to the panel mentioned in subsection (3). 1991, c. 18, Sched. 2, s. 19 (4).

Submissions

(5) An applicant may make written submissions to the panel. 1991, c. 18, Sched. 2, s. 19 (5).

Orders

(6) After considering the application and the submissions, the panel may make an order doing any one or more of the following:

1. Refusing the application.
2. Directing the Registrar to remove any term, condition or limitation imposed on the certificate of registration.
3. Directing the Registrar to modify terms, conditions or limitations on the certificate of registration. 1991, c. 18, Sched. 2, s. 19 (6); 2007, c. 10, Sched. M, s. 25 (2).

Limitations on applications

(7) When an application has been disposed of under this section, the applicant may not make a new application under subsection (1) within six months of the disposition without leave of the Registrar. 2007, c. 10, Sched. M, s. 25 (3).

Registrar's leave

(8) The Registrar may only give leave for a new application to be made under subsection (7) if the Registrar is satisfied that there has been a material change in circumstances that justifies the giving of the leave. 2007, c. 10, Sched. M, s. 25 (3).

Notice of orders

20. (1) A panel shall give the applicant notice of an order it makes under subsection 18 (2) or 19 (6) and written reasons for it if the order,

- (a) directs the Registrar to refuse to issue a certificate of registration;
- (b) directs the Registrar to issue a certificate of registration if the applicant successfully completes examinations or additional training;
- (c) directs the Registrar to impose terms, conditions and limitations on a certificate of registration of the applicant; or
- (d) refuses an application for an order removing or modifying any term, condition or limitation imposed on a certificate of registration. 1991, c. 18, Sched. 2, s. 20 (1).

Contents of notice

(2) A notice under subsection (1) shall inform the applicant of the order and of the provisions of section 19 and of subsections 21 (1) and (2). 1991, c. 18, Sched. 2, s. 20 (2); 2007, c. 10, Sched. M, s. 26.

Appeal to Board

21. (1) An applicant who has been given a notice under subsection 20 (1) of an order may require the Board to hold a review of the application and the documentary evidence in support of it, or a hearing of the application, by giving the Board and the Registration Committee notice in accordance with subsection (2).

Requirements of notice

(2) A notice under subsection (1) shall be a written notice, given within thirty days after the notice under subsection 20 (1) was given, specifying whether a review or a hearing is required.

Order, etc., to Board

(3) If the Registration Committee receives a notice that an applicant requires a hearing or review, it shall, within fifteen days after receiving the notice, give the Board a copy of the order

made with respect to the application, the reasons for it and the documents and things upon which the decision to make the order was based.

When order may be carried out

(4) An order of a panel, notice of which is required under subsection 20 (1), may be carried out only when,

- (a) the applicant has given the Registrar notice that the applicant will not be requiring a review or hearing;
- (b) thirty-five days have passed since the notice of the order was given under subsection 20 (1) without the applicant requiring a review or hearing; or
- (c) the Board has confirmed the order. 1991, c. 18, Sched. 2, s. 21.

Registration hearings or reviews

22. (1) This section applies to a hearing or review by the Board required by an applicant under subsection 21 (1). 1991, c. 18, Sched. 2, s. 22 (1).

Procedural provisions

(2) The following provisions apply with necessary modifications to a hearing or review:

1. Subsection 38 (4) (exclusion from panel).
2. Section 42 (disclosure of evidence).
3. Section 43 (no communication by panel members).
4. Section 50 (members of panel who participate).
5. Section 55 (release of evidence). 1991, c. 18, Sched. 2, s. 22 (2).

Idem

(3) The following provisions also apply with necessary modifications to a hearing:

1. Section 45 (hearings open).
2. Section 47 (sexual misconduct witnesses).
3. Section 48 (transcript of hearings). 1991, c. 18, Sched. 2, s. 22 (3).

Same

(3.1) The following provisions of the *Statutory Powers Procedure Act* also apply with necessary modifications to a review by the Board:

1. Section 21.1 (correction of errors).
2. Section 25.1 (rules). 1998, c. 18, Sched. G, s. 12.

Findings of fact

(4) The findings of fact in a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15, 15.1, 15.2 and 16 of the *Statutory Powers Procedure Act*. 1991, c. 18, Sched. 2, s. 22 (4); 2007, c. 10, Sched. M, s. 27 (1).

Idem

(5) The findings of fact in a review shall be based exclusively on the application and documentary evidence admissible or matters that may be noticed under sections 15, 15.1, 15.2 and 16 of the *Statutory Powers Procedure Act*. 1991, c. 18, Sched. 2, s. 22 (5); 2007, c. 10, Sched. M, s. 27 (2).

Disposal by Board

(6) The Board shall, after the hearing or review, make an order doing any one or more of the following:

1. Confirming the order made by the panel.
2. Requiring the Registration Committee to make an order directing the Registrar to issue a certificate of registration to the applicant if the applicant successfully completes any examinations or training the Registration Committee may specify.
3. Requiring the Registration Committee to make an order directing the Registrar to issue a certificate of registration to the applicant and to impose any terms, conditions and limitations the Board considers appropriate.
4. Referring the matter back to the Registration Committee for further consideration by a panel, together with any reasons and recommendations the Board considers appropriate. 1991, c. 18, Sched. 2, s. 22 (6); 2007, c. 10, Sched. M, s. 27 (3).

Idem

(7) The Board may make an order under paragraph 3 of subsection (6) only if the Board finds that the applicant substantially qualifies for registration and that the panel has exercised its powers improperly. 1991, c. 18, Sched. 2, s. 22 (7).

Limitation on order

(8) The Board, in making an order under subsection (6), shall not require the Registration Committee to direct the Registrar to issue a certificate of registration to an applicant who does not meet a registration requirement that is prescribed as a non-exemptible requirement. 1991, c. 18, Sched. 2, s. 22 (8).

Parties

(9) The College and the applicant are parties to a hearing or review. 1991, c. 18, Sched. 2, s. 22 (9).