

**CONSOLIDATION OF OPHTHALMIC MEDICAL ASSISTANTS ACT**  
R.S.N.W.T. 1988,c.O-2

*(Current to: August 1, 2014)*

**AS AMENDED BY:**

S.Nu. 2013,c.20,s.29

s.29 in force May 16, 2013

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## GLOSSARY OF TERMS USED IN CONSOLIDATIONS

### *Miscellaneous*

- c. means "chapter".
- CIF means "comes into force".
- NIF means "not in force".
- s. means "section" or "sections", "subsection" or "subsections", "paragraph" or "paragraphs".
- Sch. means "schedule".
- SI-005-98 means the instrument registered as SI-005-98 in 1998. (*Note: This is a Northwest Territories statutory instrument if it is made before April 1, 1999, and a Nunavut statutory instrument if it is made on or after April 1, 1999 and before January 1, 2000.*)
- SI-012-2003 means the instrument registered as SI-012-2003 in 2003. (*Note: This is a Nunavut statutory instrument made on or after January 1, 2000.*)

### *Citation of Acts*

- R.S.N.W.T. 1988,c.D-22 means Chapter D-22 of the *Revised Statutes of the Northwest Territories, 1988*.
- R.S.N.W.T. 1988,c.10(Supp.) means Chapter 10 of the Supplement to the *Revised Statutes of the Northwest Territories, 1988*. (*Note: The Supplement is in three volumes.*)
- S.N.W.T. 1996,c.26 means Chapter 26 of the 1996 Annual Volume of the Statutes of the Northwest Territories.
- S.Nu. 2002,c.14 means Chapter 14 of the 2002 Annual Volume of the Statutes of Nunavut.

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## OPHTHALMIC MEDICAL ASSISTANTS ACT

### INTERPRETATION

#### Definitions

1. In this Act,

"assistant" means a person who is registered at the ophthalmic assistant level; (*auxiliaire*)

"Committee" means the Ophthalmic Medical Assistants Committee established by subsection 6(1); (*Comité*)

"direction" includes the direction of an ophthalmic medical assistant by an ophthalmologist where the ophthalmologist is not located at the same place either inside or outside Nunavut as the ophthalmic medical assistant; (*direction*)

"level" means the level referred to in section 12 at which an ophthalmic medical assistant is registered; (*catégorie*)

"member" means a member of the Committee; (*membre*)

"ophthalmic medical assistant" means an assistant, a technician or a technologist; (*auxiliaire médical en ophtalmologie*)

"ophthalmologist" means a medical practitioner who is certified under subsection 9(2) of the *Medical Profession Act* as an ophthalmologist; (*ophtalmologiste*)

"ophthalmologist member" means the member of the Committee referred to in paragraph 6(1)(b); (*membre ophtalmologiste*)

"practise ophthalmology" means diagnose, treat, operate on or prescribe for any disease, pain, injury, disability or physical condition affecting the human eye, or offer or undertake to do any such thing; (*exercer l'ophtalmologie*)

"Register" means the Register of Ophthalmic Medical Assistants referred to in subsection 3(1); (*registre*)

"registered" means registered in the Register maintained under subsection 3(1); (*inscrit*)

"Registrar" means the person appointed under section 2; (*registraire*)

"student" means a person whose name is entered as a student in the Students Register maintained under subsection 4(1); (*stagiaire*)

"Students Register" means the Students Register referred to in subsection 4(1); (*registre des stagiaires*)

"supervision" includes the supervision of an ophthalmic medical assistant by an ophthalmologist where the ophthalmologist is not located at the same place either inside or outside Nunavut as the ophthalmic medical assistant; (*surveillance*)

"technician" means a person who is registered at the ophthalmic technician level; (*technicien*)

"technologist" means a person who is registered at the ophthalmic technologist level. (*technologue*)

S.Nu. 2013,c.20,s.29(2)(a).

## ADMINISTRATION

### Registrar

**2.** The Minister shall appoint a Registrar who shall have the powers and perform the duties set out in this Act and the regulations.

### Register

**3.** (1) The Registrar shall maintain a register called the Register of Ophthalmic Medical Assistants.

### Division of Register

(2) The Register shall be divided into three Parts.

### Contents of Register

(3) Parts I, II and III of the Register shall contain the names, addresses and qualifications of persons who are entitled under section 13 to be registered at the ophthalmic assistant, ophthalmic technician and ophthalmic technologist levels respectively.

### Students Register

**4.** (1) The Registrar shall maintain a Students Register, which shall be divided into three Parts.

### Contents of Students Register

(2) Parts I, II and III of the Students Register shall contain the names, addresses and qualifications of persons admitted by the Committee as students in relation to the respective levels referred to in subsection 3(3).

### Inspection of registers

**5.** The Register and Students Register shall be open to inspection by any person on reasonable notice being given to the Registrar.

### Ophthalmic Medical Assistants Committee

- 6.** (1) A committee called the Ophthalmic Medical Assistants Committee is established and is composed of
- (a) the Registrar;
  - (b) a person appointed by the Minister from among ophthalmologists; and
  - (c) another person appointed by the Minister.

### Powers and duties

(2) The Committee has the powers and the duties that are set out in this Act and the regulations.

### Chairperson and secretary

(3) The person appointed under paragraph (1)(b) is the chairperson and the Registrar is the secretary of the Committee.

### Quorum

(4) Subject to section 7, the full membership of the Committee constitutes a quorum.

### Alternate member to ophthalmologist member

- 7.** (1) Where the ophthalmologist member is unable to attend a meeting of the Committee or where there is a vacancy in the appointment referred to in paragraph 6(1)(b), the Minister shall designate
- (a) wherever possible, another ophthalmologist, and
  - (b) if another ophthalmologist is not available, another medical practitioner,
- to attend that meeting as the alternate to the ophthalmologist member.

### Alternate member to Registrar

(2) Where the Registrar is unable to attend a meeting of the Committee or where the position is vacant, the Minister shall designate another person who shall, wherever possible, be the registrar of another professional group of persons engaged in some aspect of medical practice to attend that meeting as the alternate to the Registrar.

### Other alternate member

(3) Where the member referred to in paragraph 6(1)(c) is unable to attend a meeting of the Committee, the Minister shall designate another person to attend that meeting as the alternate to the member.

### Rights of alternate

(4) An alternate is entitled to all rights at meetings to which the principal of the alternate would have been entitled, but the alternate may not act as chairperson or vice-chairperson at the meeting.

### Decisions or recommendations

- 8.** Decisions or recommendations of the Committee shall be made by majority.

#### Delegation to subcommittee

**9.** The Committee may delegate its functions in relation to the admission of persons to the Students Register to a subcommittee composed of one or more of its members.

#### Regulation of proceedings

**10.** Subject to this section and section 11, the Committee may regulate its own proceedings and may direct how proceedings of a sub-committee referred to in section 9 are to be conducted.

## REGISTRATION

#### Application for registration

**11.** (1) An application for registration must be made in the prescribed form to the Registrar and the Committee shall meet and review each application and its supporting documents.

#### Recommendations of Committee

(2) Following its review, the Committee shall make recommendations as to the eligibility of the applicant for registration at the level applied for and the Committee shall forward the recommendations to the Minister.

#### Separate recommendation

(3) The ophthalmologist member may make and forward to the Minister a separate recommendation where the ophthalmologist member is not in agreement with a recommendation of the Committee.

#### Decision of Minister

(4) The Minister shall, subject to this Act and taking into account the recommendations of the Committee and, where applicable, the separate recommendation of the ophthalmologist member, grant or refuse the registration.

#### Where registration not granted

- (5) The Minister shall not grant registration to an applicant where
- (a) the Committee recommends against the registration of the applicant; or
  - (b) the Committee recommends in favour of the registration of the applicant and the ophthalmologist member makes and forwards a recommendation under subsection (3) that is against the registration.

#### Registration at a lower level

- (6) Where
- (a) an application is made for registration at one level, and
  - (b) the Committee considers that the application should be refused but that the applicant is eligible for registration at a lower level at which the applicant is not already registered,

the Committee may recommend and the Minister may grant registration at that lower level.



### Levels of ophthalmic medical assistant registration

**12.** (1) There shall be three levels at which ophthalmic medical assistants may be registered, depending on the grade of qualifications attained.

#### Names of levels

- (2) The levels referred to in subsection (1) are those of
- (a) the ophthalmic assistant, representing the lowest grade of qualification attained;
  - (b) the ophthalmic technician, representing the intermediate grade of qualification; and
  - (c) the ophthalmic technologist, representing the highest grade of qualification.

#### Definition of "current certification"

**13.** (1) For the purposes of paragraph (2)(a), "current certification" means a certificate issued by the prescribed certifying body for the year during which the applicant applies to be registered.

#### Qualifications for registration

- (2) Subject to this Act, a person
- (a) who holds current certification with a prescribed certifying body at the assistant, technician or technologist level or at a grade that the Committee treats as equivalent to that level,
  - (b) who has completed an ophthalmic training program as established in writing, from time to time, by the Committee and approved by the Minister as being in relation to that level,
  - (c) who satisfies the Minister that he or she is of good character,
  - (d) whose name has not been struck for a disciplinary reason from the Register or the corresponding register of any other jurisdiction without being reinstated to the Register or register, and
  - (e) who is not under suspension in respect of his or her practice as an ophthalmic medical assistant in any jurisdiction,

is, on payment of the prescribed fee, entitled to be registered in the Part of the Register applicable to the level referred to in paragraph (a).

#### Waiver of certain requirements

(3) The Minister may, on the advice of the Committee, waive the requirement referred to in paragraph (2)(d) or (e) in a particular case.

#### Issue of certificate of registration

**14.** (1) On a person's name being entered in the Register, the Minister shall issue to that person a certificate of the registration which must specify the level at which that person is registered.

#### Refusal of application

(2) Where an application for registration or for registration at the level applied for is refused, the Registrar shall, without delay, notify the applicant in writing of the refusal and the reasons for the refusal.

#### Where registration at lower level granted

(3) Where the Minister has granted a registration under subsection 11(6), the Registrar shall, without delay, request the applicant to inform the Registrar whether the applicant wishes to accept the registration granted.

#### Registration at a lower level

(4) If the applicant informs the Registrar that the applicant wishes to accept the registration granted under subsection 11(6), the Registrar shall register the applicant at the lower level referred to in subsection 11(6), and the applicant's right to appeal under subsection 20(1) is not affected.

#### Certificate of registration

**15.** (1) The Minister may, on the advice of the Committee, attach to a certificate of registration conditions that the Minister considers fit.

#### Duration of certificate

(2) A certificate of registration is valid only for the calendar year, ending on December 31, in respect of which it is issued.

## STUDENTS

#### Application for admission to Students Register

**16.** (1) An application for admission to the Students Register as a student must be made in writing to the Registrar and must specify the level to which the application relates.

#### Granting application for admission

(2) Where the Committee is of the opinion that an applicant meets the qualifications prescribed for admission to the Students Register in relation to the relevant level, it shall grant the application.

#### Notification of student

(3) On a person's name being entered in the Students Register, the Registrar shall inform that person in writing of the entry, stating the level in relation to which that person is admitted as a student.

#### Appeal from decision of Committee

(4) Where the Committee refuses to grant an application for admission to the Students Register, it shall notify the applicant in writing stating the reasons for the refusal, and the applicant may, within 30 days after being so notified, appeal the decision to the Nunavut Court of Justice.

### Striking name or suspending student from Students Register

(5) The Minister, on the recommendation of the Committee, may for disciplinary reasons order that a student's name be struck from the Students Register or that a student's admission to the Students Register be suspended for the period, not exceeding one year, that the Minister determines.

### Appeal from action of Minister

(6) On taking any action under subsection (5), the Minister shall, without delay, give the student written notice with reasons for the action, and the student may within 30 days after being so notified, appeal the action to the Nunavut Court of Justice.

S.Nu. 2013,c.20,s.29(3)(a).

## PRACTICE

### Application

**17.** (1) This section does not apply to any person

- (a) who is lawfully acting under the *Medical Profession Act*, or
- (b) other than an ophthalmic medical assistant or a student, who is performing an act described in section 46 of the *Medical Profession Act*,

and nothing in this section affects any liability that a person may have at law for any act or omission to act on the part of an ophthalmic medical assistant or student.

### Prohibition against practising ophthalmology

(2) Subject to subsections (5) and (6), no person shall practise ophthalmology unless he or she

- (a) is registered; and
- (b) practises under the direction or supervision of an ophthalmologist.

### Ophthalmic medical assistants

(3) No ophthalmic medical assistant shall

- (a) contravene the conditions of his or her certificate of registration; or
- (b) practise ophthalmology while his or her registration is under suspension.

### Prohibition against certain activities

(4) No ophthalmic medical assistant shall perform any activity that involves practising ophthalmology except one that is prescribed as a permitted activity in relation to the level of the ophthalmic medical assistant.

### Substitution of medical practitioners

(5) Where an ophthalmologist who has assumed the direction or supervision of an ophthalmic medical assistant is

- (a) for any reason, unable, during any period, to provide that direction or supervision, and

(b) unable to procure another ophthalmologist to provide that direction or supervision during that period,  
the ophthalmologist may, for the purposes only of enabling the ophthalmic medical assistant to comply with subsection 17(2) during that period, arrange with another medical practitioner to provide that direction or supervision and the ophthalmologist shall notify the ophthalmic medical assistant in writing of the arrangement.

#### Activities that students may perform

(6) A person who is admitted as a student in relation to a level may perform the activities that an ophthalmic medical assistant at that level could lawfully perform under this Act that may be prescribed, provided that the person performs the activities under the direction of an ophthalmologist or an ophthalmic medical assistant who is registered at that level or at a higher level.

#### Prohibition against holding out

**18.** (1) Unless registered or registered at the relevant level, as the case may be, no person shall

- (a) hold himself or herself out to any person directly or indirectly as an assistant, technician, technologist or as an ophthalmic medical assistant in general; or
- (b) take or use a designation, title or description that uses the term "ophthalmic assistant", "ophthalmic technician", "ophthalmic technologist" or "ophthalmic medical assistant" or any part of speech or grammatical variation of such a term, or that implies, or is calculated to lead people to believe, that he or she is such a person.

#### Non-residents

(2) Subsection (1) does not apply to a person who is not a resident of Nunavut if that person is not at the time engaged directly or indirectly for gain or reward in practising ophthalmology in Nunavut.

#### Students

(3) Paragraph (1)(b) does not apply to a student who prefixes the designation, title or description with the term "student". S.Nu. 2013,c.20,s.29(2)(b).

## DISCIPLINE

#### Report

**19.** (1) Where, in the opinion of any person, an assistant, technician or technologist

- (a) is guilty of negligence, incompetence or conduct unbecoming an assistant, technician or technologist, or
- (b) has contravened section 17 or 18,

the person may report that fact with reasons and the circumstances of the matter to the Minister.

### Suspension pending proceedings

(2) On receiving a report under subsection (1), the Minister may, if the Minister considers it necessary for the protection of the public or any member of the public, suspend the registration of the ophthalmic medical assistant pending the outcome of proceedings under this section.

### Inquiry

(3) On receiving a report under subsection (1), the Minister shall, without delay, cause an inquiry to be made into the matter, for which purpose the Minister shall establish a board composed of one or more persons appointed by the Minister to make the inquiry and to report to the Minister on the inquiry.

### Application of *Public Inquiries Act*

(4) For the purposes of section 11 of the *Public Inquiries Act*, the incidents of that Act apply to an inquiry under this Act.

### Recommendations of board

- (5) The board shall make recommendations to the Minister
- (a) to acquit the ophthalmic medical assistant of the complaint against the ophthalmic medical assistant;
  - (b) to have the name of the ophthalmic medical assistant struck from the Register;
  - (c) to suspend the registration of the ophthalmic medical assistant for the period that is stipulated in the recommendations;
  - (d) to fine the ophthalmic medical assistant in an amount not exceeding \$1,000;
  - (e) to issue to the ophthalmic medical assistant a warning or reprimand;
  - (f) to attach specified conditions to the certificate of registration of the ophthalmic medical assistant; or
  - (g) to impose on the ophthalmic medical assistant any combination of those things referred to in paragraphs (b) to (f).

### Minister

(6) The Minister shall follow the recommendations of the board.

### Notification of action taken

(7) After taking any action under subsection (6), the Minister shall, without delay, notify the Registrar and the ophthalmic medical assistant in writing of the action taken.

## APPEAL

### Appeal

**20.** (1) A person

- (a) whose application for registration or for registration at the level applied for has been refused,
- (b) whose name has been struck from the Register, or
- (c) whose registration has been suspended under section 19,

may, within 30 days after the giving of notice under subsection 19(7), appeal to the Nunavut Court of Justice.

### Decision of Nunavut Court of Justice

(2) On the hearing of an appeal made under subsection (1), the Nunavut Court of Justice may

- (a) quash, alter or confirm the decision; or
- (b) make such other order as it considers proper in the circumstances.

### Suspension of action taken by Minister

(3) The Nunavut Court of Justice may, on application made at any time after the filing of a notice of appeal, suspend the operation of any action taken under subsection 19(6), pending the determination of the appeal.

### Duty of Minister

(4) The Minister shall do whatever is necessary to give effect to the decision of the Nunavut Court of Justice on the appeal. S.Nu. 2013,c.20,s.29(3)(b).

## OFFENCE AND PUNISHMENT

### Offence and punishment

**21.** Every person who contravenes this Act is guilty of an offence and liable on summary conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding one year or to both.

## REGULATIONS

### Regulations

**22.** On the recommendation of the Minister, the Commissioner may make regulations for carrying into effect the purposes and provisions of this Act and, without limiting the generality of this power to make regulations, may make regulations

- (a) prescribing the form of certificates of registration and the Register;
- (b) respecting students; and
- (c) prescribing any matter that by this Act may or is to be prescribed.