

EXTRAORDINARY



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GOVERNMENT OF FIJI

OPTOMETRIST AND DISPENSING OPTICIAN DECREE 2012  
(DECREE NO. 73 OF 2012)

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IN exercise of the powers vested in me as the President of the Republic of Fiji and the Commander in Chief of the Republic of Fiji Military Forces by virtue of the Executive Authority of Fiji Decree 2009, I hereby make the following Decree—

TO REGULATE THE PRACTICE OF OPTOMETRY AND OPTICAL  
DISPENSING, UPGRADE OPTOMETRIC EDUCATION AND RELATED MATTERS

## PART 1—PRELIMINARY

*Short title and commencement*

1. This Decree may be cited as the Optometrist and Dispensing Optician Decree 2012, and shall come into force on a date appointed by the Minister by notice published in the *Gazette*.

*Interpretation*

2. In this Decree, unless the context otherwise requires—

“Association” means the Fiji Optometric Association affiliated with international professional bodies such as the World Council of Optometry and the Asia Pacific Council of Optometry;

“Board” means the Fiji Optometrists Board established under section 3;

“contact lens” means a lens that is designed to be placed on the eye for the purpose of correcting vision;

“contact lens practitioner” means a practitioner who is trained to practice the dispensing of contact lenses;

“cosmetic contact lens” means a non-corrective lens that is designed to be placed on the eye for the purpose of changing the appearance of the eye;

“Development” means continuing professional development by which optometrists and dispensing opticians maintain and enhance their knowledge and skills related to their respective profession;

“diagnostic pharmaceutical agents” means specific topical diagnostic drugs used to aid optometrists in their examination of the human eye;

“dispensing optician” means a person who is qualified and trained to practice optical dispensing;

“*locum tenens*” means a person who substitutes temporarily for another in the same profession;

“medical practitioner” has the same meaning as in the Medical and Dental Practitioner Decree 2010;

“mentally ill” means a person who suffers from mental illness as defined under the Mental Health Decree 2010;

“Minister” means the Minister responsible for Health;

“non-optician” means a person who is neither a registered optometrist nor a registered dispensing optician under this Decree;

“ocular pharmacology” means the study and use of drugs to diagnose and treat diseases of the eye;

“optical dispensing” means the practice performed by dispensing opticians under section 25;

“optometry” means the practice of—

- (a) examining the human eye and the adnexa for any disease, and the treatment using therapeutic drugs in accordance with section 50;
- (b) examining the human eye through the employment of objective and subjective procedures, including the use of specific topical diagnostic drugs in accordance with section 50, and instruments, tools, equipment, implements, visual aids, apparatuses, machines, ocular exercises and related devices for the purpose of determining the condition and acuity of human vision to correct and improve human vision;
- (c) using authorised diagnostic pharmaceutical agents and other preventive or corrective measures or procedures for the treatment, aid, correction, rehabilitation or relief of the human eye, or to attain maximum vision and comfort;
- (d) analysing the ocular functions and diagnosing ocular diseases;
- (e) conducting orthoptic treatment, providing orthoptics and other devices and procedures to aid and correct abnormalities of human vision and installing prosthetic devices;
- (f) importing and selling ophthalmic products, including ophthalmic frames, ophthalmic lenses, prisms, contact lenses and ophthalmic accessories and solutions for the optical correction and treatment of defects, deficiencies and abnormalities of vision;
- (g) prescribing and dispensing ophthalmic frames, lenses, prisms, contact lenses and their accessories and solutions, low vision aids and similar appliances and devices; or
- (h) counselling of patients in respect of vision, eye care and hygiene, industrial related optical requirements and use of visual display units;

“optometrist” means a person who is qualified and trained to practice optometry;

“ophthalmologist” means a medical practitioner specialising in the diagnosis and treatment of diseases of the eye;

“orthoptic treatment” means the practice of correcting defective vision by means of exercises in order to strengthen weak eye muscles;

“patient” means a person who seeks optical assistance from an optometrist or a dispensing optician;

“Permanent Secretary” means the Permanent Secretary responsible for Health;

“professional misconduct” means the conduct or an act in relation to the practice of optometry or optical dispensing which, having regard to all the circumstances, shall reasonably be regarded by the optometric profession as disgraceful, dishonourable or unprofessional;

“physician” refers to medical practitioners;

“Register” means the Optometrists and Dispensing Opticians Register kept and maintained under section 15;

“ready-made spectacles” means a pair of frames bearing lenses that are not prescribed by an optometrist or ophthalmologist;

“registered dispensing optician” means a person who is registered as a dispensing optician in the Register and issued a certificate of registration under section 21;

“registered optometrist” means a person who is registered as an optometrist in the Register and issued with a certificate of registration under section 21;

“return” means all the documents pertaining to the Development, including reports of case studies, research or screening of mass population;

“Secretary” means the Secretary to the Board appointed under section 14; and

“therapeutic drugs” means specific locally administered drugs used by optometrists in treating commonly diagnosed eye diseases.

## PART 2—FIJI OPTOMETRISTS BOARD

### *Establishment of the Fiji Optometrists Board*

3.—(1) This section establishes the Fiji Optometrists Board.

(2) The Board shall have perpetual succession and a common seal, carry out the functions and exercise the powers conferred upon it by this Decree, and may sue and be sued.

(3) If a document appears to bear the common seal of the Board, it shall be presumed, in the absence of proof to the contrary, that the common seal of the Board was duly affixed to such document.

### *Composition of the Board*

4.—(1) The Board shall consist of not less than four (4) members and not exceeding six (6) members appointed by the Minister following consultation with the Association.

(2) Pursuant to subsection (1), the Minister shall, following consultation with the Association, ensure that the Board consists of the Permanent Secretary who shall be the Chairperson of the Board and at least three (3) of the following members—

- (a) three (3) optometrists of good standing in the community who have practised for at least five (5) years prior to their appointment;
- (b) a medical practitioner of good standing in the community and not having committed any offence under any written law constituting the practice of optometry or optical dispensing;
- (c) a dispensing optician of good standing in the community.

### *Terms and conditions of membership*

5.—(1) A member of the Board appointed under section 4 shall—

- (a) hold office for a term not exceeding three (3) years; and
- (b) at the expiration of the term of appointment, be eligible for reappointment.

(2) The Minister may, by giving written notice, remove a member of the Board from office if the member—

- (a) becomes mentally ill or physically incapable of holding office;
- (b) conducts himself or herself in a manner which brings the optometric profession into disrepute; and
- (c) is absent, without written notice and approval from the Chairperson of the Board, from three (3) consecutive meetings of the Board.

(3) The office of a member of the Board becomes vacant if the member—

- (a) dies;
- (b) resigns by giving thirty (30) days written notice to the Minister;
- (c) completes a term of office and is not reappointed;
- (d) ceases to possess the qualification by virtue of which the member was eligible for appointment to the Board under section 4; or
- (e) is removed from office under subsection (2).

*Vacancies*

6. Any vacant office under section 5 (3) shall be occupied in the manner in which the appointment to the vacant office was originally made, and every person appointed under this section shall hold office for the remainder of the term for which his or her predecessor was appointed.

*Powers of the Board*

7. The Board shall have all the powers necessary to enable it to perform its functions, including but not limited to the following—

- (a) do all things that a corporate body may do, in accordance with its functions under section 8;
- (b) register optometrists and dispensing opticians under this Decree;
- (c) approve appropriate qualifications, courses of study and clinical training for the registration of optometrists and dispensing opticians;
- (d) conduct investigations and take disciplinary proceedings against registered optometrists and registered dispensing opticians;
- (e) appoint investigators to investigate complaints pursuant to section 40;
- (f) suspend the registration of optometrists and dispensing opticians;
- (g) determine and develop the scope of the practice of optometry and optical dispensing and their related activities for endorsement by the Minister;
- (h) issue or endorse guidelines on the Development of optometrists and dispensing opticians; and
- (i) control the importation and sale of ophthalmic products, including ophthalmic frames, ophthalmic lenses, prisms, contact lenses and ophthalmic accessories in accordance with prescribed standards as approved by the Minister by notice published in the *Gazette*.

*Functions of the Board*

8. The functions of the Board shall be to—

- (a) advise and make recommendations to the Minister in respect of any matter relating to the registration and practice of optometrists and dispensing opticians;
- (b) promote high standards of professional education and professional conduct among optometrists and dispensing opticians;
- (c) liaise with the Association to determine and develop the Professional Code of Ethics or professional standards to be endorsed by the Minister for registered optometrists and registered dispensing opticians and to give practical guidance to registered optometrists and registered dispensing opticians;
- (d) consider applications and decide on registrations under this Decree;
- (e) exercise disciplinary powers in accordance with this Decree;
- (f) issue, suspend, revoke and re-issue certificates of registration to qualified optometrists and dispensing opticians;
- (g) distribute the Professional Code of Ethics of the optometric profession upon registration of a new optometrist or dispensing optician during the making of an oath;
- (h) determine the minimum number of Development points to be achieved by a registered optometrist or registered dispensing optician;

- (i) work with other government or statutory bodies in respect of having border control on the importation of ophthalmic products, including ophthalmic frames, ophthalmic lenses, prisms, contact lenses and ophthalmic accessories;
- (j) initiate legal proceedings against any person or body who is not registered to practice optometry or optical dispensing under this Decree; and
- (k) carry out such other functions conferred upon it by this Decree.

### PART 3—BOARD PROCEEDINGS

#### *Procedure of Board meetings*

9.—(1) Except as otherwise provided by this Decree, the Board may regulate its own procedures for Board meetings.

(2) The Chairperson of the Board shall preside at all the meetings of the Board and if the Chairperson is not present at a meeting, the members present may for that particular meeting appoint a member to preside as the acting Chairperson in the absence of the Chairperson.

(3) At any Board meeting, three (3) members of the Board shall constitute a quorum.

(4) Any issue raised at any Board meeting shall be decided by a majority of the votes of the members of the Board present and if there is an equality of votes, the Chairperson shall have a casting vote.

#### *Time and venue of meetings*

10.—(1) The Board shall convene at least two (2) meetings in a year at such time and place as the Chairperson may determine.

(2) The Board may convene a meeting at any other time when requested by three (3) or more members, or when advised by the Secretary on issues relating to the functions of the Board under section 8.

#### *Disclosure of interest*

11. If any member of the Board is present at a meeting under section 10 and has a direct or indirect personal, pecuniary or other interest in the matter being discussed or considered, he or she shall immediately disclose that interest and, unless the Board otherwise determines, take no further part in the discussion or consideration of the matter.

#### *Accountability of the Board*

12.—(1) The Board shall—

- (a) keep proper accounts in respect of its operations; and
- (b) prepare a statement of accounts for each financial year.

(2) The accounts of the Board shall be audited at least once in each financial year by an auditor approved by the Auditor-General and appointed by the Minister.

(3) The Board shall, before or in January each year, submit to the Minister a report on the administration of this Decree in respect of the powers and functions of the Board in the preceding financial year.

(4) The report in subsection (3) shall—

- (a) include but is not limited to, in respect of the relevant financial year—
  - (i) the total number of new registrations granted during that year, including the number of temporary registrations;
  - (ii) the total number of registered optometrists and registered dispensing opticians, including the total number of temporarily registered optometrists, temporarily registered dispensing opticians and temporarily registered students;
  - (iii) the total number and nature of complaints received by the Board against registered optometrists and registered dispensing opticians; and
  - (iv) any other information that the Board deems necessary; and
- (b) incorporate the audited accounts of the Board for the relevant financial year.

(5) The Minister shall, as soon as practicable within thirty (30) days after receiving a report made under this section, present copies of such report before Cabinet.

*Exemption from liability*

13. A member of the Board shall not be personally liable for any act done in good faith and without gross or wilful negligence in respect of the performance of any function or the exercise of any power by that member under this Decree.

*Secretary to the Board*

14. The Board shall, upon its own discretion and at the first meeting of the Board, appoint a Secretary to the Board.

PART 4—REGISTRATION

*Optometrists and Dispensing Opticians Register*

15.—(1) The Board shall keep and maintain a register to be known as the Optometrists and Dispensing Opticians Register.

(2) The Secretary shall, upon the directive of the Board, cause to be entered in the Register or cause to be removed from the Register the particulars in subsection (3) of each person registered as an optometrist or a dispensing optician.

(3) The Register shall include, in respect of each optometrist or dispensing optician to be registered, the following particulars—

- (a) the optometrist or dispensing optician's full name and residential address;
- (b) the qualifications for registration held by the optometrist or dispensing optician;
- (c) the relevant qualifications obtained by each optometrist or dispensing optician after registration;
- (d) a record of the registration fees paid;
- (e) any other particulars required by Regulations; and
- (f) any other particulars that the Board deems appropriate.

(4) Pursuant to subsection (3), the Register shall include the particulars of any registered optometrist or registered dispensing optician whose practice is subject to conditions either entered into voluntarily between the Board and the registered optometrist or registered dispensing optician, or imposed by the Board.

(5) A registered optometrist or registered dispensing optician shall, within thirty (30) days after changing any of the particulars in subsection (3), inform the Secretary in writing of the change.

(6) A registered optometrist or registered dispensing optician who fails to inform the Secretary as required under subsection (5) commits an offence and shall be liable to a fine not exceeding \$250.

*Form and maintenance of the Register*

16.—(1) The Secretary shall be responsible to the Board for the form and maintenance of the Register.

(2) The Secretary shall, as soon as practicable, correct any entry in the Register that is not or has ceased to be correct or accurate.

(3) The Register shall be kept available for inspection by any person during office hours and the Register or extracts of the Register may be made available to the public as the Board may determine.

(4) A person may, upon payment of the prescribed fee, obtain a copy of any extract of the Register.

*Review and alterations to the Register*

17. The Board may, from time to time, review the Register and make necessary alterations to the names, qualifications and address of an optometrist or dispensing optician registered under this Decree.

*Registration as an optometrist or a dispensing optician*

18. Any person who is a citizen of Fiji or a holder of a permit to reside or reside and work in Fiji shall be eligible to be registered as an optometrist or a dispensing optician under this Decree if he or she –

- (a) is of good character;
- (b) is qualified, by holding qualification from recognised universities or institutions to practice as an optometrist or a dispensing optician; and
- (c) except for those persons who are entering the practice of optometry or optical dispensing for the first time since graduation, and dispensing opticians, has been in active practice as an optometrist under the repealed Optometrists Regulations 1986.

*Application for registration*

19.—(1) Any person who is eligible to be registered as an optometrist or a dispensing optician under section 18, and intends to practice optometry or optical dispensing in Fiji shall make a written application to the Secretary in the prescribed form and with the prescribed fee.

(2) Every applicant under subsection (1) shall—

- (a) produce with his or her application any original or certified document verifying the qualifications in respect of which he or she seeks to be registered;
- (b) nominate two referees; and
- (c) provide all other details as prescribed by Regulations.

(3) The Secretary shall, on receipt of an application under subsection (1), publish the details of the applicant's application in a local newspaper with a statement that any person who objects to the proposed registration may do so in writing, within thirty (30) days of the publication in the local newspaper, to the Secretary.

(4) The Secretary shall inform the Association in writing of any publication of application within seven (7) days from the date of publication in subsection (3).

(5) The Secretary shall, as soon as practicable after the thirty (30) days objection period in subsection (3), submit the application and any objections to the application to the Board.

*Consideration of applications*

20. The Board may require a person to verify by Statutory Declaration—

- (a) where the person is the applicant, that he or she made the written application in section 19 and is medically fit to practice optometry or optical dispensing;
- (b) where the person is the objector, that he or she made the written objection in section 19 (3); and
- (c) except for those persons who are entering the practice of optometry or optical dispensing for the first time since graduation and dispensing opticians, that he or she has been in active practice as an optometrist under the Optometrists Regulations 1986.

*Decision of the Board*

21.—(1) If, after considering an application under section 19 (1) and any objection made in respect of the application under section 19 (3), the Board decides that the applicant is not entitled to be registered as an optometrist or a dispensing optician, it shall direct the Secretary to notify the applicant accordingly in writing, stating the reason or reasons for the decision.

(2) If, after considering an application under section 19 (1) and any objection made in respect of the application under section 19 (3), the Board decides that the applicant is entitled to be registered as an optometrist or a dispensing optician, it shall direct the Secretary to enter the particulars of the applicant in the Register as required under section 15 (3).

(3) The Secretary shall, at the time when the name of an optometrist or dispensing optician is entered in the Register under subsection (2), issue a certificate of registration as prescribed by Regulations to that optometrist or dispensing optician.



*Application for a certificate of registration*

22.—(1) An application may be made to the Secretary at any time by a person in the Register for a certificate stating that the person is a registered optometrist or registered dispensing optician under this Decree.

(2) When an application is made under subsection (1), the Secretary shall, upon payment of the prescribed fee, issue a certificate of registration to the applicant.

*Certificate proof of registration*

23. A certificate stating that an optometrist or dispensing optician was, or was not, registered in the Register at a particular date or during a particular period shall, in the absence of proof to the contrary, be accepted in legal proceedings as proof of the registration.

*Practice of optometry*

24.—(1) Any registered optometrist shall be entitled to practice optometry in any part of Fiji.

(2) The practice of optometry provides comprehensive eye health and vision care in a professional and ethical manner.

(3) A registered optometrist may import or sell ready-made spectacles and cosmetic contact lenses under this Decree.

(4) Any importation or sale by a registered optometrist under subsection (3) shall not be considered as the practice of optometry.

(5) The examination of the human eye by registered physicians in connection with the physical medical examination of persons shall not be considered as the practice of optometry.

(6) Subject to any other written law, a non-optician may import or sell ready-made spectacles and cosmetic contact lenses.

*Practice of optical dispensing*

25.—(1) Any dispensing optician shall be entitled to practice optical dispensing in Fiji.

(2) The practice of optical dispensing shall include the following—

- (a) interpretation and analysis of written prescriptions by registered optometrists;
- (b) selection and fitting of optical appliances for patients;
- (c) taking of relevant facial measurements necessary for the fitting of spectacles for patients;
- (d) composing frame materials and styles for the selection and fitting of spectacles;
- (e) writing of specifications, or performance of lens glazing and fitting into frames; or
- (f) verification of the accuracy of prescribed spectacles, and necessary shaping and adjustments for maximum comfort of the patients.

(3) A registered dispensing optician may import or sell ready-made spectacles and cosmetic contact lenses.

(4) Any importation or sale by a registered dispensing optician under subsection (3) shall not be considered as the practice of optical dispensing.

(5) Any student dispensing optician who undertakes training in the dispensing of contact lenses shall, subject to the approval of the Board, be able to—

- (a) measure the shape and size of the eyes using a keratometer;
- (b) determine the base curve and diameter of the lens to be fitted;
- (c) perform clinical trial fitting for best fit and comfort of lenses;
- (d) instruct upon the insertion, removal and care of the lenses; and
- (e) dispense lenses and follow up compliance.

*Temporary certificate of registration*

26.—(1) Where a person eligible to be registered as an optometrist or a dispensing optician, whether—

- (a) for the purpose of demonstrating clinical procedures;
- (b) as the holder of an academic optometry or optical dispensing position;
- (c) under a foreign aid program; or
- (d) in any other circumstances approved by the Board,

intends to reside in Fiji for a period not exceeding twenty four (24) months, the Board may upon application and payment of the prescribed fee, and upon being satisfied that the person is qualified to practice as an optometrist or dispensing optician, issue a temporary certificate of registration to that optometrist or dispensing optician for the duration of the temporary residence in Fiji.

(2) The temporary certificate of registration shall cease to have effect on the date the holder of such certificate leaves Fiji at the end of the duration of the temporary residence in subsection (1).

*Temporary student certificate of registration*

27.—(1) A person is not entitled to practice optometry or optical dispensing in Fiji as part of a course of study related to the practice of optometry or optical dispensing, whether the course of study is being undertaken by the person in Fiji or any other country, unless that person is registered under this Decree as a student optometrist or a student dispensing optician and issued with a temporary student certificate of registration.

(2) A person shall be eligible for registration as a student optometrist or a student dispensing optician and shall be issued a temporary student certificate of registration by the Secretary if that person, upon application to the Board, satisfies the Board that he or she—

- (a) requires the temporary registration to enable him or her to complete a course of study that provides qualifications for registration in the Register;
- (b) is medically fit to practice optometry or optical dispensing; and
- (c) is a fit and proper person.

*Invalidity of temporary student certificate of registration*

28.—(1) A temporary student certificate of registration issued under section 27 remains in force until—

- (a) the expiration or lapse of any period specified on the certificate;
- (b) if no period is specified on the certificate, the expiration or lapse of a period of one (1) year from the date the certificate was issued; or
- (c) where the periods in paragraphs (a) and (b) have not expired or lapsed, it is cancelled by the Board.

(2) The Board may, upon payment of the prescribed fee, extend the validity of registration in subsection (1) for a period not exceeding six (6) months.

*Fees and return*

29.—(1) Subject to the provisions of this Decree, a person shall not be registered as an optometrist or a dispensing optician, nor shall a registration be reinstated, unless the registration or reinstatement fee, and the practice fee, as prescribed by Regulations have been paid.

(2) A registered optometrist or registered dispensing optician shall—

- (a) as prescribed by Regulations, pay his or her practice fee to the Board; and
- (b) furnish the Board with a return, in a form approved by the Board, stating any course of the development in optometric education undertaken by that registered optometrist or registered dispensing optician during the preceding year or any other matter relevant to his or her registration under this Decree.

(3) Subsection (2) (b) may be construed to include that the optometrist or dispensing optician satisfies the Board that he or she has achieved the minimum number of the Development points set by the Board for continuing education in section 32.

*Extension of due dates for the payment of fees*

30.—(1) A registered optometrist or registered dispensing optician who fails to pay the prescribed practice fee or furnish a return before or on the due date shall make a written request to the Secretary, stating the reasons for the delay and requesting an extension of the due date.

(2) Upon receipt of such request in subsection (1), the Board may allow an extension of the due date for a period not exceeding thirty (30) days from the due date.

(3) The Board may, without further notice, remove from the Register a registered optometrist or registered dispensing optician who fails to pay the prescribed practice fee or furnish the required return before or on the extended due date.

## PART 5—ADMINISTRATION

*Professional Code of Ethics*

31.—(1) Any registered optometrist or registered dispensing optician shall comply with the Professional Code of Ethics developed in section 8.

(2) Any registered optometrist or registered dispensing optician who acts or whose omission is in contravention of the Professional Code of Ethics and where such act or omission is considered as unethical conduct, the Board shall suspend that registered optometrist or registered dispensing optician from the practice of optometry or optical dispensing for such period as the Board deems appropriate.

*Continuing professional development*

32.—(1) All registered optometrists and registered dispensing opticians shall undergo continuing professional development.

(2) The Development in subsection (1) may be achieved by means of—

- (a) attending short or long-term courses, that are recognised by the Board, from any university, institution or school of optometry or optical dispensing;
- (b) attending seminars or conferences conducted by acclaimed organisations such as the World Council of Optometry, the Asia-Pacific Council of Optometry, optometric associations and renowned optical organisations such as those specialising in manufacture and research;
- (c) attending courses and conferences organised and conducted by the Association; or
- (d) subscribing and undertaking studies from optometric journals, written articles of case studies and videos, internet and other software programs recommended by the Board.

*Appointment of locum tenens*

33.—(1) A person shall not be deemed to be a duly appointed *locum tenens* unless that person is—

- (a) appointed in writing by a registered optometrist or registered dispensing optician and the Board is notified of such appointment;
- (b) a registered optometrist or registered dispensing optician at the time of taking on his or her duties as a *locum tenens*;
- (c) a registered ophthalmologist appointed as an optometrist or a registered optometrist appointed as a dispensing optician; and
- (d) employed only during the temporary absence of his or her employer and for a period not exceeding twelve (12) months or for such period as the Board may, in a particular case, permit.

(2) A registered optometrist or registered dispensing optician who is engaged in the practice of optometry or optical dispensing as a member of a partnership shall, subject to the foregoing provisions, be entitled to appoint his or her partner or one of his or her partners as a *locum tenens*.

*Archival Register*

34.—(1) The Secretary shall keep and maintain an Archival Register of optometrists and dispensing opticians who have been removed from the Register under sections 35 and 36 and have not been reinstated in the Register.

(2) The Archival Register in subsection (1) shall—

(a) include the following—

- (i) a statement of the Register from which the optometrist or dispensing optician was removed;
- (ii) the reason or reasons for removal of the optometrist or dispensing optician from the Register;
- (iii) the date of removal;
- (iv) if the removal was a result of suspension, the duration of the suspension; and
- (v) if the registration was cancelled, the date of the cancellation; and

(b) not include the name of any optometrist or dispensing optician who is deceased.

## PART 6—DISCIPLINARY MATTERS

### *Removal of name from the Register*

35.—(1) The Board shall direct the Secretary to remove from the Register the name of an optometrist or dispensing optician who—

- (a) has died;
- (b) does not possess or has ceased to possess the qualification in respect of which he or she was registered; or
- (c) has become mentally ill or physically incapable of practising optometry or optical dispensing.

(2) If the name of an optometrist or dispensing optician is removed from the Register under subsection (1), the Secretary shall notify that optometrist or dispensing optician accordingly in writing, stating the reasons for his or her removal from the Register.

### *Misconduct*

36.—(1) The Board may, if it deems appropriate, direct the Secretary to remove a name from the Register, if the registered optometrist or registered dispensing optician—

- (a) has been convicted of a felony or a misdemeanour in Fiji, or in another country which, if committed in Fiji, shall be a felony or a misdemeanour; or
- (b) after due inquiry by the Board, is adjudged by the Board to have been guilty of professional misconduct.

(2) The Secretary shall remove a name from the Register under subsection (1) and notify the affected person in writing accordingly.

(3) When directing the Secretary to remove a name from the Register under subsection (1), the Board may, if it deems appropriate, specify a period after the expiration of which that person may re-apply, by using the prescribed form and with the prescribed fee, to have his or her name reinstated in the Register.

(4) Notwithstanding subsection (1), the Board may, instead of directing that the name of a registered optometrist or registered dispensing optician be removed from the Register, issue a reprimand or warning to that registered optometrist or registered dispensing optician.

(5) Pursuant to subsection (4), the Secretary shall enter in the Register a memorandum of the reprimand or warning, including the date and the reason or reasons for the reprimand or warning.

### *Written statement of decisions*

37.—(1) If the Board decides to reprimand or warn a registered optometrist or registered dispensing optician, to remove his or her name from the Register or to suspend his or her registration, the Board shall, within one week of its decision, provide that optometrist or dispensing optician and such other persons as it deems appropriate with a written statement of its decision.

(2) A written statement of the Board's decision in subsection (1) shall—

- (a) set out any finding on material questions of fact;
- (b) refer to any evidence or other material on which the findings were based; and
- (c) give the reasons for the decision.

(3) Notwithstanding the provisions of this Decree, the Board may, upon its discretion, exclude confidential information from the written statement in subsection (2).

(4) If confidential information is excluded from a written statement of a decision, the Board shall, within one week of its decision, give written notice to the person to whom the Board is required to provide a statement and inform him or her that confidential information has been excluded and the reason or reasons for the exclusion.

(5) Nothing in this Decree shall affect the power of a court to make an order for the discovery of documents or to require the giving of evidence or the production of documents in a court.

(6) Without limiting the meaning of professional misconduct in section 36 (1) (b), a registered optometrist or registered dispensing optician commits the offence of professional misconduct if he or she—

- (a) except in such cases or in such circumstances as prescribed, practices optometry or optical dispensing in a name other than his or her own;
- (b) advertises, or otherwise solicits for optometric business, in contravention of the provisions of this Decree;
- (c) is proved to be violent or uncontrollable under the influence of liquor or any harmful drug; or
- (d) violates the Professional Code of Ethics.

(7) In the case of a conviction in section 36 (1) (a), no registered optometrist or registered dispensing optician shall have his or her name removed from the Register or have his or her registration suspended if such offence does not, either in its trivial nature or from the circumstances under which it is committed, render such optometrist or dispensing optician unfit, in the public interest, to practice optometry or optical dispensing.

*Automatic de-registration*

38. Where a registered optometrist or registered dispensing optician is convicted under any written law and liable to imprisonment for a term exceeding six (6) months, that registered optometrist or registered dispensing optician shall automatically be de-registered.

*Application for re-registration*

39. Any optometrist or dispensing optician de-registered under section 38 may re-apply for registration upon his or her release, provided that the nature of his or her crime does not render that optometrist or dispensing optician unfit to practice optometry or optical dispensing, or tarnish the profession.

*Complaints*

40. Where a complaint in respect of the conduct of a registered optometrist or registered dispensing optician in his or her professional capacity or in respect of professional matters is made to the Board, the Board shall investigate the complaint and may, if it deems appropriate, hold a formal inquiry regarding the complaint.

*Inquiries*

41.—(1) Where an inquiry is held by the Board, the Board may, by written notice, require a person to be present at the inquiry and give evidence relating to the subject matter of the inquiry.

(2) The Board may require evidence to be given under oath, either orally or in writing, and for that purpose the Chairperson of the Board may administer an oath.

(3) Any person who, without reasonable excuse, refuses or fails to—

- (a) be present at the inquiry;
- (b) give evidence when required by the Board; or
- (c) answer truthfully any question put to him or her,

commits an offence and shall be liable upon conviction to a fine not exceeding \$2000.

*Rights of appeal*

42.—(1) Any person who is aggrieved by any decision, ruling, order or direction of the Board, as the case may be, may in a manner prescribed by the Rules of the High Court, appeal to the High Court.

(2) Any person who appeals to the High Court under subsection (1) shall, within ten (10) days from the filing of an appeal, notify the Secretary in writing of the appeal and the written notice shall state the nature and grounds of the appeal.

(3) The judge may make such order as he or she deems appropriate, including any order as to costs, and such order, if not subject to further appeal, shall be observed by the Board, the Secretary and by every affected person.

*Reinstatement of name in the Register*

43.—(1) A registered optometrist or registered dispensing optician whose name has been removed from the Register may apply for reinstatement of his or her name by using the prescribed application form.

(2) The optometrist or dispensing optician shall state the reason or reasons for reinstatement and satisfy the Board beyond reasonable doubt that actions for which his or her name was removed shall not be repeated.

(3) The Board having being satisfied with the reasons in subsection (2) shall—

- (a) enter in the Register the name of the optometrist or dispensing optician subject to any conditions as the Board deems appropriate; and
- (b) notify the optometrist or dispensing optician of its decision in writing.

*Publication of the Register*

44. The Secretary shall, as soon as practicable after 1st January of each year, publish in the *Gazette* the names, addresses and qualifications of registered optometrists and registered dispensing opticians in the Register.

## PART 7—OFFENCES AND PENALTIES

*Prohibition against the unauthorised practice of optometry or optical dispensing*

45.—(1) Any person who practices optometry or optical dispensing without having been registered as an optometrist or a dispensing optician, or as a student optometrist or student dispensing optician, as the case may be, under this Decree commits an offence and shall be liable to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding six (6) months.

(2) Subsection (1) shall also be construed to prevent—

- (a) any person other than a registered optometrist from using computer related machines for the purpose of determining refractive prescription or related measurements intended for the dispensing of spectacle or contact lenses; or
- (b) any student from practicing optometry or optical dispensing unless under the supervision of a registered optometrist or registered dispensing optician.

(3) Any person who contravenes subsection (2) shall be liable to a fine not exceeding \$1,000 for a first offence, and a fine not exceeding \$5,000 for any subsequent offence.

*Persons not to assume title implying registration*

46. Any person who, at the expiration of the six (6) months period from the commencement of this Decree, not being a registered optometrist or a registered dispensing optician takes or uses—

- (a) the name or title of optometrist or dispensing optician, or contact lens practitioner, or any combination of such words; or
- (b) any name, title, designation, addition or description, whether by means of initials or letters placed before or after his or her name or otherwise,

implying that he or she is registered under this Decree, or that he or she is a person qualified to practice optometry or optical dispensing, commits an offence and shall be liable to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding six (6) months.

*Use of title or titles prohibited*

47.—(1) Any registered optometrist who, without the consent of the Board, takes or uses in connection with the practice of optometry or optical dispensing any title, designation, addition, or description other than that of optometrist or dispensing optician or contact lens practitioner, or any combination of such words commits an offence and shall be liable on summary conviction to a fine not exceeding \$5,000.

(2) Subsection (1) shall not prevent an optometrist from using ‘Doctor of Optometry’ or ‘Dr.’, provided however that such usage shall not contravene section 48.

*Obtaining registration by false pretences*

48. Any person who—

- (a) procures or attempts to procure registration or a certificate of registration under this Decree by making or producing or causing to be made any false or fraudulent declaration, certificate of registration or any other representation either in writing or otherwise;
- (b) wilfully makes or causes to be made any falsification in the Register;
- (c) forges, alters or counterfeits any certificate;
- (d) uses any forged, altered or counterfeited certificate knowing the same to have been forged, altered or counterfeited;
- (e) falsely advertises or publicly displays himself or herself as being registered or having obtained a certificate of registration under this Decree; or
- (f) falsely impersonates a registered optometrist or registered dispensing optician of a similar or different name, or buys, sells, or fraudulently obtains a certificate of registration under this Decree that has been issued to another,

commits an offence and shall be liable on summary conviction to a fine not exceeding \$2000.

*Restriction on medical or surgical practice*

49. At the commencement of this Decree, any person who, whether or not he or she is registered under this Decree—

- (a) not being a legally qualified medical practitioner, practises or holds himself or herself out by any means or device whatsoever as practising the profession or calling of an ophthalmologist or ophthalmic surgeon;
- (b) not being a legally qualified medical practitioner, assumes the title of ophthalmologist or ophthalmic surgeon or any other name, title, or designation implying that he or she is a medical practitioner or is qualified to practice ophthalmology or ophthalmic medicine or surgery;
- (c) not being a legally qualified medical practitioner, prescribes or administers any drug for the purpose of treating any disease of the eyes or of paralysing the accommodation of the eye; or
- (d) not being a legally qualified medical practitioner or registered pharmacist, sells or supplies any restricted drug or remedy for treating any disease of the eye,

commits an offence and shall be liable upon conviction to a fine not exceeding \$2000, provided however that the sale in the ordinary course of business by any retail storekeeper or shopkeeper of any patent medicine or proprietary medicine or drug commonly sold in bottle, tin, packet, or other container shall not be an offence against paragraph (c), and that the administration or prescription of drugs for the treatment of eye diseases or any other prescribed drugs for paralysing the accommodation of the eye by a registered optometrist who is the holder of a certificate for the time being in force under this Decree shall not be an offence against paragraphs (c) and (d).

*Use of drugs by optometrists*

50.—(1) A registered optometrist shall, upon satisfying the Board that he or she has undertaken and completed a course in therapeutics and ocular pharmacology and awarded a degree, diploma or certificate, use drugs in the practice of optometry.

(2) The Board shall as soon as practicable, after having been satisfied that a registered optometrist has successfully

completed a course in therapeutics and ocular pharmacology, issue a certificate as prescribed by Regulations authorising him or her to use drugs in accordance with the provisions of this Decree.

(3) A registered optometrist who is the holder of any such certificate in subsection (2) shall, in the practice of optometry—

- (a) use therapeutic drugs for the treatment of ocular anomalies and prescribe a range of drugs used in the management of eye diseases;
- (b) use diagnostic pharmaceutical agents such as cycloplegic, local anaesthetic, mydriatics, miotics and such other drugs as may be prescribed for use by any registered optometrist;
- (c) not use any cycloplegic, local anaesthetics, mydriatics, miotics and other prescribed drugs for any purpose other than the purpose prescribed for such use; and
- (d) not use any drug referred to in paragraphs (a) and (b) unless in accordance with such restrictions or conditions as may be prescribed by Regulations.

(4) Any restriction or condition in subsection (3) (d) may include but is not limited to the strength which such drugs shall not exceed when used.

(5) Any such certificate in subsection (2) may be withdrawn by the Board upon any decision given by a court in Fiji.

(6) Any registered optometrist who fails to comply with this section commits an offence and shall be liable on summary conviction to a fine not exceeding \$2,000.

*Restrictions on companies or corporate bodies*

51.—(1) For the purpose of this Decree, any registered optometrist or registered dispensing optician may, with the approval of the Board and following consultation with the Association, operate an optometric business as a company, firm or a clinic, provided however that he or she is not employed by a company or firm not registered entirely as an optometric business.

(2) If a company carries on business as a registered optometrist or registered dispensing optician not authorised under subsection (1), or holds itself out, whether directly or by implication, as carrying on such business or as being entitled to carry on such business while not so authorised, that company commits an offence and is liable on summary conviction to a fine not exceeding \$20,000 and a fine not exceeding \$100 for every day during which the offence subsequently continues.

*Absence from practice*

52.—(1) Except as otherwise provided by this section, no registered optometrist or registered dispensing optician shall be absent from his or her practice for more than two (2) months without notifying the Board in writing of the purpose and period of absence.

(2) If a registered optometrist or registered dispensing optician is away for more than two (2) months, he or she shall make arrangement for a *locum tenens* or a partner of the registered optometrist or registered dispensing optician to act in his or her place.

(3) Subsection (2) shall apply to those registered optometrists or registered dispensing opticians who are absent from practice for health reasons or for the purpose of overseas training or studies, or who have been away from Fiji but remain in practice as an optometrist or dispensing optician in the country of his or her destination.

PART 8—MISCELLANEOUS

*Advertising*

53.—(1) Except with the approval of the Board in writing, a registered optometrist or dispensing optician or a firm or a company of a registered optometrist or registered dispensing optician shall not advertise or otherwise solicit for optometric business in a manner not expressly authorised by this section.

(2) This section shall be construed to prevent any person from—

- (a) claiming that he or she is a better optometrist or dispensing optician than the others;
- (b) charging lower fees or selling cheaper commodities by advertisement of prices; and



(c) giving an impression that he or she is providing services other than those prescribed for his or her respective practice.

(3) This section shall also restrict any dispensing optician from advertising the sale of contact lenses unless he or she proves to the Board that he or she is authorised to dispense contact lenses.

*Directions*

54. The Minister may give directions to the Board that are necessary or desirable in the public interest.

*Regulations*

55. The Minister may make Regulations to give effect to the provisions of this Decree.

GIVEN under my hand this 6th day of December 2012.

EPELI NAILATIKAU  
President of the Republic of Fiji