THE VIRGINIA BOARD OF HEALTH PROFESSIONS
THE VIRGINIA DEPARTMENT OF HEALTH PROFESSIONS

Study into the Need to Regulate Kinesiotherapists in the Commonwealth of Virginia

July 2010

Virginia Board of Health Professions
9960 Mayland Dr, Suite 300
Richmond, VA 23233-1463
(804) 367-4400

BACKGROUND AND AUTHORITY

Pursuant to the letter from Susan Clarke Schaar to the Director of the Department of Health Professions, dated March 24, 2010 and provided in Appendix A, the Department is undertaking a review of the subject matter contained in Senate Bills 573 and 727. Per Ms. Schaar's letter, the Senate Committee on Education and Health proffered the request pursuant to Rule 20 (1) of the Rules of the Senate of Virginia which states:

> *A Committee may refer the subject matter of a bill or resolution to any agency, board, commission, council, or other governmental or nongovernmental entity for comment, but the bill or resolution shall remain with the committee. . .*

Section 54.1-2510 assigns certain powers and duties to the Board of Health Professions. Among them are the power and duty:

7. To advise the Governor, the General Assembly and the Director on matters relating to the regulation or deregulation of health care professions and occupations;

12. To examine scope of practice conflicts involving regulated and unregulated professions and advise the health regulatory boards and the General Assembly of the nature and degree of such conflicts;

Pursuant to these powers and duties, the Director requested that the Board of Health Professions and its Regulatory Research Committee conduct this sunrise review into the need to regulate kinesiotherapists in the Commonwealth of Virginia.

SCOPE OF THE STUDY

The primary focus of this study is to determine the need to regulate kinesiotherapists in the Commonwealth of Virginia. The Board of Health Professions references seven criteria (hereafter, the Criteria), enumerated in its 1998 *Policies and Procedures for the Evaluation of the Need to Regulate Health Occupations and Professions.* These Criteria are:

(1) Risk of Harm to the Consumer
(2) Specialized Skills and Training
(3) Autonomous Practice
(4) Scope of Practice
(5) Economic Impact
(6) Alternatives to Regulation
(7) Least Restrictive Regulation

Information on the application of these professions is available in the *Policies and Procedures Manual* on the Board of Health Professions website: http://www.dhp.virginia.gov/bhp/

METHODOLOGY

The following methods are being used to gather and organize information on kinesiotherapists and related professions and determine the proper regulatory structure:

- ◊ Review the literature on kinesiotherapists and related professions,
- ◊ Review relevant state laws and regulations
- ◊ Review malpractice insurance data, if it is found to exist
- ◊ Review reimbursement data, and cost of education/credentialing data
- ◊ Review data on the current workforce
- ◊ Prepare a draft report to the Board for public comment
- ◊ Hold one or more Public Hearings on this issue, and review all public comment received
- ◊ Prepare a draft report incorporating any recommendations
- ◊ If required by the Department Director and Secretary amend the report and prepare a final report for their approval.

OVERVIEW OF THE PROFESSION

Following a prescription from a licensed practitioner, kinesiotherapists provide rehabilitative exercise and education to patients. These therapeutic exercises enhance the strength, mobility and endurance of functionally limited patients, or those requiring long-term reconditioning following an injury, illness or other condition. Kinesiotherapists emphasize the psychological as well as physical value of therapeutic exercises. Developed during World War II, kinesiotherapists originally helped wounded or sick soldiers return to their units quickly and at full functionality following long periods of bed rest. Kinesiotherapists have practiced mainly within the military and the Veterans Administration, though some have branched into civilian practice. In addition to reconditioning following injury or illness, kinesiotherapy is suited to ameliorate the effects and risks associated with chronic and congenital conditions.

Professional Organization

The American Kinesiotherapy Association (AKTA) is the only national organization representing Kinesiotherapists. The AKTA publishes a newsletter for members, *Mobility*, and a peer-reviewed journal, *Clinical Kinesiology*. The AKTA also holds an annual conference. Their 2007 conference was held in Richmond, Virginia. Since 2008, the AKTA has held its annual conference in conjunction with the Medical Fitness Association (MFA) Annual Conference. The MFA represents the interests of and upholds standards for medically integrated fitness centers. Only Registered Kinesiotherapists may become Registered Members of the AKTA. Other membership categories are available for students or recent members of accredited kinesiotherapy education programs and for associate members in affiliated roles.

The Council on Professional Standards for Kinesiotherapy (COPS-KT) is the standard setting organization for Registered Kinesiotherapists (RKT). The Council as a whole sets standards for Registered Kinesiotherapists. COPS-KT consists of three Boards:

1) The Board of Registration: Administers the Registration examination.
2) The Continuing Competency Board: Administers continuing competency programs.
3) Committee on Accreditation of Kinesiotherapy Programs: Administers accreditation of kinesiotherapy educational program, and is a Committee on Accreditation of the Commission on Accreditation of Allied Health Education Programs (CAAHEP).

The COP-KT has developed a detailed Scope of Practice for Kinesiotherapy, along with extensive Standards of Practice. The Scope of Practice document includes the following definition of Kinesiotherapy. The full Scope of Practice, along with the Standards of Practice, appears in Appendix B.

> *KINESIOTHERAPY: Kinesiotherapy is the application of scientifically based exercise principles adapted to enhance the strength, endurance, and mobility of individuals with functional limitations or those requiring extended physical conditioning. An RKT can administer treatment only upon receipt of a prescription from qualified physicians, nurse practitioners and/or physician's assistants who have been privileged to make such referrals.*
>
> *The Kinesiotherapist is a health care professional competent in the administration of musculoskeletal, neurological, ergonomic, biomechanical, psychosocial, and task specific functional tests and measures. The Kinesiotherapist determines the appropriate evaluation tools and interventions necessary to establish, in collaboration with the client and physician, a goal specific treatment plan.*
>
> *The intervention process includes the development and implementation of a treatment plan, assessment of progress toward goals, modification as necessary to achieve goals and outcomes, and client education. The foundation of clinician-client rapport is based on education, instruction, demonstration and mentoring of therapeutic techniques and behaviors to restore, maintain and improve overall functional abilities.*

Previous Studies

In 1982, the Council of Health Regulatory Boards (now the Board of Health Professions) studied the need to regulate both occupational therapy and corrective therapy. Physical therapy was already regulated. The Council recommended licensure for occupational therapy and urged physical therapists, occupational therapists and corrective therapists to differentiate their scopes of practice. At the time, the Council had not developed criteria for determining the need to regulate professions, and recommendations were withdrawn or defeated in the General Assembly in favor of legislation requiring the Council to develop adequate criteria.

Armed with newly developed Criteria, the Council took up reviews of occupational therapy and athletic training and recommended against regulation. In 1986, the Council undertook a comprehensive study of "therapy professions." This review included activity coordinators; art, dance and music therapists; athletic trainers; corrective therapists

(kinesiotherapists); massage therapists; occupational therapists; orientation and mobility specialists; orthotists & prosthetists and recreational therapists. The Council recommended against regulating any of these professions. However, this study evolved into a comprehensive study of allied health professions, in which corrective therapists participated. No regulation resulted from this study, either.

Since that broad review, the Council (later, the Board of Health Professions) has reviewed many of the "therapy professions" individually. Art therapists and orthotists and prosthetists were reviewed but not recommended for regulation. Athletic trainers, massage therapists, and occupational therapists are all currently licensed.

Kinesiotherapists (formerly corrective therapists) requested a new review by the Board of Health Professions in the summer of 2009. Subsequent to the Board's next meeting in November 2009, Senate Bills 573 and 727 were introduced by Senators Patricia S. Ticer and Yvonne B. Miller, respectively, regarding the licensure of kinesiotherapists. The Board deferred further study until the General Assembly had an opportunity to address the matter. As indicated earlier, pursuant to Senate Rule 20(L), the issue was referred to the Department of Health Professions hence the Board's further current review.

OVERLAPPING SCOPE OF PRACTICE

Kinesiotherapists share a crowded professional space. The "rehabilitation therapy" field is replete with varying professions that share overlapping scopes of practice and modalities. The American Medical Association recognizes exercise physiologists, exercise scientists, personal fitness trainers, therapeutic recreation specialists, athletic trainers, dance/movement therapists, orthotists & prosthetists, physical therapists and occupational therapists within their Health Care Careers directory.[1] These rehabilitation therapists compete with adaptive and corrective physical educators, therapeutic horticulturalists, driver rehabilitation specialists, assistive technology professionals, manual arts therapists, hydrotherapists and others.

Although these professions share many characteristics, most focus their Scopes of Practice to specific modalities or conditions within the rehabilitative field. Kinesiotherapists, for instance, focus on "sub-acute" reconditioning through exercise—returning persons to full strength following rehabilitation of an acute injury. Table 1 displays the focus of several related professions currently regulated in Virginia. Despite this focus practices often overlap.

Kinesiotherapy	Physical Therapy	Occupational Therapy	Athletic Trainers
Reconditioning following illness or injury, or to cope with ongoing conditions	Rehabilitation of specific acute injuries	Increased functionality in daily life and work	Conditioning and training to prevent injuries and first aid for acute injuries

Table 1: The professional focus of kinesiotherapy, physical therapy, occupational therapy and athletic trainers.

[1] American Medical Association. Health Care Careers Directory 2009-2010. http://www.ama-assn.org/ama/pub/education-careers/careers-health-care.shtml

Kinesiotherapists use therapeutic exercise as a treatment modality for sub-acute and chronic conditions. Other exercise professionals use science-based exercise techniques to ameliorate health risks by improving overall fitness, but not as a therapeutic modality. Examples include personal trainers, exercise science professionals and applied exercise physiologists. Clinical exercise physiologists work with physicians to provide therapeutic exercise. The following job descriptions appear on the CAAHEP's website.[2] Note that descriptions for personal trainers emphasizes work with apparently healthy individuals, while exercise science expands this to those with controlled conditions. Exercise physiologists may work with teams of these professionals to provide therapeutic care, but with an emphasis on cardiac rehabilitation and other pulmonary or metabolic conditions.

Exercise Physiology

Occupational/Job Description

Exercise Physiology is a discipline that includes clinical exercise physiology and applied exercise physiology. Applied Exercise Physiologists manage programs to assess, design, and implement individual and group exercise and fitness programs for apparently healthy individuals and individuals with controlled disease. Clinical Exercise Physiologists work under the direction of a physician in the application of physical activity and behavioral interventions in clinical situations where they have been scientifically proven to provide therapeutic or functional benefit.

Employment Characteristics

As a clinical part of the health and wellness team, Exercise Physiologists can work with Personal Fitness Trainers, Exercise Science Professionals, and physicians in cardiac rehabilitation, typically in a hospital or clinical setting. Exercise Physiologists work with clients who have been diagnosed with a chronic metabolic, pulmonary, or cardiac disease.

Exercise Science

Occupational/Job Description

Exercise Science encompasses a wide variety of disciplines including, but not limited to: Biomechanics, Sports Nutrition, Sport Psychology, Motor Control/Development, and Exercise Physiology. The study of these disciplines is integrated into the academic preparation of Exercise Science professionals. Exercise Science professionals work in the health and fitness industry, and are skilled in evaluating health behaviors and risk factors, conducting fitness assessments, writing appropriate exercise prescriptions, and motivating individuals to modify negative health habits and maintain positive lifestyle behaviors for health promotion. They conduct these activities in university,

[2] Accessed April 17, 2010. http://www.caahep.org/Content.aspx?ID=19

corporate, commercial or community settings where their clients participate in health promotion and fitness-related activities.

Employment Characteristics

As an integral part of the health and wellness team, Exercise Science Professionals can work with Personal Fitness Trainers and Exercise Physiologists in a number of different settings, such as corporate, clinical, community, and commercial fitness and wellness centers. Exercise Science Professionals work with the apparently healthy population and clients with controlled disease, leading and demonstrating these clients in safe and effective methods of exercise. The Exercise Science Professional can also assess risk factors and identify the health status of clients.

Personal Fitness Training

Occupational/Job Description

Personal Fitness Trainers are skilled practitioners who work with a wide variety of client demographics in one-to-one and small group environments. They are familiar with multiple forms of exercise used to improve and maintain health-related components of physical fitness and performance. They are knowledgeable in basic assessment and development of exercise recommendations. In addition, they are proficient in leading and demonstrating safe and effective methods of exercise, and motivating individuals to begin and to continue with healthy behaviors. They consult with and refer to other appropriate allied health professionals when client conditions exceed the personal trainer's education, training, and experiences.

Employment Characteristics

As an integral part of the health and wellness team, Personal Fitness Trainers can work with Exercise Science Professionals and Exercise Physiologists in a number of different settings, such as corporate, clinical, community, and commercial fitness and wellness centers. Personal Fitness Training involves working with the apparently healthy population, leading and demonstrating these clients in safe and effective methods of exercise.

There is evidence, however, that personal trainers and exercise scientists provide therapeutic exercise as well. For instance, the National Academy of Sports Medicine (NASM) provides a *Corrective Exercise Specialist (CES) Advanced Specialization* course for "post-rehabilitation and reconditioning of clients with musculoskeletal disorders".[3] The CES course is an online course consisting of 11 modules. It is marketed to athletic trainers, chiropractors, physical therapists, massage therapists and personal trainers. Similarly, the American Council

[3] National Academy of Sports Medicine. "Corrective Exercise Specialist (CES)" Advertising flyer. http://www.nasm.org/uploadedFiles/NASMORG/objects/downloads/NASM_CES_flyer.pdf. Accessed 04/17/2010.

on Exercise (ACE) offers the Advanced Health & Fitness Specialist Certification. Personal trainers with this certification provide post-rehabilitative and special population fitness programming. While both of these programs incorporate post-rehabilitative exercise, the emphasis is on conditions resulting from unhealthy lifestyles, including cardiovascular, pulmonary and metabolic conditions, and musculoskeletal and orthopedic conditions. Again, this creates an emphasis different than that of kinesiotherapists, but modalities and conditions may overlap.

CREDENTIALS

The Board of Registration for Kinesiotherapy (BoR-KT) of the COPS-KT provides the only recognized credential for kinesiotherapists. Persons who meet the Board's eligibility requirements and pass its registration exam are listed on the Registry of Kinesiotherapists and earn the Registered Kinesiotherapist (RKT) credential. Applicants must meet the following eligibility requirements:

- Possess a bachelor's degree from a CAAHEP-accredited kinesiotherapy program, and,
- Complete 1,000 hours of rehabilitation exercise and education verified by a clinical supervisor.[4]

The registration examination consists of two sections: a written examination and an oral practical examination. The written examination consists of 100 multiple choice questions. The oral examination consists of five questions scored by two raters. A 1986 role delineation study performed by COPS-KT forms the basis of the examination. The exams are updated every two to three years. The exam is administered and analyzed by Professional Examination Service.[5]

The registration examination covers the following content areas:

Biological Sciences
- Anatomy and Physiology
- Neurology
- Pathology
- Growth and Development

Behavioral Sciences
- Psychology
- Pathologies of Abnormal Mental Functioning
- Behavior Modification
- Physiological Psychology

Applied Sciences
- Applied Anatomy
- Exercise Physiology
- Biomechanics/Kinesiology

Clinical Sciences
- Theory and Practice of KT
- Clinical Education
- Clinical Foundations—Program Development/ Implementation
- Aquatic Therapy

Application of Kinesiotherapy
- Extended Care
- Geriatric Care
- Psychiatric Care
- Pediatric Care
- Wellness and Prevention

Oral/Practical Exam
- Patient Evaluation
- Range of Motion Measurement
- Manual Muscle Testing
- Therapeutic Exercise
- Gout and Ambulation Training (Assistive supports)

[4] Council on Professional Standards for Kinesiotherapy. "How to Become a Registered Kinesiotherapist." http://www.akta.org/cops/registration_documents.shtml. Accessed 04/16/2010.
[5] Information on the Registration Exam was provided by the AKTA on request of the Regulatory Research Committee.

EDUCATION

The Committee on Accreditation of Education Programs for Kinesiotherapy (CoA-KT) is one of CAAHEP's sixteen Committees on Accreditation. The CAAHEP accredits kinesiotherapy educational programs on the recommendation of the CoA-KT. The accreditation process must meet CAAHEP's standards.

State	School
Virginia	Norfolk State University
California	California State University-Long Beach
California	San Diego State University
Mississippi	University of Southern Mississippi
North Carolina	Shaw University
Ohio	University of Toledo

Table 2: CAAHEP Accredited Kinesotherapy Programs

CAAHEP currently accredits six kinesiotherapy programs (see Table 2). All six programs award baccalaureate degrees. Virginia hosts one accredited program at Norfolk State University. Virginia Commonwealth University previously hosted a kinesiotherapy program; however the program was discontinued in 2004. Accredited programs require general education and science courses as well as professional core courses. Additionally, all programs must include a clinical internship of at least 1,000 hours. Students must work within diverse specialties or clinical settings, including neurology, orthopedics, cardiac, pediatric, psychiatry, geriatric and wellness and fitness programs.

STATE REGULATION

No other state currently regulates kinesiotherapists.

OTHER REGULATION

In 2007, Ontario passed the *Health Systems Improvement Act* which established a College of Kinesiology and subjected kinesiotherapists to regulation under the Ontario Regulated Health Profession Act, 1991 (see Appendix C). This act also defined the scope of practice of kinesiologists which reads:

> *"The practice of kinesiology is the assessment of human movement and performance and its rehabilitation and management to maintain, rehabilitate, or enhance movement and performance."*
> From: Ontario Health Systems Improvement Act, 2007, Chapter 10 Kinesiology Act, sec 3.

Currently, kinesiotherapists are only regulated under Controlled Acts in the province of Ontario, Canada. To the Board's knowledge, Ontario is the only entity in the world which regulates kinesiotherapists utilizing this model. Ontario's Controlled Acts serve a regulatory function by specifically addressing which acts an individual can and cannot perform. The Controlled Acts state that:

"No person shall perform a controlled act set out in subsection (2) in the course of providing health care services to an individual unless,

(a) the person is a member authorized by a health profession Act to perform the controlled act; or

(b) the performance of the controlled act has been delegated to the person by a member described in clause (a). 1991, c. 18, s. 27 (1); 1998, c. 18, Sched. G, s. 6."

From: Ontario Regulated Health Professions Act, 1991, S.O. 1991, c8, section 27, 27.1

Legislation further specifies which acts cannot be performed by individuals unless authorized and which professions are exempt from these regulations (see Appendix D).

ECONOMIC IMPACT

The economic impact of regulation of kinesiotherapists would likely be significant. It is difficult to estimate the number of kinesiotherapists practicing in Virginia—especially the number practicing outside of the federal government. According to information provided by the AKTA, kinesiotherapy programs at Norfolk State University and Virginia Commonwealth University conferred over 250 degrees since 1989. However, there are only 37 Registered Kinesiotherapists in Virginia. The AKTA contends that only 20 percent of persons with kinesiotherapy degrees pursue credentials or employment in their field. Most of these find employment with the federal government in the Veteran's Administration.

Some commenters believe that a lack of state recognition plays a role in this situation. Licensed practitioners, particularly physical and occupational therapists, dominate the rehabilitative therapy arena of allied health care. Despite having a particular focus, kinesiotherapy shares many modalities and interventions with these licensed rehabilitative professions. Kinesiotherapists may experience "crowd-out" as employers and consumers seeking these services come to expect practitioners to have licenses. In such an environment, kinesiotherapists may have difficulty differentiating themselves from licensed practitioners. Additionally, many third-party payers rely on state recognition as a basis for making reimbursement decisions. Many third-party payers also rely on the reimbursement policies of the Centers for Medicare and Medicaid Services which does reimburse kinesiotherapy services.

Although restrictions related to state regulation may exacerbate barriers to practice, other factors likely play a significant role as well. Kinesiotherapists have traditionally practiced within the federal medical system, serving mostly military personnel and veterans. They have struggled to establish the profession outside of that realm. Kinesiotherapists share a professionally fragmented rehabilitation and therapeutic exercise field. The American Medical Association recognizes exercise physiologists, exercise scientists, personal fitness trainers, therapeutic recreation specialists, athletic trainers, dance/movement therapists, orthotists & prosthetists, physical therapists and occupational therapists within their Health Care Careers directory. Rather than offering choice, competition among narrowly-defined professions may cause confusion and delay public acceptance. These factors and others likely contribute to difficulties faced by kinesiotherapists within the private health care market.

Responding to legislation submitted to the 2010 General Assembly (SB 573), the Department of Planning and Budget (DPB) prepared a Fiscal Impact Statement on creating an independent Board of Kinesiotherapy that would license kinesiotherapists. Relying on the figures provided the AKTA, the DPB assumed that 200 Kinesiotherapists would apply for licensure. Using a very conservative estimate of the annual costs associated with an independent

licensure Board ($200,000), the DPB determined licensure fees would have to be $1,000 annually to support a Board. Such a high amount would likely discourage kinesiotherapists from practicing their profession outside of the federal employment.

As an alternative, kinesiotherapists could be included with an existing regulatory Board, such as the Board of Medicine or Board of Physical Therapy, either in an advisory role or as voting members. Given the same estimate of the number of kinesiotherapists in Virginia, it is assumed that fees associated with regulation would be similar to those incurred by physical therapists (Board of Physical Therapy) and occupational therapists (Board of Medicine). The application and renewal fees for each occupation are as follows:

Physical therapist:
Application fee:
Licensure fee: $140.00

Occupational therapist:
Application fee:
Licensure fee: $130.00

Thus, the cost incurred by kinesiotherapists, if included under an existing regulatory Board, specifically either the Board of Medicine or Board of Physical Therapy, would be approximately $130.00-$140.00 not including examination fee.

RISK OF HARM

The AKTA reports there are no reports of harm caused by the practice of Kinesiotherapists. Staff also found no documented cases of harm.

Kinesiotherapists develop treatment plans in collaboration with licensed practitioners, determine appropriate interventions, and evaluate results with limited supervision. Kinesiotherapists assist patients with elevated risks for cardiovascular events, injury or re-injury from exercise and require knowledge of limitations and contraindications associated with certain conditions. Personal trainers or other exercise workers without requisite therapeutic training may attempt to provide these services. However, current regulations prohibit anyone from providing therapeutic services unless delegated by a licensed practitioner.

Kinesiotherapists often assist mentally or physically disabled persons to learn or relearn driving skills. According to the AKTA, this includes "supervising the elderly, stroke patients, visually impaired, brain injured, and spinal cord injury patients while driving on public roadways".[6] The Department of Motor Vehicles maintains standards for driver education schools and for instructors.

[6] Comments provided by the American Kinesiotherapy Association in an attachment to a letter to Dr. Damien Howell, Chairman of the Regulatory Research Committee from Melissa Fuller, Executive Director of the American Kinesiotherapy Association, dated September 25, 2009.

Appendix A -- Letter from Susan Clarke Schaar

Director's Office MAR 26 2010

COMMONWEALTH OF VIRGINIA

SUSAN CLARKE SCHAAR
CLERK OF THE SENATE
P.O. BOX 396
RICHMOND, VIRGINIA 23218

SENATE

March 24, 2010

Ms. Sandra Whitley Ryals, Director
Department of Health Professions
Perimeter Center
9960 Mayland Drive, Suite 300
Richmond, VA 23233

Dear Ms. Ryals:

This is to inform you that, pursuant to Rule 20 (l) of the Rules of the Senate of Virginia, the subject matter contained in Senate Bills 573 and 727 have been referred by the Senate Committee on Education and Health to the Department of Health Professions for study. It is requested that the appropriate committee chair and bill patrons receive a written report, with a copy to this office, by: November 2, 2010.

With kind regards, I am

Sincerely yours,

Susan Clarke Schaar

SCS:jdm

cc: Sen. R. Edward Houck, Chair, Committee on Education and Health
Sen. Patricia S. Ticer, Patron of SB 573
Sen. Yvonne B. Miller, Patron of SB 727

SENATE BILL NO. 573
Offered January 13, 2010
Prefiled January 13, 2010

A BILL to amend the Code of Virginia by adding in Title 54.1 a chapter numbered 34.2, consisting of sections numbered 54.1-3484 through 54.1-3488, relating to licensure of kinesiotherapists.

Patrons-- Ticer, Edwards, Locke, Lucas, McEachin, Miller, J.C. and Whipple; Delegates: James and McQuinn

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Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 54.1 a chapter numbered 34.2, consisting of sections numbered 54.1-3484 through 54.1-3488, as follows:

§ 54.1-3484. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Board" means the Board of Kinesiotherapy.

"Kinesiotherapist" means any person licensed by the Board to engage in the practice of kinesiotherapy.

"Practice of kinesiotherapy" means that branch of the healing arts that is concerned with, upon medical referral and direction, the application of scientifically based exercise principles adapted to enhance the strength, endurance, and mobility of individuals with functional limitations or those requiring extended physical conditioning.

§ 54.1-3485. Unlawful to practice without a license.

A. It shall be unlawful for any person to practice kinesiotherapy in the Commonwealth without a valid unrevoked license issued by the Board.

B. The Board shall promulgate regulations establishing requirements to ensure continuing competency of kinesiotherapists, which may include continuing education, testing, or such other requirements as the Board may determine to be necessary.

C. In promulgating continuing competency requirements, the Board shall consider (i) the need to promote ethical practice, (ii) an appropriate standard of care, (iii) patient safety, (iv) application of new medical technology, (v) appropriate communication with patients, and (vi) knowledge of the changing health care system.

§ 54.1-3486. Board of Kinesiotherapy.

A. The Board of Kinesiotherapy shall regulate the practice of kinesiotherapy and carry out the provisions of this chapter regarding the qualifications, examination, licensure, and regulation of kinesiotherapists and shall have the general powers and duties of a health regulatory board pursuant to § 54.1-2400.

B. The Board shall be appointed by the Governor and shall be composed of seven members, five of whom shall be kinesiotherapists who have been in active practice for at least three years prior to appointment; one shall be a faculty member of a kinesiotherapy education program accredited by the Commission on Accreditation of Allied Health Education Programs; and one shall be a citizen member. Members shall be appointed for terms of four years and shall serve until their successors are appointed. Vacancies occurring, other than by expiration of term, shall be filled for the unexpired term. No person shall be eligible to serve on the Board for more than two successive full terms.

C. The Board shall elect a chairman and vice-chairman from among its membership. The Board shall meet at least once a year and may hold additional meetings as necessary to perform its duties. A majority of the Board shall constitute a quorum for the conduct of business.

§ 54.1-3487. Requirements for licensure as a kinesiotherapist.

An applicant for licensure as a kinesiotherapist shall submit evidence, verified by affidavit and satisfactory to the Board, that the applicant:

1. Is 18 years of age or more;

2. Is a graduate of a program of kinesiotherapy accredited by the Committee on Accreditation of Allied Health Education Programs or is a graduate of a school outside of the United States or Canada that is acceptable to the Board; and

3. Has satisfactorily passed an examination approved by the Board.

§ 54.1-3488. Unprofessional conduct.

Any kinesiotherapist licensed by the Board shall be considered guilty of unprofessional conduct if he:

1. Engages in the practice of kinesiotherapy under a false or assumed name or impersonates another practitioner of a like, similar, or different name;

2. Knowingly and willfully commits any act that is a felony under the laws of this Commonwealth or the United States, or any act that is a misdemeanor under such laws and involves moral turpitude;

3. Aids or abets, has professional contact with, or lends his name to any person known to him to be practicing kinesiotherapy illegally;

4. Conducts his practice in such a manner as to be a danger to the health and welfare of his patients or to the public;

5. Is unable to practice with reasonable skill or safety because of illness or substance abuse;

6. Publishes in any manner an advertisement that violaes Board regulations governing advertising;

7. Performs any act likely to deceive, defraud, or harm the public;

8. Violates any provision of statute or regulation, state or federal, relating to controlled substances;

9. Violates or cooperates with others in violating any of the provisions of this chapter or regulations of the Board; or

10. Engages in sexual contact with a patient concurrent with and by virtue of the practitioner/patient relationship or otherwise engages at any time during the course of the practitioner/patient relationship in conduct of a sexual nature that a reasonable patient would consider lewd and offensive.

2. That the initial terms for the members appointed to the Board of Kinesiotherapy pursuant to § 54.1-3486 shall be staggered as follows: two members shall be appointed for a one-year term, two members shall be appointed for a two-year term, two members shall be appointed for a three-year term, and one member shall be appointed for a four-year term.

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SENATE BILL NO. 727

Offered January 26, 2010

A BILL to amend the Code of Virginia by adding in Title 54.1 a chapter numbered 34.2, consisting of sections numbered 54.1-3484 through 54.1-3488, relating to licensure of kinesiotherapists.

Patron-- Miller, Y.B.

Unanimous consent to introduce

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 54.1 a chapter numbered 34.2, consisting of sections numbered 54.1-3484 through 54.1-3488, as follows:

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A. It shall be unlawful for any person to practice kinesiotherapy in the Commonwealth without a valid unrevoked license issued by the Board.

B. The Board shall promulgate regulations establishing requirements to ensure continuing competency of kinesiotherapists, which may include continuing education, testing, or such other requirements as the Board may determine to be necessary.

C. In promulgating continuing competency requirements, the Board shall consider (i) the need to promote ethical practice, (ii) an appropriate standard of care, (iii) patient safety, (iv) application of new medical technology, (v) appropriate communication with patients, and (vi) knowledge of the changing health care system.

§ 54.1-3486. Board of Kinesiotherapy.

A. The Board of Kinesiotherapy shall regulate the practice of kinesiotherapy and carry out the provisions of this chapter regarding the qualifications, examination, licensure, and regulation of kinesiotherapists and shall have the general powers and duties of a health regulatory board pursuant to § 54.1-2400.

B. The Board shall be appointed by the Governor and shall be composed of seven members, five of whom shall be kinesiotherapists who have been in active practice for at least three years prior to appointment; one shall be a faculty member of a kinesiotherapy education program accredited by the Commission on Accreditation of Allied Health Education Programs; and one shall be a citizen member. Members shall be appointed for terms of four years and shall serve until their successors are appointed. Vacancies occurring, other than by expiration of term, shall be filled for the unexpired term. No person shall be eligible to serve on the Board for more than two successive full terms.

C. The Board shall elect a chairman and vice-chairman from among its membership. The Board shall meet at least once a year and may hold additional meetings as necessary to perform its duties. A majority of the Board shall constitute a quorum for the conduct of business.

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1. Is 18 years of age or more;

2. Is a graduate of a program of kinesiotherapy accredited by the Committee on Accreditation of Allied Health Education Programs or is a graduate of a school outside of the United States or Canada that is acceptable to the Board; and

3. Has satisfactorily passed an examination approved by the Board.

§ 54.1-3488. Unprofessional conduct.

Any kinesiotherapist licensed by the Board shall be considered guilty of unprofessional conduct if he:

1. Engages in the practice of kinesiotherapy under a false or assumed name or impersonates another practitioner of a like, similar, or different name;

2. Knowingly and willfully commits any act that is a felony under the laws of this Commonwealth or the United States, or any act that is a misdemeanor under such laws and involves moral turpitude;

3. Aids or abets, has professional contact with, or lends his name to any person known to him to be practicing kinesiotherapy illegally;

4. Conducts his practice in such a manner as to be a danger to the health and welfare of his patients or to the public;

5. Is unable to practice with reasonable skill or safety because of illness or substance abuse;

6. Publishes in any manner an advertisement that violates Board regulations governing advertising

7. Performs any act likely to deceive, defraud, or harm the public;

8. Violates any provision of statute or regulation, state or federal, relating to controlled substances;

9. Violates or cooperates with others in violating any of the provisions of this chapter or regulations of the Board; or

10. Engages in sexual contact with a patient concurrent with and by virtue of the practitioner/patient relationship or otherwise engages at any time during he course of the practitioner/patient relationship in conduct of a sexual nature that a reasonable patient would consider lewd and offensive.

2. That the initial terms for the members appointed to the Board of Kinesiotherapy pursuant to § 54.1-3486 shall be staggered as follows: two members shall be appointed for a one-year term, two members shall be appointed for a two-year term, two members shall be appointed for a three-year term, and one member shall be appointed for a four-year term.

Appendix B

SCOPE OF PRACTICE FOR KINESIOTHERAPY

PREAMBLE

This Scope of Practice has been established by the Council on Professional Standards for Kinesiotherapy, Inc., and is put forth for application to those individuals who are REGISTERED by said body. This document delineates the competencies for Registered Kinesiotherapists, and identifies the job tasks that Registered Kinesiotherapists are qualified to perform. This Scope of Practice reflects the evaluation procedures and comprehensive treatment interventions applied by Kinesiotherapists. The individual Kinesiotherapist may obtain additional training and credentials in areas beyond this Scope of Practice.

Kinesiotherapists administer treatment upon receipt of a prescription from physicians, and nurse practitioners or physician's assistants who have legal privileges to make such referrals.

DEFINITIONS

KINESIOTHERAPY: Kinesiotherapy is the application of scientifically based exercise principles adapted to enhance the strength, endurance, and mobility of individuals with functional limitations or those requiring extended physical conditioning. An RKT can administer treatment only upon receipt of a prescription from qualified physicians, nurse practitioners and/or physician's assistants who have been privileged to make such referrals.
The Kinesiotherapist is a health care professional competent in the administration of musculoskeletal, neurological, ergonomic, biomechanical, psychosocial, and task specific functional tests and measures. The Kinesiotherapist determines the appropriate evaluation tools and interventions necessary to establish, in collaboration with the client and physician, a goal specific treatment plan.
The intervention process includes the development and implementation of a treatment plan, assessment of progress toward goals, modification as necessary to achieve goals and outcomes, and client education. The foundation of clinician-client rapport is based on education, instruction, demonstration and mentoring of therapeutic techniques and behaviors to restore, maintain and improve overall functional abilities.

THE COUNCIL ON PROFESSIONAL STANDARDS FOR KINESIOTHERAPY, INC.: An organization whose function is to insure that kinesiotherapy practitioners meet the standards for education, credentialing, and professional competence, which the Council has established.

GENERAL SCOPE OF PRACTICE

A. EVALUATION

The kinesiotherapist obtains detailed information from the client and the clinical record regarding the specific history that resulted in the referral for treatment. This is followed by an appropriate physical assessment pertaining to the reason for referral. The kinesiotherapist then records and analyzes the data, develops an appropriate treatment plan in conjunction with the client, and communicates with the referring practitioner regarding the proposed treatment. In cases where an evaluation is performed without the expectation of treatment, a physician referral may not be necessary. Examples might be fitness testing, work fitness testing, physical ability testing, and functional capacity testing. The Kinesiotherapist is advised to obtain a written or oral written or oral screening survey from the client to determine whether any possible medical conditions exist that may be affected by the testing conditions or tasks. Additionally the Kinesiotherapist should obtain from the client a signed written consent form that describes the test conditions and possible risks of the evaluation.

I. PHYSICAL COMPONENTS:

a. Muscular strength and endurance

b. Functional stability and mobility

c. Neuromuscular coordination

e. Flexibility/joint range of motion

f. Aerobic fitness

g. Reaction time

2. PSYCHOSOCIAL COMPONENTS:

a. Appropriateness of behavior

b. Enhancers/barriers to learning

c. Capability of task planning and goal-directed behavior

d. Orientation

e. Affect

f. Social interaction

9. Motivation

B. INTERVENTIONS:

The kinesiotherapist administers scientifically based exercise principals and activities to accomplish the stated goals of the treatment plan, such as those outlined in the Kinesiotherapy Scope of Practice and Kinesiotherapy Standards of Practice. The treatment plan may include strategies to educate the client and caregiver on techniques to enhance neuromusculoskeletal, psychomotor and psychosocial well being.

1. THERAPEUTIC EXERCISE:

a. Strengthening exercise:

1) Isometric

2) Isotonic

3) Isokinetic

b. Endurance exercise

1) Aerobic exercise

2) Muscular endurance

c. Functional mobility training and ambulation training

d. Flexibility and range of motion exercise

1) Passive

2) Active-assistive

3) Active

e. Aquatic exercise

f. Balance and coordination activities

g. Neuromuscular re-education

h. Work conditioning exercise

2. EDUCATION:

a. Implications of disease/disability process, progression, and expectations for client and family

b. Home exercise programs

c. Body mechanics and functional mobility

d. Home and/or worksite modification

Standards of Practice for Registered Kinesiotherapists

Preamble:

These standards have been established by the Council on Professional Standards for Kinesiotherapy and are endorsed by the American Kinesiotherapy Association. The intent of these standards is to serve as guidelines for Registered Kinesiotherapists and to provide a basis for assessment of Kinesiotherapy practice. A registered Kinesiotherapist has attained that status upon passing the registration examination of the Council on Professional Standards for Kinesiotherapy. Herein after in this document a registered Kinesiotherapist will be referred to as an RKT.

Standard 1: Only individuals who qualify by virtue of their education and clinical experience can practice Kinesiotherapy.

1.1 An RKT must have a minimum of a baccalaureate degree with didactic Preparation in the following areas:
1.101 Human physiology
1.102 Exercise physiology
1.103 Kinesiology/biomechanics
1.104 Therapeutic exercise/adapted physical education
1.105 Growth and development
1.106 Motor learning/control/performance
1.107 General psychology
1.108 Organization and administration
1.109 Test and measurements
1.110 Research methods or statistics
1.111 First aid and cardiopulmonary resuscitation
1.2 An RKT must have completed a minimum of 1,000 hours of clinical practice in approved training sites to qualify for certification and subsequent registration.
1.3 An RKT must not perform any treatment beyond the Kinesiotherapy Scope of Practice unless credentialed or otherwise qualified to do so.
1.4 An RKT can administer treatment only upon receipt of a prescription from qualified physicians, nurse practitioners and/or physician's assistants who have been privileged to make such referrals.
1.5 An RKT will adhere to all policies and protocols established by the profession and the work setting.
1.6 An RKT will comply with local, state and federal requirements for administering health care.
1.7 An RKT must demonstrate competency to maintain a safe treatment environment.

Standard 2: Referrals shall contain appropriate information before treatment can be administered by an RKT.

2.1 Prescriptions for kinesiotherapy should contain description information to include the following:
2.11 Client's name and/or identification number
2.12 A referring diagnosis and problem to be addressed
2.13 Indications/contraindication for treatment
2.14 Client's assigned medical setting or address

Standard 3: An RKT shall develop an individual treatment plan for each client.

3.1 An RKT is responsible for documentation of the treatment plan in the client's permanent medical record as dictated by the work setting.
3.2 The client and family should actively participate as appropriate in the formulation of the treatment plan.
3.3 Client/family education shall be addressed as appropriate in the treatment plan.
3.4 The treatment plan should be updated on a regular basis or as required by national accrediting bodies and/or the treatment facility.

Standard 4: An RKT shall perform assessments on the first visit and on subsequent visits as change in status dictates.

4.1 An RKT will evaluate the physical capabilities and capacities of the patient, including:
4.11 Muscular strength and endurance
4.12 Functional stability and mobility
4.13 Neuromuscular coordination
4.14 Kinesthesis, proprioception, and sensory deficits
4.15 Flexibility/joint range of motion
4.16 Aerobic fitness
4.17 Reaction time

4.2 An RKT will assess various psychosocial components, which include:
4.21 Appropriateness of behavior
4.22 Enhancers/barriers to learning
4.23 Capability of task planning and goal-directed behavior
4.24 Orientation
4.25 Affect
4.26 Social interaction
4.27 Motivation
4.3 Only an RKT with specific academic and professional training will be qualified to assess prosthetic and orthotic devices with regard to fit and appropriateness of prescription.
4.4 An RKT will assess clients for ambulation and mobility aids.
4.5 Client/family involvement will be encouraged as a part of the assessment process.

Standard 5: An RKT shall administer therapeutic exercise or activity to accomplish the stated goals of the treatment plan.

5.1 An RKT shall instruct clients in the following interventions:
5.11 Strengthening exercise
5.111 Isometric
5.112 Isotonic
5.113 Isokinetic
5.114 Endurance exercise
5.115 Aerobic exercise
5.116 Muscular endurance
5.12 Functional mobility training and ambulation training
5.13 Flexibility and range of motion exercise
5.131 Passive
5.132 Active-assistive
5.133 Active

5.14 Aquatic exercise
5.15 Balance and coordination exercise/activity

5.16 Neuromuscular re-education
5.17 Work conditioning exercise
5.2 An RKT will monitor client treatment and intervene regularly to facilitate progress toward stated goals.
5.3 An RKT shall be responsible for the treatment process and will provide a safe environment that is conducive to achievement of the treatment objectives.
5.4 An RKT will be trained in the safe use of equipment employed in the treatment process.

Standard 6: An RKT shall educate the client and family/caregiver as appropriate to accomplish the stated goals of the treatment plan.

6.1 An RKT shall provide instruction in the following areas:
6.11 Implications of disease/disability process, progression, and expectations for client and family
6.12 Home exercise programs
6.13 Body mechanics/functional mobility
6.14 Home and/or worksite modification

Standard 7: An RKT shall document patient treatment information.

7.1 An RKT shall document progress toward established goals.
7.11 An RKT will be responsible for entering progress notes into the permanent patient record.
7.12 Time frames of completion of notes will conform to those as specified in Standard 3.
7.13 An RKT will provide a written summary of treatment, which includes recommendations for follow-up care.
7.14 All notes will be signed either in writing or electronically.
7.15 Documentation shall be subject to peer review on a regular basis so as to insure conformity to stated standards and as part of the facility's total quality management system.

Standard 8: An RKT shall actively participate in the activities congruent with health care delivery.

8.1 An RKT shall attend client-planning functions and provide input as deemed appropriate.
8.2 An RKT shall at all times conduct themselves as professionals and accord client, family, medical staff and visitor's respect and dignity.
8.3 An RKT shall work as a member of the health care team by participation in total quality management programs.
8.4 An RKT shall notify the Council on Professional Standards as to improprieties of another RKT.
8.5 An RKT shall inform appropriate individuals or agencies of any improprieties in the delivery of health care to the client.
8.6 An RKT shall participate in continuing education as required to insure quality client care.

Standard 9: An RKT shall follow established quality assurance guidelines to assure quality and appropriateness of treatment provided.

9.1 A written plan shall exist that describes program objectives, organization and scope.
9.2 There will be a planned, systematic and ongoing process for monitoring and evaluating client care. Solutions will be developed when problems are identified.
9.3 Records are maintained to document all quality improvement activity.

Appendix C – Ontario's Legislation

Kinesiology Act, 2007

S.O. 2007, CHAPTER 10
SCHEDULE O

No Amendments.

Definitions

1. In this Act,

"College" means the College of Kinesiologists of Ontario; ("Ordre")

"Health Professions Procedural Code" means the Health Professions Procedural Code set out in Schedule 2 to the *Regulated Health Professions Act, 1991*; ("Code des professions de la santé")

"member" means a member of the College; ("membre")

"profession" means the profession of kinesiology; ("profession")

"this Act" includes the Health Professions Procedural Code. ("la présente loi") 2007, c. 10, Sched. O, s. 1.

Health Professions Procedural Code

2. (1) The Health Professions Procedural Code shall be deemed to be part of this Act. 2007, c. 10, Sched. O, s. 2 (1).

Same, interpretation

(2) In the Health Professions Procedural Code, as it applies in respect of this Act,

"College" means the College of Kinesiologists of Ontario; ("ordre")

"health profession Act" means this Act; ("loi sur une profession de la santé")

"profession" means the profession of kinesiology; ("profession")

"regulations" means the regulations under this Act. ("règlements") 2007, c. 10, Sched. O, s. 2 (2).

Definitions in Code

(3) Definitions in the Health Professions Procedural Code apply with necessary modifications to terms in this Act. 2007, c. 10, Sched. O, s. 2 (3).

Note: Sections 3 to 10 come into force on a day to be named by proclamation of the Lieutenant Governor. See: 2007, c. 10, Sched. O, s. 15 (2).

Scope of practice

3. The practice of kinesiology is the assessment of human movement and performance and its rehabilitation and management to maintain, rehabilitate or enhance movement and performance. 2007, c. 10, Sched. O, s. 3.

College established

4. The College is established under the name College of Kinesiologists of Ontario in English and Ordre des kinésiologues de l'Ontario in French. 2007, c. 10, Sched. O, s. 4.

Council

5. (1) The Council shall be composed of,

(a) at least seven and no more than nine persons who are members elected in accordance with the by-laws;

(b) at least six and no more than eight persons appointed by the Lieutenant Governor in Council who are not,

(i) members,

(ii) members of a College as defined in the *Regulated Health Professions Act, 1991*, or

(iii) members of a Council as defined in the *Regulated Health Professions Act, 1991*;

(c) one person selected, in accordance with a by-law made under section 10, from among members who are members of a faculty or department of kinesiology of a university in Ontario. 2007, c. 10, Sched. O, s. 5 (1).

Who can vote in elections

(2) Subject to the by-laws, every member who practises or resides in Ontario and who is not in default of payment of the annual membership fee is entitled to vote in an election of members of the Council. 2007, c. 10, Sched. O, s. 5 (2).

President and Vice-President

6. The Council shall have a President and Vice-President who shall be elected annually by the Council from among the Council's members. 2007, c. 10, Sched. O, s. 6.

Restricted titles

7. (1) No person other than a member shall use the title "kinesiologist", a variation or abbreviation or an equivalent in another language. 2007, c. 10, Sched. O, s. 7 (1).

Representations of qualification, etc.

(2) No person other than a member shall hold himself or herself out as a person who is qualified to practise in Ontario as a "kinesiologist"or in a specialty of kinesiology. 2007, c. 10, Sched. O, s. 7 (2).

Definition

(3) In this section,

"abbreviation" includes an abbreviation of a variation. 2007, c. 10, Sched. O, s. 7 (3).

Notice if suggestions referred to Advisory Council

8. (1) The Registrar shall give a notice to each member if the Minister refers to the Advisory Council, as defined in the *Regulated Health Professions Act, 1991*, a suggested,

(a) amendment to this Act;

(b) amendment to a regulation made by the Council; or

(c) regulation to be made by the Council. 2007, c. 10, Sched. O, s. 8 (1).

Requirements re notice

(2) A notice mentioned in subsection (1) shall set out the suggestion referred to the Advisory Council and the notice shall be given within 30 days after the Council of the College receives the Minister's notice of the suggestion. 2007, c. 10, Sched. O, s. 8 (2).

Offence

9. Every person who contravenes subsection 7 (1) or (2) is guilty of an offence and on conviction is liable to a fine of not more than $25,000 for a first offence and not more than $50,000 for a second or subsequent offence. 2007, c. 10, Sched. O, s. 9.

By-laws

10. The Council may make by-laws respecting the qualifications, selection and terms of office of Council members who are selected. 2007, c. 10, Sched. O, s. 10.

Transition before certain provisions in force

11. (1) The Lieutenant Governor in Council may appoint a transitional Council. 2007, c. 10, Sched. O, s. 11 (1).

Powers of transitional Council

(2) Before section 5 comes into force, the transitional Council and its employees and committees may do anything that is necessary or advisable for the implementation of this Act and anything that the Council and its employees and committees could do under this Act. 2007, c. 10, Sched. O, s. 11 (2).

Same

(3) Without limiting the generality of subsection (2), the transitional Council and the Council's committees may accept and process applications for the issuance of certificates of registration, charge application fees and issue certificates of registration. 2007, c. 10, Sched. O, s. 11 (3).

Powers of the Minister

(4) The Minister may,

(a) review the transitional Council's activities and require the transitional Council to provide reports and information;

(b) require the transitional Council to make, amend or revoke a regulation under this Act;

(c) require the transitional Council to do anything that, in the opinion of the Minister, is necessary or advisable to carry out the intent of this Act and the *Regulated Health Professions Act, 1991*. 2007, c. 10, Sched. O, s. 11 (4).

Transitional Council to comply with Minister's request

(5) If the Minister requires the transitional Council to do anything under subsection (4), the transitional Council shall, within the time and in the manner specified by the Minister, comply with the requirement and submit a report. 2007, c. 10, Sched. O, s. 11 (5).

Regulations

(6) If the Minister requires the transitional Council to make, amend or revoke a regulation under clause (4) (b) and the transitional Council does not do so within 60 days, the Lieutenant Governor in Council may make, amend or revoke the regulation. 2007, c. 10, Sched. O, s. 11 (6).

Same

(7) Subsection (6) does not give the Lieutenant Governor in Council authority to do anything that the transitional Council does not have authority to do. 2007, c. 10, Sched. O, s. 11 (7).

Expenses

(8) The Minister may pay the transitional Council for expenses incurred in complying with a requirement under subsection (4). 2007, c. 10, Sched. O, s. 11 (8).

Note: Section 12 comes into force on a day to be named by proclamation of the Lieutenant Governor. See: 2007, c. 10, Sched. O, s. 15 (2).

Transition after certain provisions in force

12. After section 5 comes into force, the transitional Council shall be the Council of the College if it is constituted in accordance with subsection 5 (1) or, if it is not, it shall be deemed to be the Council of the College until a new Council is constituted in accordance with subsection 5 (1). 2007, c. 10, Sched. O, s. 12.

13., 14. Omitted (amends or repeals other Acts). 2007, c. 10, Sched. O, ss. 13, 14.

15. Omitted (provides for coming into force of provisions of this Act). 2007, c. 10, Sched. O, s. 15.

16. Omitted (enacts short title of this Act). 2007, c. 10, Sched. O, s. 16.

Appendix D

PROHIBITIONS

Controlled Acts restricted

27. (1) No person shall perform a controlled act set out in subsection (2) in the course of providing health care services to an individual unless,

(a) the person is a member authorized by a health profession Act to perform the controlled act; or

(b) the performance of the controlled act has been delegated to the person by a member described in clause (a). 1991, c. 18, s. 27 (1); 1998, c. 18, Sched. G, s. 6.

Controlled acts

(2) A "controlled act" is any one of the following done with respect to an individual:

1. Communicating to the individual or his or her personal representative a diagnosis identifying a disease or disorder as the cause of symptoms of the individual in circumstances in which it is reasonably foreseeable that the individual or his or her personal representative will rely on the diagnosis.
2. Performing a procedure on tissue below the dermis, below the surface of a mucous membrane, in or below the surface of the cornea, or in or below the surfaces of the teeth, including the scaling of teeth.
3. Setting or casting a fracture of a bone or a dislocation of a joint.
4. Moving the joints of the spine beyond the individual's usual physiological range of motion using a fast, low-amplitude thrust.
5. Administering a substance by injection or inhalation.
6. Putting an instrument, hand or finger,
   i. beyond the external ear canal,
   ii. beyond the point in the nasal passages where they normally narrow,
   iii. beyond the larynx,
   iv. beyond the opening of the urethra,
   v. beyond the labia majora,
   vi. beyond the anal verge, or
   vii. into an artificial opening into the body.
7. Applying or ordering the application of a form of energy prescribed by the regulations under this Act.

8. Prescribing, dispensing, selling or compounding a drug as defined in the *Drug and Pharmacies Regulation Act*, or supervising the part of a pharmacy where such drugs are kept.

9. Prescribing or dispensing, for vision or eye problems, subnormal vision devices, contact lenses or eye glasses other than simple magnifiers.

10. Prescribing a hearing aid for a hearing impaired person.

11. Fitting or dispensing a dental prosthesis, orthodontic or periodontal appliance or a device used inside the mouth to protect teeth from abnormal functioning.

12. Managing labour or conducting the delivery of a baby.

13. Allergy challenge testing of a kind in which a positive result of the test is a significant allergic response. 1991, c. 18, s. 27 (2); 2007, c. 10, Sched. L, s. 32.

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (2) is amended by the Statutes of Ontario, 2007, chapter 10, Schedule R, subsection 19 (1) by adding the following paragraph:

14. Treating, by means of psychotherapy technique, delivered through a therapeutic relationship, an individual's serious disorder of thought, cognition, mood, emotional regulation, perception or memory that may seriously impair the individual's judgement, insight, behaviour, communication or social functioning.

See: 2007, c. 10, Sched. R, ss. 19 (1), 20 (2).

Exemptions

(3) An act by a person is not a contravention of subsection (1) if the person is exempted by the regulations under this Act or if the act is done in the course of an activity exempted by the regulations under this Act. 1991, c. 18, s. 27 (3).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 27 is amended by the Statutes of Ontario, 2007, chapter 10, Schedule R, subsection 19 (2) by adding the following subsection:

Same

(4) Despite subsection (1), a member of the Ontario College of Social Workers and Social Service Workers is authorized to perform the controlled act set out in paragraph 14 of subsection (2), in compliance with the *Social Work and Social Service Work Act, 1998*, its regulations and by-laws. 2007, c. 10, Sched. R, s. 19 (2).

See: 2007, c. 10, Sched. R, ss. 19 (2), 20 (2).

Delegation of controlled act

28. (1) The delegation of a controlled act by a member must be in accordance with any applicable regulations under the health profession Act governing the member's profession.

Idem

(2) The delegation of a controlled act to a member must be in accordance with any applicable regulations under the health profession Act governing the member's profession. 1991, c. 18, s. 28.

Exceptions

29. (1) An act by a person is not a contravention of subsection 27 (1) if it is done in the course of,

(a) rendering first aid or temporary assistance in an emergency;

(b) fulfilling the requirements to become a member of a health profession and the act is within the scope of practice of the profession and is done under the supervision or direction of a member of the profession;

(c) treating a person by prayer or spiritual means in accordance with the tenets of the religion of the person giving the treatment;

(d) treating a member of the person's household and the act is a controlled act set out in paragraph 1, 5 or 6 of subsection 27 (2); or

(e) assisting a person with his or her routine activities of living and the act is a controlled act set out in paragraph 5 or 6 of subsection 27 (2).

Counselling

(2) Subsection 27 (1) does not apply with respect to a communication made in the course of counselling about emotional, social, educational or spiritual matters as long as it is not a communication that a health profession Act authorizes members to make. 1991, c. 18, s. 29.

Treatment, etc., where risk of harm

30. (1) No person, other than a member treating or advising within the scope of practice of his or her profession, shall treat or advise a person with respect to his or her health in circumstances in which it is reasonably foreseeable that serious bodily harm may result from the treatment or advice or from an omission from them. 1991, c. 18, s. 30 (1); 2007, c. 10, Sched. M, s. 6.

Exception

(2) Subsection (1) does not apply with respect to treatment by a person who is acting under the direction of or in collaboration with a member if the treatment is within the scope of practice of the member's profession. 1991, c. 18, s. 30 (2).

Delegation

(3) Subsection (1) does not apply with respect to an act by a person if the act is a controlled act that was delegated under section 28 to the person by a member authorized by a health profession Act to do the controlled act. 1991, c. 18, s. 30 (3).

Counselling

(4) Subsection (1) does not apply with respect to counselling about emotional, social, educational or spiritual matters. 1991, c. 18, s. 30 (4).

Exceptions

(5) Subsection (1) does not apply with respect to anything done by a person in the course of,

(a) rendering first aid or temporary assistance in an emergency;

(b) fulfilling the requirements to become a member of a health profession if the person is acting within the scope of practice of the profession under the supervision or direction of a member of the profession;

(c) treating a person by prayer or spiritual means in accordance with the tenets of the religion of the person giving the treatment;

(d) treating a member of the person's household; or

(e) assisting a person with his or her routine activities of living. 1991, c. 18, s. 30 (5).

Exemption

(6) Subsection (1) does not apply with respect to an activity or person that is exempted by the regulations. 1991, c. 18, s. 30 (6).

Dispensing hearing aids

31. No person shall dispense a hearing aid for a hearing impaired person except under a prescription by a member authorized by a health profession Act to prescribe a hearing aid for a hearing impaired person. 1991, c. 18, s. 31.

Dental devices, etc.

32. (1) No person shall design, construct, repair or alter a dental prosthetic, restorative or orthodontic device unless,

(a) the technical aspects of the design, construction, repair or alteration are supervised by a member of the College of Dental Technologists of Ontario or the Royal College of Dental Surgeons of Ontario; or

(b) the person is a member of a College mentioned in clause (a).

Employers

(2) A person who employs a person to design, construct, repair or alter a dental prosthetic, restorative or orthodontic device shall ensure that subsection (1) is complied with.

Supervisors

(3) No person shall supervise the technical aspects of the design, construction, repair or alteration of a dental prosthetic, restorative or orthodontic device unless he or she is a member of the College of Dental Technologists of Ontario or the Royal College of Dental Surgeons of Ontario.

Denturists

(4) This section does not apply with respect to the design, construction, repair or alteration of removable dentures for the patients of a member of the College of Denturists of Ontario if the member does the designing, construction, repair or alteration or supervises their technical aspects.

Exceptions

(5) This section does not apply with respect to anything done in a hospital as defined in the *Public Hospitals Act* or in a clinic associated with a university's faculty of dentistry or the denturism program of a college of applied arts and technology. 1991, c. 18, s. 32.

Restriction of title "doctor"

33. (1) Except as allowed in the regulations under this Act, no person shall use the title "doctor", a variation or abbreviation or an equivalent in another language in the course of providing or offering to provide, in Ontario, health care to individuals. 1991, c. 18, s. 33 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 33 is amended by the Statutes of Ontario, 2007, chapter 10, Schedule P, subsection 20 (1) by adding the following subsections:

Same

(1.1) Subsection (1) does not apply to a person who is a member of the College of Naturopaths of Ontario. 2007, c. 10, Sched. P, s. 20 (1).

Naturopathic doctor

(1.2) A member referred to in subsection (1.1) shall not use the title "doctor" in written format without using the phrase, "naturopathic doctor", immediately following his or her name. 2007, c. 10, Sched. P, s. 20 (1).

See: 2007, c. 10, Sched. P, ss. 20 (1), 21 (2).

Idem

(2) Subsection (1) does not apply to a person who is a member of,

(a) the College of Chiropractors of Ontario;

(b) the College of Optometrists of Ontario;

(c) the College of Physicians and Surgeons of Ontario;

(d) the College of Psychologists of Ontario; or

(e) the Royal College of Dental Surgeons of Ontario. 1991, c. 18, s. 33 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 33 is amended by the Statutes of Ontario, 2006, chapter 27, subsection 18 (1) by adding the following subsection:

Same

(2.1) Subsection (1) does not apply to a person who is a member of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario and who holds a certificate of registration that entitles the member to use the title "doctor". 2006, c. 27, s. 18 (1).

See: 2006, c. 27, ss. 18 (1), 20 (2).

Definition

(3) In this section,

"abbreviation" includes an abbreviation of a variation. 1991, c. 18, s. 33 (3).

Note: On a day to be named by proclamation of the Lieutenant Governor, the Act is amended by adding the following section:

Psychotherapist title

33.1 (1) Despite section 8 of the *Psychotherapy Act, 2007*, a person who holds a certificate of registration authorizing him or her to perform the controlled act of psychotherapy and is a member of one of the following Colleges may use the title "psychotherapist" if he or she complies with the conditions in subsections (2), (3) and (4):

1. The College of Nurses of Ontario.
2. The College of Occupational Therapists of Ontario.
3. The College of Physicians and Surgeons of Ontario.
4. The College of Psychologists of Ontario. 2009, c. 26, s. 24 (6).

Oral identification

(2) A person mentioned in subsection (1) shall not describe himself or herself orally as a "psychotherapist" to any person unless the member also mentions the full name of the College where he or she is a member and identifies himself or herself as a member of that College or identifies himself or herself using the title restricted to those who are members of the health profession to which the member belongs. 2009, c. 26, s. 24 (6).

Written identification

(3) A person mentioned in subsection (1) shall not use the title "psychotherapist" in writing in a way that identifies the member as a psychotherapist on a name tag, business card or any document, unless the member sets out his or her full name in writing, immediately followed by at least one of the following, followed in turn by "psychotherapist":

1. The full name of the College where he or she is a member.
2. The name of the health profession that the member practises.
3. The restricted title that the member may use under the health profession Act governing the member's profession. 2009, c. 26, s. 24 (6).

In accordance with regulations

(4) A person mentioned in subsection (1) shall use the title "psychotherapist" in accordance with the regulations made under subsection (5). 2009, c. 26, s. 24 (6).

Regulations

(5) Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council of a College mentioned in paragraphs 1 to 4 of subsection (1) may make regulations governing the use of title "psychotherapist" by members of the College. 2009, c. 26, s. 24 (6).

See: 2009, c. 26, ss. 24 (6), 27 (2).

Holding out as a College

34. (1) No corporation shall falsely hold itself out as a body that regulates, under statutory authority, individuals who provide health care.

Idem

(2) No individual shall hold himself or herself out as a member, employee or agent of a body that the individual falsely represents as or knows is falsely represented as regulating, under statutory authority, individuals who provide health care. 1991, c. 18, s. 34.

Holding out as a health profession corporation

34.1 (1) No corporation shall hold itself out as a health profession corporation unless it holds a valid certificate of authorization. 2000, c. 42, Sched., s. 30.

Same

(2) No person shall hold himself or herself out as a shareholder, officer, director, agent or employee of a health profession corporation unless the corporation holds a valid certificate of authorization. 2000, c. 42, Sched., s. 30.