

1984 BILL 22

Second Session, 20th Legislature, 33 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 22

PHYSICAL THERAPY PROFESSION ACT

HON. MR. KING

First Reading
Second Reading
Committee of the Whole
Third Reading
Royal Assent

BILL 22

1984

PHYSICAL THERAPY PROFESSION ACT

(Assented to _____, 1984)

TABLE OF CONTENTS

Definitions	1
Interpretation	2

PART 1

PRACTICE OF PHYSICAL THERAPY

Exclusive scope	3
Application of Act	4
Exemption	5
Duties of employers	6
Injunction	7

PART 2

COLLEGE OF PHYSICAL THERAPISTS

College	8
Council	9
Composition of the Council	10

PART 3

REGISTRATION

Approved program of physical therapy	11
Registrar	12
Registers to be maintained	13
Registration Committee	14

Register of Physical Therapists

Register of physical therapists	15
Review by Council	16
Applications for registration	17
Registration of physical therapists	18
Annual certificate	19
Use of name	20

Register of Physical Therapy Corporations

Register of corporations	21
Name under which corporation may practise	22
Permit for corporation	23
Termination of permit	24
Information to Registrar	25

PART 4	
SUSPENSION AND CANCELLATION	
Suspension and cancellation	26
Cancellation by request	27
Cancellation by default and reinstatement	28
Duty of employee	29
Notice to Minister of Hospitals and Medical Care	30
Cancellation of falsely obtained registration	31
PART 5	
PRACTICE REVIEW BOARD	
Practice Review Board	32
Powers of the Board	33
Duties on conclusion of inquiry or review	34
PART 6	
DISCIPLINE	
Definitions	35
Discipline Committee	36
Unskilled practice or professional misconduct	37
Complaints	38
Preliminary investigation	39
Report of preliminary investigation	40
Referral to the Discipline Committee	41
Notice	42
Appeal by complainant to Discipline Committee	43
Suspension pending decision	44
Rights of investigated person	45
Notice of hearing	46
Further investigation	47
Evidence before Committee	48
Witness	49
Attendance of witness and production of documents	50
Failure to attend or give evidence	51
Hearing in absence of investigated person	52
Findings of Committee	53
Order of Discipline Committee	54
Payment of costs and fine	55
Written decision	56
Service of decision and record of hearing	57
Examination of record	58
Rehearing	59
Stay pending appeal	60
Appeal to Council	61
Notice and hearing of appeal	62
Council's powers on appeal	63
Appeal to Court	64
Appeal on the record	65
Power of Court on appeal	66
Misrepresentation of status	67
PART 7	
GENERAL	
Recognition of order	68
Service of documents	69
Certificate of Registrar	70
Protection from liability	71

Liability of physical therapists, registered practitioners and corporations	72
-----------------------------------------------------------------------------	----

PART 8

REGULATIONS AND BY-LAWS

Regulations	73
By-laws	74

PART 9

PROHIBITIONS AND PENALTIES

Practice prohibition	75
Penalties	76
Onus of proof	77

PART 10

TRANSITIONAL AND CONSEQUENTIAL

Registration continued	78
Council continued	79
Application for registration continued	80
Discipline proceedings continued	81
Exemption	82
Repeals RSA 1980 cC-9	83
Amends RSA 1980 cD-27	84
Amends RSA 1980 cH-11	85
Coming into force	86

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

Definitions

1 In this Act,

- (a) “accredited facility” means a clinical facility designated in the by-laws as an accredited facility;
- (b) “approved program of physical therapy” means a program of physical therapy designated as an approved program of physical therapy under Part 3;
- (c) “College” means The College of Physical Therapists of Alberta;
- (d) “Council” means the Council of the College;
- (e) “Discipline Committee” means the Discipline Committee established under this Act;
- (f) “former Act” means the *Chartered Physiotherapists Act*, being chapter C-9 of the Revised Statutes of Alberta 1980;
- (g) “Minister” means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Act;
- (h) “permit” means a permit issued to a physical therapy corporation pursuant to section 23;
- (i) “physical therapist” means a person who is issued a certificate of registration as a physical therapist under this Act and who holds an annual certificate;

(j) “physical therapy” means the application of professional physical therapy knowledge in the assessment and treatment of the human body in order to obtain, regain and maintain optimal function by the use of any suitable medium of therapeutic exercise, massage and manipulation or by radiant, mechanical and electrical energy;

(k) “physical therapy corporation” means a corporation that is the holder of a subsisting permit;

(l) “Practice Review Board” means the Practice Review Board established under Part 5;

(m) “Registrar” means the Registrar appointed under section 12;

(n) “registered practitioner” means a person registered in a register described in section 13(1)(c) who is entitled to practise physical therapy subject to conditions or restrictions but does not include a physical therapist or a physical therapy corporation.

Interpretation **2** In this Act,

(a) a reference to “physical therapy” is deemed to include a reference to “physiotherapy”, and

(b) a reference to “physical therapist” is deemed to include a reference to “physiotherapist”.

PART 1

PRACTICE OF PHYSICAL THERAPY

Exclusive scope **3(1)** Subject to the provisions of this or any other Act entitling a person to practise a science, therapy or system of practice, a person is guilty of an offence who, not being a physical therapist or a physical therapy corporation, practises or holds out or represents that he is entitled to practise physical therapy.

(2) Nothing in this Act authorizes or allows a registered practitioner who is the holder of a certificate of registration to practise physical therapy contrary to the limitations, conditions or restrictions applicable to the certificate of registration or to the registered practitioner.

Application of Act **4(1)** Nothing in this Act prevents a person who is not entitled to practise physical therapy from giving necessary physical therapy in an isolated case of urgent need or vital necessity if the aid is given without hire, gain or hope of reward.

(2) Nothing in this Act applies to or affects the practice of any profession or occupation by any person practising the same under the authority of any other Act.

Exemption **5** After the Minister has consulted with the Council and on the Minister’s recommendation, the Lieutenant Governor in Council may exempt a person or class of persons from the application of section 3(1) subject to any terms and conditions imposed by the Lieutenant Governor in Council.

Duties of employers **6** No person shall knowingly employ or engage a person to provide physical therapy who is not authorized by this Act to practise physical therapy.

Injunction **7** The Court of Queen’s Bench, on application by the Council by way of originating notice, may grant an injunction enjoining any person from doing any act that contravenes section 3, 6 or 20, notwithstanding any penalty that may be provided by this Act in respect of that contravention.

PART 2

COLLEGE OF PHYSICAL THERAPISTS

College **8(1)** The Association of Chartered Physiotherapists of Alberta is continued as a corporation under the name “The College of Physical Therapists of Alberta”.

(2) The College has the capacity and, subject to this Act, the rights, powers and privileges of a natural person.

(3) A physical therapist is a member of the College.

Council **9(1)** There is hereby established a governing body of the College called the Council.

(2) The Council shall manage and conduct the business and affairs of the College and exercise the rights, powers and privileges of the College in the name and on behalf of the College.

(3) The Council shall submit to the Minister an annual report on those matters of the business and affairs of the College that the Minister requires in a form satisfactory to him.

(4) The Minister shall, on receipt of the annual report of the College, lay it before the Legislative Assembly if it is then sitting, and if it is not then sitting, within 15 days after the commencement of the next ensuing sitting.

Composition of the Council **10(1)** The Council shall consist of

(a) at least 8 members or a greater number that may be prescribed by or determined in accordance with the by-laws, each of whom shall be elected in accordance with the by-laws,

(b) when the number of persons elected under clause (a) does not exceed 10, 1 member of the public or, when the number of persons elected under clause (a) is more than 10, 2 members of the public, who shall be appointed by the Minister after consultation with the Council for a 1 year term of office, and

(c) ex officio members, if any, appointed by the Council.

(2) An ex officio member does not have voting rights on the Council.

(3) A member of the Council appointed under subsection (1)(b) continues to hold office after the expiry of his term of office until he is reappointed or his successor is appointed.

(4) The Minister may, after consultation with the Council, revoke the appointment of a member of the Council appointed under subsection (1)(b).

(5) The Minister may, in the absence of any payment by the Council to the member for that purpose, pay to a member of the Council

appointed under subsection (1)(b) travelling and living expenses incurred by that member for his attendance at any meeting of the Council while away from his usual place of residence and fees in an amount prescribed by the Minister.

(6) The powers, duties and operations of the Council are not affected by

(a) the fact that no one is appointed as a member of the Council under subsection (1)(b),

(b) the revocation, under subsection (4), of the appointment of a member of the Council, or

(c) the resignation from the Council of a member appointed under subsection (1)(b).

(7) The failure of a member appointed under subsection (1)(b) to attend a meeting of the Council does not affect or restrict the Council from exercising any powers or performing any duties at that meeting.

PART 3

REGISTRATION

Approved program of physical therapy

11 The Universities Co-ordinating Council may grant to and withdraw from an Alberta academic institution the designation "approved program of physical therapy".

Registrar

12 The Council shall appoint a Registrar for the purposes of this Act.

Registers to be maintained

13(1) The Registrar shall maintain, subject to the direction of the Council, the following registers:

(a) a register of physical therapists;

(b) a register of physical therapy corporations;

(c) a register for each other class or category of registered practitioner established under the regulations.

(2) The Registrar shall during regular office hours permit any person to inspect the registers described in subsection (1).

Registration Committee

14(1) There is hereby established a Registration Committee appointed by the Council.

(2) The Registration Committee may delegate its authority under this Act to the Registrar.

Register of Physical Therapists

Register of physical therapists

15(1) The Council shall establish a register of physical therapists.

(2) The Registration Committee shall consider an application for the registration of an applicant as a physical therapist, and may

(a) approve the registration,

(b) refuse to approve the registration, or

(c) defer the approval of registration until the applicant has obtained further experience of a kind and for a period set by the Registration Committee.

Review by
Council

16(1) The Registration Committee shall send a written notice of a decision made by it to the applicant.

(2) If the decision of the Registration Committee is to refuse or defer registration of the applicant, reasons for the decision shall be sent in writing to the applicant.

(3) An applicant whose application for registration is refused may within 30 days of receiving a notice of refusal request the Council to review the application by serving on the Registrar a written request for a review by the Council setting out the reasons why, in his opinion, his application for registration as a physical therapist should be approved.

(4) For the purposes of subsection (3), if the Registration Committee does not approve, refuse to approve or defer the registration of an applicant within 60 days of the date on which an applicant applied for registration, the application shall be deemed to have been refused.

(5) The Council shall, after receipt of a request for review under subsection (3), review the applicant's application for registration as a physical therapist.

(6) An applicant who requests a review pursuant to subsection (3)

(a) shall be notified in writing by the Council of the date, place and time when the Council will review the applicant's application, and

(b) is entitled to appear with counsel and make representations to the Council at the review of his application.

(7) A member of the Registration Committee who is also a member of the Council may participate at a review by the Council under this section but shall not vote on a decision of the Council.

(8) On reviewing an application under this section, the Council may make any decision the Registration Committee could have made.

Applications for
registration

17(1) An application for registration as a physical therapist shall not be approved by the Registration Committee unless the applicant

(a) produces documentation satisfactory to the Registration Committee that shows that

(i) he has obtained an undergraduate degree in physical therapy from an approved program of physical therapy, or

(ii) the Universities Co-ordinating Council is satisfied that his academic qualifications are substantially equivalent to an undergraduate degree in physical therapy from an approved program of physical therapy, and

(b) meets the character and other requirements set out in the regulations.

(2) Notwithstanding subsection (1), the Registration Committee shall approve an application for registration as a physical therapist if the applicant

(a) produces documentation satisfactory to the Registration Committee that shows that he was eligible for membership in the Association of Chartered Physiotherapists of Alberta under the former Act and the by-laws under the former Act, and

(b) applies for registration as a physical therapist under this Act within 1 year after this Act comes into force.

Registration
of physical
therapists

18(1) The Registrar shall enter in the register of physical therapists the name of a person

(a) whose application for registration as a physical therapist has been approved by the Registration Committee or the Council, as the case may be, and

(b) who has paid the fees prescribed in the by-laws.

(2) On entering the name of a person in the register of physical therapists, the Registrar shall issue a certificate of registration to him.

Annual certificate

19(1) A physical therapist shall pay the annual fee prescribed by the by-laws to the Registrar, or to any person authorized by the Registrar to accept payment of the fee.

(2) The Registrar shall issue an annual certificate in accordance with the by-laws to a physical therapist

(a) whose registration is not under suspension or cancelled,

(b) who meets any requirements or conditions prescribed by the regulations for the issuance of an annual certificate, and

(c) who has paid the annual fee.

(3) Subject to this Act, an annual certificate entitles a physical therapist to practise physical therapy as a physical therapist during the year for which the annual certificate is issued.

(4) An annual certificate expires on the date prescribed in the by-laws.

Use of name

20(1) Subject to this Act, no person except a physical therapist shall

(a) use the name "physical therapist" or any other name or any abbreviation of those words alone or in combination with any other word, or

(b) use the initials "P.T." or any other initials either alone or in combination with any other word, letter, symbol, initial or abbreviation except "B.Sc.P.T." when designating a degree referred to as a Bachelor of Science in Physical Therapy

that represent expressly or by implication that he is a physical therapist or use any title, name, description, abbreviation, letter or symbol representing the name "physical therapist" or the letters "P.T."

(2) No person, except a physical therapist, shall represent or hold out, expressly or by implication, that he is a physical therapist.

Register of Physical Therapy Corporations

Register of corporations

21 The Council shall establish a register of physical therapy corporations.

Name under which corporation may practise

22(1) A corporation to which a permit is issued under this Part may practise physical therapy only in its corporate name or another name that is approved by the Council in accordance with the by-laws, and not otherwise.

(2) Notwithstanding subsection (1), no corporation shall be registered as a physical therapist.

Permit for corporation

23(1) The registrar shall issue a permit to a corporation that

(a) files an application for a permit in the form prescribed by the Council;

(b) pays the fees prescribed by the Council;

(c) satisfies the Registrar that it is a corporation limited by shares that is in good standing with the Registrar of Companies under the *Companies Act* or that is in good standing with the Registrar as defined in the *Business Corporations Act*;

(d) satisfies the Registrar that the corporation, by law or by virtue of its incorporating documents, has the capacity to carry on the business and exercise the powers set out in the by-laws under this Act;

(e) satisfies the Registrar that the name of the company is in accordance with the by-laws under this Act;

(f) satisfies the Registrar that the legal and beneficial ownership of the shares of the corporation is vested in persons in accordance with the by-laws and that the directors and officers of the corporation are elected or appointed in accordance with the by-laws;

(g) satisfies the Registrar that the persons who will carry on the practice of physical therapy on behalf of the corporation are physical therapists.

(2) A permit expires on December 31 of the year for which it was issued.

(3) A permit may be suspended or cancelled or its renewal withheld by the Council when any of the conditions specified in subsection (1) no longer continue to exist.

(4) When the Registrar issues a permit to a corporation under this section, he shall enter the name of the corporation in the register of physical therapy corporations.

Termination of permit

24(1) If a corporation ceases to fulfil any condition specified in section 23(1) by reason only of

(a) the death of a physical therapist,

(b) the striking off or other removal from the register of the name of a physical therapist, or

(c) the suspension of a physical therapist by the College, who is a shareholder or director of the corporation, the corporation has a period of 90 days from the date of death, striking off or other removal or the suspension, as the case may be, in which to fulfil the condition, failing which the permit is automatically terminated effective on the expiration of the 90-day period without the necessity of an order of the Council.

(2) In the event of the death of a physical therapist, the Council may in writing order that the 90-day period provided for in subsection (1) be extended for such further period as it considers reasonable.

Information to Registrar

25 A physical therapy corporation shall advise the Registrar in writing of any change in its shareholders, directors or officers.

PART 4

SUSPENSION AND CANCELLATION

Suspension and cancellation

26(1) The certificate of registration or annual certificate of a physical therapist or registered practitioner and the permit of a physical therapy corporation are suspended when a decision to suspend the certificate of registration, annual certificate or permit is made in accordance with this Act.

(2) The Registrar shall, after a decision to suspend a certificate of registration, an annual certificate or a permit has been made, enter a memorandum of the suspension in the appropriate register, indicating

- (a) the period of the suspension, and
- (b) the reason for the suspension.

(3) The certificate of registration or annual certificate of a physical therapist or registered practitioner and the permit of a physical therapy corporation are cancelled when a decision to cancel the certificate of registration, annual certificate or permit is made in accordance with this Act.

(4) The Registrar shall, after a decision to cancel a certificate of registration, an annual certificate or a permit has been made, enter a memorandum of the cancellation in the appropriate register.

(5) The Registrar shall not remove from the registers any memorandum made by him under subsection (2) or (4), except in accordance with the by-laws.

Cancellation by request

27(1) The Registrar shall not cancel the registration of a physical therapist, registered practitioner or physical therapy corporation at his or its request unless the request for the cancellation has been approved by the Council.

(2) When a request for the cancellation of registration is approved by the Council, the Registrar shall cancel that registration.

Cancellation by default and reinstatement

28(1) The Council may direct the Registrar to cancel the certificate of registration or annual certificate of a physical therapist or registered practitioner or the permit of a physical therapy corporation

who or that is in default of payment of annual fees, penalties, costs or any other fees, dues or levies payable under this Act, the regulations or the by-laws, after the expiration of 30 days following the service on the physical therapist, registered practitioner or physical therapy corporation of a written notice by the Council pursuant to subsection (2), unless the person on whom the notice is served complies with the notice.

(2) The notice under subsection (1) shall state that the Registrar may cancel the registration unless the fees, penalties, costs, dues or levies are paid as indicated in the notice.

(3) The Council may direct the Registrar to cancel the registration of any person made in error in the register.

(4) If the certificate of registration or annual certificate of a physical therapist or registered practitioner or the permit of a physical therapy corporation has been cancelled under this Act, the physical therapist, registered practitioner or physical therapy corporation shall surrender to the Registrar the certificate of registration, annual certificate or permit, as the case may be.

(5) The Council may direct the Registrar, subject to any conditions respecting the payment of arrears and any reinstatement fee that the Council may prescribe,

(a) to reinstate in the applicable register a registration that was cancelled under subsection (1), and

(b) to re-issue

(i) in the case of a physical therapist or registered practitioner, a certificate of registration or an annual certificate, or both, as the case may be, and

(ii) in the case of a physical therapy corporation, a permit

to its former holder.

Duty of
employee

29 If

(a) the registration of a physical therapist or registered practitioner has been suspended or cancelled, or

(b) the practice of a physical therapist or registered practitioner has been limited by the Discipline Committee, Council or Court of Appeal,

the person who is the subject of the suspension, cancellation or limitation shall notify his employer of the suspension, cancellation or limitation.

Notice to
Minister of
Hospitals and
Medical Care

30 The Registrar shall notify the Minister of Hospitals and Medical Care in writing forthwith on

(a) the cancellation or suspension of the certificate of registration or annual certificate of a physical therapist or registered practitioner or the permit of a physical therapy corporation, and

(b) the reinstatement or other termination of suspension of a cancelled or suspended certificate of registration, annual certificate or permit.

Cancellation of
falsely obtained
registration

31(1) If the Council is satisfied, after a hearing on the matter, that a person whose registration in one of the registers established under this Act was obtained by means of any false or fraudulent representation or declaration, either oral or written, the Council shall order that the registration be cancelled, and the certificate of registration, annual certificate or permit, as the case may be, shall be surrendered in accordance with section 28.

(2) Part 6 applies with all necessary modifications to a hearing held by the Council under subsection (1).

PART 5

PRACTICE REVIEW BOARD

Practice Review
Board

32(1) There is hereby established the Practice Review Board consisting of not fewer than 5 persons as follows:

(a) at least 4 physical therapists who, in the opinion of the Council, have a combination of knowledge and experience suitable for determining the academic qualifications and training requirements necessary for a person to continue to practise physical therapy, and who are appointed by the Council, and

(b) 1 person appointed by the Minister from a list of no fewer than 3 members of the public nominated by the Council.

(2) If the Council fails, within a reasonable period of time after being requested to do so by the Minister, to make a nomination for the purposes of subsection (1)(b), the Minister may appoint a member of the public to the Practice Review Board without the Council's nomination.

(3) A member of the Practice Review Board appointed under subsection (1)(b) continues to hold office after the expiry of his term of office until he is reappointed or his successor is appointed.

(4) The Minister may, in the absence of any payment by the College to the member for that purpose, pay to the member of the Practice Review Board appointed under subsection (1)(b) travelling and living expenses incurred by that member for attendance at a hearing of the Board away from his usual place of residence and fees in an amount prescribed by the Minister.

(5) The Minister may, after consultation with the Council, revoke the appointment of the member of the Practice Review Board appointed under subsection (1)(b).

(6) The powers, duties and operations of the Practice Review Board under this Act, the regulations and by-laws are not affected by

(a) the fact that no member of the public is appointed as a member of the Board under subsection (1)(b),

(b) the revocation under subsection (5) of the appointment of a member of the public, or

(c) the resignation as a member of the Board of a member of the public.

(7) The failure of a member of the public appointed under subsection (1)(b) to attend a meeting of the Board shall not be construed as affecting or restricting the Board from exercising any powers or performing any duties under this Act, the regulations or the by-laws at that meeting.

Powers of the Board

33(1) The Practice Review Board

(a) may, on its own initiative, and shall at the request of the Council inquire into and report to and advise the Council in respect of

(i) the assessment and development of educational standards and experience requirements that are conditions precedent to continuing registration under this Act,

(ii) the evaluation of desirable standards of competence of physical therapists and registered practitioners generally,

(iii) any other matter that the Board from time to time considers necessary or appropriate in connection with the exercise of its powers and the performance of its duties in relation to competence in the practice of physical therapy under this Act and the regulations, and

(iv) the practice of physical therapy generally,

and

(b) may conduct, in accordance with this Act and the regulations, a review of the practice of a physical therapist, registered practitioner or physical therapy corporation.

(2) A person requested by the Practice Review Board to appear at an inquiry or review under this section is entitled to be represented by counsel.

(3) The Practice Review Board may retain counsel to represent it and the Council may instruct counsel to represent the College at any inquiry or review conducted by the Practice Review Board.

(4) Sections 48 to 52 apply, with all necessary modifications, to an inquiry or review by the Practice Review Board as if that Board were the Discipline Committee.

Duties on conclusion of inquiry or review

34(1) After each inquiry or review under section 33, the Practice Review Board

(a) shall make a written report to the Council on the inquiry or review and, where appropriate, on its decision,

(b) may make recommendations to the Council regarding the matter inquired into or reviewed, with reasons for the recommendations,

(c) may make recommendations to a physical therapist, registered practitioner or physical therapy corporation as to his or its conduct in the practice of physical therapy, and

(d) if it is of the opinion that the conduct of a physical therapist, registered practitioner or physical therapy corporation constitutes

or may constitute either unskilled practice of physical therapy or professional misconduct within the meaning of section 37,

(i) shall forthwith refer the matter relating to that conduct to the Registrar for an inquiry under Part 6, and in such a case the Registrar shall deal with the referral as if it were a complaint, and

(ii) may, if it makes a referral under subclause (i), recommend to the president of the College that the certificate of registration or annual certificate or both of the physical therapist or registered practitioner or the permit of the physical therapy corporation be temporarily suspended pending the outcome of proceedings under Part 6.

(2) On receiving a recommendation under subsection (1)(d)(ii), the president may suspend the certificate of registration, annual certificate or permit accordingly.

(3) The physical therapist, registered practitioner or physical therapy corporation may, by filing an originating notice with the Court of Queen's Bench and serving a copy on the chairman of the Practice Review Board, apply for an order of the Court staying the decision of the president.

PART 6 DISCIPLINE

Definitions

35 In this Part,

(a) "chairman" means the chairman of the Discipline Committee and includes a vice-chairman;

(b) "conduct" includes any act or omission;

(c) "investigated person" means a physical therapist, registered practitioner or physical therapy corporation with respect to whose conduct an investigation or hearing is held under this Part.

Discipline Committee

36(1) There is hereby established a committee called the Discipline Committee composed of not fewer than 4 persons as follows:

(a) at least 3 members appointed by the Council in accordance with the by-laws, and

(b) 1 person who is appointed by the Minister from a list of no fewer than 3 members of the public nominated by the Council.

(2) If the Council fails, within a reasonable period of time after being requested to do so by the Minister, to make the nominations for the purposes of subsection (1)(b), the Minister may appoint a member of the public to the Discipline Committee without the Council's nomination.

(3) A member of the Discipline Committee appointed under subsection (1)(b) continues to hold office after the expiry of his term of office until he is reappointed or his successor is appointed.

(4) The Minister may, in the absence of any payment by the College to the member for that purpose, pay to the member of the Discipline

Committee appointed under subsection (1)(b) travelling and living expenses incurred by that member for attendance at a hearing of the Committee away from his usual place of residence and fees in an amount prescribed by the Minister.

(5) The Minister may, after consultation with the Council, revoke the appointment of the member of the Discipline Committee appointed under subsection (1)(b).

(6) The powers, duties and operations of the Discipline Committee are not affected by

(a) the fact that no member of the public is appointed as a member of the Committee under subsection (1)(b),

(b) the revocation under subsection (5) of the appointment of a member of the public, or

(c) the resignation as a member of the Committee of a member of the public.

(7) The failure of a member of the public appointed under subsection (1)(b) to attend a meeting of the Committee shall not be construed as affecting or restricting the Committee from exercising any powers or performing any duties at that meeting.

Unskilled
practice or
professional
misconduct

37(1) Any conduct of a physical therapist, registered practitioner or physical therapy corporation that, in the opinion of the Discipline Committee,

(a) is detrimental to the best interests of the public,

(b) contravenes this Act or the regulations,

(c) harms or tends to harm the standing of the profession of physical therapy generally, or

(d) displays a lack of knowledge of or lack of skill or judgment in the practice of physical therapy,

whether or not that conduct is disgraceful or dishonourable, constitutes either unskilled practice of physical therapy or professional misconduct, whichever the Discipline Committee finds.

(2) If an investigated person contravenes this Act, the regulations or the by-laws, and the contravention is, in the opinion of the Discipline Committee, of a serious nature, the contravention may be found by the Discipline Committee to be professional misconduct whether or not it would be so found under subsection (1).

Complaints

38(1) A person may complain to the Registrar about the conduct of a physical therapist, registered practitioner or physical therapy corporation, and the complaint shall be dealt with in accordance with this Part and the regulations.

(2) A complaint respecting the conduct of a physical therapist, registered practitioner or physical therapy corporation whose certificate of registration, annual certificate or permit, as the case may be, was cancelled or suspended pursuant to this Act or any predecessor to this Act may, notwithstanding the cancellation or suspension, be dealt

with within 5 years following the date of cancellation or suspension as if the cancellation or suspension had not occurred.

Preliminary investigation

39 The Registrar

(a) shall, in a case where a complaint in writing is made to him under section 38, forthwith on receipt of the complaint, or

(b) may, in a case where he believes the conduct of a physical therapist, registered practitioner or physical therapy corporation constitutes or may constitute unskilled practice of physical therapy or professional misconduct,

commence or appoint a person or persons to commence a preliminary investigation into the conduct of the physical therapist, registered practitioner or physical therapy corporation.

Report of preliminary investigation

40(1) A person or persons conducting a preliminary investigation may

(a) request any person to answer any questions and to produce to him or them any models, charts, documents, papers, notes, records and other materials and things relevant to the investigation, and

(b) copy and keep copies of any of the things that are produced to him or them under clause (a).

(2) A person or persons conducting a preliminary investigation shall conduct the investigation in a manner considered by him or them to be most suitable in all the circumstances.

(3) A person or persons conducting a preliminary investigation may investigate any other matter related to the professional conduct or skill in practice of the investigated person that arises in the course of the investigation.

(4) A person or persons conducting a preliminary investigation shall, forthwith on concluding the preliminary investigation, report his or their findings to

(a) the Registrar, if the Registrar is not conducting the preliminary investigation, or

(b) a member of the Discipline Committee, if the Registrar is conducting the preliminary investigation.

(5) If a physical therapist, a registered practitioner or a physical therapy corporation does not co-operate with a person conducting a preliminary investigation, the person conducting the preliminary investigation may make a complaint in writing to the Discipline Committee and the failure or refusal to co-operate may be held by the Discipline Committee to be professional misconduct.

Referral to the Discipline Committee

41 The Registrar or the member of the Discipline Committee to whom a report is provided under section 40(4) shall forthwith

(a) direct that no further action be taken, if he is of the opinion that

(i) the complaint is frivolous or vexatious, or

(ii) there is insufficient evidence of unskilled practice of physical therapy or professional misconduct,

or

(b) refer the matter under investigation in writing to the Discipline Committee.

Notice

42 The Registrar or the member of the Discipline Committee shall serve on the investigated person and on the complainant, if any, a notice that no further action will be taken or that the matter has been referred to the Discipline Committee, as the case may be.

Appeal by complainant to Discipline Committee

43(1) A complainant who is served with a notice under section 42 that no further action will be taken may, within 30 days of receipt of the notice and by notice in writing to the Registrar, appeal that direction to the Discipline Committee.

(2) On an appeal under subsection (1), the Discipline Committee shall determine whether

(a) the complaint is frivolous or vexatious, or

(b) there is sufficient evidence of unskilled practice or professional misconduct, and the matter under investigation should be the subject of a hearing,

and shall notify the complainant in writing of its decision.

Suspension pending decision

44(1) Notwithstanding anything in this Act, the chairman may recommend to the president of the College that the certificate of registration of the registered practitioner, or the certificate of registration or annual certificate or both of the physical therapist or the permit of the physical therapy corporation be temporarily suspended pending the outcome of proceedings under this Part, and the president may suspend the certificate of registration, annual certificate or permit accordingly.

(2) The investigated person may, by filing an originating notice with the Court of Queen's Bench and serving a copy on the chairman, apply for an order of the Court staying the decision of the president.

Rights of investigated person

45(1) The College and the investigated person may appear and be represented by counsel at a hearing before the Discipline Committee.

(2) The Discipline Committee may be represented by counsel at a hearing before the Committee.

(3) Proceedings before the Discipline Committee or the Council shall be held in camera.

Notice of hearing

46(1) On referral to it of a matter under section 41(b) or on determining under section 43(2)(b) that a hearing should be held, the Discipline Committee shall hold a hearing.

(2) The hearing referred to in subsection (1) shall be scheduled for a date not more than 90 days after the date on which the matter is referred to the Discipline Committee or the determination is made, or within such other period as may be prescribed by the Council for the matter.

(3) The Registrar shall cause to be served on the investigated person at least 15 days before the hearing date a notice of hearing stating the date, time and place that the Discipline Committee will hold a hearing and giving reasonable particulars of the complaint or matter in respect of which the hearing will be held.

Further investigation

47 The Discipline Committee may investigate and hear any other matter related to the professional conduct or skill in practice of the investigated person that arises in the course of an investigation or hearing, but in that event the Discipline Committee shall give that person at least 15 days' notice before the hearing of the matter of its intention to do so.

Evidence before Committee

48(1) Evidence may be given before the Discipline Committee in any manner that the Committee considers appropriate, and the Committee is not bound by the rules of law respecting evidence applicable to judicial proceedings.

(2) For the purposes of an investigation, hearing or review under this Act, the Registrar, a person appointed by him under section 39 and any member of the Council, the Discipline Committee or the Practice Review Board are conferred with the power of a commissioner for oaths under the *Commissioners for Oaths Act*.

Witness

49(1) The investigated person and any other person who, in the opinion of the Discipline Committee, has knowledge of the complaint or matter being investigated is a compellable witness in any proceeding under this Part.

(2) A witness may be examined under oath on all matters relevant to the investigation or hearing before the Discipline Committee and shall not be excused from answering any question on the ground that the answer might tend to

- (a) incriminate him,
- (b) subject him to punishment under this Act, or
- (c) establish his liability
 - (i) to a civil proceeding at the instance of the Crown or of any other person, or
 - (ii) to prosecution under any Act,

but if the answer so given tends to incriminate him, subject him to punishment or establish his liability, it shall not be used or received against him in any civil proceedings or in any proceedings under any other Act.

(3) For the purpose of obtaining the testimony of a witness who is out of Alberta, a judge of the Court of Queen's Bench on an application made ex parte by the College may direct the issuing of a commission for the obtaining of the evidence of the witness, and the commission shall be issued and the evidence taken pursuant to the Rules of Court.

Attendance of witness and production of documents

50(1) The attendance of witnesses before the Discipline Committee and the production of models, charts, documents, papers, notes, records and other materials and things may be enforced by a notice

issued by the Registrar requiring the witness to attend and stating the date, time and place at which the witness is to attend and the models, charts, documents, papers, notes, records and other materials and things, if any, he is required to produce.

(2) On the written request of the investigated person or of his counsel or agent, the Registrar shall without charge issue and deliver to that person or his counsel or agent any notices that he requires for the attendance of witnesses or notices for production under subsection (1).

(3) A witness, other than the investigated person, who has been served with a notice to attend or a notice for production under subsection (1) or (2) is entitled to be paid the same fees in the same manner as are payable to a witness in an action in the Court of Queen's Bench.

Failure to attend
or give evidence

51(1) Proceedings for civil contempt of court may be brought against a witness

(a) who fails

(i) to attend before the Discipline Committee in compliance with a notice to attend, or

(ii) to produce any models, charts, documents, papers, notes, records and other materials or things in compliance with a notice to produce them,

or

(b) who refuses to be sworn or to answer any question he is directed to answer by the Discipline Committee.

(2) If the witness referred to in subsection (1) is the investigated person, his failure or refusal may be held to be unprofessional conduct.

Hearing in
absence of
investigated
person

52 The Discipline Committee, on proof of service on the investigated person of the notice of hearing, may

(a) proceed with the hearing in the absence of the investigated person, and

(b) act, decide or report on the matter being heard in the same way as though the investigated person were in attendance.

Findings of
Committee

53(1) The Discipline Committee may find that the conduct of an investigated person constitutes neither unskilled practice of physical therapy nor professional misconduct.

(2) The Discipline Committee may find that the conduct of an investigated person constitutes unskilled practice of physical therapy or professional misconduct or both and shall deal with the investigated person in accordance with this Part.

Orders of
Discipline
Committee

54(1) If the Discipline Committee finds that the conduct of an investigated person constitutes unskilled practice of physical therapy or professional misconduct or both, the Committee may make any 1 or more of the following orders:

- (a) reprimand the investigated person;
 - (b) suspend the certificate of registration of a registered practitioner or the certificate of registration, annual certificate or both of a physical therapist either generally or from any field of the practice of physical therapy for a stated period;
 - (c) suspend the certificate of registration of a registered practitioner or the certificate of registration, annual certificate or both of a physical therapist either generally or from any field of practice until
 - (i) he has completed a specified course of studies or obtained supervised practical experience, or
 - (ii) the Committee is satisfied as to the competence of the investigated person generally or in a specified field of practice;
 - (d) accept in place of a suspension the investigated person's undertaking to limit his practice;
 - (e) impose conditions on the investigated person's ability to engage in the practice of physical therapy generally or in any field of the practice, including the conditions that he
 - (i) practise under supervision,
 - (ii) not engage in sole practice,
 - (iii) permit periodic inspections by a person authorized by the Committee, or
 - (iv) report to the Committee or Council on specific matters;
 - (f) direct the investigated person to pass a particular course of study or satisfy the Committee or Council as to his practical competence generally or in a field of practice;
 - (g) direct the investigated person to satisfy the Committee that a disability or addiction can be or has been overcome, and suspend the person's certificate of registration or annual certificate until the Committee is so satisfied;
 - (h) require the investigated person to take counselling that in the opinion of the Committee is appropriate;
 - (i) direct the investigated person to waive, reduce or repay a fee for services rendered by the investigated person that, in the opinion of the Committee, were not rendered or were improperly rendered;
 - (j) cancel the certificate of registration of a registered practitioner or the certificate of registration or annual certificate or both of a physical therapist;
 - (k) cancel or suspend, subject to any terms the Committee considers appropriate, the permit where the investigated person is a physical therapy corporation.
- (2) The Discipline Committee may make any ancillary order that is appropriate or required in connection with any order mentioned in

subsection (1) or may make any other order that it considers appropriate in the circumstances including that

- (a) a further or new investigation be held into any matter,
- (b) the Discipline Committee be convened to hear a complaint without a preliminary investigation,
- (c) a matter be referred to the Practice Review Board, or
- (d) a complaint or conduct be referred to any other entity having jurisdiction to review complaints.

(3) Where the Discipline Committee is satisfied that an investigated person has contravened an order under subsection (1) it may, without the necessity of a further hearing, cancel or suspend his or its certificate of registration, annual certificate or permit, as the case may be, subject to any terms it considers appropriate.

Payment of costs and fine

55(1) The Discipline Committee may, in addition to or instead of dealing with the conduct of an investigated person in accordance with section 54, order that the investigated person pay

- (a) all or part of the costs of the hearing or appeal determined in accordance with the by-laws,
- (b) a fine, not exceeding \$10 000 for each finding of unskilled practice or professional misconduct and \$50 000 in the aggregate for all such findings arising out of the hearing, to the College, or
- (c) both the costs under clause (a) and the fine under clause (b)

within the time set by the order.

(2) If the person ordered to pay a fine, costs or both under subsection (1) fails to pay the fine or costs within the time ordered, the Council may suspend the certificate of registration, annual certificate or permit of that person until he or it has paid the fine or costs.

(3) The Discipline Committee, if it finds that a complaint is frivolous or vexatious, may order the complainant to pay the costs of the preliminary investigation and the hearing before the Discipline Committee determined in accordance with the regulations.

(4) A fine or costs ordered to be paid to the College under this section is a debt due to the College and may be recovered by the College by civil action for debt.

Written decision

56 The Discipline Committee shall, within a reasonable time after the conclusion of a hearing before it, make a written decision on the matter, in which it shall

- (a) describe each finding made by it,
- (b) state the reasons for each finding made by it, and
- (c) state any order made under this Part.

Service of decision and record of hearing

57(1) The Discipline Committee shall forward to the Registrar

- (a) the decision, and

(b) the record of the hearing, consisting of all evidence presented before it, including

(i) all exhibits,

(ii) all documents, and

(iii) a transcript of all testimony given before it, whether recorded electronically, mechanically or in handwritten form.

(2) The Registrar shall, on receiving the decision of the Discipline Committee and the record of the hearing referred to in subsection (1), serve

(a) a copy of the decision on the investigated person and the Council, and

(b) a notice of the decision on the complainant, if any.

Examination of record

58 The investigated person may examine the record or any part of the record of the proceedings before the Discipline Committee and hear any recording or examine any mechanical or handwritten form of record of any testimony given before the Committee.

Rehearing

59 The Discipline Committee may

(a) if there is new evidence available which was not available or for good reason was not presented at the hearing under section 46, and

(b) with the consent of the investigated person,

rehear any matter already heard by it under section 46 and, for that purpose, has all the same power and authority and is subject to the same duties as it had and was subject to in connection with the first hearing.

Stay pending appeal

60(1) The decision of the Discipline Committee remains in effect pending an appeal to the Council unless the Council on application stays the decision pending the appeal.

(2) The decision of the Council remains in effect pending an appeal to the Court of Appeal unless the Court on application stays the decision pending the appeal.

Appeal to Council

61(1) An investigated person or the College may appeal to the Council a finding or an order of the Discipline Committee.

(2) An appeal under subsection (1) shall be commenced by a written notice of appeal, which shall

(a) describe the finding or order appealed, and

(b) state the reasons for the appeal.

(3) A notice of appeal under this section shall be served on the Registrar within 30 days after the date on which the decision of the Discipline Committee is served on the investigated person, if he is appealing the decision, or on the Council, if the College is appealing the decision.

(4) The Registrar shall, on receiving a notice of appeal under subsection (3), give to each member of the Council a copy of the notice of appeal and make the record of the hearing available to each member of the Council.

Notice and hearing of appeal

62(1) The Registrar shall, on receiving a notice of appeal under section 61, cause to be served on the investigated person a notice of hearing of an appeal stating the date, time and place when the Council will hear the matters appealed.

(2) The Council shall

(a) if the registration or permit of the investigated person has been suspended under section 34 or 44 pending the outcome of proceedings under this Part, hear the appeal within 30 days after the date of service of the notice of appeal, and

(b) if the registration or permit of the investigated person has not been so suspended, hear the appeal within 90 days after the date of service of the notice of appeal.

(3) The Board may, on the written request of the investigated person or the College, extend the periods referred to in subsection (2) for 1 or more additional periods but,

(a) in a case to which subsection (2)(a) applies, no such extension may be granted without the consent of that person, and

(b) in a case to which subsection (2)(b) applies, no such extension may be for a period of more than 90 days.

Council's powers on appeal

63(1) The College and the investigated person may appear and be represented by counsel at the hearing of an appeal before the Council.

(2) A member of the Discipline Committee who is also a member of the Council may participate in an appeal before the Council but shall not vote in a decision of the Council on the appeal.

(3) The appeal to the Council shall be founded on a copy of the record of the proceedings before the Discipline Committee and the decision and order of the Committee.

(4) Sections 48 to 52 apply to proceedings before the Council.

(5) The Council on an appeal may

(a) grant adjournments of the proceedings or reserve the determination of the matters before it for a future meeting of the Council,

(b) on granting special leave for that purpose, receive further evidence, and

(c) draw inferences of fact and make a determination or finding that, in its opinion, ought to have been made by the Discipline Committee.

(6) The Council shall, within 90 days from the date of the conclusion of all proceedings before it, do all or any of the following:

(a) make any finding that in its opinion ought to have been made by the Discipline Committee,

(b) quash, vary or confirm the finding or order of the Committee or substitute or make a finding or order of its own, or

(c) refer the matter back to the Committee for further consideration in accordance with any direction that the Council may make.

(7) The Council may make any award as to costs in proceedings, whether before it or the Discipline Committee, that it considers appropriate.

Appeal to Court

64(1) An investigated person or the College may appeal to the Court of Appeal any finding or order made by the Council under section 63.

(2) An appeal under this section shall be commenced

(a) by filing a notice of appeal with the Registrar of the Court at Edmonton or Calgary, and

(b) by serving a copy of the notice of appeal

(i) on the Council where the investigated person is the appellant, or

(ii) on the investigated person where the College is the appellant,

both within 30 days from the date on which the decision of the Council is served on the appellant.

Appeal on the record

65(1) The appeal to the Court of Appeal shall be founded on a copy of the record of the Discipline Committee and its decision and a copy of the finding and order of the Council and any further evidence received by the Council, all of which shall be certified by the Registrar.

(2) The procedure in an appeal shall be the same, with the necessary changes, as that provided in the Rules of Court for appeals from a judgment of a judge of the Court of Queen's Bench to the Court of Appeal.

Power of Court on appeal

66(1) The Court of Appeal on hearing the appeal may

(a) make any finding that in its opinion ought to have been made,

(b) quash, confirm or vary the order or decision of the Council or any part of it,

(c) refer the matter back to the Discipline Committee for further consideration in accordance with any direction of the Court, or

(d) direct that a new trial of any mixed questions of law and fact relating to a finding or order or both a finding and an order of the Council under section 63 be held before the Court of Queen's Bench.

(2) The Court of Appeal may make any award as to the costs of an appeal to it that it considers appropriate.

Misrepresentation of status

67 The conduct of a physical therapist or registered practitioner who is or was registered under this Act or of a physical therapy

corporation that is or was the holder of a permit under this Act, as the case may be, and who represents or holds out that he is registered or that it is the holder of a permit and is in good standing while his registration or its permit is suspended or cancelled constitutes professional misconduct.

**PART 7
GENERAL**

Recognition of order

68 No employer or other person shall knowingly require a physical therapist, registered practitioner or physical therapy corporation to perform a service or undertake any work that would result in the physical therapist, registered practitioner or physical therapy corporation contravening an order, direction or decision of the Discipline Committee, the Council or a court of competent jurisdiction.

Service of documents

69 When this Act, the regulations or the by-laws require that a document or notice be given to or served on any person, the document or notice is sufficiently given or served if it is served personally on that person or sent to him by registered mail at his address last shown on the register or records of the College or, if personal service or service by mail is not reasonably possible, then by publishing the document at least twice, and not more than a week apart, in a local newspaper circulating at or near the address last shown for that person on the College's register or records.

Certificate of Registrar

70 A certificate purporting to be signed by the Registrar and stating that a named person was or was not, on a specified day or during a specified period,

(a) a physical therapist, a registered practitioner or a physical therapy corporation, or

(b) an officer of the College, a member of the Council or a member of a committee established by this Act, the regulations or the by-laws,

shall be admitted in evidence as prima facie proof of the facts stated in it without proof of the Registrar's appointment or signature.

Protection from liability

71(1) No action lies against

(a) any person conducting a preliminary investigation, a member of the Council or of a committee established by this Act, the Registrar, the College or any person acting on the instructions of any of them, or

(b) any member, officer or employee of the College,

for anything done by him in good faith and in purporting to act under this Act, the regulations or a by-law that relates to or is incidental to a professional matter or a matter of public interest that is or may be the subject of a regulation under section 73.

(2) No action for defamation may be founded on a communication that consists of or pertains to the conduct of a physical therapist, registered practitioner or physical therapy corporation if the communication is published to or by

- (a) the College,
- (b) a member of the Council, the Registration Committee, the Discipline Committee or the Practice Review Board,
- (c) a person conducting a preliminary investigation,
- (d) an officer or employee of the College, or
- (e) a person acting on the instructions of a person or entity referred to in clauses (a) to (d),

in good faith in the course of investigating the conduct or in the course of any proceeding under this Act relating to the conduct.

Liability of physical therapists, registered practitioners and corporations

72(1) The relationship between a physical therapist, a registered practitioner or a physical therapy corporation in the practice of physical therapy and a person receiving the professional services of the physical therapist, registered practitioner or physical therapy corporation is subject to this Act, the regulations and any other law applicable to the relationship between a physical therapist and his patient.

(2) The relationship of a physical therapist or registered practitioner to a physical therapy corporation, whether as shareholder, director, officer or employee of that corporation, does not affect, modify or diminish the application of this Act, the regulations and the by-laws

- (a) to him personally as a physical therapist or registered practitioner, or
- (b) to the relationship between the physical therapist or registered practitioner and his patient.

PART 8

REGULATIONS AND BY-LAWS

Regulations

73(1) The Council may make regulations

- (a) establishing and providing for the publishing of a code of ethics respecting the practice of physical therapy, the maintenance of the dignity and honour of the profession of physical therapy and the protection of the public interest;
- (b) establishing conditions including character requirements with respect to the registration of physical therapists, registered practitioners and physical therapy corporations;
- (c) providing for the evaluation of experience and training requirements for applicants for registration as physical therapists and for the examination of those applicants with respect to those requirements;
- (d) prescribing standards for the practice of physical therapy;
- (e) prescribing restrictions, conditions or limitations on the practice of physical therapy by physical therapists, registered practitioners and physical therapy corporations;
- (f) respecting the procedures for hearings, inquiries, reviews and preliminary investigations by the Registrar or a person appointed

by him, the Discipline Committee, the Practice Review Board and the Council in matters relating to the conduct or practice of physical therapists, registered practitioners and physical therapy corporations whether or not a complaint has been made;

(g) respecting the costs payable on the conclusion of an investigation or hearing by the Discipline Committee or Council;

(h) respecting reviews of the practice of a physical therapist, registered practitioner or physical therapy corporation by the Practice Review Board or a person authorized by that Board;

(i) respecting registration procedures, the review of complaints and the practice of physical therapy generally, including employment practices of physical therapists, registered practitioners and physical therapy corporations;

(j) respecting the establishment and operation by the Council of a compulsory continuing education program for physical therapists;

(k) governing the publication of a notice of the suspension or cancellation of a certificate of registration, annual certificate or permit in a form and manner prescribed by the Council;

(l) governing the nature or content of advertising, if any, which may be permitted;

(m) respecting committees of inquiry for reinstatement under Part 4, and governing a person whose registration or permit has been removed, suspended or cancelled under this Act;

(n) governing the authority of a physical therapist, a registered practitioner or a physical therapy corporation to treat patients who have been referred by a physician or otherwise;

(o) establishing classes or categories of registered practitioners for the purposes of section 13(1)(c) and prescribing any additional rules applicable to a class or category of registered practitioners;

(p) prescribing conditions to be met before an annual certificate is issued.

(2) A regulation under subsection (1) does not come into force unless it is approved by

(a) a majority of members

(i) present and voting at a general meeting, or

(ii) voting in a mail vote conducted in accordance with the by-laws,

and

(b) the Lieutenant Governor in Council.

By-laws

74(1) The Council may make by-laws

(a) for the government of the College and the management and conduct of its affairs;

- (b) determining the location of the head office of the College;
- (c) respecting the calling of and conduct of meetings of the College and the Council;
- (d) respecting the nomination, election, number and term of office of Council members and officers of the Council and College;
- (e) providing for the appointment of acting members and of ex officio members of the Council and for the nomination of members of the public for appointment by the Minister;
- (f) governing, subject to this Act, the appointment of the Discipline Committee and the Practice Review Board, the designation of chairmen and vice-chairmen, the appointment of acting members and the procedures for filling vacancies on the Committee or the Board and the appointment of ex officio members of the Committee or the Board and prescribing their powers, duties and functions;
- (g) governing the establishment, operation and proceedings of boards and committees, the appointment of members and of acting members and procedures for filling vacancies on boards and committees;
- (h) establishing classes or categories of membership in the College and prescribing the privileges and obligations of the members of the classes or categories;
- (i) providing for the tenure of the Registrar and his additional duties, powers and functions, and the appointment of an individual as an Acting Registrar who has all of the powers and performs all of the duties of the Registrar under this Act, the regulations and the by-laws when the Registrar is absent or unable to act or when there is a vacancy in the office of Registrar;
- (j) prescribing the number of members of the College, the Council, the Practice Review Board or the Discipline Committee that constitutes a quorum at meetings of the College, the Council, the Board or the Committee;
- (k) providing for the delegation of any power or duty of the Council under this Act, the regulations or the by-laws, with or without conditions, except the power to amend, repeal or suspend any by-law of the Council;
- (l) prescribing fees and expenses payable to members of the Council, and of committees or boards established under this Act, the regulations or the by-laws for attending to the business of the College;
- (m) respecting the establishment of and payment of sums of money for scholarships, fellowships and any other educational incentive or benefit program that the Council considers appropriate;
- (n) respecting the fees, dues and levies payable to the College by physical therapists, registered practitioners and physical therapy corporations;

- (o) respecting the establishment, content and maintenance of registers to be maintained by the Registrar;
 - (p) respecting the removal by the Registrar from the registers of a memorandum or entry made in them under this Act, the regulations or the by-laws;
 - (q) governing the publication of the names of applicants for registration by the Registrar;
 - (r) requiring physical therapists and physical therapy corporations to maintain an address in Alberta and to inform the Registrar in writing of that address and of any change in that address forthwith after the change occurs;
 - (s) authorizing the Council to prescribe the form of a certificate of registration, an annual certificate, a permit and any other form or document that may be required for the purposes of this Act, the regulations or the by-laws;
 - (t) prescribing the date on which an annual certificate expires;
 - (u) respecting the holding of votes by mail on any matter relating to the College;
 - (v) requiring a physical therapist, registered practitioner and physical therapy corporation to carry professional liability insurance and governing the minimum coverage required to be carried;
 - (w) governing the names under which a person may practise physical therapy;
 - (x) governing the registration of a physical therapy corporation and prescribing the rules and conditions to be met prior to and following registration by the shareholders, directors and officers of the physical therapy corporations;
 - (y) designating clinical facilities as accredited facilities.
- (2) A by-law under subsection (1) does not come into force unless it is approved by a majority of members
- (a) present and voting at a general meeting, or
 - (b) voting at a vote conducted by mail in accordance with the by-laws.
- (3) The *Regulations Act* does not apply to by-laws of the College.

PART 9

PROHIBITIONS AND PENALTIES

Practice
prohibition

75 A person whose certificate of registration, annual certificate or permit is cancelled or suspended under this Act or any predecessor to this Act shall not, without the consent of the Council, practise physical therapy or directly or indirectly associate himself in the practice of physical therapy with a person permitted under this Act to practise physical therapy.

Penalties	<p>76(1) Every person and every officer, employee or agent of a corporation who contravenes this Act is guilty of an offence and liable</p> <p style="padding-left: 40px;">(a) for a first offence, to a fine of not than \$2000,</p> <p style="padding-left: 40px;">(b) for a second offence, to a fine of not more than \$4000, and</p> <p style="padding-left: 40px;">(c) for a third and every subsequent offence, to a fine of not more than \$6000 or to imprisonment for a term of not more than 6 months or to both fine and imprisonment.</p> <p>(2) A prosecution under this section may be commenced within 2 years after the commission of the alleged offence, but not afterwards.</p>
Onus of proof	<p>77 In a prosecution under this Act, the burden of proving that a person is a physical therapist, registered practitioner or physical therapy corporation is on the accused.</p>

PART 10
TRANSITIONAL AND CONSEQUENTIAL

Registration continued	<p>78(1) <i>An individual who is a member of the Association of Chartered Physiotherapists of Alberta under the former Act is deemed to be a physical therapist under this Act.</i></p> <p>(2) <i>A corporation that is authorized to practise physical therapy under the former Act is deemed to be a physical therapy corporation under this Act.</i></p>
Council continued	<p>79 <i>The members of the Council elected under the former Act are deemed to be members of the Council under this Act, elected for the same period and holding the same offices.</i></p>
Application for registration continued	<p>80 <i>An application for registration made under the former Act but not concluded before the coming into force of this Act shall be dealt with under the former Act as though this Act had not come into force.</i></p>
Discipline proceedings continued	<p>81(1) <i>Any complaint made or discipline proceedings that were commenced but not concluded before the coming into force of this Act shall be concluded under the former Act as though this Act had not come into force.</i></p> <p>(2) <i>Any complaint made after the coming into force of this Act when the complaint relates to conduct occurring all or partly before the coming into force of this Act shall be dealt with under this Act.</i></p>
Exemption	<p>82(1) <i>An association that applies before December 31, 1984 to the Health Occupations Board to have a health occupation designated as a designated health occupation under the Health Occupations Act is exempt from the application of section 3(1).</i></p> <p>(2) <i>An exemption under subsection (1) expires</i></p> <p style="padding-left: 40px;">(a) <i>when a health occupation is designated as a designated health occupation under the Health Occupations Act, or</i></p> <p style="padding-left: 40px;">(b) <i>if the Health Occupations Board does not recommend that a health occupation be designated as a designated health occupa-</i></p>

tion, on a date fixed by the Minister not less than 12 months after the Health Occupations Board submits its report.

Repeals RSA
1980 cC-9

83 *The Chartered Physiotherapists Act is repealed.*

Amends RSA
1980 cD-27

84 *The Department of Social Services and Community Health Act is amended in section 10(1) by striking out “physiotherapist” and substituting “physical therapist”.*

Amends RSA
1980 cH-11

85 *The Hospitals Act is amended in section 53(j)(viii) by striking out “physiotherapy facilities” and substituting “physical therapy facilities”.*

Coming into
force

86 *This Act comes into force on Proclamation.*