

BILL

No. 3

An Act respecting the Practice of Massage Therapy and the Saskatchewan College of Massage Therapy

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(Assented to)

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

PART 1
Preliminary Matters

Short title

1 This Act may be cited as *The Massage Therapy Act*.

Definitions

2 In this Act:

“**administrative bylaw**” means a bylaw made for a purpose set out in subsection 15(1);

“**business day**” means a day other than a Saturday, Sunday or holiday;

“**bylaws**” means the valid and subsisting bylaws of the college;

“**college**” means the Saskatchewan College of Massage Therapy established pursuant to section 3;

“**council**” means the council of the college;

“**court**” means the Court of Queen’s Bench;

“**member**” means, except where otherwise provided, a member of the college who is in good standing;

“**minister**” means the member of the Executive Council to whom for the time being the administration of this Act is assigned;

“**practising member**” means a member to whom a current licence to practise has been issued pursuant to section 20;

“**record**” means any information that is recorded or stored in any medium or by means of any device, including a computer or electronic media;

“**register**” means the register kept pursuant to section 19;

“**registrar**” means the registrar appointed pursuant to subsection 12(2);

“**regulatory bylaw**” means a bylaw made:

- (a) for a purpose set out in subsection 15(2); or
- (b) pursuant to section 17.

PART 2
College

College

3 The Saskatchewan College of Massage Therapy is established as a corporation.

Duties and objects of college

- 4(1) It is the duty of the college at all times:
- (a) to serve and protect the public; and
 - (b) to exercise its powers and discharge its responsibilities in the public interest.
- (2) The objects of the college are:
- (a) to regulate the practice of the profession and to govern the members in accordance with this Act and the bylaws; and
 - (b) to assure the public of the knowledge, skill, proficiency and competency of members in the practice of therapeutic massage.

Membership eligibility

- 5 The membership of the college consists of:
- (a) those persons who are members in good standing of the Massage Therapist Association of Saskatchewan Incorporated, the Natural Health Practitioners of Canada, and the Canadian Massage and Manual Osteopathic Therapists Association on the day before this Act comes into force; and
 - (b) those persons who are admitted as members of the college pursuant to this Act and the bylaws.

Property

- 6(1) The college may acquire, hold, mortgage, lease, sell or dispose of any property.
- (2) All fees, fines and penalties receivable or recoverable pursuant to this Act are the property of the college.
- (3) The college may:
- (a) invest its funds in investments in which trustees are authorized to invest pursuant to *The Trustee Act, 2009*; and
 - (b) sell or otherwise dispose of those investments and reinvest the proceeds in similar investments.

Meetings

- 7(1) An annual meeting of the college is to be held at the time and place that is determined by the council in accordance with the bylaws.
- (2) A special meeting of the college for the transaction of the business that is specified in the resolution or demand is to be held:
- (a) on a resolution of the council; or
 - (b) on the demand, in writing, of the number of members specified in the bylaws.
- (3) The procedure at an annual or special meeting is to be determined by bylaw.
- (4) The council shall send a notice of an annual meeting or special meeting to each member in the manner prescribed in the bylaws.
- (5) Notwithstanding subsection (4), the council shall give notice of a special meeting within 60 days after a resolution or demand for a special meeting.

PART 3

Council of the College

Council

- 8(1) The council shall manage and regulate the affairs and business of the college.
- (2) The council consists of:
 - (a) the number of members prescribed in the bylaws, which is not to be less than 5 members, elected by the members in accordance with this Act and the bylaws; and
 - (b) the persons appointed pursuant to section 9.
- (3) No member is eligible to be elected as a member of the council unless the member resides in Saskatchewan.
- (4) Members of the council elected pursuant to clause (2)(a) are entitled to remuneration and reimbursement for expenses in the amounts prescribed in the bylaws.
- (5) Each member of the council elected pursuant to clause (2)(a) holds office for the term prescribed in the bylaws.

Public appointees

- 9(1) The Lieutenant Governor in Council may appoint 3 persons who reside in Saskatchewan as members of the council.
- (2) If the Lieutenant Governor in Council appoints a person as a member of the council, the term of office of that person is not to exceed 3 years.
- (3) Subject to subsection (4), a member of the council appointed pursuant to this section holds office until that person's successor is appointed and is eligible for reappointment, but is not eligible to hold office for more than 2 consecutive terms.
- (4) A member of the council appointed pursuant to this section ceases to hold office if that person ceases to be a resident of Saskatchewan.
- (5) A member of the council appointed pursuant to this section may exercise rights and serve as a member of committees to the same extent as other members of the council.
- (6) At least one member of the council appointed pursuant to this section shall be a member of the discipline committee.
- (7) The absence or inability to act as a member of the discipline committee by a member of the council appointed pursuant to this section or the failure to appoint a member of the council pursuant to this section does not impair the ability of the other members of the discipline committee to act.
- (8) The minister shall remunerate and reimburse for expenses the members of the council appointed pursuant to this section at the rate determined by the Lieutenant Governor in Council.

Resignation

10(1) An elected member of the council may resign by giving a written notice of resignation to the council.

(2) A member of the council appointed pursuant to section 9 may resign by giving a written notice of resignation to the minister.

(3) The resignation of a member of the council is effective on the date stated on the written notice or, if no date is stated:

(a) in the case of the resignation of an elected member, on the date the written notice is received by the council; or

(b) in the case of the resignation of a member of the council appointed pursuant to section 9, on the date the written notice is received by the minister.

Vacancies

11(1) When a vacancy occurs in the elected membership of the council, the remaining members of the council may appoint another member to fill the vacancy until the earlier of:

(a) the expiry of the term of office of the council member who ceased to be a member of the council; and

(b) the day on which a member is elected to fill the vacancy in accordance with this Act and the bylaws.

(2) A vacancy in the membership of the council does not impair the power of the remaining members of the council to act.

(3) If the licence of a member serving as an elected member of the council is suspended, the member's powers and duties as an elected member of the council are suspended for the same period.

(4) If a member serving as an elected member of the council is expelled from the college, the member ceases to be an elected member of the council on the day the member is expelled.

Officers and employees

12(1) The officers of the college are to be those that are:

(a) prescribed in the bylaws; and

(b) appointed or elected in accordance with the bylaws.

(2) The council shall appoint a registrar.

(3) The council may engage any employees that it considers necessary to carry out the duties and functions of the college.

(4) Subject to this Act and the bylaws, the council shall determine the duties, responsibilities and remuneration of employees of the college.

Committees

- 13(1)** The council may establish any committees that are provided for by the bylaws or that it considers necessary.
- (2) The council shall appoint persons to any committees that are provided for by this Act or the bylaws or that it has established pursuant to subsection (1).
- (3) Subject to this Act and the bylaws, the council, on any terms or conditions that it may determine, may delegate any of its powers or duties to a committee provided for by this Act or the bylaws or established pursuant to subsection (1).
- (4) The council shall not delegate the power to make bylaws.
- (5) Subject to this Act and the bylaws, a committee may establish its own procedures.

PART 4

Bylaws

Procedures

- 14(1)** The council, with the approval of not less than a two-thirds majority of the members of the council, may make bylaws for any purpose set out in section 15.
- (2) A bylaw made by the council pursuant to subsection (1) has effect only until the next annual or special meeting of the college and, unless confirmed or varied by the members in accordance with subsection (3), ceases to have any effect after that time.
- (3) With the approval of a two-thirds majority of those members who vote at an annual or special meeting, the college may:
- (a) make bylaws for any purpose set out in section 15; and
 - (b) confirm, vary or revoke any bylaw made by the council pursuant to subsection (1).
- (4) The variation or revocation of a bylaw pursuant to subsection (3) does not affect the operation or application of the bylaw before its revocation or variation, and everything done, omitted to be done or authorized pursuant to the bylaw is valid and effective against all persons notwithstanding the revocation or variation.
- (5) The registrar shall forward copies of proposed bylaws to all members at least 14 days before the date of the annual or special meeting at which the bylaws are to be presented.
- (6) The registrar shall notify each member of each bylaw made pursuant to subsection (1) or (3), or confirmed, varied or revoked pursuant to subsection (3), within 90 days after the bylaw is made, confirmed, varied or revoked.
- (7) Failure to comply with subsection (6) does not invalidate a bylaw.
- (8) No regulatory bylaw made by the council or the college comes into force until it is:
- (a) approved by the minister pursuant to section 16; and
 - (b) published in the Gazette.
- (9) An administrative bylaw comes into force on the later of:
- (a) the day on which it is filed pursuant to subsection 16(4); and
 - (b) the date specified in the bylaw.

Bylaws

15(1) Subject to this Act, administrative bylaws may be made pursuant to section 14 for the following purposes:

- (a) prescribing the seal of the college;
- (b) providing for the execution of documents by the college;
- (c) respecting the banking and financial dealings of the college;
- (d) fixing the fiscal year of the college and providing for the audit of the accounts and transactions of the college;
- (e) respecting the management of the property of the college;
- (f) prescribing the number and terms of office of elected members of the council;
- (g) prescribing the officers of the college and governing the procedure for the appointment, election or removal of those officers;
- (h) prescribing the duties of members of the council and officers and employees of the college;
- (i) prescribing the remuneration and reimbursement for expenses for elected members of the council and committee members;
- (j) governing the procedures for the election of members of the council;
- (k) prescribing the organization, powers and procedures of the council and regulating the council in the performance of its duties;
- (l) respecting the holding and procedures of meetings of the council and annual and special meetings of the college;
- (m) prescribing the amount of registration, licensing and other fees payable to the college, the times of payment and the penalties for late payment;
- (n) providing for the receipt, management and investment of contributions, donations and bequests;
- (o) establishing and governing scholarships, and bursaries;
- (p) regulating joint participation by the college with any educational institution or any person, group, association, organization or body corporate having goals or objectives similar to those of the college;
- (q) establishing any committees that the council considers necessary, prescribing the manner of election, appointment or removal of committee members, determining the duties of committees and establishing procedures for the operation of committees;
- (r) governing the retention and destruction of information and documents in the possession of the college, the council, any committee or any officer obtained, prepared or maintained for the purposes of this Act or the bylaws;
- (s) providing for any other thing that is necessary for the effective administration of the college.

(2) Subject to this Act, regulatory bylaws may be made pursuant to section 14 for the following purposes:

- (a) prescribing the qualifications, standards and tests of competency for:
 - (i) the registration of persons or any category of persons as members; and
 - (ii) the issuing of licences;
- (b) prescribing:
 - (i) the procedures governing registration of persons or any category of persons as members;
 - (ii) the procedures governing the issuing of licences; and
 - (iii) the terms and conditions of licences;
- (c) setting standards of professional conduct, competency and proficiency of members;
- (d) providing for a code of ethics for members;
- (e) setting standards regarding the manner and method of practice of members;
- (f) prescribing procedures for:
 - (i) the review, investigation and disposition of complaints by the professional conduct committee or the mediation of complaints alleging that a member is guilty of professional misconduct or professional incompetence;
 - (ii) hearings by the discipline committee of complaints alleging that a member is guilty of professional misconduct or professional incompetence; and
 - (iii) reviews pursuant to subsection 21(4);
- (g) establishing categories of membership in the college and prescribing the rights and privileges of each category;
- (h) respecting the massage therapy education programs required to be successfully completed for the purposes of registration pursuant to this Act;
- (i) prescribing the circumstances under which members are required to attend re-entry education programs and courses and prescribing programs and courses for that purpose;
- (j) setting standards for continuing education and the participation of members in continuing education;
- (k) governing the reinstatement of a member who has been expelled;
- (l) setting requirements for maintenance of membership;
- (m) establishing categories of practice and prescribing the requirements for admission to each of those categories and the practising rights and privileges associated with each category;
- (n) regulating advertising by members;
- (o) prescribing the number of members required to demand a special meeting of the college;

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- (p) prescribing the minimum amount of liability protection that members are required to obtain;
 - (q) prescribing the form, content and maintenance of the register and the information to be provided by members for the purposes of the register;
 - (r) respecting the reporting and publication of decisions and reports of the council and committees;
 - (s) respecting the types and service of notices that may be served electronically;
 - (t) establishing programs for the assessment of the competency of members;
 - (u) defining activities that constitute a conflict of interest and prohibiting the participation of members in those activities;
 - (v) requiring members to provide the college with their home addresses and any other information that may be specified in the bylaws, including information about themselves, the places where they practise and the services they provide at those places;
 - (w) establishing restrictions on the use and disclosure of information obtained in accordance with clause (v);
 - (x) prescribing any other matters considered necessary for the better carrying out of this Act.

Filing of bylaws

16(1) The college shall file with the minister 2 copies, certified by the registrar to be true copies, of:

- (a) all regulatory bylaws; and
 - (b) any amendment to a regulatory bylaw together with 2 certified copies of the regulatory bylaw to which the amendment relates.
- (2) If the minister does not advise the college in writing within 90 days after receiving copies of the regulatory bylaw or amendment that the minister approves the regulatory bylaw or amendment, the regulatory bylaw or amendment is deemed not to be approved.
- (3) If the minister approves a regulatory bylaw or an amendment to a regulatory bylaw, the minister shall file with the Director of Corporations 2 copies, certified by the registrar to be true copies, of the regulatory bylaw or amendment.
- (4) Within 30 days after an administrative bylaw or an amendment to an administrative bylaw is made, the council shall file with the Director of Corporations 2 copies, certified by the registrar to be true copies, of the administrative bylaw or amendment.
- (5) If an administrative bylaw or an amendment to an administrative bylaw is not filed within the 30-day period mentioned in subsection (4), the administrative bylaw or amendment is deemed to be revoked on the expiration of the period.

Ministerial bylaws

- 17(1) The minister may request the council to amend or revoke a regulatory bylaw or to make a new regulatory bylaw if the minister is satisfied that it is necessary or advisable.
- (2) If the minister makes a request pursuant to subsection (1), the council shall be provided with the reasons for the request and, if the minister considers it appropriate, a draft of a bylaw to amend or revoke the regulatory bylaw or a draft of a new regulatory bylaw.
- (3) If the council does not comply with a request pursuant to subsection (1) within 90 days after the date of the request, the minister may amend or revoke the existing regulatory bylaw or make the new regulatory bylaw in accordance with that request.
- (4) A regulatory bylaw made pursuant to this section or an amendment or revocation of a regulatory bylaw pursuant to this section comes into force on the day on which it is published in the Gazette.
- (5) If the minister makes, amends or revokes a regulatory bylaw, the minister shall file with the Director of Corporations 2 copies of the regulatory bylaw, amendment or revocation.

PART 5

Membership and Registration

Membership

- 18(1) The council, in accordance with this Act and the bylaws, may register persons as members.
- (2) The council may issue licences to members.

Register

- 19(1) In accordance with the bylaws, the council shall keep a register in which the name, address and category of membership of every member is to be recorded.
- (2) The register is to be:
- (a) kept at the head office of the college; and
 - (b) open for inspection by all persons, without fee, during normal office hours of the college.
- (3) The register may be made available in any other manner acceptable to the registrar, including an electronic format.
- (4) The following documents are admissible in evidence as proof, in the absence of evidence to the contrary, of their contents without proof of the registrar's appointment or signature:
- (a) a certificate purporting to be signed by the registrar and stating that:
 - (i) a named person was or was not, on a specified day or during a specified period, a member according to the register; or
 - (ii) the licence of a named person was or was not, on a specified day or during a specified period, suspended according to the register; or
 - (b) an extract from the register that is certified by the registrar.

Registration

20(1) The council may register as a member, and issue a licence to practise to, a person who produces evidence establishing to the satisfaction of the council that the person:

- (a) has paid the prescribed fees;
- (b) has complied with the bylaws with respect to registration as a member;
- (c) has successfully completed an accredited education program that is prescribed in the bylaws; and
- (d) has successfully passed the examinations prescribed or recognized by the council pursuant to the bylaws.

(2) Notwithstanding subsection (1), the council may register as a member, and issue a licence to practise to, a person who produces evidence establishing to the satisfaction of the council that the person:

- (a) has paid the prescribed fees;
- (b) has complied with the bylaws with respect to registration as a member; and
- (c) is a member of an association, society, institute or body of massage therapists established pursuant to the legislation of another jurisdiction in Canada and is a member in good standing in that jurisdiction.

(3) The council may register as a member, and issue a restricted licence to practise to, a person who:

- (a) does not fully meet the requirements of clause (1)(c) or (d);
- (b) agrees to practise in accordance with the conditions or restrictions specified on the restricted licence;
- (c) has paid the prescribed fees; and
- (d) has complied with the bylaws with respect to registration as a member with a restricted licence.

(4) A member granted a restricted licence to practise shall comply with the bylaws governing restricted licences.

Delegation and review

21(1) The council may delegate to the registrar the power to:

- (a) register persons as members;
- (b) issue licences to members; or
- (c) do both of the things mentioned in clauses (a) and (b).

(2) If a power is delegated pursuant to this section, the exercise of that power by the registrar is deemed to be an exercise of the power by the council.

(3) The council may impose any terms and conditions that it considers appropriate on a delegation of its powers.

(4) A person who is aggrieved by a decision of the registrar made pursuant to a delegated power may apply to the council to review that decision.

- (5) On a review pursuant to subsection (4), the council shall hear the review and may:
- (a) direct the registrar to exercise the power in a manner that the council considers appropriate; or
 - (b) confirm the registrar's decision.
- (6) On a review pursuant to subsection (4), the person aggrieved by the decision of the registrar has the right to appear in person before the council in support of the application.
- (7) The council shall cause the applicant to be informed, in writing, of its decision regarding the review.

PART 6

Prohibition

Protection of title and designation

22 No person other than a member shall use the title "Massage Therapist," "Registered Massage Therapist" or any word, title or designation, abbreviated or otherwise, to imply that the person is a member.

PART 7

Discipline

Definition for Part

23 In this Part, "**member**" includes a former member.

Proceedings against former members

24(1) No proceedings conducted pursuant to this Act shall be commenced against a former member more than 2 years after the day on which that individual became a former member.

(2) For the purposes of this section, a proceeding is commenced when the professional conduct committee, pursuant to subsection 28(1), is requested by the council to consider a complaint or is in receipt of a written complaint alleging that a member is guilty of professional misconduct or professional incompetence.

Professional incompetence

25(1) In this section, "**member is unfit**" means that the member is unfit:

- (a) to continue in the practice of the profession; or
- (b) to provide one or more services ordinarily provided as part of the practice of the profession.

(2) Professional incompetence is a question of fact, but the display by a member of a lack of knowledge, skill or judgment or a disregard for the welfare of a member of the public served by the profession of a nature or to an extent that demonstrates that the member is unfit is professional incompetence within the meaning of this Act.

Professional misconduct

26 Professional misconduct is a question of fact, but any matter, conduct or thing, whether or not disgraceful or dishonourable, is professional misconduct within the meaning of this Act if:

- (a) it is harmful to the best interests of the public or the members;
- (b) it tends to harm the standing of the profession;
- (c) it is a breach of this Act or the bylaws; or
- (d) it is a failure to comply with an order of the professional conduct committee, the discipline committee or the council.

Professional conduct committee

27(1) The professional conduct committee is established consisting of at least 3 persons appointed by the council, the majority of whom are to be practising members.

(2) No member of the council or member of the discipline committee is eligible to be a member of the professional conduct committee.

Investigation

28(1) If the professional conduct committee is requested by the council to consider a complaint or is in receipt of a written complaint alleging that a member is guilty of professional misconduct or professional incompetence, the committee shall:

- (a) review the complaint; and
- (b) investigate the complaint by taking any steps it considers necessary, including summoning before it the member whose conduct is the subject of the complaint or assessing the member's competence.

(2) On completion of its investigation, the professional conduct committee shall make a written report to the discipline committee recommending:

- (a) that the discipline committee hear and determine the formal complaint set out in the written report; or
- (b) that no further action be taken with respect to the matter under investigation because:
 - (i) the matter has been resolved with the consent of the complainant and the member who is the subject of the investigation; or
 - (ii) in the opinion of the professional conduct committee, no further action is warranted on the facts of the case.

(3) The formal complaint set out in a written report made pursuant to clause (2)(a) may relate to any matter disclosed in the complaint received pursuant to subsection (1) or the investigation conducted pursuant to that subsection.

(4) A report signed by a majority of the professional conduct committee is the decision of that committee.

(5) The professional conduct committee shall provide, or cause the registrar to provide, a copy of a written report made pursuant to clause (2)(b) to:

- (a) the council;
- (b) the complainant, if any; and
- (c) the member whose conduct is the subject of the complaint mentioned in subsection (1).

Temporary suspension

29(1) If the professional conduct committee is of the opinion that, on the basis of the allegations or the nature of the case, a member's licence should be suspended or a member should be prohibited from performing any practice or procedure pending the outcome of an investigation or hearing, it may, with the prior approval of the council, apply to a judge of the court for an order:

- (a) suspending the licence of the member whose conduct is the subject of an investigation pursuant to subsection 28(1) or against whom a formal complaint has been made pursuant to clause 28(2)(a); or
- (b) temporarily prohibiting the member described in clause (a) from performing any specified practice or procedure.

(2) An order of suspension or prohibition shall not extend past the earliest of the following:

- (a) 90 days after the date of the order;
- (b) the date of a report of the professional conduct committee made pursuant to clause 28(2)(b);
- (c) if the discipline committee finds that a member is not guilty of professional misconduct or professional incompetence, the day of its decision;
- (d) if the discipline committee finds that a member is guilty of professional misconduct or professional incompetence, the day that an order is made pursuant to section 32.

(3) The professional conduct committee may apply to the court for an extension of an order of suspension or prohibition made pursuant to subsection (1).

Discipline committee

30(1) The discipline committee is established consisting of at least 3 persons appointed by the council, the majority of whom are to be practising members and one of whom is a member of the council appointed pursuant to section 9.

(2) No member of the professional conduct committee and no elected member of the council is eligible to be a member of the discipline committee.

(3) Subject to this Act and the bylaws, the discipline committee may make rules regulating its business and proceedings.

Discipline hearing

31(1) If a report of the professional conduct committee recommends that the discipline committee hear and determine a formal complaint, the registrar shall, at least 14 days before the day on which the discipline committee is to sit:

- (a) send a copy of the formal complaint to the member whose conduct is the subject of the hearing; and
- (b) serve notice on the member whose conduct is the subject of the hearing of the date, time and place of the hearing.

(2) The professional conduct committee shall prosecute or direct the prosecution of the formal complaint, but its members shall not participate in any other manner in the hearing of the formal complaint except as witnesses when required.

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- (3) The discipline committee shall hear the formal complaint and shall determine whether or not the member is guilty of professional misconduct or professional incompetence, notwithstanding that the determination of a question of fact may be involved, and the discipline committee need not refer any question to a court for adjudication.
- (4) The discipline committee may accept any evidence that it considers appropriate and is not bound by rules of law concerning evidence.
- (5) The discipline committee may employ, at the expense of the college, any legal or other assistance that it considers necessary, and the member whose conduct is the subject of the hearing, at the member's own expense, may be represented by counsel.
- (6) The testimony of witnesses is to be under oath or affirmation administered by the chairperson of the discipline committee.
- (7) At a hearing by the discipline committee, there is to be full right:
- (a) to examine, cross-examine and re-examine all witnesses; and
 - (b) to present evidence in defence and reply.
- (8) On application and payment of the appropriate fee, the local registrar of the court at any judicial centre shall issue writs of *subpoena ad testificandum* or *subpoena duces tecum* to:
- (a) a member whose conduct is the subject of a hearing pursuant to this Act;
 - (b) a member of the professional conduct committee;
 - (c) a member of the discipline committee.
- (9) If a writ issued pursuant to subsection (8) is disobeyed, the proceedings and penalties are those applicable in civil cases in the court.
- (10) Subject to *The Evidence Act* and section 8-2 of *The Provincial Health Authority Act*, and notwithstanding any other Act or the regulations made pursuant to any other Act, the records of any facility operated by the provincial health authority or health care organization, within the meaning of *The Provincial Health Authority Act*, may be brought before the discipline committee, without special order, by writ of *subpoena duces tecum* issued pursuant to subsection (8) and served on the chief executive officer of the provincial health authority or health care organization.
- (11) If the member whose conduct is the subject of the hearing fails to attend the hearing, the discipline committee, on proof of service of the notice mentioned in subsection (1), may proceed with the hearing in the member's absence.
- (12) If, during the course of a hearing, the evidence shows that the member whose conduct is the subject of the hearing may be guilty of a charge different from or in addition to any charge specified in the formal complaint, the discipline committee shall notify the member of that fact.
- (13) If the discipline committee proposes to amend, add to or substitute the charge in the formal complaint, the discipline committee shall adjourn the hearing for any period that the discipline committee considers sufficient to give the member an opportunity to prepare a defence to the amended formal complaint, unless the member consents to continue the hearing.

- (14) The person, if any, who made the complaint pursuant to section 28:
 - (a) is to be advised orally or in writing by the registrar of the date, time and place of the hearing; and
 - (b) subject to subsection (16), is entitled to attend the hearing.
- (15) Subject to subsection (16), the discipline committee shall conduct all hearings in public.
- (16) The discipline committee may exclude members of the public and the person who made the complaint from any part of the hearing if the committee is of the opinion that evidence brought in the presence of the person or persons to be excluded will unduly violate the privacy of a person other than the member whose conduct is the subject of the hearing.

Disciplinary powers

- 32(1)** If the discipline committee finds a member guilty of professional misconduct or professional incompetence, it may make one or more of the following orders:
 - (a) an order that the member be expelled from the college and that the member's name be struck from the register;
 - (b) an order that the member's licence be suspended for a specified period;
 - (c) an order that the member's licence be suspended pending the satisfaction and completion of any conditions specified in the order;
 - (d) an order that the member may continue to practise, but only under conditions specified in the order, which may include, but are not restricted to, an order that the member:
 - (i) not do specified types of work;
 - (ii) successfully complete specified classes or courses of instruction;
 - (iii) obtain medical or other treatment or counselling or both;
 - (e) an order reprimanding the member;
 - (f) any other order that the discipline committee considers just.
- (2) In addition to any order made pursuant to subsection (1), the discipline committee may order:
 - (a) that the member pay to the college, within a fixed period:
 - (i) a fine in a specified amount not exceeding \$5,000; and
 - (ii) the costs of the investigation and hearing into the member's conduct and related costs, including the expenses of the professional conduct committee and the discipline committee and costs of legal services and witnesses; and
 - (b) if a member fails to make payment in accordance with an order pursuant to clause (a), that the member's licence be suspended.

(3) After the conclusion of its hearing pursuant to section 31, the discipline committee shall:

- (a) make its decision as soon as possible; and
- (b) within 10 business days after the decision, send to the member whose conduct is the subject of the complaint and the person, if any, who made the complaint:
 - (i) a copy of its decision; and
 - (ii) if the discipline committee makes an order pursuant to this section, a copy of the order.

(4) If a member is expelled from the college or a member's licence is suspended, the registrar shall strike the name of the member from the register or indicate the suspension on the register, as the case may be.

(5) The discipline committee may inform a member's employer of the order made against that member if that member has been found guilty of professional misconduct or professional incompetence.

Continuity of committee

33 If an investigation is commenced by the professional conduct committee or a hearing is commenced by the discipline committee and the term of office of a member of the committee expires or is terminated before the investigation or hearing is disposed of, the person shall remain a member of the professional conduct committee or the discipline committee, as the case may be, for the purposes of completing the investigation or hearing, in the same manner as if the member's term of office had not expired or been terminated.

Criminal conviction

34 The discipline committee may make any order pursuant to section 32, if:

- (a) the member has been convicted of an offence pursuant to the *Criminal Code*, the *Controlled Drugs and Substances Act* (Canada) or the *Food and Drugs Act* (Canada);
- (b) a report of the professional conduct committee is made to the discipline committee respecting the conviction mentioned in clause (a);
- (c) the discipline committee has given the member mentioned in clause (a) an opportunity to be heard; and
- (d) the discipline committee finds that the conduct of the member giving rise to the conviction is professional misconduct.

Duty to report

35 If the professional conduct committee in its investigation pursuant to section 28 or the discipline committee at the conclusion of its hearing pursuant to section 31 believes that the member whose conduct is the subject of the investigation or hearing may be guilty of a criminal offence, the committee:

- (a) may immediately discontinue its investigation or hearing, as the case may be; and
- (b) shall make a report of its findings to:
 - (i) the president of the college; and
 - (ii) the Deputy Minister of Justice.

Suspension

36 A judge of the court, on the application of the council, may direct that a member's licence be suspended pending the disposition of a criminal charge if:

- (a) a criminal charge is laid against the member; and
- (b) the member has applied to the court for a stay of any disciplinary proceedings against the member.

Review by council

37(1) A member may appeal a decision or any order of the discipline committee to the council by serving the registrar with a notice of appeal within 30 days after the decision or order if:

- (a) the member has been found guilty of professional misconduct or professional incompetence by the discipline committee; or
- (b) the member is subject to an order made pursuant to section 34.

(2) An appellant shall set out the grounds of appeal in a notice of appeal mentioned in subsection (1).

(3) On receipt of a notice of appeal, the registrar shall file with the council a true copy of:

- (a) the formal complaint sent and notice served pursuant to section 31 or the report of the professional conduct committee made pursuant to clause 34(b);
- (b) the transcript of the evidence presented to the discipline committee; and
- (c) the decision and order of the discipline committee.

(4) The appellant or the appellant's lawyer or agent may obtain from the registrar a copy of the documents filed pursuant to subsection (3) on payment of the costs of producing them.

(5) On hearing an appeal, the council may:

- (a) dismiss the appeal;
- (b) quash the finding of guilt;
- (c) direct a new hearing or further inquiries by the discipline committee;
- (d) vary the order of the discipline committee; or
- (e) substitute its own decision for the decision appealed from.

(6) The council may make any order as to costs that it considers appropriate.

(7) The member of council appointed pursuant to section 9 who is a member of the discipline committee shall not participate in the hearing of an appeal pursuant to this section.

Appeal to court

38 A member whose conduct is the subject of an order of the council pursuant to section 37 may appeal that order to a judge of the court within 30 days after the date of the order of the council, and section 37 applies, with any necessary modification.

Effect of appeal

39 The commencement of an appeal pursuant to section 37 or 38 does not stay the effect of the decision or order appealed from, but, on 5 days' notice to the registrar, the appellant may apply to the court for a stay of the decision or order pending the disposition of the appeal.

Effect of expulsion or suspension

40 If a member is expelled from the college or a member's licence is suspended, that member's rights and privileges as a member are removed for the period during which the member is expelled from the college or the member's licence is suspended.

Reinstatement

41(1) A person who has been expelled as a member may apply to the council for reinstatement.

(2) Subject to the bylaws, on receipt of an application pursuant to subsection (1), the council shall:

- (a) review the application; and
- (b) investigate the application by taking any steps it considers necessary.

(3) On completion of its investigation, the council may:

- (a) if it is satisfied that the person's subsequent conduct and any other facts warrant reinstatement, order that the person be reinstated as a member on any terms and conditions that the council considers appropriate; or
- (b) by order, refuse to reinstate the person.

(4) If, on an application pursuant to subsection (1), the council refuses to reinstate the person as a member, the person, within 30 days after the date of the order, may appeal the order of the council to a judge of the court, and the judge may allow or disallow the appeal.

(5) On an appeal pursuant to subsection (4), the judge shall consider:

- (a) the proceedings before the council on the application for reinstatement;
- (b) the past record of the appellant as shown by the records of the college; and
- (c) the evidence taken before the council and any committee that dealt with the expulsion and application for reinstatement and the report of that committee.

(6) A person whose application for reinstatement pursuant to subsection (1) is refused or whose appeal of a refusal is dismissed may make another application for reinstatement, based on new information, at any time.

PART 8

General

Immunity

42 No action lies or shall be instituted against members of the council, the professional conduct committee, the discipline committee, any member of any committee, or any officer, employee or agent of the college for any loss or damage suffered by a person by reason of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done by any of them pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the bylaws or in the carrying out or supposed carrying out of any decision or order made pursuant to this Act or the bylaws or any duty imposed by this Act or the bylaws.

Offence and penalty

43 Every person who contravenes section 22 is guilty of an offence and liable on summary conviction:

- (a) for a first offence, to a fine of not more than \$2,000;
- (b) for a second offence, to a fine of not more than \$4,000; and
- (c) for each subsequent offence, to a fine of not more than \$6,000, to imprisonment for a term of not more than 6 months or to both.

Limitation of prosecution

44 No prosecution for a contravention of section 22 is to be commenced:

- (a) after the expiration of 24 months from the date of the alleged offence; and
- (b) without the consent of the Minister of Justice or the council.

Report of termination of employment

45 Any employer who terminates for cause the employment of a member shall report the termination to the college if the employer reasonably believes the cause is professional incompetence or professional misconduct.

Review by Legislative Assembly

46(1) One copy of each bylaw and amendment filed with the Director of Corporations pursuant to section 16 or 17 is to be laid before the Legislative Assembly by the minister responsible for the administration of *The Business Corporations Act* in accordance with section 13 of *The Executive Government Administration Act*.

(2) If any bylaw or amendment laid before the Legislative Assembly is found by the Legislative Assembly to be beyond the powers delegated by the Legislature or in any way prejudicial to the public interest, that bylaw or amendment ceases to have any effect and is deemed to have been revoked.

Record of revocation and notification

47(1) If it appears from any Votes and Proceedings of the Legislative Assembly that any bylaw or amendment has ceased to have effect, the Clerk of the Legislative Assembly shall immediately:

- (a) forward 2 copies of the Votes and Proceedings to the Director of Corporations; and
- (b) advise the Director of Corporations that the copies are forwarded pursuant to this subsection.

(2) On receipt of the copies mentioned in subsection (1), the Director of Corporations shall immediately:

- (a) file one of the copies with the bylaw or amendment to which it relates;
- (b) forward the other copy to the college; and
- (c) advise the college that the copy is forwarded pursuant to this subsection.

Annual Register

48 On or before February 1 in each year, the college shall file with the Director of Corporations a list, certified by the registrar to be a true list, showing:

- (a) the names of all members as at December 31 in the preceding year;
- (b) the addresses of the members mentioned in clause (a) as shown by the records of the college; and
- (c) the respective dates of admission of the members mentioned in clause (a).

Annual report

49 The college shall file an annual report with the minister in the form, with the contents and in the time prescribed by the minister.

Compliance

50 Every member shall comply with this Act and the bylaws.

Service of notices, etc.

51(1) Unless otherwise provided for in this Act or the bylaws, any notice or other document that is required to be served pursuant to this Act may be served by:

- (a) personal service made:
 - (i) in the case of an individual, on that individual;
 - (ii) in the case of a partnership, on any partner; or
 - (iii) in the case of a corporation, on any officer or director; or
- (b) registered mail addressed to the last business or residential address of the person to be served that is known to the registrar.

(2) A notice or document sent by registered mail is deemed to have been served on the seventh business day following the date of its mailing, unless the person to whom it was mailed establishes that, through no fault of that person, the person did not receive the notice or document or received it at a later date.

(3) If it is for any reason impractical to effect service of any documents in the manner provided for in subsection (1), the court may, on an application that may be made without notice, make an order for substituted service.

(4) A document served in accordance with the terms of an order mentioned in subsection (3) is deemed to have been properly served.

PART 9

Transitional and Coming into Force

Transitional—council

52(1) A transitional council of the college is to consist of not less than 8 and not more than 12 persons.

(2) The transitional council is to consist of equal representation from each of the following recognized massage therapy associations:

- (a) the Massage Therapist Association of Saskatchewan Incorporated;
- (b) the Natural Health Practitioners of Canada;
- (c) the Canadian Massage and Manual Osteopathic Therapists Association.

(3) A person who is a member of the transitional council on the day before this Act comes into force continues as a member of the council of the college until the earlier of the following:

- (a) the date on which members of council are elected or appointed pursuant to this Act;
- (b) the date on which the member dies, resigns or otherwise ceases to be a member of the transitional committee.

Coming into force

53 This Act comes into force by order of the Lieutenant Governor in Council.

FIRST SESSION
Twenty-ninth Legislature
SASKATCHEWAN

B I L L

No. 3

An Act respecting the Practice of Massage Therapy
and the Saskatchewan College of Massage Therapy

Received and read the

First time

Second time

Third time

And passed

Honourable Paul Merriman
