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SNL2005 CHAPTER M-1.2

**MESSAGE THERAPY ACT, 2005**

Amended:

2008 c47 s11

**CHAPTER M-1.2**

**AN ACT RESPECTING THE PRACTICE OF MASSAGE THERAPY**

*(Assented to December 13, 2005 )*

*Analysis*

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*Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened,  
as follows:*

**Short title**

1. This Act may be cited as the *Massage Therapy Act, 2005* .

[2005 cM-1.2 s1](#)

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**Definitions**

2. In this Act

- (a) "association" means the Newfoundland and Labrador Massage Therapists' Association Inc., incorporated under the *Corporations Act* ;
- (b) "board" means the governing board of the college;
- (c) "chairperson", unless the context requires otherwise, means the chairperson of the board of the college;
- (d) "college" means the college continued under section 3 ;
- (e) "licence" means a licence to practise massage therapy issued under this Act;
- (f) "massage therapist" means a person who is registered and holds a licence;
- (g) "massage therapy" means the assessment of the soft tissue and joints of the body and the treatment and prevention of physical dysfunction and pain of the soft tissues and joints by manipulation to develop, maintain, rehabilitate or augment physical function or to relieve pain or to promote health;
- (h) "member" means a member in good standing of the college who is a massage therapist;
- (i) "minister" means the minister appointed under the *Executive Council Act* to administer this Act; and
- (j) "registrar" means the registrar of massage therapists elected or appointed under subsection 11 (1).

[2005 cM-1.2 s2](#)

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**Board continued**

3. (1) The Newfoundland and Labrador Massage Therapists' Board is continued under the name College of Massage Therapists of Newfoundland and Labrador as a corporation without share capital for the purposes of Part XXI of the *Corporations Act* .

- (2) A person who is registered and holds a licence under section 10 is a member of the college.
- (3) There shall be a board responsible for governing the college, which consists of

- (a) 5 directors elected from and by members in accordance with the by-laws; and
- (b) 2 directors appointed under section 4 who are not members.
- (4) The board governs the college and may exercise in the name and on behalf of the college its powers.
- (5) A member of the board of directors of the association is ineligible to be a director of the board established under this section.
- (6) The board shall elect from the directors a chairperson.
- (7) The chairperson shall chair all meetings of the board and the annual general meeting of members required under section 5 .
- (8) A director may be elected for a term set by the by-laws which shall not exceed 3 years and is eligible to be re-elected, but shall not hold the office of director for more than 9 consecutive years.
- (9) An elected director may resign the office of director by written notice to the board.
- (10) Where an elected director resigns, dies or becomes incapable of performing the duties of a director, the remaining directors shall appoint a replacement to serve until the next annual general meeting.

[2005 cM-1.2 s3](#)

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#### **Appointed directors**

- 4.** (1) The minister shall appoint as directors of the board 2 persons who are not massage therapists who are suitable to represent the public interest.
- (2) A person appointed under subsection (1) holds office for a term of 3 years and is eligible to be re-appointed.
  - (3) Where a person appointed under subsection (1) holds office for a period of 9 consecutive years the person is not eligible for appointment as a member of the board until the expiration of 12 months from the end of the year in which he or she was last a director.
  - (4) Where the term of an appointed director expires, he or she continues to be a director until re-appointed or replaced.
  - (5) The college shall pay the expenses of an appointed director in accordance with guidelines established by the Lieutenant-Governor in Council.
  - (6) A person appointed under subsection (1) may resign the office of director by written notice to the minister.

[2005 cM-1.2 s4](#)

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### **Meetings of board**

5. (1) The board shall hold at least one annual general meeting at a time and place that it determines or at a place that is set in the by-laws and may hold other general meetings upon the request of the chairperson, the registrar or 2 members of the board.
- (2) Four members of the board, including one member who is not a massage therapist, shall constitute a quorum for a meeting of the board.
- (3) A decision of the majority of members in attendance at a meeting shall be the decision of the board and, in the event of a tie, the chairperson, or the person acting as chairperson, shall have a second deciding vote.
- (4) Except where prohibited by the by-laws, a director may, where all the directors consent, participate in a meeting of the board by means of the telephone or other telecommunications device that permits all persons participating in the meeting to communicate with each other.
- (5) A member of the board who participates in a meeting by the means described in subsection (4) is, for the purpose of this Act, present and in attendance at that meeting.
- (6) The college shall hold, in accordance with the by-laws, an annual general meeting of members at which
- (a) the election for directors shall be held; and
  - (b) an auditor shall be appointed to audit the accounts of the college and report on the financial statements prepared by the college.
- (7) Members of the board shall serve without remuneration but may be paid travelling and other expenses.
- (8) Notwithstanding subsection (7), where the registrar is also a director, the board may decide, by a majority vote, to remunerate the registrar.

[2005 cM-1.2 s5; 2008 c47 s11](#)

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### **Functions and duties**

6. The college may
- (a) examine all degrees, diplomas, licences and other credentials of an applicant for a licence to determine if the applicant should receive a licence and be registered to practise under this Act;
  - (b) prescribe continuing education, examinations or other requirements necessary in order to maintain registration and a licence under this Act;
  - (c) fix and collect fees;
  - (d) approve registration and issue licences to persons who meet the requirements of the Act and the regulations; and

(e) carry out duties and tasks in accordance with this Act and the regulations.

[2005 cM-1.2 s6](#)

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### **Fees and audit**

7. (1) The college shall ensure that the fees payable under this Act are sufficient to enable it to discharge its duties under this Act.

(2) All money received by the college shall be applied by it to the exercise of its functions and duties under this Act.

[2005 cM-1.2 s7](#)

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### **Annual report**

8. (1) The college shall prepare and submit to the minister before July 1

(a) a report on the activities of the college; and

(b) the college's audited financial statements.

(2) Where the college fails to comply with subsection (1), the college is guilty of an offence and on summary conviction may be fined \$1,000.

[2005 cM-1.2 s8](#)

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### **Prohibition**

9. (1) A person shall not be registered as a massage therapist and issued a licence under this Act unless he or she satisfies the requirements for registration and licensing established by this Act and the regulations.

(2) A massage therapist who is registered and licensed under and complies with this Act is entitled to

(a) use the title "massage therapist", "registered massage therapist", "licensed massage therapist" and the designation "R.M.T."; and

(b) engage in the practice of massage therapy for fee, commission, payment or profit.

(3) A person other than a massage therapist registered and licensed under this Act shall not use the title "massage therapist" or an abbreviation or variation of that title.

(4) A person shall not hold himself or herself out as being a massage therapist entitled to practise or perform massage therapy in the province unless he or she is registered and holds a licence under this Act.

(5) Notwithstanding subsection (4), a person who carries out massage therapy

- (a) as part of a course of or training in massage therapy that is approved by the board; or
- (b) in connection with an examination that is arranged by the board is not required to be registered and licensed under this Act.

[2005 cM-1.2 s9](#)

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### **Registration and licence**

**10.** (1) For the purposes of registration and the issuance of a licence under this Act, the college shall recognize and approve examinations and schools of or pertaining to massage therapy and shall make provisions for the holding of examinations as it may consider necessary for those purposes, but the standards of the examinations and schools recognized and approved and of the examinations held shall not be lower than the standards prescribed by the Canadian Massage Therapy Alliance.

- (2) The authority of the college under subsection (1) to recognize and approve schools of massage therapy does not include authority to determine whether or not an educational institution may offer courses or training related to the practice of massage therapy.
- (3) The college shall register as a massage therapist and issue a licence to practise massage therapy to a person who
  - (a) pays the required fee;
  - (b) has a diploma, degree or certification and has passed the examinations recognized and approved by the college under subsection (1);
  - (c) provides proof that he or she has obtained professional liability insurance coverage in a form and amount satisfactory to the college; and
  - (d) meets other requirements that may be prescribed by regulation.
- (4) A person who is issued a licence under this Act shall, within 30 days after being granted a licence, become a member of the association.
- (5) The licence of a person who does not comply with subsection (4) shall be considered to be revoked.
- (6) The registrar shall annually renew the registration and licence of a person who meets the requirements of this Act and the regulations.
- (7) Notwithstanding paragraph (3)(b), where a person
  - (a) has practised massage therapy in the province for not fewer than 7 years immediately before June 1, 2002 ; and
  - (b) while practising massage therapy in the province, has been a member of the association; and

- (c) has completed courses of instruction and has practical experience that the college considers to be equivalent to the requirements of paragraph (3)(b),

the college may register that person as a massage therapist and issue a licence to practise massage therapy to him or her.

[2005 cM-1.2 s10; 2008 c47 s11](#)

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### **Registrar**

**11.** (1) The board may elect a director as registrar or may appoint a person from outside the board or the college to be the registrar.

(2) The registrar shall

- (a) be secretary to the college;
  - (b) register and issue licences on the direction of the college to persons who meet the requirements for registration and licensing under this Act and the regulations;
  - (c) maintain a register of massage therapists containing the names of all persons who hold a licence under this Act and other information that may be required by the college;
  - (d) collect fees;
  - (e) control all matters relating to the finances of the college; and
  - (f) perform other duties that the college may require.
- (3) The registrar shall make the register available for inspection by the public on reasonable notice and at reasonable times.

[2005 cM-1.2 s11; 2008 c47 s11](#)

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### **Proof of registration**

**12.** A certificate signed or purporting to be signed by the registrar stating that the name of a person was or was not entered in the register on a date or for a specified period shall be admissible in evidence without proof of the signature of the registrar and the contents of that certificate shall be, in the absence of evidence to the contrary, evidence of the facts stated on it.

[2005 cM-1.2 s12](#)

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### **Definitions**

**13.** In this section and sections 14 to 29

- (a) "allegation" means a written document alleging that a person has engaged in conduct deserving of sanction;



- (b) "complainant" means a person making an allegation under section 15 ;
- (c) "conduct deserving of sanction" includes
  - (i) professional misconduct,
  - (ii) professional incompetence,
  - (iii) conduct unbecoming a massage therapist, and
  - (iv) acting in breach of this Act, the regulations or a code of ethics made under section 31 ;
- (d) "costs incurred by the college" includes
  - (i) out of pocket expenses incurred by or on behalf of the college,
  - (ii) amounts paid by the college to adjudication tribunal members as remuneration and for expenses, and
  - (iii) the actual cost of legal counsel for the college and the adjudication tribunal;
- (e) "disciplinary panel" means the panel of persons appointed under section 14 from which the members of an adjudication tribunal are chosen; and
- (f) "respondent" means a person who holds or who has held a licence under this Act and against whom an allegation is made.

[2005 cM-1.2 s13](#)

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### **Complaints and disciplinary panel**

- 14.** (1) The board shall appoint at least 3 members of the board, at least one of whom shall be a member of the board who was appointed to represent the public interest, to constitute a complaints authorization committee.
- (2) The registrar is not eligible to be a member of the complaints authorization committee.
  - (3) The board shall appoint the chairperson and vice chairperson of the complaints authorization committee from the persons appointed under subsection (1).
  - (4) The board shall appoint at least 10 members of the college who are not directors, one of whom shall be appointed to serve as chairperson, and the minister shall appoint at least 3 persons who are not members of the college to represent the public interest, who shall together constitute a disciplinary panel.
  - (5) Of the persons first appointed to the disciplinary panel, one half shall be appointed for a term of 2 years and the remainder for a term of 3 years and all subsequent appointments of members of the disciplinary panel shall be for a term of 3 years.

- (6) Notwithstanding the expiry of his or her term, a member of the disciplinary panel continues to be a member until he or she is re-appointed or his or her replacement is appointed.
- (7) Members appointed to the disciplinary panel may be reappointed.
- (8) The complaints authorization committee and an adjudication tribunal appointed under section 18 and a person appointed by either of them for the purpose may summon a respondent or other person and require him or her to give evidence orally or in writing upon oath or affirmation, and produce the documents and things that he or she considers necessary to the full investigation and hearing of allegations and complaints and shall have the powers, privileges and immunities that are conferred on commissioners appointed under the *Public Inquiries Act*.
- (9) A member of the disciplinary panel shall serve as a member of the panel without payment for his or her services, but may be remunerated for services as a member of an adjudication tribunal and paid his or her travel and other expenses associated with the work of the tribunal by the college, in accordance with the rates set by the by-laws.

[2005 cM-1.2 s14](#)

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### **Allegation**

**15.** (1) An allegation shall be in writing and signed by the complainant or his or her solicitor, and filed with the registrar of the college.

(2) The registrar may on his or her own motion make an allegation and file it, and the allegation shall have the same effect as an allegation referred to in subsection (1).

(3) Where the registrar has been informed that a massage therapist has been convicted of an offence under the provisions of the *Criminal Code* (Canada) or a similar penal statute of another country or has been suspended by a governing body of massage therapists in another province or territory of Canada or in another country for reason of professional misconduct, conduct unbecoming to a massage therapist or professional incompetence, the information shall be dealt with by the registrar as an allegation.

(4) For the purpose of subsection (3), a certified copy of the record of a conviction or findings made or the action taken by an external regulatory body constitutes proof, in the absence of evidence to the contrary, of the conviction or findings made or the action taken by that body, without proof of the signature of the convicting justice or person purporting to have signed on behalf of that body.

[2005 cM-1.2 s15](#)

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### **Effect of filing allegation**

**16.** (1) Where it appears to the registrar after notifying the respondent of the allegation, that an allegation may be resolved satisfactorily, and where the complainant and the respondent consent, the registrar may attempt to resolve the matter.

(2) Where an allegation is not satisfactorily resolved by the registrar under subsection (1), the registrar shall refer the allegation and all other allegations to the complaints authorization committee.

- (3) The registrar shall inform a complainant and a massage therapist against whom the allegation is made of the referral of the allegation to the complaints authorization committee.

[2005 cM-1.2 s16](#)

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### **Complaints authorization committee**

17. (1) After an allegation has been referred to the complaints authorization committee, the committee may exercise one or more of the following powers:

- (a) refer the allegation back to the registrar for an investigation or alternative dispute resolution in accordance with the regulations;
  - (b) conduct an investigation itself or appoint a person to conduct an investigation on its behalf; and
  - (c) require the respondent to appear before it.
- (2) Where the complaints authorization committee is of the opinion there are no reasonable grounds to believe the respondent has engaged in conduct deserving of sanction the committee shall dismiss the allegation and give notice in writing of the dismissal to the complainant.
- (3) Where the complaints authorization committee is of the opinion that there are reasonable grounds to believe that a respondent has engaged in conduct deserving of sanction, the allegation shall be considered as constituting a complaint, and the committee may
- (a) counsel or caution the respondent; or
  - (b) instruct the registrar to file the complaint against the respondent and refer it to the disciplinary panel; and
  - (c) recommend to the college that
    - (i) the respondent's practice be suspended or restricted, or
    - (ii) the registrar conduct an investigation of the respondent's practice, and where the college approves an investigation the registrar shall conduct it, at any time before a final determination by the adjudication tribunal.
- (4) A person conducting an investigation under paragraph (1)(b) or subparagraph (3)(c)(ii) may
- (a) require a respondent to
    - (i) undergo an examination or assessment he or she considers necessary and as arranged by the registrar or the college, and
    - (ii) permit the registrar or a director or another person appointed by the college to inspect and copy the records of the respondent and other documents relating to the subject matter of the investigation; and

- (b) require another person to permit the registrar or a director or another person appointed by the college to inspect and copy records and other documents relating to the subject matter of the investigation held by that person,

and the respondent or other person shall comply.

- (5) Where the registrar, a director or another person requires that a respondent or another person provide information under subsection (4), that information shall be provided, as requested, within 7 days of receipt of the request or a different period as specified in the request.
- (6) An action for damages does not lie against a massage therapist or another person to whom a request is made solely because he or she provides information requested of him or her under subsection (4).
- (7) Where the complaints authorization committee recommends to the college that a respondent's practice of massage therapy be suspended, restricted or investigated, the college may
  - (a) decide not to act on the recommendation; or
  - (b) suspend, restrict or investigate the respondent's practice of massage therapy.
- (8) A complainant whose allegation is dismissed by the complaints authorization committee under subsection (2) may within 30 days after receiving notice of the dismissal, appeal the dismissal to the Trial Division by filing a notice of appeal with the Registrar of the Supreme Court.
- (9) Subsections (4), (5) and (6) apply to the Crown.

[2005 cM-1.2 s17](#)

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### **Adjudication**

**18.** (1) For the purpose of dealing with a complaint referred to the disciplinary panel, the chairperson of the disciplinary panel shall appoint from the disciplinary panel an adjudication tribunal consisting of 3 persons, of whom 2 shall be massage therapists and one shall represent the public interest.

(2) The chairperson of the disciplinary panel shall appoint one of the massage therapists on an adjudication tribunal to be the chairperson of that tribunal.

[2005 cM-1.2 s18](#)

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### **Hearing**

**19.** (1) Where a complaint has been referred under paragraph 17 (3)(b), an adjudication tribunal shall hear the complaint.

(2) The parties to a hearing are the college and the respondent and a party may be represented by his or her counsel at a hearing.

(3) A hearing shall be conducted in public but an adjudication tribunal may exclude the public from a hearing, or from part of it, where it considers the desirability of protecting a witness or a party to the complaint against the consequences of possible disclosure of personal matters outweighs the desirability of holding the hearing in public.

[2005 cM-1.2 s19](#)

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### **Guilty plea by respondent**

**20.** (1) Where a respondent pleads guilty to one or more of the charges set out in a complaint, the adjudication tribunal shall, without calling evidence or hearing witnesses, unless the tribunal believes it is appropriate to do so, hear submissions from the parties.

(2) Where a respondent pleads guilty, and following submissions under subsection (1), the adjudication tribunal may

- (a) reprimand the respondent;
- (b) order that the respondent be suspended for a fixed period that it may consider appropriate, until conditions which it may impose are fulfilled, or until further order of the adjudication tribunal;
- (c) allow or direct the respondent to surrender his or her licence to the college upon those conditions that may be considered appropriate and strike the respondent's name from the register;
- (d) impose a fine to be paid to the college, not to exceed \$10,000;
- (e) order that the registrar publish a summary of the decision including the information set out in subsection 22 (4) and other information that the tribunal may specify;
- (f) order that the respondent pay the costs or a part of the costs incurred by the college in the investigation and hearing of the complaint; and
- (g) order that the respondent comply with one or more of the following:
  - (i) make restitution to the complainant or other person affected by the conduct of the respondent,
  - (ii) obtain medical treatment,
  - (iii) obtain counselling,
  - (iv) obtain substance abuse counselling or treatment, until the respondent can demonstrate to the board or other body or person designated by the adjudication tribunal that a condition related to substance abuse rendering the respondent incapable or unfit to practise has been overcome,
  - (v) engage in continuing education programs,
  - (vi) complete a course of studies or obtain supervised clinical experience, or both, to the satisfaction of the board or other body or person designated by the adjudication tribunal,

- (vii) report on his or her compliance with an order made under this section and authorize others involved with his or her treatment or supervision to report on it,
  - (viii) restrict his or her professional practice or continue his or her practice under specified conditions, or
  - (ix) impose other requirements that are just and reasonable in the circumstances.
- (3) The costs incurred by the college to ensure the compliance of a respondent with an order or direction of an adjudication tribunal under this section shall be borne by the respondent.

[2005 cM-1.2 s20](#)

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### **Powers of adjudication tribunal**

- 21.** (1) Upon the hearing of a complaint, an adjudication tribunal shall decide whether or not a respondent is guilty of conduct deserving of sanction.
- (2) Where an adjudication tribunal decides that a respondent is not guilty, it shall dismiss the complaint and may, where it believes that the submission of the complaint to the disciplinary panel for a hearing was unreasonable,
    - (a) order that those costs that the panel considers appropriate be paid by the college to the respondent; and
    - (b) make another order that it considers appropriate.
  - (3) Where an adjudication tribunal decides that a respondent is guilty, it may
    - (a) reprimand the respondent;
    - (b) order that the respondent be suspended for a fixed period that it may consider appropriate, until conditions which it may impose are fulfilled, or until further order of the adjudication tribunal;
    - (c) allow or direct the respondent to surrender his or her licence to the college upon those conditions that may be considered appropriate and strike the respondent's name from the register;
    - (d) impose a fine to be paid to the college, not to exceed \$10,000;
    - (e) order that the registrar publish a summary of the decision including the information set out in subsection 22 (4) and other information that the tribunal may specify;
    - (f) order that the respondent pay the costs or a part of the costs incurred by the college in the investigation and hearing of the complaint; and
    - (g) order that the respondent comply with one or more of the following:
      - (i) make restitution to the complainant or other person affected by the conduct of the respondent,
      - (ii) obtain medical treatment,
      - (iii) obtain counselling,

- (iv) obtain substance abuse counselling or treatment, until the respondent can demonstrate to the board or other body or person designated by the adjudication tribunal that a condition related to substance abuse rendering the respondent incapable or unfit to practise has been overcome,
  - (v) engage in continuing education programs,
  - (vi) complete a course of studies or obtain supervised clinical experience, or both, to the satisfaction of the board or other body or person designated by the adjudication tribunal,
  - (vii) report on his or her compliance with an order made under this section and authorize others involved with his or her treatment or supervision to report on it,
  - (viii) restrict his or her professional practice or continue his or her practice under specified conditions, or
  - (ix) impose other requirements that are just and reasonable in the circumstances.
- (4) The costs incurred by the college to ensure the compliance of a respondent with an order or direction of an adjudication tribunal under this section shall be borne by the respondent.

[2005 cM-1.2 s21](#)

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#### **Filing and publication of decisions**

- 22.** (1) An adjudication tribunal shall file a decision or order made under subsection 20 (2) or 21 (3) with the registrar and provide a copy to the complainant and the respondent and the respondent's employer.
- (2) The registrar shall maintain a copy of a decision or order filed under subsection (1) for a minimum of 5 years after the day the decision is filed and shall upon receiving a request to view the disciplinary records in relation to a massage therapist permit a person to view a summary of a decision where that massage therapist was the respondent, prepared in accordance with subsection (4).
- (3) The registrar shall publish a summary of a decision or order of an adjudication tribunal in a newspaper of general circulation in or nearest to the community in which the respondent practises within 14 days of the filing of the decision or order, where the decision or order
- (a) suspends the respondent;
  - (b) allows or directs the respondent to surrender his or her licence;
  - (c) restricts the respondent's practice;
  - (d) specifies conditions for the continuing practice of the respondent; or
  - (e) requires that a summary of the decision or order be published.
- (4) The summary of the decision published under subsection (3) shall include

- (a) the name of the respondent and the address where he or she practises;
  - (b) the date, location and a brief description of the conduct of the respondent that was found to be deserving of sanction;
  - (c) the name of the complainant, unless the complainant has requested that his or her name be withheld;
  - (d) the contents of the order in relation to the actions referenced in paragraphs (3)(a) to (d); and
  - (e) other information specified for publication in the decision or order.
- (5) Where a decision published under this section is varied or set aside, the registrar shall within 14 days of the filing of the subsequent decision or order publish a summary of the decision or order and subsections (3) and (4) apply, with the necessary changes.

[2005 cM-1.2 s22](#)

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### **De-registration and suspension**

**23.** (1) Where a massage therapist is struck off the register, his or her rights and privileges as a massage therapist cease.

(2) Where a massage therapist is suspended, his or her rights and privileges as a massage therapist cease for the period of suspension.

(3) Where conditions or restrictions have been imposed upon a massage therapist's ability to carry on his or her practice of massage therapy, his or her rights and privileges to practice or perform massage therapy shall be limited to the extent specified by the conditions or restrictions.

[2005 cM-1.2 s23](#)

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### **Failure to comply**

**24.** (1) On application by the college to the disciplinary panel, an adjudication tribunal may make an order suspending the rights and privileges of a respondent where it determines that he or she has failed to comply with a decision or an order made under section 20 or 21 .

(2) The parties to the application are the college and the respondent who is the subject of the application.

(3) An order of an adjudication tribunal under this section may suspend the rights and privileges of the respondent for a fixed period that the adjudication tribunal may consider appropriate, or until conditions which it may impose are fulfilled, or until further order of the adjudication tribunal.

[2005 cM-1.2 s24](#)

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**Reinstatement and readmission**

25. (1) Where, in a decision or order, an adjudication tribunal

- (a) suspends the respondent;
- (b) allows or directs the respondent to surrender his or her registration;
- (c) restricts the respondent's practice; or
- (d) specifies conditions for the continuing practice of the respondent,

and where the respondent alleges that new evidence has become available or a material change in circumstances has occurred since the making of the decision or order, the respondent may apply to the complaints authorization committee for a supplementary hearing to discharge or vary the decision or order based on the new evidence or material change in circumstances.

(2) An application under subsection (1) shall be made not more than 90 days after the new evidence becomes available or the material change in circumstances has occurred.

(3) Where an application is made to the complaints authorization committee under subsection (1), and the committee is of the opinion that new evidence has become available or that a material change in circumstances has occurred, the matter shall be referred to an adjudication tribunal as if it were a matter referred under paragraph 17 (3)(b) and sections 19 to 24 apply, with the necessary changes, to the referred matter.

(4) The parties to a supplementary hearing under this section are the respondent and the college.

(5) For the purpose of this section, in addition to an order that an adjudication tribunal may make under section 21 , a tribunal may

- (a) vary the original decision or order made under section 21 ; or
- (b) discharge the original decision or order, with or without conditions.

[2005 cM-1.2 s25](#)

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**Costs of college**

26. (1) Where a person who was ordered to pay the costs of the college under paragraph 20 (2)(f) or 21 (3)(f) fails to pay in the time required, the college may suspend the licence of that person until those costs are paid.

(2) Costs ordered by the adjudication tribunal under this section are a debt due to the college and may be recovered by the college in a civil action.

[2005 cM-1.2 s26; 2008 c47 s11](#)

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**Collection of fine**

27. (1) Where an order is made under section 20 or 21 imposing a fine on a respondent, the college may issue a certificate stating the amount of the fine due and remaining unpaid and the name of the person by whom it is payable, and file the certificate with the Registrar of the Supreme Court.
- (2) Where a certificate is filed with the Registrar of the Supreme Court under subsection (1), it has the same effect and all proceedings may be taken on the certificate as if it were a judgment of the Trial Division for the recovery of the amount stated in the certificate against the person named in the certificate.
- (3) A person named in a certificate filed under this section may, within 30 days after the certificate is filed, apply to a judge of the Trial Division for a review, on a question of law or jurisdiction, of the certificate.
- (4) On an application under subsection (3), the judge may make an amendment to the certificate that is necessary to make the certificate accord with the judge's decision.
- (5) There is no appeal from a decision of a judge made under this section.
- (6) A certificate filed under this section may also be filed in the judgment enforcement registry on the expiration of the 30 day period referred to in subsection (3) in accordance with Part III of the *Judgment Enforcement Act* and be enforced in accordance with that Act.

[2005 cM-1.2 s27](#)

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**Appeal to Trial Division**

28. (1) The college or the respondent may, within 30 days after receiving notice of a decision or order of an adjudication tribunal under this Act, appeal the decision or order to the Trial Division by filing a notice of appeal with the Registrar of the Supreme Court.
- (2) An appeal under this section does not stay the decision or order being appealed unless the Trial Division orders otherwise.

[2005 cM-1.2 s28](#)

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**Copies of books, etc. as evidence**

29. A copy or extract of a book, record, document or thing certified by
- (a) a member of the complaints authorization committee; or
- (b) a person authorized under subsection 17 (4) to conduct an inspection,
- who made the copy or extract under subsection 17 (4) is admissible in evidence in an action, proceeding or prosecution, in the absence of evidence to the contrary, as evidence of the original book, record, document or thing and its contents.

[2005 cM-1.2 s29](#)

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### **Regulations**

**30.** (1) The college may, with the approval of the minister, make regulations

- (a) prescribing conditions and requirements for the registration and licensing of persons who practise massage therapy;
- (b) respecting continuing education courses and other programs for the purpose of maintaining and improving professional standards of members;
- (c) respecting alternative dispute resolution and the procedure for that resolution;
- (d) within the limits set by subsection 10 (2), approving colleges or universities that offer courses and programs in massage therapy;
- (e) prescribing, scheduling or adopting examinations and determining the circumstances when examinations are required;
- (f) prescribing time limits for events in the disciplinary process in sections 13 to 28 including time limits for
  - (i) the filing of an allegation,
  - (ii) the resolution of an allegation by the registrar,
  - (iii) the conduct of an investigation under section 17 ,
  - (iv) consideration of an allegation by the complaints authorization committee following completion of an investigation,
  - (v) responding to a complainant and respondent at each stage of the process,
  - (vi) the conduct of a practice investigation under subparagraph 17 (3)(c)(ii),
  - (vii) the appointment of an adjudication tribunal under section 18 , and
  - (viii) the conduct of a hearing and the filing of a decision or order by an adjudication tribunal following completion of the hearing; and
- (g) generally to give effect to the purpose of this Act.

(2) Notwithstanding subsection (1), the minister may make regulations to prescribe time limits for events in the disciplinary process under sections 13 to 28 where the board does not do so in a time period the minister considers reasonable.

[2005 cM-1.2 s30](#)

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**By-laws, fees and forms**

31. (1) The college may make by-laws

- (a) providing for the holding and procedure of its meetings;
- (b) providing for the election of directors under section 3 and setting the term of office;
- (c) limiting the participation of directors in a meeting of the board by telephone or other telecommunications device;
- (d) providing for payment of travel and other expenses of elected directors;
- (e) setting the rates of remuneration for members of an adjudication tribunal;
- (f) providing for voting at a meeting of members of the college by mail or electronic means;
- (g) setting a location for the annual general meeting of the college;
- (h) establishing a code of ethics which may include a definition of "professional misconduct" and "conduct unbecoming a massage therapist" for the purposes of paragraph 13 (c); and
- (i) generally, to assist in the administration of this Act and the regulations.

(2) The college shall have its by-laws available for inspection by the public on reasonable notice and at reasonable hours.

(3) The college may set fees and establish forms for the purposes and administration of this Act and the regulations.

[2005 cM-1.2 s31](#)

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**Protection from liability**

32. An action for damages does not lie against the registrar, a member, officer or employee of the college, a person designated by the board, a member of a panel, tribunal or committee authorized under this Act, another agent of the board or the college as a corporation for an act or failure to act or a proceeding initiated or carried out in good faith under this Act, or for carrying out duties or obligations as the registrar, a member, officer, employee, designate, agent or tribunal, panel or committee member authorized under this Act or for a decision or order made or enforced in good faith under this Act.

[2008 c47 s11](#)

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**Offence**

33. (1) A person who contravenes this Act or the regulations commits an offence and is liable on summary conviction to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding one month in default of payment or to both a fine and imprisonment.

(2) Each day that an offence is committed under this Act shall be considered to be a separate offence.

[2005 cM-1.2 s33](#)

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#### **Transition**

34. (1) The members of the Newfoundland and Labrador Massage Therapists' Board on the day before this Act comes into force are continued as directors of the college until an election is held under section 5 .

(2) An election to elect the 5 directors referred to in paragraph 3 (3)(a) shall be held within one year after the day this Act comes into force.

(3) The minister shall make appointments under section 4 within 30 days of the election referred to in subsection (2).

(4) Of the directors first elected under section 5, (a) 3 shall be appointed for a term of 3 years; and

(b) 2 shall be appointed for a term of 2 years.

[2005 cM-1.2 s34](#)

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#### **SNL2001 cM-1.1 Rep.**

35. **The *Massage Therapy Act* is repealed.**

[2005 cM-1.2 s35](#)

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