

February 2002



# NEWSLETTER

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## Special Edition News Flash



### ANNOUNCING....

It is with great pleasure that the Council of the College of Physiotherapists of Manitoba

Announces that the Lieutenant Governor in Council (effectively the Cabinet) proclaimed the new *Physiotherapists Act* and Regulations at the end of December 2001.

The new Act is now in place and the Council is busy implementing the changes that are required with the new legislation. It is expected that the changes may take some time to implement in total.

This special edition of the newsletter is to inform members of the changes that

have occurred with the new legislation and the impact that these changes will have on registration, physiotherapy practice and College operations.

New “Members Reference Guides” (binders) will be distributed later in the year. These binders will contain a copy of the new *Physiotherapists Act*, Regulations, and By-laws. At the Annual General Meeting, to be held on April 18<sup>th</sup> (mark this date in your calendar!), the By-laws will be brought forward for discussion and voting. Once they have been voted on and passed, the By-laws can be distributed along with the new Act and Regulations.

### THE NEW LEGISLATION

The new *Physiotherapists Act* is divided into eight parts. The Regulations, which mainly concern registration and renewal requirements also has a “Schedule A” section which contains the Standards of Practice.

#### THE ACT:

##### PART 1: DEFINITIONS

Part One of the Act is a section on definitions. The major changes in this section are that the Association of Physiotherapists of Manitoba now becomes

the **College of Physiotherapists of Manitoba**, and the former Board now becomes a **Council**. Our former “lay members” now become **public representatives**, which reflects the new terminology of the day.

## PART 2: PRACTICE OF PHYSIOTHERAPY

The description of the practice of physiotherapy has become broader and reflects the unique aspects of physiotherapy practice which differentiates physiotherapy from other professions. The clause reads:

**The practice of physiotherapy is the assessment and treatment of the body by physical or mechanical means for the purpose of restoring, maintaining, or promoting physical function, mobility or health, or to relieve pain.**

The clause that follows this description provides further definition of included practices. This list is not meant to be all inclusive and certain practices have been added for clarity.

The clause reads in part:

A physiotherapist may plan, administer and evaluate a physiotherapy program that includes, but is not limited to, education, ergonomics and interventions such as exercise, massage, articular and soft tissue mobilizations and manipulations, acupuncture, hydrotherapy, tracheal suctioning, and the use of radiant, mechanical and electrical energy.

It should be noted that in neither our former or new legislation, do either of these sections provide physiotherapists with an exclusive scope of practice. There are a number of other professions who practice these treatment modalities. In essence, these two sections legally permit physiotherapists to practice in these areas.

Other clauses in this part address the issue of representation as a physiotherapist and use of title. Therefore, those other professionals who may be practicing shared techniques, modalities etc. are legally forbidden to call themselves

physiotherapists or give the impression that they are physiotherapists or physical therapists or that they are practicing physiotherapy. The new legislation lends clarity to the use of both titles "physiotherapist" and "physical therapist". In the former legislation, the word "physiotherapist" was protected and only by implication, the word "physical therapist".

In the former legislation, it was in this section where reference to "assessment in consultation with the patient's physician" and "the planning, administration and evaluation of remedial treatment programs...in communication with the patient's physician" were found. In the new legislation, all references to communication, consultation and physicians have been removed. This will allow patients to have total direct access to physiotherapy services according to the new legislation. Please note, that in some work settings, employer or other policy may be in place which still requires a physician's referral. Most hospitals still have by-laws in place that requires the physiotherapist to have a physician's referral before treatment can be commenced. Some third party payers also require a physician's referral.

Even though direct access now exists, the Council advises members to continue to communicate and consult with physicians on the care of their patients. The original purpose for the communication and consultation clauses was to ensure that physiotherapists were provided with full information on the patient's medical condition. The need to have this information continues to exist and it will now be the physiotherapist's responsibility to seek this information. In effect, the new legislation places more responsibility on the physiotherapist.



### **PART 3: COLLEGE OF PHYSIOTHERAPISTS OF MANITOBA**

This section provides for the College to legally replace the Association and states that the mandate of the College is to serve and protect the public interest. The number of Council members' increases to **at least nine members** and the number of public representative's increase to **at least 1/3 of the members of council**. In the past, the Board was composed of 8 members, two of whom were lay members. The Minister of Health appointed one lay member while the other was a Board appointment. The new legislation is less specific on who makes the appointments and this is a topic of current discussion for the new Council. The Council's committee structure will change from the Board's committee structure. There are fewer standing committees specified in the new legislation, although the Council can form other standing committees, as it considers necessary.

### **PART4: REGISTRATION.**

There will be some changes to the structure and/or names of the Registers (formerly called the "Rosters"). Certain information on members will be available publicly, including conditions imposed on a registration, every cancellation or suspension of registration and the results of disciplinary proceedings in which a panel has made a finding. The results of every disciplinary proceeding completed within the

past six years at which a physiotherapist's registration was cancelled, suspended, or the physiotherapist was required to pay a fine or attend to be censured (a new process) will be available to the public. A Board of Assessors (which essentially replaces our former Registration and Membership Committee and Advisory Council) will be appointed by the Council to approve applications for registration. Certain conditions for approving registration are specified within this section. One of the major changes is that the Board of Assessors will approve an applicant for registration if the graduate of a physiotherapy education program approved by Council has passed any examinations that the Council may require. In the Regulations, this required examination is the Physiotherapy Competency Examination (PCE). The Board of Assessors can also deny an application for registration and this section provides for an appeal process. There is now a section on cancellation of a member's registration, which can occur if a person's registration has been obtained by means of a false or fraudulent representation or declaration. This could apply to the declaration signed by new applicants or renewing members on the back of the renewal or application forms, which states that the information provided on the forms, is true. Registration can also be cancelled if a member has been convicted of an offence that is relevant to his/her suitability to practice physiotherapy. In future renewal forms, you will see a section that asks whether you have had a criminal conviction over the past year.



## **PART 5 Complaints**

There are major changes to the complaints process with the new legislation. One third of the members of the Complaints Committee must be public representatives. A complaint can be lodged against a member and be investigated up to five years after the physiotherapist is no longer a College member.

The Complaints Committee will attempt to informally resolve a complaint if possible. If not, the committee can appoint an investigator to conduct an investigation. Upon completion of his/her investigation, the investigator will report his or her findings to the Complaints Committee. Upon review of the report, the Complaints Committee has a number of avenues. The complaint can be forwarded to the Inquiry Committee (equivalent to the old Discipline Committee), or not be directed to Inquiry. The Committee can accept the voluntary surrender of a member's registration. If no other action is to be taken against the member, the Complaints Committee can recommend "censure". The member must appear before at least one member of the Complaints Committee for censure and will have a record with the College. The member's name may be published.

The Complaints Committee can also refer the matter to mediation if the Committee decides that the complaint is strictly a matter of concern between the complainant and the member. The Committee can also enter into an agreement with the member for one or more of the following: assessing the member's capacity or fitness to practice, counseling or treatment of the member, monitoring or supervising the member's practice, the member's completing a specified course of studies by way of remedial training, placing conditions on the member's right to practice physiotherapy. The Committee may also order the member to pay all or part of the costs incurred by the college in monitoring compliance with conditions imposed on the member's right to practice physiotherapy. If a member is censured, costs may be

assessed against the member. A member's registration can be suspended if there is perceived to be a serious risk to the public while an investigation is underway. During the course of the investigation, if the Complaints Committee comes upon information respecting possible criminal activity on the part of a member, the Complaints Committee may disclose this information to a law enforcement authority.

### **Inquiry Committee**

When a matter is referred to the Inquiry Committee (formerly the Discipline Committee), a panel composed of at least three members, including 1/3 public representatives will be established. A hearing must be called within 120 days of the matter being referred to Inquiry. The Registrar may issue a public notice of the hearing but the notice must not include the name of the investigated member. The panel may investigate and hear any other matter concerning the conduct of the investigated member that arises in the course of the proceedings. A hearing shall be open to the public but there will be no reporting in the media of anything that would identify the investigated member unless and until the panel makes a finding. A member may request a private hearing under certain conditions.

The Inquiry panel can find that the member is:

- A) guilty of professional misconduct
- B) has contravened the Act, the Regulations, the By-laws or the Code of Ethics of the College
- C) has been found guilty of an offence that is relevant to the member's suitability to practice
- D) has displayed a lack of knowledge or a lack of skill or judgement in the practice of physiotherapy
- E) has demonstrated an incapacity or unfitness to practice physiotherapy
- F) is suffering from an ailment that might, if the member continues to practice, constitute a danger to the public
- G) is guilty of conduct unbecoming a member.

The Panel may issue one or more of the following orders: A) reprimand the member B) suspend the member's certificate of registration for a stated period C) suspend the member's certificate of registration until he/she has completed a specified course of studies or supervised practice or both D) accept, in place of a suspension of the certificate of registration, the member's undertaking to limit his/her practice E) impose conditions on the member's entitlement to practice physiotherapy including conditions to practice under supervision, or to permit periodic inspections of his/her practice, or permit periodic audits of records, or report on specified matters that the panel may determine or not to engage in sole practice. The panel may also require the member to prove that a disability or addiction can be or has been overcome, and may suspend the member's certificate of registration until then. The panel may also direct the member to waive, reduce or repay money paid to the member that in the opinion of the panel was unjustified for any reason. The panel may also cancel the member's certificate of registration indefinitely. Costs and fines may also be assessed against the member. An appeal process is also specified in the Act.

#### **PART 6: REGULATIONS, BY-LAWS AND CODE OF ETHICS**

This section of the Act specifies what matters the Council can make Regulations and By-laws about and that the Council can adopt a code of ethics once the resolution is passed at a general meeting. One difference between the old and new regulations is that the Council can now make regulations respecting continuing competence programs. Under the former system, members were obligated to undertake voluntary continuing education. .

Another difference is that members are now required to carry professional

liability insurance. The regulations must be approved by a majority of the members of the College and also by the Lieutenant Governor in Council (effectively the Cabinet). The Bylaws concentrate on the administrative issues of the College including setting fees, calling meetings, voting etc. The Bylaws may be amended or repealed by a majority of the membership.

#### **PART 7: GENERAL PROVISIONS**

This section of the Act provides for the appointment of Practice Auditors who may review the operation of a physiotherapy practice and report his/her findings to the Registrar. A Practice Auditor may enter the office of a member at reasonable times and without a warrant and require the member to produce records that the Auditor considers reasonable. The Auditor may inspect the premises and remove records, substances or things for examination. The purpose of the Practice Audits is to improve physiotherapy practice and is not meant to be a punitive action. The Advisory Committee on Physiotherapy Practice is currently working on Practice Audits. The Committee is reviewing the CPA accreditation process, the Quebec inspection program and the Alberta practice review process to determine where the College should be heading with respect to Practice Audits. More information will be forthcoming to the membership as the process unfolds.

This section of the Act also contains some administrative issues as well as a section about the duty of members and employers to report other physiotherapists. CPM members have a duty to report other physiotherapists who are believed to be suffering from a physical or mental condition or disorder of a nature or to an extent that the member is unfit to continue to practice or that the member's practice should be restricted. Employers have a responsibility to ensure that the physiotherapist they hire is registered under the Act for the duration of the period of employment. Also, a person who employs a physiotherapist and later

terminates the physiotherapist's employment for misconduct, incompetence or incapacity is required to immediately

report the termination to Council and give the physiotherapist a copy of the report.

## THE REGULATIONS

There are 22 sections in the regulations. The majority of the sections concern registration information. Attached to the regulations is Schedule A the new Standards of Practice.

There are a number of changes affecting registration. The Registers (formerly "Rosters") have changed to include the Active Practice Register (formerly the Practicing Roster), the Inactive Register (formerly the Non-Practicing Roster), a Temporary Practice Register (formerly Associate: Special Cause Roster), the Examination Candidate Register (formerly the Associate Examination Candidate Register and Re-Entry Roster). The old Intern Roster is now the Student Register. The Conditional Roster no longer exists. Instead, a member can have a condition placed on his/her Active Practice registration.

The Regulations specify what information is to be kept on the Registers about members. In addition to the information kept currently, information about conditions imposed on a physiotherapist's registration or cancellation, suspension or non-renewal of registration, the results of disciplinary proceedings in which the panel made a finding, is to be made available to the public. Home addresses and telephone numbers and date of birth are kept confidential from the public.

Applicants for registration who graduate from a physiotherapy program after January 1, 2002 will be required to undertake the Physiotherapy Competency Examination. Applicants who have graduated prior to this date but have been registered elsewhere in good standing are

grandfathered. The Board of Assessors may also review other applicants on a case by case basis for prior learning and experience for those considered to be beyond entry level but do not "fit" into other categories.

Physiotherapists must be able to write and speak in fluent English or French according to criteria established by the Council. Applicants must not suffer from a physical or mental condition, disorder or addiction to alcohol or drugs that makes it desirable in the public interest that he or she does not practice physiotherapy. Applicants must meet the liability insurance requirement, which is currently a minimum of five million dollars of coverage. New applicants must provide evidence that he/she has not been convicted of an offence that is relevant to his/her suitability to practice, which entails a criminal record check. New applicants must also provide proof of membership in good standing from the last two jurisdictions in which he/she worked. Evidence of having practiced as a physiotherapist for a minimum of 1200 hours in the last five years, is also required unless the applicant is a new graduate.

The Examination Candidate Register will be utilized by those applicants who are required to undertake the Physiotherapy Competency Examination in order to license on the Active Practicing Register: new physiotherapy graduates, re-entry to practice candidates and foreign educated candidates. New physiotherapy graduates will be allowed to practice on this register under mentored practice while re-entry and foreign educated applicants must practice under supervision. Applicants on the Examination Candidate Register must provide a criminal record check and

evidence of liability insurance coverage. The applicant must take the examination at the first available opportunity after having had his/her name registered on this register and may take the examination no more than three times within a two year period. The regulations provide for exceptions to the above where there are extenuating circumstances.

There are provision for disclosure of information concerning findings by another professional regulatory body, current proceedings by a professional regulatory body, denial of registration by a professional regulatory body and conviction for an offence under the Criminal Code of Canada, the Controlled Drugs and Substances Act or the Food and Drugs Act or a criminal or penal statute of a jurisdiction outside of Canada.

Temporary Practice registration may be offered to a qualified applicant from another jurisdiction who wishes to practice physiotherapy for a special purpose and for a limited time. This could be someone coming to Manitoba to teach a course or to provide physiotherapy at a sports event.

The Regulations also contain sections on converting registration from one register to another and the requirements for renewal.

There are several changes to the renewal of registration. Proof of liability insurance coverage at a minimum of five million dollars now becomes a renewal requirement. As well, evidence of having practiced as a physiotherapist for a minimum of 1200 hours over the past five years is now a requirement for renewal. This requirement will be phased in over the next few years and more information will be provided later about the "phase in". Declaring that the member has not been convicted of an offence within the current

registration period will also be a requirement. You will notice a change in the renewal form next year as the College makes these changes. The Council has decided that members must carry the minimum amount of liability insurance this year and you will find further information on this topic with this mailout.

The Regulations will have to be reviewed by the Council five years after coming into effect to assess the effectiveness of operation.

Schedule A contains several pages of the new Standards of Practice. This is an expanded section from the information contained in the old By-laws with respect to standards. Because these standards are now contained in the regulations, they are more enforceable by the College. These standards were written by the Ethics Committee and reviewed by several committees and the Board of the Association of Physiotherapists of Manitoba. There are separate sections pertaining to the use of assistants, acupuncture, spinal manipulations and the descriptions of member's qualifications included in the standards.

The Legislative Committee is currently reviewing and amending the By-laws, which will be brought to the membership at the annual general meeting. The Council is planning to pre-circulate the by-laws early enough that responses, amendments, concerns and other comments (good comments too!) can be raised prior to the AGM. If changes are required, the Council can make the changes prior to the AGM and bring these forward at the meeting. The Council is hoping that this will enhance the passage of the By laws at the AGM in order to avoid calling a special meeting later this year or leaving the By laws until the next AGM.





## ANNUAL GENERAL MEETING Nominations for Council

At the Annual General Meeting of the College of Physiotherapists of Manitoba to be held **Thursday, April 18, 2002**, there will be an election for two (2) new Council members of the College. Please consider nominations for these positions. We encourage you to nominate a member for a position on the Council. Call the CPM office (204) 287-8502 for a nomination form.

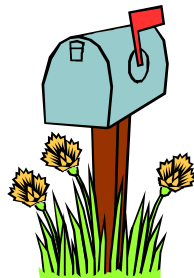
Nominations may be sent to the Nominating Committee:

Marlene Graceffo  
Cathy Jones

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### Reminder:

If you are presently on the Inactive register and planning to return to work, you must contact the CPM office in order to change your licensing status to the Practicing register **prior** to returning to work.

If you have any changes of employment, address or name, you are required to notify CPM of such changes