



College of Massage Therapists of British Columbia

#103-1089 West Broadway, Vancouver, BC Canada V6H 1E5

Tel: (604) 736-3404 Fax: (604) 736-6500

Email: office@cmtbc.bc.ca

LEGISLATION

There are three levels of legislation governing massage therapy in British Columbia:

1. *Health Professions Act* of British Columbia
2. The Massage Therapists Regulation (made pursuant to the *Act*)
3. Bylaws of the College of Massage Therapists of British Columbia

Note: Copies of the HEALTH PROFESSIONS ACT and the Massage Therapists Regulations can be purchased from Crown Publications, 521 Fort Street, Victoria, BC V8W 1E7; phone: (250) 386-4636 or fax: (250) 386-0221. The Bylaws are presented here:

BYLAWS OF THE COLLEGE OF MASSAGE THERAPISTS OF BRITISH COLUMBIA

(Office Consolidation)

Approved by the Lt. Governor in Council under Order in Council No.1032/95

Effective August 18, 1995 with amendments to September 14, 2001

OFFICE CONSOLIDATION

This office consolidated version of the bylaws of the College of Massage Therapists of BC has been prepared as an administrative convenience. For the purposes of interpreting or applying the law, readers are advised to refer to the original versions on file with the Registrar at the following address. These Bylaws are also posted, and updated from time to time, on the CMTBC website at the address noted below. If you have any comments to offer concerning these Interim Bylaws, please submit them, in writing, to:

College of Massage Therapists of British Columbia
103 - 1089 West Broadway
Vancouver, BC
V6H 1E5

Fax: (604) 736-6500
Email: office@cmtbc.bc.ca
Website: www.cmtbc.bc.ca

TABLE OF CONTENTS

1 [Definitions & Interpretation](#)

[PART A: BOARD OF THE COLLEGE](#)

2	Composition
3	Notification of a Vacancy
4	Nomination Procedure
5	Election Procedures
6	Terms of Office
7	Removal of Elected Board Members
8	Vacancies
9	Payments
10	President
11	Vice-President and Acting President
12	Board Meetings
13	Open meetings, unless...
14	Quorum at Board meetings
15	Procedures at Board meetings
16	Special meetings of the Board
17	Powers of the Board
18	Rules of conduct/Conflicts of interest

[PART B: COLLEGE COMMITTEES](#)

19	Committee membership
20	Powers and duties of committees
21	Committee procedures
22	Sub-committees or panels
23	Accreditation Committee
24	Registration Committee
25	Inquiry Committee
26	Discipline Committee
27	Quality Assurance Committee
28	Patient Relations Committee
29	Other Committees

[PART C: COLLEGE ADMINISTRATION](#)

30	Seal
31	Registrar
32	Deputy Registrar
33	Inspectors
34	Fiscal Year
35	Financial Authority
36	Borrowing Powers
37	Investment Income
38	Auditor
39	Legal Counsel
40	Annual General Meeting
41	Special General Meeting
42	Quorum for Annual or Special General Meetings

- 43 Resolutions
- 44 Voting on a resolution at general meetings
- 45 Voting for resolutions by proxy

PART D: REGISTRATION

- 46 Registers of Massage Therapists
- 47 Application to become an Active Registrant
- 47.1 Investigation of an application for registration
- 47.2 Time-Limited Conditional Registration
- 48 Rights of an Active Registrant
- 49 Inactive Registrant
- 50 Honorary Registrant
- 51 Certificate of Registration
- 52 Renewal of Registration
- 53 Fees
- 54 Notification of membership cards
- 55 Failure to pay annual fee/Extension of payments/reinstatement
- 56 Inactive Registrant becoming Active
- 57 Registration Examinations
- 58 Disqualifications
- 59 Registration Examination Fees
- 59.1 Cancellation fee
- 60 Transition re: Repealed Accreditations
- 61 Accreditation of academic programs
- 62 Continuing Education
- 63 Liability Insurance

PART E: INVESTIGATION AND DISCIPLINE

- 64 Definitions
- 65 Mediation
- 66 Inquiry
- 67 Diversion agreement
- 68 Procedures of the Discipline Panel
- 69 Discipline
- 70 Reinstatement
- 71 [Vacant]
- 72 [Not approved under O/C 1032/95]
- 73 Disclosure
- 74 [Vacant]

PART F: PROFESSIONAL STANDARDS

- 75 Code of Ethical Conduct and Standards of Practice
- 76 *[Repealed]*
- 77 *[Vacant]*
- 78 Guidelines

PART F.1: ADVERTISING AND OTHER MARKETING ACTIVITIES

- 78.1 Definitions
- 78.2 General Rule
- 78.3 Quality of a marketing activity
- 78.4 Speaking on behalf of the College

- 78.5 Endorsing a product or service
- 78.6 Statement of fees
- 78.7 Use of titles in advertising
- 78.8 Restriction of specialist titles
- 78.9 Permitted practice descriptions
- 78.1 Advertising of services that fall outside the scope of practice
- 78.11 Advertising if dual-registered
- 78.12 Advertising with others
- 78.13 Retention of advertisements
- 78.14 Duty to verify

PART G: PROFESSIONAL CORPORATIONS

- 79 Application for a permit
- 80 Corporate name
- 81 Permits
- 82 Change of corporate name
- 83 Disclosure of status
- 84 Renewal of permits
- 85 [Not approved under O/C 1032/95]
- 86 Cancelled permits
- 87 Change of information set out in applications

PART H: MISCELLANEOUS

- 88 Review of Accounts

Schedule "A": Solemn Declaration

Schedule "B": Accredited Educational Programs

Schedule "C": Code of Ethical Conduct

Schedule "D": Standards of Practice

Definitions and Interpretation

1(1) The words or phrases defined under the Act or the Regulation apply to these Bylaws.

(2) In these Bylaws:

"Accredited Educational Program" means an educational program operating in the province of British Columbia that has been accredited under these Bylaws and is listed in Schedule "B";

"Accreditation Standards" means the standards approved by the Board that set out the curriculum and other requirements for an educational program operating in British Columbia to become accredited under these Bylaws;

"Act" means the Health Professions Act, S.B.C. 1990, c.50, as amended from time to time;

"Active Registrant" means a person who is registered on the Register of Massage Therapists (Active) in accordance with these Bylaws;

"Board" means the Board of the College, established in accordance with section 16(1) of the Act;

"Bylaws" means these bylaws established in accordance with section 18 of the Act;

"College" means the College of Massage Therapists of British Columbia, established in accordance with section 15(1) of the Act and as prescribed by section 2(2) of the Regulation;

"Conditional Registrant" means a person who is registered on the Register of Massage Therapists (Conditional) in accordance with these Bylaws; *(Added by O/C 829/01 effective September 14, 2001)*

"Conflict of Interest" means when a Registrant's ability to protect and serve the interests of a patient is compromised to any extent by the interests of the Registrant; *(Added by O/C 65/01 effective January 25, 2001)*

"Consent" means the agreement of a patient verbally or in writing to proceed with treatment which has been duly explained by a Registrant; *(Added by O/C 65/01 effective January 25, 2001)*

"Elected Board Member" means a member of the Board elected by the membership in accordance with these Bylaws;

"Former Rules" means the Rules - Massage Practitioner Section that were approved by the Massage Practitioners Section of the Association of Physiotherapists and Massage Practitioners under the authority of the Physiotherapists Act, and include the Code of Ethics, being Schedule "A" to those Rules;

"Health Care Record" includes a clinical record, medical file, information relating to the medical, psychiatric, or psychological history of a patient, documents, drawings, photographs, letters, papers, and any other thing on which information is recorded or stored by graphic, electronic, mechanical or other means, but does not include a computer program or any other mechanism that produces Records; *(Added by O/C 65/01 effective January 25, 2001)*

"Honorary Registrant" means a person who is registered on the Register of Massage Therapists (Honorary) in accordance with these Bylaws;

"Inactive Registrant" means a person who is registered on the Register of Massage Therapists (Inactive) in accordance with these Bylaws;

"Licensed Practitioner" means a health care practitioner who is registered or licensed to practice in BC pursuant to the Act or another health care profession statute, and includes but is not limited to another Registrant, a medical practitioner, a naturopathic doctor, a chiropractor, a physical therapist or an acupuncturist; *(Added by O/C 65/01 effective January 25, 2001)*

"Locum" means a Registrant who temporarily replaces another Registrant; *(Added by O/C 65/01 effective January 25, 2001)*

"massage therapy" has the meaning prescribed under section 1 of the Regulation;

"President" means the president of the Board elected in accordance with these Bylaws;

"Professional Misconduct" means that a Respondent has:

- (a) been found guilty of a criminal or other offence that is relevant to the member's suitability to practise or that would be an act of professional misconduct as defined in clauses (c) through (q);
- (b) been found by any other regulatory body to have committed an act that would, in the opinion of the Discipline Committee, be an act of professional misconduct as defined in clauses (c) through (q);
- (c) committed an act of sexual misconduct;
- (d) contravened a term, condition, or limitation imposed on her certificate of registration;
- (e) been found by a panel of the Discipline Committee to have contravened a provision of the Code of Ethical Conduct or the Standards of Practice; *(Amended by O/C 65/01 effective January 25, 2001)*
- (f) practised the profession while her ability to do so was impaired by any substance;
- (g) prescribed, dispensed, sold or administered drugs for an improper purpose;
- (h) discontinued professional services that were needed unless
- (i) the patient requested the discontinuation,
- (ii) alternative services were arranged or the patient was given a reasonable opportunity to arrange alternative services, or
- (iii) there had been a failure to establish a therapeutic relationship;
- (i) given information about a patient to a person other than the patient or his representative except with the consent of the patient or his representative or as required or allowed by law and these Bylaws and the Act;
- (j) falsified a record relating to her professional practice;
- (k) failed to provide a patient access to his health care records where required under these bylaws;
- (l) signed or issued, in her professional capacity, a document that she knew or should have known contained a false or misleading statement;
- (m) submitted an account or charge for services that she knew or should have known was false or misleading;
- (n) employed someone who is not a Registrant to perform one of the acts reserved to Registrants under the Regulation;
- (o) committed an act of negligence;
- (p) submitted an unfounded or a malicious complaint concerning another Registrant;
- (q) contravened a provision of the Act, the Regulation or these Bylaws.

"Public Representative" means a member of the Board appointed by the Minister as a public representative in accordance with section 16(3)(b) of the Act;

"Register" means the Register of Massage Therapists and any other register kept by the Registrar in accordance with section 20 of the Act and these Bylaws;

"Registrant" means any person registered with the College in accordance with the Act and these Bylaws and, where the context requires, includes an Active Registrant, a Conditional Registrant, an Inactive Registrant or an Honorary Registrant; *(Amended by O/C 829/01 effective September 14, 2001)*

"Registration Examination" means the examination that applicants to the College are required to write under these Bylaws to become a Registrant, and includes a theoretical examination, given orally or in writing, a practical examination, or any combination of these, and a re-examination;

"Registrar" means the Registrar of the College appointed by the Board in accordance with these Bylaws and, where necessary, includes the Deputy-Registrar;

"Regulation" means the Massage Therapists Regulation, being B.C. Reg. 484/94, as amended from time to time;

"Sexual Conduct" means sexual intercourse or other forms of physical sexual activity, as well as speech and gestures of a sexual nature; *(Added by O/C 65/01 effective January 25, 2001)*

"Student Intern" means a student enrolled in an Accredited Educational Program for massage therapy; *(Added by O/C 65/01 effective January 25, 2001)*

"Vice-President" means the Vice-President of the Board elected in accordance with these Bylaws.

(3) Words importing the singular include the plural and vice versa, and words importing the male person include a female person and a corporation.

(4) Except as these Bylaws otherwise provide, Robert's Rules of Order, Revised shall govern the procedures at

(a) any meeting of the Board or its committees;

(b) the annual general meetings, a special general meeting or any other meeting of the College.

PART A: BOARD OF THE COLLEGE

Composition

2(1) The Board shall be composed of six Elected Board Members and no less than three Public Representatives.

(2) The members of the Board shall elect from amongst the Elected Board Members the President, Vice-President and Treasurer, and the remaining Elected Board Members are thereby deemed to be Members at Large.

Notification of a Vacancy

3. At least six weeks prior to the end of the term of office of an Elected Board Member, the Registrar shall inform every Registrant concerning

(a) the pending vacancy,

(b) the nomination deadline and procedures, and the election procedures, and

(c) the time and date of the election,

and do so by sending a written notice to the last known address of each Registrant on file with the College.

Nomination Procedure

4(1) Only an Active Registrant in good standing may stand for election.

(2) Any Registrant may nominate an Active Registrant, also in good standing, to fill a vacancy amongst the Elected Board Members, but may nominate no more than two Active Registrants for any given vacancy.

(3) A Registrant nominating an Active Registrant shall submit the nomination to the Registrar, together with a letter of consent from the nominee, at least one week prior to the expiry of the term of office.

(4) Before the Registrar accepts a nomination,

(a) the Registrar shall confirm that the nominee is an Active Registrant in good standing, and

(b) the nominee shall declare in writing that she will observe the provisions of the Act, the Regulation, these Bylaws and the election procedures.

(5) The Registrar shall disqualify any nominee whose conduct during a nomination or election contravenes the Act, the Regulation, these Bylaws or the election procedures.

Election Procedures

5(1) The Board shall designate the time and date of an election.

(2) Only Active Registrants in good standing are entitled to vote at an election.

(3) Active Registrants shall vote by a show of election voting cards, except where a secret ballot is requested by a majority of the Active Registrants present.

(4) Active Registrants who are unable to be present at a meeting may cast an election vote by proxy on the following conditions:

(a) the proxy shall be in writing and in the form prescribed by the Board;

(b) the proxy shall be deposited with the Registrar not less than 10 days before the election day of the meeting, in default of which the proxy is invalid;

(c) no Registrant shall act as a proxy unless entitled on her own behalf to vote;

(d) no proxy shall confer power of substitution;

(e) the proxy shall not be received unless all fees due to the Board by the Registrant signing the proxy are paid 10 days prior to the meeting at which the proxy is to be used.

(5) No Active Registrant shall carry more than 10 election proxy votes. *(Amended by O/C 684/01 effective July 23, 2001)*

(6) In the case of a tie vote on an election, the Registrar shall cast one additional vote for one of the tied candidates by lottery.

(7) The Registrar shall supervise and administer all Board elections and may establish procedures, consistent with these Bylaws, for that purpose.

(8) Where the number of nominees is less than or equal to the number of positions, the Registrar will declare the nominees to be elected by acclamation.

Terms of Office

6(1) The term of office for an Elected Board Members commences on the day he or she is elected and ends two years later. *(Amended by O/C 835/97 effective July 24, 1997)*

(1.1) Notwithstanding subsection (1), if an annual general meeting has not taken place within sixty days, before or after, of the time his or her term of office ends, that member's term of office shall extend beyond two years and continue to the next annual general meeting, but in no event shall the term extend beyond three years from the day he or she is elected. *(O/C 835/97 effective July 24, 1997)*

(2) A member of the Board who has held office for two consecutive terms is not eligible for re-election to the Board for a period of one year from the end of his last term of office.

(3) An Elected Board Member may resign at any time by delivering a notice in writing to the Registrar and that resignation takes effect immediately upon receipt of the notice by the Registrar.

(4) A member of Board who resigns or whose appointment term has ended

(a) may continue to serve until a successor is appointed, and

(b) even if a successor is appointed, may continue to serve as a member of a committee, sub-committee or panel to complete work commenced before that resignation or end of term.

(5) The immediate Past President may continue for a period of one year from the end of his/her term as President to attend Board meetings as a non-voting advisor to the Board.

(Amended by O/C 539/98 effective April 23, 1998)

Removal of Elected Board Members

7(1) Elected Board Members can be removed from office by a resolution of the Board or by a special resolution at a meeting of Active Registrants.

(2) A resolution to remove an Elected Board Member shall not be deemed to have been passed by the Board or the Active Registrants unless at least a 75% majority of the Board members or the Active Registrants present and voting, including proxies, have voted in

favour of the resolution, provided that the notice of said meeting specified the intention to propose such a resolution.

Vacancies

8. Any vacancy of an Elected Board Member that may arise between elections may be filled by an affirmative vote of at least two-thirds of the remaining Board members appointing a Active Registrant in good standing for the remainder of the absent member's term.

Payments

9(1) The Board may fix and pay out of the funds of the College the salary, remuneration, honorarium or fee to be paid to each officer, employee or servant of the College, or to any member of Board or a committee who renders services to the College, and may reimburse a person for expenses incurred in respect of the affairs of the College.

(2) *[Not approved under O/C 1032/95]*

(3) All payments on behalf of the College above \$200 shall be made by cheque, and the cheques shall be signed by a Board member so designated by the Board, and by the Registrar.

President

10(1) The President shall be elected by the Board for a two year term.

(2) The President

(a) presides as the chair at all meetings of the College and Board at which he is present,

(b) subject to these Bylaws, is an ex officio member of all committees,

(c) signs all certificates, diplomas and other instruments executed on behalf of the College as required,

(d) signs the minutes of each meeting when approved by the Board,

(e) regulates the time, place, calling and conduct of meetings of the Board and general and special meetings of Active Registrants.

(f) acts generally in accordance with the requirements of his office for the proper carrying out of the duties of the Board.

Vice-President and Acting President

11(1) The Vice-President shall be elected by the Board for a two year term.

(2) The Vice-President shall perform the duties of the President in the absence of or as requested by the President.

(3) In the absence of both the President and the Vice-President, an acting president for a meeting shall be elected by a majority vote of

(a) the remaining members of Board, in the case of a Board meeting, and

(b) the Active Registrants present, in the case of a general meeting.

Board Meetings

12(1) The Board shall meet at least six times a year. *(Amended by O/C 312/99 effective March 11, 1999)*

(2) The Registrar shall

(a) call a meeting of the Board at the request of either the President or any three Board members, and

(b) inform Registrants and the public of Board meetings, and do so in a manner, form and time that he considers appropriate in the circumstances.

Open meetings, unless...

13(1) All meetings of the Board shall be open to Registrants and the public.

(2) Notwithstanding subsection (1), the Board may exclude any person from all or part of a meeting, if it is satisfied that, a matter may be disclosed of such a nature that the desirability of avoiding public disclosure of that matter in the interest of any person affected or in the

public interest outweighs the principle that Board meetings be open to the public.

(3) If the Board excludes any person from all or part of a meeting, the reasons for doing shall be noted in the minutes of that meeting.

Quorum at Board meetings

14(1) A majority of the Board constitutes a quorum at Board meetings.

(2) If a quorum is not present after the expiration of 30 minutes from the time fixed for the meeting, the President or the chair present may adjourn the meeting and fix the time and place of the re-scheduled meeting.

Procedures at Board meetings

15(1) The Board may conduct meetings in writing, by electronic means, conference telephone, or any combination of these.

(2) Voting by members of Board shall be by show of hands except where a secret ballot is requested by a majority of the Board members in attendance.

(3) Where a secret ballot is requested and a member is attending that meeting through a conference call, the member in question may designate another member present at the meeting to vote on her behalf.

(4) A written resolution signed in counterpart by every member of the Board is valid and binding and of the same effect as if such resolution had been duly passed at a meeting of the Board. *(Amended by O/C 86/97 effective January 24, 1997)*

Special meetings of the Board

16(1) The President or any five Board members may call a special meeting of the Board.

(2) Except with the consent of all Board members, only the business specified in the Notice of Special Meeting shall be dealt with at a special meeting of the Board.

Powers of the Board

17. In addition to the powers, duties or functions assigned to it under sections 18 and 19 of the Act or elsewhere in these Bylaws, the Board may *(Amended by O/C 684/01 effective July 23, 2001)*

(a) upon the recommendation of the Accreditation Committee

(i) approve the Accreditation Standards, or

(ii) accredit an educational program or remove its accreditation;

(b) issue or withdraw permits issued under Part G of these bylaws.

Rules of conduct / Conflicts of interest

18(1) Board members shall adhere to the rules of conduct that the Board may approve to govern their behaviour and relationships with the College.

(2) Notwithstanding subsection (1), no Board member shall:

(a) permit their personal interests to compete with the interests of the College or the public interest;

(b) use his position on the Board to derive a personal benefit or financial gain;

(c) disclose or benefit from the use of confidential information obtained by participating on the Board.

PART B: COLLEGE COMMITTEES

Committee membership

19(1) For any committee established under the Act, these Bylaws or by the Board, the Board

(a) shall appoint the members of the committee and designate the chair or vice-chair, and

(b) may remove a member of any committee.

(2) If a committee member is removed by the Board in accordance with clause (1)(b), the

reasons for that action shall be set out in the minutes of the Board meeting where that decision was made.

(3) If a member of a committee, subcommittee or panel fails without cause to attend three consecutive meetings of that committee, subcommittee or panel, that member is deemed to no longer be a member of that committee, subcommittee or panel.

(4) No Registrant shall be appointed to or remain on a committee, subcommittee or panel,

(a) if a panel of the Discipline Committee determines that the Registrant acted in an incompetent, unethical, incapacitated or unprofessional manner, or

(b) until the expiry of a period of suspension or the completion of any other term or condition imposed by a panel.

Powers and duties of committees

20(1) If the powers and duties of a committee are not specified under the Act or these Bylaws, the Board may assign powers and duties to the committee.

(2) Except for those specified under the Act or these Bylaws, the Board may amend the powers and duties of a committee from time to time, as it deems necessary.

Committee procedures

21(1) The provisions of this and the next section apply to all committees, sub-committees or panels.

(2) A majority of the members of a committee constitutes a quorum for a committee meeting.

(3) The meetings of a committee shall be open to Registrants and the public.

(4) Notwithstanding subsection (3), the committee may exclude any person from any meeting, or part of a meeting, if it is satisfied that the conditions set out in subsection 13(2) apply.

(5) If a committee excludes any person from a meeting, the reasons for doing shall be noted in the minutes of that meeting.

(6) A committee may conduct its meetings by mail, electronic means, facsimile, or conference telephone.

(7) Once a year, each committee shall submit a written report of its activities to the Board.

Sub-committees or panels

22(1) A committee or its chair may from time to time

(a) establish a sub-committee or a panel,

(b) appoint the persons who will be members of that sub-committee or panel,

(c) appoint the chair of the sub-committee or panel, and

(d) in the case of a panel, prescribe the length of time the panel will exist.

(2) Any Registrant can be a member of a panel, but the length of time that the panel will exist shall be prescribed at the time it is established.

(3) A sub-committee or panel may exercise any power, duty or function of the committee assigned to it by the committee or the chair.

Accreditation committee

23(1) The Accreditation Committee shall consist of at least three persons appointed by the Board, including one Public Representative, one Elected Board Member and one Active Registrant.

(2) No person who is employed by, holds an interest in or provides a product or service under contract to an Accredited Educational Program or an educational program that has applied to be accredited may be a member of the Accreditation Committee.

(3) Notwithstanding subsection (2), a person who would otherwise be prevented from being a member of the Accreditation Committee by virtue of that subsection may sit on a panel of that committee as a participant or special advisor.

(4) The Accreditation Committee shall

- (a) administer the educational accreditation process of the College;
 - (b) prepare and revise Accreditation Standards for approval by the Board;
 - (c) establish for approval by the Board any fees necessary to cover the costs of
 - (i) investigating an application by an educational program that wants to become accredited, or
 - (ii) inspecting a program that has already been accredited;
 - (d) receive applications from educational programs seeking accreditation and undertake the necessary investigations of such programs;
 - (e) prepare a report with recommendations to the Board concerning an application for or an evaluation of an existing accreditation of an education institution and do so by applying the Accreditation Standards;
 - (f) inspect and monitor the quality of educational, instructional and facility standards of Accredited Educational Programs;
 - (g) inspect and, if necessary, recommend the probation, suspension or removal of the accreditation of an educational program that fails to meet the Accreditation Standards.
- (5) After the Board has approved the application of an educational program or revoked the accreditation granted to an existing educational program, the Board shall seek an amendment to Schedule "B" accordingly.

Registration Committee

24(1) The Registration Committee shall consist of at least three persons appointed by the Board, including one Public Representative, one Elected Board Member and one Active Registrant.

(2) In addition to the powers, duties or functions assigned to it under section 20 of the Act, the Registration Committee shall *(Amended by O/C 684/01 effective July 23, 2001)*

- (a) prepare the Registration Examinations to be taken by applicants;
 - (b) determine the time and place for the holding of Registration Examinations;
 - (c) designate the Chief Examiner, the Examiners and substitutes (collectively the "Panel of Examiners") and enter into contracts with members of the Panel of Examiners on behalf of the College;
 - (d) determine the procedures for the conduct of the Registration Examinations;
 - (e) review the results of the Registration Examination or re-examination for each applicant;
 - (f) make a determination concerning an applicant's qualification for registration, including an application by an Inactive Registrant who wishes to become an Active Registrant;
 - (g) ascertain if a graduate from a program that is not an Accredited Educational Program holds a degree or diploma that is substantially equivalent to one issued by an Accredited Educational Program;
 - (h) concurrent to granting registration under section 20 of the Act, submit for Board ratification a list of successful examination candidates; *(Amended by O/C 684/01 effective July 23, 2001)*
 - (i) strike a panel to hear appeals or take a complaint regarding the Registration Examination and report on same to the Board *(Amended by O/C 86/97 effective January 24, 1997)*;
 - (j) develop policy statements on the College's registration program for approval by the Board.
- (3) No member of the Panel of Examiners other than the Chief Examiner may be a member of the Registration Committee.

Inquiry Committee

25. The Inquiry Committee shall consist of at least three persons appointed by the Board, including one Public Representative, one Elected Board Member and one Active Registrant.

Discipline Committee

26(1) The Discipline Committee shall consisting of at least three persons appointed by the Board, including one Public Representative, one Elected Board Member and one Active Registrant.

- (2) No person may sit on the Discipline Committee who is also a member of the Inquiry Committee.
- (3) No member of the Discipline Committee may participate in the hearing of a matter in which she was involved as a member of the Inquiry Committee.
- (4) In addition to the powers, duties or functions assigned to it under the Act or Regulation, the Discipline Committee may establish a panel to conduct a disciplinary hearing.

Quality Assurance Committee

27(1) The Quality Assurance Committee, also known as the Quality Management Committee, shall consist of at least three persons appointed by the Board, including one Board member and two Active Registrants.

(2) In addition to the powers, duties or functions assigned to it under the Act, the Quality Assurance Committee shall:

- (a) develop continuing educational standards for Registrants;
- (b) monitor the on-going competency of Active Registrants;
- (c) monitor the re-entry to the profession of Active Registrants who were previously inactive;
- (d) review and develop for approval by the Board standards of professional practice, clinical practice guidelines and advisory statements.

Patient Relations Committee

28(1) The Patient Relations Committee shall consist of at least three persons appointed by the Board, including one Public Representative and two Active Registrants.

(2) In addition to the powers, duties or functions assigned to it under the Act or Regulation, the Patient Relations Committee shall

- (a) administer the patient relations program of the College, and
- (b) develop measures to prevent Professional Misconduct of a sexual nature, including
 - (i) educational programs or requirements for Active Registrants on this topic,
 - (ii) guidelines for appropriate conduct of Active Registrants with their patients,
 - (iii) public information material regarding the responsibilities of Active Registrants and the College's complaint and disciplinary process.

Other Committees

29. The Board may from time to time establish other committees to deal with specific issues that it deems necessary.

PART C: COLLEGE ADMINISTRATION

Seal

30(1) The Board may provide a common seal for the College.

(2) The seal of the College shall be affixed to certificates of registration and such other documents as the Board may direct by resolution and under the hands of such persons as the Board may designate.

Registrar

31(1) In the event of the office of the Registrar being vacant, the President shall make a temporary appointment of a Registrant to act as Registrar until a successor is appointed by the Board.

(2) The Registrar shall

- (a) be responsible for the funds of the College and to make deposits in a chartered bank or other similar financial institution designated by the Board,
- (b) submit at each Board meeting a report of all disbursements since the last meeting unless otherwise ordered by the Board,

- (c) prepare and table an annual report at the annual general meeting of the College,
- (d) submit a financial statement to the auditor immediately after the end of each fiscal year,
- (e) keep the records and the Seal of the College, and
- (f) perform the duties set out under the Act and the Bylaws, and other such duties as the Board may instruct the Registrar to perform.

(3) When the financial statement for the College has been certified by the auditor in writing, the

Registrar shall mail a copy thereof to each Registrant not later than the first day of June in each year.

(4) The Registrar shall be

- (a) an ex officio member of every committee of the Board, and
- (b) an Inspector for the purposes of the Act and these Bylaws.

Deputy Registrar

32(1) The Board may appoint one or more Registrants to act as Deputy Registrar.

(2) A Deputy Registrar shall

- (a) report directly to the Registrar,
- (b) perform the duties of the Registrar in her absence,
- (c) perform such duties as may be specified by the Registrar, and
- (d) hold the same authority as the Registrar under these Bylaws when exercising the duties of the Registrar pursuant the Act or these Bylaws, including the duties of an Inspector.

Inspectors

33. In addition to the powers, duties or functions assigned to Inspectors under Part 3 of the Act, an Inspector

- (a) shall report to the chair of the Inquiry Committee;
- (b) shall perform such duties as may be assigned by the Registrar, the Inquiry Committee or the Board;
- (c) may observe the practice of massage therapy by a Registrant with the prior consent of the patient being treated.

Fiscal Year

34. The fiscal year of the College shall commence on the first day of December and end on the last day of November of the following year.

Financial Authority

35. The Board may

- (a) enter into an agreement with any person on behalf of a person or class of Registrants and, subject to the Bylaws, Registrants are bound by such an agreement entered into by the Board on their behalf,
- (b) raise or secure the payment or repayment of money on behalf of and in the name of the College, in the manner it decides, in order to carry out the purposes of the College, or
- (c) invest funds of the College in lawful securities designated under the Trustee Act for the establishment of trust funds in the name of the College and may change those investments.

Borrowing Powers

36. The Registrants may, by special motion at an annual or special general meeting, restrict the borrowing powers of the Board, but a restriction so imposed expires at the next annual general meeting.

Investment Income

37. All income derived from invested funds shall be added to and become part of the ordinary income of the College.

Auditor

38. The Board shall appoint an accountant to be the auditor who shall audit the financial statement submitted to him by the Registrar immediately after the end of each fiscal year. *(Amended by O/C 86/97 effective January 24, 1997)*

Legal Counsel

39. The Board or, with the consent of the Board, any committee, sub-committee or panel may consult or retain legal counsel for the purpose of assisting the Board or that committee, sub-committee or panel in carrying out any duty or responsibility it may hold under the Act, the Regulation or these Bylaws.

Annual General Meeting

40(1) An annual general meeting of the Registrants shall be held in the Province by the end of April at a time and place chosen by the Board.

(2) Notification of the annual general meeting shall be sent out to all Registrants at least 30 days prior to the meeting.

Special General Meeting

41(1) The Board may on its own initiative call a special general meeting of the Registrants at any time.

(2) The Board shall call a special general meeting of all Registrants within six weeks after the Registrar has received a request for such a meeting signed by at least ten percent of Active Registrants.

Quorum for Annual or Special General Meetings

42. The quorum at an annual general meeting or a special general meeting shall be seventy-five (75) Active registrants or 5% of the Active Registrants, whichever is less. *(Amended by O/C 684/01 effective July 23, 2001)*

Resolutions

43(1) Any ten Active Registrants may deliver written notice to the Registrar, at least six weeks prior to the date of an annual or special general meeting of members, requesting the introduction of a resolution at that meeting.

(2) On receipt of such a notice, the Registrar will send to all Registrants, at least four weeks prior to the date of that meeting, notice of the resolution and a copy of it.

(3) If

(a) a resolution is passed by a majority of the Active Registrants present and voting at the meeting, and

(b) the total number of Active Registrants present and voting on the special resolution represents at least ten percent of all Active Registrants,

that resolution will bind the future actions of the Board to the extent that it does not compromise or conflict with section 16 of the Act or any other substantive provision of the Act or Regulations. *(Amended by O/C 684/01 effective July 23, 2001)*

Voting on a resolutions at annual or special general meetings

44(1) An Active Registrant is entitled to vote on a resolution at an annual or special general meeting.

(2) Active Registrants shall vote on a resolution by a show of resolution voting cards, except where a secret ballot is requested by a majority of the Registrants.

(3) In the case of a tie vote, the motion is deemed to have been defeated.

(4) The Registrar shall supervise and administer voting on resolutions at annual or special general meetings and may establish procedures, consistent with these Bylaws, for that purpose.

Voting for resolutions by proxy

45(1) A proxy

(a) is valid only if it was received by the Registrar at least 10 days before an annual or special general meeting, and

(b) may be used to vote only on resolutions that have been circulated in advance of the meeting.

(2) Active Registrants who are unable to be present at a meeting may vote on a resolution by proxy on the following conditions:

(a) the proxy shall be in writing and in the form prescribed by the Board;

(b) the proxy shall be deposited with the Registrar not less than 10 days before the election day of the meeting, in default of which the proxy is invalid;

(c) no Registrant shall act as a proxy unless entitled on his own behalf to vote;

(d) no proxy shall confer power of substitution;

(e) the proxy shall not be received unless all fees due to the Board by the Registrant signing the proxy are paid 10 days prior to the meeting at which the proxy is to be used.

(3) No Active Registrant shall carry more than 10 resolution proxy votes. *(Amended by O/C 312/99 effective March 11, 1999)*

PART D: REGISTRATION

Registers of Massage Therapists

46. There shall be the following Registers:

(a) the Register of Massage Therapists (Active);

(b) the Register of Massage Therapists (Inactive);

(c) the Register of Massage Therapists (Honorary).

(d) the Register of Massage Therapists (Conditional).

(Amended by O/C 829/01 effective September 14, 2001)

Application to become an Active Registrant;

47(1) To apply to become an Active Registrant, an applicant shall deliver to the Registrar

(a) a signed application for registration,

(b) the application fee and any examination fee,

(c) notarized copy or other evidence satisfactory to the Registration Committee of her degree or diploma from an Accredited Educational Program or an equivalent program,

(d) a solemn declaration in the form set out under Schedule "A" of these Bylaws,

(e) three letters of personal reference testifying that the applicant is a person of good character,

(f) any additional information that the Registrar may request.

(2) An applicant who wishes to become an Active Registrant shall prove to the satisfaction of the Registration Committee that she

(a) is a graduate of an Accredited Educational Program and began her studies at that program after the accreditation date, and

(b) has successfully completed the Registration Examination.

(3) If an applicant has not graduated from an Accredited Educational Program or has graduated from an Accredited Educational Program but began her studies at that program before the accreditation date, that applicant shall prove to the satisfaction of the Registration Committee that she

(a) is a graduate of a non-accredited educational program that the Registration Committee has determined is substantially equivalent to an Accredited Educational Program, and

(b) has successfully completed the Registration Examination.

(4) Notwithstanding the above, if after giving the applicant an opportunity to be heard the Registration Committee determines that

(a) the applicant has been expelled from an educational program,

- (b) the applicant's entitlement to practise massage therapy has been cancelled or suspended or limited in this or any other jurisdiction at any time,
 - (c) at the time of the application an investigation, review or proceeding is taking place in this or any other jurisdiction which could result in the suspension, cancellation, or limitation of the applicant's authorization to practise,
 - (d) the applicant has contravened the Act, the Regulation or these Bylaws, or
 - (e) the applicant has been convicted in Canada or elsewhere of a material offence which would be an act of Professional Misconduct, or
 - (f) the applicant is otherwise unsuitable to become a member of the College, the Registration Committee may
 - (g) grant active registration to that applicant, or
 - (h) refuse to grant registration.
- (Amended by O/C 86/97 effective January 24, 1997)*

Investigation of an application for registration;

47.1(1) For the purposes of assisting the Registration Committee in carrying out its powers under clause 20(2)(b) of the Act or these Bylaws and without derogating from those powers, the Registration Committee may appoint a Panel to investigate an applicant for membership in the College.

(2) Upon completion of its investigation, the Panel shall submit a report to the Registration Committee setting out its findings and recommendations concerning the applicant.

(3) After it has received the Panel's report, the Registration Committee may

- (a) make such further inquiries as it determines may be necessary in the circumstances, and
- (b) provide the applicant an opportunity to answer any concerns that have been raised as a result of the Panel's report or further inquiries which might result in the rejection of that application.

(4) The matters the Panel may investigate under this section include but are not limited to:

- (a) a prior or current complaint against the applicant;
- (b) whether the applicant has been expelled from an educational program;
- (c) whether the applicant's entitlement to practise massage therapy has been cancelled or suspended or limited in this or any other jurisdiction at any time;
- (d) whether, at the time of the application, an investigation, review or proceeding is taking place in this or any other jurisdiction which could result in the suspension, cancellation or limitation of the applicant's entitlement to practise;
- (e) whether the applicant has contravened the Act, the Regulation or these Bylaws;
- (f) whether the applicant has been convicted in Canada or elsewhere of a material offence which would be an act of Professional Misconduct;
- (g) any other matter that is reasonably related to the applicant's suitability to become a member of the College. *(Added by O/C 86/97 effective January 24, 1997)*

Time-Limited Conditional Registration *(Added by O/C 829/01 effective September 14, 2001)*

47.2(1) In this section "Conditional Registrant" means a massage therapist from another Canadian jurisdiction who has been registered on the Register of Massage Therapists (Conditional) in accordance with the provisions of this section.

(2) The requirements of subsections 47(2) and (3) do not apply to an application filed under this section.

(3) To become a Conditional Registrant, an applicant shall

- (a) comply with the requirements of subsection 47(1), and
- (b) prove to the satisfaction of the Registration Committee that the applicant:
 - (i) holds a valid and subsisting certificate to practice in the province of origin issued by a regulatory body pursuant to a professional governance statute;
 - (ii) is a member in good standing with that regulatory body;

- (iii) has clinical competencies that are substantially equivalent to the competencies that graduates from an accredited educational program in British Columbia obtained from the 550 hour practicum requirement,
- (iv) has an adequate knowledge of jurisprudence issues in British Columbia.
- (4) Where the Registration Committee identifies a substantial difference between an applicant's clinical experience and the experience required of a graduate from an accredited educational program, the Committee may require the applicant to obtain the equivalent competencies before being granted conditional registration.
- (5) A Conditional Registrant must, within 18 months of being registered,
 - (a) obtain the competencies required by the Registration Committee or demonstrate that those competencies were obtained after being registered in the province of origin, and
 - (b) pass an examination on the required competencies.
- (6) Notwithstanding any other provision of the Act or the Bylaws, and unless the Conditional Registrant is granted an extension by the Registration Committee, if a Conditional Registrant fails to meet the requirements of subsection (5) in the prescribed time the Conditional Registrant's registration is automatically terminated.
- (7) Until such time as a Conditional Registrant passes the required competency-specific examination, the registrant must not perform any service, technique, or procedure that relates to those competencies.
- (8) Upon successful completion of the required competency-specific examination, a Conditional Registrant is eligible to become an Active Registrant in accordance with these Bylaws.

Rights of an Active Registrant

48. Only an Active Registrant may

- (a) perform a reserved act as set out under the Regulations and prescribed by subsection 13(2) of the Act, and
- (b) use a name, title, description or abbreviation as set out under the Regulations and prescribed by section 13(4) of the Act.

Inactive Registrant

49(1) Only an Active Registrant who will not practice massage therapy for the foreseeable future may apply to become an Inactive Registrant.

(2) To apply to become an Inactive Registrant, an Active Registrant shall deliver to the Registrar

- (a) a signed application for inactive registration,
- (b) the application fee for inactive registration, and
- (c) any additional information that the Registrar may request.

(3) An Active Registrant who wishes to become an Inactive Registrant shall

- (a) agree that she will not practice massage therapy in British Columbia while an Inactive Registrant, and
- (b) prove to the satisfaction of the Registration Committee that she otherwise meets the requirements of an Active Registrant.

Honorary Registrant

50(1) Anyone may be appointed by the Board to become an Honorary Registrant.

(2) The terms and conditions for honorary registration shall be determined by the Registration Committee and set out in these Bylaws.

Certificate of Registration

51(1) Upon becoming a Registrant, the Registrar shall issue to that person a certificate of registration in a form approved by the Board.

(2) The certificate of registration may contain limitations that are permitted by the Act, the

Regulation or these Bylaws.

(3) A certificate of registration, or any renewal of a certificate of registration, is valid until the following December 31.

Renewal of Registration

52(1) Clauses (2)(a) to (d) apply to Active Registrants and clauses (2)(a) to (c) apply to Inactive Registrants.

(2) The Registrar shall renew a registration if the Registrant

(a) applies to the Registrar by December 31st and pays the fee for renewal of registration, *(Amended by O/C 829/01 effective September 14, 2001)*

(b) pays any other outstanding fee, debt or levy owed to the College,

(c) attests that the Registrant is in compliance with the Act, the Regulation, and these Bylaws, and with any limits or conditions imposed under section 39(1)(c) of the Act, and *(Amended by O/C 684/01 effective July 23, 2001)*

(d) provides proof of current and valid liability insurance as required under these Bylaws. *(Amended by O/C 86/97 effective January 24, 1997)*

Fees

53(1) The fees for application for registration shall be as follows:

(a) for active registration: \$50.00

(b) for inactive registration: \$50.00

(2) The fees for the annual renewal of registration shall be as follows:

(a) for active registration: \$330.00 *(Amended by O/C 312/99 effective March 11, 1999)*

(b) for inactive registration: \$75.00

(c) for honorary registration: NIL.

(3) If, after June 30th of any year, an Inactive Registrant returns to active status and is authorized to be registered on the Register of Massage Therapists (Active), the fee for his active registration for the balance of that year shall be \$175.00. *(Amended by O/C 684/01 effective July 23, 2001)*

Notification and membership cards

54(1) No later than 30 days before an annual renewal of registration fee is due, the Registrar shall notify Registrants of the amount of the fee and the day on which the fee is due.

(2) On payment of the renewal of registration fee and any arrears, the Registrar shall issue to the Registrant making that payment

(a) a membership card in a form approved by the Board, and

(b) a validation sticker for their certificate of registration,

to indicate that the Registrant is, subject to her compliance with the Act, the Regulation and the Bylaws, entitled to practise massage therapy in the Province as a Registrant of the College.

Failure to pay annual fee / Extension of payments / Reinstatement

55(1) If a Registrant fails to pay an annual renewal of registration fee on or before December 31, he is deemed to no longer be a Registrant unless the Board otherwise directs. *(Amended by O/C 829/01 effective September 14, 2001).*

(2) Notwithstanding subsection (1), the Registrar may extend the time a Registrant must pay the annual renewal of registration fee on such terms and conditions that the Registrar considers to be appropriate in the circumstances, but in which case the Registrant shall pay a late fee in amount equal to 20 percent of that Registrant's annual renewal of registration fee.

(3) The Registrar shall reinstate the registration of an Active Registrant who

(a) ceased to be registered by reason only of a failure to renew his registration under subsection (1),

(b) has applied for renewal of registration in the form required by the Board and has done so

not later than one year following the expiry of his registration,
(c) is not otherwise in contravention of the Act, the Regulation or these Bylaws, and
(d) has paid the renewal of registration fee and reinstatement fee in an amount equal to 50 percent of that person's annual renewal of registration fee that would have been payable during that year.

Inactive Registrant becoming Active

56(1) An Inactive Registrant residing in British Columbia shall not practice massage therapy at any time within this jurisdiction but, should that Registrant wish to practice in British Columbia, she may apply to become an Active Registrant in accordance with this section.

(2) An Inactive Registrant who has not practised massage therapy in another jurisdiction for more than 500 hours per year during the three years immediately preceding the deadline for renewing his inactive registration shall successfully complete the Registration Examination before being registered on the Register of Massage Therapists (Active).

(3) An Inactive Registrant who has practised massage therapy in another jurisdiction for more than 500 hours per year during the three years immediately preceding the deadline for renewing her inactive registration may either

- (a) successfully complete the Registration Examination, or
- (b) provide the Registration Committee with sufficient information that would allow that committee to ascertain whether that Registrant has maintained her knowledge, skills, ability, and good standing while practicing in that other jurisdiction.

Registration Examinations

57(1) All Registration Examinations required to be taken under these Bylaws shall be prepared by or under the direction of the Registration Committee.

(2) Each applicant sitting an Registration Examination shall be notified of the results of the Registration Examination or re-examination as soon as is practicable.

(3) If an applicant fails her first Registration Examination or a portion thereof, she has one opportunity to take a re-examination of the full Registration Examination or a portion thereof.

(4) If an applicant fails the re-examination, she may do one of the following:

(a) take a course on the subjects dealt with in those portions of the Registration Examination she failed on re-examination and, upon completion of those courses, apply to sit the full Registration Examination at the next available sitting, or

(b) petition the Board in writing to allow for a second re-examination on that portion of the Registration Examination that was attempted on the first re-examination and, in that petition, set out the reasons why the Board should grant that second re-examination.

Disqualifications

58(1) In this section "Examiner" means a Registrant or any other person designated by the Registration Committee to conduct or oversee a Registration Examination.

(2) If in the opinion of an Examiner, an applicant cheats or otherwise conducts himself improperly during the course of an Registration Examination, that applicant shall be disqualified from further participation in that or any other examination, except with the consent of the Registration Committee.

(3) If an applicant is disqualified under subsection (2), the Examiner or the chair of the Registration Committee shall give that applicant within 30 days of being disqualified the reasons for the decision in writing.

Registration Examination fees

59(1) The fees for Registration Examinations shall be as follows:

- (a) for full Registration Examination: \$550.00;
- (b) for partial re-examinations of the written portion: \$200.00;
- (c) for partial re-examinations of the oral/practical portion: \$350.00.

(2) Any person who fails the written portion of the Registration Examination and chooses to be re-examined on that portion is not entitled to a refund on the oral/practical portion, but shall not be charged the re-examination fee for the oral/practical portion on a subsequent re-examination of the full examination.

(Amended by O/C 86/97 effective January 24, 1997)

Cancellation fee

59.1 Any person who for any reason cannot attend a Registration Examination or any portion on the scheduled date and so informs the Registrar in writing:

(a) 15 or more days before the scheduled date is entitled to a refund of the applicable registration examination fee, less a \$25.00 administrative fee;

(b) 14 or fewer days before the scheduled date is entitled to a refund of 80% of the applicable registration examination fee.

(Added by O/C 86/97 effective January 24, 1997)

Transition re: Repealed Accreditations

60. A student who, prior to the date these Bylaws came into effect, was enrolled in an educational program that had been accredited under the Physiotherapists Act may apply to become an Active Registrant and will not be required to meet the provisions of clauses 47(3)(a), providing they submit their application before July 1, 1997.

(Amended by O/C 86/97 effective January 24, 1997)

Accreditation of educational programs

61. Upon the recommendation of the Accreditation Committee, the Board may by resolution

(a) accredit an educational programs that meets the Accreditation Standards;

(b) revoke an accreditation granted previously to an Accredited Educational Program if that program fails to maintain the Accreditation Standards, including any subsequent amendments to same.

Continuing Education

62. Active Registrants are not entitled to renew their registration unless they have filed with the Board, together with their application, proof of having met any continuing competency requirements established by the Quality Assurance Committee and approved by the Board.

Liability Insurance

63. All Active Registrants shall be insured against liability for professional negligence in an amount of at least \$1 million per occurrence.

PART E: INVESTIGATION AND DISCIPLINE

Definitions

64(1) In this Part, "Respondent" means a Registrant who has received a citation for a disciplinary hearing issued pursuant to section 37 of the Act; *(Amended by O/C 684/01 by effective July 23, 2001)*

(2) For the purpose of this Part and in accordance with section 26 of the Act, "Registrant" or "Respondent" includes a "former Registrant." *(Amended by O/C 684/01 by effective July 23, 2001)*

Mediation

65(1) In this section, "Mediation Agreement" means a written agreement between the Inquiry Committee, the complainant and the Registrant for the purposes of mediating a complaint.

(2) In accordance with section 33(6)(b) of the Act, the Inquiry Committee may recommend

that a complaint be mediated by a mediator chosen by the Inquiry Committee alone or jointly by the complainant and the Registrant. *(Amended by O/C 684/01 by effective July 23, 2001)*

(3) Mediation shall

(a) not be used without the consent of the complainant, the Registrant and the Inquiry Committee,

(b) be conducted pursuant to the terms of a Mediation Agreement, and

(c) be confidential.

(4) If admissions are made by a Registrant to the Inquiry Committee, an Investigator, the Registrar or any other official or staff person of the College in the course of negotiating a Mediation Agreement but an agreement is not reached, any such admissions may not be given in evidence at a subsequent hearing into the conduct of that Registrant.

(5) Subject to subsection (6), where an agreement has been reached through mediation, the complaint is deemed to have been resolved.

(6) If

(a) after a reasonable period of time a Mediation Agreement has not been reached, or

(b) a Registrant contravenes an agreement reached pursuant to a Mediation Agreement, the Inquiry Committee may take further action under section 33(4) of the Act. *(Amended by O/C 684/01 by effective July 23, 2001)*

(7) A breach by the Registrant of any term of the Mediation Agreement is deemed to be conduct unbecoming of a professional and may itself be the subject of an inquiry or hearing.

(8) Where the Registrant has agreed through mediation to a suspension, restriction or cancellation of practice,

(a) the name of the Registrant and the result of the mediation shall be

(i) recorded and placed in that Registrant's file by the Registrar, and

(ii) made available to the public if so requested, and

(b) a summary of that agreement shall be set out in the College's annual report.

Inquiry

66(1) Where the Inquiry Committee acts on its own motion under section 33 of the Act but before it requests a response from the Registrant, the Committee shall provide the complainant, if any, and the Registrant who is the subject of an investigation with the following: *(Amended by O/C 684/01 by effective July 23, 2001)*

(a) a notice that an investigation has been commenced and the general nature of the information regarding the matter which it has in its possession, including any written complaint;

(b) information regarding the status of the investigation within six months of the commencement of the investigation, and every three months thereafter;

(c) a copy of its decision in writing as soon as practicable.

(2) The report of the Inquiry Committee to the Board regarding its findings in an investigation shall be appended to the minutes of the meeting in which it is presented.

Diversion agreement

67(1) In this section, "Diversion Agreement" means a written agreement between the Inquiry Committee and the Registrant for the purposes of resolving a complaint or dealing with any other concern regarding a Registrant's conduct without establishing a formal inquiry.

(2) For the purposes of section 36 of the Act, if the Inquiry Committee has determined that a Registrant's conduct warrants an inquiry, at any time prior to issuing a citation in accordance with section 37(1) of the Act, the chair of the committee may enter into a Diversion Agreement with the Registrant on the following conditions: *(Amended by O/C 684/01 by effective July 23, 2001)*

(a) the Inquiry Committee is satisfied that the public can be protected by such an agreement;

(b) the Registrant admits the conduct and has shown insight into its causes and how to prevent such conduct from occurring again;

- (c) the Inquiry Committee believes that
 - (i) the conduct or its causes can be successfully remedied or treated, and
 - (ii) the member is likely to successfully pursue remediation or treatment;
- (d) entering into a Diversion Agreement is in the best interests of the public and the profession.
- (3) A Diversion Agreement shall include the following terms:
 - (a) an admission by the Registrant with respect to his conduct;
 - (b) the determinations made by the Inquiry Committee with respect to the Diversion Agreement conditions set out in subsection (2);
 - (c) the undertakings of the Registrant in respect to the proposed remedial action, including any of the matters set out in subsection 36(1) of the Act; *(Amended by O/C 684/01 by effective July 23, 2001)*
 - (d) the length of time that the undertakings shall be binding on that Registrant;
 - (e) the procedure that the Registrant must follow to be released from her undertakings;
 - (f) the consequences to the Registrant if he breaches those undertakings;
 - (g) the effect of the Registrant's undertakings and performance upon the inquiry into the Registrant's conduct;
 - (h) such other terms or conditions as the Inquiry Committee may consider necessary in the circumstances.
- (4) If admissions are made by a Registrant to the Inquiry Committee, an Investigator, the Registrar or any other official or staff person of the College in the course of negotiating a Diversion Agreement but an agreement is not concluded, any such admissions may not be admitted in evidence at a subsequent hearing into the conduct of that Registrant.
- (5) If
 - (a) after a reasonable period of time a Diversion Agreement has not been reached, or
 - (b) a Registrant contravenes an agreement reached pursuant to a Diversion Agreement, the Inquiry Committee may take further action under section 33(6) of the Act. *(Amended by O/C 684/01 by effective July 23, 2001)*
- (6) A breach by the Registrant of any term of the Diversion Agreement is deemed to be conduct unbecoming of a professional and may itself be the subject of an inquiry or hearing.
- (7) Where the Registrant has agreed under a Diversion Agreement to a suspension, restriction or cancellation of practice,
 - (a) the name of the Registrant and the result of the Diversion Agreement shall be
 - (i) recorded and placed in that Registrant's file by the Registrar, and
 - (ii) made available to the public if so requested, and
 - (b) a summary of that agreement shall be set out in the College's annual report, and
 - (c) a copy of that summary shall be sent to the complainant within 30 days of the effective date.
- (8) A complainant may, within 10 days of receiving a copy of the summary, request in writing that the Board direct the Inquiry Committee to reconsider the Diversion Agreement and shall include in that request the reasons why the complainant believes that the agreement is inappropriate or unfair and should therefore be amended.

Procedures of the Discipline Panel

- 68(1) For the purposes of this Part, a "Discipline Panel" is the panel established by the Discipline Committee pursuant to subsection 26(4).
- (2) A quorum of a Discipline Panel shall be three members.
- (3) The Registrar shall inform Registrants and the public concerning the time, date and location of a disciplinary hearing, and do so in a manner, form and time that he considers appropriate in the circumstances.

Discipline

- 69(1) The Registrar shall keep records of the results of all investigations of the Inquiry

Committee and all decisions of the Discipline Panel.

(2) The Discipline Panel shall arrange for a hearing to be recorded.

(3) A transcript shall be made available to any party upon request, but at the expense of that party.

(4) Where disciplinary proceedings result in the limitation or suspension of a Respondent's practice, the Board shall publish a notice containing

(a) the name of the Respondent,

(b) a summary of the facts of the case,

(c) a summary of the reasons for the decision, and

(d) the nature of the limitations or suspension and the date it is in effect.

(5) Where disciplinary proceedings result in the limitation or suspension of a Respondent's practice, the Board may direct the Registrar to so notify the colleges or associations responsible for the regulation of the profession in other jurisdictions.

(6) Where a complaint has been brought against a Registrant who has been previously disciplined, the previous decisions of the Discipline Committee or any panel, or any undertaking or consent given pursuant to section 36(1) of the Act (*Amended by O/C 684/01 by effective July 23, 2001*)

(a) shall be provided to the Inquiry Committee or the Discipline Panel following a determination having been made on the facts of the complaint and

(b) may be considered with respect to the penalty to be imposed by the Discipline Panel or agreed to by the Inquiry Committee.

(6) A Respondent while under suspension shall not

(a) represent herself as a Registrant or display a certificate of registration, or

(b) practise, or offer to practise, as a Registrant in any form.

Reinstatement

70(1) A Respondent whose registration has been cancelled for professional misconduct may apply to the Registration Committee for reinstatement of registration,

(a) after the period of time set out in the disciplinary decision, or

(b) if a period of time was not set out in the disciplinary decision, after the expiration of one year from the date of cancellation.

(2) When considering an application for reinstatement the Registration Committee shall consider whether

(a) the applicant poses a risk to patients or the public, and

(b) the goals of deterrence and rehabilitation, including any continuing education programs ordered by the panel, have been met.

71. [Vacant]

72. [Not approved under O/C 1032/95]

Disclosure

73(1) Where an inquiry about the registration status of a person is received by the Board or the Registrar, the Registrar shall disclose to the person making the inquiry whether or not

(a) the person is a Registrant,

(b) the person has previously been a Registrant and whether or not the person's registration was cancelled as a result of discipline proceedings,

(c) the person is a Registrant whose registration is suspended,

(d) the practice of the Registrant is restricted in any way,

(e) there are any conditions attached to the practice of the Registrant and the specifics of those conditions,

(f) the results of a mediation or a diversion agreement completed in the past three years, if any,

(g) whether or not the Registrant was found guilty of Professional Misconduct during the past three years.

(2) The Registrar may disclose other information about the Registrant that may be relevant to the inquiry and permissible to be disclosed under applicable law.

(3) Except with the consent of the person affected or as required by law, the Registrar shall not release

(a) the names of complainants, patients or their families, or

(b) information which might otherwise enable a person inquiring about the status of a Registrant to establish the identity of complainants, patients and their families.

74. [Vacant]

PART F: PROFESSIONAL STANDARDS

Code of Ethical Conduct and Standards of Practice

75. Every registrant shall comply with

(a) the Code of Ethical Conduct set out in Schedule "C", and

(b) the Standards of Practice set out in Schedule "D".

(Amended by O/C 65/01 effective January 25, 2001)

76. *(Repealed by O/C 65/01 effective January 25, 2001)*

77. [Vacant]

Guidelines

78. The Board may issue or endorse guidelines to provide general guidance to Registrants concerning the application of the standards of professional practice, the code of ethics or any other matters set out under the Act, the Regulations or these Bylaws.

PART F.1: ADVERTISING AND OTHER MARKETING ACTIVITIES (O/C 786 effective July 10, 1997)

Definitions

78.1. In this Part:

"advertisement" means the use of space or time in any type of public medium including but not limited to the internet, or the use of a commercial publication such as a brochure or handbill, to communicate with the general public or a segment thereof, for the purpose of promoting professional services or enhancing the image of the advertiser;

"marketing activity" includes

(i) an advertisement,

(ii) any publication or communication in any medium with any patient, prospective patient or the public generally in the nature of an advertisement, promotional activity or material, a listing in a directory, a public appearance or any other means by which professional massage therapy services are promoted,

(iii) contact with a prospective patient initiated by a Registrant, and

(iv) use of the name of a Registrant's clinic or business;

"unprofessional" means a marketing activity that is contrary to the best interest of the public or tends to diminish the profession's ability to provide service of the highest quality.

General Rule

78.2(1) Any marketing activity undertaken or authorized by a Registrant in respect of his or her professional services shall not be

- (a) false,
- (b) inaccurate,
- (c) reasonably capable of misleading the recipient or intended recipient,
- (d) unverifiable.

(2) If a marketing activity:

- (a) takes advantage of the weakened state, either physical or emotional, of the recipient or intended recipient, or is calculated or likely to do so;
- (b) creates in the mind of the recipient or intended recipient an unjustified expectation about the results which the Registrant can achieve, or is calculated or likely to do so;
- (c) implies that the Registrant can obtain results
 - (i) not achievable by other Registrants,
 - (ii) by improperly influencing a public body or official, or any corporation, agency or person having any interest in the welfare of the recipient, or
 - (iii) by any other improper means;
- (d) compares the quality of services provided with those provided by another Registrant, the Discipline Committee may thereby find that marketing activity violates subsection (1).

Quality of a marketing activity

78.3(1) Any marketing activity undertaken or authorized by a Registrant in respect of his or her professional services

- (a) shall not tarnish the reputation, image or stature of the profession, and
- (b) shall be dignified and in good taste

(2) Without limiting the generality of subsection (1), a graphic or other image used by a Registrant in his advertisement as a massage therapist should not suggest that some service is being provided other than massage therapy.

Speaking on behalf of the College

78.4. A Registrant shall not state publicly or imply that he or she speaks on behalf of the College or Board unless the Registrant has been expressly authorized by the Board to state the official position of the College or Board.

Endorsing a product or service

78.5. A Registrant shall not endorse or lend him/herself as a Registrant to the advertisement of any property, investment or service for sale to the public unless such property, investment or service relates directly to the profession.

Statement of fees

78.6 A Registrant who, in any advertisement, includes a statement of fees for a specific service shall

- (a) ensure that the statement sufficiently describes the fees and services so as to enable the recipient or intended recipient to understand the nature and extent of the services to be provided and the cost to the patient;
- (b) not compare the fees he or she charges to those charged by another Registrant;
- (c) state the period of time that the fee applies.

Use of titles in advertising

78.7(1) In a marketing activity or advertisement to promote his or her massage therapy practice, a Registrant shall use only those occupational titles that have been granted to Registrants under the Regulation or otherwise have been approved by the Board.

(2) For the purposes of subsection (1), the Board may by resolution

- (a) establish a list of approved occupational titles which Registrants may use in addition to those titles reserved to Registrants under the Act, or
- (b) approve such other occupational title that a Registrant has requested the Board approve.

Restriction on specialist titles

78.8. Unless otherwise authorized by the Act, the Regulation, these Bylaws or the Board, a Registrant shall

- (a) not use the title "specialist" or any similar designation, term or reference that suggests a recognized special status, accreditation or practice on any letterhead or business card or in any other marketing activity,
- (b) take all reasonable steps to discourage use, in relation to the Registrant by another person, of the title "specialist" or any similar designation suggesting a recognized special status or accreditation in any marketing activity,
- (c) in any advertisement, identify him/herself as being responsible for the practice advertised.

Permitted practice descriptions

78.9(1) In describing his or her practice as a massage therapist or as someone permitted to provide massage therapy, a Registrant may list

- (a) the services that he or she is trained in and is capable of providing as a Registrant,
 - (b) the techniques that he or she has been trained to provide as a Registrant, or
 - (c) the typical types of injuries or health problems that he or she is trained to assess and treat as a Registrant, providing however that the services or techniques or the types of injuries or problems so listed fall within the scope of practice of a massage therapist as prescribed under the Regulation or as may otherwise be approved by the Board.
- (2) In complying with subsection (1), a Registrant may state that the listed service or technique is a "preferred area of practice" but cannot otherwise use any other expression that might suggest or denote a speciality.

Advertising of services that fall outside the scope of practice

78.10. If a Registrant is also trained to provide a service or technique that falls outside the scope of practice of a massage therapist as prescribed by the Regulation,

- (a) that Registrant may advertise that service or technique so long as
 - (i) that non-massage therapy service is not linked to or associated with his or her status as a Registrant, and
 - (ii) there is a clear separation of professional services that fall within and outside the scope of practice of massage therapists;
- (b) that Registrant shall use separate letterhead, business cards, statements of account and similar documents for his or her non-massage therapy service;
- (c) that Registrant shall not bill for massage therapy services while using an occupational title of the non-massage therapy profession.

Advertising if dual-registered

78.11(1) If a Registrant is also a licensed professional with another college, that dual-registered Registrant may use the other profession's occupational title in his or her advertising, but in so doing the Registrant must clearly distinguish between the services he or she provides as a member of the college so that the public would not be confused by the dual listing.

(2) A dual-registered Registrant

- (a) shall use separate letterhead, business cards, statements of account and similar documents for each college that he or she is a member of, and
- (b) shall not bill for massage therapy services while using the occupational title of the other profession.

Advertising with others

78.12. If a Registrant is advertising his or her services in conjunction with other persons, that Registrant shall ensure that there is a clear separation of their respective services so that the public would not be confused about which person provides which service.

Retention of advertisements

78.13. A Registrant shall

- (a) retain for one year after the date of publication or broadcast any advertisement, and
- (b) provide to the Board upon request
 - (i) a copy of any publication,
 - (ii) a recording of any broadcast over any electronic media, including radio, television and microwave transmission, and
 - (iii) a written record of when and where the publication or broadcast was made.

Duty to verify

78.14. It is the duty of the Registrant to verify the statements made in his or her marketing activity when called upon to do so by the Discipline Committee, Inquiry Committee, or the Board.

PART G: PROFESSIONAL CORPORATIONS

Application for a permit

79. A company may apply to the Board for a permit to carry on the business of providing massage therapy services to the public by delivering to the Board

- (a) a completed permit application in a form approved by the Board,
- (b) a notarized copy of the certificate of incorporation of the company and any other certificates which reflect a change in name,
- (c) evidence that the controlling interest in the company is held by Active Registrants, and
- (d) a permit fee in the amount of \$200.00.

Corporate name

80. A health profession corporation must not use a name which

- (a) is identical to that under which another health profession corporation holds a valid permit issued under this part,
- (b) so closely resembles the name of another health profession corporation which holds a valid permit issued under this part that it is likely to confuse or mislead the public.

Permits

81(1) The Board shall issue to a company which has complied with the Act and these bylaws a permit entitling the company to carry on the business of providing massage therapy services to the public.

(2) A permit issued under subsection (1) is valid for one year.

Change of corporate name

82(1) A health profession corporation that intends to change its name shall apply to the Board, in a form approved by the Board, for a certificate that the College does not object to the intended name of the health profession corporation.

(2) Section 80 applies to an application under this section.

(3) The Board shall issue a new permit to a health profession corporation which

- (a) has received a certificate that the College does not object to the intended name change, and
- (b) has delivered to the Board a notarized copy of the certificate of the Registrar of

Companies showing the change of name and the date it is effective.

(4) Subject to section 85, a permit issued under this section is valid until the date on which the permit it replaces would have expired.

Disclosure of status

83. A health profession corporation which carries on the business of providing massage therapy services to the public must disclose on all letterhead and business cards, and in all other advertisements, that the massage therapy services are being provided by a health profession corporation.

Renewal of permits

84(1) A health profession corporation which intends to continue to provide massage therapy services to the public must, before its permit expires, apply to the Board for a renewal of the permit.

(2) A renewal application shall include

(a) a completed permit renewal application in a form approved by the Board, and

(b) a renewal fee in the amount of \$50.00.

(3) The Board shall, subject to subsection 43(2) of the Act, issue to a health profession corporation which has *(Amended by O/C 684/01 by effective July 23, 2001)*

(a) applied to the Board for a renewal of its permit in accordance with subsection (1), and

(b) complied with the Act and these bylaws,

a renewal permit entitling the health profession corporation to carry on the business of providing massage therapy services to the public.

(4) Subject to section 85, a renewal permit issued under this section is valid for one year.

85. *[Not approved under O/C 1032/95]*

Cancelled permits

86. If a company which has had its permit cancelled under section 44 of the Act wishes to obtain a new permit, it must apply to the Board in a form approved by the Board in which case sections 79 and 80 apply. *(Amended by O/C 684/01 by effective July 23, 2001)*

Change of information set out in applications

87. The president of a company or his designate must promptly advise the Board in writing of any change to the information which was contained in the permit application or permit renewal application most recently delivered to the College.

PART H: MISCELLANEOUS

Review of Accounts

88(1) If any person who is obliged to pay a Registrant's account applies in writing for a review of that account

(a) within three months after it is rendered, or

(b) within such further period as the Registrar considers reasonable in the circumstances, and encloses a copy of the account, the Registrar shall

(c) review that disputed account, and

(d) determine the proper amount the Registrant may charge if different than the amount in dispute.

(2) If the fee set forth in the account under review is not in accordance with the range of fees customarily charged by other Registrants at the time the services were rendered, the Registrar shall fix a fee which she considers to be reasonable, proper and customary.

(3) Before making a determination under subsection (2), the Registrar shall give the

Registrant whose account is in dispute an opportunity to explain why a different fee should not be fixed by the Registrar.

(4) The Registrar shall deliver written notice to the patient and to the Registrant concerned advising of the fee the Registrar has fixed.

(5) If the Registrant fails to repay to the patient forthwith any amount which the patient has paid in excess of the fee fixed by the Registrar, the Registrant may be found to have engaged in Professional Misconduct.

Schedule "A": Solemn Declaration

CANADA, PROVINCE OF BRITISH COLUMBIA, IN THE MATTER OF AN
APPLICATION FOR REGISTRATION IN THE COLLEGE OF MASSAGE THERAPISTS
OF BRITISH COLUMBIA

TO WIT:

I, _____ [name in full], of _____
[address] in the city of _____, in the Province of British Columbia do
solemnly declare that:

1. I have not been
 - (a) convicted in Canada or elsewhere of any offence that, if committed by a person registered under the Act or Bylaws, would constitute unprofessional conduct or conduct unbecoming a person registered under the Act and Bylaws,
 - (b) expelled from a program of study in massage therapy or otherwise forced to quit such a program.
2. My past conduct does not demonstrate a pattern of incompetency or untrustworthiness which would make my registration under the Act and Bylaws contrary to the public interest.
3. I am a person of good character.
4. My entitlement to practice massage therapy has not been limited or restricted, cancelled or suspended or had conditions attached thereto in any jurisdiction at any time.
5. At the present time, no investigation, review or proceeding is taking place in any jurisdiction which could result in the suspension or cancellation of my authorization to practise massage therapy in that jurisdiction.
6. I intend to take the Registration Examination as required by the College.
7. I, having read the Health Professions Act of British Columbia and the Massage Therapy Regulation and the Bylaws of the College of Massage Therapists in force pursuant thereto, do declare that I will uphold the honour and dignity of the profession and adhere to the Health Professions Act, the Regulation and the Bylaws of the College of Massage Therapists in force pursuant thereto.

AND I make this solemn declaration, conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

DECLARED before me at the city of _____,
_____, in the Province of
British Columbia], this _____ day of
_____, _____ [year]

Signature of a Commissioner for taking
Affidavits in [British Columbia]

Signature of Applicant

Schedule "B": Accredited Educational Programs

The following educational programs have been accredited pursuant to these Bylaws:

- (a) West Coast College of Massage Therapy, New Westminster, British Columbia, Canada
- (b) Okanagan Valley College of Massage Therapy, Vernon, British Columbia, Canada
- (c) West Coast College of Massage Therapy, Victoria, British Columbia, Canada

Schedule "C"

CODE OF ETHICAL CONDUCT

General Duty to Patients

1(1) A Registrant shall:

- (a) act in the best interest of a patient;
- (b) only provide a treatment if the Registrant has a reasonable expectation that it will be of benefit to a patient;
- (c) only provide massage therapy treatments that fall within the scope of practice of massage therapy, as defined in the Regulation.

(2) A Registrant shall not take advantage of a patient's vulnerabilities for the Registrant's sexual, emotional, social, political, or financial interest or benefit.

(3) A Registrant shall not contravene the *Human Rights Act* or the *Human Rights Code*, as amended from time to time.

(4) A Registrant shall not refuse to treat a patient unless

- (a) the patient's condition renders the treatment unsafe, unnecessary or not beneficial to the patient,
- (b) the patient asks the Registrant to perform an illegal or unethical act,
- (c) there is a conflict of interest between the Registrant and the patient which cannot be resolved in accordance with section 8 of this Code ("Conflict of Interest"),
- (d) there is incompatibility of character between the Registrant and the patient,
- (e) the patient loses confidence in the Registrant, or
- (f) the patient fails to satisfy a statement of account for services rendered within 15 days or after 3 treatments.

Sexual Conduct Prohibited

2. A Registrant shall not

- (a) engage in sexual conduct with a patient,
- (b) engage in sexual conduct with a former patient within one year of termination of massage therapy, or
- (c) make any inquiry into a patient's sexual history, unless such an inquiry is directly related to the assessment or treatment of the patient's condition.

General Duty to the Public

3. A Registrant shall

- (a) comply with all Federal, Provincial and Municipal laws and regulations pertaining to the business and practice of massage therapy, and
- (b) act in an honest, professional and courteous manner towards all persons.

General Duty to the Professions

4. A Registrant shall uphold and advance the honour, dignity and credibility of the profession and, without limiting the generality of the foregoing, shall:

- (a) use his/her knowledge and skill to improve the health and well-being of others;
- (b) respect the honour, dignity and credibility of other professionals;
- (c) promote harmonious working relationships with other professionals;
- (d) refrain from undue criticism of the qualifications or the therapies provided by other Registrants or Licensed Practitioners;
- (e) avoid competition for patients or professional services by methods that adversely affect the honour, dignity or credibility of the profession;

- (f) avoid comparing his/her competence or patient outcomes to those of other Registrants or Licensed Practitioners;
- (g) refrain from entering into a contract with any person or organization that diminishes the honour, dignity or credibility of the profession;
- (h) abide by the *Human Rights Act* and *Human Rights Code*, as amended from time to time, in any dealings with Licensed Practitioners and other Registrants, including selection of a Locum.

Practising if Impaired Prohibited

5. A Registrant shall not practice massage therapy when the Registrant's ability to practise is impaired by drugs, alcohol, a physical or mental ailment, emotional disturbance or addiction to any substance.

Reporting of Registrants

6. If a Registrant has reasonable grounds to believe that another Registrant has
- (a) committed an act of Professional Misconduct,
 - (b) engaged in Sexual Conduct with a patient, or with a former patient, within one year of termination of massage therapy,
 - (c) practiced the profession while the Registrant's ability to do so was impaired by drugs, alcohol, a physical or mental ailment, emotional disturbance or addiction to any substance,
 - (d) engaged in any unsafe, unethical or illegal activity related to the practice of massage therapy, or
 - (e) permitted his/her office or clinic to be used for an unlawful purpose,
- that Registrant shall promptly file a written report with the Chair of the Inquiry Committee that contains the following information
- (f) the name of the Registrant filing the report,
 - (g) the name of the Registrant who is the subject of the report,
 - (h) details of the alleged professional misconduct, prohibited sexual conduct, incompetence, or incapacity, including the sources of information relied upon,
 - (i) the identity of any patient involved, after the Registrant has obtained the patient's consent to disclosure of the patient's identity to the Chair of the Inquiry Committee.

Guarantees of a Cure Prohibited

7. A Registrant shall not claim that a treatment, or use of certain equipment, will provide a cure, nor shall a Registrant guarantee therapeutic value to a patient.

Conflict of Interest

- 8(1) A Registrant shall make every effort to avoid a conflict of interest while providing massage therapy or carrying out any other professional duty.
- (2) Notwithstanding subsection (1), where a Registrant is in a conflict of interest with a patient, that Registrant shall
- (a) immediately disclose the nature of that conflict to the patient,
 - (b) document this disclosure, and
 - (c) resolve the conflict of interest in consultation with the patient, whether by terminating the therapeutic relationship with the patient or otherwise.

Schedule "D"

STANDARDS OF PRACTICE

Training

1. A Registrant shall practice only those therapeutic methods which the Registrant has sufficient training to perform safely.

Referral from and Recommendation to Another Licensed Practitioner

2(1) If a Registrant determines

(a) that his/her own expertise or massage therapy is not appropriate to treat that patient for the referred condition, or

(b) that the patient's condition warrants further assessment, diagnosis or treatment by a Licensed Practitioner, the Registrant shall, with the patient's consent, direct that patient back to the referring Licensed Practitioner.

(2) A Registrant shall, with the patient's consent, consult with the referring Licensed Practitioner before recommending any alternate and/or complimentary course of treatment.

Treatment Environment

3. A Registrant shall render massage therapy

(a) in a safe environment, by doing the following:

(i) maintaining clean and tidy treatment and reception areas;

(ii) maintaining safe and clean hydrotherapy, exercise, and other equipment;

(iii) maintaining strict infection control procedures in any hydrotherapy facility;

(iv) providing clean linens or other similar materials;

(v) maintaining adequate hand-washing procedures;

(vi) providing unobstructed fire exits and readily available fire extinguishers, and by knowing and instructing all staff in fire safety for the facility;

(b) in a comfortable environment, by doing the following:

(i) providing adequate space for the safe movement of both patient and the Registrant, so as to minimize inadvertent physical contact between patient and the Registrant;

(ii) maintaining appropriate room temperature.

Notices

4. A Registrant shall:

(a) display in a visible location, a notice setting out the Registrant's policies and procedures concerning a patient's payment for services, and fees for missed appointments;

(b) provide to a patient on request, a copy of the Code of Ethical Conduct and Standards of Practice;

(c) display the Registrant's Certificate of Registration in his/her primary practice location.

Patient Consent to Treatment

5(1) Before commencing a treatment, a Registrant shall:

(a) obtain and record all necessary information for a safe and effective treatment, including a case history, a physical assessment and/or a diagnosis, and the reason for any Licensed Practitioner's referral;

(b) describe to the patient the proposed treatment, and any risks of the treatment which the Registrant knows or ought to know may be of concern to the patient, given his or her history and presenting conditions;

(c) answer to the best of the Registrant's ability any of the patient's questions concerning the

proposed treatment;

(d) obtain the patient's consent to provide the proposed treatment.

(2) A Registrant shall discontinue the rendering of a treatment if, at any time, the patient withdraws his or her consent to that treatment, whether verbally, in writing or by other means of communication.

Removal of Clothing

6(1) A Registrant shall recognize differing cultural and personal attitudes towards disrobing.

(2) A registrant shall discontinue the rendering of a treatment if, at any time, the patient withdraws his or her consent to that treatment, whether verbally, in writing or by other means of communication.

(3) A Registrant shall respect the right of the patient to decline the removal of certain or any clothing.

(4) If a patient is unable to remove or replace an item of clothing personally, the Registrant may assist the patient so long as the patient has consented to that assistance.

(5) A Registrant must inform a patient in advance of the option of bringing and wearing a bathing suit during any hydrotherapy treatment.

(6) In any public setting, where massage therapy is to be provided, a Registrant shall respect the patient's need for privacy, as the situation permits.

Ensuring Patient Privacy in a Closed Setting

7(1) Before commencing a treatment, and in particular before a patient removes any clothing, a Registrant shall:

(a) ensure patient privacy and dignity by providing suitable apparel for assessment;

(b) provide a non-transparent sheet or gown of sufficient length to cover the patient's body from neck to feet during treatment;

(c) instruct the patient on how to cover him/herself at the commencement of treatment;

(d) provide facilities to ensure physical privacy while a patient disrobes or changes, before and after assessment and treatment;

(e) consider patient privacy with respect to window coverings and mirror location in a treatment room.

(2) During treatment, a Registrant shall arrange the draping so that only the part of a patient's body that is being treated is exposed and all other parts are appropriately draped.

Potentially Painful Treatments

8(1) A Registrant shall not inflict pain as an objective of treatment.

(2) A Registrant shall make every effort to minimize pain during treatment.

(3) In relation to potentially painful treatment and notwithstanding subsections (1) and (2), a Registrant shall

(a) inform a patient of the possibility of pain,

(b) obtain consent to treatment by written or oral means, and

(c) inform a patient that the treatment can cease or be modified at any time at the patient's request.

(4) A Registrant shall promptly cease or modify treatment in response to a patient's request.

Patient Confidentiality

9(1) A Registrant shall maintain confidentiality of patient information.

(2) Notwithstanding subsection (1), a Registrant may disclose relevant patient information verbally or by a copy of the Health Care Record when

(a) the patient has directed the Registrant, verbally or in writing, to make that disclosure, or

(b) required by law.

(3) A Registrant shall ensure that all office and support personnel who have access to a patient's Health Care Record permanently undertake to maintain the confidentiality of patient information.

Delegation and Supervision

10(1) A Registrant may delegate massage therapy treatment to a Student Intern, provided the Registrant

- (a) provides adequate supervision in accordance with the Clinical Practicum Standards as set out in the *Curriculum Standard*, as approved by the Board,
- (b) assumes full responsibility for the massage therapy treatment, and
- (c) complies with the Clinical Practicum Standards.

(2) A Registrant is responsible for adequate supervision and direction to all office and support personnel for all interactions with patients.

Health Care Record Keeping

11(1) A Registrant shall generate an indelible clinical record for each patient containing:

- (a) the patient's name, address and birthdate;
- (b) the name of any referring practitioner;
- (c) the date of each professional visit, and the name of the person who rendered the treatment;
- (d) health history obtained and updated, findings obtained, clinical impressions and relevant information of the patient's condition;
- (e) a treatment plan, including objectives, treatments provided, instructions given, periodic reassessment findings and treatment revisions;
- (f) all written reports received from or sent to other sources with respect to the patient.

(2) A Registrant shall ensure that the information in a Health Care Record is current, legible, accurate and complete.

(3) A Registrant shall not

- (a) falsify any part of a patient's Health Care Record, or
- (b) sign or issue a certificate, report or any document that contains false or misleading statements concerning a patient's Health Care Record.

(4) A Registrant shall maintain possession and control over a patient's Health Care Record, until that Record can be destroyed or transferred in accordance with section 13.

Patient Access to Health Care Record

12(1) For the purposes of this section, "access to" means a patient's opportunity to examine his/her Health Care Record and obtain photocopies.

(2) A Registrant who is in possession of a Health Care Record must allow a patient access to that patient's Health Care Record, unless the patient's physician is concerned that disclosure of the Health Care Record may result in significant harm to the safety, or mental or physical health of the patient, in which event, the Registrant shall provide written reason to the patient for refusal of access.

(4) Subject to subsection (2), a Registrant shall respond to a patient's request for access to his/her Health Care Record as soon as possible in a medical emergency, otherwise within 30 days of the request by producing the original Health Care Record for inspection.

(5) Where a Registrant provides access and a patient requests a copy of the Health Care Record, a copy shall be provided to the patient and the Registrant may charge the cost of photocopying that Health Care Record.

(6) A Registrant shall provide access to the Health Care Record of a child under 19 years of age to the persons having guardianship or custody of that child, except where

- (a) the child has requested that his/her guardian or the person who has legal custody of the child not be granted such access, and
- (b) the Registrant is satisfied the child is of the age and maturity to understand the nature,

consequences and anticipated benefits and risks of the massage therapy that is the subject matter of the Health Care Record.

Preservation of Health Care Records

13(1) A Registrant shall ensure that Health Care Records remain in the Registrant's treatment facility or place of business until it is necessary to destroy or transfer the records.

(2) A Registrant shall retain Health Care Records in a safe and secure place for at least seven years after the date of the last treatment entered in a patient's record, except where

(a) the Record is of a child under 19 years of age, in which case the seven year period begins the day after that child's 19th birthday, or

(b) the Record is of a person over the age of 19 who is mentally incompetent, in which case that Record should be retained for the life of that patient, or, at the end of seven years after the mentally incompetent patient is restored to mental competency.

(3) A Registrant may retain all Health Care Records for an indefinite period after the applicable minimum retention period in subsection (2) has elapsed.

(4) After the applicable retention period in subsection (2) has elapsed, and a Registrant elects to dispose of a Health Care Record, he/she may do so by

(a) effectively destroying the physical Record by utilizing a shredder or by complete burning, or

(b) erasing information recorded or stored by electronic methods, such as on tapes, disks or cassettes.

(5) A Registrant may, with the patient's consent, transfer a Health Care Record to another Registrant, the patient or a Licensed Practitioner.

(6) A Registrant shall make appropriate arrangements by the appointment of another Registrant as custodian to secure the Health Care Records, in the event that the Registrant dies or becomes unable to practise for any reason and is unable to dispose of the Health Care Records in accordance with subsection (5).

Locum

14. When a Registrant enlists the services of a Locum, the Health Care Records, both existing and newly-created during the Locum's tenure, remain the property of the Registrant.

Practising with Non-Registrants

15(1) Where a Registrant shares a treatment facility or place of business with a non-Registrant, the Registrant shall ensure that all patients are informed that the Registrant's practice and services are separate and distinct from that of the non-Registrant.

(2) A Registrant shall grant access to a Health Care Record only to another Licensed Practitioner or to a Student Intern, with patient consent.

(3) A Registrant shall not grant access to a Health Care Record to any other non-Registrant, except as required by Court Order.

Ownership and Control of Health Care Records in a Shared Facility

16(1) For the purposes of this section, a "Shared Facility" means a business premises occupied by a Registrant, and one or more other Registrants or Licensed Practitioners.

(2) A Registrant shall provide, by written agreement with each other Registrant or Licensed Practitioner within the Shared Facility, clarification regarding the ownership of all Health Care Records created by the Registrant.

(3) It is the responsibility of a Registrant in a shared facility to advise each patient on initial treatment of the identity of the owner of the Health Care Record as determined by the written agreement completed as required by subsection (2).

(4) A Registrant shall maintain possession and control over the Health Care Records of the Registrant's patients, for so long as the Registrant occupies the Shared Facility.

Continuing Education

17. A Registrant shall comply with the provisions of the Continuing Education Guidelines, as approved by the Board.