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QUEENSLAND

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**OCCUPATIONAL THERAPISTS ACT 1979, No. 51**

[Reprinted as at 1 January, 1984]

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An Act to provide for the constitution of an Occupational Therapists Board, the establishment of a register of occupational therapists and the regulation of the practice of occupational therapy

[ASSENTED TO 19 NOVEMBER, 1979]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

**1. Short title.** This Act may be cited as the *Occupational Therapists Act* 1979.

**2. Commencement.** (1) Save where the contrary intention appears with respect to particular provisions, this Act shall come into operation on a day to be fixed by Proclamation.

(2) Notwithstanding subsection (1), different days may be fixed by Proclamation as days upon which different provisions of this Act shall respectively come into operation and, in that event, any such provision shall come into operation on the day fixed by Proclamation in relation to it.

ss. 1-16 commenced 24 April 1980 (Proc. pubd Gaz. 26 April 1980, p. 1599)

ss. 17-38 commenced 12 December 1981 (Proc. pubd Gaz. 12 December 1981, p. 1538)

**3. Arrangement of Act.** This Act is arranged as follows:—

PART I—PRELIMINARY;

PART II—ADMINISTRATION;

PART III—REGISTRATION OF OCCUPATIONAL THERAPISTS;

PART IV—MISCELLANEOUS.

**4. Meaning of terms.** In this Act, unless the contrary intention appears—

“Board” means The Occupational Therapists Board of Queensland constituted under this Act;

“medical practitioner” means a medical practitioner within the meaning of the *Medical Act* 1939-1979;

“Minister” means the Minister for Health or other Minister of the Crown charged at the material time with the administration

of this Act: the term includes any Minister of the Crown who is temporarily performing the duties of the Minister;

“occupational therapist” means a person registered as an occupational therapist under this Act and whose name, at the material time, remains on the register;

“register” means The Register of Occupational Therapists kept under this Act;

“registrar” means the registrar of the Board appointed pursuant to this Act: the term includes any person for the time being performing the duties of the registrar.

## PART II—ADMINISTRATION

**5. Administration of Act.** This Act shall be administered by the Minister and, subject to him, by the Board.

**6. Constitution of Board.** (1) On and from the date of commencement of this Part there shall be a Board to be called The Occupational Therapists Board of Queensland which shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed upon it by or under this Act.

(2) The Board shall be a body corporate with perpetual succession and a common seal and, subject to this Act, shall be capable in law of suing and being sued, of compounding or proving in any court of competent jurisdiction all debts or sums of money due to it, and of acquiring, holding, alienating, and otherwise dealing with property and of doing and suffering all such acts and things as bodies corporate may in law do and suffer.

(3) All courts and persons acting judicially shall take judicial notice of the common seal of the Board and, until the contrary is proved shall presume that it was duly affixed to any document on which it appears.

**7. Members of Board.** (1) The Board shall consist of seven members appointed by the Governor in Council by notification published in the Gazette. The members of the Board shall consist of—

- (a) four persons nominated by the Minister of whom at least two shall be occupational therapists; and
- (b) three occupational therapists acceptable to and nominated by the Minister from a panel or panels of names submitted by one or more associations accepted by the Minister as representative of occupational therapists.

Submission of a panel referred to in paragraph (b) shall be made within the time and in the manner prescribed or, where not prescribed, as determined by the Minister, as the case may be, or in the event that insufficient names of occupational therapists acceptable to the Minister are submitted, the Governor in Council may appoint as a member of the Board any person who is qualified as prescribed to be nominated

as if his name had been duly submitted by the association or associations entitled to make the submission.

A person who has attained the age of 70 years is not eligible for appointment as a member of the Board.

A person may hold office as a member of the Board in addition to any position he holds in the Public Service of Queensland.

(2) For the purpose of appointing members to first constitute the Board—

- (a) where subsection (1) requires that an occupational therapist be appointed, a person who at the date of commencement of this Part is in actual practice of occupational therapy may be appointed notwithstanding that he is not registered under this Act as an occupational therapist;
- (b) appointments may be made at any time after the passing of this Act and, if made as prescribed, shall be valid and effectual notwithstanding that this Act had not then commenced.

**8. Chairman and deputy chairman of Board.** (1) In every appointment of the whole number of members of the Board the Governor in Council shall appoint members to be respectively the chairman and deputy chairman of the Board.

(2) When a vacancy occurs in the office of chairman or deputy chairman of the Board, the Governor in Council may by notification published in the Gazette, appoint another member of the Board to the vacant office.

(3) The chairman shall preside at every meeting of the Board at which he attends and in his absence the deputy chairman shall so preside.

(4) Where both the chairman and deputy chairman are absent from a meeting, another member of the Board chosen for the purpose by the majority of the members present and voting shall preside.

(5) The deputy chairman or other member who presides at a meeting of the Board in place of the chairman has and may exercise all the powers and authorities of the chairman while he so presides.

(6) Save where the by-laws disentitle him to vote on the matter in issue, the chairman, deputy chairman or other member presiding at a meeting of the Board is entitled to a deliberative vote on any matter before the meeting and, in the event of an equal division of votes thereon, is entitled to a second or casting vote.

**9. Tenure of office.** (1) The appointment of a member of the Board shall commence on the date specified therefor in the notification of appointment published in the Gazette and, save in the case of an

appointment made to fill an extraordinary vacancy, shall be for a term of three years:

Provided that the appointment of members of the Board first constituted after the passing of this Act may be for a lesser period as may be set out in the notification of such appointment published in the Gazette.

(2) A member of the Board shall be eligible for re-appointment if he is qualified as prescribed to be nominated therefor.

(3) The office of a member of the Board shall become vacant if the member—

- (a) attains the age of 70 years or dies;
- (b) becomes bankrupt or compounds with his creditors, or otherwise takes advantage of the laws in force for the time being relating to bankruptcy;
- (c) is absent without prior leave granted by the Board from three consecutive ordinary meetings of the Board of which due notice has been given to him;
- (d) resigns his office by writing under his hand delivered to the Minister;
- (e) is convicted in Queensland of an indictable offence or, elsewhere than in Queensland, is convicted of an offence which would be an indictable offence if committed in Queensland, or is convicted of an offence against this Act; or
- (f) is removed from office by the Governor in Council by notification published in the Gazette on the grounds of mental or physical incapacity to perform his duties as a member or of conduct which in the opinion of the Governor in Council, shows the member to be unfit to be a member of the Board.

(4) (a) Attendance of a member of the Board at the time and place appointed for an ordinary meeting of the Board shall be deemed to constitute presence at a meeting notwithstanding that by reason that a quorum is not present no meeting is then and there actually held, and the registrar shall enter in the minute book the names of all members who so attend.

(b) A resignation as member of the Board shall be of no effect until notice in writing thereof is received by the Minister or until the operative date specified in the notice, whichever is the later.

**10. Casual vacancies.** When a vacancy occurs in the office of a member of the Board during the term of office of the members then constituting the Board, the Governor in Council may, in accordance with section 7, appoint another person as a member, to hold office for the balance of his predecessor's term of office as a member.

**11. Meetings of Board.** (1) The Board shall meet as often as is necessary for the due administration of this Act, at such times and places as it thinks fit, and shall conduct its business in such manner as may be prescribed or, where or to the extent not prescribed, as it determines from time to time.

The Board first constituted shall hold its first meeting at a time and place appointed by the Minister.

(2) A quorum at any meeting of the Board shall be four members entitled to vote on the business before the meeting who at a duly convened meeting shall be competent to transact any business of the Board and may exercise and perform all the powers, authorities, duties and functions of the Board.

The decision of a majority of the members at a meeting of the Board at which a quorum is present shall be the decision of the Board.

If a member present at a meeting and entitled to vote abstains from voting he shall be taken to have cast is\* vote for the negative.

(3) A proceeding or decision of the Board shall not be invalidated or made ineffectual by reason only that—

- (a) the whole number of members had not been appointed at the time; or
- (b) any member was not entitled to take part in the proceeding or decision; or
- (c) there is a defect in the appointment of any member.

**12. Committees.** The board may select persons to form an advisory committee or advisory committees to advise the Board on any matter within the scope of the Board's functions referred to the committee or to a particular committee by the Board.

A person may be a member of such a committee whether or not he is a member of the Board.

**13. Allowances and expenses of members.** (1) Such allowances as are prescribed shall be paid to every member of the Board, and every member of an advisory committee, save to a member who is an officer of the Public Service of Queensland in respect of his attendance at a meeting of the Board or, as the case may be, an advisory committee during his ordinary hours of duty as such an officer.

(2) Every member of the Board and every member of an advisory committee shall be paid out of pocket expenses necessarily incurred by him in attending any meeting of the Board or that committee or in connexion with the discharge by him of any function as such a member and approved by the Board.

**14. Members of Board, etc., not affected by restrictive employment provisions.** A provision of any enactment requiring the holder of an office to devote the whole of his time to the duties of his office or

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prohibiting him from engaging in employment outside the duties of his office shall not operate to hinder his holding that office and also an appointment as member, chairman or deputy chairman of the Board or of any advisory committee, or his acceptance and retention of remuneration payable to a member of the Board under this Act.

**15. Registrar and officers of Board.** (1) The Governor in Council may appoint under and for the purposes of this Act a registrar of the Board and such other officers as he considers necessary for the effectual administration of this Act.

Appointees as aforesaid shall be appointed and hold their offices under, subject to and in accordance with the *Public Service Act 1922-1978*.

(2) An officer of the Public Service of Queensland may, in addition to the position he holds therein, be appointed the registrar or another officer under this Act.

The registrar and any other officer under this Act may hold his appointment under this Act in conjunction with any other position in the Public Service.

**16. Funds of Board.** (1) All moneys received by or on behalf of the Board shall be paid into and form part of the funds of the Board.

(2) Expenses of and incidental to the administration of this Act shall be paid by the Board from its funds.

This subsection does not affect the liability, prescribed by any other Act, of the Board to pay from its funds the salaries of the registrar and the officers appointed for the effectual administration of this Act.

(3) The Board shall enter or cause to be entered in such books, accounts and records required by the Auditor-General to be kept for the purpose a true account of all sums of money received and paid under this Act, and a statement of receipts and disbursements in respect thereof, in a form approved by the Auditor-General, shall be laid before the Minister annually.

### PART III—REGISTRATION OF OCCUPATIONAL THERAPISTS

**17. The register.** (1) The Board shall cause the registrar to keep in such form as it thinks fit a register (to be called The Register of Occupational Therapists) of the names and other prescribed particulars of persons who are entitled to be and who remain registered under this Act as occupational therapists.

(2) The register shall at all reasonable times be open to inspection at the office of the registrar by any person on payment of the prescribed fee.

- (3) The registrar shall cause to be published—
- (a) by the thirtieth day of June in each year the “List of Occupational Therapists, Queensland” certified by him as correct to the first day of May in that year;
  - (b) from time to time, as he thinks desirable, a supplementary list indicating all alterations, additions, revisions and removals made in the register during the period indicated in such supplementary list and certified by him to a date indicated in that list.

**18. Qualification for registration.** (1) Subject to this section, a person shall be entitled to be registered as an occupational therapist if he applies to the Board in the prescribed form, pays the prescribed fee for registration and satisfies the Board that he is of good fame and character, is medically fit to practise occupational therapy and that—

- (a) he is the holder of a degree, diploma or certificate conferred after due examination by an educational institution in a State or Territory of the Commonwealth which institution is duly recognized in the State or Territory in which it is situated and by the Board as competent to confer the same and which degree, diploma or certificate is recognized by the Board and, where conferred outside Queensland, by the occupational therapists Board or other registration authority in the State or Territory in which it is conferred as entitling him to practise occupational therapy in that State or Territory; or
- (b) he has passed through a regular course of study in an educational institution in any country and has received after due examination from a university, college or other body in that country a degree, diploma or certificate which—
  - (i) is approved by the Board as equal to or higher than a qualification conferred after due examination by a university in Queensland which qualification is one referred to in paragraph (a); and
  - (ii) is recognized by the Board as qualifying the applicant to practise occupational therapy in that country; or
- (c) he has—
  - (i) passed through a regular course of study in an educational institution in any country and has received after due examination from a university, college or other body in that country a degree, diploma or certificate which is recognized by the Board as qualifying the applicant to practise occupational therapy in that country; and
  - (ii) undergone such additional educational training which may include the undertaking and passing of examinations relative to the practice of occupational therapy as in the Board’s opinion is necessary to qualify him to practice occupational therapy in Queensland; or



- (d) he has been engaged in Australia in the practice of occupational therapy for a period of five years at least immediately before the date of commencement of this Part which practice is, in the Board's opinion, sufficient to render him, and he is, competent to practise occupational therapy.

The Board may, where it thinks fit, appoint a Committee of Assessors composed of medical practitioners (whether or not they are members of the Board) and may require an applicant for registration to appear before the Committee of Assessors who shall determine the medical fitness to practise occupational therapy of an applicant and the Board shall be bound by a certificate issued by the Committee of Assessors as to the medical fitness to practise occupational therapy of the applicant.

(2) A person who applies for registration under this Act as having a qualification prescribed by paragraph (b) or (c) of subsection (1) shall not be entitled to be so registered unless—

- (a) he satisfies the Board that he has a sound understanding of the English language and possesses sufficient knowledge of and sufficient skill in the expression of that language, both written and oral;
- (b) he satisfies the Board that he has an adequate knowledge of the conditions governing the practice of occupational therapy in Australia; and
- (c) if the Board requires it he has undertaken and passed—
  - (i) a preliminary examination, conducted in the English language as may be approved by the Board; and
  - (ii) a written examination relevant to the conditions governing the practice of occupational therapy in Australia and recognized by the Board.

(3) For the purposes of paragraph (c) of subsection (2), the Board may appoint examiners who may include in any certificate by them to the Board a condition that such certificate is given subject to the examinee being required to undertake a period of supervised practice in occupational therapy in Queensland.

(4) Where a conditional certificate is issued pursuant to subsection (3) the Board may require the applicant for registration to undertake a period, as it determines, of supervised practice in occupational therapy in Queensland as approved by the Board.

**19. Conditional registration.** (1) When a person has applied to the Board for registration under the provisions of paragraph (b) or (c) of subsection (1) of section 18 and the Board has required him to undertake a period of supervised practice pursuant to subsection (4) of section 18, the Board may grant him a certificate in the prescribed form of conditional registration.

(2) The practice of occupational therapy by a person who has been granted a certificate of conditional registration under this section shall

be limited to supervised practice but, subject to this subsection and the conditions contained in the certificate, he shall be deemed to be registered as an occupational therapist for as long as the certificate remains valid.

If he shall fail to carry out any of such conditions to the satisfaction of the Board, the Board may direct the registrar to cancel the certificate and that person shall thereupon cease to be deemed to be registered as an occupational therapist under this Act and the cancellation shall be deemed to be a refusal by the Board of that person's application to be registered as an occupational therapist.

**20. Registration for a limited period.** (1) Subject to this Act, a person who makes application to the Board in that behalf in the prescribed form and who satisfies the Board that he is of good fame and character and that he is the holder of a degree, diploma or certificate in occupational therapy (in each case recognized by the Board and obtained after due examination) conferred by an institution recognized in the State or Territory of the Commonwealth or other country wherein it is situated and by the Board as authorized to confer such degree, diploma or certificate and that he has come to Queensland—

- (a) at the request of a teaching institution, any State authority or any association recognized by the Board as representative of occupational therapists for the purpose of teaching, lecturing, giving clinical demonstrations or engaging in research work; or
- (b) to undertake post graduate study in occupational therapy, shall be entitled to registration as an occupational therapist at all times during the period he is so engaged.

(2) A person registered under this section shall notify the Board forthwith upon his ceasing to engage in the duties or study mentioned in subsection (1) and the Board shall then direct the registrar to remove that person's name from the register.

(3) The Board may at any time by notice in writing call upon a person registered under this section to show cause at a place, date and time specified by the Board in such notice why his name should not be erased from the register. If such cause be not shown to the Board's satisfaction as requested by the Board, the Board may direct the registrar to remove that person's name from the register.

**21. Provisional registration.** (1) When a person has applied to the Board in the prescribed form to be registered as an occupational therapist and has paid the prescribed fee for registration, the chairman, or (in the absence of the chairman) a member of the Board authorized generally in that behalf by the Board, upon being satisfied that such person is entitled to be registered as an occupational therapist, may grant to such person a certificate in the prescribed form of provisional registration as an occupational therapist.

(2) A person who has been granted a certificate of provisional registration as an occupational therapist shall be deemed to be registered

under this Act as an occupational therapist and this Act shall apply to and with respect to that person accordingly—

(a) until the date stated in such certificate; or

(b) until such later date as may be fixed by the Board,

which stated date or later date, if any, fixed by the Board shall not in any case be later than six months from the granting of such certificate:

Provided that the Board may at any time before the date so stated or fixed, cancel such certificate and such person shall thereupon cease to be deemed to be registered as an occupational therapist under this Act, and such cancellation shall, for the purpose of this Act, be deemed to be a refusal by the Board of the application by that person to be registered as an occupational therapist.

(3) If a person to whom a certificate of provisional registration has been granted becomes registered as an occupational therapist while that certificate is still in force his registration shall, unless otherwise decided by the Board, date from the granting of that certificate.

**22. Certificate of registration.** (1) Every occupational therapist shall be entitled to obtain from the registrar a certificate of his registration in the prescribed form.

(2) On application made to the Board at any time and on payment of the prescribed fee, the Board may issue to any occupational therapist a duplicate or certified copy of his certificate of registration.

**23. Annual licence fee.** (1) Every occupational therapist shall pay to the Board a prescribed annual licence fee.

The annual licence fee shall be paid to the Board within the period in each year commencing on the first day of January to and concluding on the thirtieth day of April or, where another period is prescribed in respect thereof (the Board being hereby thereunto authorized) within that other period in each year as so prescribed.

An occupational therapist shall at the time of the payment of the annual licence fee furnish the Board with particulars of his address for entry in the register.

(2) If an occupational therapist fails to pay the annual licence fee within the period as provided in subsection (1), the registrar shall thereupon remove his name from the register.

(3) If the name of any person has been removed from the register pursuant to subsection (2) or pursuant to paragraph (a) of subsection (1) of section 24 the Board shall, subject to this Act, upon application by that person direct the registrar to restore his name to the register upon payment of the annual licence fee and such restoration fee as may be prescribed.

**24. Removal of name from register.** (1) The Board may instruct the registrar to remove from the register the name of an occupational therapist—

- (a) who applies in writing to have his name removed therefrom;
- (b) whose name has at any time been ordered to be erased absolutely or for a limited period from a register of occupational therapists maintained under that or any other name by any other registration authority and whose name at the material time has not been restored to that register.

(2) (a) If it comes to the notice of the Board that any person whose name then appears on the register may be medically unfit to practise occupational therapy, the Board may appoint a Committee of Assessors composed of medical practitioners (whether or not they are members of the Board) and may require that person to appear before the Committee of Assessors.

On being so required the person shall report to the Committee of Assessors at the time and place stipulated in the requisition and shall submit himself to examination by the Committee of Assessors and to such other tests or examinations as the Committee of Assessors may require.

On completion of the examination and such other tests or examinations as are required the Committee of Assessors shall certify to the Board as to the medical fitness of that person to practise occupational therapy.

(b) If a certificate issued to the Board by a Committee of Assessors states that the person named therein is medically unfit to practise occupational therapy or has failed to appear before it or has failed to submit himself as prescribed by paragraph (a), the Board may by notice in writing call upon such person to show cause at a place, date and time specified by the Board in such notice why his name should not be erased from the register.

If such cause be not shown to the Board's satisfaction as requested by the Board, the Board may instruct the registrar to erase the name of that person from the register.

**25. Disciplinary action.** (1) When the Board has reason to suspect that an occupational therapist—

- (a) has been convicted in Queensland of an indictable offence or has been convicted elsewhere than in Queensland of an offence which if committed in Queensland would be an indictable offence;
- (b) has been convicted of an offence against this Act;
- (c) has failed to carry out a lawful demand of the Board made pursuant to this Act;
- (d) has been guilty of any conduct deemed by the Board to be discreditable to an occupational therapist; or

- (e) is no longer entitled under section 18 to be registered as an occupational therapist,

it may hold a full and proper inquiry into the matter in question and for that purpose shall notify the occupational therapist of the matter suspected against him and of the time and place when and where the inquiry will be held.

Notwithstanding any Act or law to the contrary, if a person is summarily convicted of an indictable offence the conviction shall, for the purposes of paragraph (a), be deemed to be a conviction of an indictable offence.

A notification required by this subsection to be given shall be in writing and shall be given to the occupational therapist in question personally or by post by registered letter or certified mail service.

- (2) In the conduct of an inquiry the Board—

- (a) shall afford the occupational therapist in question the opportunity of making defence to all allegations made against him, in person or by counsel or solicitor;
- (b) subject to subsection (1), shall have and may exercise all the powers, authorities, rights, privileges, protection and jurisdiction of a Commission of Inquiry under *The Commissions of Inquiry Acts, 1950 to 1954* save such as are by those Acts reserved to a Chairman of a Commission who is a Judge of the Supreme Court.

(3) If upon its enquiry the Board is satisfied of the truth of the matter referred to in subsection (1) it may, as it considers just in the circumstances do any one or more of the following things:—

- (a) cancel his registration and order his name to be removed from the register;
- (b) order that his registration as an occupational therapist be suspended for a period specified by it;
- (c) order that he pay to the Board by way of penalty a sum fixed by the Board but not exceeding \$1,000; or
- (d) reprimand him.

The registrar shall secure compliance with an order of the Board made under provision (a), (b), or (c) of this subsection and, to that end, when the order is made under provision (b), shall enter in the register, against the relevant registration, a memorandum of the suspension of the registration and the cause thereof.

(4) Where the Board has dealt with an occupational therapist under the provisions of subsection (3), the Board may order that the occupational therapist pay to the Board by way of costs such sum of money as it thinks fit.

(5) Any pecuniary penalty or costs ordered by the Board to be paid to it pursuant to subsection (3) or (4) shall become due and payable

forthwith, or, if the Board allows time for payment thereof immediately upon the expiration of the time so allowed.

(6) The Board may order the publication in such manner as it thinks fit of its findings upon an inquiry under this section.

**26. Correction of register.** (1) The registrar shall from time to time strike from the register the names of all occupational therapists who have died and make such alterations and amendments to the register as the Board directs so that the register shall be an accurate record of the names, addresses and qualifications of occupational therapists.

(2) An occupational therapist shall notify the Board of any change of name, address or other prescribed particulars and furnish particulars of such change within twenty-one days after the occurrence of the change.

**27. Notification of Board's determinations.** When the Board refuses an application of any person to be registered as an occupational therapist or makes an order under section 25 the registrar shall notify the person whose application is refused or against whom the order is made of the refusal or, as the case may be, the order, in writing addressed to the address of that person last known to the registrar.

**28. Appeals.** (1) A person aggrieved by—

(a) a refusal by the Board of his application to be registered as an occupational therapist; or

(b) an order made against him by the Board under section 25, may appeal therefrom to a Judge of the District Court at Brisbane who shall have jurisdiction to hear and determine the same and whose decision thereon shall be final and be given effect to by the Board.

(2) An appeal shall be by way of re-hearing, and shall be instituted within thirty days after notification of the refusal or order to the person aggrieved, and no later, by filing a notice of appeal in the registry of the District Court at Brisbane and by complying with any rules of court made with respect thereto.

(3) The appellant shall serve a copy of the notice of appeal on the registrar of the Board not later than seven days after the notice is filed in the registry of the District Court.

(4) Rules of court may be made under the *District Courts Act 1967-1978* with respect to the institution, conduct and disposal of an appeal.

Until such rules of court are made, or in so far as such rules of court do not extend, the Judge hearing any appeal under this section may, in a particular case, give such directions as he may think fit and the directions shall, according to their tenor, have the force and effect of rules of court made for the purposes thereof.

(5) The proceeding on appeal under this section shall be deemed to be a proceeding before a District Court.

(6) If the Judge hearing an appeal under this section is of the opinion that the appeal involves a question of special knowledge and skill, he may appoint one or more assessors who in his opinion possess the special qualifications necessary for the particular case to assist him in his determination.

An assessor shall be paid such fees and expenses as the Governor in Council shall from time to time determine.

An assessor may advise the Judge on any matter but all questions of law and fact shall be determined by the Judge who shall place such weight (if any) as he thinks fit, on the advice.

(7) Where upon an appeal a District Court orders a penalty to be paid by an appellant it shall order the penalty to be paid to the Board and, for the purposes of its enforcement, the order shall be deemed to be an order made by the Board.

#### PART IV—MISCELLANEOUS

**29. Prohibited practices.** (1) A person who is not an occupational therapist shall not—

- (a) take or use the name or title of occupational therapist, occupationalist, occupation therapist, work therapist, functional therapist, ergotherapist, activities therapist, activity therapist, rehabilitation therapist, or holds himself out as being one of the above, or assume, take, or use any name, initials, word, title, addition, symbol or description which, having regard to the circumstances in which it is assumed, taken or used, indicates or is capable of being understood to indicate or is calculated to lead persons to infer that he is an occupational therapist or is qualified to practice occupational therapy;
- (b) without the written consent of the Board, advertise—
  - (i) that he is skilled in the practice of occupational therapy;
  - (ii) that he is willing to practise occupational therapy;
  - (iii) that he is competent to teach the practice of occupational therapy;
  - (iv) that he is willing to instruct in the practice of occupational therapy.

Penalty: \$500.

(2) in paragraph (b) of subsection (1) the term “advertise” includes advertise—

- (a) by publishing a statement or claim in any newspaper, magazine, periodical, circular, pamphlet, handbill, notice or other document;
- (b) by communicating a statement or claim by means of a broadcast transmission, television transmission, or cinematograph; and

(c) in any other prescribed manner.

**30. Rules of practice.** (1) The Board, with the approval of the Governor in Council, may formulate rules governing the practice of occupational therapy, failure to comply with which on the part of an occupational therapist shall be deemed to constitute conduct discreditable to an occupational therapist.

(2) Nothing in this section prevents any matter not dealt with in the rules formulated under this section from being treated for the purposes of this Act as conduct discreditable to an occupational therapist.

**31. Offences with relation to badges.** (1) A person who is not an occupational therapist shall not use or wear any badge issued by the Board.

(2) A person whose name has been removed from the register shall not while his name remains so removed use or wear any badge issued to him by the Board.

(3) A person who is registered under this Act shall not wear any badge issued by the Board other than the badge issued to such person by the Board.

(4) A person shall not use or wear any colourable imitation of any badge issued by the Board.

**32. Penalty for fraudulent practices.** (1) A person shall not—

- (a) make or cause to be made any falsification in the register or in any writing relating to the register or any false statement relating to the register;
- (b) utter any false, forged or counterfeit certificate or writing pertaining to his qualification to practise occupational therapy;
- (c) procure or attempt to procure registration under this Act for himself or another person by making or producing, or causing to be made or produced, any false or fraudulent statement, declaration or representation, either verbal or in writing;
- (d) falsely personate or represent himself as being the person referred to in any certificate or writing presented to the Board or in any certificate granted under this Act;
- (e) fraudulently or by false representation obtain any certificate of registration under this Act;
- (f) forge, alter or counterfeit any certificate of registration under this Act;
- (g) utter any forged, altered or counterfeit certificate of registration under this Act knowing the same to have been forged, altered or to be counterfeit; or
- (h) falsely advertise himself or hold himself out as having obtained a certificate of registration under or as being



registered under this Act, or permit any such advertisement or holding out.

Penalty: \$500 or imprisonment for 6 months or both such fine and imprisonment.

(2) The name of any person who procures registration under this Act by any means which contravene this section shall, upon his being convicted in respect of that contravention, be removed from the register.

(3) The provisions of this section shall be in addition to and not in substitution for or in derogation of the provisions of *The Criminal Code* or any other Act:

Provided that a person shall not be liable to be convicted both under this Act and under *The Criminal Code* or any other Act in respect of the same act.

**33. General penalty.** (1) A person who contravenes or fails to comply with any provision of this Act commits an offence against this Act and, save where a specific penalty is otherwise provided, is liable to a penalty of \$1,000.

(2) All penalties recovered in respect of an offence against this Act shall be paid to the Board.

**34. Proceedings generally.** (1) An offence against this Act may be prosecuted in a summary way under the *Justices Act* 1886–1979 upon the complaint of the registrar, or a person authorized by the Board in that behalf.

(2) A prosecution for an offence against this Act may be commenced within one year from the time when the matter of complaint arose or within six months after the matter of complaint comes to the knowledge of the complainant whichever is the period later to expire.

(3) Without prejudice to any other right or remedy available to the Board with respect thereto all fees payable to the Board under this Act and all penalties and costs ordered by the Board to be paid to it under this Act may be recovered in a summary way under the *Justices Act* 1886–1979 or as a debt due and owing to the Board by action in any court of competent jurisdiction.

**35. Evidentiary provisions.** In any proceeding for the purposes of this Act—

- (a) a certificate purporting to be signed by the registrar certifying the state of any part of the register at a date or during a period specified in the certificate or certifying that a person named therein was not at a date or during a period specified therein an occupational therapist shall, upon its production, be admissible as evidence and, in the absence of evidence

to the contrary, conclusive evidence of the matters contained in the certificate;

- (b) every part of the register, and an extract of any part of the register purporting to be certified as correct by the registrar shall, upon its production, be admissible as evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained therein;
- (c) a statement in a complaint commencing the proceeding of the date on which the matter of complaint came to the knowledge of the complainant shall be evidence and, in the absence of evidence to the contrary, conclusive evidence of its content;
- (d) proof shall not be required of the authority of any person to prosecute an offence against this Act or to take any proceeding on behalf of the Board unless evidence is given to the contrary;
- (e) proof shall not be required of the appointment of the registrar or of any other officer appointed for the effectual administration of this Act or of the signature of the registrar.

**36. Statutory declarations.** (1) For the purposes of this Act, the Board may—

- (a) demand and accept a declaration under *The Oaths Acts, 1867 to 1960* from any person for the purposes of this Act;
- (b) require an applicant to verify by way of declaration under *The Oaths Acts, 1867 to 1960* (the taking of which being hereby authorized) information furnished to the Board in respect of his application for registration.

(2) A prescribed form may be, in whole or in part, in the form of a statutory declaration.

**37. By-laws.** The Board, with the approval of the Governor in Council, may from time to time make by-laws not inconsistent with this Act providing for all or any purposes whether general or to meet particular cases, that may be convenient for the administration of this Act or that may be necessary or expedient to achieve the objects and purposes of this Act.

Without limiting the power conferred by the foregoing provisions, by-laws may be made in respect of the following matters:—

- (a) the powers, duties and functions of the registrar and other officers appointed for the effectual administration of this Act;
- (b) the register and the manner of its keeping;
- (c) the making of applications to the Board, and the effect of furnishing false particulars therein;
- (d) the conduct of meetings of the Board, the entitlement of members of the Board to vote upon business before a meeting, and the conduct of proceedings before the Board;

- (e) the common seal of the Board, and the attesting of documents by or on behalf of the Board;
- (f) the manner and method in which an occupational therapist may advertise himself as qualified to practise occupational therapy and the place where that practice takes place;
- (g) the fees payable under this Act and the purposes for which they are payable; the waiver by the Board of such fees; allowances payable under this Act and the purposes for which they are payable;
- (h) the forms to be used for the purposes of this Act;
- (i) the penalties to be imposed for breaches of the by-laws but so that no such penalty shall exceed \$500;
- (j) regulating and controlling the use by occupational therapists of titles, letters or words indicating or describing their qualifications; prescribing titles, letters or words that shall or may be used to indicate or describe that any person is an occupational therapist or to indicate or describe any particular occupational therapy qualification; prohibiting the use by occupational therapists, in relation to their qualifications as occupational therapists or the practice by them of occupational therapy, of any titles, letters or words, other than those prescribed for such use or prohibiting any prescribed titles, letters or words from being so used and, in relation to occupational therapy qualifications, either generally or except to indicate or describe a particular qualification;
- (k) regulating, controlling and prohibiting canvassing or soliciting work or business by, for or on behalf of occupational therapists;
- (l) prescribing the kind of badge to be issued and regulating the issue thereof;
- (m) all matters required or permitted by this Act to be prescribed and in respect of which the manner or prescription is not specified.

By-laws may be made upon the passing of this Act.

**38. Procedural provisions re by-laws.** (1) Section 28A of the *Acts Interpretation Act 1954-1977* shall apply with respect to by-laws made for the purposes of this Act and, for the purposes of such application, that section shall be read and construed as if references to regulations were references to by-laws made for the purposes of this Act.

(2) Every by-law made under this Act shall, upon its publication in the Gazette, be judicially noticed.

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