

# OCCUPATIONAL THERAPISTS ACT, 2005

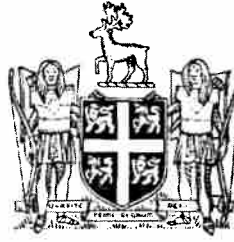
## CHAPTER O-4.1

SNL2005

Amended:  
2009 c46

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## CHAPTER O-4.1

### AN ACT RESPECTING OCCUPATIONAL THERAPISTS

*(Assented to December 13, 2005)*

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

Short title

1. This Act may be cited as the *Occupational Therapists Act, 2005*.

2005 cO-4.1 s1

## Definitions

## 2. In this Act

- (a) "association" means the Newfoundland and Labrador Association of Occupational Therapists;
- (b) "board" means the Newfoundland and Labrador Occupational Therapy Board referred to in section 3;
- (c) "by-laws" means the by-laws made by the board under section 31 and the *Corporations Act*;
- (d) "chairperson" means the person elected as chairperson of the board under subsection 3(4);
- (e) "director" means a person elected or appointed to the board;
- (f) "licence" means a licence to practise as an occupational therapist issued under this Act and includes a provisional licence;
- (g) "minister" means the minister appointed under the *Executive Council Act* to administer this Act;
- (h) "occupational therapist" means a person who practises occupational therapy;
- (i) "occupational therapy" means the art and science which uses the analysis and application of activities specifically related to occupational performance in areas of self-care, productivity and leisure by addressing problems which impede functional or adaptive behaviour in persons whose occupational performance is impaired by illness, injury, emotional disorder, developmental disorder, social disorder or the aging process;
- (j) "register" means the register of occupational therapists; and
- (k) "registrar" means the Registrar of Occupational Therapists elected under section 3.

2005 cO-4.1 s2

Board continued

3. (1) The Newfoundland and Labrador Occupational Therapy Board is continued as a corporation without share capital for the purposes of Part XXI of the *Corporations Act*.

(2) The board consists of

(a) 5 directors elected from and by licensed occupational therapists in accordance with the by-laws; and

(b) 2 directors appointed under section 4 who are not licensed occupational therapists.

(3) A member of the board of directors of the association is ineligible to be a director of the board.

(4) The board shall elect from among the elected directors a chairperson and a registrar.

(5) The chairperson shall chair all meetings of the board and the annual general meeting required under section 5.

(6) A director may be elected for a term set by the by-laws which shall not exceed 3 years and is eligible to be re-elected, but shall not hold the office of director for more than 9 consecutive years.

(7) An elected director may resign the office of director by written notice to the board.

(8) Where an elected director resigns, dies or becomes incapable of performing the duties of a director, the remaining directors shall appoint a replacement to serve until the next annual general meeting.

2005 cO-4.1 s3

Appointment by  
minister

4. (1) The minister shall appoint as directors of the board 2 persons who are not occupational therapists who are suitable to represent the public interest.

(2) A person appointed under subsection (1) holds office for a term of 3 years and is eligible to be re-appointed.

(3) Where a person appointed under subsection (1) holds office for a period of 9 consecutive years the person is not eligible for ap-

pointment as a member of the board until the expiration of 12 months from the end of the year in which he or she was last a director.

(4) Where the term of an appointed director expires, he or she continues to be a director until re-appointed or replaced.

(5) The board shall pay the expenses of an appointed director in accordance with guidelines established by the Lieutenant-Governor in Council.

(6) A person appointed under subsection (1) may resign the office of director by written notice to the minister.

2005 cO-4.1 s4

Meetings

5. (1) A quorum of the board is 4 directors, one of whom is an appointed director.

(2) Except where prohibited in the by-laws, a director may, where all the directors consent, participate in a meeting of the board by means of the telephone or other telecommunication device that permits all persons participating in the meeting to communicate with each other.

(3) Where a quorum under subsection (1) exists, a majority of that number is sufficient to make a decision, and in the event of a tie the chairperson of the meeting shall cast the deciding vote.

(4) The board shall hold, in accordance with the by-laws, an annual general meeting of the licensed occupational therapists at which

(a) the election for directors shall be held; and

(b) an auditor shall be appointed to audit the accounts of the board and report on the financial statements prepared by the board.

(5) The board may in its by-laws provide for voting at the annual general meeting of licensed occupational therapists by mail or electronic means.

2005 cO-4.1 s5

## Functions of board

**6. The functions of the board are**

- (a) to establish educational and professional standards for occupational therapists;
- (b) to establish qualifications for being licensed as an occupational therapist;
- (c) to examine candidates applying to be licensed;
- (d) to develop and publicize the functions and areas of competence of and standards of practice for occupational therapists;
- (e) to monitor the need for occupational therapists; and
- (f) to perform those other tasks not included in paragraphs (a) to (e) that are in keeping with the purposes of this Act.

2005 cO-4.1 s6

## Annual report

**7. (1) The board shall prepare and submit to the minister before July 1**

- (a) a report on the activities of the board; and
- (b) the board's audited financial statements.

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

2005 cO-4.1 s7

## Fees

**8. (1) In prescribing the fees payable under this Act the board shall, where it is practicable, ensure that the amounts of the fees are sufficient to enable it to discharge its duties.**

(2) All money received by the board shall be applied by it to its duties under this Act.

2005 cO-4.1 s8

Licence

9. (1) The board shall issue to an applicant a licence to practise as an occupational therapist where he or she

- (a) pays the fee set by the board;
- (b) is a graduate of a school or program of occupational therapy recognized by the board;
- (c) provides proof that he or she has applied for membership in the association and paid the membership fee set by the association;
- (d) provides proof that he or she has obtained professional liability insurance coverage in a form and amount satisfactory to the board; and
- (e) satisfies other requirements that may be set by the board in the regulations.

(2) Except where a licence has been suspended under sections 13 to 29 and subject to the conditions for the renewal of a licence that the board may by regulation prescribe, the licence of an occupational therapist shall be renewed annually upon payment of the prescribed fee.

2005 cO-4.1 s9

Provisional licence

10. (1) The board may issue a provisional licence to a person after being reasonably satisfied that that person has met the academic qualifications required for licensing established under paragraph 9(1)(b), notwithstanding that the person has not met the other conditions for licensing that may be prescribed by the regulations.

(2) A provisional licence is subject to the terms, conditions and limitations that the board may establish in relation to the licence at the time it is issued, including the specific location for which the licence is valid.

(3) A provisional licence is valid for one year unless a shorter period is provided for by the board and the board may, on application, renew a provisional licence.

(4) Notwithstanding section 32, a person to whom a provisional licence has been issued may, subject to the terms, conditions and limi-



tations under which the licence was issued, use the designation "occupational therapist".

2005 cO-4.1 s10

Duties of registrar

**11. (1) The registrar shall**

- (a) keep a register containing the names of persons licensed to practise occupational therapy in the province and other information that may be required by the board;
- (b) act as secretary to the board; and
- (c) perform the other duties that the board may assign.

(2) The registrar shall make the register of the board available for inspection by the public on reasonable notice and at reasonable times.

2005 cO-4.1 s11

Proof of registration

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

2005 cO-4.1 s12

Definitions

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

- (a) "allegation" means a written document alleging that a person has engaged in conduct deserving of sanction;
- (b) "complainant" means a person making an allegation described in section 15;
- (c) "conduct deserving of sanction" includes
  - (i) professional misconduct,
  - (ii) professional incompetence,

- (iii) conduct unbecoming a licensed occupational therapist, and
  - (iv) acting in breach of this Act, the regulations or the code of ethics made under section 31;
- (d) "costs incurred by the board" means
- (i) out of pocket expenses incurred by or on behalf of the board,
  - (ii) amounts paid by the board to adjudication tribunal members as remuneration and for expenses, and
  - (iii) the actual legal costs of the board and an adjudication tribunal;
- (e) "disciplinary panel" means the panel of persons appointed under section 14 from which the members of an adjudication tribunal are drawn; and
- (f) "respondent" means a licensed occupational therapist or former licensed occupational therapist against whom an allegation is made.

2005 cO-4.1 s13

Complaints and  
disciplinary panel

**14.** (1) The board shall appoint 3 directors, at least one of whom is a director appointed under section 4, to constitute a complaints authorization committee.

(2) The chairperson of the board and a person designated to receive allegations under section 15 are not eligible to be members of the complaints authorization committee.

(3) The board shall appoint the chairperson and vice-chairperson of the complaints authorization committee from the persons appointed under subsection (1).

(4) The board shall appoint at least 10 licensed occupational therapists who are not directors, one of whom shall be appointed to serve as chairperson, and the minister shall appoint at least 3 persons

who are not licensed occupational therapists to represent the public interest, who shall together constitute a disciplinary panel.

(5) Where an occupational therapist is appointed under subsection (4) he or she shall serve on the disciplinary panel as a condition of his or her licence unless the board determines that he or she is unable to serve for reasons beyond his or her control.

(6) Of the members first appointed to the disciplinary panel, one half shall be appointed for a term of 2 years and the remainder for a term of 3 years and all subsequent appointments of members to the disciplinary panel shall be for a term of 3 years.

(7) Notwithstanding the expiry of his or her term, a member of the disciplinary panel continues to be a member until he or she is re-appointed or his or her replacement is appointed.

(8) Persons appointed to the disciplinary panel may be re-appointed.

(9) The complaints authorization committee and an adjudication tribunal appointed under section 18 and a person appointed by either of them may summon a respondent or other person and require him or her to give evidence, orally or in writing, upon oath or affirmation, and produce the documents and things that he or she considers necessary to the full investigation and hearing of an allegation or complaint and have the powers, privileges and immunities that are conferred on a commissioner appointed under the *Public Inquiries Act*.

(10) A member of the disciplinary panel shall serve as a member of the panel without payment for his or her services but may be remunerated for services as a member of an adjudication tribunal and paid his or her travel and other expenses associated with the work of the tribunal by the board, in accordance with the rates set by the by-laws.

2005 cO-4.1 s14

Allegation

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

(2) The board may designate a person to act in the place of the chairperson for the purposes of sections 13 to 29.

(3) The chairperson may on his or her own motion make an allegation and file it, and the allegation has the same effect as an allegation referred to in subsection (1).

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

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

2005 cO-4.1 s15

Effect of filing  
allegation

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

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

(3) The chairperson shall inform a complainant and a respondent of the referral of the allegation to the complaints authorization committee.

2005 cO-4.1 s16

Complaints authori-  
zation committee

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

- (a) refer the allegation back to the chairperson for an investigation or alternative dispute resolution in accordance with the regulations;
- (b) conduct an investigation itself or appoint a person to conduct an investigation on its behalf; and
- (c) require the respondent to appear before it.

(2) Where the complaints authorization committee is of the opinion there are no reasonable grounds to believe the respondent has engaged in conduct deserving of sanction, the committee shall dismiss the allegation and give notice in writing of the dismissal to the complainant.

(3) Where the complaints authorization committee is of the opinion that there are reasonable grounds to believe that a respondent has engaged in conduct deserving of sanction, the allegation is considered to constitute a complaint, and the committee may

- (a) counsel or caution the respondent; or
- (b) instruct the chairperson to file the complaint against the respondent and refer it to the disciplinary panel; and
- (c) recommend to the board that
  - (i) the respondent's practice be suspended or restricted, or
  - (ii) the chairperson conduct an investigation of the respondent's practice, and where the board approves an investigation the chairperson shall conduct it,

at any time before a final determination by the adjudication tribunal.

(4) A person conducting an investigation under paragraph (1)(a), (b) or subparagraph (3)(c)(ii) may

- (a) require a respondent to

- (i) undergo an examination or assessment he or she considers necessary and as arranged by the chairperson or the board, and
  - (ii) permit the chairperson or a director or a person appointed by the board to inspect and copy the records of the respondent and other documents relating to the subject matter of the investigation; and
- (b) require another person to permit the chairperson or a director or a person appointed by the board to inspect and copy records and other documents relating to the subject matter of the investigation held by that person,
- and the respondent or other person shall comply.

(5) Where the chairperson, a director or a person appointed by the board requires that a respondent or another person provide information under subsection (4), that information shall be provided within 7 days of receipt of the requirement or a different period as specified.

(6) An action for damages does not lie against a licensed occupational therapist or another person to whom a request is made solely because he or she provides information requested of him or her under subsection (4).

(7) Where the complaints authorization committee recommends to the board that a respondent's practice be suspended, restricted or investigated the board may

- (a) decide not to act on the recommendation; or
- (b) suspend, restrict or investigate the respondent's practice.

(8) A complainant whose allegation is dismissed by the complaints authorization committee under subsection (2) may, within 30 days after receiving notice of the dismissal, appeal the dismissal to the Trial Division by filing a notice of appeal with the Registrar of the Supreme Court.

(9) Subsections (4), (5) and (6) apply to the Crown.

2005 cO-4.1 s17

Adjudication  
tribunal

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

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

2005 cO-4.1 s18

Hearing

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

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

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

2005 cO-4.1 s19

Guilty plea by  
respondent

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

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

(a) reprimand the respondent;

(b) order that the respondent be suspended for a fixed period that it considers appropriate, until conditions which it may impose are fulfilled, or until further order of the adjudication tribunal;

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



(viii) restrict his or her professional practice or continue his or her practice under specified conditions, or

(ix) impose other requirements that are just and reasonable in the circumstances.

(3) The costs incurred by the board to ensure the compliance of a respondent with an order or direction of an adjudication tribunal under this section shall be borne by the respondent.

2005 cO-4.1 s20

Powers of adjudication tribunal

**21.** (1) Upon the hearing of a complaint, an adjudication tribunal shall decide whether or not a respondent is guilty of conduct deserving of sanction.

(2) Where an adjudication tribunal decides that a respondent is not guilty, it shall dismiss the complaint and may, where it believes that the submission of the complaint to the tribunal for a hearing was unreasonable,

(a) order that those costs that the tribunal considers appropriate be paid by the board to the respondent; and

(b) make another order that it considers appropriate.

(3) Where an adjudication tribunal decides that a respondent is guilty, it may

(a) reprimand the respondent;

(b) order that the respondent be suspended for a fixed period that it considers appropriate, until conditions which it may impose are fulfilled, or until further order of the adjudication tribunal;

(c) allow or direct the respondent to surrender his or her licence to the board upon those conditions that may be considered appropriate and strike the respondent's name from the register;

(d) impose a fine to be paid to the board, not to exceed \$10,000;

- (e) order that the respondent pay the costs or a part of the costs incurred by the board in the investigation and hearing of the complaint;
- (f) order that the chairperson publish a summary of the decision including the information set out in subsection 22(4) and other information that the tribunal may specify; and
- (g) order that the respondent comply with one or more of the following:
  - (i) make restitution to the complainant or other person affected by the conduct of the respondent,
  - (ii) obtain medical treatment,
  - (iii) obtain counselling,
  - (iv) obtain substance abuse counselling or treatment, until the respondent can demonstrate to the board or other body or person designated by the adjudication tribunal that a condition related to substance abuse rendering the respondent incapable or unfit to practise has been overcome,
  - (v) engage in continuing education programs,
  - (vi) complete a course of studies or obtain supervised clinical experience, or both, to the satisfaction of the board or other body or person designated by the adjudication tribunal,
  - (vii) report on his or her compliance with an order made under this section and authorize others involved with his or her treatment or supervision to report on it,
  - (viii) restrict his or her professional practice or continue his or her practice under specified conditions, or
  - (ix) impose other requirements that are just and reasonable in the circumstances.

(4) The costs incurred by the board to ensure the compliance of a respondent with an order or direction of an adjudication tribunal under this section shall be borne by the respondent.

2005 cO-4.1 s21

Filing and publication of decisions

**22.** (1) An adjudication tribunal shall file a decision or order made under subsection 20(2) or 21(3) with the chairperson and provide a copy to the complainant and the respondent and the respondent's employer.

(2) The chairperson shall maintain a copy of a decision or order filed under subsection (1) for a minimum of 5 years after the day the decision is filed and shall upon receiving a request to view the disciplinary records in relation to an occupational therapist permit a person to view a summary of a decision where that licensed occupational therapist was the respondent, prepared in accordance with subsection (4).

(3) The chairperson shall publish a summary of a decision or order of an adjudication tribunal in a newspaper of general circulation in or nearest to the community in which the respondent practises within 14 days of the filing of the decision or order, where the decision or order

- (a) suspends the respondent;
- (b) allows or directs the respondent to surrender his or her licence;
- (c) restricts the respondent's practice;
- (d) specifies conditions for the continuing practice of the respondent; or
- (e) requires that a summary of the decision or order be published.

(4) The summary of the decision published under subsection (3) shall include

- (a) the name of the respondent and the address where he or she practises;

- (b) the date, location and a brief description of the conduct of the respondent that was found to be deserving of sanction;
- (c) the name of the complainant, unless the complainant has requested that his or her name be withheld;
- (d) the contents of the order in relation to the actions referenced in paragraphs (3)(a) to (d); and
- (e) other information specified for publication in the decision or order.

(5) Where a decision published under this section is varied or set aside, the chairperson shall within 14 days of the filing of the subsequent decision or order publish a summary of the decision or order and subsections (2) and (3) apply, with the necessary changes.

2005 cO-4.1 s22

De-registration and  
suspension

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

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

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

2005 cO-4.1 s23

Failure to comply

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

(2) The parties to the application are the board and the respondent.

(3) An order of an adjudication tribunal under this section may suspend the rights and privileges of the respondent for a fixed period

that the adjudication tribunal may consider appropriate, or until conditions which it may impose are fulfilled, or until further order of the adjudication tribunal.

2005 cO-4.1 s24

Reinstatement and  
readmission

25. (1) Where a decision or order of the adjudication tribunal

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

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

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

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

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

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

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

2005 cO-4.1 s25

Costs of board

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

(2) Costs ordered by the board under paragraph 20(2)(e) or 21(3)(e) are a debt due the board and may be recovered by a civil action.

2005 cO-4.1 s26

Collection of fine

**27.** (1) Where an order is made under section 20 or 21 imposing a fine on a respondent, the board may issue a certificate stating the amount of the fine due and remaining unpaid and the name of the person by whom it is payable, and file the certificate with the Registrar of the Supreme Court.

(2) Where a certificate is filed with the Registrar of the Supreme Court under subsection (1), it has the same effect and all proceedings may be taken on the certificate as if it were a judgment of the Trial Division for the recovery of the amount stated in the certificate against the person named in the certificate.

(3) A person named in a certificate filed under this section may, within 30 days after the certificate is filed, apply to a judge of the Trial Division for a review, on a question of law or jurisdiction, of the certificate.

(4) On an application under subsection (3), the judge may make an amendment to the certificate that is necessary to make the certificate accord with the judge's decision.

(5) There is no appeal from a decision of a judge made under this section.

(6) A certificate filed under this section may also be filed in the judgment enforcement registry on the expiration of the 30 day period referred to in subsection (3) in accordance with Part III of the *Judgment Enforcement Act* and be enforced in accordance with that Act.

2005 cO-4.1 s27

Appeal to Trial  
Division

**28.** (1) The board or the respondent may, within 30 days after receiving notice of a decision or order of an adjudication tribunal under this Act, appeal the decision or order to the Trial Division by filing a notice of appeal with the Registrar of the Supreme Court.

(2) An appeal under this section does not stay the decision or order being appealed unless the Trial Division orders otherwise.

2005 cO-4.1 s28

Copies of books,  
etc. as evidence

**29.** A copy or extract of a book, record, document or thing certified by

(a) a member of the complaints authorization committee; or

(b) a person authorized under subsection 17(4) to conduct an inspection,

who made the copy or extract under subsection 17(4) is admissible in evidence in an action, proceeding or prosecution, in the absence of evidence to the contrary, as evidence of the original book, record, document or thing and its contents.

2005 cO-4.1 s29

Regulations

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

(a) prescribing conditions for the licensing of persons to practise occupational therapy and for the renewal of licences;

(b) providing for the issuance of provisional licences;

(b.1) providing for the issuance of different classes of licences;

(c) approving schools and programs of occupational therapy;

- (d) respecting continuing education courses and other programs for the purpose of maintaining and improving professional standards;
- (e) [Rep. by 2009 c46 s1]
- (f) respecting alternative dispute resolution for the purposes of sections 13 to 29 and the procedure for that resolution;
- (g) prescribing time limits for events in the disciplinary process in sections 13 to 29, including time limits for:
  - (i) the filing of an allegation,
  - (ii) the resolution of an allegation by the chairperson under section 16,
  - (iii) the conduct of an investigation under section 17,
  - (iv) consideration of an allegation by the complaints authorization committee following completion of an investigation,
  - (v) responding to a complainant and respondent at each stage of the process,
  - (vi) the conduct of a practice investigation under subparagraph 17(3)(c)(ii),
  - (vii) the appointment of an adjudication tribunal under section 18, and
  - (viii) the conduct of a hearing and the filing of a decision or order by an adjudication tribunal following completion of the hearing.

(2) Notwithstanding paragraph (1)(g), the minister may make regulations prescribing time limits for events in the disciplinary process under sections 13 to 29 where the board does not do so within the time the minister considers reasonable.

2005 cO-4.1 s30; 2009 c46 s1



By-laws, fees and forms

**31. (1)** The board may make by-laws

- (a) providing for the holding and procedure of its meetings;
- (b) providing for the election of directors under section 5 and setting the terms of office;
- (c) limiting the participation of directors in a meeting of the board by telephone or other telecommunications device under section 5;
- (d) providing for voting at a meeting of the licensed occupational therapists by mail or electronic means;
- (e) respecting the rates of remuneration for members of an adjudication tribunal;
- (f) establishing a code of ethics which may include a definition of "professional misconduct" and "conduct unbecoming an occupational therapist" for the purposes of sections 13 to 29; and
- (g) generally, to assist in the administration of this Act and the regulations.

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

(3) The board may set fees and forms for the purpose and administration of the Act.

2005 cO-4.1 s31

Limitation to practise

**32. (1)** A person shall not use the designation "occupational therapist" or words or the letters "O.T." or letters similar to them indicative of that designation or seek to convey the impression of being an occupational therapist licensed under this Act unless that person is licensed under this Act.

(2) [Rep. by 2009 c46 s2]

(3) An occupational therapist shall not diagnose or prescribe medicines or drugs.

2005 cO-4.1 s32; 2009 c46 s2

**Prohibition**            **33.** A person shall not engage in the practice of occupational therapy unless that person is licensed as an occupational therapist under this Act.

2005 cO-4.1 s33

**Saving**                **34.** Notwithstanding section 33, nothing in this Act limits or prevents the practice of occupational therapy

(a) by a legally qualified medical practitioner; or

(b) by a person in giving first aid or temporary help in case of emergency.

2005 cO-4.1 s34

**Action prohibited**    **35.** An action for damages shall not lie against the board, the disciplinary panel, an adjudication tribunal or the individual members of those bodies, a person appointed by the complaints authorization committee to conduct an investigation, the registrar, or an officer, employee or agent of the board for

(a) an act or failure to act, or a proceeding initiated or carried out in good faith under this Act, or carrying out their duties or obligations as an officer, employee, member, agent or investigator under this Act; or

(b) for a decision or order made or enforced in good faith under this Act.

2005 cO-4.1 s35

**Offence**                **36.** A person who contravenes this Act commits an offence and is liable on summary conviction to a fine not exceeding \$1,000 for a first conviction and to a fine not exceeding \$3,000 for a second or subsequent conviction.

2005 cO-4.1 s36

**Transition**            **37.** (1) The members of the Newfoundland and Labrador Occupational Therapy Board on the day before this Act comes into force are

continued as directors of the board until an election is held under section 5.

(2) An election to elect the 5 directors referred to in paragraph 3(2)(a) shall be held within 12 months after the day this Act comes into force.

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

(4) Of the directors first elected under section 5,

(a) 3 shall be appointed for a term of 3 years; and

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

2005 cO-4.1 s37

RSNL1990 cO-4  
Rep.

**38. The *Occupational Therapists Act* is repealed.**

2005 cO-4.1 s38

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