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CHAPTER 27

An Act respecting the regulation of the profession of traditional Chinese medicine, and making complementary amendments to certain Acts

Assented to December 20, 2006

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1. In this Act,

"College" means the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario; ("Ordre")

"Health Professions Procedural Code" means the Health Professions Procedural Code set out in Schedule 2 to the *Regulated Health Professions Act, 1991*; ("Code des professions de la santé")

"member" means a member of the College; ("membre")

"profession" means the profession of traditional Chinese medicine; ("profession")

"this Act" includes the Health Professions Procedural Code. ("la présente loi")

Health Professions Procedural Code

2. (1) The Health Professions Procedural Code shall be deemed to be part of this Act.

Same, interpretation

(2) In the Health Professions Procedural Code, as it applies in respect of this Act,

"College" means the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario; ("ordre")

"health profession Act" means this Act; ("loi sur une profession de la santé")

"profession" means the profession of traditional Chinese medicine; ("profession")

"regulations" means the regulations under this Act. ("règlements")

Definitions in Code

(3) Definitions in the Health Professions Procedural Code apply with necessary modifications to terms in this Act.

Scope of practice

3. The practice of traditional Chinese medicine is the assessment of body system disorders through traditional Chinese medicine techniques and treatment using traditional Chinese medicine therapies to promote, maintain or restore health.

Authorized acts

4. In the course of engaging in the practice of traditional Chinese medicine, a member is authorized, subject to the terms, conditions and limitations imposed on his or her certificate of registration, to perform the following:

1. Performing a procedure on tissue below the dermis and below the surface of a mucous membrane for the purpose of performing acupuncture.
2. Communicating a traditional Chinese medicine diagnosis identifying a body system disorder as the cause of a person's symptoms using traditional Chinese medicine techniques.

College established

5. The College is established under the name College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario in English and Ordre des praticiens en médecine traditionnelle chinoise et des acupuncteurs de l'Ontario in French.

Council

6. (1) The Council shall be composed of,

- (a) at least six and no more than nine persons who are members elected in accordance with the by-laws;
- (b) at least five and no more than eight persons appointed by the Lieutenant Governor in Council who are not,

- (i) members,
- (ii) members of a College as defined in the *Regulated Health Professions Act, 1991*, or
- (iii) members of a Council as defined in the *Regulated Health Professions Act, 1991*.

Who can vote in elections

(2) Subject to the by-laws, every member who practises or resides in Ontario and who is not in default of payment of the annual membership fee is entitled to vote in an election of members of the Council.

President and Vice-President

7. The Council shall have a President and Vice-President who shall be elected annually by the Council from among the Council's members.

Restricted titles

8. (1) No person other than a member shall use the titles "traditional Chinese medicine practitioner" or "acupuncturist", a variation or abbreviation or an equivalent in another language.

Representations of qualification, etc.

(2) No person other than a member shall hold himself or herself out as a person who is qualified to practise in Ontario as a traditional Chinese medicine practitioner or acupuncturist or in a specialty of traditional Chinese medicine.

Definition

(3) In this section,

"abbreviation" includes an abbreviation of a variation.

Notice if suggestions referred to Advisory Council

9. (1) The Registrar shall give a notice to each member if the Minister refers to the Advisory Council, as defined in the *Regulated Health Professions Act, 1991*, a suggested,

- (a) amendment to this Act;
- (b) amendment to a regulation made by the Council; or
- (c) regulation to be made by the Council.

Requirements re notice

(2) A notice mentioned in subsection (1) shall set out the suggestion referred to the Advisory Council and the notice shall be given within 30 days after the Council of the College receives the Minister's notice of the suggestion.

Offence

10. Every person who contravenes subsection 8 (1) or (2) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for a first offence and not more than \$10,000 for a subsequent offence.

Regulations

11. Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

- (a) prescribing standards of practice respecting the circumstances in which traditional Chinese medicine practitioners shall make referrals to members of other regulated health professions;
- (b) prescribing therapies involving the practice of traditional Chinese medicine, governing the use of prescribed therapies and prohibiting the use of therapies other than the prescribed therapies in the course of the practice of traditional Chinese medicine.

"Doctor" title

12. Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

- (a) regulating or prohibiting the use of the title "doctor", a variation or abbreviation or an equivalent in another language by members in respect of their practice;
- (b) prescribing a class of certificates of registration for members who use the title "doctor" and imposing terms, conditions and limitations on certificates of registration of this class;
- (c) prescribing standards and qualifications for the issue of these certificates and providing for the suspension, revocation and expiration of certificates relating to those members;
- (d) prescribing certain registration requirements as non-exemptible requirements for these certificates for the purposes of subsections 18 (3) and 22 (8) of the Health Professions Procedural Code;
- (e) requiring, for purposes associated with the registration of those members, the successful completion of examinations as set, from time to time, by the College, other persons or associations of persons and providing for an appeal of the results of the examinations.

Transition before certain provisions in force

13. (1) The Lieutenant Governor in Council may appoint a transitional Council.

Registrar

(2) The Lieutenant Governor in Council may appoint a Registrar who may do anything that the Registrar may do under the *Regulated Health Professions Act, 1991*.

Powers of transitional Council and Registrar

(3) Before section 6 comes into force, the Registrar, the transitional Council and its employees and committees may do anything that is necessary or advisable for the implementation of this Act and anything that the Registrar, the Council, and its employees and committees could do under this Act.

Same

(4) Without limiting the generality of subsection (3), the transitional Council and the Registrar and the Council's committees may accept and process applications for the issuance of certificates of registration, charge application fees and issue certificates of registration.

Powers of the Minister

(5) The Minister may,

- (a) review the transitional Council's activities and require the transitional Council to provide reports and information;
- (b) require the transitional Council to make, amend or revoke a regulation under this Act;
- (c) require the transitional Council to do anything that, in the opinion of the Minister, is necessary or advisable to carry out the intent of this Act and the *Regulated Health Professions Act, 1991*.

Transitional Council to comply with Minister's request

(6) If the Minister requires the transitional Council to do anything under subsection (5), the transitional Council shall, within the time and in the manner specified by the Minister, comply with the requirement and submit a report.

Regulations

(7) If the Minister requires the transitional Council to make, amend or revoke a regulation under clause (5) (b) and the transitional Council does not do so within 60 days, the Lieutenant Governor in Council may make, amend or revoke the regulation.

Same

(8) Subsection (7) does not give the Lieutenant Governor in Council authority to do anything that the transitional Council does not have authority to do.

Expenses

(9) The Minister may pay the transitional Council for expenses incurred in complying with a requirement under subsection (5).

Transition after certain provisions in force

14. (1) After section 6 comes into force, the transitional Council shall be the Council of the College if it is constituted in accordance with subsection 6 (1) or, if it is not, it shall be deemed to be the Council of the College until a new Council is constituted in accordance with subsection 6 (1).

Registrar

(2) After section 6 comes into force, the Registrar appointed by the Lieutenant Governor in Council shall be deemed to be the Registrar until a new Registrar is appointed by the Council constituted under subsection 6 (1).

COMPLEMENTARY AMENDMENTS

Drug Interchangeability and Dispensing Fee Act

15. The definition of "drug" in subsection 1 (1) of the *Drug Interchangeability and Dispensing Fee Act* is repealed and the following substituted:

"drug" means a drug as defined in the *Drug and Pharmacies Regulation Act*, and includes any substance designated as an interchangeable product before section 16 of the *Traditional Chinese Medicine Act, 2006* came into force; ("médicament")

Drug and Pharmacies Regulation Act

16. Clause (f) of the definition of "drug" in subsection 117 (1) of the *Drug and Pharmacies Regulation Act* is repealed and the following substituted:

(f) any "natural health product" as defined from time to time by the *Natural Health Products Regulations* made under the *Food and Drugs Act* (Canada),

Ontario Drug Benefit Act

17. The definition of "drug" in subsection 1 (1) of the *Ontario Drug Benefit Act* is repealed and the following substituted:

"drug" means a drug as defined in the *Drug and Pharmacies Regulation Act*, and includes,

- (a) any substance designated as a listed drug product before section 16 of the *Traditional Chinese Medicine Act, 2006* came into force, and
- (b) any substance that was supplied under this Act by virtue of section 16 before section 16 of the *Traditional Chinese Medicine Act, 2006* came into force; ("médicament")

Regulated Health Professions Act, 1991

18. (1) Section 33 of the *Regulated Health Professions Act, 1991* is amended by adding the following subsection:

Same

(2.1) Subsection (1) does not apply to a person who is a member of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario and who holds a certificate of registration that entitles the member to use the title "doctor".

(2) Schedule 1 to the Act is amended by adding the following:

<i>Traditional Chinese Medicine Act, 2006</i>	Traditional Chinese Medicine
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O. Reg 107/96

19. (1) Paragraph 1 of section 8 of Ontario Regulation 107/96 (Controlled Acts) under the *Regulated Health Professions Act, 1991* is revoked.

(2) Section 8 of the Regulation is amended by adding the following subsections:

(2) Subject to subsection (4), a person who is a member of a College listed in Column 1 of the Table is exempt from subsection 27 (1) of the Act for the purpose of performing acupuncture, a procedure performed on tissue below the dermis, in accordance with the standard of practice and within the scope of practice of the health profession listed in Column 2.

TABLE	
Column 1	Column 2
1. College of Chiropractors of Ontario	Chiropractic
2. College of Chiropractors of Ontario	Chiropractic
3. College of Massage Therapists of Ontario	Massage Therapy
4. College of Nurses of Ontario	Nursing
5. College of Occupational Therapists of Ontario	Occupational Therapy
6. College of Physiotherapists of Ontario	Physiotherapy
7. Royal College of Dental Surgeons of Ontario	Dentistry

(3) Subject to subsection (4), a person who is registered to practise under the *Drugless Practitioners Act* by The Board of Directors of Drugless Therapy is exempt from subsection 27 (1) of the *Regulated Health Professions Act, 1991* for the purpose of performing acupuncture, a procedure performed on tissue below the dermis, in accordance with the practice of the profession.

(4) A person mentioned in subsection (2) or (3) is exempt from subsection 27 (1) of the Act for the purpose of performing acupuncture only if he or she has met the standards and qualifications set by the College or The Board of Directors of Drugless Therapy, as the case may be.

(5) A person is exempt from subsection 27 (1) of the Act for the purpose of performing acupuncture, a procedure performed on tissue below the dermis, if the acupuncture is performed as part of an addiction treatment program and the person performs the acupuncture within a health facility.

(6) In subsection (5),

"health facility" means a facility governed by or funded under an Act set out in the Schedule.

Commencement

20. (1) Subject to subsection (2), this Act comes into force on the day it receives Royal Assent.

Same

(2) Sections 3 to 12, 14, 18 and 19 come into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

21. The short title of this Act is the *Traditional Chinese Medicine Act, 2006*.

Français