CANADIAN FOOT CARE ASSOCIATION

KEEPING PEOPLE MOBILE & HEALTHY THROUGH ADVANCING EDUCATION& QUALIFYING MEMBERS

OFCA
Ontario Foot Care Association Inc.

ACCREDITING PODORTHO FOOT SPECIALIST HEALTH CARE PROVIDERS IN MEDICAL FOOT & LOWER LIMB CARE

FOOT ORTHOTIC THERAPY

& Orthoses Devices

FOOT ORTHOTIC THERAPY & ORTHOSES DEVICES

Over the past many decades there has been a great deal of public, practitioner, regulatory college, association, and health insurer confusion surrounding health care practitioners' who may or may not provide orthotic therapy to their client's/patient's. This document serves to deconstruct the concepts of scopes of practice and acts communicated through regulatory colleges and how legislation plays a significant role in the delivery of healthcare across the province of Ontario and throughout Canada. Discussions around the context of various healthcare providers (HCP) delivering medical foot and lower limb care has become a controversial topic requiring more attention and collaboration amongst regulator's and those who practice medical foot and lower limb care who best understand point of care concepts and what the public needs are.

This document specifically interprets orthotic therapy that is utilized by many HCP as an adjunctive solution-oriented tool to assist clients with conditions of the foot and lower limb ensuring the HCP can focus on a whole of client care perspective that seeks to improve mobility and skin integrity thus preventing or healing wounds and that decreases risks of falls in our elderly population and provides an overall improvement in one's health related quality of life.

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UNDERSTANDING HEALTHCARE LEGISLATION

All healthcare providers should become familiar with healthcare legislation (HCL). HCL is communicated within the Regulated Health Professions Act (RHPA). The RHPA sets the legal framework of controlled acts which includes the benchmarks and backstops a regulated health care providers (RHCP) or unregulated health care provider (UHCP) must adhere to when delivering healthcare across provinces in Canada. This authoritative document communicates what is deemed a controlled act and who may or may not initiate and/or delegate various “controlled acts”.

The RHPA restricts who can perform the enumerated “controlled acts” which are considered “procedures or activities which may pose a risk to the public if not performed by a qualified practitioner.” [1]

No person shall perform a “Controlled act” in the course of providing health care services to an individual unless that person is a member authorized by a health profession act to perform the “controlled act.” [1]

WHAT IS A SCOPE OF PRACTICE (SOP)? WHAT IS THE DIFFERENCE BETWEEN A "CONTROLLED ACT" AND A SCOPE OF PRACTICE?

The term scope of practice (SOP) refers to the limits of a health professional's knowledge, skill and experience and reflects all tasks and activities they undertake within the context of their professional role. Inconsistency in definitions of SOP contributes to uncertainty and confusion regarding professional practice boundaries and potentially impacts societal access to safe, effective and efficient healthcare options. (2)

There is currently no universally agreed definition of SOP despite common usage of the term and various meanings are ascribed by different organizations' and agencies. (2)

A regulatory body within that same community may conversely define the SOP for this professional group differently, and not permit the group to provide that activity of services. This creates a loss for society where the professional group would have been able to enhance either access, safety, effectiveness or efficiency of the activity of services as compared to the next best alternative in that community. (2)

It is widely acknowledged that novice practitioners need to sequentially acquire further knowledge, and skills to support any progression of their scope, in addition to their entry-level qualification, recognizing that each individual's SOP will differ to a greater or lesser extent from that of their peers and professional colleagues, informed by their cumulative professional experience and additional education and training. And therefore, we must then rely on the legal interpretation of the RHPA within a provincial context given legislation may vary from province to province. Healthcare falls under provincial jurisdictions respectively.

SCOPE OF PRACTICE AND LEGAL SIGNIFICANCE

A communicated scope of practice within a profession does not necessarily hold legal significance (unless a controlled act within the RHPA) and therefore when a RHCP or UHCP is determining to offer various health care services they should always defer to the RHPA. Care services may or may not be considered a controlled act. The health care provider (HCP) must rely on legislation and not assumptions.

A “scope of practice” statement holds no legal significance according to health law when HCP is initiating the delivery of care that is not considered a controlled act within the RHPA respectively. Therefore when a HCP is delivering non-controlled acts they are permitted to do so even if it’s not expressed within their professions stated scope of practice and act provided the HCP has obtaining the knowledge, skill and competencies to initiate and deliver said care.

Obtaining post graduate education is one way a HCP can gain and establish the competencies to offer care that falls under non-controlled acts as these procedures are considered non-invasive, conservative in nature and pose little to no risk of harm. This is referred to legally as the “basket clause”.

HEALTHCARE PROVIDERS
INDEPENDENT SCOPE OF PRACTICE

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An independent scope of practice (ISOP) is defined as a practice a HCP has learned through continued post graduate education and training beyond their entry to practice competencies that is defined by their respective regulatory colleges.
An ISOP is often obtained by HCP's who have an interest in a specific area of healthcare and/or a field of healthcare they have excelled at.

Various traditional and non-traditional educational programs offer continued education opportunities that are offered by community colleges, private career colleges, vocational institutions and through peers and or colleagues who offer various types of hands-on skilled training mentorships.

Peer feedback and evaluations are a common practice in healthcare to ensure point of care concepts are learned that considering the efficacy, safety and relevance of each procedure performed within one's legislated scope of practice (RHPA) that considers both controlled and non-controlled acts. This allows the HCP to meet their own individuals learning outcomes they have set to meet their regulatory colleges quality assurance program. This learning practice ensures the HCP has developed the core competencies needed to practice responsibly, ethically and professionally in a specific area of healthcare.

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IMPORTANCE OF RECOGNIZING ALL HEALTHCARE PROVIDERS & OVERLAPPING SCOPES OF PRACTICES

OFCA recognizes the primary focus of medical foot and lower limb care should consider accessibility, cost-effectiveness and be patient centered.

Unfortunately, the current debate over professional titles detracts from solution-oriented discussions in relation to the improvement of patient outcomes and should foster healthy collaboration among healthcare professionals. Emphasis should be placed on addressing the real issues affecting patient care and healthcare equity in our communities across Ontario and Canada. Outdated hierarchies hinder effective service delivery and should be considered widely amongst public health officials in order to place public need first and foremost thus improving delivery of care both publicly and privately in healthcare institutions and in the community.

The Ontario Foot Care Association Inc. (OFCA) has legally established “orthotic therapy” is not deemed a controlled act under the RHPA and therefore falls within the public domain as it poses “little to no risk of harm” (legally referred to the “Basket Claus”).[3] OFCA has also established clear and concise definitions of Orthotic Therapy, for our members to reference who are first RHCP who have engaged in post graduate continuing education and who have acquired the core competencies through continued post graduate education programs and offer various healthcare services in the field of medical foot and lower limb care respectively.

it is widely recognized that HCP must place importance on obtaining the knowledge, skill and judgement when delivering care both if it is a controlled act or not a controlled act. This is accomplished through the HCP obtaining post graduate continued education and skilled hands-on training ensuring they have developed the competencies to effectively and safely deliver this care across communities in Ontario, Canada. OFCA members are encouraged to ensure quality client care is delivered in a solution-oriented manner that is cost effective and accessible.

DEFINITIONS OF ORTHOTICS/ORTHOSES

Custom Accommodative Foot Orthotics (AFO)

Consider the effects of compressional, torsional, tensile, and rotational stressors to the feet that has the potential to compromise foot and lower limb structures of the; bones, muscles, tendons, ligaments, nerves, lymphatic and vascular circulation, and the integumentary system. The primary goal of an accommodative orthoses is to reduce stress, off load pressure and improve comfort. Custom Accommodative Orthoses have the potential to improve plantar grade contact, which evenly distributes pressure to the foot thus eliminating concentrated pressure in one area.

Custom Corrective Foot Orthotics (CFO)

The primary goal of a corrective orthotics is to correct foot and lower limb structures that can also impact the entire kinetic chain, support, and restore balance and misalignments, support foot arches thus off-loading pressure areas. Corrective Foot Orthotics are created specifically to address and/or improve foot mechanics and positional deformities of a foot condition that may be structural or functional thus, improving overall biomechanics.

Custom Corrective Foot Orthotics (CFO)

Encompass both a corrective and accommodative measure as noted above.

Off the Shelf Orthoses (OSO) (Not Customized)

The Primary goal of an orthoses in most circumstances is a preventative and/or rehabilitative measure to reduce stressors and/or pressure thus acting as an off-loading device thus, decreasing the risk of foot or digit skin breakdown, discomfort, and/or pain. These appliances are often utilized as a wound prevention measure offered by many foot care practitioners. Examples may include digital appliances (toe spacers, toe sleeves, digital toe caps, MTP joint protectors, heel cushions, and metatarsal pads). Another consideration is store bought foot “orthotics” that would also be considered an “off the shelf orthoses” as it would not be customized as the feet, lower limb, gait analysis and overall biomechanics and conditions have not been assessed or considered by a qualified practitioner.

Off the shelf products would also include stores that sell foot orthotics where the client steps on a scanning machine which captures a subtalar neutral image of the clients’ foot. This type of digital assessment excludes the assessment of the clients’ foot and lower limb and overall health conditions, and/or does not assess the individuals gait cycle through a dynamic scanning process and physical biomechanical assessment performed by a qualified practitioner therefore, lacking a whole of client care approach that is provided when assessed by a qualified practitioner. This is often the first measure a client would seek prior to obtaining a more suitable solution by a qualified practitioner who has obtained the necessary education to appropriately assess the individuals foot and lower limb care needs.

Orthotic Therapy
Post Graduate Education for RHCP/URHCP

The Ontario Foot Care Association Inc. bases our own standards of practices on public need and point of care concepts and has collaboratively developed a comprehensive seven module online orthotic certification program. This ensures each of our OFCA members have obtained the competencies to assess foot and lower limb mechanics, overall biomechanics and condition-based solutions through advanced post graduate training modules. OFCA members must have obtained the core competencies of an approved footcare program that considers entry foot and lower limb care education foot and lower limb anatomy, physiology, and condition-based concepts thus applying their acquired knowledge to these advanced concepts.

OFCA members have recognized a significant growth in public need of those requiring foot and lower limb care provincially and nationally, given a rapidly ageing and growing, population. Conservative health care measures that are efficient, solution oriented, affordable and are sought after by the public. HCP working in communities across Ontario in this field of care allows the public to remain active, mobile, pain and wound free which encourages the public to remain in their communities as long as possible. This innovative concept to care also reduces the need for the public to access health institutions and/or a primary health care providers that are often overburdened and are not organized to offer this care as it requires a great deal of investment in education, instruments, equipment and a location in order to meet public health regulations such as; infection controlled and safety measures. Podortho Foot Specialists (Pod. F.S.) align with the new Ontario health care initiative Your Health: A Plan for Connected and Convenient Care (3)

There has been a great deal of confusion surrounding who can and cannot provide orthotic therapy; therefore, it is important to consider the legalities rather than assumptions. OFCA has established orthotic therapy is not deemed a controlled act under the Healthcare legislation in Ontario as it states authoritatively that it falls within the public domain and poses little-to-no risk of harm (legally referred to the "basket clause"), which has also been communicated through the College of Chiropodists of Ontario in its standard of practice documents.

OFCA bases its own standards of practices on public need and point-of-care concepts and has collaboratively developed a comprehensive seven module certification program to ensure all members have obtained the competencies to assess foot and lower limb mechanics, overall biomechanics, and provide condition-based solutions through advanced orthotic therapy post-graduate training modules.

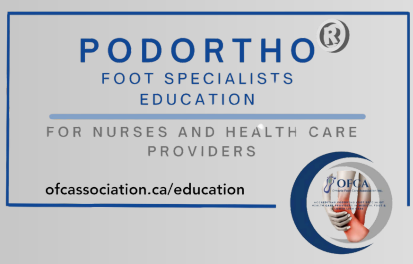
OFCA members have recognized a significant growth in public need of those requiring foot orthotics and orthoses. Orthotics/orthoses are multi-functional and utilized by OFCA members to prevent, correct, and accommodate foot and lower limb conditions that may otherwise deteriorate thus, causing more serious life altering conditions that may impact overall community health and the quality of life of the public. Podortho Foot Specialists (Pod. F.S) incorporate many of these non-invasive, conservative measure in their practices in order to sufficiently provide the quality of care necessary at the community level being that is solution oriented, preventative, and rehabilitative and poses little to no risk of harm and is obtained efficiently and affordably.

OFCA also agrees with many other associations and colleges that orthotic therapy should only be performed by "qualified practitioners" who have obtained the knowledge, skill, and judgement through continuing post graduate education initiatives providing practitioners with the competences to deliver this specialized care. Learning opportunities exist through various formal or informal certification courses. As self regulator's the practitioner should review the curriculum in detail to determine whether the program will meet their learning goals consistent with their Quality Assurance program set by their regulatory colleges.

OFCA members are RHCP and therefore establish their own learning plans annually to meet their learning outcomes in order to ensure they have achieved the competencies to initiate and deliver care. OFCA acknowledges RHCP continuing health care education is fluid and evolving in order to meet the challenges is a forever, changing health care landscape. Continuing health care education program model are now often self directed and/or online and efficiently obtained in shorter periods of time in order to meet public need. As OFCA recognizes orthotic therapy is not deemed a controlled act under the regulated health professions act (RHPA) we do however, support that the practitioner/RHCP must always ensure they have obtained the competencies to initiate and perform all care procedures whether under a controlled or not controlled act.

OFCA provides our members with complementary orthotic certification delivered by vetted qualified and seasoned practitioners who are experts in the assessment, treatment, and evaluation of efficacy of orthotic therapy. This post graduate program includes however not limited to; Bio-mechanic concepts, gait analysis, hands-on assessments, advanced orthotic therapy, condition based orthotic therapy, orthotic modifications, stability assessments for fall risk prevention and off-loading concepts specific to the foot and lower limb that considers a whole of patient care approach and effects on the clients entire kinetic chain.

Orthoses/foot orthotics are multifunctional and used by OFCA members to prevent, correct, and accommodate foot and lower limb conditions that may otherwise deteriorate and cause more serious life-altering conditions that may impact overall community health and the quality of life of the public. PFS incorporate many of these non-invasive, conservative measures in their practices to sufficiently provide the quality of care necessary at the community level that is solution-oriented, preventative, rehabilitative, poses little-to-no risk of harm, and is obtained efficiently and affordably.



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Orthotic therapy is not deemed a controlled act under RHPA; however, OFCA supports the fact that the practitioner/RHCP must always ensure they have obtained the competencies to initiate and perform all care procedures whether under a controlled act or not. OFCA provides our members with complementary orthotic certification delivered by vetted qualified and seasoned practitioners who are experts in the assessment, treatment, and evaluation of efficacy of orthotic therapy.

This post-graduate program includes (but is not limited to): bio-mechanic concepts, gait analysis, hands-on assessments, advanced orthotic therapy, condition-based orthotic therapy, orthotic modifications, stability assessments for fall-risk prevention, and offloading concepts specific to the foot. and lower limb that considers a whole of patient care approach and the effects on the client’s entire kinetic chain.

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Orthotic Therapy Education Requirements

Post-graduate education approved and accredited by the OFCA must include the following:

1. Foot and Lower Limb Anatomy & Physiology
2. Condition Based Foot & Lower Limb Complications
3. Biomechanics, Foot & Lower Limb Mechanics
4. Gait analysis
5. Physical Assessments
6. Orthotic laboratory manufacturing procedures

Pod.Fs have obtained the knowledge, skill, and judgement to competently provide medical foot and lower limb care, including the assessment of foot and lower limb patient concerns, and to determine which orthotic devices will improve one's overall health and wellness.

OFCA members have the option to consult with laboratory technicians who are qualified HCP who specialize in the design and build of orthotic devices.

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Legal Opinion Communicated to OFCA Directors Re: Orthotic Therapy

The narrative that has been purported throughout the industry of medical foot and lower limb care suggests that nurses cannot prescribe orthotics, which seems to derive from the controlled act of communicating a diagnosis. If this is the reasoning, then chiropodists are not able to do so either. The College of Chiropodists of Ontario (COCOO) focus on the fact that they have orthotics included specifically in their "scope of practice." Based on that interpretation, this does not explain the chiropodists' position. A scope of practice is not the same thing as an "authorized act" within the regulated health professions act (RHPA). Moreover, just because one profession communicates an "act" within their scope of practice, this does not mean that other professions are prohibited from performing that act.

For example, chiropractors can "prescribe" (although not a prescription under authorized acts) and dispense orthotics, but those "acts" are not expressly mentioned in their scope of practice, likely because the act does not fall under "Controlled Acts" within the legislation. Authoritative texts recognize that, as practitioners are not legally precluded from performing a procedure beyond the profession's stated scope of practice (except for controlled, prohibited, or harmful acts), scope of practice statements have little legal significance. (18)

In addition to the enumerated "controlled acts," RHPA provides that no person, other than a member treating within the scope of practice of their profession, shall treat a person with respect to their health in circumstances in which it is "reasonably foreseeable that serious bodily harm may result from the treatment."(19) This is commonly referred to as the "risk of harm" or "basket" clause and these acts are referred to as "harmful acts." Healthcare services not involving a controlled act, prohibited act, or harmful act are in the public domain and may be performed by anyone. (20)

RHPA Legislation
Orthotic Therapy
(Not Regulated Under RHPA)

Unlike the case with hearing aids, dental prostheses, and eyewear, prescribing and/or dispensing foot orthoses are not controlled acts within the meaning of RHPA:

These functions are deemed to be “public domain acts,” able to be lawfully performed by any regulated or unregulated practitioner. Accordingly, in today’s marketplace, practitioners in many different professions and with varying levels of competency recommend and/or “sell foot orthoses.” (21)

Legal Conclusion Regarding “Prescribing” Orthotics

In the list of controlled acts in RHPA, “prescribing” orthotics is not there; however, the communication of a medical diagnosis is. Therefore, on that theory, chiropodists should not be able to prescribe either.(22) If the so-called prescription of orthotics is not a controlled act, then the act arguably falls within the public domain; therefore, based on factual documentation, orthotic
therapy falls within the public domain and is legally referred to as the “basket clause,” as this conservative treatment poses little-to-no risk for harm.

OFCA concludes the use of orthotics can be comparable to an individual choosing to wear various types and styles of footwear. Under RHPA, orthotics are not deemed a “prescription.” When describing orthotic therapy, this seems to have been assumed by the COCOO and insurers; however, this is inconsistent within RHPA, 1991

Provided the RHCP or UHCP has obtained the knowledge, skill, and judgement, members may legally initiate this care as self-regulators through assessment, gait analysis, and physical biomechanical observation(s), and may discuss treatment options with their clients, provide health teaching, order orthotics from a qualified laboratory, and dispense foot orthotics to their clients. HCPs may also provide orthoses/digital appliances, and add modifications such as heel cushions, metatarsal padding, toe spacers, and toe caps, along with wrapping and bandaging the foot

OFCA members are RHCP and Podortho® Foot Specialists who work independently or in a multidisciplinary and/or virtual approach to care when providing orthotic therapy that is consistent with many other approaches to virtual care since, during the pandemic, the adoption of virtual care became necessary. Preventing delays to facilitate, improve, and ensure convenient care creates better patient outcomes.

OFCA Members - PodOrtho® Foot Specialists Provide Orthotic Therapy Within Their Individual/Developed Scope of Practice Respecting RHPA Controlled Act

OFCA members use foot orthotics and orthoses as conservative health measures to assist their clients with offloading, improving stability, and gait correction.

Examples of a PodOrtho® Foot Specialist Diagnosis specific to foot and lower limb plans of care are as follows:

1.Skin breakdown prevention R/T: pressure areas as evidenced by callousing, creating increased risk for plantar foot skin breakdown and wounds
Plan of Care: Offload pressure areas with custom foot orthotics (CFO and/or AFO)

2. Prevent risk of injury of underlying soft tissues, nerves, foot bones R/T: The potential to cause repetitive strains, sprains, or tears, and compromised balance.
Plan of Care: Offload pressure areas and/or correct gait with foot orthotics (CFO and/or AFO)

3. Fall-risk prevention R/T: Instability in aging population (decline in proprioception and kinanesthesia in the sagittal plane of the knee and the sagittal and frontal plane of the ankle) increases risk of falls and injuries
Plan of Care: Orthotic therapy to provide a stable base, improve gait, cadence, and ROM [ankle dorsi flexion] with CFO.

4. Prevention of foot bone rotation R/T: Repetitive trauma as evidenced by medial deviation of metatarsophalangeal joint (MTP), observational assessment — Hallux Valgus causing inflammation (bunions), increasing risk for skin breakdown, wounds, instability, and discomfort
Plan of Care: Correct and offload with CFO and/ or AFC and/or orthoses, such as digital or midfoot modifications.

Polytherapy in Practice & Virtual Mulidisciplinary Approach to Care

OFCA represents many RPNs, RNs and various other healthcare providers who acknowledge that “prescribing” is considered a “controlled act” within the legal context of the RHPA and notes that “prescribing a drug” is explicitly a controlled act within the legislation and only permitted by specific designates under the Act; however, “prescribing” orthotics is not explicitly a controlled act under the legislation and has been inappropriately adopted by some insurance companies possibly to limit public accessibility to care other qualified health care providers deliver. These HCP have obtained post graduate education and skilled hands-on training in addition to their entry to practice competencies in order to service public need, utilize additional modalities to assist their clients and are qualified to initiate this therapy and dispense foot orthotics and orthoses.

This health care modality should not be described as a prescription and be worded correctly as an adjunctive modality that is conservative, non-invasive and not deemed a controlled act within the RHPA and can be offered by health care practitioners that have acquired the competencies to provide this therapy based on continued education initiatives as self-regulators.

This concept serves to eliminate practitioner and public confusion that continues to create a divide and animosity amongst health care practitioners, insurers and the public.

PodOrtho® Foot Specialists (Pod.Fs) are first regulated health care providers (RHCP), who have chosen to advance their individual scope of practice through obtaining post-graduate education beyond their “entry-to-practice competencies”.
This is an ongoing requirement of all healthcare providers to ensure public needs are met responsibly. This requirement is communicated within regulatory college's framework in order for practitioners to meet their learning outcomes that considers the changing and advancing needs of the population.

Pod.Fs specialize in the field of medical foot and lower limb healthcare utilizing their entry to practice competencies.

OFCA Members - PodOrtho® Foot Specialists Provide Orthotic Therapy Within Their Individual/Developed Scope of Practice Respecting RHPA Controlled Act

OFCA — which represents many RPNs, RNs and various other HCPs acknowledge that “prescribing” is considered a “controlled act” within the RHPA and notes that “prescribing a drug” is explicitly a controlled act within the legislation and only permitted by specific designates under the Act; however, “prescribing” orthotics is not explicitly a controlled act under the legislation and has been inappropriately described as a prescription as misinformation and should be worded correctly by all who reference orthotic therapy to eliminate practitioner and public confusion.

PodOrtho® Foot Specialists have obtained post-graduate education beyond their “entry-to-practice competencies” and are regulated and licensed Healthcare providers who have engaged in post-graduate education and skilled hands-on training specifically geared to foot and lower limb Healthcare. This post-graduate education includes the study of foot and lower limb anatomy, physiology, biomechanics, gait analysis, physical assessments, and orthotic laboratory manufacturing procedures. Pod.Fs have obtained the knowledge, skill, and judgement to competently provide medical foot and lower limb care, including the assessment of foot and lower limb patient concerns, and to determine which orthotic devices will improve one’s overall health and wellness.

OFCA members have the option to consult with laboratory technicians who are qualified HCP who specialize in the design and build of orthotic devices.

Foot Orthoses and Health Insurance Benefit Coverage

According to the College of Chiropodists (COCOO) website, “Extended health benefits insurance plans are increasingly limiting coverage or applying restrictions with respect to “prescribing” [although not considered a “prescription” under RHPA, 1991] and dispensing orthotics. Consequently, it is therefore mandatory that Members adhere to the regulations (which “regulations”)

standards required by the College, including this Standard of Practice, in order to protect the public and to distinguish Members from other regulated and non-regulated practitioners.” (29)

Although it is clear under RHPA that foot orthotics is not a regulated practice and poses no risk of harm, the COCOO specifically states its concern in the above statement for “public safety” and to “distinguish” only COCOO members as being “permitted” and/or covered by insurers when offering this product. This creates a monopoly on a Healthcare service that compromises public need and limits public accessibility when various other HCP are able to offer this care to the public safely, competently, and in their own well-established practice. This arrangement the COCOO has established with insurance companies is not in the best interest of the public whereby the duty of the Minister clearly states, “individuals have access to services provided by the health professionals of their choice.” (30)

The Financial Service Regulatory Authority (FSRA)

The Financial Services Regulatory Authority of Ontario (FSRA) is an independent regulatory agency that was established in 2017 to enhance public confidence in the Ontario sectors it regulates.31 FSRA is a self-funding Crown agency that acts as the financial regulator for the Canadian province of Ontario and operates at arm's-length from the Government of Ontario, and reports to the Legislative Assembly of Ontario through the Minister of Finance. FSRA's website claims its "vision" is "financial safety, fairness, and choice for Ontarians," and its mission is "public service through dynamic, principles-based, and outcomes-focused regulation." (32) Approved by the Minister in June 2020, the board approved a new rule "defining unfair or deceptive acts or practices (UDAP) under the Insurance Act." (33)

The rule delivers on this commitment by promoting safety, fairness and choice for insurance customers. It also supports FSRA's cross-cutting commitments to enhancing effectiveness and transparency, removing barriers to innovation, aligning with international best practices, and transitioning towards principles-based regulation. [The board approved rule] is intended to advance FSRA's objectives, with a focus on transparency and protecting the public interest, while enhancing regulatory efficiency and effectiveness. It aims to achieve these goals and further the ongoing Regulatory dialogue between FSRA and stakeholders on conduct in the insurance sector by:

> Providing clear and objective standards for determining misconduct that incorporate examples of unfair treatment and reference to the Ontario Human Rights Code to enhance precision and allowing for supplemental FSRA guidance where permitted.

> Removing barriers to innovation in the area of customer incentives, including rebates and incentives provided that they:

- o do not lead to decisions that are against the interests of consumers.
- o are not prohibited by law.
- o are transparently communicated
- o are not unfairly discriminatory, anti-competitive or reliant on prohibited factors.
- o Bringing greater alignment with certain Canadian Council of Insurance Regulators ("CCIR") and Canadian Insurance Services Regulatory Organizations ("CISRO") Fair Treatment of Customers ("FTC") guidance provisions, particularly in the areas of misrepresentation and unfair claims practices.(34)

FSRA launched a public consultation seeking feedback from insurance consumers, industry, and other interested stakeholders for its first proposed insurance rule. The proposed rule is aimed at making the supervision of insurance more transparent, dynamic, and flexible. The draft rule also focuses on the need for stronger consumer protections by clearly defining outcomes that are unfair or otherwise harmful to consumers. The new rule, if approved, would better enable innovation, competition, and choice. FSRA continues to monitor the insurance system and take steps to address misconduct. The UDAP rule applies to insurers brokers, intermediaries, adjusters, and providers of goods and/or services engaged in the insurance sector. It applies to, but is not limited to, health service providers, tow truck operators, vehicle repair shops and automobile storage facilities. (35)

OFCA members are enthusiastic and invested in the health of Ontarians and recognize if one's feet and lower limbs are compromised it has a significant effect on the overall health and wellness of every individual. Obtaining quality care with a whole of patient care approach is our vision to keep our communities mobile, active, comfortable and independent one method of ensuring this is possible is by utilizing orthotic therapy as an important tool for our clients across Ontario Canada.

REFERENCES

(1) Regulated Health Professions Act, 1991, SO 1991, c 18, s 3 [RHPA].

(2) From Carina Lentsch, “What Is the ICRC?” ACL LAW (19 February 2021), online:
The Inquiries, Complaints and Reports Committee or ICRC is one of seven statutory committees that are part of the Colleges that regulate the health professions in Ontario in accordance with the Regulated Health Professions Act (“RHPA”), including the College of Nurses of Ontario (CNO), the Royal College of Dental Surgeons of Ontario (RCDSO), the College of Dental Hygienists of Ontario (CDHO), the College of Massage Therapists of Ontario (CMTO), or the College of Physiotherapists of Ontario, to name a few. The ICRC’s mandate is to investigate complaints and Registrar’s reports made to the College about a member, and to decide how the complaint or report is to be resolved. The ICRC does not make any findings of professional misconduct. It serves a screening function. As a statutory committee, the ICRC’s powers are entirely derived from statute: the RHPA and Health Professions Procedural Code (“Code”). Pursuant to section 26(1) of the Code, the ICRC can refer a member to the Discipline Committee or incapacity proceedings, require a member to be cautioned, or take any action the panel considers appropriate that is not inconsistent with the College’s governing legislation.

(18) Richard Steinecke, A Complete Guide to the Regulated Health Professions Act (Toronto, Thompson Reuters, 1995) (loose-leaf updated 2017) 11-3 [Steinecke].

(19) RHPA, above note 1 s 30(1).

(20) Steinecke, above note 18 at 11-3.

(21) College of Chiropodists of Ontario, “Prescription Custom Foot Orthoses: Standards of Practice for Member of the College of Chiropodists of Ontario” (20 February 2015; amended 23 October 2020), online: https://www.cocoo.on.ca/pdf/standards/standard_orthotics.pdf at 4.

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(22) See OFCA, “Legal Interpretation of Orthotic Therapy in Ontario, Canada, in Relation to Nurses Also Offering This Care” (2023), online: https://www.ofcassociation.ca/wp-content/uploads/2023/10/Legal-Interpretation-of-orthotic-Therapy-in-Ontario-Canada-in-Relation-to-Nurses-also-offering-this-care.pdf.

(29) College of Chiropodists of Ontario, “Prescription Custom Foot Orthoses: Standards of Practice for Member of the College of Chiropodists of Ontario” (20 February 2015; amended 23 October 2020), online: https://www. cocoo.on.ca/pdf/standards/standard_orthotics.pdf at 4 [emphasis added].

(30)RHPA, above note 1, s 3.

(32)See FSRA, “Mission, Vision and Values,” online: https://www.fsrao.ca/about-fsra/mission-vision-and-values

(33)FSRA, “Notice of Proposed Rule and Request for Comment Proposed Rule [2020-002] Unfair or Deceptive Acts or Practices,” online: https://www.fsrao.ca/sites/default/files/2021-09/UDAP_Rule_2020-002_Proposed_en_aoda_0.pdf.

(34)Ibid

(35) Ibid at 2 & 3.

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“The answer to the problem of inequality is for the people who are fortunate enough to either have been gifted or deserved more to do everything they can to make the communities around them as strong as they possibly can.” J. B. Peterson