



Legal Interpretation of orthotic Therapy in Ontario Canada in Relation to Nurses also offering this care

Our Interpretation of orthotics does not explain the chiropodists' position.

Chiropodists – and then podiatrists - have the following “authorized” acts, respectively: 5 (1) In the course of engaging in the practice of chiropody, a member is authorized, subject to the terms, conditions and limitations imposed on his or her certificate of registration, to perform the following:

- 1. Cutting into subcutaneous tissues of the foot.*
- 2. Administering, by injection into feet, a substance designated in the regulations.*
- 3. Prescribing drugs designated in the regulations.*
- 4. Administering, by inhalation, a substance designated in the regulations. 1991, c. 20, s. 5 (1); 2009, c. 26, s. 2 (1). Idem (2)*

In the course of engaging in the practice of chiropody, a member who is a podiatrist is authorized, subject to the terms, conditions and limitations imposed on his or her certificate of registration, to perform the following:

- 1. Communicating a diagnosis identifying a disease or disorder of the foot as the cause of a person's symptoms.*
- 2. Cutting into subcutaneous tissues of the foot and bony tissues of the forefoot.*
- 3. Administering, by injection into feet, a substance designated in the regulations.*

4. Prescribing drugs designated in the regulations.

5. Administering, by inhalation, a substance designated in the regulations. 1991, c. 20, s. 5 (2); 2009, c. 26, s. 2 (2). [emphasis added]

Therefore, quite specifically, chiropodists are not authorized to communicate diagnoses either; only “podiatrists” are. If the basis for the CNO’s and COCCO’s position why nurses cannot prescribe orthotics derives from the controlled act of communicating a diagnosis, then chiropodists are not able to do it either.

The chiropodists focus on the fact that they have orthotics included specifically in their legislated “scope of practice”. Section 4 of the Chiropody Act states: Scope of practice 4 The practice of chiropody is the assessment of the foot and the treatment and prevention of diseases, disorders, or dysfunctions of the foot by therapeutic, orthotic, or palliative means. 1991, c. 20, s. 4.

However, a legislated scope of practice is not the same thing as an “authorized act”. Moreover, just because one profession has an act within their legislated scope of practice does not mean that other professions are prohibited from performing that act.

For example, chiropractors can prescribe and dispense orthotics, but those acts are not expressly mentioned in their scope of practice. 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 5 .

In addition to the enumerated “controlled acts”, the RHPA provides that no person, other than a member treating within the scope of practice of his/her profession, shall treat a person with respect to his/her health in circumstances in which it is “reasonably foreseeable that serious bodily harm may result from the treatment”⁶ 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. 7

Conclusion re Prescribing Orthotics as I read the list of controlled acts in the RHPA, prescribing orthotics is not there; however, the communication of a diagnosis is of concern then the chiropractors should not be able to prescribe either. If the prescription of orthotics is not a controlled act, then the act arguably falls within the public domain.



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