



Ontario Foot and Lower Limb Care Guide to Standards of Practice

A guide for regulated Healthcare providers and Podortho® Foot Specialists delivering advanced and essential community foot and lower limb care across Ontario, Canada



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Podortho® Foot Specialists Practice Statement

OFCA members and Podortho® Foot Specialists (PFS) are nurses and various other regulated health care providers (RHCP) who deliver advanced medical foot and lower limb care in communities across Ontario, Canada.

This advanced care may be for ailments that are chronic and/or acute and is essential, given the significant need that exists within a growing and aging population and the lack of Healthcare providers trained to deliver this safe, quality care.

PFS' focus is to maintain foot and lower limb hygiene, eliminate discomfort and /or painful foot and lower limb conditions, rehabilitate to improve mobility and function, and prevent and /or reduce complications through the use of non-invasive conservative techniques, modalities, and adjunctive technologies of a non-pharmaceutical nature in order for the public to live independently in their communities throughout the aging process.

PFS care includes a comprehensive health-teaching model of care to ensure client adherence to their individual plan of care, thus improving the client's overall health outcomes.

PFS deliver and initiate medical foot and lower limb care without orders within their individual scope of practice and legislated designations, thereby improving efficiency of care and eliminating patient barriers to obtaining foot and lower limb care. PFS deliver skin and nail care to the dermis, hygienic care, wound care (controlled act), and treatment of musculoskeletal injuries, inflammation, and painful conditions through non-invasive modalities and therapies. PFS assess each of their clients and identify risk factors, and implement an individual plan of care that is solution oriented, cost effective, and achievable in order to reduce complications, provide comfort, educate to improve compliance and adherence, and rehabilitate to improve one's health-related quality of life and independence.

The PFS model of care seeks to reduce the demand on traditional public health institutions and primary Healthcare providers.

Ontario Foot Care Association Inc., 2024

The Ontario Foot Care Association Inc. (OFCA) (formerly the Ontario Podortho Nursing Association Inc. (OPNA)) is a not-for-profit organization established in November 2014 as a bottom-up grassroots association formed by nurses who specialize in the field of medical foot and lower limb care. Thousands of nurses recognized over many decades significant gaps in essential critical foot care, noting Ontario's rapidly aging population. Families and seniors require foot care from Healthcare providers who are qualified to treat both acute and chronic foot and lower limb conditions. Many seniors throughout Ontario have the desire to remain independent, live at home, and continue to be active participants in their communities as long as possible. Foot health is imperative for mobility and to achieve an active, healthy quality of life.

Ontario's senior population is often met with challenging health circumstances throughout the aging process. Seniors may experience a reduction in fine motor skills to their hands and may have difficulty bending to reach and care for their own feet and lower limbs. They may develop a reduction in vision and may face various diseases that can compromise their feet, lower limbs, and overall level of health. These conditions may include (but are not limited to), diabetes, arthritis, neuropathy, autoimmune and lymphatic skin integrity issues, and skin and vascular complications, which place them at risk for developing keratotic disorders, infections, wounds, repetitive strains, and other types of injuries. Another concern is balance issues, as these can lead to gait instability, falls, bone fractures, and repetitive strains and sprains in the lower limbs and feet. Nurses and various other Healthcare providers (HCP) are well-positioned to enter into this field of care, bringing strong educational backgrounds in anatomy, physiology, biomechanics, pathophysiology, microbiology, and the skills to perform various foot and lower limb care

procedures while working within their individual scope of practices to their full scopes of legal practice. Through the acquisition of nursing education and additional continued education in the field of medical foot and lower limb care, nurses apply their knowledge, skills, and judgement to address this ongoing and growing need. Nurses who have engaged in this specialized training are accredited through our organization, which means they have met the standard core competencies needed to deliver this care. Nurses and/or Podortho® Foot Specialists (PFS) belong to a self-regulating profession through membership with their respective regulated health college, which ensures they can provide competent and safe care.

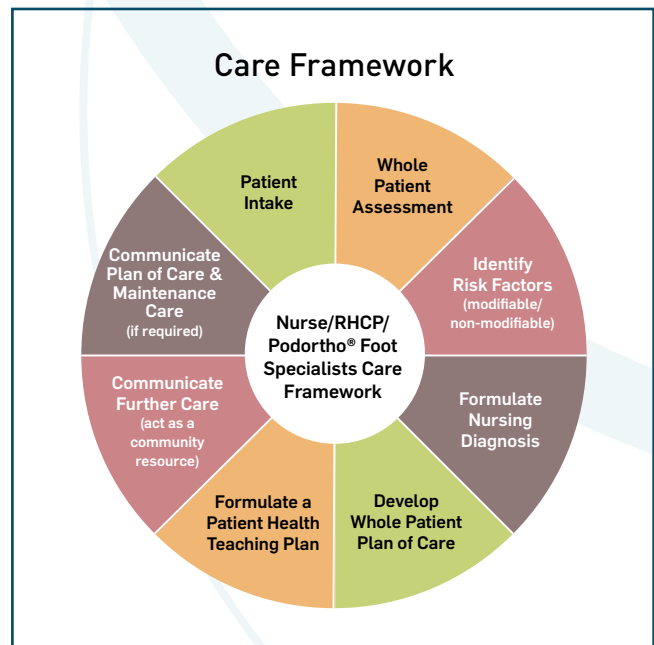
OFCA member nurses, various other regulated Healthcare providers (RHCP), and PFS who have obtained this education and work within and to their full scope of practices within the *Regulated Healthcare Professions Act, 1991* (RHPA),¹ adhering to all legislated Healthcare regulations communicated within this Act.

Over decades, nurses and various other RHCP have been navigating this field of care and have recognized that there has been a great deal of misinformation circulating about the foot care industry and the practitioners working within this industry. This has created many challenges and confusion among various Healthcare providers (HCP). Nurses have felt there has been little direction from their regulatory college, which, to date, has provided minimal statements. This has left nurses to do their own research and navigate the legalities within the RHPA and they have had to reference historical documentation in their quest to provide this care competently and within the RHCP legal framework. This guidance document serves to ensure members remain supported, competent, and confident in their roles while practicing medical foot and lower limb care to meet this growing essential community need across the province.

OFCA is a not-for-profit organization with a focus on Ontario Healthcare legislation. OFCA acknowledges similar and differing legislation and scopes of practice in relation to controlled acts within RHPA, which varies from province to province across Canada.

Directors of OFCA are nurses, registered practical nurses, registered nurses, various other RHCP entrepreneurs (nurse-preneurs), and business executives who own and operate their own community medical foot and lower limb care practices across Ontario. Collectively, OFCA directors have developed this document that communicates a framework to guide our members' practices through research, point-of-care concepts, and member feedback. OFCA ensures a standard of best practice (communicated herein), to assist our members and to clarify their roles and careers. This document also serves to eliminate misconceptions within the medical foot and lower limb care industry, thereby ensuring that the public, allied Healthcare providers, stakeholders, insurers, and collaborators best understand and appreciate all practice-to-practice concepts, and the various individual scopes of practice PFS have developed throughout their learning journey. This considers their acquired continuing education and Ontario Healthcare legislation communicated by RHPA.

Our members developed scopes of practice that encompass both legislated "controlled acts" and "non-controlled" acts that are delivered by our members to the public in communities across Ontario.



Defining Podortho® Foot Specialists (PFS) Nurses and Various Other RHCP

Podortho® Foot Specialists (PFS), originally known as Podortho® Nurses (established in 2014), are regulated Healthcare providers (RHCP) who have advanced their entry-to-practice competencies gained from their foundational Healthcare education through post-graduate continuing education programs that focus on the foot and lower limb. This specialized training is obtained through traditional college programs, private career colleges, and vocational schools. "Podortho®" is a "protected" registered trademark career title held exclusively by members of OFCA. The word "Podortho"® is derived from Greek terminology, translating to "foot/feet correct and straight." OFCA supports members in their practice objectives, continuing education, and the advancement of foot and lower limb Healthcare concepts, including evolving technologies that may improve the treatment of various conditions that impact one's overall health and wellness. PFS focus on a whole of patient/client care approach and consider the effects of all body systems.

Primary care providers often refer their clients to our members to meet their clients' needs and to decrease the risks associated with foot and lower limb complications. Potential complications can be prevented at the community level by qualified nurses, various other Healthcare providers, and Podortho® Foot Specialists who have acquired standardized post-graduate education and skilled hands-on training beyond their entry-to-practice competencies and hold valued expertise in medical foot and lower limb care.

Historical documentation suggests many nurses have established safe and competent protocols to deliver medical foot, lower limb, and wound care dating as far back as the 1700s.

OFCA acknowledges our members who are RHCPs and recognize that each member has completed a rigorous approved continuing education program to meet the core competencies communicated by OFCA, permitting each member to specialize in medical foot and lower limb care working under the Ontario trademarked title of a Podortho® Foot Specialist. Various designations may include (and are not limited to) RNs, RPNs, LPNs, NPs, RMTs, paramedics, and pedorthists.



Advancing • Supporting • Qualifying Our Members

The OFCA Vision

The OFCA vision is to support public need, promote and/or improve client mobility, eliminate pain and discomfort and prevent and reduce complications by using advanced non-invasive modalities and adjunctive therapies, that focus on immediate need and/or maintenance foot and lower limb care.

Podortho® Foot Specialists (PFS) Foot and Lower Limb Care Framework

PFS Care Framework



- Initial client intake assessment(s)
- Develop a plan of care
- Document
- Provide health teaching
- Set follow-up care
- Report concerns to PCP
- Refer to allied HCP (if required)
- Insurance pre-determination (if required)

PFS Common Tx



- Initiation of conservative medical foot and lower limb care (public domain)
- Ongoing maintenance of foot and lower limb care
- Tx of keratotic disorders
- Nail care
- Skin integrity preventative care
- Hygiene foot care
- Wound care
(Controlled Act, RHPA 1991)

Adjunctive Tx/Assessment Services



- Orthotic/orthosis appliances — corrective and/or accommodative (public domain)
- Photobiomodulation therapy (LLLT) (public domain)
- Shockwave therapy (public domain)
- Lymphatic drainage (public domain)
- Reflexology (public domain)
- Diabetic foot screening
- Ankle brachial pressure index testing

Researched Products Commonly Sold



- Foot home care product sales
- Compression stockings
- Digital appliances
- Orthotics
- Braces
- Wound care products
- Holistic product sales



Board of Directors, Ontario Foot Care Association Inc.
(a not-for-profit supporting organization), 2024.

Establishment of the Podortho® Foot Specialists (PFS)

Nurses and various RHCP acknowledged a gap in available foot care providers trained to deliver medical foot and lower limb care in Ontario communities that dates back to the early 1990s. Considering the evolution of an aging and growing population, few HCP were provincially trained and educated in this area of medical foot and lower limb care to meet this growing demand. Our members acknowledged the public would wait for up to six months in some Northern communities to access foot care services, placing them at risk for developing serious complications that could have been prevented at the community level. Podortho® Foot Specialists are now meeting this critical need through their established professional private practices all across Ontario (and currently expanding into other provinces in Canada).

Resistance to Positive Change

Many nurses have unfairly encountered significant resistance from other Healthcare providers and various regulatory colleges since entering this field of care many decades ago and have faced discriminatory communications with the suggestion that “nurses are not qualified” to provide non-invasive, non-pharmaceutical, solution-oriented essential foot and lower limb care that they have already been successfully delivering in Ontario communities for many decades. OFCA has recognized this has been due to unprofessional attitudes that lack consideration for essential foot and lower limb care needs and what is in the best interests of the public. OFCA was established for this reason and continues to advocate for our members and the patients they care for.

Evolving Landscape of Community Care — Change for the Greater Good

Our members' practices are private and funded solely by the practitioner. They are not only Healthcare providers, but also entrepreneurs, and therefore OFCA recognizes the need for continued advocacy and clarification of our members' roles in Ontario and nationally as we continue to grow.

Podortho® Foot Specialists (PFS) consider a "whole of client care approach" consistent with nursing concepts that focus on prevention and rehabilitation to eliminate and/or circumvent foot and limb complications. PFS provide assessments while identifying risk factors, and deliver direct patient/client care that encompasses health teaching, hygiene care, and ongoing maintenance care for both acute and/or chronic conditions. PFS deliver non-invasive care to the skin, nails, soft tissues, nerves, and musculoskeletal, vascular, and lymphatic systems through a conservative allopathic and holistic approach. PFS reduce, eliminate, and/or prevent foot and lower limb complications that may lead to negative overall health consequences that directly impact one's overall health, wellness, and quality of life. Through this model of care, Podortho® Foot Specialists encourage regular foot health assessments and ongoing maintenance care. PFS practice settings include:

- Private clinics (where all public health regulations can be conveniently and effectively met)
- Long-term care facilities
- Community health centres (private and public)
- Hospitals
- Community home care

Historical Facts and Relevance

OFCA has historically been composed of nurses who have advanced their individual scopes of practice through setting their individual learning outcomes consistent with the College of Nurses of Ontario (CNO) Quality Assurance Program.

RNs, RPNs, and NPs all practice in the area of foot and lower limb care. This practice area considers each and every nursing "designation" within the *Regulated Health Professions Act, 1991* (RHPA) and the *Nursing Act 1991*, and acknowledges the core competencies of PFS are the same for each nursing designation (and therefore, delegation), and is not required for any nurse designation to initiate conservative foot care within the standard scope of a nurse's practice.

Respectful Requests to Collaborate with the College of Nurse of Ontario (CNO)

OFCA proactively reached out to the CNO in 2023 following an Inquiries, Complaints and Reports Committee² investigation of an OFCA member requesting an updated statement and/or opinion with respect to their member nurses who provide medical foot and lower limb care throughout communities across Ontario, Canada. This request was attempted in order to obtain more clarity and guidance for nurses who are members of the OFCA, to avoid further unprovoked harassment of our members by other regulatory colleges, and to circumvent further confusion and discrimination against nurse members who practice in foot care. OFCA had also been privy to misinformation circulating throughout the foot care industry that was damaging the therapeutic nurse-client relationships of many of our members due to false information being communicated to their clients by their insurance companies stating that "nurses were not qualified to perform foot care." The CNO did not respond to our specific questions or request for a collaboration before the time of this publication.

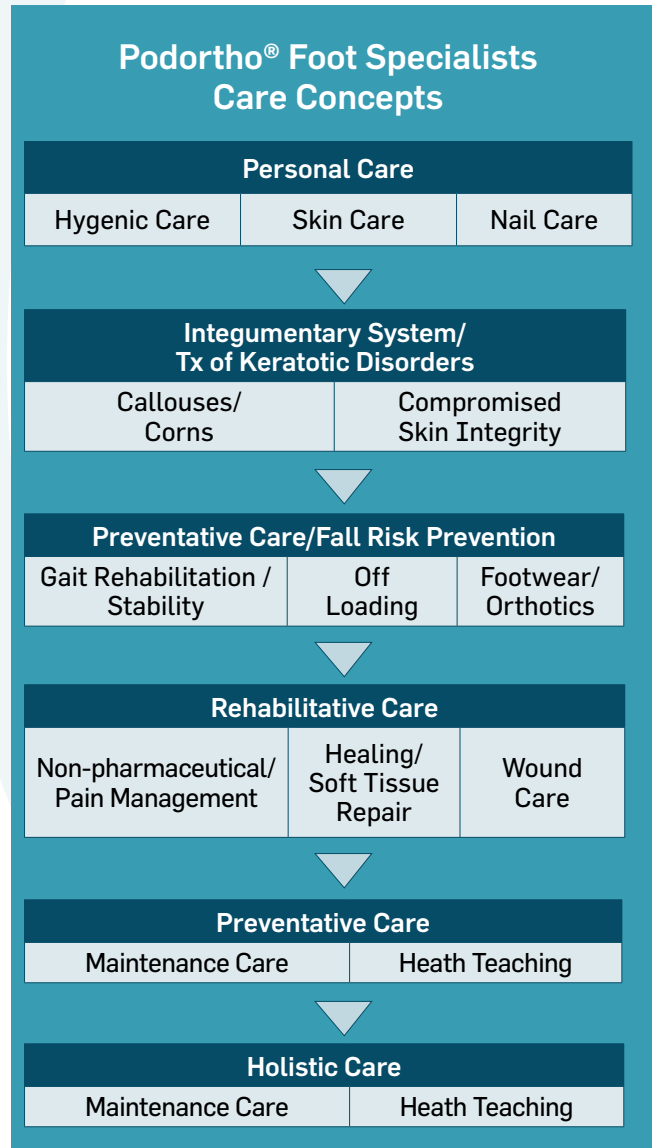
OFCA directors also requested guidance in 2014 from the CNO as there was a great deal of confusion and differing opinions at that time regarding a nurse's role in the foot care industry. At that time (and to date), there has been confusion and

disrespectful engagement among various RHCP and colleges. OFCA recognizes overlapping scopes of practice consistent in many areas of Healthcare practice. It appears as though health insurance companies have been assuming a legislative role among health professionals and have been communicating that “nurses are not qualified to initiate or deliver advanced foot and lower limb care.” Health insurance companies have been denying patient/client claims when the care was delivered by a nurse, or would ONLY cover care when delivered by an RN in the patient’s/client’s home. This has been causing public concern and anger towards nurses who have set up their own professional community clinics where they deliver care that meets public health guidelines, such as competent and safe infection control measures within their legal designation as per RHPA.

Through many years of discovery, OFCA has learned this negative, derogatory narrative was being purported by the College of Chiropodists of Ontario (COCOO), which hold strong relationships with some insurers and with the CNO.

OFCA continues to reject this false, biased, and unfair defamatory position communicated by some insurance companies, the COCOO, and the CNO. OFCA has engaged in many solution-oriented discussions with many insurance companies over the last six years that are now recognizing nurses and respect their core nursing education and post-graduate education concept, which is obtained through a four-module concept of:

1. Theoretical learning
2. Skilled hands-on clinical training
3. Independent study and research
4. OFCA-approved written examination



These core competencies obtained by OFCA Podortho® Foot Specialist members are recognized and now covered by many insurers, with care claims accepted in the patient/client homes, long-term care facilities, and in community private clinics. OFCA’s position has been clear when communicating with insurers that the location where a patient/client has received care has no relevance on the practitioner’s competencies or the efficacy and quality of the care delivered.

The following statement was provided by a CNO practice consultant in 2014:

CNO is unable to provide an opinion or feedback on OPNA (now OFCA) core competencies as it relates to specific specialities. This is because the CNO is not present at point of care to fully assess and appreciate the practice and practice environment of foot and lower limb care. CNO directs members to review the competencies outlined within the Entry-to-Practice documents for RNs, RPNs, and NPs.^[3]

These competencies are the expectations of all Nurses in Ontario in their respective registration class with the College. These competencies not only serve as the criteria against which entry-level registered Nurses are measured upon initial registration with the College and are utilized to guide the assessment of members' continuing competence for maintaining registration with the College....CNO encourages review of these documents in detail with the College's entry-to-practice competencies.... The title Nurse is protected. Only nurses registered with the College, can use the title "nurse" in Ontario.⁴

Although grateful and appreciative for the assistance provided by Ms. Vaidyaraj, OFCA viewed this statement as vague and lacking the transparency, direction, and substance our association members were seeking. However, our members moved forward and accepted this statement at that time and concluded that regulatory colleges oversee only "entry-to-practice competencies" and enforce controlled acts within the RHPA legislation, their quality assurance program, and their members professional conduct, and do not control their members' decisions to advance their individual scopes of practice consistent with their college's quality assurance (QA) program, whereby the member develops their own individual learning plan(s) to become experts in various areas of Healthcare.

OFCA then had to rely on CNO statements communicated in the 2002 CNO Practice Standards document, which read as follows:

How a nurse demonstrates a standard is influenced by the nurse's level of competence, role, practice setting and the situation. It is expected that all nurses will meet the expectations of these professional standards and be able to **articulate how they demonstrate the standards in their practice.**

Guiding principles

The following principles guided the development of *Professional Standards*:

- in Ontario, nursing is one profession with two categories — RN (which includes NPs) and RPN;
- the foundational knowledge base of RNs and RPNs is different because of differences in basic nursing education;
- all nurses are **accountable for their own decisions and actions and for maintaining competence throughout their career;**
- clients* are the **central focus of the professional services that nurses provide** and as partners in the decision-making process, clients ultimately make their own decisions;
- the goal of professional practice^ is to **obtain the best possible outcome for clients, with no unnecessary exposure to risk of harm;** and
- all **nurses continually enhance their knowledge through education, experience, and self-assessment. Nurses can become experts in an area of practice within their category.**

A standard is an authoritative statement that sets out the legal and professional basis of nursing practice...

All standards of practice provide a guide to the knowledge, skills, judgment, and attitudes that are needed to practise safely. They describe what each nurse is accountable and responsible for in practice. **Standards represent performance criteria for nurses and can interpret nursing's scope of practice to the public and other Healthcare professionals.** Standards can be

used to **stimulate peer feedback, encourage research to validate practice and generate research questions that lead to improvement in Healthcare delivery.** Finally, standards **aid in developing a better understanding and respect for the various and complementary roles that nurses have.**⁵

* A client is a person with whom the nurse is engaged in a therapeutic relationship. In most circumstances, the client is an individual, but the client may also include family members and/or substitute decision-makers. The client can also be a group (e.g., therapy), community (e.g., public health) or population (e.g., children with diabetes).

^ In this document professional practice is defined as the care and/or services that nurses provide to clients. **Care/services is the process of working with clients to identify care needs, and to establish, implement and continually evaluate plans of care.**

CNO Standards of Practice Revisions 2023

OFCA notes the update to the CNO practice standards, as well as the standards themselves, were revised in July of 2023 to exclude the above statements **highlighted in red.**

Given the fact that our OFCA nurse members relied upon these statements when developing their learning plans and establishing their practices/businesses, this has created further confusion and the practice standards continue to lack transparency.

OFCA recognizes adapting to change can be a challenging concept to embrace, but it is needed in order to meet the growing and changing needs of Ontario's population. OFCA is concerned this practice standard change was a deliberate attempt to limit nurses from opening their own practices and becoming entrepreneurs, employers, and self-sufficient income earners outside of the traditional institutional Healthcare system.

OFCA also holds the opinion that limiting qualified Healthcare practitioners who have acquired post-graduate continued education and garnered the competencies to deliver essential and evidence-based safe medical foot and lower limb care does not support public need. Changing the goal posts in fact compromises public Healthcare needs and is viewed by many concerned practitioners and their clients as an assault on nurses who have established their own independent foot care practices and who have invested in themselves, established successful careers, and support community need.

These innovative nurses who are Podortho® Foot Specialists have created jobs and provide a valuable and essential service provincially. OFCA recognizes that this gap in community care has become critical, and the call for more qualified Healthcare providers who are able to deliver this care competently is required as Ontario's aging population continues to grow.

Although the former CNO Practice Standards have been changed and previously relied-upon statements have been recently deleted, OFCA nurse members continue to hold the opinion that in fact, nurses (RPNs and RNs) can become experts in various areas of Healthcare. This concept of nursing has been widely acknowledged over decades in various other areas of healthcare.

Nurses work in many areas of healthcare as evidenced by the many titles available to describe a nurse's practice area, which includes, but is not limited to, Critical Care Nurse, Infection Control Nurse, Occupational Health Nurse, Psychiatric Nurse, Dialysis Nurse, Cosmetic Nurse, and Wound Care Nurse. To date, OFCA is uncertain if the CNO accepts the "career title" of Foot Care Nurse.

OFCA now no longer uses our former legally Ontario-trademarked title "Podortho" Nurse. This has now been changed to Podortho® Foot Specialists, as the CNO recently forbid OFCA from using the title "Podortho" Nurse, even though permission to use this title was granted in 2014 by CNO's senior practice consultant. OFCA is unsure as to why the CNO arbitrarily made this decision without due process while allowing nurses to use other descriptive career titles.

OFCA notes an exception has been provided within the *Nursing Act, 1991*. The exception reads as follows:

11(4.1) Nothing in subsection (4) prevents a member from using a term, title or designation indicating a specialization of nursing associated with anaesthesia where the member does so in accordance with regulations made by the Council of the College under the Health Professions Procedural Code.⁶

Regulatory Colleges' Legislated Obligations

Transparency:

To be transparent means that a regulator's instructions and guidelines must be clear, accurate and straightforward....

Impartiality:

To be impartial means that a regulator must make its decisions through a process that is free of bias that, if present, could produce subjective or tainted assessments or decisions.... Each regulator is responsible for identifying sources of bias and for taking appropriate steps to ensure impartiality, which would normally include enhanced training and procedures to follow where an issue of bias is suspected...

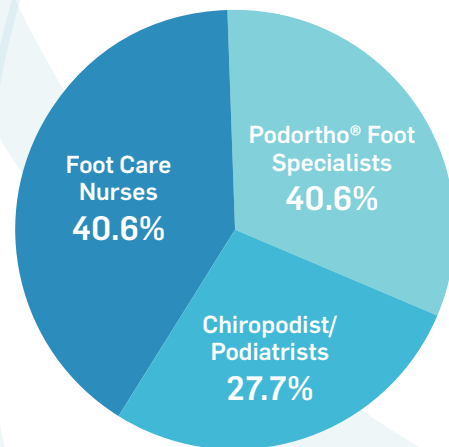
Traditionally, regulators have focused on protecting the public interest by ensuring that applicants possess the academic and technical skills necessary to skillfully undertake their work. There is now a growing recognition that an undersupply of professionals can also directly compromise public health and safety and concurrently constrain economic activity....

Regulators must also pay close attention to the needs of employers who will absorb the supply of new professionals and skilled tradespersons. They should be aware of the skillsets that are in demand and any unfounded concerns or stereotypes about the qualifications of internationally trained applicants.⁷

OFCA Opinion

OFCA holds the opinion, and respects CNO's mandate to protect the public, enforce the *Nursing Act, 1991*, and RHPA (Controlled Acts) and promote its QA program. OFCA agrees the CNO does not determine the area of care a nurse has decided to practice in through their continued education initiatives and development of their "individual scope of practices." Through these continued education initiatives, nurses obtain an increased base of knowledge, and skilled hands-on training through numerous traditional and non-traditional education platforms in various specialized areas of Healthcare. OFCA holds the opinion that it would be impossible for the CNO to regulate all the areas of care nurses practice in and agree they are "not at point of care to appreciate all practice-to-practice concepts."⁸

RHCPs Practicing Foot Care in Ontario



Note: Statistics for FCN and PFS can not be separated as the CNO does not have an option on nursing renewal to choose PFS.

OFCA Members List, 2024 (887 members), www.ofcassociation.ca [not yet published on website]; CNO, Registration Statistics Report 2022 (1,147 members), online: <https://www.cno.org/globalassets/2-howweprotectthepublic/statistical-reports/registration-statistics-report-2022.html>; COCOO, 2020 Annual Report, (760 members), online: https://hmkc22.p3cdn1.secureserver.net/pdf/annual_report/annual_report_2020.pdf at 22.

OFCA recognizes healthcare continues to evolve in response to public needs. Recognizing that Ontario's population is growing and aging is paramount in order to respond ethically, responsibly, and safely to growing public needs through newly established areas of practice. The RHCP, nurses, and Podortho® Foot Specialists are working at point of care and can appreciate the practice-to-practice concepts while considering their obligations to meet the benchmarks and backstops set within the *Nursing Act, 1991* and working within the legal framework of RHPA.

Continuum of Community Care Delivered by PFS

PFS focus on preventative community medical foot and lower limb care strategies that use evolved non-invasive conservative methodologies and treatments to assist the public from a preventative and rehabilitative perspective considering mobility, stability, personal care and hygiene, and the promotion of comfort and independence to remain in their communities across Ontario, Canada. OFCA members have diversified their individual scopes of practice through obtaining post-graduate education through either public or private vocational programs.

RHCPs are required through legislation to engage in quality assurances in order to stay up to date on evolving public Healthcare needs. This is accomplished through setting individual learning outcomes within their chosen practice setting and is consistent with their regulatory college's mandates.

Nurses who have decided to specialize in medical foot and lower limb care have done so through identifying community need, and advancing their knowledge, skill, and judgement to develop the necessary competencies within their self-regulating professions.

The Regulated Health Professions Act, 1991 (RHPA) Scope of Practice supports Nursing Foot Care in the treatment of corns, calluses, wound care, and orthotic therapy. This practice is "above the dermis" and is therefore deemed "non-invasive" and falls within the public domain.

Nurses assess, provide a nursing diagnosis, develop and initiate a plan of care, and perform foot and lower limb care without a physician's order.

OFCA supports our member nurses and various other RHCPs who have chosen to practice in the area of medical foot and lower limb care. Our members are qualified and are able to practice freely when providing this care if it is either within the public domain or falls within their legislated designation, provided they have acquired the knowledge, skill, and judgement. OFCA Podortho® Foot Specialists remain independently accountable for their actions and professional conduct when providing medical foot and lower limb care. Healthcare is forever changing and evolving to meet the needs of the public. Acknowledgement of overlapping scopes of practice is well-documented in many Healthcare professions respectively; therefore, one profession does not hold the exclusive right to monopolize a specific area of care. This speaks to the widely accepted concepts of multidisciplinary care many competent RHCP and Unregulated Healthcare Providers (UHCP) deliver across our province and country. OFCA's goals remain the same — to meet public need.

Limiting the delivery of care to only one or a few practitioners/HCP compromises accessibility to care, ignores public need, and does not align with protecting the public, particularly in a growing aging population with the need for more qualified HCPs.

Medical foot and lower limb care, wound care, and various other treatment therapies offered by many RHCP allows the client to choose the professional they wish to receive care from thus reducing political bias and/or unprofessional behaviors. Subdisciplines of many RHCP is not a new concept and should be embraced. Considering both an RHCPs legislated scope of practice and individual scope of practice is relevant when considering qualifications. Nurses are trained to assess the overall health and wellness of an individual and develop a nursing diagnosis and plan of care that encompasses the impact on a patient's health-related quality of life:

The scope of [a nurse's] professional practice is set by legislation; professional standards such as competency standards, codes of ethics, conduct and practice; and public need, demand and expectation. It may therefore be broader than that of any individual within the profession. The actual scope of an individual's practice is influenced by the:

- context in which they practise;
- consumers' health needs;
- level of competence, education, qualifications and experience of the individual service provider's policy, quality and risk, management framework and organisational culture.⁹

Diversity, Equity, and Inclusion For All Healthcare Providers

OFCA members are aligned with the call for diversity, equity, and inclusion. Our members respect themselves and their allied HCP. Our members work either in their own independent private practices and/or in a multidisciplinary setting. The approach to care may either be through in-person interaction or through virtual multidisciplinary collaboration that has evolved since the pandemic. Care models continue to evolve to ensure care is obtained efficiently and is accessible. Our members deliver on this concept.

Innovation and Embracing the Changing Landscape of Healthcare

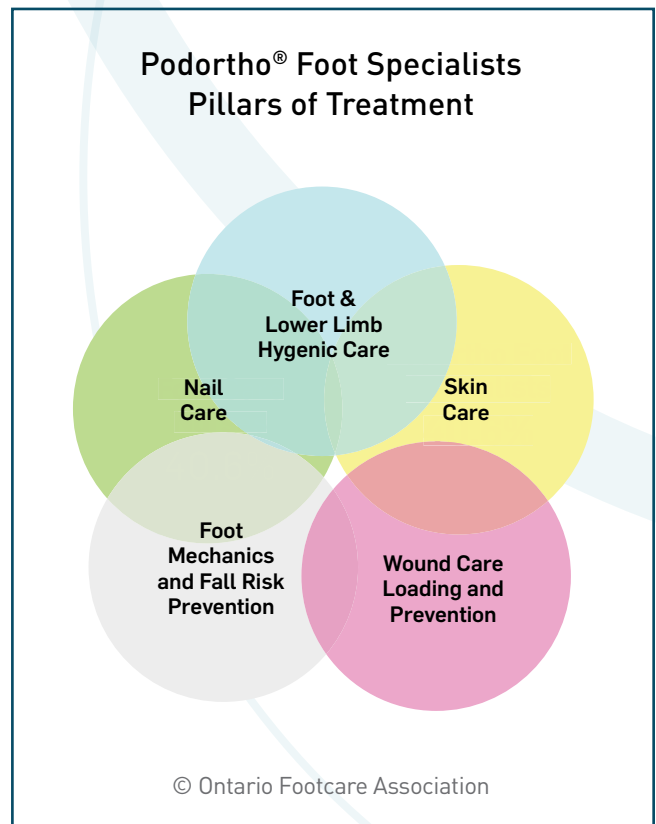


Podortho® Foot Specialist/nurses and various other RHCP continue to innovate through incorporating emerging technologies that are non-invasive and result-driven. OFCA members have acquired these new competencies to meet their learning outcomes and public need.

Through this innovative and creative approach to care, our members are succeeding in the prevention of foot and lower limb complications provincially, and reducing the strain placed on traditional Healthcare institutions, which aligns with the Ontario Government's plan for "Connected and Convenient Care."¹⁰

Duty of the Minister

"It is the duty of the Minister to ensure that the health professions are regulated and co-ordinated in the public interest, that appropriate standards of practice are developed and maintained" and that "individuals have access to services provided by the health professions of their choice and that they are treated with sensitivity and respect in their dealings."¹¹



Overview of Controlled Acts (RHPA)

A “controlled act” is any one of the following done with respect to an individual:

Communicating to the individual or his or her personal representative a diagnosis identifying a disease or disorder as the cause of symptoms of the individual in circumstances in which it is reasonably foreseeable that the individual or his or her personal representative will rely on the diagnosis.

Performing a procedure on tissue below the dermis, below the surface of a mucous membrane, in or below the surface of the cornea, or in or below the surfaces of the teeth, including the scaling of teeth. Setting or casting a fracture of a bone or a dislocation of a joint.

1. Moving the joints of the spine beyond the individual's usual physiological range of motion using a fast, low amplitude thrust.
2. Administering a substance by injection or inhalation.
3. Putting an instrument, hand, or finger,
 - i. beyond the external ear canal,
 - ii. beyond the point in the nasal passages where they normally narrow,
 - iii. beyond the larynx,
 - iv. beyond the opening of the urethra,
 - v. beyond the labia majora,
 - vi. beyond the anal verge, or
 - vii. into an artificial opening into the body.
4. Applying or ordering the application of a form of energy prescribed by the regulations under this Act.
5. Prescribing, dispensing, selling, or compounding a drug as defined in the Drug and Pharmacies Regulation Act, or supervising the part of a pharmacy where such drugs are kept.
6. Prescribing or dispensing, for vision or eye problems, subnormal vision devices, contact lenses or eyeglasses other than simple magnifiers.
7. Prescribing a hearing aid for a hearing-impaired person.

8. Fitting or dispensing a dental prosthesis, orthodontic or periodontal appliance or a device used inside the mouth to protect teeth from abnormal functioning.
9. Managing labour or conducting the delivery of a baby.
10. Allergy challenge testing of a kind in which a positive result of the test is a significant allergic response.
11. Treating, by means of psychotherapy technique, delivered through a therapeutic relationship, an individual's serious disorder of thought, cognition, mood, emotional regulation, perception, or memory that may seriously impair the individual's judgement, insight, behaviour, communication, or social functioning.¹²

Summary of Controlled Acts as per RHPA

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.”

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

The “controlled acts” include “communicating... a diagnosis identifying a disease or disorder as the cause of symptoms.” “Authorized acts” are controlled acts that are authorized to members of a profession in their respective health profession Act.

“Nurses (unless extended class) are not authorized to communicate medical diagnoses”; however, they are permitted to communicate a “**nursing diagnosis**.”¹³

Prescription(s) Defined Under RHPA

In Ontario, a **prescription** is a directive from a prescriber that instructs the dispensing of any drug or mixture of drugs for a designated person or animal.

Under RHPA, “prescribed” means prescribed by the regulations; (“prescrit”).¹⁴

Chiropractors (who can “prescribe” orthotics) can communicate certain diagnoses:

4 In the course of engaging in the practice of chiropractic, a member 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, as the cause of a person’s symptoms
 - i a disorder arising from the structures or functions of the spine and their effects on the nervous system, or
 - ii a disorder arising from the structures or functions of the joints of the extremities.¹⁵

Podiatrists/Chiropodists - 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:

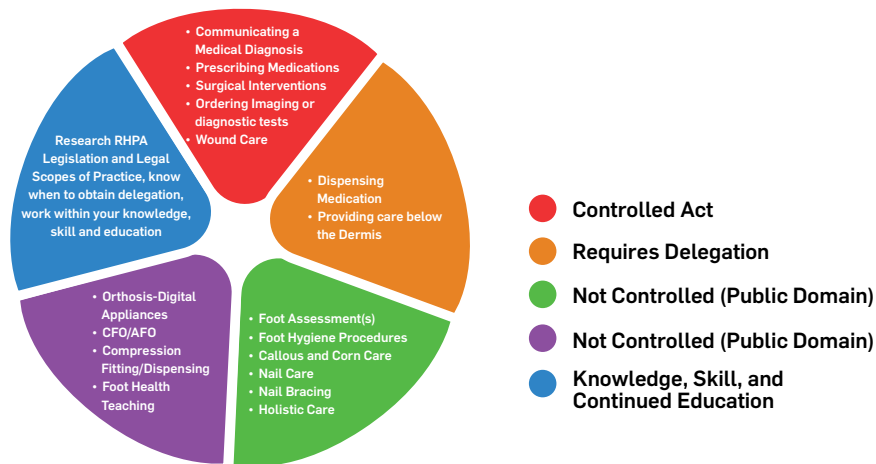
1. Cutting into subcutaneous tissues of the foot.
2. Administering, by injection into feet, a substance designated in the regulations.
3. Prescribing drugs designated in the regulations.
4. Administering, by inhalation, a substance designated in the regulations.¹⁶

Foot Care Practice Quick Reference

Controlled Acts vs Non-controlled Acts

Know the difference and refer to the *Regulated Health Professions Act of Ontario*

Visit: <http://www.health.gov.on.ca/en/pro/programs/hhrsd/about/rhpa.asp>



SOME INFORMATION MAY NOT HAVE BEEN INCLUDED FOR EASE OF REFERENCE. THEREFORE, THIS DOCUMENT SHOULD ONLY BE USED AS A GUIDE. IF FURTHER INFORMATION IS REQUIRED REFER TO PROVINCIAL LEGISLATION.

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.

Section 4 of the Chiropody Act states:

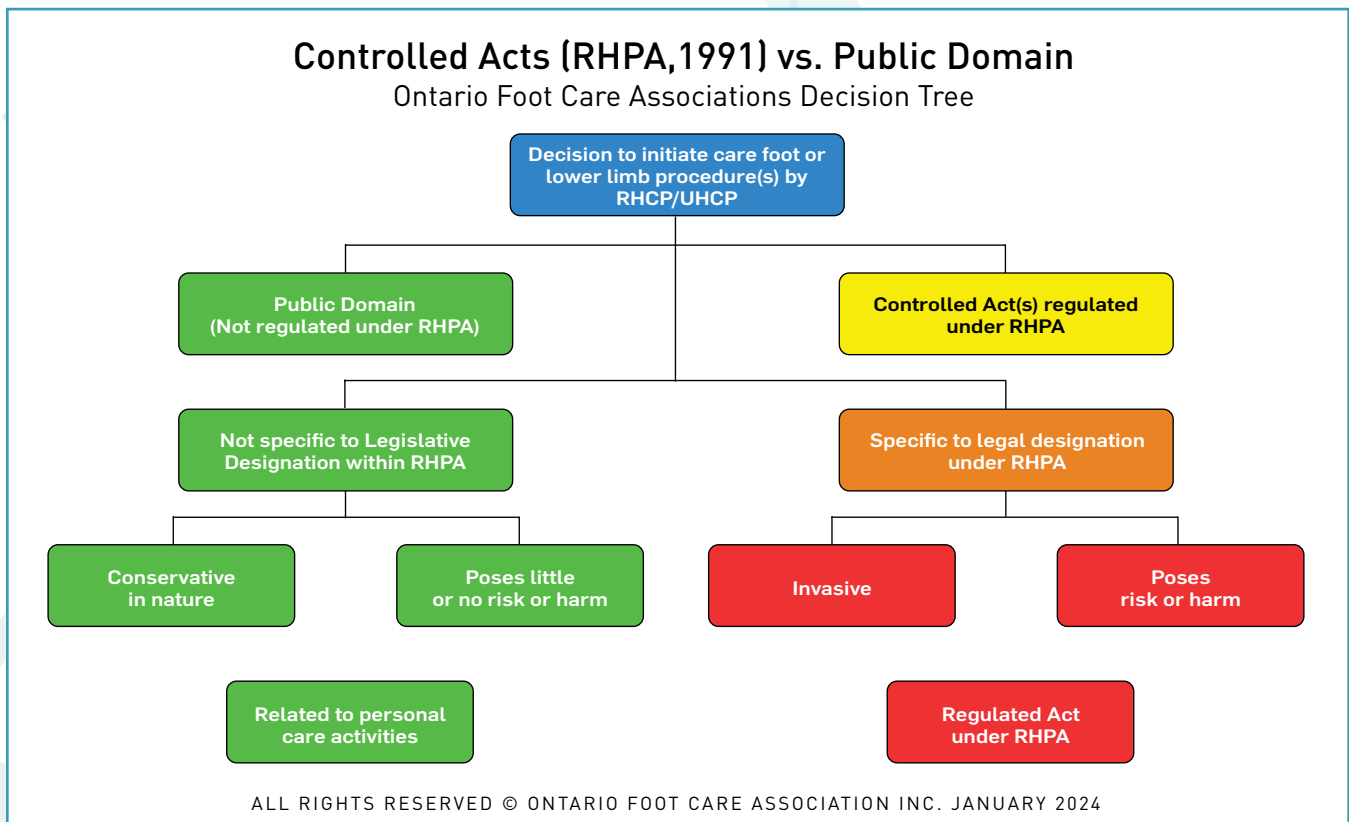
4. The practice of chiropody is the assessment of the foot and the treatment and prevention of diseases, disorders, or dysfunctions of the foot by therapeutic, orthotic, or palliative means.¹⁷

Legal Opinion Communicated to OFCA Directors

Specifically, chiropodists are not authorized to communicate diagnoses; only "podiatrists" are.

The CNO and COCOO's position 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 chiropodists 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."** 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

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 Definitions of Orthotic Therapy

Orthotic therapy is not considered a “prescription” or a “Controlled Act” legally under RHPA and therefore, OFCA has simplified the definitions of various types of orthotics and encourages referencing the following terms:

Custom Accommodative Foot Orthotics (AFO)

Consider the effects of compressional, torsional, tensile, and rotational stressors to the feet that have 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 AFO have the potential to improve plantar grade contact, which evenly distributes pressure to the foot thereby 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, and support foot arches, thus offloading pressure areas. CFO 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 Accommodative/Corrective Foot Orthotics (ACFO)

These 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 cases is a preventative and/or rehabilitative measure to reduce stressors and/or pressure to act as an offloading device, thereby decreasing the risk of foot- or digit-skin breakdown, discomfort, and/or pain. These appliances are often used as wound prevention measures offered by many

foot care practitioners. Examples may include digital appliances (toe spacers, toe sleeves, 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 because the feet, lower limb, and gait analysis, as well as the overall biomechanics and conditions have not been assessed or considered by a qualified practitioner. Off-the-shelf products would also include scanning machines that capture a subtalar neutral image of the client’s foot in stores that sell foot orthotics. This type of digital assessment excludes the assessment of the client’s conditions and/or gait cycle through a dynamic scanning process and physical biomechanical assessment performed by a qualified practitioner and therefore lacks 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 practitioner.

Orthotic Therapy-Post Graduate Education for RHCP/UHCP

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 Chiropractors 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 and

lower limb care provincially and nationally, given the rapidly growing aging population. Conservative Healthcare measures that are efficient, solution-oriented, and affordable are sought after by the public in order for an aging population to remain active, mobile, and pain- and wound-free. The goal for OFCA members is to help aging members of the population remain in their communities as long as possible and to eliminate the need to seek out public health institutions and/or a primary Healthcare provider that are overburdened.

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 in order 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.

OFCA agrees with many other associations and colleges that orthotic therapy should only be performed by “qualified practitioners” who have obtained the necessary knowledge, skills, and judgement through continuing post-graduate education initiatives that provide practitioners with the competencies to deliver this specialized care. Learning opportunities exist through various formal or informal certification courses. As self-regulators, the practitioner should review the curriculum in detail to determine whether the

program will meet the learning goals consistent with the quality assurance program set by their regulatory college. OFCA members are RHCP and therefore establish their own learning plans annually to meet their learning outcomes to ensure they have achieved the competencies to initiate and deliver care. OFCA acknowledges RHCP continuing Healthcare education is fluid and evolving in order to meet the challenges in a forever-changing Healthcare landscape. Continuing Healthcare education programs are now often self-directed and/or online, and efficiently obtained in shorter periods of time to meet public need. OFCA recognizes that 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.

This encompasses a virtual yet a multidisciplinary approach to care.

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 Nursing 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 (POC): 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

POC: 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 kinesthesia in the sagittal plane of the knee and the sagittal and frontal plane of the ankle) increases risk of falls and injuries

POC: 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 POC: Correct and offload with CFO and/or AFC and/or orthoses, such as digital or midfoot modifications



Health Professions Regulatory Advisory Council — Historical Referencing

The Health Professions Regulatory Advisory Council (HPRAC) was established under RHPA, 1991, with a statutory duty to advise the Minister on regulatory matters of health professions in Ontario. RHPA, 1991, is the governing framework for the regulation of health professions in Ontario. RHPA sets out a number of roles and responsibilities for the Minister and other organizations. HPRAC is one of those organizations.²³

It has been some time since HPRAC has been relied upon to provide advice to the Minister and there are currently no appointments made to this advisory body. While independent third-party advice to the Minister may be necessary in certain circumstances, it is proposed that HPRAC be dissolved and that short-term bodies be appointed on an as-needed basis to provide any advice to the Minister that is needed as it pertains to the regulation of health professions.²⁴

Although this advisory body dissolved, OFCA members had relied upon information provided **(formerly available in the public domain)** that was relevant to OFCA members' practices with respect to the models of foot care in Ontario.

This document involved a study conducted over four years from **2014 to 2017** with the intent to establish a model of foot care initiated by the College of Chiropodist of Ontario.²⁵ This document served to

provide an analysis of the current model of foot care in Ontario, that considered whether there should be changes to existing legislation governing chiropodists and podiatrists, and examines issues of restricted titles and whether the existing legislation which prohibits the registration of new podiatrists should continue. As part of the assessment process, [HPRAC] completed a jurisprudence review and two literature reviews, which included information on foot care in other jurisdictions and conducted two extensive consultation programs with a broad group of stakeholders.²⁶

OFCA (formally OPNA) was a newly established association at that time, and therefore was not approached to comment within this document as a "stakeholder." OFCA has relied upon other stakeholders' feedback as relevant to the practice of nurses who work in the area of foot and lower limb care. Specifically, OFCA has relied upon the following statements:

Foot care in Ontario ranges from services that are delivered by unregulated individuals, such as estheticians providing cosmetic services and nail care, to regulated Healthcare professionals, such as orthopedic surgeons, who perform surgery in a hospital operating room.

Services provided to treat the foot may include routine, less invasive treatments, but may also consist of more complex care; these may or may not involve the application of controlled acts." Under s. 27(2) of the Regulated Health Professions Act, 1991 (RHPA), 13 procedures are listed that, if not performed by a qualified practitioner, may pose a risk of harm to the public. These procedures are known as "controlled acts." In Ontario, controlled acts may only be performed by authorized Healthcare professionals or those who have been delegated in the act by an authorized professional or as otherwise authorized under the Act.

Procedures performed during the delivery of foot care include: routine nail care of high risk patients, nail care for various pathological nail conditions and infections, the treatment of corns, calluses, warts and other skin conditions like athlete's foot (tinea pedis), the assessment and treatment of "various biomechanical conditions including flat feet, heel pain, plantar fasciitis, wound debridement, applying topical medicines and bandages, wrapping the foot, applying electrical modalities, massage and stretching, and the casting and dispensing of orthotics and prosthetics. While HPRAC considers these services and procedures to be "routine foot care," this should not diminish the complexity

of these procedures, nor their importance to an individual's health. The majority of the procedures performed during the delivery of routine foot care are not controlled acts.

Foot care services also include the performance of more complex procedures, such as: surgical procedures on the nail, surgical procedures on soft tissue to treat warts and neuromas, and surgery on the bone, such as an intervention to repair a hammertoe, amputation of a toe, repairing of an Achilles tendon, fixing a fracture and other surgical procedures. These procedures are controlled acts. Care may also include rehabilitation once a procedure has been performed.

These services and procedures may be carried out during the treatment of a variety of conditions and illnesses, such as arthritic deformities, blisters, bunions, foot and ankle injuries, ingrown toenails, ulcers and other skin and nail problems related to the foot.

Whether it is routine or complex, a patient's foot care may begin with an assessment of the foot, which may or may not result in the development of an individualized care plan that could include specific treatments and/or the provision of health education about how to properly care for the foot or manage a disease or condition that affects the health of the patient's feet.²⁷

Statement Provided in the HPRAC Model of Foot Care in Ontario Regarding Nurses

Registered nurses (RNs), registered practical nurses (RPNs), and nurse practitioners (NPs) (collectively referred to as "nurses") are regulated Healthcare professionals who provide foot care in a variety of care settings, including long-term care homes, hospitals, CCDCs, FHTs, physician offices, and in the community, such as in a client's home or through outreach clinics. Nurses assess patients, provide preventative care, and educate and refer patients to other practitioners where

necessary. They also provide non-invasive foot care services, such as clipping nails, paring calluses and corns, debriding morbid tissue, treating ulcers, providing wound care, monitoring conditions of the foot, prescribing and dispensing orthotics, and wrapping and bandaging the feet.²⁸

Conclusion — Podortho® Foot Specialists "Providing" Orthotic Therapy

OFCA — which represents many RPNs, RNs and NPs — acknowledges 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. PFS 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 Chiropractors (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”?]** and 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 COCOCO specifically states its concern in the above statement for “**public safety**” and to “**distinguish**” **only** COCOCO 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 COCOCO 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.

OFCA–Overlapping Independent Scope of Practice and Designations Considering RHPA	Nurses (RN, RP, NP), Other RHCP Podortho® Foot Specialists	Chiropodists	Podiatrists
Communicate a Medical Diagnosis	ONLY RN (EC)	✗	✓
Communicate a Nursing Diagnosis	✓	✗	✗
Provide Nail Care (Nail Bracing, Debridement, Cutting)	✓	✓	✓
Remove Callouses/Corns	✓	✓	✓
Remove Ingrown Toenail (Non-Surgical)	✓	✓	✓
Treat Plantar Warts (Conservatively to the Dermis)	✓	✓	✓
Remove Ingrown Toenail (Surgically Cutting into Subcutaneous Tissue)	✗	✓	✓
Assess, Measure and Fit Orthoses	✓	✓	✓
Assess, Measure and Fit for Compression Therapy	✓	✓	✓
Utilize Non-invasive Adjunctive Therapies (Photobiomodulation LLLT, Shockwave, Class 3b and 4 Laser)	✓	✓	✓
Initiate and Deliver Wound Care	✓	✓	✓

- Removing barriers to innovation in the area of customer incentives, including rebates and incentives provided that they:
 - do not lead to decisions that are against the interests of consumers;
 - are not prohibited by law;
 - are transparently communicated; and
- are not unfairly discriminatory, anti-competitive or reliant on prohibited factors.
- 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-Submitted Complaints of Unfair, Biased, and Discriminatory Insurance Practices

OFCA has submitted complaints to FSRA due to concerns about recurring claim denials stating our member RHCP “were not qualified to provide foot care” and/or “the service was not covered as it could have been provided by a chiropodist.” There has been an overwhelming consensus by the public and our members’ clients that these claim denials were unfair, biased, and did not align with the Ontario Healthcare Framework that the public has the right to choose which Healthcare provider they wish to receive care from in their communities across Ontario, Canada.

FSRA reviewed our complaints and met with the OFCA Board of Directors in late 2023, and concluded a referral was necessary to the **Ontario Insurance Ombudsman** who is better able to address our member and patient/client concerns regarding insurance claim denials.

We await further advice from the Ombudsman for resolution on this matter.

OFCA Position on Health Insurance Coverage

Podortho® Foot Specialist members/RHCP are “qualified” to deliver non-invasive essential medical foot and lower limb care that aligns with our members’ designation and scope of practice(s). OFCA members who are nurses are compliant with the *Nursing Act, 1991*. Medical foot and lower limb care, orthotic therapy, and adjunctive treatment therapies should be covered under all clients’ extended health benefits and/or public health programs when received by Podortho® Foot Specialists in any practice setting. Some insurance companies continue

to limit care from our members to be received only in the client’s home. Many OFCA members own and operate private physical clinics allowing them to appropriately deliver care in an environment that is safe, sterile, and comfortable for the client when receiving care. These care settings ensure all public health regulations are met, such as infection control measures. OFCA holds the position that care is care and the various practice settings where care is delivered should hold little relevance to whether care should or should not be covered by insurance.

The Need for Equitable, Fair, and Accessible Health Insurance — OFCA’s Engagement with Regulators, Associations, and Insurers

OFCA has engaged in communications over the past several years with respect to insurance companies requesting our clients gain coverage for the quality and qualified care our members provide in communities across Ontario. OFCA members’ clients have chosen to receive care from a nurse/Podortho® Foot Specialist, which is their right under RHPA, which states: “individuals have access to services provided by the health professions of their choice and that they are treated with sensitivity and respect in their dealings with health professionals, the Colleges, and the Board.”³⁶

OFCA also engaged with several other organizations attempting a collaboration with the Canadian Health and Life Insurance Association (CHLIA), which claimed to organize a virtual meeting for OFCA board members to present to all insurers across Ontario and Canada. OFCA Board of Directors’ presentation was professional and considered public health concerns at a grassroots level (thereby validating the need

for access to care) and outlined the value of preventative care. OFCA understands the CHLIA invitees were only the College of Chiropractors and the Manulife Insurance Company of Canada and did not include the audience of all health insurers across Canada — in fact, no Canadian health insurers were in attendance despite being told they would be by CHLIA and its VP of Group benefits, Ms. Joan Weir. We can now confirm COCOO was in attendance even though OFCA did not invite this organization, did not approve of COCOO's attendance, and was not informed of their attendance by CHLIA and Ms. Weir.

To date, Manulife is the only insurance company that will not accept OFCA members, RHCP, and/or nurse care when clients submit their claims for coverage and will only accept the care of a chiropractor. This has created a great deal of concern for the public and has created confusion as OFCA members' clients have chosen to receive care from Podortho® Foot Specialists/nurses.

Fortunately, OFCA's Board of Directors has engaged in positive collaborations with the Sunlife Insurance Company of Canada, who is now covering clients' claims when care is delivered by OFCA members both in community clinics and when delivering care in clients' homes and various other practice environments such as long-term care facilities and hospitals.

The Need for Accessible Health Insurance for Medical Foot and Lower Limb Community Care

OFCA confirms Sun Life, Blue Cross, Greenshield, Desjardins, and Johnson & Johnson are now recognizing OFCA, Podortho® Foot Specialist Members, and the need for essential community foot and lower limb care. Understanding the practice-to-practice concepts and the positive impact preventative care has on our mutual clients plays a significant role in an individual's overall health and wellness. Preventative, solution-oriented community medical foot and lower limb care reduces life-altering conditions, decreases the need for publicly funded care, improves access to community care, and reduces overall costs and the burden on our public health institutions. Acknowledgement of Podortho® Foot Specialists by insurers is a positive step in the right direction to improve public access, decrease more costly insurance claims, and address a significant and essential need.



RHCP—Post-Graduate Education (Continuing Education) Requirements to Meet for OFCA Membership Registration

Introduction to the Foot and Lower Limb

OFCA-101

Developing an Independent Scope of Practice Within Legislated Designations, Core Competencies, Standards of Practice

OFCA-102

Multidisciplinary Concepts

OFCA-103

Anatomy and Physiology of the Lower Legs and Feet

OFCA-104

Characteristics of the Aging Foot

OFCA-105

Microbiology

OFCA-106

Infection Protection and Control

OFCA-107

Occupational Health and Safety

OFCA-108

Nail Pathology—Conditions and Diseases

OFCA-109

Soft Tissue Pathology—Conditions and Diseases

OFCA-110

Optimal Foot and Lower Limb Functions

OFCA-111

Structural Deformities of the Foot

OFCA-112

Foot and Lower Limb Assessment and Documentation

OFCA-113

Instrumentation and Supplies

OFCA-114

Foot and Lower Limb Care Procedures

OFCA-115

High Risk Client Concepts

OFCA-116

Diabetic Foot and Lower Limb

OFCA-117

Peripheral Vascular System and Disorders

OFCA-118

Lower Limb Lymphatic System

OFCA-119

Compression Therapy

OFCA-120

Neurological System and Disorders R/T Lower Limbs and Feet

OFCA-121

Biomechanical Assessments—Gait Analysis

OFCA-122

Orthoses—Digital and Foot Appliances, Padding, Strapping, Bracing

OFCA-123

Footwear Concepts—Assessments, Recommendations of Styles and Brands

OFCA-124

Common Conditions of the Foot and Lower Limb

OFCA-125

Introduction to Wound Care

OFCA-126

Foot and Lower Limb Client Education

OFCA-127

Introduction to Evolving Conservative Technologies

OFCA-128

Clinical Practice Concepts

OFCA-129

Entrepreneurial Concepts and Practice Set-Up

OFCA-130

Practical Evaluation

OFCA-131

OFCA Written Examination

OFCA-132

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.
- 3 [Editor's note: Please see these three documents online: (1) CNO, "Entry-to-Practice Competencies for Registered Nurses," online: <https://www.cno.org/globalassets/docs/reg/41037-entry-to-practice-competencies-2020.pdf>; (2) CNO, "Entry-to-Practice Competencies for Registered Practical Nurses," online: https://www.cno.org/globalassets/docs/reg/41042_entrypracrp-2020.pdf; (3) CNO, "Entry-to-Practice Competencies for Nurse Practitioners," online: <https://www.cno.org/globalassets/docs/reg/47010-np-etp-competencies.pdf>.]
- 4 Dina Vaidyaraj, CNO Advanced Practice Consultant (2016) via email [communicated to author].
- 5 College of Nurses of Ontario, "Practice Standard: Professional Standards, Revised 2002" (June 2002), online: https://neltoolkit.rnao.ca/sites/default/files/CNO_Professional%20Standards,%20Revised%202002.pdf
- 6 *Nursing Act, 1991*, SO 1991, c 32, s 4.1.
- 7 Office of the Fairness Commissioner, "Legislated Obligations and Fair Registration Best Practices Guide for Regulated Professions and Compulsory Trades" (30 January 2024), online: https://www.fairnesscommissioner.ca/en/Compliance/Documents/2024%2001%2030%20-%20Legislated%20Obligations%20a%E2%80%8Bnd%20Best%20Practices%20G%E2%80%8Buide-Regulated%20Professions%20and%20Compulsory%20Trades_Jan2024.pdf at 9, 10 & 11.
- 8 Dina Vaidyaraj, CNO Advanced Practice Consultant (2016) via email [communicated to author].
- 9 Australian Nursing and Midwifery Council, "Report to the Australian Nursing and Midwifery Council" (Project to produce a National Framework for the Development of Decision-making Tools for Nursing and Midwifery Practice [National DMF] Canberra, 2007). Ontario Ministry of Health, "Your Health: A Plan for Connected and Convenient Care" (2 February 2023); online <https://www.ontario.ca/page/your-health-plan-connected-and-convenient-care>.
- 10 Ontario Ministry of Health, "Your Health: A Plan for Connected and Convenient Care" (2 February 2023), online: <https://www.ontario.ca/page/your-health-plan-connected-and-convenient-care>.
- 11 *Regulated Health Professions Act, 1991*, SO 1991, c 18, s 3 [RHPA].
- 12 RHPA, *ibid*, s 27(2).
- 13 RHPA, *ibid* [citations omitted]; see also, online: NANDA <https://nandadiagnoses.com/>.
- 14 RHPA, *ibid*, Sch 2, online: <https://www.ontario.ca/laws/statute/91r18>.

- 15 *Chiropractic Act, 1991*, SO 1991, c 21, s 4(1).
- 16 *Chiropody Act, 1991*, SO 1991, c 20, s 5(1) & (2).
- 17 *Ibid*, s 4.
- 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.
- 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>.
- 23 Section 7 of the RHPA sets out HPRAC's composition, qualifications, roles, and terms of members, along with its mandate.
- 24 See the Dissolution of the Health Professions Regulatory Advisory Council under the Regulated Health Professions Act, 1991 (15 April 2021), online: <https://www.ontariocanada.com/registry/view.do?postingId=37050&language=en>.
- 25 See Health Professions Regulatory Advisory Council, *Chiropody and Podiatry: Regulation of the Profession and the Model of Foot Care in Ontario* (31 August 2015), online: <https://www.ofcassociation.ca/wp-content/uploads/2023/10/Model-of-Foot-Care-In-Ontario-HPRAC-Report-Chiropody-report-Final-AODA-approved-2015-08-26.pdf>.
- 26 *Ibid*, Letter to the Minister of Health and Long-Term Care.
- 27 *Ibid* at 8-9 [citations omitted].
- 28 *Ibid* at 17 [citations omitted].
- 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.
- 31 Duffie Osental, "Ontario Launches New Insurance Regulator" *Insurance Business* (10 June 2019), online: <https://www.insurancebusinessmag.com/ca/news/breaking-news/ontario-launches-new-insurance-regulator-169482.aspx>.
- 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.
- 36 RHPA, above note 1, s 3.

