

# Advice to the Profession: Delegation of Controlled Acts

*Advice to the Profession* companion documents are intended to provide physicians with additional information and general advice in order to support their understanding and implementation of the expectations set out in policies. They may also identify some additional best practices regarding specific practice issues.

## Introduction

Under Ontario law, certain acts, referred to as “controlled acts,” may only be performed by authorized health professionals. Of the 14 controlled acts, physicians are authorized to perform 13 of them and under appropriate circumstances, physicians may delegate these acts to others.<sup>1</sup> While the term “delegation” can have multiple meanings, for the purposes of the policy, “delegation” is defined as a mechanism that allows a regulated health professional (e.g., a physician) who is authorized to perform a controlled act to temporarily grant that authority to another person (whether regulated or unregulated) who is not independently authorized to perform the act. Delegating controlled acts in appropriate circumstances can result in more timely delivery of health care, promote optimal use of healthcare resources and personnel, and increase access to care where there is a need.

The *Delegation of Controlled Acts* policy sets expectations for physicians about when and how they may delegate controlled acts, through either direct orders or medical directives. It also sets expectations about the use, development, and contents of medical directives. This companion *Advice* document is intended to help physicians interpret their obligations as set out in the *Delegation of Controlled Acts* policy and provide guidance around how these expectations may be effectively discharged.

## Delegation Fundamentals

### ***How do I know which acts are “controlled acts”?***

Controlled acts are defined in the *Regulated Health Professions Act, 1991*<sup>2</sup> (RHPA) and include the following:

1. 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.

<sup>1</sup> Physicians are not permitted to delegate the controlled act of psychotherapy.

<sup>2</sup> Controlled acts are defined under subsection 27 (2) of the *Regulated Health Professions Act, 1991*, S.O. 1991, c. 18 (RHPA).

- 33 2. Performing a procedure on tissue below the dermis, below the surface of a  
34 mucous membrane, in or below the surface of the cornea, or in or below the  
35 surfaces of the teeth, including the scaling of teeth.
- 36 3. Setting or casting a fracture of a bone or a dislocation of a joint.
- 37 4. Moving the joints of the spine beyond the individual's usual physiological range  
38 of motion using a fast, low amplitude thrust.
- 39 5. Administering a substance by injection or inhalation.
- 40 6. Putting an instrument, hand or finger,
- 41 i. beyond the external ear canal,
- 42 ii. beyond the point in the nasal passages where they normally narrow,
- 43 iii. beyond the larynx,
- 44 iv. beyond the opening of the urethra,
- 45 v. beyond the labia majora,
- 46 vi. beyond the anal verge, or
- 47 vii. into an artificial opening in the body.
- 48 7. Applying or ordering the application of a form of energy prescribed by the  
49 regulations under the *RHPA*.
- 50 8. Prescribing, dispensing, selling or compounding a drug as defined in the *Drug and*  
51 *Pharmacies Regulation Act*, or supervising the part of a pharmacy where such  
52 drugs are kept.
- 53 9. Prescribing or dispensing, for vision or eye problems, subnormal vision devices,  
54 contact lenses or eye glasses other than simple magnifiers.
- 55 10. Prescribing a hearing aid for a hearing impaired person.
- 56 11. Fitting or dispensing a dental prosthesis, orthodontic or periodontal appliance or  
57 device used inside the mouth to prevent the teeth from abnormal functioning.<sup>3</sup>
- 58 12. Managing labour or conducting the delivery of a baby.
- 59 13. Allergy challenge testing of a kind in which a positive result of the test is a  
60 significant allergic response.
- 61 14. Treating, by means of psychotherapy technique, delivered through a therapeutic  
62 relationship, an individual's serious disorder of thought, cognition, mood,  
63 emotional regulation, perception or memory that may seriously impair the  
64 individual's judgement, insight, behaviour, communication or social functioning.

65 ***What should I do if I'm not sure whether a procedure, treatment, or intervention***  
66 ***requires the performance of a controlled act?***

67 Physicians with questions about whether a procedure, treatment or intervention  
68 involves the performance of a controlled act can consult the Canadian Medical  
69 Protective Association (CMPA) or seek an independent legal opinion.

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<sup>3</sup> This is the only controlled act that physicians are not authorized to perform.

72 **What are some examples of instances that would not require delegation? In what**  
73 **circumstances does the policy not apply?**

74 "Delegation" occurs only when a physician directs an individual to perform a controlled  
75 act that the individual has no statutory authority to perform. However, the term  
76 "delegation" is often used liberally to refer to instances that would not require  
77 delegation as defined in the policy. For example, the following would not require  
78 delegation as defined in the policy:

- 79 1) Assigning tasks to staff or other health care professionals that do not involve  
80 the performance of controlled acts (e.g., history-taking, administering a test  
81 that does not involve a controlled act, taking vitals, or obtaining consent).
- 82 2) Performing a controlled act in one of the permissible circumstances listed  
83 under the *RHPA*<sup>4</sup> (e.g., when providing first aid or temporary assistance in an  
84 emergency or when fulfilling the requirements to become a member of a health  
85 profession (e.g., medical students)).
- 86 3) Ordering the initiation of a controlled act that is within the scope of practice of  
87 another health professional (e.g., an order for a nurse to "administer a  
88 substance by injection" is not delegation as nurses are legally authorized to  
89 perform this act when ordered to do so by a physician).<sup>5</sup>

## 90 **Considering and Evaluating Delegates**

91 ***Can I delegate to individuals who are not members of a regulated health profession?***

92 Yes. The policy permits delegating to individuals who are not members of a regulated  
93 health profession, provided the policy requirements are met. For example, Physician  
94 Assistants and Paramedics are skilled health care providers who regularly provide  
95 safe and effective care entirely through delegation.

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<sup>4</sup> The *RHPA* sets out a number of exceptions that allow individuals who are not members of a regulated health profession to perform some controlled acts, in certain circumstances. A comprehensive list of the exceptions can be found under Section 29 (1) (2) of the *RHPA*.

<sup>5</sup> In order to determine whether an act requires delegation, physicians need to be aware of the scope of practice of the individual who will perform the act and whether it includes the controlled act in question. Regulated health professions have their own professional statutes (e.g., the *Nursing Act, 1991*), that define their scopes of practice and the controlled acts they are authorized to perform. Physicians with additional questions can consult the CMPA or obtain an independent legal opinion.

96 Physicians are ultimately responsible for the acts they delegate and must be satisfied  
97 that the individual to whom they are delegating has the requisite knowledge, skill, and  
98 judgment to perform the act(s).

99 ***Where can I find information about delegating to Physician Assistants (PAs)?***

100 The Canadian Medical Association and the Canadian Association of Physician  
101 Assistants have developed a [Physician Assistant Toolkit](#) for Canadian physicians  
102 looking to delegate to PAs. The CMPA's article [Working with physician assistants:  
103 Collaborating while managing risks](#) also contains helpful information.

104 ***How do the policy expectations apply when delegating to International Medical  
105 Graduates (IMGs) who have credentials or licences obtained in other jurisdictions but  
106 who do not have certificates of registration in Ontario?***

107 The same protocols that apply when delegating to any other individuals apply to IMGs.  
108 In particular, physicians cannot rely exclusively on credentials or licences obtained in  
109 other jurisdictions to ascertain whether an IMG has the requisite knowledge, skill, and  
110 judgment to safely perform a controlled act and must be equally diligent in evaluating  
111 and establishing the IMG's competence to perform the controlled acts.

112 ***What are my responsibilities for ensuring competence if I am not involved in the hiring  
113 of the individual to whom I will be delegating (e.g., in an institutional setting)?***

114 As part of establishing and ensuring a delegate's competence the policy requires  
115 physicians to review the delegate's training and credentials, unless the physician is not  
116 involved in the hiring process and it is reasonable to assume that the hiring institution  
117 has ensured that its employees have the requisite knowledge, skill, and judgment. It is  
118 reasonable to rely on the diligence of the institution's process for hiring unless there are  
119 reasonable grounds to believe otherwise. Physicians must still be satisfied that the  
120 individuals to whom they are delegating have the knowledge, skill, and judgment to  
121 perform the delegated acts competently and safely and would need to take appropriate  
122 action if they had concerns about a delegate's competence (e.g., notifying the individual  
123 to whom the individual is accountable).<sup>6</sup>

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<sup>6</sup> For additional information see the College's [Mandatory and Permissive Reporting](#) policy.

## 126 **Scope of Practice**

127 ***What does it mean to only delegate acts which are in my scope of practice? If I have a***  
128 ***practice restriction, am I permitted to delegate?***

129 Physicians are required by the policy to only delegate acts that they are competent to  
130 perform personally (i.e., those within their scope of practice). This means that  
131 physicians must only delegate acts that are within the limits of their knowledge, skill  
132 and judgment and any terms, limits, and conditions of their practice certificate.  
133 Physicians are not permitted to delegate acts that contravene their practice restrictions.

## 134 **Delegating in the Context of an Established Physician-Patient Relationship**

135 ***The policy requires delegating in the context of an established physician-patient***  
136 ***relationship, while permitting some exceptions. Can you elaborate on the exceptions?***

137 The policy permits delegating prior to establishing a physician-patient relationship  
138 where it would be in a patient's best interest and identifies a few circumstances in  
139 which delegation may occur in the absence of a traditional physician-patient  
140 relationship altogether. An example of when it would be in the patient's best interest to  
141 delegate prior to establishing a physician-patient relationship is in a hospital emergency  
142 room, where it is common for some tests to be ordered before a physician has seen the  
143 patient. In this case, the timely delivery of treatment is required to ensure patient safety  
144 and thus the patient's best interests will be served by having the controlled act  
145 performed prior to assessment by the physician.

146 Though the policy permits delegating in advance of a physician-patient relationship  
147 where it is in a patient's best interests to do so, delegating in this context is the  
148 exception not the rule. It is generally in a patient's best interest for a physician to  
149 conduct a clinical assessment and gather the necessary clinical information prior to  
150 delegating, so they can determine whether delegation is appropriate.

151 Physicians who are considering whether it would be appropriate to delegate prior to  
152 establishing a physician-patient relationship need to be prepared to justify delegating in  
153 this context and be able to illustrate why it is in the patient's best interest, should a  
154 complaint arise.

155 ***Is it appropriate to delegate a cosmetic procedure (e.g., botulinum toxin (Botox) and***  
156 ***fillers) without first establishing a physician-patient relationship?***

157 Generally, no. As the policy states, delegation must occur within the context of an  
158 existing physician-patient relationship and following a clinical assessment. The only

159 exception to this is where the patient's best interests would dictate otherwise. As in all  
160 instances of delegation, a physician would have to justify why delegating in advance of  
161 a physician-patient relationship is in a patient's best interest and it is not clear that this  
162 exception would apply in the context of cosmetic procedures.

## 163 **Assessment of Risk**

164 ***What are the risks involved in delegating? How does risk factor into decisions related***  
165 ***to delegation?***

166 By law, controlled acts may only be performed by authorized regulated health  
167 professionals due to the potential harm that could result if performed by someone  
168 who does not have the knowledge, skill, and judgment to perform them. As such, the  
169 performance of any controlled act has been identified by the legislature as carrying  
170 some risk.

171 Risks vary depending on the specific acts being performed and the circumstances  
172 under which they are performed and thus must be considered prior to each instance of  
173 delegation and mitigated appropriately. Physicians must then only delegate if the  
174 patient's health and/or safety will not be put at risk by the delegation. Physicians who  
175 require additional assistance determining the appropriateness of delegating in a  
176 specific circumstance can contact the CMPA or obtain independent legal advice.

## 177 **Appropriate Supervision and Support**

178 ***Delegation is intended to be a physician extender, not a physician replacement. What***  
179 ***does this mean and how can I apply this principle when delegating?***

180 Delegation is intended to provide physicians with the ability to extend their capacity to  
181 serve patients by temporarily authorizing an individual to act on their behalf. It is meant  
182 to be a tool to extend physician services, where appropriate, as opposed to replacing  
183 the physician altogether. In accordance with the policy, this requires physicians to  
184 appropriately supervise and support delegates, and not allow a delegate to practise  
185 independently without any physician involvement or beyond the scope of their individual  
186 knowledge, skills, and judgement. Ensuring appropriate parameters are placed around  
187 what a delegate is permitted to do, that are based on the individual's education, training  
188 and experience is vital for safe and effective delegation.

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191 ***I am required to appropriately supervise individuals to whom I am delegating. Am I***  
192 ***required to be onsite when supervising a delegate?***

193 Generally speaking, by fulfilling the requirements in the policy physicians will often  
194 already be onsite to supervise delegates. For example, when establishing a physician-  
195 patient relationship, providing an appropriate clinical assessment prior to delegating, re-  
196 assessing a patient as a result of a change in clinical status or treatment options, or  
197 when a patient has requested to see the physician.

198 Notwithstanding the above, the requirement to be onsite is case specific and dependent  
199 on the circumstances of the delegation. Supervision must be proportionate to the risks  
200 associated with the delegation and physicians need to be available to provide whatever  
201 support is required by the delegate. In some instances this will require you to be onsite,  
202 or to be available to come onsite if necessary, and in other instances you can provide  
203 assistance remotely, provided the right supports are in place in the setting where the  
204 delegation is occurring.

205 It is not appropriate for physicians to leave a delegate to manage a practice or their  
206 patient population on their own. Onsite supervision will help ensure the policy  
207 expectations are met.

208 ***What are some examples of circumstances where it might be appropriate to be offsite***  
209 ***when supervising a delegate?***

210 It may be appropriate for physicians to supervise delegates while offsite where the risk  
211 of the delegation is low, and/or the circumstances make it impractical or impossible to  
212 be onsite. For example, where delegation is occurring for the purpose of facilitating  
213 access to care where there is a need, it may not be possible for supervising physicians  
214 to be physically present at the location in which a delegate is providing care.

215 Additionally, paramedicine is structured in a way that permits Base Hospital physicians  
216 to provide remote assistance where necessary and does not require onsite supervision.  
217 Lastly, physicians delegating in the context of long-term care homes may not always be  
218 onsite.

219 Ultimately, whether it is appropriate to be offsite at any given moment is case specific  
220 and physicians must be available to provide assistance to delegates, when necessary.

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## 224 **Quality Assurance**

### 225 ***What are some best practices for monitoring and evaluating the delegation process?***

226 Tracking or monitoring when medical directives are being implemented inappropriately  
227 or are resulting in unanticipated outcomes can help monitor the effectiveness of the  
228 delegation process.

## 229 **Delegating Prescribing**

### 230 ***Am I permitted to delegate the controlled act of prescribing?***

231 Yes, where appropriate. As with the delegation of all controlled acts, physicians must  
232 consider whether it is in the patient's best interest to delegate prescribing, in the  
233 circumstances. Factors for consideration include the risk profile of the drug, the  
234 patient's specific condition, whether the drug has been previously prescribed (repeats or  
235 renewals), whether the prescription requires adjustment, etc.

### 236 ***Can medical directives be used to implement orders for prescriptions?***

237 Yes. Medical directives can be used to implement orders for prescriptions. Any  
238 prescriptions completed pursuant to a medical directive need to specifically identify the  
239 medical directive (name and number), the individual responsible for implementing the  
240 directive (name and signature), and the name of the prescribing physician, along with  
241 contact information to clarify any questions. If a request is received, a copy of the  
242 medical directive can be forwarded to further demonstrate the integrity of the order.

## 243 **Documentation**

### 244 ***How do I ensure appropriate documentation of delegation?***

245 Medical records can provide indication of whether delegation is being done  
246 appropriately and in accordance with the policy. Therefore, in keeping with the  
247 principles and expectation of the College's [Medical Records Documentation](#) policy, it is  
248 important for the medical records of patients who received care through delegation to  
249 accurately and comprehensively reflect the care that was provided (e.g., evidence of an  
250 appropriate history-taking, any relevant assessments that were done prior to delegating,  
251 informed consent in accordance with the policy, etc.). Additionally, where medical  
252 directives are implemented, physicians may wish to capture the name and number of  
253 the directive in the medical record.

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255 **Liability and Billing**

256 ***Are there liability issues that arise from delegation?***

257 Physicians are accountable and responsible for the acts that they delegate. In particular,  
258 they are responsible for making the choice to delegate, and for ensuring that the  
259 delegation is taking place safely, effectively, and in accordance with the policy  
260 expectations.

261 Physicians with questions about liability or liability coverage can consult the CMPA.

262 ***If I am fulfilling the CPSO's expectations with respect to the delegation of controlled***  
263 ***acts does that mean I have fulfilled the Ontario Health Insurance Plan (OHIP) billing***  
264 ***requirements for delegated services?***

265 No. Fulfilling the College's expectations with respect to the delegation of controlled acts  
266 does not entail that physicians have fulfilled Ontario Health Insurance Plan (OHIP)  
267 billing requirements for delegated services. Physicians who bill OHIP and who are  
268 considering delegating performance of controlled acts to others need to carefully  
269 review the provisions of the OHIP Schedule of Benefits. The Ontario Medical  
270 Association and the Provider Services Branch at OHIP can answer questions and give  
271 advice about such matters and a joint bulletin developed by the Ministry of Health and  
272 the OMA provides additional information on [Payment Requirements for Delegated](#)  
273 [Services](#).