



Canadian
Association
of Physician
Assistants

Association
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des adjoints
au médecin

11 August 2023

Dr. Nancy Whitmore
Registrar and CEO
College of Physicians & Surgeons of Ontario
10 King Street East, Suite 1001
Toronto, Ontario
M5C 1C3

Dear Dr. Whitmore,

Re: Proposed Regulatory Amendments to Regulate Physician Assistants – Consultation

We are writing to you today on behalf of the Ontario members of the Canadian Association of Physician Assistants (CAPA), which collectively represents over 650 Physician Assistants (PAs) working in Ontario. CAPA has carefully considered the College of Physicians & Surgeons of Ontario's (CPSO) proposed amendments to the Regulations under the *Medicine Act* and its implications for Ontario PAs. We are pleased to provide the following response to the CPSO's on-going consultation.

This proposed regulatory framework will have significant ramifications for how PAs are able to practice and care for patients. As such, CAPA wishes to raise the following three concerns and recommendations, relating to the proposed amendments to O.Reg. 114/94, the General Regulation under the *Medicine Act*.

1) CAPA is concerned about the implications of the prohibition on sub-delegation, if sufficient flexibility is not in place to ensure that PAs can work efficiently and effectively.

Under the proposed amendments at section 52(3), PAs will not be able to further delegate (sub-delegate) the performance of controlled acts that have been delegated to them. In addition, our members will be expected to collaborate with other health professionals based solely on the terms of the physician's medical directive.

While CAPA recognizes that sub-delegation is universally prohibited, our members are concerned about the consequences of this if there is not any corresponding policy or guidance that provides clarity and ensures a flexible arrangement for collaboration with other health professionals. Absent of further clarifying policy or guidance, we are concerned that this prohibition could be misinterpreted to mean that PAs are unable to work collaboratively with other health professionals to implement the physician's direction. Related to this, the CPSO's current [Delegation of Controlled Acts](#) policy does not adequately address PA practice and requires that delegation be implemented through direct orders or highly restrictive medical directives.

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The Delegation of Controlled Acts policy does not address how PAs are expected to work with other health professionals who are not already authorized to perform the controlled act that the PA is implementing. Further, CAPA requests confirmation that the prohibition on sub-delegation would not bar PAs from collaborating with other health professionals who are already authorized to perform the controlled act(s) being delegated. We must be sure that the CPSO's policy can and will be modified to expressly indicate how a PA, under their supervising physician(s), can efficiently contribute to patient care if any order written around a controlled act were to be viewed as sub-delegation. For example, a PA assessing a patient and writing a prescription or an imaging request. While we accept that PAs cannot sub-delegate, our members will also be expected to work with any health professional necessary to fulfill the physician's directions and patient's needs. More clarity and flexibility are needed.

In addition, the requirements for issuing medical directives under the Delegation of Controlled Acts policy are administratively cumbersome and their scope is relatively narrow. For example, currently each directive is restricted to authorizing individual procedures, treatments, or interventions. Also, all the individuals authorized to implement the directive are required to be identified. This is simply not flexible enough for PAs.

Recommendation: Work with CAPA on an amended Delegation of Controlled Acts policy that incorporates PAs, provides clarity, and ensures our members are able to work in a sufficiently flexible environment

CAPA appreciates the offer from the CPSO staff to provide more information on what a more flexible approach to medical directives could look like. CAPA has recently established a working group to provide further guidance on this issue and would like a commitment from the CPSO to collaborate on an amended Delegation of Controlled Acts policy. The CPSO will need to amend its policies to incorporate PAs and it will be important to begin this work as soon as possible before any final regulations are ready to be implemented.

2) CAPA is concerned that the prohibition on sub-delegation will impact their ability to work effectively with PA students and other trainees.

The prohibition on sub-delegation also raises concerns over how PAs will be able to work with trainees who are eager to join the PA profession, as well as medical students. If PAs cannot sub-delegate controlled acts, then they presumably will not be able to sign student orders themselves. CAPA is aware of the exception in the *Regulated Health Professions Act, 1991* (RHPA), which allows students who intend to register with the college applicable to the profession they are training to be a member of, to perform controlled acts. However, under the current proposed amendments, we are concerned that this will not extend to PAs.

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While CPSO staff have pointed to this exception as addressing CAPA's concerns, the exception seems to be exclusive to cases where "the act is within the scope of practice of the profession" (see [section 29\(1\)\(b\)](#)). While we hope that the CPSO would *interpret* "scope of practice of the profession" broadly enough to include controlled acts that have been delegated to PAs, further clarity is required as PAs do not have a legislated scope of practice in the *Medicine Act*. We are concerned that the exception in the RHPA implies that the health professional supervising the student must be able to perform the controlled act themselves or, in other words, are authorized to do so on their own. The CPSO's own [Delegation of Controlled Acts policy](#) and its [Guidance Document on Delegation](#), further heightens our concerns as it appears that the CPSO considers an act to be within a member's "scope of practice" when the member is authorized to perform it personally (and not through delegation).

Recommendation: Clarify that the exception under the RHPA for students/trainees to perform controlled acts extends to acts delegated by PA students/trainees.

Even if the CPSO interprets this exception as already extending to PA students/trainees, CAPA feels strongly that this must be made explicit either in the General Regulation itself, or through revisions to the Delegation of Controlled Acts policy. However, the easiest and cleanest approach would be for the CPSO to add a provision to its proposed regulatory amendments that addresses this issue. PAs and other health professionals should not be left on their own to interpret this themselves; that would only lead to confusion and would significantly disrupt the training of new PAs.

3) CAPA is concerned that the prohibition on the delegation of psychotherapy will bar Ontario PAs from ever being able to perform psychotherapy even if they have the knowledge, skills, and judgement to do so.

Under the proposed amendments at section 52(2), a PA will not be able to be delegated performance of the controlled act of psychotherapy. CAPA understands that this prohibition is relatively universal among Ontario health profession regulators. We have been told by CPSO staff that there is nothing stopping PAs from obtaining educational/licensing requirements and registering with the College of Registered Psychotherapists of Ontario (CRPO) or another college that is licensed to perform psychotherapy. However, this alone is not enough reassurance for our members, particularly given the ramifications of professional misconduct.

A conflict would be created if our members could be prohibited from performing psychotherapy under one license but authorized to do so under another. Therefore, it is important that the CPSO provide greater clarity on how dual-registered PAs are expected to practice under both licenses and what, if any, restrictions could be in place. While working as a PA is a form of employment, being licensed as such does not stop when a PA ends their shift.

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Recommendation: Provide further guidance on the expectations for PAs who are dual registered to practice psychotherapy under the CRPO.

CAPA recognizes that the CRPO's requirements are separate from, and beyond the control of, the CPSO. However, the CPSO should provide further guidance on how dual-registered PAs can practice under both licenses and expect to adhere to the rules/requirements of each simultaneously. Presumably, this clarity could also be provided through revisions to the Delegation of Controlled Acts policy.

We appreciate the opportunity to provide feedback on behalf of our members. **Related to this, we ask that CPSO staff meet with representatives of CAPA as soon as possible to begin further dialogue on our concerns and start discussions on what an amended Delegation of Controlled Acts policy that incorporates PAs could look like.**

Please let us know when CPSO staff would be available to meet. The sooner we address these concerns, the better.

CAPA is solutions focused. We value working collaboratively with the CPSO to ensure that the proposed regulatory amendments support the continued efficiency and effectiveness of the PA role, while fulfilling the College's mandate to protect the public from harm. The best way to do this is to incorporate CAPA's recommendations and begin collaboration on a revised Delegation of Controlled Acts policy.

Thank you in advance for your consideration. Please do not hesitate to reach out as this important work continues. We look forward to hearing from you soon.

Sincerely,