

August 9, 2023

Dr. Nancy Whitmore
Registrar/CEO
College of Physicians and Surgeons of Ontario
80 College Street
Toronto, ON, M5G 2E2

Dear Nancy:

Re: Consultation on the Draft Regulatory Amendments to Regulate Physician Assistants

The Canadian Medical Protective Association (“CMPA”) appreciates the opportunity to participate in the consultation on the proposed regulatory amendments to regulate Physician Assistants (PAs).

As you know, the CMPA delivers efficient, high-quality physician-to-physician advice and assistance in medico-legal matters, including the provision of appropriate compensation to patients injured by negligent medical care. Our evidence-based products and services enhance the safety of medical care, reducing unnecessary harm and costs. As Canada’s largest physician organization and with the support of our over 109,000 physician members, the CMPA collaborates, advocates and effects positive change on important healthcare and medico-legal issues.

The CMPA is supportive of collaborative care efforts, including the use of Physician Assistants (PAs). Increased reliance on collaborative care is part of the solution to address the current health human resource shortages, increase access to care and improve the quality of care. Although there is potential for increased liability risks for physicians employing or working with PAs, these risks need not serve as a barrier to collaborative care. Many of these risks can be mitigated through appropriate regulatory requirements for PAs. The CMPA’s comments will therefore focus on the following issues:

- Duplication between the draft General Regulation and the College’s *Delegation of Controlled Acts Policy*;
- Support for the requirement that PAs have adequate liability protection, as well as appropriate accreditation and certification.

Draft Regulations and College Policy

The CMPA recommends removing the requirement proposed under section 52(4)(b) of the draft General Regulation that physicians ensure, before delegating an authorized act to a PA, that they are satisfied, after taking reasonable steps, the PA has the knowledge, skill, and judgment to perform the act safely and competently. In addition to being vague, this requirement unnecessarily duplicates the obligations that already exist under the College’s *Delegation of Controlled Acts Policy*.

Amongst other things, it is unclear what is meant by “taking reasonable steps” to ensure the PA has the knowledge, skill, and judgment to perform the act safely and competently. It is not clear whether it is expected that, regardless of the practice setting, physicians must personally verify the PA has the requisite knowledge, skill, and judgment to carry out any delegated tasks. Of note, the College Policy states that physicians need not review the individual’s training and credentials, if they are not involved in the hiring process and it is reasonable to assume that the hiring institution has ensured that its employees have the requisite knowledge, skill, and judgment. Indeed, physicians should be able to rely upon the hiring healthcare facility (e.g., hospital) to undertake this confirmation.

Given that physician expectations for delegation are already set out in the College Policy, it seems unnecessary to include them in the General Regulation. This is so especially given the General Regulation is intended to address requirements for PAs as opposed to physicians.

Liability Protection and Appropriate Accreditation and Certification

The CMPA fully supports the requirements in the draft Registration Regulation for PAs to have adequate liability protection, as well as appropriate accreditation and certification.

A crucial element to the effectiveness of any collaborative care model is the requirement that all health providers practicing within the healthcare team have sufficient and adequate liability protection. This ensures patients and/or families are adequately compensated in appropriate cases. Liability protection also provides reassurance to the healthcare team because co-defendants are exposed to the concept of joint and several liability (*i.e.*, when more than one party is responsible for having caused injury to the plaintiff, the plaintiff may recover full compensation from the defendant most able to pay, even though that recovery is out of proportion to that defendant's degree of liability).

The need for PAs to have minimum accreditation requirements and certification from recognized entities will also assist in improving patient safety and minimizing liability for physicians who delegate tasks to PAs. In this regard, these requirements support a physician's ability to determine that PAs have the necessary training and qualifications to carry out certain acts.

I trust that these comments will be of assistance to the College in finalizing the proposed regulatory amendments to regulate PAs.

Yours sincerely,