

Performing Controlled Acts

Guide to the Standards for Professional Practice

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NOTE: This Guide to Performing Controlled Acts is intended to assist registrants in understanding the expectations of the College as defined in the Standard for Professional Practice: Performing Controlled Acts and in conjunction with other standards of practice for the profession, including those defined in the Standards for Practice for Physiotherapists.

Introduction

The Guide to the Standard for Professional Practice: Controlled Acts (the Guide) has at least two important purposes. Perhaps most importantly, it is intended to assist registrants to understand their professional obligations with respect to performing controlled acts. These obligations are defined in government laws and regulations that have been developed by the Minister of Health and Long-Term Care and the College, and in the College's Standards for Professional Practice, especially the Standard for Professional Practice, Performing Controlled Acts.

Understanding these obligations is important since all College registrants are legally permitted to perform two controlled acts under the authority of the Physiotherapy Act (spinal manipulation and tracheal suctioning) as well as another act (acupuncture) under the authority of a regulation developed by the Minister of Health and Long-Term Care. Further, College registrants can also accept the delegation of appropriate controlled acts from other health professionals.

Another important purpose of this Guide is to help registrants understand the controlled acts model contained in the RHPA. This will facilitate better registrant understanding of the rules relating to performing controlled acts. It will also point out the inherent flexibility that the controlled acts model includes – flexibility that may promote inter-professional collaborative practice by permitting members of health professions, including physiotherapists, to perform non-authorized controlled acts in appropriate circumstances.

For registrants who work in interdisciplinary teams or those who are engaged in interprofessional collaborative practice, some understanding of the flexibility in the RHPA model and how to incorporate this flexibility into one's practice will be essential to evolve practice within the profession's full scope.

To assist registrants in building their knowledge of this complex topic, this Guide is organized in sections, with key questions serving as subheadings within each section. Each of these sections is intended to describe one important set of concepts. While reading the Guide registrants may note that some concepts are discussed in more than one section or under more than one subheading – this is intentional. The College hopes that by offering more than one access point to some of the more complex ideas, they might prove to be somewhat clearer.

In the course of providing this information, the Guide will use some unfamiliar terms. While some of these terms were defined in the Standard, others are new in the context of this Guide. To assist the user to read this guide, the following is a short list of some of key terms with a brief explanation of what they mean in the context of this issue:

- Authorizer – A regulated health professional who is authorized to perform one or more controlled acts under a health profession Act and who is delegating the authority to perform the act to another person.
- Delegation – The transfer of the legal authority to perform a controlled act or a component of a controlled act to a person, regulated or unregulated, who is not normally authorized to perform the act. The word “delegation”, when used in the legal context of authorizing someone to perform a controlled act, does not have the same meaning as “assign”. For example, giving a

physiotherapist support person the task of assisting a patient with an exercise program is not delegation as no controlled acts are involved. This would be an assignment of this patient care task.

- Designation – A special circumstance that applies when the authorizer does not have the corresponding authority to perform the act on his or her own initiative. In these circumstances an order from another regulated health professional who does have the authority to self-initiate the act is required for the implementer to actually act on the delegation from the authorizer.
- Exception – A circumstance where the legal restrictions on the performance of controlled acts do not apply. See section 29 of the RHPA, which allow the performance of controlled acts that are normally restricted to be performed in special circumstances including emergencies, teaching students of regulated professions, and acts of daily living.
- Exemption – Specific controlled acts, or components of controlled acts, which are specifically excluded (or exempted) from the performance restrictions on these acts. The current exemptions for controlled acts are contained in Minister of Health and Long Term-Care’s regulation authorized by section 30(6) of the RHPA (Ontario Regulation 107/96).
- Implementer – A person - regulated or unregulated - who has received the delegated authority to perform a controlled act(s) that he or she is not normally permitted to perform. This authority must come from a regulated health professional who is authorized to perform the acts (an authorizer).

Part One – Controlled Acts

What is a controlled act?

Controlled acts are categories of health intervention that have been deemed to have a significant element of risk attached to them. The performance of these acts is restricted to protect the public from this risk. The Regulated Health Professions Act (RHPA) currently defines 14 controlled acts. Since the controlled acts defined in the Act often capture a diverse range of activities, they are often broken up into subsections of the larger controlled act when the authorities to actually perform the activities are granted.

For example, one of the authorized acts granted to physiotherapists, tracheal suctioning, is a component of the 6th controlled act on the list below – the act of putting an instrument, hand or finger into a body orifice.

What activities are currently controlled?

The following is the list of controlled acts as currently defined in Section 27 of the RHPA:

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.

2. 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.
3. Setting or casting a fracture of a bone or a dislocation of a joint.
4. Moving the joints of the spine beyond the individual's usual physiological range of motion using a fast, low amplitude thrust.
5. Administering a substance by injection or inhalation.
6. 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
 - vii. into an artificial opening into the body
7. Applying or ordering the application of a form of energy prescribed by the regulations under this Act.
8. Prescribing, dispensing, selling or compounding a drug as defined in subsection 117(1) of the Drug and Pharmacies Regulation Act, or supervising the part of a pharmacy where such drugs are kept.
9. Prescribing or dispensing, for vision or eye problems, subnormal vision devices, contact lenses or eye glasses other than simple magnifiers.
10. Prescribing a hearing aid for a hearing impaired person.
11. Fitting or dispensing a dental prosthesis, orthodontic or periodontal appliance or a device used inside the mouth to protect teeth from abnormal functioning.
12. Managing labour or conducting the delivery of a baby.
13. Allergy challenge testing of a kind in which a positive result of the test is a significant allergic response.

Are there any other controlled acts?

A number of changes have been made to the RHPA that are not yet in effect. When these changes do come into effect, an additional controlled act will be added to the list above. It is:

14. 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 judgment, insight, behaviour, communication or social functioning.

Other than controlled acts, no other specific health care activities are restricted in the RHPA. However the act does include a general provision, often referred to as the "harm clause" (Section 30) that restricts anyone from performing actions that might be reasonably foreseen to result in harm to a person.

Who can perform controlled acts?

In general, the RHPA permits regulated health professionals to perform controlled acts in two circumstances:

1. A person who is a registrant of a regulated health profession is entitled to perform the controlled act(s) or components of controlled acts that have been authorized to that profession in its profession-specific act.
2. A person who is a registrant of a regulated health profession that has controlled acts authorized to it may delegate the performance of a controlled act or a component of a controlled act to another person, who is then able to perform the controlled act. In this context, it is important to recognize that the word "delegation" is used as a legal term and does not mean the same thing as "assign".

Are there any other circumstances where controlled acts can be performed?

The RHPA and the regulations under the Act also include some exceptions and exemptions to the restrictions on performing controlled acts. In circumstances where these exceptions and exemptions apply, the people to whom they apply to may perform controlled acts.

Exceptions

Exceptions are circumstances where the legal restrictions on the performance of controlled acts do not apply. The ones currently in effect are:

- a. rendering first aid or temporary assistance in an emergency
- b. fulfilling the requirements to become a member of a health profession if the person is acting within the scope of practice of the profession under the supervision or direction of a member of the profession
- c. treating a person by prayer or spiritual means in accordance with the tenets of the religion of the person giving the treatment
- d. treating a member of the person's household
- e. assisting a person with his or her routine activities of living

Exemptions

Exemptions are specific controlled acts, or components of controlled acts, which are specifically excluded (or exempted) from the performance restrictions on these acts. The current exemptions for controlled

acts are contained in a Ministry of Health and Long-Term Care regulation made under the authority of the RHPA (Ontario Regulation 107/96, Controlled Acts).

This regulation contains numerous exemptions that apply to a variety of different controlled acts. The exemption provision that is most relevant for physiotherapists relates to the performance of acupuncture.

How does acupuncture fit into the controlled acts scheme for physiotherapists?

The Controlled Acts regulation (107/96) contains an exemption provision that at the present time, completely exempts acupuncture from the controlled acts restrictions in Section 27 of the RHPA. This means that at least currently, acupuncture, while a component of the controlled act of performing a procedure below the dermis, is essentially unregulated in Ontario.

However, a number of recent changes to the RHPA and other laws and regulations associated with it will make significant changes to the current rules relating to acupuncture. The changes to the Ministry of Health and Long-Term Care's Controlled Acts Regulation are expected to come into force when the Traditional Chinese Medicine and Acupuncture Act (TCM Act) comes into force.

When these changes do come into force, the revised regulation will list a number of regulated health professions whose members are exempted from the prohibitions that prevent people performing acupuncture, which is a component of the broader controlled act of a performing a procedure performed on tissue below the dermis. This exemption includes the additional requirement that acupuncture performed under this provision must be in accordance with the standard of practice and within the scope of practice of the health profession.

Essentially these changes will restrict the number of people who can legally perform acupuncture. If a health profession is not on the revised list, then members of that profession will no longer be able to perform acupuncture under the exemption provision. Physiotherapists are one of the professions that are listed. As such College registrants will retain their exempted status. They will be able to provide acupuncture provided they do so in keeping with the conditions in the regulation (acupuncture must be in accordance with the standard of practice and within the scope of practice of the health profession).

Acupuncture has not been directly authorized to members of the physiotherapist profession. The forthcoming changes to Ministry of Health and Long-Term Care's Controlled Acts Regulation mean that physiotherapists will retain their ability to perform acupuncture because they are one of the regulated health professions that will continue to be exempt from the restrictions on performing it.

However, it is important for physiotherapists to recognize that this exemption only applies to physiotherapists when:

- They are performing acupuncture in accordance with the standard of practice of the profession including the Standard for Professional Practice, Performing Controlled Acts
- They are performing acupuncture within the scope of practice of physiotherapy

It is important to note that in order to perform acupuncture that is outside the scope of practice of physiotherapy two other conditions also apply:

- First, physiotherapists who wish to perform acupuncture that is beyond the scope of practice of physiotherapy will need to obtain some other form of authority, such as delegation, to perform this activity. This is because the general regulatory exemption that applies to all forms of acupuncture will no longer apply once the TCM Act comes into force.
- Second, in keeping with the College standard on dual practice, physiotherapists that perform activities outside of the scope of practice of physiotherapy must not refer to themselves as physiotherapists.

Part Two – Authorized acts

What are authorized acts?

Authorized acts are the controlled act(s), or components of controlled act(s) that certain regulated health professions have been granted the authority to perform. As noted previously the controlled acts defined in the Act often capture a diverse range of activities, which may not all be relevant for a profession that only has the need to perform smaller components of the whole range of activities captured by the controlled act¹. So, for practical purposes, when an activity is authorized to a regulated health profession, it is often a subsection of the larger controlled act.

The acts that members of a profession are authorized to perform are listed in that profession's profession-specific act. For example, physiotherapists' authorized acts are listed in the Physiotherapy Act (they are tracheal suctioning and spinal manipulation).

What authority does a physiotherapist need to perform controlled acts?

The authority for a physiotherapist to perform controlled acts can come from a number of different means.

1. Statutory Authorization

Statutory authorization is the first and most direct method of giving authority to perform controlled acts. In this type of authorization, a health professional such as a physiotherapist, is given the authority to perform a controlled act(s) or component of a controlled act(s) directly through a provision within the profession-specific statute that governs the regulated health profession. In the case of physiotherapists, this statute is the Physiotherapy Act.

2. Authority through Delegation

Delegation is the second method of giving authority to perform controlled acts. As noted previously, a person who is a member of a regulated health profession that has controlled acts authorized to it by statute may delegate the performance of a controlled act or a component of a controlled act to another person, who is then authorized to perform the controlled act. The RHPA indicates that this delegation must take place in accordance with any applicable regulations. A health profession's standards of

¹ For example, one of the authorized acts granted to physiotherapists, tracheal suctioning, is a component of the 6th controlled act on the list below – the act of putting an instrument, hand or finger into a body orifice.

practice would also apply in this context.

Delegation under the RHPA is not specifically defined, but is understood to be a process whereby a regulated health professional authorized to perform a controlled act under a health profession Act (the authorizer) confers that authority to someone - regulated or unregulated - who is not so authorized (the implementer).

In other words delegation is the transfer of the legal authority to perform a controlled act or a component of a controlled act to a person, regulated or unregulated, who is not normally authorized to perform the act. The delegation process may be targeted to an individual physiotherapist or a group of physiotherapists for an individual patient or clusters of patients who meet certain criteria.

Again, it is important to recall the word “delegation”, when used in the legal context of authorizing someone to perform a controlled act, does not have the same meaning as “assign”.

Delegating or accepting delegation of controlled acts is subject to any applicable college guidelines, standards and regulations.

Delegation

Delegation can occur through orders, which can be either direct orders or orders enacted by a medical directive. For more information on the delegation process, please see Part Four of this Guide.

Delegation when the Authorizer’s Authority is Limited

In some circumstances an additional requirement applies when delegation occurs. This special circumstance is sometimes referred to as “designation”. It applies when the authorizer, that is the person delegating the authority for the performance of controlled act, does not have the corresponding authority to perform the act on his or her own initiative.

For example, a respiratory therapist has the authorized act of administering a substance by injection or inhalation. This act or a component of it such as administering and titrating oxygen may be delegated to a physiotherapist. However, the respiratory therapist can only perform an authorized act, including administering or titrating oxygen, when the procedure has been ordered by someone such as a physician (who is able to order this form of therapy).

This means that the delegation of the act to the physiotherapist can only take effect when the order for oxygen therapy has been given by the physician.

3. Statutory Exceptions

The statutory exceptions in the RHPA are the third method that can enable people to perform controlled acts in particular circumstances where the normal prohibitions against performing controlled acts do not apply.

The use of this authority mechanism to perform controlled acts is fairly rare in physiotherapy practice. However, relevant exceptions that may apply and that physiotherapists should be familiar with are

exceptions that relate to:

- rendering first aid or temporary assistance in an emergency²
- fulfilling the requirements to become a member of a health profession if the person is acting within the scope of practice of the profession under the supervision or direction of a member of the profession
- assisting a person with his or her routine activities of living

See Part One of this Guide for a full list of all the statutory exceptions currently in effect.

4. Regulatory Exemptions

The fourth and final tool that can enable the performance of controlled acts are regulatory exemptions. As noted previously, exemptions are specific controlled acts, or components of controlled acts, which are specifically excluded (or exempted) from the performance restrictions on these acts.

What exemptions do is exempt certain people from the normal prohibitions on performing controlled acts when certain conditions are met.

While there are a number of regulatory exemptions included in the Minister of Health and Long-Term Care's Ontario Regulation 107/96, Controlled Acts, the one that is most relevant to physiotherapists pertains to the performance of acupuncture.

As noted in Part One of this Guide, the current regulations exempt everyone from the prohibitions on performing acupuncture so anyone can perform it. However, the changes to the Ministry of Health and Long-Term Care's Controlled Acts regulation, included in changes to the Regulated Health Professions Act (which will be proclaimed at some future date), will narrow who is exempt from the performance restrictions on acupuncture.

Physiotherapists are one of a number of regulated health professions whose members will continue to be exempt from the prohibitions that prevent people from performing acupuncture. This exemption will include the additional requirements that acupuncture performed under this provision must be in accordance with the standard of practice and within the scope of practice of the health profession.

What are the specific acts that physiotherapists are directly authorized to perform?

In the Physiotherapy Act, Ontario physiotherapists are authorized to perform one controlled act in its entirety and a component of another.

The two statutorily authorized acts for physiotherapists are:

1. Moving the joints of the spine beyond the individual's usual physiological range of motion using a fast, low amplitude thrust³

2 In emergency circumstances the services provided may be outside the scope of practice of physiotherapy. If this situation arises the expectations that physiotherapists only perform controlled acts that are within scope would not apply as someone providing these services would not be acting as a physiotherapist.

3 This is the complete controlled act as defined in the RHPA.

2. Tracheal suctioning⁴

Can physiotherapists tell their patients what is causing their symptoms?

Registrants should note that one of the controlled acts in the RHPA is:

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.

This act is commonly referred to as “communicating a diagnosis”. This controlled act is not one of the acts that has been authorized to physiotherapists however physiotherapists, out of a desire to be responsive to the needs of their patients, will often wish to provide patients with information on their health concerns.

To assist registrants to understand how they can provide patients with useful information without contravening the restrictions on performing the controlled act of communicating a diagnosis, the College has developed the Position Statement: Interpretation of the Controlled Act of Diagnosis. This document is available in the College’s Registrants’ Guide.

Part Three – The relationship of the scope of practice of physiotherapy to the performance of controlled acts

What is the scope of practice of physiotherapy?

The Physiotherapy Act defines the scope of practice of physiotherapy as the assessment of physical function and the treatment, rehabilitation and prevention of physical dysfunction, injury or pain, to develop, maintain, rehabilitate or augment function or to relieve pain.

How does the scope of practice of physiotherapy relate to the controlled acts that physiotherapists are authorized to perform?

The scope of practice of the profession defines the health care activities appropriate for Ontario physiotherapists. As such when acting as, or calling themselves physiotherapists in Ontario, registrants are only able to engage in activities that fall within the scope of practice of the profession.

This general principle applies to all health care activities, whether or not they are controlled acts.

⁴ This is a component of the controlled act of 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
- vii. into an artificial opening into the body.

In practical terms what this means is that a physiotherapist who wishes to perform any controlled act under the authority of any of the authorization mechanisms that the RHPA provides (statutory authorization, authorization through delegation, statutory exception, or regulatory exemption) must only perform the act if it is within the scope of practice of the profession.

For example, physiotherapists are permitted to perform the controlled act of spinal manipulation. However this controlled act must be performed within the scope of practice of physiotherapy. As such it would be inappropriate to manipulate the spine to assist with a digestive disorder as this would not be within scope.

The restrictions are the same when other authorizing mechanisms are used. For example, if a physician proposes that a physiotherapist perform a controlled act that is authorized through delegation, the physiotherapist can only perform the delegated controlled act if it is within the scope of practice of physiotherapy. As such, when referring to his or herself as a physiotherapist, a registrant who had been delegated the controlled act of performing a procedure on tissue below the dermis could debride a patient's wound but not perform a surgical intervention.

How does the scope of practice of physiotherapy relate to the performance of acupuncture?

It is important to remember that the exemption that allows physiotherapists to perform acupuncture only applies when the activity is within the scope of practice of physiotherapy. If a registrant chose to provide acupuncture that is not within the scope of practice of the profession, the exemption provision would no longer apply because the activity is not in the scope of practice.

For example physiotherapists are permitted to perform acupuncture through the authorization mechanism of a regulatory exemption. This exemption only entitles physiotherapists to perform acupuncture when it is within the scope of practice of physiotherapy. As such, when referring to his or herself as a physiotherapist, a registrant could not use acupuncture to treat the nausea associated with pregnancy.

Registrants in these kinds of circumstances should also note that they may be actually engaging in dual practice and would not be able to use the professional title they are granted through College registration. See the College Standard for Professional Practice: Dual Health Care Practice, for more information.

Part Four – Delegation of a controlled act

When is delegation required?

Delegation is required if a physiotherapist wishes to perform any controlled act for the purpose of assessing or treating patients unless those acts are:

- directly authorized to physiotherapists in the Physiotherapy Act (e.g. suctioning)
- performed in circumstances where the RHPA exception provisions apply, that is to say when the restrictions on performing the act do not apply (e.g. in an emergency)

- specifically exempted in regulation from the prohibitions on their performance (e.g. acupuncture, provided the relevant conditions are met)

Can a physiotherapist accept the delegation of a controlled act from another regulated health professional?

Yes, a physiotherapist may accept the delegation of controlled act(s) from other regulated health professionals providing the physiotherapist has reasonable belief that the health professionals delegating are:

- authorized by their profession-specific acts to perform the act
- competent to perform the act

An additional requirement is that the physiotherapist must also have a reasonable belief that the college of the health professional delegating the act does not have regulations or standards that prohibit the delegation.

Who can delegate controlled acts?

The Regulated Health Professions Act permits health professionals who are authorized to perform controlled acts to delegate the performance of these controlled acts in compliance with any applicable regulations or standards of practice.

In general terms this means that members of any regulated health profession that have the performance of controlled acts authorized to it in its profession-specific act may delegate these acts to other people as long as they do it in accordance with the rules of their profession.

The requirement to delegate in accordance with the rules of the profession is very important because professions have somewhat different rules as to whether their registrants can delegate and if they can how that must go about it. A general overview of the typical expectations that health professions require for appropriate delegation is included in Part Six of this guide.

How does the delegation process work?

As noted previously, delegation can occur through orders, which may be of two types, direct orders or directives.

In the context of delegation an order is a direction (from regulated health professionals who have the appropriate authority to delegate) that transfers the authority to perform a controlled act to someone who does not have this authority. The kinds of authority required for someone to make a delegation order are:

- the legislative authority to perform a controlled act (special circumstances apply when the

- health professionals delegating the act does not have the authority to self-initiate the performance of their authorized acts – see, Special Circumstances on next page)
- the ability to delegate to some other person (in other words, the regulations or standards that apply to the health professional making the order do not prohibit him or her from delegating a controlled act)

There are two types of orders:

Direct Orders

Direct orders are for a specific patient and can only occur upon an assessment by the authorizer who has come to the conclusion that the procedure is warranted. These orders are also known by other names such as prescriptions, requisitions, pre-printed orders/order sets, requests for consultation or doctor's notes and may be given as a referral for treatment.

They are usually written but can sometimes be done by telephone, by electronic transmission or verbally. Due to the potential for error and accountability issues, verbal orders are not recommended in multi-practitioner settings when an authorizer (the person who is delegating a controlled act) is present and able to write the order.

A direct order for delegation is not the same as an order for physiotherapy treatment. An order for physiotherapy treatment, at least in the public hospital system, fulfills a different kind of legal requirement – the requirement in the Public Hospitals Act that patient care be ordered by a physician. The direct order for delegation is patient-specific and provides the necessary details to meet the performance expectations described in the standard. It may be written by any regulated health professional authorized, competent and permitted to delegate. The direct order may be to a physiotherapist or to a group of physiotherapists.

Direct orders would normally occur in circumstances where a relationship between the delegator/authorizer (the health professional who is delegating the act) and the patient who is receiving the act has already been established.

Medical Directives

Directives are sets of instructions endorsed by the delegating regulated health professionals/authorizers. When directives are provided by physicians, they are often termed medical directives but they can also be provided by other regulated health professionals.

Directives are specific to the role of the professional to whom they apply, patient population-specific and circumstance specific. They pertain to any patient who meets the criteria set out in the directive. The directive contains the conditions and circumstances under which the delegation to the physiotherapist(s) may occur and provides the physiotherapist(s) with the authority to carry out the controlled act (or the authority to implement the directive). Their use is especially frequent in institutional settings. In most cases, directives are used to ensure that health care can be delivered without a direct order for the delegation each time the health intervention is required by patients.

Medical directives are given in advance by physicians/ordering authorizers to enable an implementer

(the person who is going to perform the authorized act under delegation) to decide to perform the ordered procedure(s) under specific conditions without a direct assessment by the physician or authorizer at the time.

A directive may authorize co-implementers, that is: one implementer may be responsible to determine when to implement the ordered procedure and another may perform it.

It is important to recognize that implementers are not ordering a procedure when they implement a directive; rather they are implementing a physician or authorizer's order for a procedure.

Directives must have the integrity of a direct order, thus physicians or authorizers potentially responsible for patients who will receive care under a directive must approve the directive.

Directives are approved only when all affected regulated professionals and relevant administrators participate in their development and must always be written.

It is important to note that an order in this context is for the transfer of the authority to perform a specific procedure, not for a regulated health professional to do something. Regulated health professionals cannot be "ordered" to perform procedures such as controlled acts without first determining if performing the procedure is appropriate from their clinical perspective. If it is, they proceed. If not, they are expected to refrain from performing the procedure and to take the appropriate action to address patient interests.

Special Circumstances – the Issue of Designation

We have previously noted the special circumstance of "designation", which applies when the person delegating the authority for the performance of a controlled act does not have the corresponding authority to perform the act on his or her own initiative. That is to say that these regulated health professionals have the authority to perform a controlled act once they have been ordered by someone else who has the authority to order it – but they may not perform the act without this order.

Performance of procedures delegated by non-ordering authorizers is subject to any requirements for orders that may apply. In other words a person who has been delegated a controlled act by a non-ordering authorizer may not perform that controlled act unless it has been ordered by someone who is authorized to order it⁵.

For example respiratory therapists are authorized to administer substances, such as oxygen to their patients. However this therapy must have been ordered to enable them to perform this. Therefore if a respiratory therapist delegates this act to a physiotherapist, the physiotherapist cannot perform the delegated act unless the therapy has been ordered by someone, such as a physician, who is permitted to order it. See Part Six of this Guide for more information on accepting delegation.

5 The non-ordering authorizers most likely to delegate controlled acts to physiotherapists (i.e. the circumstances where an order for the act is needed to permit the delegation to take effect) would be either nurses (other than those in the extended class) or respiratory therapists. The other professions that also require orders to perform their authorized acts are Dental Hygienists, Medical Laboratory Technologists, Medical Radiation Technologists, and Opticians.

Resources

The document, An Interprofessional Guide on the Use of Orders, Directives and Delegation for Regulated Health Professionals in Ontario, upon which the information provided above is based, is now available to assist authorizers and implementers with the development of medical directives for delegation.

This online Guide includes the use of orders and delegation to facilitate interprofessional care by health professionals practicing in any setting in Ontario. It was developed by consensus, through the Federation of Health Regulatory Colleges of Ontario (FHRCO), to complement documents provided by each health profession college.

To view An Interprofessional Guide on the Use of Orders, Directives and Delegation for Regulated Health Professionals in Ontario, go to the FHRCO website: <http://www.regulatedhealthprofessions.on.ca/index.htm>

Can a physiotherapist delegate the controlled acts that he or she is authorized to perform?

The RHPA permits members of any regulated health profession that has the performance of controlled act(s) authorized to it in its profession-specific act to delegate these acts to other people. However, any such delegation must be done according to the rules of their profession.

Part Five – General performance expectations for those performing a controlled act (whether performed under direct authorization, under delegation or through exceptions or exemptions)

The College’s Standard for Professional Practice: Performing Controlled Acts lays out the expectations that apply when registrants perform controlled acts.

In its standard, the College has defined these expectations under a number of categories. The following categories apply to every circumstance in which a registrant performs a controlled act no matter what kind of authority is used to perform the act.

Assessment

The expectations under this category require that registrants assess their patients for a number of reasons including the need to make sure that performing the controlled act would benefit the patient and that the controlled act is within the scope of practice of physiotherapy.

Risk

The expectations under this category require that registrants assess the risks and benefits associated with performing the controlled act to ensure that the benefits outweigh the risks. The outcome of this risk assessment process would then be discussed with the patient during the process of seeking informed consent.

Authorization

The expectation under this category is that registrants will make sure that they have the appropriate authority to perform whatever controlled act they are planning to perform. As noted in Part Two there are four different kinds of authority – direct authorization, delegation, exception and exemption. For many registrants direct authorization and delegation will provide the majority of their authority although registrants who provide acupuncture services will be performing this act under the exemption provision in the Controlled Acts regulation.

Competence

The expectations under this category are intended to ensure that a registrant is able to competently perform any controlled act he or she undertakes. This section also defines the characteristics of the formal or informal programs through which controlled acts should be learned and the requirements for ongoing learning.

Accountability

The expectations under this category define registrants' obligations to take responsibility for their decisions relating to the performance of controlled acts.

Professional Responsibility

The expectations here serve as a reminder to registrants that when they perform controlled acts, they must also fulfill their other professional obligations relating to matters such as providing information to patients, obtaining consent, keeping records and managing adverse outcomes.

What are physiotherapists' obligations to obtain consent for a controlled act, whether performed under direct authorization, delegation, exception or exemption?

Registrants should note that the requirement to obtain consent for treatments is a statutory obligation defined in the Health Care Consent Act (see the College's Briefing Note to the Health Care Consent Acts for more information). The College's Standard for Professional Practice: Performing Controlled Acts also includes an expectation that requires physiotherapists to ensure that their performance of controlled acts under delegation includes components for consent.

In some cases the physiotherapist may have the knowledge required to obtain informed consent for the controlled act and may provide the patient with information on the risks and benefits associated with the intervention, any alternatives that may exist, and that the act is being performed under delegation. However, in other circumstances, the physiotherapist may not have the knowledge that would enable

him or her to obtain informed consent for the controlled act. In these circumstances the physiotherapist performing the controlled act under delegation may need to meet the College expectations for consent by ensuring that the delegating health professional, or another person competent to do so, obtains the patient's informed consent.

What can happen if a physiotherapist performs a controlled act without the authority to do so?

If a physiotherapist performs a controlled act without the authority to do so, he or she may be subject to professional misconduct proceedings. If a College Discipline panel finds a registrant guilty of professional misconduct, the registrant may be subject to penalties including:

- revocation of his or her certificate of registration
- suspension of his or her certificate of registration for a specified period of time
- imposition of terms, limitations or conditions on his or her certificate of registration
- appearance before the panel for a reprimand, and/or
- a fine of up to \$35,000

In addition to the penalties that can be applied by the College, violations of the prohibitions on performing controlled acts are also statutory offenses in the Regulated Health Professions Act. These offenses apply to both regulated health professionals and members of the public. There are substantial penalties that apply to anyone who is found guilty of an offense related to performing controlled acts without the proper authority. These penalties include imprisonment for up to one year and/or fines of up to \$50,000.

Part Six – Accepting the authority to perform controlled acts under delegation/medical directive

Who can the performance of controlled acts be delegated to?

The RHPA does not dictate who can or cannot perform controlled acts under delegation.

This means that a regulated health professional who proposes to delegate a controlled act may conceivably delegate it to anyone. However, regulated health professions typically have requirements for their registrants to follow when controlled acts are delegated. These requirements normally include expectations around the competence of those who perform controlled acts under delegation.

Which controlled acts can be delegated to a physiotherapist?

A physiotherapist can accept the delegation of any controlled act, provided that it is within the scope of practice of physiotherapy. In addition, the physiotherapist must be competent to perform delegated controlled act(s) safely and competently.

What prevents a physiotherapist from accepting the delegation of a controlled act?

A physiotherapist should not accept the delegation of a controlled act if the process used to delegate the controlled act does not meet the general expectations of the profession that have been developed

in order to ensure that such acts are performed safely and competently. Please refer to both the College Standard for Professional Practice: Performing Controlled Acts and the Federation of Health Regulatory Colleges' document: An Interprofessional Guide on the Use of Orders, Directives and Delegation for Regulated Health Professionals in Ontario for more information.

Among the questions that a physiotherapist may wish to ask him or her self prior to accepting the delegation of a controlled act are the following:

• Will I only use the act being considered for delegation to provide care that is within the scope of practice of physiotherapy?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
• Am I competent to perform the act?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
• Do I have any terms, conditions or limitations on my certificate of registration that might limit my ability to perform it the act?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
• Is the delegating health professional properly authorized to perform the act and able to perform the act safely	Yes <input type="checkbox"/>	No <input type="checkbox"/>
• Have both I and the health professional delegating the act shared any appropriate information that might be needed so we can assure ourselves that the delegation process meets the required expectations in any relevant standard?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
• Am I sure that the college of the health professional delegating the act permits the delegation of the controlled act?	Yes <input type="checkbox"/>	No <input type="checkbox"/>

If the answer to any of these and similar questions is “no”, then a physiotherapist may wish to undertake more consideration prior to accepting the delegation of the controlled act.

What obligations do physiotherapists have when they perform controlled acts under delegation?

The College’s Standard for Professional Practice: Performing Controlled Acts lays out the expectations that apply when a registrant performs any controlled act. All these expectations would apply to registrants who have decided to accept the delegation of the authority to perform a controlled act or a component of a controlled act.

The standard defines some specific expectations that apply to the performance of controlled acts under delegation.

These include, but are not limited to, the expectations that:

- a physiotherapist should provide any information the delegating health professional may need to appropriately delegate the controlled act(s)
- a physiotherapist who is planning to accept a delegation has a reasonable belief that the person delegating the controlled act(s) can perform it safely, competently and ethically; is

- authorized to delegate it; and has delegated it appropriately
- the person delegating the act has provided the information required for the appropriate acceptance of the delegation. This includes:
 - the specific controlled act(s) or component of the controlled act being delegated
 - the circumstances or limitation in which the delegation is granted
 - the patient or a class of patients to whom the delegation applies
 - the physiotherapist does not sub-delegate the authority to perform a controlled act to any other health professional, whether or not this person is a member of a regulated health profession. This means that if a person has delegated an act, it can only be performed by the person to whom it has been delegated – that person cannot transfer the authority they received through the delegation to anyone else

Part Seven – Training and/or education expectations for those performing a controlled act

What kinds of educational programs are acceptable when learning to perform controlled acts?

The College's standard does not list the educational programs that can teach the performance of controlled acts nor does it lay out the curriculum that an educational program must provide. Rather, the standard describes in general terms the program components that will typically ensure that a formal or informal educational program is capable of delivering the information that a registrant needs to know to perform controlled acts safely and competently.

However, it is ultimately up to each individual registrant to ensure that the program he or she has chosen will provide the information she or she needs to be able to perform the act safely and competently.

Essentially, the College standard lays out the expectation that acceptable programs will include three essential components:

- a didactic component. This is the aspect of the educational program where a registrant would learn theoretical information about the controlled act. The College standard suggests that this component would include information on the indications, contraindications and risks associated with the controlled act
- a practical component. This aspect of the educational program would provide a registrant with an opportunity to learn the technical performance of the controlled act. The College standard suggests that learning the practical skills to perform a controlled act be conducted under the supervision of someone who is authorized to perform it
- an assessment component. This aspect of the program is intended to make sure that the registrant has obtained the required learning in the previous two components and is able to demonstrate his or her capacity to perform the controlled act safely and competently

The standard also includes an expectation that the registrant will, after learning how to perform the controlled act, engage in ongoing learning of a both practical and theoretical nature to ensure that he or she retains his or her ability to perform the controlled act safely and competently.

What are the rules that govern teaching controlled acts to physiotherapy students?

The RHPA clearly permits the teaching of controlled acts to students who are training to become physiotherapists. This occurs in the exceptions provision in the law which states the circumstances where the restrictions on the performance of controlled acts do not apply. One of the exceptions currently in effect is that controlled acts may be performed if they are performed as a component of fulfilling the requirements to become a member of a health profession and the person is acting within the scope of practice of the profession under the supervision or direction of a member of the profession.

Please refer to the College's Standard for Professional Practice, Clinical Education for further information on teaching controlled acts to student physiotherapists.

Under what circumstances can a physiotherapist teach a controlled act to a non-physiotherapist?

The RHPA also allows for the performance of controlled acts under statutory exception when the act performed is necessary for treating a member of the person's household or is necessary to assist a person with his or her routine activities of living. For example, under these circumstances, it is acceptable for a physiotherapist to teach the controlled act of tracheal suctioning to a person who is assisting another person with his or her routine tracheal suctioning, when this is a component of that person's activities of daily living.

Summary

This Guide provides registrants with the information they may need to understand their professional obligations when they perform controlled acts. An important secondary purpose is to provide an overview of the RHPA's controlled act model so registrants can better understand how this model can promote interprofessional collaborative practice in patient care.

The Guide includes background information on the conceptual definition of a controlled act (a category of health intervention that has a risk of harm attached to its performance) as well as the list of 13 acts that the RHPA puts into this category. Also discussed are the four different ways that the RHPA can allow health professionals to perform controlled acts (direct authorization, delegation, exception and exemption).

Much of the remainder of the Guide expands on the authorization mechanisms and on physiotherapists' obligations when performing controlled acts using any of them. Further detail is provided on the requirement for any controlled act performed by a physiotherapist to be within the scope of practice of physiotherapy, no matter which authorization mechanism is used. Details on other important expectations are also offered. Physiotherapists need to understand their professional responsibilities relating to patient assessment prior to performing acts, risk assessment, the requirement to ensure their competence and the accountability obligations that are one takes on when controlled acts are performed. A section also explains training and education expectations for performing controlled acts. The College does not accredit programs that teach controlled acts so registrants must take steps to ensure that whatever method they use to learn to perform controlled act will met these expectations.

The process of delegation is also discussed in detail. An important point here is to note that delegation is a formal process that must occur through a direct order for a specific patient or a written directive that may apply to a class of patients. Information on physiotherapists' obligations when accepting delegation is provided as is a reference to the tools that the Federation of Health Regulatory Colleges has developed to facilitate the delegation process.

The College hopes that by providing this information it will enable physiotherapists to better understand their professional expectations when they choose to perform controlled acts. It is also hoped that registrants will understand that the RHPA's controlled act's model can be effectively used to facilitate rather than limit interprofessional practice by enabling people to perform controlled acts to achieve optimal care for patients.

Applied Practice

The following scenarios provide examples, based on situations that may arise in practice, as to how registrants can meet the performance expectations defined in the Standard for Professional Practice: Performing Controlled Acts.

1. Women's Health

A physiotherapist leaves her position as a member of an inter-professional team in a Women's Health Clinic of a large teaching hospital to open up a community-based private practice with a focus on women's health issues. Her practice is located in a medical arts building and a number of the physicians in the building refer patients to her with continence problems. A woman enters the clinic inquiring about whether or not she can receive physiotherapy services for her continence problem. The physiotherapist tells her that she is competent in that area of practice and can provide her with an assessment and treatment. She also explains to the potential patient that in order to do a complete assessment, she must speak with her family physician about having a controlled act delegated to her in order to complete a pelvic floor exam. The woman tells her that she does not have a family physician.

Discussion

A physiotherapist working in the community faces more challenges around receiving delegation to perform a controlled act than a hospital-based physiotherapist, because the majority of controlled acts delegated to a physiotherapist are done so by a physician. Regardless of the practice setting, physiotherapists must comply with their regulatory obligations around receiving delegation to perform a controlled act.

The issue of the patient not having a family physician must be addressed. The physiotherapist may be able to proactively establish processes for delegation, i.e., through a direct order for a specific patient from the patient's physician, if one is available, or through the use of a directive for a group of patients who meet established criteria. For patients who do not have a family physician, the physiotherapist may be able to refer them to physicians accepting new patients. The physiotherapist may then have the physician delegate the required controlled act. Another option is for another regulated health provider, for example, a midwife, who has an existing relationship with the patient, to delegate the controlled act.

2. Titration of Oxygen

A physiotherapist working in an intensive care unit and a step down unit of a large hospital provides chest physiotherapy care to both medical and surgical patients. Patients are frequently seen immediately postoperatively while still ventilated. Best practice around the management of ventilated patients suggests that patients should receive additional oxygenation prior to suctioning. “Administering a substance by inhalation or injection” is a controlled act that physiotherapists are not authorized to perform.

Discussion

A physiotherapist working in a hospital setting with patients who may have similar diagnoses and physiotherapy treatment requirements can receive delegation to perform the component of the controlled act of “administering a substance by inhalation” such as oxygen administration or titration for patients who meet certain criteria through the development of a directive. The titration of oxygen is viewed as a component of the controlled act because oxygen, while not a drug, does fall into the broader category of “substance”. In the absence of a suitable directive, the physiotherapist is faced with options:

1. seeking a direct order from the physician for a patient-specific delegation
2. asking a nurse or a respiratory therapist, both of whom are authorized to perform this act, to administer the additional oxygen to the patient prior to suctioning by the physiotherapist
3. seeking a delegation for the titration aspect of administering oxygen from a nurse or a respiratory therapist that can be acted upon if the administration of oxygen has been ordered for the patient

Regardless of the practice setting, a physiotherapist is obliged to meet the expectations described in the standard. This applies to community-based practices where patients on supplemental oxygen are treated at home and the oxygen rate needs adjustment during activity. In the absence of a process that allows for the transfer of authority to titrate oxygen to a physiotherapist, the physiotherapist is not legally able to do so.

3. Procedures below the Dermis

A physiotherapist works in an inter-professional team in an ambulatory care program focused on treating patients with complex hand and upper extremity injuries. Plastic surgeons and community physicians refer to the hospital hand clinic. The tertiary care hospital in the adjacent city also refers patients discharged from their Burn Unit back to the local community.

Active wound care procedures may involve debridement techniques that fall under the controlled act of “a procedure on tissue below the dermis”, which physiotherapists are not authorized to perform.

Discussion

If the ambulatory care program is hospital based the physiotherapist(s) can be delegated the authority to perform the controlled act of “a procedure on tissue below the dermis” for patients who meet certain criteria through the development of a directive. The physiotherapist must meet all the performance expectations for the acceptance of the delegation of the controlled act. Patients referred by any physician who has signed the medical directive are covered by the medical directive. It is likely that all five affiliated plastic surgeons would sign the medical directive. Patients referred by community

physicians or by a physician from the tertiary care centre could be covered by the medical directive only if they have also signed the medical directive.

When the physiotherapist determines debridement is indicated for a patient of a physician who has not signed the medical directive, the patient can be assessed by a physician who signed the medical directive to initiate the referral and provide an authorization mechanism for the physiotherapist.

In the absence of a suitable medical directive, the physiotherapist is faced with options:

1. receiving a direct order from the physician for a patient-specific delegation
2. asking a nurse to debride the wound with the physiotherapist providing all other components of care
3. seeking a delegation for the debridement aspect of wound care from a nurse that can be acted upon if this therapy has been ordered for the patient
4. Acupuncture
 - A. A physiotherapist in private practice has completed their first acupuncture training course and has just begun using acupuncture as a modality to assist in pain management for some of their patients. One of the physiotherapist's patients is reporting significant improvement in their pain using acupuncture and is now asking if the PT knows which acupuncture points will help her to lose weight. What should the PT consider?
 - B. A colleague has just returned from an advanced training program and has learned some new points that they think their colleagues should start to incorporate in their practices. What should these PT colleagues consider?

Discussion – A

When referring to him or herself as a physiotherapist a physiotherapist should limit the use of acupuncture to matters that are within the scope of physiotherapy.

This is because the regulatory exemption that will continue to permit physiotherapists to provide acupuncture only applies when acupuncture is provided in accordance with the standard of practice of the profession and is within the scope of practice of physiotherapy.

When a physiotherapist uses acupuncture to assist with smoking cessation or to promote weight loss, they may be acting outside the scope of practice of the profession. Further, because the exemption does not apply to out-of-scope activities, a physiotherapist engaging in this type of activity would have to seek out another authorization mechanism such as delegation if he or she wished to continue to provide these services when the new regulation comes into effect.

Discussion – B

Registrants should note that the practice of acupuncture is a component of the controlled act of performing a procedure below the dermis. Receiving the appropriate training at an educational organization which trains and certifies individuals to practice acupuncture is an important step in

ensuring competency, including training in the appropriate anatomy, physiology, pathophysiology and the technical application of the modality.

As with all controlled acts, to ensure patient safety, it is important to perform acupuncture only at the registrant's level of training and competence.

References and Resources

Standards for Professional Practice:

- Clinical Education
- Dual Health Care Practices
- Performing Controlled Acts
- Record Keeping

Position Statements:

- Interpreting the Controlled Act of Communicating a Diagnosis
- Teaching Clinical Skills to Non-Physiotherapists

Briefing Notes:

- Briefing Note to the Health Care Consent Act

Legislation:

- RHPA, Sections 27 – controlled acts, section 28 – delegation, section 29 – exceptions, section 30(6) – exemptions
- Ontario Regulation 107/96 under the RHPA, Controlled Acts

Resources

- Federation of Health Regulatory Colleges of Ontario, An Interdisciplinary Guide to the Use of Orders, Directives and Delegation for Regulated Health Professionals in Ontario

E-Learning Module: Controlled Acts

- Chapter 1: General Principles
- Chapter 2: Performance Expectations
- Chapter 3: Authorization Mechanisms: Delegation, Exemptions, and Exceptions