



DELEGATION OF CONTROLLED ACTS

College publications contain practice parameters and standards which should be considered by all Ontario Respiratory Therapists in the care of their clients and in the practice of the profession. College publications are developed in consultation with professional practice leaders and describe current professional expectations. It is important to note that these College publications may be used by the College or other bodies in determining whether appropriate standards of practice and professional responsibilities have been maintained.

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INTRODUCTION

The *Regulated Health Professions Act* (RHPA) identifies thirteen controlled acts that pose significant risk of harm to the public of Ontario [RHPA section 27(2)]. These acts may only be performed by the regulated health professionals who are authorized by their profession specific Acts. The self-governing health professions (regulated health professions) are identified in the RHPA [RHPA schedule 1]. If a procedure is a controlled act that is not authorized to Respiratory Therapists then the authority to perform the act can only come from an exception under the RHPA or delegation from another regulated health professional (RHP) [see Interpretation of Authorized Acts Practice Guideline]. This practice guideline provides information on the standard of practice related to the delegation of controlled acts. It is important to note that your employer may have policies related to your ability to delegate, or accept delegation of, any procedure. If your employer's policies are more restrictive than the College's requirements — you should abide by your employer's policies. Where your employer's policies are more permissive than the requirements of the College — you must adhere to the requirements of the College.

WHAT IS DELEGATION?

Delegation is the transfer of the legal authority to perform a procedure within a controlled act to a person not otherwise authorized to perform the procedure. Delegation is a PROCESS that is procedure specific and may also be specific to:

- an individual patient/client;
- a specific patient/client population;
- a specific situation;
- a specific health care provider, or;
- groups of patient/client populations or health care providers.

The controlled acts authorized to Respiratory Therapists while engaged in the practice of Respiratory Therapy are:

1. Performing a prescribed procedure below the dermis.
2. Intubation beyond the point in the nasal passages where they normally narrow or beyond the larynx.
3. Suctioning beyond the point in the nasal passages where they normally narrow or beyond the larynx.
4. Administering a substance by injection or inhalation [RTA section 4].

CERTO authorized acts 1, 2 and 4, also require a valid order as authority to perform the procedure. In settings where other legislation applies (e.g. *Public Hospitals Act*), additional requirements may apply. For example, the *Public Hospitals Act* requires an order for every treatment, intervention and diagnostic test.

Please note the four "authorized acts" listed in the *Respiratory Therapy Act* (RTA) represent:

- One complete controlled act. (RHPA Controlled Act # 5: Administering a substance by injection or inhalation) reflected in the RTA as Authorized Act #4;
- Two pieces of a second controlled act (RHPA Controlled Act # 6: Putting an instrument, hand or finger, ii) beyond the point in the nasal passages where they normally narrow and iii) beyond the larynx) reflected in the RTA as Authorized Act #2 & 3; and
- One piece of a third controlled act (RHPA Controlled Act #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) reflected in the RTA as Authorized Act #1.

For more detailed information about the RHPA controlled acts and RT authorized acts, Members are encouraged to review the PPG entitled *Interpretation of Authorized Acts*.

The controlled acts authorized to Respiratory Therapists are authorized to ALL Members of the CRTO, regardless of your class of certificate, provided there are no terms, conditions or limitations on your certificate of registration precluding your performance of the procedure [see Interpretation of Authorized Acts Practice Guideline]. If you have a term, condition or limitation prohibiting you from performing a procedure that is a controlled act, you cannot accept delegation for that procedure. For example, if you want to suction a patient and there is a limitation on your certificate preventing you from suctioning, then you cannot accept delegation of suctioning.

WHAT IS NOT DELEGATION?

Assisting a regulated health professional (RHP) when he or she is performing a controlled act does not mean that his or her authority to perform the controlled act has been transferred to you. In this case you are only assisting and do not require delegation.

An assignment of responsibility is not delegation. If you are "assigned" patient/client(s) by your supervisor, you would still require delegation to perform any specific controlled act that is not authorized to you, if such a controlled act is required for your patient/client's care. It is also important to note that another regulated health professional simply asking or requesting that you perform a controlled act does not constitute a "delegation" of their authority to you.

WHEN IS DELEGATION NOT REQUIRED?

If the procedure is not a controlled act, it is in the public domain and delegation is not required. In this case, you may perform the procedure provided you have the knowledge, skills and abilities/judgement to perform it. If a procedure is a controlled act and you do not have the authority to perform it (i.e. the procedure is not one authorized to Respiratory Therapists), you may perform the controlled act if it is covered by one of the following exceptions allowed by the RHPA [*as listed and numbered in the RHPA*]:

EXCEPTION #1: giving first aid or temporary assistance in an emergency; (You may perform a controlled act in giving first aid provided you have the competency (knowledge, skills and judgement) to perform the procedure.

EXCEPTION #2: fulfilling the requirements to become a member of a health profession and the controlled act is within the scope of practice of the profession and is done under the supervision or direction of a member of the profession; (Students do not require delegation to perform controlled acts provided they are enrolled in a program to become Respiratory Therapists, the controlled act is within the Respiratory Therapy scope of practice AND a member of the College is supervising or directing them.)

EXCEPTION #3: treating a person by prayer or spiritual means in accordance with the tenets of the religion of the person giving the treatment; (If you are performing a controlled act in treating a person by prayer or spiritual means in accordance with the principles of your religion you do not need to have the act delegated to you.)

EXCEPTION #4: treating a member of the person's household and the act is controlled act 1, 5 or 6 (*as numbered in the RHPA*); and, the acts that may be performed when treating a member of your household are:

- a) Communicating to the member of your household, or his or her personal representative, a diagnosis identifying a disease or disorder as the cause of symptoms of the member of your household, in circumstances in which it is reasonably foreseeable that the member of your household, or his or her personal representative, will rely on the diagnosis.
- b) Administering a substance by injection or inhalation;
- c) Putting an instrument, hand or finger;
 - beyond the external ear canal,
 - beyond the point in the nasal passages where they normally narrow,
 - beyond the larynx,
 - beyond the opening of the urethra,
 - beyond the labia majora,
 - beyond the anal verge, or
 - into an artificial opening into the body.

EXCEPTION #5: assisting a person with his or her routine activities of living and the act is controlled act 5 or 6 (*as numbered in the RHPA*). The acts that may be performed when assisting an individual with his or her activities of daily living are:

- a) Administering a substance by injection or inhalation,
 - b) Putting an instrument, hand or finger;
 - beyond the external ear canal,
 - beyond the point in the nasal passages where they normally narrow,
 - beyond the larynx,
 - beyond the opening of the urethra,
 - beyond the labia majora,
 - beyond the anal verge, or
 - into an artificial opening into the body.
- [RHPA section 29]

There are also some additional exceptions made for specific procedures in the regulations made under the RHPA. For example, under s.7 of the Controlled Acts Regulation 107/96, members may be exempt from needing delegation to perform

diagnostic ultrasound in certain practice settings (e.g. public hospital). Members would however, still require an order.

These exceptions also mean that someone (health professional or not) is not in contravention of the RHPA if he or she performs the controlled acts under the exceptions listed above. Also, students do not require delegation to perform these procedures and it is unlikely that delegation is required for the activities that Respiratory Therapists teach to family members and caregivers. It is also important to note that, as a member of the College, you will be held to the standards of practice of the College and the profession in your performance of a procedure even if it is performed under the exemptions allowed by the RHPA.

In addition, delegation is not required/necessary when a regulated health professional (RHP) already has the authority to perform the procedure within a controlled act authorized to that profession (e.g. it is not necessary to delegate oxygen therapy administration to a registered nurse, since they are authorized to perform this controlled act procedure [i.e. *administration of a substance by inhalation*] under the Nursing Act). Similarly, it is unnecessary to receive delegation from a physician for intubation, since intubation is a controlled act authorized to CRTO Members under the Respiratory Therapy Act. An order is required to perform this procedure; delegation is not.

WHEN IS DELEGATION REQUIRED?

In all cases not covered by the “public domain” or RHPA “exceptions” the authority to perform a controlled act other than the acts authorized to Respiratory Therapists MUST be through delegation from another regulated health care professional who has the authority to perform the controlled act and is not prohibited from delegating the procedure by his/her specific College.

EXAMPLE:

You may receive training to perform the controlled act of applying a form of energy (defibrillation) during ACLS certification. The physician(s) who is delegating defibrillation has not directly participated in the training, but she has confirmed that the training received during the ACLS course is appropriate and that if you successfully pass the course, you are competent to perform defibrillation.

CAN I ACCEPT DELEGATION OF PROCEDURES?

Yes, you may accept delegation of controlled acts not authorized to CRTO Members under the RTA when all of the following conditions are met:

1. You reasonably believe that the delegator has the authority and competence to perform and to delegate the controlled act;
 - a) you have no reason to believe that the delegator is not permitted to delegate the authority to perform the controlled act procedure; and
2. You have the authority to perform the controlled act safely, effectively, competently and ethically:
 - a) you have no terms, conditions or limitations on your certificate of registration which prohibit you from performing the delegated procedure; and

- 3) You have the competency to perform the controlled act;
 - a) your competency to perform the delegated procedure has been confirmed either directly or indirectly by an appropriate person (usually a regulated health care professional who has the authority to perform the procedure); and
- 4) You have determined that receiving delegation of the controlled act is appropriate giving due consideration to;
 - a) the known risks and benefits of performing the procedure for the patient/client(s),
 - b) the predictability of the outcomes of performing the procedure,
 - c) the patient/client's wishes,
 - d) the safeguards and resources available in the situation; and
 - e) other elements specific to the situation.

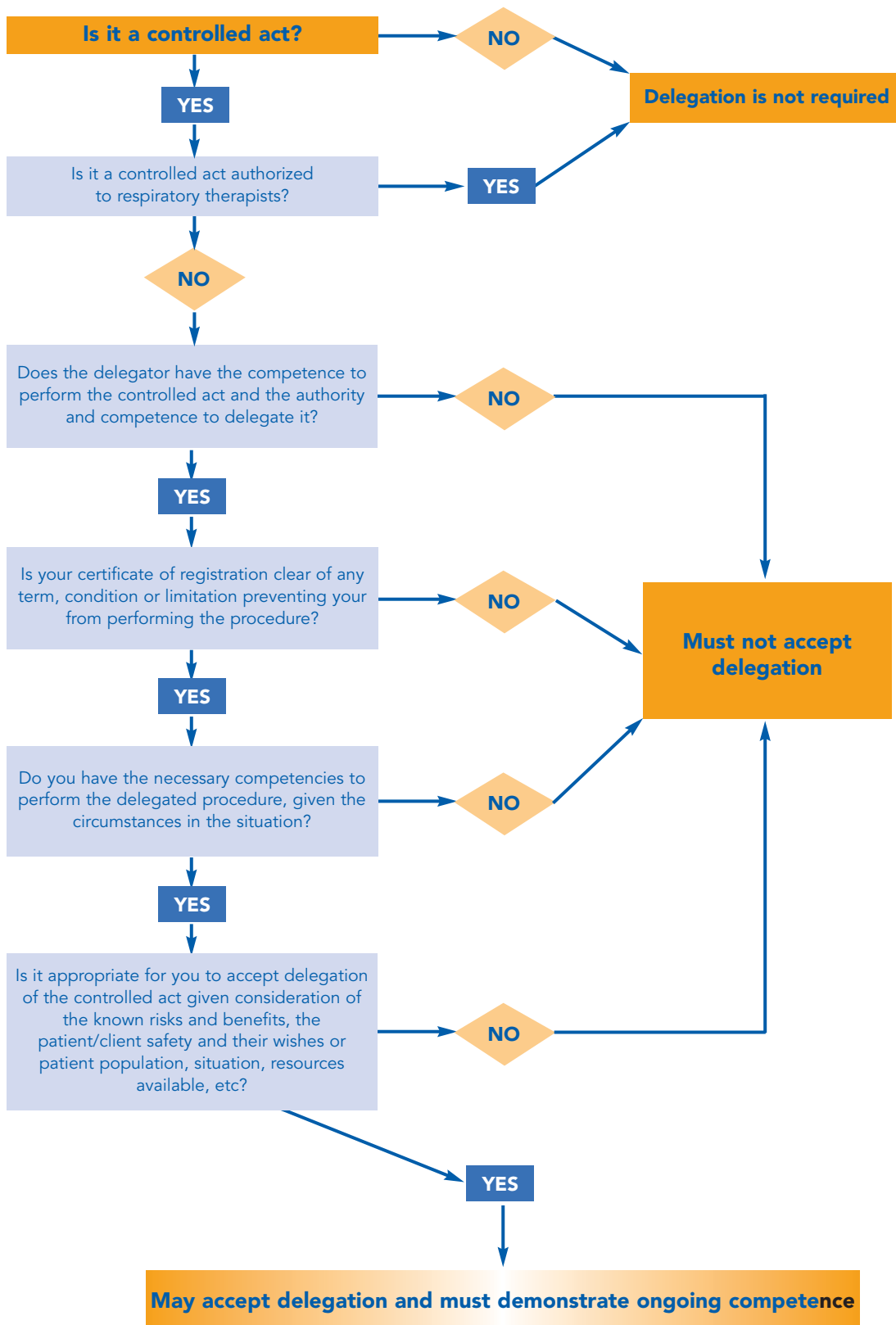
When making the decision to accept delegation to perform a controlled act procedure not authorized to Respiratory Therapists under the RTA, you are reminded that authority alone is not reason enough to perform the procedure. You must have the competency to perform the delegated procedure and performing the procedure must be in the patient/client's best interests.

WHO CAN DELEGATE TO ME?

As specified by the RHPA, a Regulated Health Professional with the authority to perform a controlled act is the only person who may delegate a controlled act. Delegation cannot be received from a committee. It is possible for more than one profession to have the authority to perform and delegate the same controlled act. For more information on which controlled acts are authorized to which regulated health profession, please see Appendix I. (controlled acts table)

You must not accept delegation from individuals who themselves have received delegation to perform a controlled act procedure. For example, you cannot accept delegation as the authority to perform the controlled act of administering a form of energy (defibrillation) from a physiotherapist, who has received delegation from a physician to perform the procedure. In this scenario, the physiotherapist does not have the authority to delegate defibrillation because defibrillation is not authorized to physiotherapists. This amounts to the concept of "sub-delegation" which is not permitted. (*See Accepting Delegation Decision Flowchart, pg. 8*)

Accepting Delegation Decision Flowchart



WHAT ARE MY RESPONSIBILITIES WHEN I ACCEPT DELEGATION?

You are responsible for the performance of the procedure to the standard of the profession of the delegator or the generally accepted standard of practice of health care practitioners providing similar care. You must have the requisite competency (knowledge, skills and judgment) to perform the procedure before you accept delegation. In addition, you should also maintain proper documentation of your actions by keeping a record of what activities you accepted delegation and who delegated the activities to you. The preferred method of doing this is to keep records of delegation in your CRTO QA's Professional Portfolio Form. Your competency records regarding delegation should include the following:

- the RHP(s) (discipline: e.g. physician) who has delegated the procedure;
- the procedures that have been delegated to you;
- continuing education related to the delegated procedure; and
- the period of time that the delegation remains in force prior to requiring reconfirmation of ongoing competence in the procedure. (e.g. the delegation you receive to perform defibrillation is time-limited to one year, at which time you must once again demonstrate competence in the procedure).

Remember that just because you can accept delegation doesn't necessarily mean that you should accept delegation. CRTO Members must consider whether it is appropriate to do so and most importantly, whether it is in the best interests of the patients/clients that you are caring for.

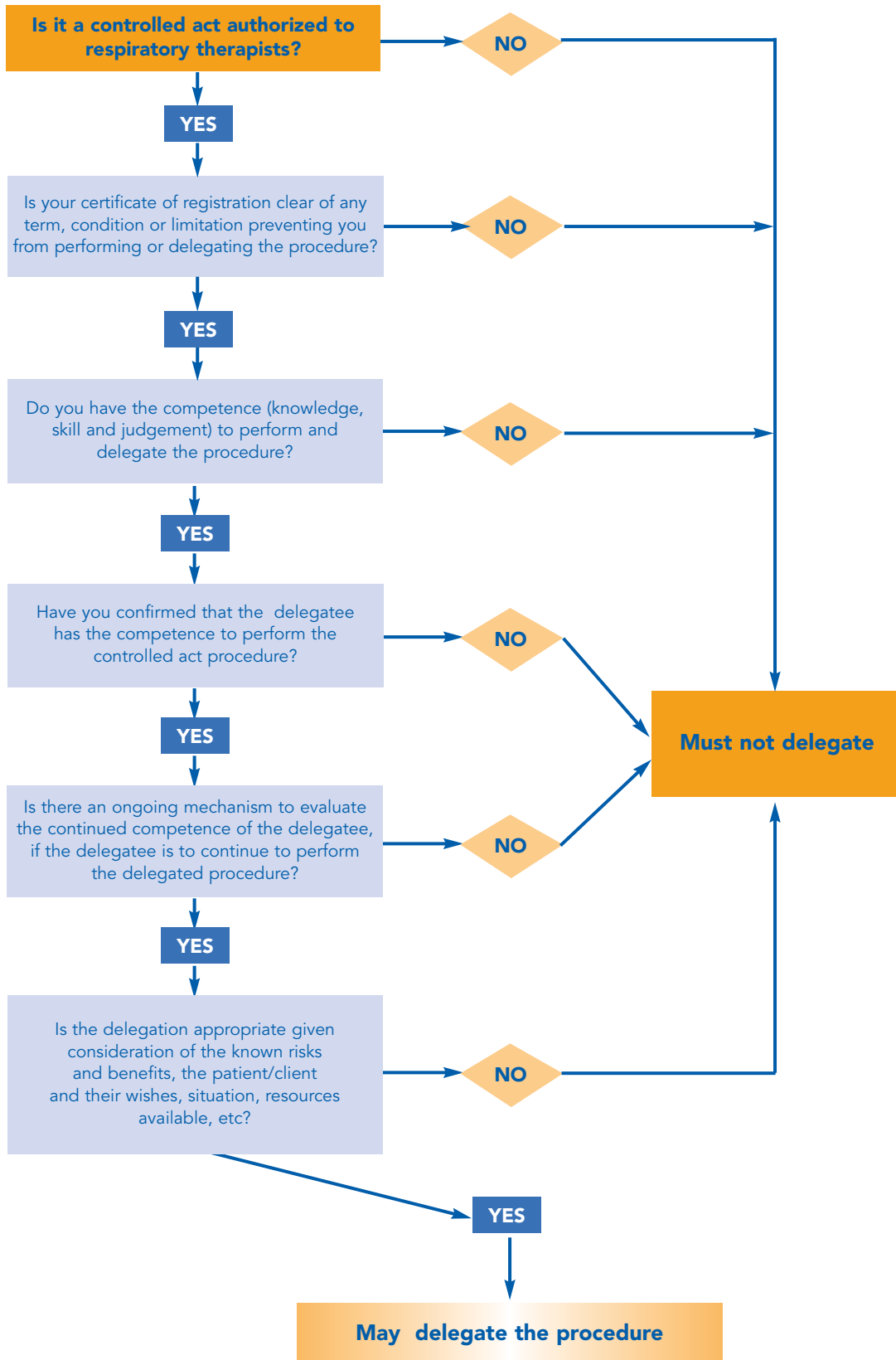
It is also important to note that most employers will have policies around delegation and when/how/who can give and receive delegation. You should check your employer's policies before accepting delegation. Your employer may also have specific requirements regarding documentation when you accept delegation to perform a controlled act procedure. For more information regarding documentation obligations, please see CRTO's Documentation PPG.

DELEGATING RT AUTHORIZED ACTS PROCEDURES

CRTO Members may delegate procedures within the controlled acts authorized to Respiratory Therapists, but only when all of the following conditions are met:

1. You have the authority (related to terms, conditions or limitations on your certificate of registration — specifically related to you as an individual or as a holder of a particular class of certificate of registration), and competence (knowledge, skills and judgement) to perform and to delegate the procedure safely, effectively, competently and ethically; and

Delegation Decision Flowchart



2. You reasonably believe that the delegatee has acquired, through teaching and clinical supervision of practice, the competence to perform the procedure safely, effectively, competently and ethically; and
3. You have no reason to believe that the delegatee is not permitted to accept the delegation; and
4. You verify, or reasonably believe an evaluation mechanism is in place to verify, the continued competence of the delegatee for performing the procedure; and
5. You have determined that delegation of the procedure is appropriate giving due consideration to:
 - i. the known risks and benefits of performing the procedure for the patient/client(s);
 - ii. the predictability of the outcomes of performing the procedure;
 - iii. the patient/clients' wishes;
 - iv. the safeguards and resources available in the situation; and
 - v. other elements specific to the situation.

WHAT PROCEDURES CAN I DELEGATE?

CRTO members may delegate any RT authorized act procedures to another regulated or non-regulated health care provider provided they meet their professional responsibilities which are outlined below.

WHAT ARE MY RESPONSIBILITIES WHEN I DELEGATE?

You are responsible for ensuring that a mechanism exists for education, supervision and on-going competence evaluation of the delegatee. You should never assume that the individual has the necessary competencies to perform the controlled act procedure that you are authorizing to them through delegation. You must confirm or validate that they can safely perform the procedure to the same standard that you would perform the procedure.

In practical terms, this confirmation might mean that that you alone are the person performing all of the components of the confirmation of competence (education, supervision, evaluation) or you may be part of a team. You must ensure that you meet the standard of practice of the College and the profession before you delegate a procedure. You are responsible for delegating the procedure and the delegatee is responsible for accepting and performing the procedure. Assuming responsibility for the delegation does not mean you assume responsibility for the delegatee's performance of an individual procedure. It is your responsibility to ensure that, given consideration to all circumstances, the delegation is appropriate. As with any other intervention you undertake, it is your responsibility to ensure proper documentation of your actions by keeping records of the individuals to whom you delegate and the specifics of the procedures that you delegate. CRTO Members are encouraged to keep records of what and to

whom they have delegated in their QA Program's Professional Portfolio Form.

Records should include the following:

- description of the procedure being delegated,
- information related to the education that was provided to the delegatee (number of hours, curriculum, any handouts, tests, etc),
- who provided it (yourself or a team of RRTs for example);
- description of the "certification process", and
- the quality management activities and any particular specifics related to ongoing quality monitoring and evaluation of the delegation.

In addition, your employer may have specific requirements regarding delegation and documentation that you will need to be familiar with prior to delegating.

You are professionally accountable for your decision to delegate a procedure and you must ensure you have satisfied all of the requirements outlined in this practice guideline. The "reasonably believe" concept requires that you act prudently. For example, if your employer has a policy that outlines an evaluation process for assessing the competence of delegates, that you know in practical terms is not adhered to, it is your obligation not to delegate procedures until the reality matches the policy. It also means that you do not personally have to supervise, teach and evaluate a delegatee but you are responsible to ensure that an appropriate process is in place. If you are reasonably satisfied that a certification program appropriately assesses competence then it would be reasonable to accept that successful completion of the program means that an individual has the requisite competence to perform the procedure.

Making a decision to delegate your authority to perform a controlled act to another individual should not be taken lightly. The ultimate decision to delegate rests with you.

UNDER WHAT CIRCUMSTANCES AM I NOT PERMITTED TO DELEGATE?

EXAMPLE:

CRTO members with a General Certificate of Registration may not delegate an RT authorized act procedure to a member with a Graduate certificate of registration, who is prohibited from performing the procedure due to terms, conditions and limitations on their certificate. For example, an RRT cannot delegate arterial line insertion to a GRT.

You must not delegate a controlled act procedure:

1. That is not authorized to you according to the Respiratory Therapy Act. For example, you cannot delegate a controlled act procedure, that you yourself require delegation from another RHP to perform. This amounts to the concept of "sub-delegation" which is not permitted;
2. To an RHP (including a Respiratory Therapist) who is prevented from performing the procedure due to terms, conditions or limitations on his or her certificate of registration; or
3. To an individual who you do not reasonably believe has the competence to perform the procedure.

WHAT ARE THE PENALTIES IF I PERFORM A CONTROLLED ACT WITHOUT THE AUTHORITY TO DO SO?

If you or another RHP perform a controlled act when you are not permitted to do so, (under direct authority of a health profession Act, through delegation consistent with this practice guideline, or through an allowable exception) you may be subject to professional misconduct proceedings. If found guilty of professional misconduct, a member may be subject to any one or more of the following:

1. Revocation of the member's certificate of registration;
2. Suspension of the member's certificate of registration for a specified period of time;
3. Imposition of terms, conditions or limitations on the member's certificate of registration;
4. Appearance before the panel for a reprimand; and
5. A fine of up to \$35,000 [HPPC section 51(2)].

In addition, it is also a provincial offence to perform a controlled act without authority. The penalties for non-regulated individuals who perform controlled acts without the proper authority include a fine of up to \$25,000 and up to six months in jail [section 40 of the RHPA].

G L O S S A R Y

Authority the right to act — usually related to **jurisdiction provided in a statute or to terms, conditions or limitations imposed on a certificate of registration — individually specified (by a panel) or related to an entire class of certificates of registration (specified by Council or a panel)**

Authorized act is a controlled act, or portion of a controlled act, that is authorized within a health profession act for a health professional to perform [there are 4 acts authorized to Respiratory Therapists by the Respiratory Therapy Act, that are created from 3 controlled acts defined in the RHPA]; the **controlled acts authorized to Respiratory Therapists** are:

1. Performing a prescribed procedure below the dermis;
2. Intubation beyond the point in the nasal passages where they normally narrow or beyond the larynx;
3. Suctioning beyond the point in the nasal passages where they normally narrow or beyond the larynx; and
4. Administering a substance by injection or inhalation.

Controlled act one of the following 13 acts defined in the RHPA [section 27(2)] when it is performed "with respect to an individual":

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, or
 - 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.

G L O S S A R Y

Competence having the requisite knowledge, skills and judgement to perform the procedure

Delegatee the person receiving the authority to perform a procedure

Delegator the person conferring the authority for another to perform a procedure

Emergency when the patient/client is apparently experiencing severe suffering or is at risk, if the procedure or treatment is not administered promptly, of sustaining serious bodily harm

Forms of energy the following forms of energy are prescribed in regulation:

1. Electricity for,
 - i) aversive conditioning
 - ii) cardiac pacemaker therapy
 - iii) cardioversion
 - iv) defibrillation
 - v) electrocoagulation
 - vi) electroconvulsive shock therapy
 - vii) electromyography
 - viii) fulguration
 - ix) nerve conduction studies, or
 - x) transcutaneous cardiac pacing
2. Electromagnetism for magnetic resonance imaging
3. Soundwaves for,
 - i) diagnostic ultrasound, or
 - ii) lithotripsy

HPPC Health Professions Procedural Code — RHPA; Schedule 2

Member a member of a regulatory college under the RHPA

Reasonably sensible, rational — often referred to as the reasonable person test — determined by case law — in the case of the College, a panel would determine whether or not an individual, giving consideration to all circumstances, acted in a sensible, rational manner in the matter under discussion

Respiratory Therapist a Member of the CRTO

RHP Regulated Health Professional a health care provider who is a member of a College and is regulated by the RHPA (e.g., nurse, physician, dentist, massage therapist, physiotherapist, dietitian, occupational therapist, etc)

RHPA Regulated Health Professions Act

RTA Respiratory Therapy Act

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APPENDIX I: Table of regulated health care professionals and their authorized acts

Respiratory Therapy		↕			all	↕												
Psychology	↕																	
Physiotherapy				all		↕												
Pharmacy								↕										
Optometry	↕							↕		all								
Opticianry										↕								
Occupational Therapy																		
Nursing		↕			all	all												
Midwifery		↕			↕	↕		↕								↕		
Medicine	all	↕	all	all	all	all	all	↕	all	all	all	all			all	all		
Medical Radiation Tech		↕			all	↕												
Medical Laboratory Tech		↕																
Massage Therapy																		
Dietetics																		
Denturism																↕		
Dentistry	↕	↕	↕		all		all	↕						all	↕			
Dental Technology																		
Dental Hygiene		↕												↕				
Chiropractic	↕			all		↕												
Podiatry	↕	↕			↕			↕										
Chiropody		↕			↕			↕										
Speech Pathology																		
Audiology										all								
Diagnosis																		
Procedure on tissue																		
Set a fracture																		
Moving joints																		
Injection/inhalation																		
Insert instrument																		
Form of energy																		
Pharmacy																		
Vision care																		
Hearing care																		
Dental care																		
Manage labour																		
Allergy testing																		

all = authorized act as complete controlled act
 ↔ = authorized act modified version or part of controlled act



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This practice guideline will be updated as new evidence emerges or as practice evolves. Comments on this practice guideline are welcome and should be addressed to:

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