

The Office Consult

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EACH YEAR, THE PHYSICIAN ADVISORY SERVICE RECEIVES APPROXIMATELY 5,000 CALLS FROM PHYSICIANS ON A WIDE VARIETY OF MATTERS. THE ISSUES RAISED ARE OFTEN OF A CLINICAL, ETHICAL OR LEGAL NATURE. THIS COLUMN FEATURES QUESTIONS AND ANSWERS TO ISSUES THAT WE EITHER HEAR ABOUT FREQUENTLY, OR THAT HAVE A WIDE APPLICABILITY ACROSS THE PROFESSION. BASED ON YOUR INQUIRIES AND CALLS TO THE PHYSICIAN ADVISORY SERVICE, WE WILL PUBLISH THE ANSWERS TO THE MOST FREQUENTLY ASKED QUESTIONS.

Comprehensive guide and toolkit provides templates for medical directives

One subject about which the Physician Advisory Service frequently receives calls is medical directives. Which controlled acts can be delegated? How do you go about delegating? Who can do what? Won't it be an administrative nightmare to set it up? Recent enquiries have come from sexual health clinics; physicians setting up research studies; public health mobile units; occupational health offices; cardiology units and even schools (about the use of epi-pens). The confusion arises from the idea of "controlled acts" which is established under the governing health professions legislation, the *Regulated Health Professions Act*. Pursuant to that legislation, only certain professionals may perform a list of acts which are considered to be dangerous if performed without adequate knowledge, skills and judgment. Physicians can perform 12 of the 13 acts on the list. The acts range from conveying a diagnosis to administering a substance by inhalation or injection. For a complete list, please see the College's Delegation of Controlled Acts policy at www.cpso.on.ca/Policies/delegation.htm.

The legislation permits the controlled acts to be delegated, but it doesn't offer any details about how this delegation may take place. To ensure patient safety, many of the regulated health professional colleges have policies or guidelines about delegation (as does the CPSO). However, these devices were not formulated jointly between the colleges. Accordingly, there were gaps and some differences of opinion as to definitions of terms and conditions for delegation. A working group was struck by the Federation of Health Regulatory Colleges of Ontario to come to a common understanding of the principles and requirements for delegation. The result is a comprehensive guide and toolkit. It is posted on the FHRCO website at <http://www.medical-directives-delegation.com>.

The toolkit provides templates for construction of medical directives, as well as explanations of how to establish the prerequisites. The templates will have the most direct application for large institutional settings, but anyone who wishes to establish a directive (or to learn more about delegation) will find them helpful. Their use is not mandatory, but physicians who

delegate a controlled act pursuant to a medical directive developed using these templates will be in compliance with the legislation and College policy and will be providing the very best quality of care to patients.

Elements of a Medical Directive

The most critical element in the development of the medical directive is the involvement of representatives from all groups likely to be involved in using the directive.

Having established a group to develop the directive, the critical considerations are set out below.

1. The delegation itself must be in the patient's best interest. If, on balance, the patient would be better off if the physician performed the act him or herself, then it is probably inappropriate to delegate the act. However, expedient access to care, proficiency of the individuals performing the act and even the budgetary considerations of the institution are all factors (together with many others) which may be considered when making this determination. It would not be appropriate for delegation to be

made purely for the physician's pecuniary advancement, however.

2. The person who is delegating the act to another must be qualified to do it and capable of performing it. Note as well, it is not sufficient for an administrative authority to sign a medical directive: each physician whose patients may receive care under it will need to sign the directive.
3. The person who will be performing the act must have the appro-

priate knowledge, skills and judgment to carry it out with at least the same quality of care and safety as if the physician were performing it directly.

4. The mechanism for delegating the controlled act (often a medical directive) must include details about how it will be performed, by whom, and under what circumstances. It should also specify considerations of training for those performing the act and review of protocols to

ensure ongoing quality assurance.

This is where the templates will come in particularly handy as there is a strong emphasis on how to describe the indications and contraindications for the delegation and on assessment of performance readiness by the person(s) who will perform the act.

5. Appropriate consent must be obtained from the patient.
6. Proper supervision of the delegated act must be available.

Frequently asked questions about Delegation

QUESTION *Do I have to be experienced in the controlled act that I wish to delegate?*

Physicians must only delegate acts that they are competent to perform personally, and which constitute part of their regular practice.

QUESTION *Does the person to whom I am delegating the act need to be a regulated health professional?*

No. It is the physician's responsibility to ensure that the individual to whom the act is being delegated has the appropriate knowledge, skill and judgment to perform the delegated act. If the individual is another regulated health professional, then the physician should ensure that the delegation adheres to the regulations, policies and/or guidelines of that health profession. If there is any doubt, the physician should contact the individual's regulatory body to ensure that she/he can accept the delegation of a particular act. If the person who will receive the delegation is not a regulated health professional, then the physician must take steps to ensure that that individual is competent to carry out the controlled act, bearing in mind that the training and regulatory overview that apply to regulated health professionals are not in place for others.

QUESTION *Do I have to be present or on-site when delegating a controlled act?*

The physician must ensure an appropriate level of supervision, the nature of which will vary according to the risk assessment. Criteria to be considered in assessing risk include the nature of the act being delegated, the circumstances under which the act will be performed, and the qualifications and experience of the person performing it.

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

The delegating physician has absolute responsibility for ensuring that the delegation is taking place reasonably and without undue risk to the patient. There is also a level of ongoing responsibility for the performance of the act. In cases of doubt or concern, we advise that you call the CMPA prior to delegating a controlled act.

Physicians should bear in mind that delegation does not equate to an abrogation of responsibility. While physicians may delegate the act itself, they are responsible for making the choice to delegate and must do so safely and carefully: one has to be aware of what it is that is being delegated and to whom it is being delegated. **MD**

For further information about the Federation project or delegation in general, please contact Shenda Tanchak, Manager, Special Projects at stanchak@cpsa.on.ca or Brian Goldig, Physician Advisory Manager at (416) 967-2600 or 1-800-268-7096 extension 329.