

Practice Guideline- Scope of Practice, Controlled Acts and Delegation

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Introduction

One of the most frequent questions that the College receives from members is about scope of practice. Concerned practitioners want to ensure the assessments, treatments and interventions they are undertaking with patients/clients are not beyond the scope as defined in the *Kinesiology Act, 2007* (the act). Practising outside the scope is considered professional misconduct. Ensuring members are practicing safely within the scope of practice is essential to protecting the public interest.

The practice of kinesiology has existed in many jurisdictions, including Ontario, for several years, but was not previously regulated under the *Regulated Health Professions Act, 1991* (RHPA). In working towards regulating the profession, the scope of practice was defined after deliberation and consultation with members of the profession and other stakeholders including the Ministry of Health and Long-Term Care and other health care professions. The scope of practice was designed to fully encompass the activities that kinesiologists undertook before regulation. The scope recognizes that kinesiologists may practice within specific yet varied areas, and allows the College to consider registering practitioners with substantially equivalent educational and experiential background. However, it is important that all members fully understand the legal framework that governs the scope of practice.

Scope of Practice

While the scope of practice is designed to encourage continuity of practice among kinesiologists, defining the scope aims to protect the public by ensuring that care provided by a practitioner is not beyond the practitioner's skills and knowledge. The scope of practice for kinesiology has been broadly defined as:

The assessment of human movement and performance and its rehabilitation and management to maintain, rehabilitate or enhance movement and performance.

This definition allows for the diversity of settings in which members practice and also reflects the practice of kinesiology not just as rehabilitative, but as a discipline aimed at improving health and general wellness. It is not restrictive; it allows the use of a range of modalities that are flexible enough to be applicable to a broad spectrum of patients/clients. However, there are limits to what a member can and cannot do.

Members have had many questions about specific types of treatments and whether or not they are permitted to use certain interventions without need of delegation. The following list, while not exhaustive, contains many of the well-established modalities and services that members are permitted to utilize in their practice:

- Electrical therapy techniques including:
 - IFC
 - TENS
 - Therapeutic Ultrasound
 - Pulsed High Frequency
 - Low Intensity Laser Therapy
 - Therapeutic application of heat and cold
- General nutritional counselling
- Fitness & Health Evaluations and Exercise prescription
- Athletic training, therapy and interventions
- Ergonomics
- Biomechanics
- Exercise Physiology
- Completion of insurance assessment forms (subject to form specific limitations)
- Manual osteopathic techniques/modalities¹

The scope of practice is also designed to allow members to interpret when they think their individual practice may be beyond their scope. It should be noted that just because an assessment or intervention might be considered within the scope of practice for kinesiology, this does not always mean it is within the scope of practice of the individual member. For example, a member who is practising solely in one distinct area such as ergonomics may not be able to safely offer nutritional or athletic therapy advice; this member should refer the patient/client to another practitioner who is better qualified to practice in that specific area. Members must only undertake performance of any modality or service after a full health history is taken from the patient/client and a thorough assessment has been conducted.

Controlled Acts

The most obvious limit to the kinesiology scope of practice is the restriction to perform any controlled acts listed under the RHPA. Restrictions against the performance of these acts were enacted in order to protect the public; these acts are considered higher risk and could pose potential serious harm if not performed by duly-qualified practitioners.

¹ Osteopathic practitioners who register with the College must practise within the scope of practice for kinesiology. A Kinesiologist is permitted to use osteopathic manual techniques as part of a kinesiology treatment plan. However, if a Kinesiologist is providing manual osteopathic treatment solely or is utilizing the therapy for a condition outside the scope, the Kinesiologist should consider the Practice Standard – Dual Health Care

A list of the 14 controlled acts is found in section 27 (2) of the RHPA and is as follows:

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.²
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 the *Drug and Pharmacies Regulation Act*, or supervising the part of a pharmacy where such drugs are kept.

² Acupuncture is now included in this definition as of April 1, 2013 when the *Traditional Chinese Medicine Act, 2006* was proclaimed. Only members of the College of Traditional Chinese Medicine Practitioners and Acupuncturists (CTCMPA) are authorized to perform this act. There are certain professions that have been exempted from this and can perform acupuncture if it is within that profession's scope of practice. These professions are:

College of Chiropractors of Ontario
College of Chiropractors of Ontario
College of Massage Therapists of Ontario
College of Naturopaths of Ontario
College of Nurses of Ontario
College of Occupational Therapists of Ontario
College of Physiotherapists of Ontario
Royal College of Dental Surgeons of Ontario.

Therefore, registered kinesiologists are not able to perform acupuncture. Further, because the professions noted above are only authorized to perform acupuncture due to a legislative exemption, they will not be authorized to delegate it. Therefore members should not accept delegation of acupuncture, even if a member is trained, by any profession other than a registered member of the CTCMPA.

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.

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (2) is amended by the Statutes of Ontario, 2007, chapter 10, Schedule R, subsection 19 (1) by adding the following paragraph:

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 judgement, insight, behaviour, communication or social functioning.

Performance of any of these controlled acts by a member is strictly prohibited. The RHPA does, however, allow the delegation of controlled acts. This means that members may be delegated, by qualified regulated health professionals, to perform certain controlled acts (discussed below). However, members can never sub-delegate a controlled act.

Delegation

Delegation is a term that has specific meaning in the RHPA in that it only refers only to controlled acts. Delegation is the act of transferring authority from one practitioner to another to perform the controlled act. The RHPA provides no further guidance, but refers health professionals to the regulations of their own profession. Some colleges have very specific standards dealing with a particular controlled act, while others have a broader standard on delegation in general.

Delegation is permitted in order to make the delivery of health care more efficient and effective for patients/clients. In this way, delegation is aimed at protecting the public by advancing the patient's/client's interests, which could include more timely access to health care services and the better utilization of available health professionals who have an appropriate level of skills and knowledge. When accepting delegation, a member must always keep in mind the best interests of the patient/client and decide whether the delegation is appropriate to protect the patient/client.

Because kinesiologists are not authorized to perform controlled acts, the College has no standard on delegation. However, members are fully accountable for accepting delegation and should be able to prove they have the necessary skills, knowledge and training to perform the delegated controlled act. Further, the College advises that members who work closely with other regulated professionals should familiarize themselves with the delegation standards of the College to which their colleagues belong. Delegation standards observed by other regulatory colleges may affect a member's ability to

accept delegation. For example, some Colleges may have a guideline advising against the delegation of certain controlled act to other health professionals; therefore, a member of the College of Kinesiologists of Ontario should not accept such delegation. Members are expected to work collaboratively with other health care professions and communicate openly with respect to the delegation of controlled acts.

While the RHPA generally allows delegation of any controlled act, some acts would be considered very rare for members to be asked to perform by way of delegation, given the scope of practice and current registration requirements. Controlled acts which under most circumstances would be considered unsuitable for delegation to members are as follows:

2. Only particular components - specifically, performing a procedure below the surface of the cornea, or in or below the surfaces of the teeth, including the scaling of teeth.
4. Moving the joints of the spine beyond the individual's usual physiological range of motion using a fast, low amplitude thrust.
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
8. Prescribing, dispensing, selling or compounding a drug as defined in 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.

Those controlled acts not listed above can be delegated to members by another regulated health professional who is authorized to perform the act. However, members must ensure the following conditions are met before and after accepting delegation:

- Both the authorizer and the delegatee are accountable for the actual performance of the controlled act. The delegator does not need to be present during the performance of the controlled act;
- The delegatee must be reasonably sure that the authorizer is authorized to perform the act and authorized to delegate the act. For example, a respiratory therapist can delegate the administration of a substance by inhalation if that substance has been ordered by an authorized health professional such as a physician. A member could not accept the delegation, however, if they had reasonable doubts that there was a pre-existing order for the substance to be administered;
- The member has the knowledge, skills and ability to perform the controlled act, including the competence to manage all reasonably foreseeable outcomes of performing the act. For example, being able to manage a patient's/client's pain while setting a fracture;
- The member has confirmed the condition of the patient/client and that the delegator has performed an appropriate assessment of the risk of harm to the patient/client by the performance of the controlled act. The member must also be able to answer the patient's/client's questions about the benefits and risks of the procedure;
- The member has confirmed that the patient/client has consented to the delegation of the controlled act. If the member is operating under a directive (discussed below), they should inform the patient/client of the nature of the directive;
- The member must document the acceptance of delegation, the circumstances of the delegation and also fully document the performance of the procedure and any outcomes. Any discussions with the patient/client about the performance of the controlled act should also be fully documented; and
- The member must not sub-delegate the act.

Medical Directives

Medical directives are a form of delegation. Medical directives (also referred to as “directives”) are standing orders made in advance by the authorizing professional for the performance of a controlled act when certain sets of conditions/circumstances exist. A directive is therefore not a direct order; however, directives are still subject to the same requirements. A directive is designed to allow flexible and efficient care, particularly in facilities where an authorizing health professional is not always readily available or in situations where the performance of a controlled act is common and frequent. A common example of a directive would be the performance of blood glucose testing for diabetic patients in a retirement home.

Medical directives should ideally be developed by the authorizing professional(s) in collaboration with the delegate(s). This will ensure that everyone fully understands the circumstances under which the delegatee can perform the controlled act.

Usually, medical directives are either patient/client-specific or situation-specific. Client-specific directives allow the performance of a controlled act for a specific patient/client. For situation-specific directives, the directive should sufficiently describe the conditions that must exist for the controlled act to be performed. Any contraindications should also be listed.

Directives may be directed at one delegatee or a group of delegatees. Delegatees might include more than one regulated health professional. The number of delegatees should be included in the directive as well. Members should ensure, before performing a controlled act under a directive, that they are specifically named by profession in the directive. The directive should also include any educational or credential requirements needed in addition to any requirement of registration with a health regulatory college.

Members should also document when they performed a controlled act and list the conditions that existed which enabled the performance of the controlled act as per the directive.

Exemptions

The RHPA (Section 29 (1)) is explicit in describing the circumstances in which an individual may perform a controlled act without authority or delegation. These situations are described as follows:

- while giving first aid or temporary assistance in an emergency (this should be well documented);
- while fulfilling the requirements to become a member of a health profession and the act is within the scope of practice of the profession and is done under the supervision or direction of a member of the profession;³
- while treating a person by prayer or spiritual means in accordance with the tenets of the religion of the person giving the treatment;
- while treating a member of the person's household if the act is controlled act 1, 5, or 6; or
- while assisting a person with his or her routine activities of living if the act is controlled act 5 or 6

Assignment

Assignment is the process of handing over the care of a patient/client (or specific tasks) to another health care worker (either regulated or non) that does not involve controlled acts. Members may assign tasks to non-regulated health professionals that are not controlled acts but are within the scope of kinesiology. Members must ensure that they have the patient's/client's informed consent before assigning a task. Members must also ensure that the assignee has the appropriate knowledge, skills and ability to perform the task. Members must also assess whether supervision or monitoring is required and available.

³ Because the practice of Kinesiology does not include any authorization for controlled acts, this exemption would not apply in the kinesiology context