

Guideline on the Controlled Acts and Delegation



College of Occupational Therapists of Ontario

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Introduction

The College receives numerous practice calls seeking guidance on how to manage delegation related to the controlled act structure within the *Regulated Health Professions Act* (RHPA), and on professional accountability when assigning occupational therapy service components to other health care providers. Though confusion on the differences between delegation and assigning have decreased with College guidance, careful consideration of therapist accountabilities in these circumstances is warranted.

This guideline speaks specifically to the concepts related to controlled acts and the opportunity for OTs to receive delegation, permitting performance of the act. Public protection is the key responsibility of the College. Considering risks of harm related to both controlled acts and all other activities in the public domain is critical to sound practice and individual accountability. The process of delegation deserves special attention; separate guidance on assigning is provided elsewhere.

The issue of delegation has received considerable discussion and dialogue at the policy level within the Ministry of Health and Long Term Care. To date no specific policy paper on this subject has been produced. Health Colleges have written varied documents to assist practitioners in their daily interpretations on this section of the RHPA, however broad consensus on the definition of delegation, the intricacies of the controlled acts, and the standards related to them, has not been reached. This guideline is an updated version of an earlier briefing note on the same topic. It has been enhanced by the College's learnings over the past few years directly related to occupational therapy practice and the public interest.

Controlled Acts

The controlled act framework, when introduced in 1993 in Ontario through the RHPA, revolutionized health professional regulation. Controlled acts are identified as those activities and procedures where risk of harm to the client is perceived to be significant. The concept of controlled acts authorized to designated professions is linked to the RHPA's central goal of protecting the public by restricting performance of potentially harmful or high-risk acts.

A list of the 13 controlled acts is found in section 27 (2) of the *Regulated Health Professions Act, 1991* (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.

Store at Tab #4 of your Resource Binder.

This Guideline replaces the December 1996 Briefing Note on Delegation, and the Assigning of Service Components, and the October 1997 Appendix 5 to the Briefing Note on Delegation, and the Assigning of Service Components.

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.

Who can perform a controlled act?

Controlled acts can only be performed by an individual authorized to do so under his/her profession-specific Act or where the controlled act has been delegated in accordance with regulations or processes set by the individual's respective College. No controlled acts have been authorized to occupational therapists. A table has been included for easy reference, listing the controlled acts authorized to each regulated profession (see Appendix 1).



Scope of Practice

Central to the discussion of delegation and assigning is the definition of the scope of practice for occupational therapists found in Bill 58 (*Occupational Therapy Act*). The Scope is detailed as follows:

The practice of occupational therapy is the assessment of function and adaptive behaviour and the treatment and prevention of disorders which affect function or adaptive behaviour to develop, maintain, rehabilitate or augment function or adaptive behaviour in the areas of self-care, productivity and leisure.

This definition is broad in its intent and encompasses activities not only related to assessment and intervention but to prevention as well. It is not restrictive and affords for the use of a range of modalities to assist with function or adaptive behaviour across client sectors. It does, however, provide a guiding light for the interpretation of activities that occupational therapists might safely and effectively perform within the context of delegation. College interpretation on scope of practice always considers entry level competencies, accepted entry-level education standards and continuing professional development.

Occupational Therapists' Performance of Controlled Acts

Occupational therapists may only perform a controlled act through delegation from a regulated health care provider authorized to perform the act. Many occupational therapists currently participate in the performance of several of the controlled acts. It is critical that such performance be based on scope of practice of occupational therapy and individual knowledge, skills and abilities (competency). Linked to this accountability is the College's concern for public safety and risk of harm.

Delegation Process

Delegation is a term that has been given specific meaning in the RHPA. It refers *only* to controlled acts and speaks to the transfer of authority from one practitioner to another to perform the controlled act.

Since occupational therapists have not been authorized to perform any controlled acts, occupational therapists cannot delegate an act. Occupational therapists are in a position to receive delegation of the controlled acts. These are listed in a subsequent section of this document.

A draft regulation outlining the accountabilities of an O.T. in receiving the authority to complete a delegated act has been approved by Council and is attached as Appendix 2. This draft regulation continues to await final approval by the Ministry of Health, however, it provides initial guidance for the profession.

A controlled act can be delegated on a single case basis (delegated each time it is needed) or on an ongoing basis. The controlled act can also be delegated to a specific occupational therapist or to a group of occupational therapists.

In receiving delegation, occupational therapists must be aware that there are actually two steps that can take place in a delegation:

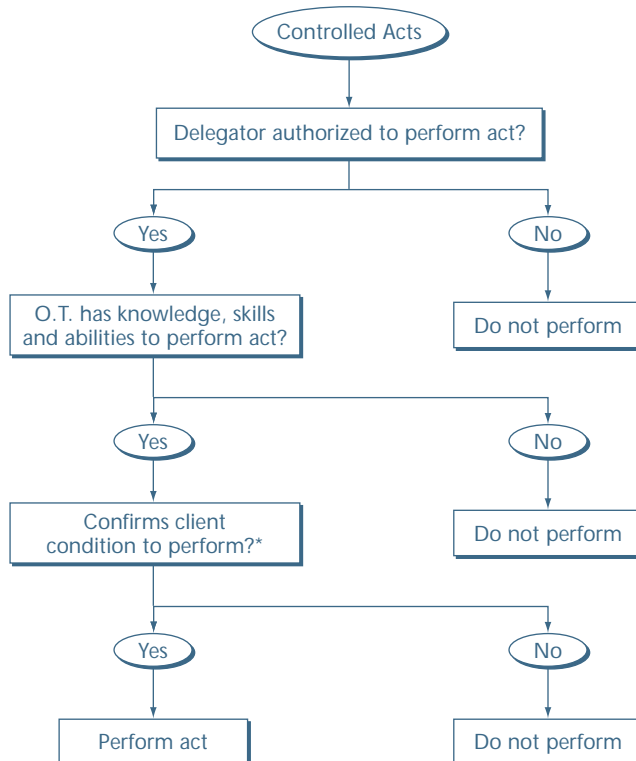
Step 1 the transfer of authority from the delegator to the delegatee to perform the controlled act; and

Step 2 an order or directive from the delegator stating any specific directions which must be followed in performing the act.

An example might be a physician (delegator) who delegates to the O.T. (delegatee) the controlled act of setting a fracture. In step 1 above, the physician will have considered any requirements placed on him/her by the College of Physicians and Surgeons; the O.T. would follow the College's draft regulation on Receiving Delegation (Appendix 2). Step 2 would be further detail about the act, if any, from the physician, specifying splinting materials, positioning of the affected part, follow up, etc. Step 1 must occur; step 2 may not be needed.

The OT is responsible for recording in the client's health record the receipt of the delegation and any specific activities related to this service provision.

RECEIVING DELEGATION



* See Appendix 2 for details.



Suggested Content of a Directive for Delegation of a Controlled Act

A directive is intended to provide guidance or parameters related to decision making when performing a controlled act. Thus each directive related to a controlled act needs to be context or situation specific.

Ideally, directives are jointly developed by the regulated health professional with the authority for the controlled act and the occupational therapist(s) to whom the act is being delegated.

A directive may contain:

1. a description of the controlled act being delegated;
2. specific client conditions and circumstances which must be met before the act can be implemented, including differentiating between acts that:
 - (a) require a client-specific directive/order (i.e., the directive can be implemented only on delegation of the act for a specified patient) or,
 - (b) may be implemented when the occupational therapist has identified that client conditions and circumstances have been met (i.e., the occupational therapist may perform the controlled act on all patients referred to the team, providing the therapist identifies that conditions set out in the directive are met);
3. any contraindications for implementing the controlled act;
4. identification of who may implement the controlled act, including specified educational requirements;
5. identification of a feedback mechanism to enable the occupational therapist(s) implementing the directive to identify the regulated health professional(s) authorized to delegate the act (i.e., names and profession) and who to contact to seek clarification if needed;
6. identification of resources available if the possible outcomes of treatment are not within the occupational therapist's competence or scope of practice;
7. identification of documentation required;
8. the date and signature of the administrative authority approving the directive; and
9. any additional information.

Acts that cannot be Delegated to an Occupational Therapist

With consideration of the factors related to the safe and effective performance of a controlled act, an occupational therapist *must not* accept delegation of any of the following controlled acts if he or she wishes to maintain the accepted standard of practice:

2. Particular components of #2 listed as performing a procedure on tissue 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.
4. Moving the joints of the spine beyond the individual's usual physiological range of motion using a fast, low amplitude thrust.
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.

Acts that can be Delegated to an Occupational Therapist

With consideration of individual competencies and accountability and the outlined process for receiving delegation, an occupational therapist may, depending on the circumstances, accept delegation of any of the following controlled acts:

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. Particular component of #2 listed as performing a procedure on tissue below the dermis.
3. Setting or casting a fracture of a bone or a dislocation of a joint.
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.

Controlled Act 1 – Communicating a Diagnosis

This particular controlled act has received great debate as to how the role and responsibilities of the occupational therapist should be interpreted in relation to the scope of this controlled act. A College position statement on this topic has been circulated to all registrants and is also available from the College office.

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:

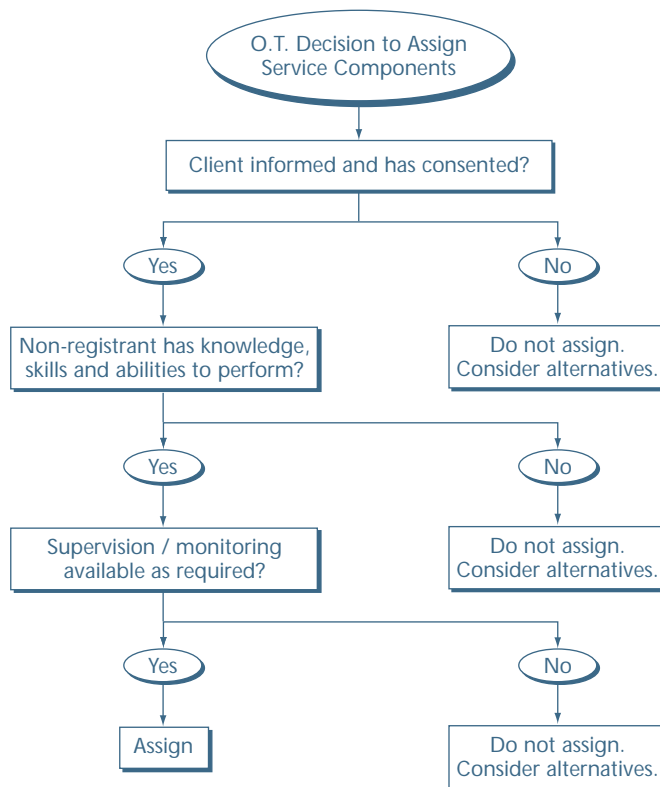
- while giving first aid or temporary assistance in an emergency;
- while fulfilling the requirements to become a registrant of a health profession and the act is within the scope of practice of the profession and is done under the supervision or direction of a registrant of the profession;
- while treating 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.

Process of Assigning

To assist with effective and efficient utilization of client services, occupational therapists are assigning components of occupational therapy service to other care providers. The practice of assigning, different than delegation, is defined as allocating responsibility for the delivery of particular aspects of practice, aspects which are not controlled acts as defined in the RHPA, to a non-registrant.

The practice guideline titled “Assigning of Service Components to Non-Registrants” has been circulated to all registrants. It is also available from the College office on request. This document should be referred to in considering the breadth of the occupational therapy service provision.

ASSIGNING SERVICE COMPONENTS





Clarifying Practice Scenarios

EXAMPLE 1

The O.T. has appropriately received delegation to splint an unhealed fracture of the client's left forearm.

The O.T. has a student. Can the student do the splinting?

College Response A student is not contravening the Act if he/she performs the controlled act under the supervision or direction of a member of the profession. It is advisable to clarify with the delegator that a student will be working with the O.T. Additionally, client consent must be considered.

EXAMPLE 2

An OT works on contract with a community agency. In cases where he is the primary care provider, the agency has requested he also deliver medication to the client and assist in helping her organize her dosette. Is this action controlled act #8?

College Response No, this is not the controlled act of dispensing. The medication has already been labelled and counted by an authorized provider. The OT is simply transporting the container and assisting the client in completing a functional activity.

EXAMPLE 3

An OT has taken osteopathic training which includes coursework in spinal manipulation. Can she perform this controlled act #4 which is prohibited by this guideline?

College Response In accordance with the College guideline the OT is not in a position to perform spinal manipulation, an intervention incorporated in controlled act # 4. An OT who feels that she would like to perform this intervention, may not do so while holding herself out as an OT. She may choose, however, to distinguish this practice from her OT services and set up a dual practice (see College position statement on dual practice).

EXAMPLE 4

An OT in a long-term care facility works with palliative clients. Often these individuals experience bone fractures which, though not repaired, are set in splints to assist with positioning and comfort. This is a controlled act, but it happens frequently. Does the OT really need a delegation request on each client?

College Response No, in this circumstance a client-specific delegation is not required. A physician may delegate to an OT a particular intervention with a specific client population, however, a directive is recommended. The detail provided in the directive assists the OT to ensure that any circumstance different from the expected criteria would receive separate consultation and decision-making.

Summary

Occupational therapists, in various areas of practice, are in a position to consider accepting delegation related to the College-identified list of controlled acts that are within accepted standards. An OT is accountable for his or her own actions and is responsible for demonstrating competency, seeking guidance, or refraining from practice beyond his/her competence or scope. This guideline seeks to provide specific advice to occupational therapists receiving delegation of controlled acts and provides information on expected considerations.

Registrants are accountable for the practice they provide to the public. Guidelines are issued by the College for the assistance of the professional. They represent guidance from the College on how members should practice. Guidelines are intended to support, not replace, the exercise of professional judgement by therapists in particular situations.

References

College of Occupational Therapists of Ontario, *Practice Guideline: Assigning of Service Components to Non-Registrants*. March 1996.

College of Occupational Therapists of Ontario, *Position Statement: On the Interpretation of the Controlled Act of Communicating a Diagnosis*. March 1996.

College of Occupational Therapists of Ontario, *Briefing Note on Delegation, and the Assigning of Service Components (including Appendices 1-4)*. March 1996

College of Occupational Therapists of Ontario, *Briefing Note on Delegation, and the Assigning of Service Components, Appendix 5*. October 1997.

College of Occupational Therapists of Ontario, *Promoting Quality Practice: Controlled Acts*. November 1997.

College of Occupational Therapists of Ontario, *DRAFT Scope of Practice Discussion Paper*. August 1999.

College of Respiratory Therapists of Ontario, *Professional Practice Guideline: Delegation of Controlled Acts*. May 1999.

College of Respiratory Therapists of Ontario, *Professional Practice Guideline: Interpretation of Authorized Acts*. May 1999.

Summary Chart of Controlled Acts as Identified in the Individual Professional Acts

HEALTH PROFESSIONS ACT CONTROLLED ACT	Audiology & Speech-Language Pathology	Chiropractic (Podiatry)	Chiropractic	Dental Hygiene	Dental Technology	Dentistry	Denturism	Denturism	Denturists	Massage Therapy	Medical Lab Tech	Medical Rad Tech	Medicine	Midwifery	Nursing	Occupational Therapy	Opticianry	Optometry	Pharmacy	Physiotherapy	Psychology	Respiratory Therapy	
1. Communicating a diagnosis		*	*	*		*					*	*	all	*	*			*			*		*
2. Procedure on tissue				*		*					*	*	*	*	*			*					*
3. Set or cast a fracture				*		*					*	*	*	*	*			*					*
4. Moving joints of the spine			all			all						all	all	all	all					all			all
5. Injection/inhalation						all						all	all	all	all								all
6. Insert instrument/hand/finger			*			all						*	all	all	all			*		*			*
7. Applying a form of energy						all							all	all	all			*					*
8. Prescribing or dispensing a drug			*			*							*	*	*			*		*			*
9. Prescribing or dispensing vision devices						*							*	*	*			*		*			*
10. Prescribing a hearing aid	all			*		all							all	all	all			*		*			*
11. Orthodontics				*		all							all	all	all			*		*			*
12. Manage labour													all	all	all			*		*			*
13. Allergy testing													all	all	all			*		*			*

Notes: * ALE – Indicates that the Authorized Acts are written as they read in the Controlled Acts section.
 * Indicates that the profession has a part of or modified version of the Controlled Act

Revised: December, 1996



Regulation made under the *Occupational Therapy Act, 1991*
Receiving Delegation (Draft)

	Explanation
<p>1. A registrant may perform an act or procedure listed in subsection 27(2) of the <i>Regulated Health Professions Act, 1991</i> that has been delegated to the member only if the registrant:</p> <p>1.1. ensures that the health professional delegating the act or procedure has the authority to perform the act.</p>	<p>1.1 It is in the best interest of the public to ensure that the occupational therapist only receives delegation of a controlled act from a practitioner who has the legal authority under the <i>Regulated Health Professions Act</i> to perform the controlled act.</p>
<p>1.2. ensures that she/he has the knowledge, skills and abilities to carry out the task safely, including the competence to manage all reasonably foreseeable outcomes of performing the act.</p> <p>1.3. confirms that the client's condition warrants the procedure, having given ongoing consideration to:</p> <p>i) the known risks and benefits to the client of performing the procedure,</p> <p>ii) the predictability of the outcome of performing the procedure,</p> <p>iii) the safeguards and resources available to safely manage the outcome of performing the procedure, and</p> <p>iv) other factors specific to the situation.</p>	<p>1.2/1.3 It is in the best interest of the public to ensure that the occupational therapist receiving delegation has the necessary knowledge, skills and abilities to assess the client's need for performance of the act and the client's condition for receiving the act prior to initiating the controlled act. As well the therapist has a responsibility to ensure a safe environment for the client and to anticipate and handle any occurrences which would indicate the need for cessation of performance of the controlled act.</p>
<p>2. The registrant receiving delegation must not subdelegate the controlled act to any other individual.</p>	<p>2. The Council believes that it is not in the public's best interest for the occupational therapist to subdelegate the task since the initial delegator would then not be able to ensure that the person completing the task has the necessary skills, knowledge and abilities to do so safely.</p>

Aussi disponible en français.