



NSG2113: Lecture 5

Regulated Health Professionals & Scope of Practice



Outline

1. *What is a profession?*
2. *Regulated Health Professionals Act, 1991*
3. *Nursing Act, 1991*

Why is Legislation Important?



<http://www.cno.org/en/become-a-nurse/about-registration/entry-to-practice-examinations/jurisprudence-examination/>

<http://www.cno.org/en/become-a-nurse/about-registration/entry-to-practice-examinations/jurisprudence-examination/competencies/self-regulation/>



What is a Profession?

What is a profession?

- Specialized knowledge and skill
 - Specific body of knowledge and complex skills
- Autonomy
 - Self-regulation 
- Service orientation
 - Deal directly with clients
- Responsibility
 - Help clients make informed decisions 
- Recognition
 - Recognized by public as 'professionals'




Regulating Health Professionals

RHPA, 1991

http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_91r18_e.htm




Regulated Health Professionals Act (RHPA)

- Designates sub-laws which define RHPs in Ontario
- Identifies controlled acts
 - There are 14 
- Identifies who has access to controlled acts
 - Via the sub-laws noted in bullet 1



Who has access? (RHPA, 1991)

S27(1): No person shall perform a controlled act set out in subsection (2) in the course of provided health care services to an individual unless,

- a) the person is a member authorized by a health professional Act to perform the controlled act; or 
- b) the performance of the controlled act has been delegated to the person by a member described in clause (a).



- S.28(1) permits delegation of controlled acts
 - Must occur in accordance with the Act(s) governing the members' professions


Health Professional Regulation

- Unregulated care providers
 - Friends
 - Family
 - PSWs
 - Paramedics

HCPs in Ontario (n=23)

- Audiologists & Speech-Language Pathologists (regulates two professions);
- Chiropodists (also regulates Podiatrists);
- Chiropractors
- Dental Hygienists
- Dental Surgeons
- Dental Technologists
- Denturists
- Dieticians
- Medical Radiation Technologists
- Medical Laboratory Technologists
- Massage Therapists
- Midwives
- Nurses
- Optometrists
- Occupational Therapists
- Opticians
- Pharmacists
- Physicians and Surgeons
- Physiotherapists
- Psychologists
- Respiratory Therapists




RHPA, 1991 & Scope of practice

- Scope of practice used to be determined by a list of procedures
 - E.g., infections
 - Wound cleaning
 - *Et cetera*
- The list of procedures has become too big 
- Scope of practice is now determined by a list of controlled acts

Controlled Acts

- The *RHPA* stipulates that different RCPs can execute different functions
 - These functions are the controlled acts
- There are 14 controlled acts
 - No profession can undertake all 14 (MDs = 13/14)

Controlled Acts (RHPA, 1991, S27(2))

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. 

Controlled Acts (RHPA, 1991, S27(2))

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 narrow;
 - iii) beyond the larynx;
 - iv) beyond the opening of the urethra;
 - v) beyond the labia majora;
 - vi) beyond the anal verge, or an artificial opening in the body.
7. Applying or ordering the application of a form of energy prescribed by the regulations under this Act.



Controlled Acts (RHPA, 1991, S27(2))

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.





Controlled Acts (RHPA, 1991, S27(2))

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.
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.



Exceptions (RHPA, 1991, S28(1))

An act by a person is not a contravention of subsection 27(1) if it is done in the course of,

- a) rendering first aid or temporary assistance in an emergency; 
- b) 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; 
- 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 and the act is a controlled act set out in paragraph 1, 5, or 6 of subsection 27(2); or 
- e) assisting a person with his or her routine activities of living and the act is a controlled act set out in paragraph 1, 5, or 6 or subsection 27(2). 

The Good Samaritan Act, 2001

- S1: “Health care professional” means a member of a College of a health profession set out in Schedule 1 to the *RHPA, 1991*.
- S2(1): Despite the rules of common law, a person described in subsection (2) who voluntarily and **without reasonable expectation of compensation or reward** provides the services described in that subsection is not liable for damages that result from the person’s negligence in acting or failing to act while providing the services, unless it is established that the damages were caused by the **gross negligence of the person**.
- S2(2): Subsection (1) applies to,
- (a) **a HCP who provides emergency health care services or first aid** to a person who is ill, injured, or unconscious as a result of an accident or other emergency, **if the HCP does not provide the services or assistance at a hospital or other place** having appropriate health care facilities and equipment for that purpose; and
 - (b) an individual, other than an HCP described in clause (a), who provides emergency first aid assistance to a person who is ill, injured, or unconscious as a result of an accident or other emergency, if the individual provides the assistance at the immediate scene of the accident or emergency.



Who can Diagnose?

1. Medicine
2. Chiropractic
3. Optometry
4. Dentistry
5. Psychology

RHPA, 1991, S.33(1): Except as allowed in the regulations under this Act, no person shall use the title “doctor”, a variation or abbreviation or an equivalent in another language in the course of providing or offering to provide, in Ontario, health care to individuals.

2. *The Nursing Act, 1991*



Nursing Act, 1991



http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_91n32_e.htm

Why review legislation?

http://www.cno.org/Global/docs/policy/41052_RHPAscope.pdf





Scope of Practice (Nursing Act, 1991, S3)

Profession: “A profession must acquire a statutory basis in the law of the country. ... For the profession to exist as a recognizable group it is mandatory that the public grant to the professional body, by legislative statute, more or less tangible **monopolies**, along with **self-governing privileges**.”

S.3: The practice of nursing is the promotion of health and the assessment of, the provision of care for and the treatment of health conditions by supportive, preventive, therapeutic, palliative, and rehabilitative means in order to attain or maintain optimal function.

Classes of Nurses (Nursing Act, 1991, Reg.275/94)

S. 1(1):

- General 
- Temporary 
- Special assignment 
 - Expedited registration of an RN from another jurisdiction
- Extended
- Retired 
 - Cannot practice

S.1(2)

- “A registered nurse may not hold more than one class of certificate of registration as a registered nurse at one time.”

Registration Requirements (Nursing Act, 1991, Reg.275/94)



Professions: “‘Scholarship’, although changed in curricular content and narrowed by the avid demands of specialization toward technical material, is still observed by required attendance at a university prior to formal professional training.”

S.6(1): The applicant,

- i. “must have received a baccalaureate degree in nursing granted by a university in Ontario whose program was, at the time the applicant graduated, approved by a body or bodies designated by the Council”

S.6(2): The applicant,

- i. “that he or she graduated from a program described in subparagraph 1 in the past 5 years”

S.6(3):

- “The applicant must have passed the examination for registration as a nurse set by or administered by the College or an examination approved as equivalent.”

The Evidence: Why a BScN as the Entry to Practice?

- Question
 - Do hospitals with more BScN nurses have better patient outcomes?
- Results
 - Surgical patients had a “substantial survival advantage over those treated in hospitals in which fewer staff nurses had BSN or higher degrees”
 - Findings valid for patients with both routine experiences and with serious complications
 - “For each 10% increase in the proportion of RNs in a hospital holding a BSN or higher degree, the risk of death or failure to rescue decreased by 5%”
 - “Mean years of experience did not [] predict mortality or failure to rescue”

Other Registration Requirements

(Nursing Act, 1991, Reg.275/94)

Profession: “There is still [] the implication of standards of acceptable morality and character expected from members of a profession.”

Klass AA. What is a profession? CMAJ 1961, 85:698-701.

S.5(1):

1. “The applicant must not have been found guilty of a **criminal offence or an offence under the *Controlled Drugs & Substances Act* or the *Food & Drugs Act*”**
2. “The applicant must not have been **subject of a finding of professional misconduct, incompetence or incapacity, whether in Ontario or other jurisdiction and whether in relation** to the nursing profession or another health profession”
3. “The applicant must not currently be the subject of proceedings for professional misconduct , incompetence or incapacity, whether in Ontario or other jurisdiction and whether in relation to the nursing profession or another health profession”
4. “The applicant must not suffer from a **physical or mental condition or disorder that makes it desirable in the public interest that he or she not practise nursing**”.



S.5(2)

- “An applicant or member shall be deemed not to have satisfied the requires for a certificate of registration of an class if the applicant or member knowingly made a false or misleading statement or representation in his or her application”.



Restricted Titles (Nursing Act, 1991)

S.11(1): No person other than a member shall use the title “nurse”, “nurse practitioner” or “graduate nurse”, a variation or abbreviation or an equivalent in another language.



S.11(3): No person shall use the title “nursing assistant” or a variation or abbreviation of it.

S.11(4): No person shall use the title “nurse anaesthetist”, a variation or abbreviation or an equivalent in another language.


S.11(5): No person other than a member shall hold himself or herself out as a person who is qualified to practise in Ontario as a nurse, registered nurse, practical nurse or nurse practitioner or in a speciality of nursing.

Offence: (S13): ≥ \$25,000 on first offence; ≥ \$50,000 for subsequent offences.

Authorized Controlled Acts (Nursing Act, 1991)

S.5(1): “A member shall not perform a procedure under the authority of section 4 unless,”

a. “the performance of the procedure by the member is permitted by the regulations and the member performs the procedure in accordance with the regulations; or”

 b. “the procedure is ordered by a person who is authorized to do the procedure by Section 5.1 of this Act or by the *Chiropdy Act, 1991*, *Dentistry Act, 1991*, *Medicine Act, 1991*, or *Midwifery Act, 1991*.”

- (a) Independent authorization
- (b) Delegation

Authorized Acts: S. 5.1(a) (Nursing Act, 1991, S4)

1. Performing a procedure on tissue below the dermis, below the surface of a mucous membrane. (N.B., modifications)



2. Administering a substance by injection or inhalation.

3. Putting an instrument, hand or finger,
 - i) beyond the external ear canal;
 - ii) beyond the point in the nasal passages where they narrow;
 - iii) beyond the larynx;
 - iv) beyond the opening of the urethra;
 - v) beyond the labia majora;
 - vi) beyond the anal verge, or an artificial opening in the body.



Authorized Acts: S. 5.1(a) (Nursing Act, 1991, S4)

4. 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.

5. Dispensing a drug.

▪ Differentiate between:

▪ Compounding



▪ Prescribing

▪ Dispensing



▪ Administering



Authorized Acts: Dispensing (Nursing Act, 1991, S4)

S.18(1): “A member may only dispense a drug if the following conditions are met:”

1. “The member must have an RN-patient relationship with the patient for whom the drug is dispensed.”
2. “The member must not dispense a drug pursuant to a prescription issued by any other person.”
3. “The member must provide the drug directly to the patient or the patient’s representative.”
4. “The member must dispense the drug for therapeutic purposes only.”




Authorized Acts: Dispensing (Nursing Act, 1991, S4)

5. “The member must have made reasonable inquires and be satisfied that,
 - i. The patient does not have reasonable or timely access to a pharmacy,
 - ii. The patient would not otherwise receive the drug,
 - iii. The patient does not have the financial resources to obtain the drug if it is not dispensed by the member,
 - iv. The drug is being dispensed for a patient in conjunction with a health promotion initiative, for
 - v. Dispensing the drug is necessary to test the patient’s response to the drug.”




6. “The member must dispense a reasonable quantity of the drug having regard to the information provided by the patient in response to the inquiries under paragraph 5.”

Authorized Acts: Dispensing (Nursing Act, 1991, S4)

7. “The member must have reasonable grounds to believe that the drug has been obtained and stored in accordance with any applicable legislation.” 

8. “The member must be satisfied that the drug has not expired and will not expire before the date on which the patient is expected to take the last of the drug.”

Authorized Acts: Dispensing (Nursing Act, 1991, S4)


9. “The member must ensure that the container in which the drug is dispensed is marked with,
 - i. An **identification number**, if applicable,
 - ii. The member’s name and title, 
 - iii. The name, address, and telephone number of the place from which the drug is dispensed, 
 - iv. The identification of the drug as to its name, strength (where applicable) and, if available, its manufacturer,
 - v. The **quantity** of the drug dispensed, 
 - vi. The date the drug is dispensed,
 - vii. The expiry date of the drug, if applicable,
 - viii. The **name of the patient for whom** the drug is dispensed, and
 - ix. The directions for use.”

Authorized Acts: Dispensing (Nursing Act, 1991, S4)

10. “The member must retain a copy of the information set out under paragraph 9 on the container in which the drug was dispensed in the patient’s health record, along with the information provided by the patient in response to the inquires under paragraph 5.”

Authorized Acts (Nursing Act, 1991, Reg 275/94)

S.15(4): The following are the procedures referred to in [Section 4,] subsections (1), (2), (3) of the *Nursing Act, 1991*.

1. “With respect to the care of a wound below the dermis or below a mucous membrane, any of the following procedures:
 - i. Cleansing
 - ii. Soaking
 - iii. Irrigating
 - iv. Probing 
 - v. Debriding
 - vi. Packing
 - vii. Dressing

Authorized Acts (Nursing Act, 1991, Reg 275/94)

2. “Venipuncture to establish peripheral intravenous access and maintain patency, using a solution of normal saline (0.9 per cent), in circumstances in which
 - i. The individual requires medical attention, and
 - ii. Delaying venipuncture is likely to be harmful to the individual”

3. “A procedure that, for the purpose of assisting an individual with health management activities, requires putting an instrument,
 - i. Beyond the point in the individuals’ nasal passages where they normally narrow
 - ii. Beyond the individual’s larynx, or
 - iii. Beyond the opening of the individual’s urethra.”

Authorized Acts *(Nursing Act, 1991, Reg 275/94)*

4. “A procedure that, for the purpose of assessing an individual or assisting an individual with health management activities, requires putting an instrument or finger,
 - i. Beyond the individual’s anal verge, or
 - ii. Into an artificial opening into the individual’s body.”

5. “A procedure that, for the purpose of assessing an individual or assisting an individual with health management activities, requires putting an instrument, hand or finger beyond the individual’s labia majora.”


Authorized Acts: Summary

- This is S.5(1)a of the *Nursing Act, 1991*
 - Care of wound below the dermis or membrane
 - Venipuncture to establish peripheral intravenous access and maintain patency
 - Put an instrument into a natural body opening for
 - Assistance with health management activities
 - Assessment
 - This cannot be done for treatment



Controlled Acts: Communicating Findings

- Nurses **CANNOT diagnose** or communicate diagnoses
 - Controlled act 1 (*RHPA, 1991*)
 - “identify 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/her personal representative will rely on the diagnosis”

- Nurses **CAN:**
 1. “discuss a client’s diagnosis with him/her, **after the client has received the diagnosis** from practitioners who are authorized to communicate them.”
 2. Communicate test results 
 3. Communicate health conditions
 - **Provided that these are neither diseases nor disorders (e.g., pregnancy)**
 4. Communicate the findings of health assessments

Initiating Authorized Acts: S. 5.1(a) (Nursing Act, 1991, Reg 275/94)

- To perform a controlled act, the following conditions must be true [S.15(5)]:
 1. “The RN has the **knowledge, skill and judgment** to perform the procedure safely, effectively and ethically.”
 2. “The RN has the knowledge, skill and judgment to determine whether the individual’s condition warrants performance of the procedure.”
 3. “The RN determines that the **individual’s condition warrants performance of the procedure**, having considered,
 - i. The known risks and benefits to the individual of performing the procedure,
 - ii. The safeguards and resources available in the circumstances to safely manage the outcome of performing the procedure, and
 - iii. Other relevant factors specific to the situation.”
 4. “The RN accepts accountability for determining that the individual’s condition warrants performance of the procedure.”



Initiating Acts: Summary (Nursing Act, 1991)

- To initiate controlled acts nurses must possess:
 - Knowledge
 - Skill
 - Judgement

- This knowledge, skill, judgement must be sufficient to:
 - Perform the procedure properly and safely
 - Determine if the procedure is warranted
 - Accept accountability for the outcomes of the procedure

Controlled Acts & Delegation: S.5.1(b)

- Delegation

- When one HCP grants authority to another to perform a controlled act
- Sub-delegation is prohibited
- Nurses can delegate and be delegated to







S.5.1: “A member shall not perform a procedure ... unless,”

- b. “the procedure is ordered by a person who is authorized to do the procedure by Section 5.1 of this Act or by the *Chiropdy Act, 1991, Dentistry Act, 1991, Medicine Act, 1991, or Midwifery Act, 1991.*”

S. 28(1):




- “The delegation of a controlled act ... must be in accordance with any applicable regulations under the health profession Act governing the member.”

Controlled Acts & Delegation: S.5.1(b)

- Acts delegated to RNs
 - Communication of diagnoses 
 - Diagnosis 
 - Prescription 
 - Independent **initiation of medication administration** 
 - Medication sale
 - Ordering forms of energy
 - Ordering tests




Methods of Delegation: Directives

“An order is a prescription for a procedure, treatment, drug or intervention”

- Direct order 
 - Specified by:
 - Person (both patient and practitioner who prescribes)
 - Place
 - Person
 - Intervention
 - May be written or oral 
- Directive
 - Is parameter specific 
 - Must be written
- “Standing order”: term “not supported” by the CNO”

When are Directives Required?



- When procedure is a controlled act not authorized to nursing
- When initiation of nursing-authorized controlled acts is limited 
 - “Every order for treatment or for a diagnostic procedure of a patient shall, except as provided in subsection 2, be in writing and shall be dated and authenticated by the MD, dentist, midwife, RN(EC) class giving the order.”
(Public Hospitals Act, 1990, Reg.965)
- When a procedure is not a controlled act, but is in the plan of medical care
 - E.g., referral, OTC medications 
- When a procedure is not a controlled act, but is listed in other legislation
 - E.g., ordering tests (next page) 

Ordering Tests (Lab & Specimen Collection Centre Licensing Act, 1990, Reg.682)

S.2: The Act covers the following tests:




- Bacteriology, virology, mycology, parasitology, immunology, hematology, biochemistry, cytology, histology, and others
- E.g., glucose, urinalysis, HBV, cervicovaginal specimens, rapid strep, pregnancy, HIV, VDRL, smear (gram or papanicolaou)



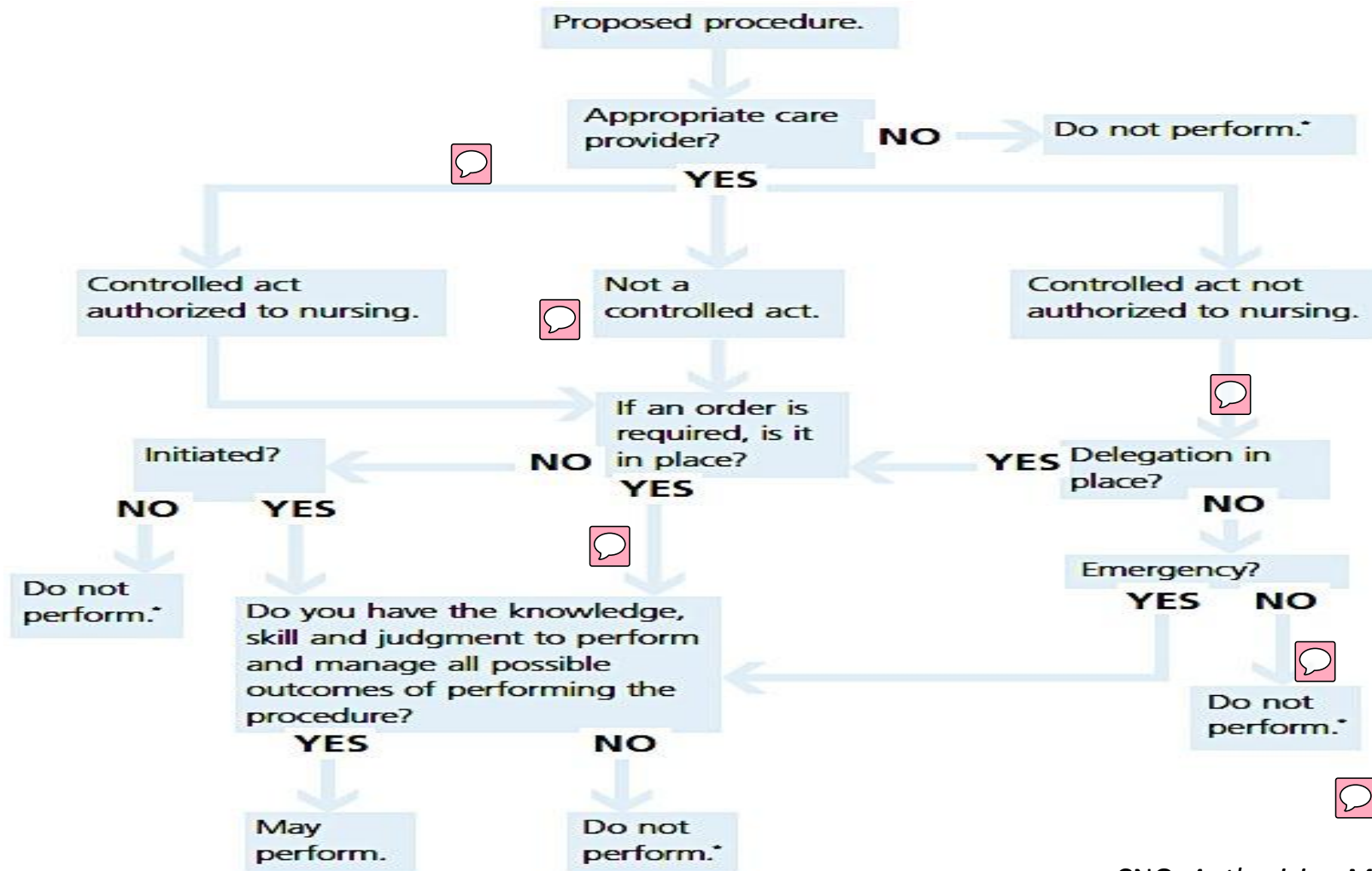
S. 9(1): The owner and the operator of a lab shall ensure that the lab staff,

- a. Examine specimens from humans only,
 - i. At the request of a legally qualified **medical practitioner or dentist,**
 - ii. At the request of a **midwife,** in respect to a test specified in **Appendix B,**
 - ...
 - v. at the request of an **RN(EC)** under the *Nursing Act, 1991*

Directives: Required Parameters

- Name and description of intervention 
- Patient conditions and situational circumstances that must be met 
- Identification of contraindications to intervention
- The name and signature of the individual authorizing the directive 
- Date and signature of administrative authority approving directive

Scope of Practice Algorithm



Authorized Acts for NPs (Nursing Act, 1991, S5.1)

1. Communicating to the individual or his/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 scaling teeth.**
3. Putting an instrument, hand or finger,
 - i) beyond the external ear canal;
 - ii) beyond the point in the nasal passages where they narrow;
 - iii) beyond the larynx;
 - iv) beyond the opening of the urethra;
 - v) beyond the labia majora;
 - vi) beyond the anal verge, or an artificial opening in the body.

Authorized Acts for NPs (Nursing Act, 1991, S5.1)

4. Applying or ordering the application of a form of energy prescribed by the regulations under this Act.
5. Setting or casting a fracture of a bone or a dislocation of a joint.
- 6/7. Administering a substance by injection or inhalation with the regulations / as provided for in subsection (2).
8. Prescribing, dispensing, selling or compounding a drug as defined in subsection 117 (1) of the Drug and Pharmacies Regulation Act.
9. 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.



How is access to controlled acts granted?

- Public support
- Political advocacy

With today's healthcare,
is an apple a day your safest bet?



Patient safety is of vital importance to every healthcare professional. A critical component to patient safety is proper diagnosis. Doctors, and doctors alone, have years of education in both diagnosis and treatment. It's complex. That is why it takes years of study to learn.

Certainly, changes to our healthcare system are necessary to improve access for everyone in Ontario. Yet some changes raise questions. Nurse Practitioners provide a valuable service. But shouldn't their diagnosis and treatments be regularly reviewed by a physician? Allowing pharmacists to prescribe certain medications may seem convenient, but do they have the training

in diagnosis and examination to do this properly? By both prescribing and selling medications, isn't there a risk of conflict of interest and a potential risk to patient safety? Wouldn't you be more comfortable with a doctor overseeing your care?

When making changes to healthcare, would it not be prudent for the government to consult and listen to the most educated frontline healthcare providers: doctors? We think so. And we think you do, too. Ask a doctor what you can do to help ensure that increasing access to your healthcare does not compromise your safety.

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Patient

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