

GOVERNMENT ORGANIZATION ACT
Chapter G-10

Schedule 7.1
Health Services Restricted Activities

Definitions

1 In this Schedule,

(a) "activity of daily living" means an activity that individuals normally perform on their own behalf to maintain their health and well-being, and includes

(i) routine and invasive self-care activities, including but not restricted to the removal of slivers and the cleaning of wounds, and

(ii) specifically taught procedures, which generally result in predictable and stable responses, including but not restricted to catheterization, maintenance of drainage tubes and administration of drugs by injection;

(a.1) "administration of a drug" means the supplying of a dose of a drug to a person for the purpose of immediate ingestion, application, inhalation, insertion, instillation or injection;

(b) "compound" means to mix together 2 or more ingredients of which at least one is a drug for the purposes of dispensing a drug or drugs, but does not include reconstituting a drug or drugs with only water;

(c) "dispense" means

(i) with respect to drugs, to provide a drug pursuant to a prescription for a person, but does not include the administration of a drug to a person;

(ii) with respect to corrective lenses, to verify corrective lenses objectively to the prescription;

(d) "drug" means drug as defined in the *Pharmacy and Drug Act*;

(e) "health service" means a service provided to people

(i) to protect, promote or maintain their health,

(ii) to prevent illness,

(iii) to diagnose, treat or rehabilitate them, or

(iv) to take care of the health needs of the ill, disabled, injured or dying;

(f) "Minister" means the Minister responsible for the *Health Professions Act*;

(g) "restricted activity" means an activity named as a restricted activity in section 2;

(h) "sell" includes

(i) distribute, trade or barter for money or other valuable consideration,

(ii) distributing and giving away without expectation or hope of compensation or reward,

(iii) keeping for sale, and

(iv) offering for sale;

(i) "surrogate" means a person authorized by an individual or by the individual's guardian, if the guardian is authorized to give such authorization, to assist the individual in carrying on an activity of daily living.

Restricted activities

2(1) The following, carried out in relation to or as part of providing a health service, are restricted activities:

(a) to cut a body tissue, to administer anything by an invasive procedure on body tissue or to perform surgical or other invasive procedures on body tissue

(i) below the dermis or the mucous membrane or in or below the surface of the cornea;

(ii) in or below the surface of teeth, including scaling of teeth;

(b) to insert or remove instruments, devices, fingers or hands

(i) beyond the cartilaginous portion of the ear canal,

(ii) beyond the point in the nasal passages where they normally narrow,

(iii) beyond the pharynx,

(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;

(b.1) to insert into the ear canal

- (i) under pressure, liquid, air or gas;
- (ii) a substance that subsequently solidifies;
- (c) to set or reset a fracture of a bone;
- (d) to reduce a dislocation of a joint except for a partial dislocation of the joints of the fingers and toes;
- (e) to use a deliberate, brief, fast thrust to move the joints of the spine beyond the normal range but within the anatomical range of motion, which generally results in an audible click or pop;
- (f) to prescribe a Schedule 1 drug within the meaning of the *Pharmacy and Drug Act*;
- (g) to dispense, compound, provide for selling or sell a Schedule 1 drug or Schedule 2 drug within the meaning of the *Pharmacy and Drug Act*;
- (h) to administer a vaccine or parenteral nutrition;
- (i) to prescribe, compound or administer blood or blood products;
- (j) to prescribe or administer diagnostic imaging contrast agents;
- (k) to prescribe or administer anesthetic gases, including nitrous oxide, for the purposes of anesthesia or sedation;
- (l) to prescribe or administer radiopharmaceuticals, radiolabelled substances, radioactive gases or radioaerosols;
- (m) to order or apply any form of ionizing radiation in
 - (i) medical radiography,
 - (ii) nuclear medicine, or
 - (iii) radiation therapy;
- (n) to order or apply non-ionizing radiation in
 - (i) lithotripsy,
 - (ii) magnetic resonance imaging, or
 - (iii) ultrasound imaging, including any application of ultrasound to a fetus;
- (o) to prescribe or fit
 - (i) an orthodontic or periodontal appliance,

- (ii) a fixed or removable partial or complete denture, or
- (iii) an implant supported prosthesis;
- (p) to perform a psychosocial intervention with an expectation of treating a substantial disorder of thought, mood, perception, orientation or memory that grossly impairs
 - (i) judgment,
 - (ii) behaviour,
 - (iii) capacity to recognize reality, or
 - (iv) ability to meet the ordinary demands of life;
- (q) to manage labour or deliver a baby;
- (r) to prescribe or dispense corrective lenses.

(2) Despite subsection (1), the following are not restricted activities:

- (a) activities of daily living, whether performed by the individual or by a surrogate on the individual's behalf,
- (b) giving information and providing advice with the intent of enhancing personal development, providing emotional support or promoting spiritual growth of individuals, couples, families and groups, and
- (c) drawing venous blood.

Regulations

3 On consulting with the Health Professions Advisory Board under the *Health Professions Act*, the Minister may make regulations authorizing a person or a category of persons other than a regulated member or category of regulated members under the *Health Professions Act*, to perform one or more restricted activities subject to any conditions included in the regulations.

Public health emergency

3.1 For the purposes of preventing, combating or alleviating a public health emergency as defined in the *Public Health Act*, the Minister may by order authorize a person or category of persons to perform one or more restricted activities subject to any terms or conditions the Minister may prescribe.

Offence

4(1) No person shall perform a restricted activity or a portion of it on or for another person unless

(a) the person performing it

(i) is a regulated member as defined in the *Health Professions Act*, and is authorized to perform it by the regulations under the *Health Professions Act*,

(ii) is authorized to perform it by a regulation under section 3,

(ii.1) is authorized to perform it by an order under section 3.1, or

(iii) is authorized to perform it by another enactment,

or

(b) the person performing it

(i) has the consent of, and is being supervised by, a regulated member described in clause (a)(i), and

(ii) is permitted to perform the restricted activity under a regulation made under section 131(1)(d)(i) of the *Health Professions Act* by the council of the college of the regulated member referred to in subclause (i),

and there are regulations made under section 131(1)(d)(ii) of the *Health Professions Act* by the council of the college of that regulated member respecting how regulated members must supervise persons who provide restricted activities under this clause.

(2) Despite subsection (1), if no person who is authorized under subsection (1) is available to perform the restricted activity or a portion of it, a person may without expectation or hope of compensation or reward provide a restricted activity or a portion of it to provide physical comfort to or to stabilize another person who is ill, injured or unconscious as a result of an accident or other emergency.

(3) No person, other than a person authorized to perform a restricted activity under subsection (1)(a), shall or shall purport to consent to, provide supervision of and control of, another person performing the restricted activity or a portion of a restricted activity.

(4) No person shall require another person to perform a restricted activity or a portion of a restricted activity if that other person is not authorized in accordance with subsection (1) to perform it.

Penalty

5(1) A person who contravenes section 4 is guilty of an offence and liable

- (a) for a first offence, to a fine of not more than \$5000,
- (b) for a 2nd offence, to a fine of not more than \$10 000, and
- (c) for a 3rd and every subsequent offence, to a fine of not more than \$25 000 or to imprisonment for a term of not more than 6 months or to both fine and imprisonment.

(2) A prosecution for an offence under this Schedule may not be commenced more than 2 years after the date on which the alleged offence occurs.

Burden of proof

6 In a prosecution under this Schedule, the burden of proving that a person was authorized to perform a restricted activity by section 4(1) is on the accused.

Injunction

7 The Court of Queen's Bench, on application by a person authorized by the Minister by way of originating notice, may grant an injunction enjoining any person from doing any act that contravenes section 4 despite any penalty that may be provided by section 5 in respect of that contravention.

RSA 2000 cH-7 s137; RSA 2000 cP-13 s47; 2001 c21 s25;
2005 c13 s2; 2006 c19 s1; 2007 c23 s3