Recent amendments to the controlled act of psychotherapy for nursing

February 28, 2020

In December 2017, psychotherapy was proclaimed a controlled act under Ontario's *Regulated Health Professions Act, 1991* (RHPA). Controlled acts are activities that are considered potentially harmful to patients if performed by unqualified individuals. Health profession Acts, such as the *Nursing Act* or *Medicine Act, 1991*, and other legislative mechanisms, identify which individuals are authorized to perform each of the controlled acts listed in the RHPA. The RHPA contains a number of exceptions that permit individuals who are not members of a regulated health profession to perform controlled acts under specific circumstances, as set out in section 29(1). These exceptions include, for example, performing controlled acts in an emergency.

The Ontario legislature's proclamation of psychotherapy as a controlled act was implemented along with a two-year transition period. During this time, individuals performing psychotherapy as set out in section 27(2) of the RHPA could register with one of the regulatory colleges authorized to perform psychotherapy in order to continue to perform this act after December 31, 2019, in accordance with their professional regulations.

Amendments to O. Reg. 275/94 (General) under the *Nursing Act* were proposed prior to the end of the two-year transition period and took effect on January 1, 2020. These recent amendments enable registered nurses to continue to initiate the controlled act of psychotherapy if they meet the conditions of the regulation, without an order by a physician or nurse practitioner. The amendments also authorize registered practical nurses to initiate the controlled act of psychotherapy. Delegation of this controlled act by registered nurses and registered practical nurses remains unauthorized.

To perform the controlled act of psychotherapy independently, a nurse must be satisfied that:

a. he/she has the requisite knowledge, skill and judgment to perform the procedure safely, effectively and ethically;
b. he/she has the knowledge, skill and judgment to determine whether the patient's condition warrants performance of the procedure and in that case has determined that the patient's condition warrants such performance of the procedure; and

c. he/she accepts accountability for determining whether the patient's condition warrants performance of the procedure.

These requirements are described more fully in subsection 15(5) and 15.1(3) of O. Reg. 275/95 (General) to the *Nursing Act*.

From a practical perspective, a nurse's authority to independently initiate the controlled act of psychotherapy remains subject to the organizational policies that are in place in the nurse's practice setting, which may further restrict or dictate the manner in which a nurse can initiate the controlled act. In addition, legislative requirements in the *Public Hospitals Act* and its regulations may make it such that nurses working in a public hospital may continue to require an order from a physician or nurse practitioner to perform the controlled act of psychotherapy, when such constitutes treatment.

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