

RWBH

Working with Unregulated Care Providers

Unregulated Care Providers

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Unregulated Care Providers

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What is an Unregulated Care Provider?

- An Unregulated Care Provider (“UCP”) refers to someone who is not regulated under the *Regulated Health Professions Act* but who may provide health or other care to clients and patients
- Includes employees, but may also include others (e.g. family members who provide care)
- Not regulated = not accountable to an external professional body

Examples of UCPs

- Personal Support Workers
- Physician Assistants
- Family/Health-Care/Home/Home Support/Long-Term Care/Nurse/Patient Care/Personal **Aide**
- Client care/Hospital/Nursing/Personal Care **Attendant**

Examples of Nursing Duties Performed by UCPs

- Providing personal hygiene and support services including assisting with ADLs
- Assisting with body mechanics (e.g. lifting, turning, etc.)
- Supervising patients' exercise routines
- Performing technical tasks such as taking vital signs, collecting specimens, administering medications
- Counseling
- Health promotion activities

Source: Canadian Nurse Association, “Unregulated Health Workers: A Canadian and Global Perspective”, December, 2005.

CNO Practice Guideline – Working with UCPs

- “A nurse cannot assume that a UCP is competent to perform any procedure, regardless of how straightforward the procedure appears.”

CNO Practice Guideline – Working with UCPs

- “Although a UCP may have the authority to perform a procedure through an exception, delegation or because the procedure is not a controlled act, that does not mean that the UCP is competent to perform the procedure or that it is appropriate for the UCP to perform it. The nurse must determine appropriateness in each client situation, and then ensure that measures are in place to promote the UCP’s continuing competence.”

CNO Practice Guideline – Working with UCPs

- Expectations for nurses who work with UCPs:
- A nurse who teaches, assigns duties to or supervises UCPs must:
 - Know the UCP is competent to **perform** the particular procedure or activity safely for the client in the given circumstances.
 - When **teaching** a UCP, a nurse is expected to have first-hand knowledge of the UCP's competence.
 - A nurse who **assigns or supervises** is expected to verify that the UCP's competence has been determined.

CNO Practice Guideline – Working with UCPs

- Expectations for nurses who work with UCPs, continued:
 - Ensure that the UCP:
 - Understands the extent of her or his responsibilities in performing the procedure(s)
 - Knows when and who to ask for assistance, and
 - Knows when, how and to whom to report the outcome of the procedure.

CNO Practice Guideline – Working with UCPs

- Expectations for nurses who work with UCPs, continued:
 - Ensure that there is an ongoing assessment of the client's health care needs, develop a plan of care, evaluate the client's condition and judge the ongoing effectiveness of the UCP's interventions.

CNO Practice Guideline – Working with UCPs

- When determining appropriate task for UCP, nurses (and employers) should assess:
 - The client's situation and condition
 - The activity and the associated risk
 - The environmental supports

CNO Practice Guideline – Working with UCPs

- A UCP does *not* have authority to perform a controlled act *unless*:
 - It falls into an **exception** under the RHPA
 - Treating a member of the household
 - Assisting with an activity of daily living (established over time, predictable)
 - “Rendering first aid or temporary assistance in an emergency” (RHPA, s. 29(1)(a))
 - When someone who has the authority to order or perform a controlled act **delegates** that authority to the UCP

CNO Practice Guideline – Working with UCPs

- **Delegating** a controlled act
- What is Delegation?
 - “A formal process through which a regulated health professional (delegator) who has the authority and competence to perform a procedure under one of the controlled acts delegates the performance of that procedure to another individual (delegatee)”
 - CNO Practice Guideline re “Authorizing Mechanisms”, p. 6.

CNO Practice Guideline – Working with UCPs

- Nurses delegating controlled acts
- A nurse who delegates a controlled act is responsible for the decision to delegate that act

CNO Practice Guideline – Authorizing Mechanisms

- Requirements for delegating – ten in total:
- 1) The nurse has the authority to perform the controlled act
- 2) The nurse has the knowledge, skill and judgment necessary to perform the controlled act safely and ethically
- 3) The nurse has a nurse-client relationship with the client for whom the controlled act will be performed
- 4) The nurse has considered whether the controlled act is appropriate.

CNO Practice Guideline – Authorizing Mechanisms

- Requirements for delegating:
- 5) The nurse takes reasonable steps to ensure that she/he is satisfied that sufficient safeguards are in place for the delegatee to perform the act safely and ethically
- 6) The nurse should consider any conditions on the delegation.

CNO Practice Guideline – Authorizing Mechanisms

- Requirements for delegating:
- 7) The nurse is satisfied that the delegatee is a:
 - Nurse
 - Health care provider who has a professional relationship with the client/patient
 - A person in the client's household, or
 - A person who routinely provides assistance or treatment for the client/patient

CNO Practice Guideline – Authorizing Mechanisms

- Requirements for delegating:
- 8) The nurse must be satisfied that the delegatee has the knowledge, skill and judgment necessary to perform the controlled act safely and ethically.
- 9) If the act has been delegated and the nurse no longer believes the delegatee has the necessary ability to perform the act safely, the nurse must immediately cease to delegate the controlled act.

CNO Practice Guideline – Authorizing Mechanisms

- Requirements for delegating:
- 10) Document, document, document
 - The date of the delegation
 - The identity of the delegator/delegatee
 - Any conditions attached to the delegation
- Should document before the act occurs, and should document the delegation at the time it occurs or shortly after

CNO Practice Guideline – Authorizing Mechanisms

- Restrictions on delegation
- RNs and RPNs cannot delegate the controlled act of dispensing a drug
- Nurses *cannot* “sub-delegate” – delegate an act that has been delegated to them
- NPs cannot delegate:
 - Prescribing, dispensing or selling medication
 - Ordering the application of any form of energy
 - Setting a fracture or joint dislocation

CNO Practice Guideline – Authorizing Mechanisms

- Nurses can only accept delegations from regulated health professionals who are authorized to perform those controlled acts by a health profession act governing their profession
- Nurses cannot accept delegation from anyone who is not authorized to perform controlled acts through a health professions act

CNO Cases re Delegation

- *Re Dayboll, 2004*
- Nurse worked for a naturopath, which was not a regulated health profession under the RHPA at the time [they have since become regulated]
- Under direction from naturopath, Nurse administered various intravenous therapies
- CNO Discipline Committee found she did not have delegation from proper regulated health professional to perform these controlled acts

CNO Cases re Delegation

- *Re Dayboll, 2004*
- CNO decision:
 - Registration suspended for 30 days
 - Had to appear to be reprimanded by College
 - Following conditions and limitations imposed on her certificate of registration:
 - Had to provide written notification to CNO of all employment in nursing for a period of 24 months;
 - For one year, had to provide written performance appraisals every 6 months from a supervisor who is a member of the CNO;
 - Had to complete a remedial nursing course.

CNO Cases re Delegation

- *Re Roode, 2004*
- Another case involving improper delegation from a naturopath [prior to their regulation].
- On a daily basis, Nurse “administered intravenous chelation therapy, intravenous ascorbate formula, intravenous vitamin supplementation, and intravenous ozone therapy.”
- Did this with approximately 25-35 patients a week.
- The CNO found that the nurse “has not had any orders, and has not otherwise been authorized by a health professional regulated pursuant to the RHPA” to carry out any of the controlled acts she was performing.

CNO Cases re Delegation

- *Re Roode, 2004*
- CNO penalties:
- Registration suspended for **five months**;
- Had to appear before the CNO to be reprimanded;

- Terms/Conditions imposed on registration:
 - Remedial courses
 - If the Member is not employed by [the Naturopath] and/or does not work at [the Clinic]:
 - Had to provide written notification to CNO of all employment in nursing for a period of 24 months, and;
 - For one year, had to provide written performance appraisals every 6 months from a supervisor who is a member of the CNO.

- And if she continued working for the naturopath:
 - Had to provide CNO with her job description;
 - Had to sign an undertaking that she would only perform controlled acts within her scope or pursuant to a proper order;
 - Had to maintain a daily log of the names of clients she provides nursing care to and the nursing care performed, and to provide that log to the College upon request; and
 - The Member will permit the College, at its discretion and without prior notice to her, to review all charts recording care she provides to clients, and the charts or other records of clients who receive intravenous therapy at [the Clinic]. .

CNO Practice Guideline – Working with UCPs

- **Teaching:** “Teaching involves providing instruction and determining that a UCP is competent to perform a procedure.”

CNO Practice Guideline – Working with UCPs

- 6 Requirements for Teaching
 - 1) The nurse has the knowledge, skill and judgment to perform the procedure competently.
 - 2) The nurse has the additional knowledge, skill and judgment to teach the procedure.

CNO Practice Guideline – Working with UCPs

- 6 Requirements for Teaching, continued
 - 3) The nurse accepts sole accountability for the
 - decision to teach the procedure after considering:
 - The known risks and benefits to the client of performing the procedure;
 - The predictability of the outcomes of performing the procedure;
 - The safeguards and resources available in the situation, and;
 - Other factors specific to the client or setting.

CNO Practice Guideline – Working with UCPs

- 6 Requirements for Teaching, continued
 - 4) The nurse has determined that the UCP has acquired, through teaching and supervision of practice, the knowledge, skill and judgment to perform the procedure.
 - 5) The nurse may teach the procedure to a UCP to perform for more than one client if she or he has determined that the factors in Requirements 3 and 4 are conducive to performing the procedure for more than one client.

CNO Practice Guideline – Working with UCPs

- 6 Requirements for Teaching, continued
 - 6) Considering the factors in Requirements 3 and 4, the nurse evaluates the continuing competence of the UCP to perform the procedure or reasonably believes that a mechanism is in place to determine the UCP's continuing competence.

CNO Practice Guideline – Working with UCPs

- **Assigning:** “Assigning is the act of determining or allocating responsibility for particular aspects of care to another individual. This includes assigning procedures that may or may not be a controlled act.”
- “Ideally, a range of care needs, rather than specific procedures, are assigned.”
- “Depending on the nature and responsibilities of their positions, nurses with the necessary knowledge and judgment may assign care to a UCP.”
- “In some instances, the delegator or the teacher may also assign care to a UCP.”

CNO Practice Guideline – Working with UCPs

- **Supervising:** Supervising involves the monitoring and directing of specific activities of UCPs. It does not include ongoing managerial responsibilities.
- Often, the person who assigns a task also supervises the performance of that task.
- Supervision can be direct or indirect, depending on the circumstances.
 - Direct supervision: supervisor is physically present during the provision of care.
 - Indirect supervision: supervisor is not physically present but monitors activities by having the UCP report regularly to the supervisor, or by periodically observing the UCP's activities.

CNO Case re UCPs

- *Re Tennant* (2011)
- Numerous allegations against nurse in this case, a now-former administrator at a long-term care facility. Allegations included:
 - Physical, verbal and emotional abuse of residents and allowing those under her supervision to do so as well
 - Withholding food and other care
 - Issues with sanitation and hygiene in the facility
 - Failure to document properly.

CNO Case re UCPs

- *Re Tennant* (2011)
- Amongst the litany of allegations against the nurse:
 - “You failed to provide adequate training and supervision to unregulated care providers who provided care for the residents of the facility”

CNO Case re UCPs

- *Re Tennant* (2011)
- Allegations, continued:
 - “You inappropriately delegated nursing tasks to unregulated care providers of the facility...by directing an unregulated care provider or providers to administer insulin injections, test residents’ blood sugar, and/or administer medication”

CNO Case re UCPs

- *Re Tennant* (2011)
- CNO's Ruling:
- “The Member hired untrained employees, who had no experience working with vulnerable clients with complex needs, promising to train them as Personal Support Workers. This training never occurred” (p. 6).

CNO Case re UCPs

- *Re Tennant* (2011)
- CNO's Ruling:
- **Revocation** of the nurse's license
- "The Member's breach of the standards is completely contrary to the values of the nursing profession, which holds public trust, honesty and integrity as cornerstones of the profession" (p. 15).

Documentation & UCPs

- College Practice Standard re Documentation
- A nurse meets the standard by...
 - Documenting significant communication with...other care providers” (p. 6).
 - “Ensuring that documentation is completed by the individual who performed the action or observed the event...” (p. 7).
 - “Clearly identifying the individual performing the assessment and/or intervention when documenting” (p. 7).

Documentation & UCPs

- Nurses should document/chart when they perform a procedure or observe an event
- Nurses should also consider whether to chart information obtained from 3rd parties (e.g. family members, UCPs)
 - Assess relevance of information
 - Avoid duplication

Documentation & UCPs

- CNO Disciplinary case: *Re Lewis*, 2013
- A **number** of allegations, including:
 - “You provided an unregulated care provider [with] your computer code and/or handwritten notes in relation to one or more clients that you were assigned to and directed her to enter the notes in the clients’ electronic records on your behalf.”

Documentation & UCPs

- *Re Lewis*, 2013, continued
- Litany of other allegations against nurse
- CNO concluded that the nurse “disregarded her professional obligations as a nurse...and engaged in conduct that had elements of moral failing. She had, or ought to have had, the knowledge that her conduct was seriously wrongful.”
- CNO issued a number of penalties, including a six month suspension of her license

Accountability

- You are always accountable
 - To the patients
 - To your employer
 - To the College
- You may be held accountable for errors or omissions on the part of a UCP, but, this depends on the circumstances.
- Similarly, UCPs may be accountable for any errors on the part of a regulated health professional

Working with Physician Assistants

- “Since PAs are UCPs, they do not have access to controlled acts. They can, however, perform controlled acts if they are delegated to them from a physician or anyone who is authorized to perform the controlled act. Since the PA has been delegated the authority to perform the controlled act, the PA cannot further delegate the act to nurses. **Nurses cannot accept an order or delegation to perform a controlled act from a health care provider who does not have access to controlled acts [emphasis added]**”.
- CNO: <http://www.cno.org/en/learn-about-standards-guidelines/educational-tools/ask-practice/working-with-physician-assistants/>,

Conclusions, Q&A

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