

## PART 2 RESERVED ACTS

### INTERPRETATION

#### Purpose

2 The purpose of this Part is to describe

- (a) acts, done in the course of providing health care, that are to be limited to certain regulated health professions and members of those professions who are qualified and competent to do them; and
- (b) the circumstances in which a person may or may not perform those acts.

#### Definitions

3 The following definitions apply in this Part and the regulations.

**"compound"** means

- (a) in respect of a drug or vaccine, to mix ingredients, at least one of which is a drug or vaccine, but does not include reconstituting a drug or vaccine with only water;
- (b) in respect of a therapeutic diet, to mix two or more ingredients of the therapeutic diet. (« préparer »)

**"contact lens"** includes a lens or mold designed for use in orthokeratology or corneal refractive therapy. (« lentille de contact »)

**"dental appliance"** means an appliance or device that is designed for a dental condition or another condition of the orofacial complex, but does not include a ready-to-use or self-adapted mouthguard designed for protection against injury during sporting activities. (« appareil orthodontique »)

**"diagnosis"** means the identification of a disease, disorder, injury or condition through scientific knowledge and skillful methodology. (« diagnostic »)

**"dispense"** means

- (a) in respect of a dental appliance, to fabricate or alter it;
- (b) in respect of a drug or vaccine, to provide it pursuant to a prescription, but does not include administering it;
- (c) in respect of a vision appliance, to design, supply, prepare, adjust or verify it;
- (d) in respect of a wearable hearing instrument, to select, prepare, alter, sell or offer to sell it. (« fournir »)

**"drug"** means a substance or mixture of substances prescribed by regulation. (« médicament »)

**"enteral instillation"** means instillation directly into the gastrointestinal tract. (« instillation entérale »)

**"fit"** means

- (a) in respect of a contact lens,
  - (i) to select or recommend the design and type of lens required, or
  - (ii) to perform any tests related to assessing physiological safety or suitability;
- (b) in respect of a dental appliance, to perform any intra-oral procedure, including the making of impressions, related to dispensing;
- (c) in respect of a wearable hearing instrument, to adapt or verify, using sound field testing or real ear measurements. (« ajuster »)

**"parenteral instillation"** means instillation directly into the bloodstream. (« instillation parentérale »)

**"prescribe"** means to issue a prescription for a dental appliance, drug, vaccine, vision appliance or wearable hearing instrument. (« prescrire »)

**"prescription"** means

- (a) in respect of a dental appliance, vision appliance or wearable hearing instrument, to issue an authorization to dispense the appliance or instrument for use by the individual named in the authorization;
- (b) in respect of a drug or vaccine, a direction to dispense a stated amount of a drug or vaccine specified in the direction for the individual named in the direction. (« ordonnance »)

"**substance**" includes air and water, but does not include a drug or vaccine. (« substance »)

"**verify**" means, in respect of a vision appliance, to verify objectively to the prescription. (« vérifier »)

"**vision appliance**" means an appliance or device that is designed for a vision condition, including corrective eyeglasses that are made for use by a named individual, a contact lens and a low vision aid, but does not include complete ready-to-wear corrective eyeglasses that are not made for use by a named individual. (« appareil de correction de la vue »)

"**wearable hearing instrument**" means an appliance or device wearable on the head or body and designed for a hearing condition, including any ear molds or parts or accessories for the appliance or device, except batteries or cords. (« appareil auditif portable »)

## WHAT IS A RESERVED ACT?

### List of reserved acts

- 4 A "reserved act" is any of the following acts done with respect to an individual in the course of providing health care:
1. Making a diagnosis and communicating it to an individual or his or her personal representative in circumstances in which it is reasonably foreseeable that the individual or representative will rely on the diagnosis to make a decision about the individual's health care.
  2. Ordering or receiving reports of screening or diagnostic tests.
  3. Performing a procedure on tissue
    - (a) below the dermis;
    - (b) below the surface of a mucous membrane;
    - (c) on or below the surface of the cornea; or
    - (d) on or below the surface of a tooth or dental implant, including the scaling of a tooth or dental implant.
  4. Inserting or removing an instrument or a device, hand or finger
    - (a) into the external ear canal;
    - (b) beyond the point in the nasal passages where they normally narrow;
    - (c) beyond the pharynx;
    - (d) beyond the opening of the urethra;
    - (e) beyond the labia majora;
    - (f) beyond the anal verge; or
    - (g) into an artificial opening in the body.
  5. Administering a substance
    - (a) by injection;
    - (b) by inhalation;
    - (c) by mechanical ventilation;
    - (d) by irrigation;
    - (e) by enteral instillation or parenteral instillation;
    - (f) by transfusion; or
    - (g) using a hyperbaric chamber.
  6. Prescribing a drug or vaccine.
  7. Compounding a drug or vaccine.
  8. Dispensing or selling a drug or vaccine.
  9. Administering a drug or vaccine by any method.
  10. Applying or ordering the application of

- (a) ultrasound for diagnostic or imaging purposes, including any application of ultrasound to a fetus;
  - (b) electricity for
    - (i) aversive conditioning,
    - (ii) cardiac pacemaker therapy,
    - (iii) cardioversion,
    - (iv) defibrillation,
    - (v) electrocoagulation,
    - (vi) electroconvulsive shock therapy,
    - (vii) electromyography,
    - (viii) fulguration,
    - (ix) nerve conduction studies, or
    - (x) transcutaneous cardiac pacing;
  - (c) electromagnetism for magnetic resonance imaging;
  - (d) other non-ionizing radiation for the purpose of cutting or destroying tissue or medical imagery;
  - (e) X-rays or other ionizing radiation for diagnostic, imaging or therapeutic purposes, including computerized axial tomography, positron emission tomography and radiation therapy;
  - (f) any other use of a form of energy listed in clauses (a) to (e), if the use is specified by regulation; or
  - (g) any other form of energy that is specified by regulation.
11. In relation to a therapeutic diet that is administered by enteral instillation or parenteral instillation,
- (a) selecting ingredients for the diet; or
  - (b) compounding or administering the diet.
12. Setting or casting a fracture of a bone or a dislocation of a joint.
13. Putting into the external ear canal, up to the eardrum, a substance that
- (a) is under pressure; or
  - (b) subsequently solidifies.
14. Managing labour or the delivery of a baby.
15. Administering a high velocity, low amplitude thrust to move a joint of the spine within its anatomical range of motion.
16. Prescribing, dispensing or fitting a wearable hearing instrument.
17. Prescribing, dispensing or verifying a vision appliance.
18. Fitting a contact lens.
19. Prescribing, dispensing or fitting a dental appliance.
20. Performing a psycho-social intervention with an expectation of modifying a substantial disorder of thought, mood, perception, orientation or memory that grossly impairs judgment, behaviour, the capacity to recognize reality, or the ability to meet the ordinary demands of life.
21. In relation to allergies,
- (a) performing challenge testing by any method; or
  - (b) performing desensitizing treatment by any method.

## WHO MAY PERFORM A RESERVED ACT?

### Performance of reserved acts restricted

- 5(1) No person shall perform a reserved act in the course of providing health care unless
- (a) the person is a member of a regulated health profession, and is authorized by regulation to perform the reserved act;
  - (b) the performance of the reserved act has been delegated to the person by a member described in clause (a) in accordance with section 6;
  - (c) the person performing it
    - (i) has the consent of, and is being supervised by, a member described in clause (a), in accordance with the regulations made by the member's college, and
    - (ii) is authorized to perform the reserved act by a regulation made by the member's college under this Act;
  - (d) the person is authorized to perform it by or under another enactment; or
  - (e) the person is authorized to perform it by an order under section 7 (public health emergency).

### Person or class of persons may be exempted

- 5(2) An act by a person is not a contravention of subsection (1) if
- (a) the person is exempted by regulation; or
  - (b) the person is a member of a class of persons exempted by regulation.

### Activities may be exempted

- 5(3) An act by a person is not a contravention of subsection (1) if it is done in the course of
- (a) doing an activity or class of activities exempted by regulation;
  - (b) rendering first aid or temporary assistance in an emergency;
  - (c) fulfilling the requirements to become a member of a regulated health profession and the act is within the scope of practice of the profession, and done under the supervision or direction of a member of the profession who is authorized to perform the reserved act;
  - (d) treating a person by prayer or spiritual means through the provision of pastoral or spiritual care, including in an interfaith context;
  - (e) counselling a person about emotional, social, educational or spiritual matters;
  - (f) treating an aboriginal person or member of an aboriginal community in accordance with traditional healing services that are provided by an aboriginal healer;
  - (g) treating a member of his or her own household, and the act is a reserved act set out in section 4, Item 1, 2, 4, 5, 9 or 11; or
  - (h) assisting a person with his or her routine activities of living, and the act is a reserved act set out in section 4, Item 4, 5, 9 or 11.

### Supervision

- 5(4) No person shall
- (a) supervise or control another person performing a reserved act; or
  - (b) purport to consent to supervise or control another person performing a reserved act;
- unless the supervisor is authorized under clause (1)(a) to perform the reserved act.

### Requiring another person to perform a reserved act

- 5(5) No person shall require another person to perform a reserved act if that other person is not authorized in accordance with subsection (1) to perform it.

## DELEGATION OF A RESERVED ACT

### **Delegation of a reserved act**

6(1) For the purpose of clause 5(1)(b), a member may delegate a reserved act to

- (a) another member of the same regulated health profession;
- (b) a member of a different regulated health profession; or
- (c) any other person providing health care who is competent to perform that reserved act;

but only in accordance with the regulations respecting the delegation of that reserved act made by the council of the delegating member's college.

### **Council must make regulations**

6(2) If a council wishes to permit a member to delegate a reserved act, the council must make regulations respecting the delegation of that act.

### **Performance of a delegated reserved act**

6(3) A member of a regulated health profession may perform a delegated reserved act only in accordance with the delegation authorized under subsection (1) and the regulations respecting the delegation of that reserved act made by the council of that member's college.

## PUBLIC HEALTH EMERGENCY

### **Public health emergency**

7(1) If the minister reasonably believes that a serious and immediate threat to public health exists or may exist in all or part of the province, the minister may, by order, authorize a person or class of persons to perform one or more reserved acts in the course of providing health care to prevent, eliminate, remedy, reduce or otherwise deal with the threat. The authorization may be made subject to conditions.

### **Regulations Act does not apply**

7(2) *The Regulations Act* does not apply to an order made under subsection (1).