



## Delegation of Limited Prescriptive Authority to Licensed Pharmacists Frequently Asked Questions

September 19, 2022

The following Frequently Asked Questions are for informational purposes only and do not constitute legal advice. Licensees are encouraged to seek legal counsel to ensure compliance with the Public Health Code.

### **How many pharmacists can one physician delegate prescribing authority to for self-administered, hormonal contraceptives?**

The Public Health Code (PHC) does not expressly limit the number of persons that a licensee may delegate tasks and functions to. However, the PHC requires “continuous availability of direct communication” between the delegating licensee (Physician) and the delegatee (Pharmacist) and the delegating licensee’s “availability . . . on a regularly scheduled basis to review the practice of the supervised individual, to provide consultation to the supervised individual, to review records, and to further educate the supervised individual in the performance of the individual's functions.” See MCL 333.16109(2). Given these constraints, there are practical limits on the number of pharmacists a physician could adequately supervise, which will vary based on each physician’s individual circumstances.

Physicians and pharmacists are encouraged to review their individual circumstances and practices and speak with their respective attorneys to ensure that a proposed delegation allows for adequate supervision and complies with the PHC.

### **What types of contraceptives can a pharmacist prescribe under a delegation agreement?**

While the PHC does not expressly limit the types of contraceptives that are acceptable, the PHC’s constraints on delegation provide practical limits.

A licensee may only delegate to those “qualified by education, training, or experience” to perform the delegated task or function. Licensees cannot delegate any “act, task, or function, under standards of acceptable and prevailing practice, [that] requires the level of education, skill, and judgment required of the licensee.” See MCL 333.16215(1). Moreover, the delegating licensee must provide adequate supervision and “predetermined procedures and drug protocol[s]” to be followed. See MCL 333.16109(2).

Given a pharmacist’s education and training—which includes a detailed understanding of the contents, impacts, and effects of drugs on the human body—licensed physicians may delegate to pharmacists the ability to prescribe self-administered, hormonal contraceptives in most circumstances. But, for example, pharmacists likely do not have adequate education, training, or experience to prescribe contraceptives other than self-administered, hormonal contraceptives, which may require placement by a health professional inside the human body (e.g. an

IUD). A delegating physician's "predetermined procedures and drug protocol[s]" must appropriately limit the types of contraceptives that may be prescribed and the patients who may receive them.

Physicians and pharmacists are encouraged to review their individual circumstances and practices and speak with their respective attorneys to ensure that adequate procedures and drug protocols are provided and the scope of delegation is appropriate under the circumstances.

### **Is a delegation appropriate in all circumstances?**

No, a delegation might not be appropriate in all instances. Under the PHC, a licensee can only delegate to those individuals "qualified by education, training, or experience" to perform the delegated task or function. The delegating licensee is responsible for making this determination. Other requirements must also be met, including adequate supervision.

Physicians and pharmacists are encouraged to review their individual circumstances and practices and speak with their respective attorneys to ensure that a proposed delegation is appropriate under the circumstances.

### **How much training must a delegating physician provide to a pharmacist?**

While specific training requirements may vary, delegating physicians must always be satisfied that a pharmacist under their supervision is "qualified by education, training, or experience" to prescribe self-administered, hormonal contraceptives. Physicians and pharmacists are encouraged to review their individual circumstances and practices and speak with their respective attorneys to ensure that training is sufficient under the circumstances.

### **How often should physicians be available to schedule reviews and consultations with the pharmacists they have delegated prescribing authority to?**

While the requirements may vary under the circumstances, delegating physicians must be "regularly" available and always be satisfied that a pharmacist under their supervision is "qualified by education, training, or experience" to prescribe self-administered, hormonal contraceptives. Physicians and pharmacists are encouraged to review their individual circumstances and practices and speak with their respective attorneys to ensure that arrangements are appropriate under the circumstances.

### **Do physicians and pharmacists have to use the sample delegation agreement?**

The sample delegation agreement provided is just that—a sample. It outlines the basic requirements and some provisions that may be appropriate for such an agreement. It may not be suitable or sufficient in certain circumstances. Physicians and pharmacists are encouraged to review their individual circumstances and practices and speak with their respective attorneys to ensure that their proposed agreement is appropriate under the circumstances, even if the sample agreement is used.

### **How will LARA staff ensure compliance with PHC delegation requirements?**

LARA's Bureau of Professional Licensing staff will review prescription and dispensing practices during their routine pharmacy inspections and will investigate any allegations that the delegation did not comply with the PHC. Violations may result in licensing sanctions, as provided in the PHC.