

REFORMING SCOPES OF PRACTICE

DISCUSSION DRAFT

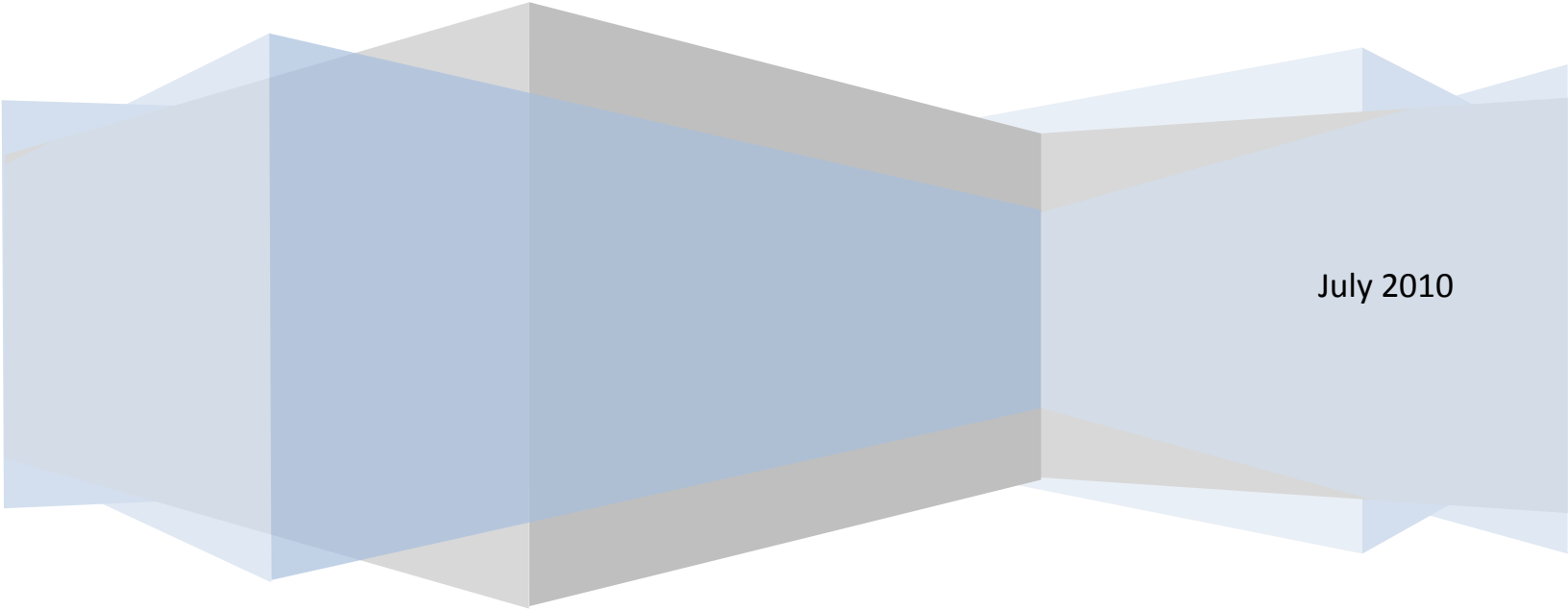
BUILDING A BETTER MOUSETRAP TO ADDRESS SCOPE OF PRACTICE ISSUES

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SCOPE OF PRACTICE ADVISORY BOARD

Introduction

State level scope of practice laws govern the nature of patient services various health care professionals are permitted to provide, either independently, under the supervision of another professional, or under the terms of a collaborative practice agreement. The original rationale for these laws was to protect patients from unqualified practitioners. However, in many instances the laws have not kept up with changes in health care professional training, changes in the demand for health care services, and changes in health care delivery. Outmoded scope of practice laws containing unjustified practice restrictions interfere with the efficient and effective deployment of the health care workforce by preventing non-physician professionals from practicing to the full extent of their training and skills. Consequently, these laws impede the public's access to safe, affordable primary care – an outcome all the more intolerable given that federal health care reform legislation will boost demand for services from an already overtaxed healthcare workforce.

Compounding the problem, scope of practice laws differ from state to state. It is hard to find a rational basis for this when most professions follow standardized nation-wide educational standards and most initial professional licensure relies on a nation-wide standardized test. Physical Therapists, Advanced Practice Nurses, Pharmacists, and other non-physician health care professionals have the same preparation, regardless of the state in which they enter practice. Further, patients' needs don't change from state to state. So why should they be permitted by law to perform more services in some states and fewer services in others?

There is a clear need to take a long look at scope of practice restrictions. Non-physician professions regularly seek changes to modernize the laws governing their scope of practice. It is estimated that as many as 300 scope of practice bills are introduced in state legislatures annually. Indeed, the winds of change are so strong that the one profession that enjoys an all-encompassing scope of practice – medicine – has become alarmed. The American Medical Association (AMA) has joined with other physician organizations and invested considerable resources to counter proposals for scope changes when they appear at state legislatures. For the most part, requests for changes in scope and opposition to those requests play out as turf battles, case-by-case and state-by-state.

Very few states have gone beyond the case-by-case approach and grappled with scope of practice in a broader context of health care reform. As part of a comprehensive health reform in 2007, Pennsylvania lifted limits on collaborative agreements and expanded the types of services that can be delivered for physician assistants, advanced practice nurses, physical therapists, pharmacists and other health professionals.¹ In 2008, Colorado Gov. Ritter commissioned Scopes of Care Advisory Committee to investigate options for overcoming the barriers to better utilization of non-physician health providers, such as physician assistants, advanced nurse practitioners, dental hygienists and others. The SOC Advisory Committee was charged with reviewing evidence with respect to quality, safety, and cost-effectiveness, and exploring aspects and settings of care that offer the potential for

¹ Office of Rural Health & Primary Care, Minnesota Department of Health. (2007, December). *Expanding Scope of Practice to Allow work at the Top of a License*. Available at <http://www.health.state.mn.us/divs/hpsc/hep/transform/dec10documents/expandscopeofpractice.pdf>.

improving access to quality care from non-physician providers. The SOC Advisory Committee Final Report became the basis for scope of practice policy revisions in Colorado.²

In New Mexico, an Interim Legislative Health and Human Services Committee was established in 2007 to provide legislators with objective information to help evaluate proposed changes to scope of practice regulations. In 2005, Iowa began experimenting with a review committee under Department of Public Health charged with making recommendations on proposed scope of practice changes.³ In Minnesota, the Council of Health Boards reviews broad health regulations that affect all health professions, including scope of practice.⁴ Finally, some years ago, California established a Health Workforce Pilot Project (HWPP) under Office of Statewide Health Planning and Development (OSHPD). This office oversees experiments with new models of care, and reports to the legislature on implications for potential policy changes.⁵

Unquestionably, the initiatives taken by these states are a step in the right direction. But they can't resolve the fundamental conundrum: why are scope of practice questions reserved for the states where they have to be examined and determined fifty times over in as many as fifty different ways?

In the near term, addressing scopes of practice on a state-by-state basis may be unavoidable. But it is clearly time to revisit the recommendation made fifteen years ago by the Pew Health Professions Commission that there be a national advisory body empowered to review the appropriateness of scopes of practice for different professions.⁶ The purpose of this paper is to stimulate a discussion of how such an institution might be organized, who its decision makers might be, and how it might function.

Thoughts on the Structure and Membership of a National Scope of Practice Advisory Board

In all probability, a national Scope of Practice Advisory Board would be a public-private partnership between the federal government, the health care industry, and the public. The federal government can be expected to take on major role early on, bringing everyone to the table, promoting fair standards, and giving stature to the newly established organization. Over time, the federal government would probably play a less active role, allowing public representatives, health professions, integrated health systems and other health care entities to make the major decisions.

There are many ways the organization could be positioned. One option is to have the newly established National Health Care Workforce Commission oversee the formation of the Scope of Practice Advisory Board and utilize it as a resource for advice on scope of practice issues affecting health care workforce. Another option is to establish the Scope of Practice Advisory Board as an independent entity within the Institutes of Health.

² Scopes of Care Advisory Committee. (2008, December). *Collaborative Scopes of Care Advisory Committee: Final report of findings*. Denver, CO: Prepared by Colorado Health Institute. Available at:

http://www.coloradotrust.org/attachments/0000/9371/CollaborativeScopesCare_final_report.pdf.

³ Christian, S., Dower, C., & O'Neil E., Center for Health Professions, University of California. (2007). *Promising Scope of Practice Models for the Health Professions*. Available at: http://futurehealth.ucsf.edu/Public/Publications-and-Resources/Content.aspx?topic=Promising_Scope_of_Practice_Models_for_the_Health_Professions.

⁴ Office of Rural Health & Primary Care, Minnesota Department of Health. (2007, December). *Expanding Scope of Practice to Allow work at the Top of a License*. Available at:

<http://www.health.state.mn.us/divs/hpsc/hep/transform/dec10documents/expandscopeofpractice.pdf>.

⁵ Dower, C. and Christian, S., Center for Health Professions, University of California, San Francisco. (2009). *Improving Access to Health Care in California: Testing New Roles for Providers*. California Health Care Foundation. Available at: <http://www.chcf.org/publications/2009/12/improving-access-to-health-care-in-california-testing-new-roles-for-providers>.

⁶ Pew Health Profession Commission. (1995, December). *Reforming Health Care Workforce Regulation: Policy Considerations for the 21st Century*. USCF Center for the Health Professions. Available at:

<http://www.soundrock.com/sop/pdf/Reforming%20Health%20Care%20Workforce%20Regulation.pdf>.

Whether one of these or another option is selected, it is important that the founding entity be able to bring together diverse group of health professionals, consumers and industry representatives. The Scope of Practice Advisory Board needs to have broad representation from a variety of health care professions (including doctors, advanced practice and other nurses, physician assistants, pharmacists, dentists, dental hygienists, physical therapists, chiropractors, respiratory therapists, psychologists and mental health professionals among others) in addition to consumers, economists, third party payers, representatives of integrated health systems and policy experts.

As envisioned in this paper, the Scope of Practice Advisory Board will act in an advisory capacity, so its effectiveness will depend on the weight the states give to its reports and on the respect its reports command in the health care field. It is important that no one profession or entity is able to exercise undue influence over the process. To that end, we foresee a governing board that operates by consensus and that is composed of individuals who are highly respected within their professions or areas of expertise and who have experience with inter-professional relations and systems change.

Thoughts on the Operations of the Scope of Practice Advisory Board

The governing board would meet quarterly to review the mission, vision, and goals of the organization and decide which proposals to investigate. The proposals for changes in scope could come from any interested entity including health professions, citizen groups, health systems, state policy makers, and members of the governing board itself, among others. A separate review panel of 5-9 people will be assigned to each of the topics selected for review. Each review panel should have diverse representation, including among others, member(s) of the profession(s) under review.

In addition to review panels, the Scope of Practice Advisory Board will have a Data and Evidence Tracking division. This division will be responsible for collecting and disseminating data on scopes of practice for different professions in different states, collecting and disseminating data on new and significantly updated educational requirements and initiatives for different health professions, tracking research on the safety and quality of care provided by non-physician providers, and in cooperation with National Health Care Workforce Commission making data on the availability and distribution of health professionals available to the members of the Scope of Practice Advisory Board review panels.

Thoughts on the Review Process

The review panels would utilize data and research tracked and collected by the Data and Evidence Tracking division, along with information presented by the interested entity, information from other profession(s) affected by the review, and any other relevant information that the panel members deem to be pertinent to the review. The review would examine (a) current legal constraints in comparison with the affected profession's abilities, education and training; (b) patient safety and ways of minimizing risk to patients; (c) the expected effects on access to care and the cost of care; (d) quality assurance mechanisms; (e) coordination of care with other professions, including any proposed supervisory and collaborative relationships; and (f) the experience of other jurisdictions in US and abroad with different models associated with the issue(s) and profession(s) under review.

The specifics of the review process will need to be worked out by the principals of the Scope of Practice Advisory Board. They may find useful guidance in the questions developed by the Health Professions Regulatory Advisory Council (HPRAC) in Ontario, Canada to review scope of practice modifications in that Province:

Profession Information

- 1) Does your current scope of practice accurately reflect your profession's current activities, functions, roles and responsibilities?
- 2) Name the profession for which a change in scope of practice is being sought and the professional act that would require amendment.
- 3) Describe the change in scope of practice being sought.

- 4) Name of the College/Association/group making the request, or sponsoring the proposal for change, if applicable.
- 5) Address/website/e-mail
- 6) Telephone and fax numbers
- 7) Contact person (including day telephone numbers)
- 8) List other professions, organizations or individuals who could provide relevant information applicable to the proposed change in scope of practice of your profession. Please provide contact names, addresses and contact numbers where possible.

For Associations

- 9) Names and positions of officers and directors
- 10) Length of time the association has existed as a representative organization for the profession.
- 11) List name(s) of any provincial, national or international association(s) for this profession with which your association is affiliated or who have an interest in this application. Please provide contact names, addresses and contact numbers where possible.

Legislative Changes

- 12) What are the exact changes you propose to the profession's scope of practice (scope of practice statement, controlled acts, title protection, harm clause, regulations, exemptions or exceptions that may apply to the profession, standards of practice, guidelines, policies and by-laws developed by the College, other legislation that may apply to the profession, and other relevant matters)? How are these proposed changes related to the profession and its current scope of practice?
- 13) How does current legislation (profession-specific and/or other) prevent or limit members of the profession from performing to the full extent of the proposed scope of practice?

Collaboration

- 14) Do members of your profession practice in a collaborative or team environment where a change in scope of practice and the recognition of existing or new competencies will contribute to multi-disciplinary health care delivery? Please describe any consultation process that has occurred with other professions.

Public Interest

- 15) Describe how the proposed changes to the scope of practice of the profession are in the public interest. Please consider and describe the influence of any of the following factors:
 - a. Improved access to services and growing population needs
 - b. Shortening Wait Times
 - c. Wellness Promotion and Illness Prevention
 - d. Modernizing the Health Infrastructure
- 16) How would this proposed change in scope of practice affect the public's access to health professions of choice?
- 17) How would this proposed change in scope of practice affect current members of the profession? Of other health professions? Of the public? Describe the effect the proposed change in scope of practice might have on:
 - a. Practitioner availability
 - b. Education and training programs, including continuing education

- c. Enhancement of quality of services
 - d. Costs to patients or clients
 - e. Access to services
 - f. Service efficiency
 - g. Interprofessional care delivery
 - h. Economic issues
 - i. Other impacts
- 18) Are members of your profession in favor of this change in scope of practice? Please describe any consultation process and the response achieved.
- 19) Describe any consultative process with other professions that might be impacted by these proposed changes.

Risk of Harm

- 20) How will the risk of harm to the patient or client be affected by the proposed change in scope of practice?
- 21) What other regulated and unregulated professions are currently providing care with the competencies proposed as an expansion to your scope of practice? By what means are they performing it? (under delegation, supervision, or on their own initiative?)
- 22) Specify the circumstances (if any) under which a member of the profession should be required to refer a patient/client to another health professional, both currently and in the context of the proposed change in scope of practice.
- 23) If this proposal is in relation to a current supervisory relationship with another regulated health profession, please explain why this relationship is no longer in the public interest. Please describe the profession's need for independence/autonomy in practice.
- 24) Does the proposed change in scope of practice require the creation of a new controlled act or an extension of or change to an existing controlled act? Does it require delegation or authority to perform an existing controlled act or subset of an existing controlled act?
- 25) If the proposed change in scope of practice involves an additional controlled act being authorized to the profession, specify the circumstances (if any) under which a member of the profession should be permitted to delegate that act. In addition, please describe any consultation process that has occurred with other regulatory bodies that have authority to perform and delegate this controlled act.

Competencies / Educational Requirements for Practice

- 26) Are the entry-to-practice (didactic and clinical) education and training requirements of the profession sufficient to support the proposed change in scope of practice? What methods are used to determine this sufficiency? What additional qualifications might be necessary?
- 27) Do members of the profession currently have the competencies to perform the proposed scope of practice? Does this extend to some or all members of the profession?
- 28) What effect will the proposed change in scope of practice have on members of your profession who are already in practice? How will they be made current with the changes, and how will their competency be assessed? What quality improvement/quality measurement programs should or will be put into place? What educational bridging programs will be necessary for current members to practice with the proposed scope?

- 29) How should the College ensure that members maintain competence in this area? How should the College evaluate the membership's competence in this area? What additional demands might be put on the profession?
- 30) Describe any obligations or agreements on trade and mobility that may be affected by the proposed change in scope of practice for the profession. What are your plans to address any trade/mobility issues?

Public Education

- 31) How do you propose to educate or advise the public of this change in scope of practice?

Other Jurisdictions

- 32) What is the experience in other Canadian jurisdictions? Please provide copies of relevant statutes and regulations.
- 33) What is the experience in other International jurisdictions?

Costs/Benefits

- 34) What are the potential costs and benefits to the public and the profession in allowing this change in scope of practice? Please consider and describe the impact of any of the following economic factors:
 - a. Direct patient benefits/costs
 - b. Costs associated with educational and regulatory sector involvement

Other Information and Conclusion

- 35) Is there any other relevant information that HPRAC should consider when reviewing your proposal for a change in scope of practice?⁷

Thoughts about Funding

The independence and credibility of the Scope of Practice Advisory Board reviews will depend in large part on the source(s) of its funding. If funding is primarily public from the federal government, there is a danger that the work of Scope of Practice Advisory Board will be overly influenced by political tides in Washington. If the funding is primarily from professional associations, it would have to be structured according to a formula that would not call into question the objectivity of any individual review on the grounds that the professional association with an interest in the outcome provided a large portion of the funding for the review. On the other hand, if the funding is structured so that all professional associations and other interested parties share in funding the overall cost of operations of the Scope of Practice Advisory Board, care must be taken lest the professional associations not involved in reviews lose interest in supporting the organization. Either insufficient funding or funding dominated by a small number of organizations could compromise the credibility of the reports issued by Scope of Practice Advisory Board.

The inclusion of parties outside the professional groups, such as consumer groups, industry groups (such as insurance companies, hospital systems and pharmaceutical companies), and non-profit foundations would be helpful with insulating the Scope of Practice Advisory Board from undue influence by professional interests. Further, if the funding is initially structured in terms of longer term commitments, it would give the Board a chance to establish itself, without having to deal with the politics of funding on top of its other challenges.

⁷ For more information on HPRAC and their review process for scope of practice regulations revisions proposals see their website at <http://www.hprac.org>.

Conclusion

Presently, scope of practice laws and the process by which they are enacted and amended in the majority of states are inadequate to address workforce and access to care challenges. Nor do they properly or consistently reflect health professionals' education and training.

The creation of a national-level advisory organization composed of experts from variety of different professions, consumer representatives, economists and policy experts would go a long way toward bringing rationality and consistency to scope of practice decisions. This Scope of Practice Advisory Board will have to be formed, administered and funded in ways that uphold its credibility in the field and protect its independent professional judgment from any undue influence. Such organization could provide state legislatures with an unbiased source of evidence and expert opinion on which to base legislative scope of practice decisions.