

# Key Points

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## SCOPE OF PRACTICE DETERMINATION FOR HEALTH CARE PROFESSIONS

### Background

- Scope of practice is a term used to describe the rules, regulations, and boundaries within which a fully qualified health care practitioner with substantial and appropriate training, knowledge, and experience may practice; such practice is also governed by requirements for continuing education and professional accountability.
- Establishing or modifying a health care profession's scope of practice is done through the legislative process.

### Scope of Practice Legislation Analysis

- The number of bills involving scopes of practice for health care professions over the past five years is relatively low in comparison with the total number of bills filed with the public health committee.
- 16 percent of all the bills filed with the public health committee pertained to the 29 licensed health care professions included within this study; 23 percent of those bills were identified as changes to a profession's scope of practice or the creation of a new scope, and 70 percent of the scope of practice bills became law.
- Certain professions had more scope of practice bills than others, and several professions proposed scope of practice changes on a recurring basis if the legislature did not previously implement the requested scope change.
- Public health committee members gave attention to the key issues of public safety (including provider education and training) and access to care, as well as practices in other states, for scope of practice proposals during the public hearing process; at times, professions could not answer the committee's specific questions, did not have specific quantitative data to support their positions, or provided contrasting information.

### Scope of Practice Process

- Connecticut does not have a complete and structured system to fully gather and analyze information about scopes of practice issues outside of the legislative process; the current process relies on ad hoc information provided by professions and the public health department, particularly during the public hearing process.
- There is no formal process for the legislature to obtain information from stakeholders based on standardized criteria focused on public health and safety, outside of the public hearing process; there is credibility to the claim that the process could be more beneficial for all stakeholders if it was more formalized and included information based on specific criteria.

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- A chief concern among public health committee members with the process is their difficulty to fully evaluate scope of practice information, particularly when it involves complex medical topics given their varied experience levels in health care scope of practice issues.
- Quantitative analysis of scope of practice legislation mostly points to no severe deficiencies in outcomes of the scope development process; qualitative information clearly indicates the desire for a more structured process requiring information be presented to the legislature in a more systematic way and according to specific criteria.
- For at least one profession (advanced practice registered nurses), Connecticut's process to determine practice scope policies has produced a scope of practice that is comparable with many other states.
- There was no appreciable increase in the annual number of complaints and rate of complaints filed with the public health department after changes in scopes of practice were made between 1999-2008, indicating that based on that measure, the state's process to determine scopes of practice had a limited negative impact on public safety; the overall number of complaints was also low.
- Although public health and safety, including provider competence, and consumers' access to care are key factors cited publicly about scope of practice proposals, privately, financial gain or loss are considered common motivating factors why health care professions either support or oppose scope of practice proposals.
- There is no requirement for DPH – or any other state entity, including professional boards – to independently collect, verify, or analyze information from stakeholders proposing changes to an existing scope of practice or requesting new scopes of practice.
- DPH offers professions the opportunity to meet with department staff to discuss their proposals to establish new scopes of practice or modify existing scopes of practice; the process is not mandatory.
- A scope of practice process where scope decisions are based on standardized criteria could help alleviate some of the internal pressures experienced by the public health department and the public health committee regarding scope of practice issues without compromising stakeholders' ability to present their positions to the legislature; such positions would simply be presented under a different format.

### Other States

- Several states collect information for scope of practice requests based on a structured process outside the traditional legislative process and based on formal criteria specified in statute.

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- Trying to identify ways to make the process for determining scopes of practice for health care professions as objective and transparent as possible is not unique to Connecticut; other states are involved with similar issues and trying various alternatives as solutions.

## Best Practices

- There is limited information from a national perspective on best practices for determining scopes of practice for health care professions; the Council on Licensure, Effectiveness, and Regulation indicates there is no “best” way to assess requests for regulation.
- Two recent national reports offer a framework and guidelines for policy makers to use when considering scope of practice changes for health care professions; Connecticut’s process is not fully developed in accordance with those best practices, or in relation to any structured framework or standardized criteria.

## Other

- The legislative process adds an inherent check on scopes of practice and maintains a mechanism that is open to input from all stakeholders if they so choose; the process to determine scopes of practice should remain within the legislature’s purview, allowing policy makers control over the range of services licensed health care professions may provide.
- It is too early to determine what, if any, effect current state and national health care reform will have on scopes of practice for health care professions.
- Committee staff recommendations regarding the scope of practice determination process are designed to: 1) create a more standardized, concise, and transparent information gathering process; 2) create a process whereby knowledgeable professionals in the area of health care review and assess the information prior to the public health committee; and 3) allow the body of professionals to make recommendations based on their evaluation of the information.

## RECOMMENDATIONS

### Scope of Practice Request

- **By September 1 of the year preceding the pertinent regular legislative session, any health care profession seeking a change in its statutory scope of practice or the creation of a new scope of practice in the regular legislative session shall submit a written scope of practice request to the Department of Public Health.**

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- Each scope of practice request shall include information addressing the following criteria:
  - a. A plain language description of the scope of practice request
  - b. How public health and safety will be protected if the request is implemented, or harmed if the request is not implemented
  - c. Ways in which the scope of practice request will benefit the public health needs of Connecticut's citizens, including its impact on the public's access to care
  - d. Summary of current state laws and regulations governing the profession
  - e. Current education and training requirements for the profession
  - f. Current level of state regulatory oversight of the profession and whether the request will alter this oversight
  - g. History of scope of practice changes requested and/or enacted for the profession
  - h. Information regarding numbers and types of complaints, licensure actions, and malpractice claims against the profession
  - i. Economic impact on the profession if the scope request is made or not made
  - j. Regional and national trends in the profession, and a summary of relevant practices in other states
  - k. A listing of any potential profession in opposition to the request; also include a history of any interaction between the profession seeking the request and the profession(s) opposing the request to discuss the proposed scope of practice request; also include a summary of all areas of agreement between the professions
  
- The Department of Public Health shall inform the legislature's public health committee of each scope of practice proposal received by the department within 5 business days after timely receipt of the request. If the request is not made by the September 1 deadline, it shall not be considered during the next legislative session. All requests shall also be posted on the DPH website.

### Scope of Practice Reports

- By September 15 of each year, any profession that might oppose the filed practice scope request as determined by the Department of Public Health, must receive a copy of the scope of practice request originally filed with the department.

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- **By October 1 of each year, any such opposing profession(s) may submit a written response to the original scope of practice request to the public health department. The opposing profession's response shall indicate the reasons for opposing the scope request based on the specific criteria reference above. The response shall also identify any areas of agreement with the original scope of practice request.**
- **By October 15, the profession filing the original scope of practice request must submit a written response to the opposing profession's response to the public health department. The response shall rebut any areas of disagreement with the opposing profession's response, as well include as any areas of agreement between the professions.**

### Scope of Practice Review Committee

- **For each scope of practice request submitted to the public health department, there shall be a scope of practice review committee established. The purpose of the committee shall be to analyze and evaluate the scope of practice request, any subsequent responses, and any other information the committee deems applicable to the request. In its function, the committee may seek input on the scope request from pertinent stakeholders, including the Department of Public Health, as determined by the committee.**
- **Upon its review of the scope request and other relevant information, the committee, through its chairperson, shall provide written assessment and recommendations, including the basis for its recommendations, on the scope request to the public health committee. The report shall be submitted no later than February 1, immediately following the September 1 scope of practice request submittal date.**

### Scope of Practice Review Committee: Membership

- **Each Scope of Practice Review Committee convened shall be appointed by the commissioner of the Department of Public Health by October 15 of each year a scope of practice request is submitted.**
- **Committee membership consists of the following five members:**
  - **one member representing the profession for which the scope of practice change is requested (if a state professional board exists, such member shall be selected from the board);**

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- one member representing the health profession most directly opposed to the proposed change (if a state professional board exists, such member shall be selected from the board);
  - two impartial licensed health care professionals not having a professional or personal interest in the scope request; and
  - one impartial member representing the general public not having a professional or personal interest in the scope request.
  - the public health department commissioner or his/her designee shall serve on each committee in an ex-officio capacity.
- The scope of practice review committee shall select a chairperson from its impartial members. Each scope of practice review committee shall disband upon submitting its written report to the public health committee. The members shall serve without compensation.

### **Process Review**

The Department of Public Health shall evaluate the state's process to determine scopes of practice for health care professions within three years after the recommended model is implemented. The department should report its findings to the public health committee upon completion of its evaluation.