

# Executive Summary

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## Scope of Practice Determination for Health Care Professions

Health care providers in Connecticut must be licensed by the state to practice their professions. Licensing requirements generally include meeting certain education, experience, and competency standards. “Scope of practice” is the term for the procedures, actions, and processes that a health care practitioner, once licensed, is permitted to perform.<sup>1</sup> In Connecticut, scopes of practice for licensed health care professions are established in state statute, as are the underlying licensing requirements.

Defining scopes of practice for health care professions in statute provides the state with public policy control over the range of services licensed health care professions may provide. Legislative interest, however, has been raised about whether the state’s process for creating and modifying scopes of practice for health care professions via the legislative process is the most useful and effective process or, if not, whether the scope of practice development process should be revised in any way. Moreover, often scope of practice issues before the legislature are technical in nature and require considerable background knowledge before lawmakers can make truly informed policy decisions. Even with such information, legislators may not feel adequately prepared to make fully informed decisions involving complex scope of practice issues based on their experiences.

The program review committee initiated this study in May 2009. The study focused on the state’s process to determine scopes of practice for health care professions and how the state reconciles differences among professions if they arise. The study specifically examined whether changes to the scope of practice process are necessary to make it more useful to legislators and other stakeholders. The committee was principally interested in knowing whether a different model for determining scopes of practice, or changes to the current model, would enhance the overall scope of practice determination process, particularly in terms of outcomes for the public.

As the education, training, and technology within health care professions advance and become more sophisticated, and practitioners become more competent as a result, scopes of practice may need to be amended to reflect those changes (along with the corresponding licensing requirements). In Connecticut, for example, as the training and education for nurse practitioners and physician assistants progressed over time, their scopes of practice changed to the point where the two professions currently perform many responsibilities previously reserved for medical doctors. Similarly, the practice scopes for other professions such as dental hygienists and podiatrists expanded over time as a result of increased education and training, allowing the professions to practice a wider range of duties. This is not to suggest that certain health care professions should or will assume the full range of responsibilities historically reserved for other

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<sup>1</sup> See: “Assessing Scope of Practice in Health Care Delivery: Critical Questions in Assuring Public Access and Safety,” Federation of State Medical Boards, p. 19, which more broadly defines scope of practice as the “definition of the rules, the regulations, and the boundaries within which a fully qualified practitioner, with substantial and appropriate training, knowledge, and experience may practice in a field of medicine or surgery, or other specifically defined field. Such practice is also governed by requirements for continuing education and professional accountability.”

professions, but as the education, training, experience, and overall competency of practitioners expand, so can their scopes of practice.

Although potential benefits may result from expanding existing health professions' scopes of practice, or introducing new ones, such as increased access to health care by consumers, any expansion must balance potential benefits with protecting public safety and the overall quality of care – two key components of governmental regulation. A change in a profession's scope of practice viewed as a benefit by one profession may be seen by others as a risk to public safety or access to care, or interpreted as an infringement on the business of another profession. As such, it would seem that scope of practice changes should be based on sound information and careful consideration by policymakers, with particular attention to how a scope change would affect the professions seeking the change, other health care professions, and the broader health care system.

## **Summary**

An analysis of scope of practice legislation since 2005 shows the number of bills involving scopes of practice for health care professions is relatively low in comparison with the total number of bills filed with the public health committee. Despite the low number of scope bills, stakeholders, including several current and former public health committee members, agreed scope of practice issues are time-consuming, complex, and, at times, contentious. Analysis of scope of practice legislation also shows 70 percent of the bills creating or modifying scopes of practice have been passed into law over the past five years. Certain professions also 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 changes.

Overall, testimony received by the public health committee on scope of practice requests, as well as questions asked by committee members during hearing, generally gave attention to the key issues of public safety (including provider competency), access to health care, and practices used in other states. Although the public health committee explored questions regarding these important factors, there were times during public hearings when professions provided contrasting information, could not answer the committee's specific questions, or did not have quantitative data to support their positions. Moreover, the general opinion among some public health committee members was that overall, there is difficulty fully evaluating scope of practice information when it involves complex medical topics, based on members' varied backgrounds.

Connecticut does not have a structured system to gather, analyze, and evaluate information about scopes of practice issues outside the legislative process, as is the case in some other states. Combined with information collected from stakeholders, the program review committee finds there is credibility to the claim that the process could be more beneficial for all stakeholders if it was more formalized and transparent and included information based on specific criteria. The process currently relies on ad hoc information provided to the public health committee by professions and the public health department, particularly during the public hearing process.

Information about best practices for determining scopes of practice for health care professions is limited in the national literature. A few national documents provide guidelines for states to use when determining practice scopes. Although Connecticut's process incorporates

some of those guidelines, it is difficult to provide a full assessment of the process based on best practices because scopes of practice are determined within the context of the legislative process, and not according to any specific standards or criteria.

In two instances where the differences between professions over scope of practices issues were acutely protracted, the professions turned to a neutral mediator to help resolve their differences. The general consensus among some of the stakeholders involved in the mediation process was that it was positive and produced legislation for the public health committee based on the compromises reached by the parties, although the stakeholders would not want mediation used for every scope of practice issue.

The findings based on committee staff's quantitative analysis of scope of practice legislation mostly point to no severe deficiencies in the outcomes of the scope development process. What raises questions, however, is the information collected through interviews with various stakeholders, including public health committee members. This information clearly indicates those involved in the process believe it needs to be more structured so important information regarding scope proposals is presented to the legislature in a systematic way and according to specific criteria. As such, the committee's recommendations provided below are designed to achieve the following goals for enhancing the state's scope of practice determination process for health care professions:

- 1) create a more formal, standardized, and concise process for information gathering;
- 2) create a process whereby knowledgeable, objective professionals in the relevant area of health care review and assess the information prior to any action by the public health committee; and
- 3) allow a body of professionals to make recommendations to the public health committee based on formal evaluation of pertinent information and discussions with stakeholders.

In addition, the overall process to determine scopes of practice should be considered in accordance with current best practices to the extent possible. Within such best practices, an important part of the scope of practice determination process should be to have stakeholders find common areas of agreement on as many factors as possible about scope issues. Such agreement can provide an initial, positive starting point from which scope of practice issues can be considered and policy decisions made.

## 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.**

- 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 five 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.
  
- 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 as include 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);
  - 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.**
- **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.**