Research Protocol for Physician Scope of Practice Delegation Laws

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I. Scope: Compile state laws and regulations indicating the following criteria: (1) define the practice of medicine; (2) permit physicians to delegate medical activities to nurse practitioners, registered nurses, and physician assistants; (3) require physicians to supervise nurse practitioners, registered nurses, and physician assistants to whom they delegate medical activities; and (4) apportion responsibility or liability for errors committed during delegated medical acts.

II. Primary Data Collection – Laws Regulating Possession of Syringes

a. Project dates: Legal research was conducted between January 15, 2015 and April 30, 2015.


c. Research was conducted by two researchers, each covering half the states including the District of Columbia. Key word searches were supplemented by examination of the table of contents of the medical professionals’ scope of practice sections of state codes, and by comparison of the results against various secondary sources, including http://www.aanp.org/legislation-regulation/state-legislation-regulation/state-practice-environment and http://www.bartonassociates.com/nurse-practitioners/nurse-practitioner-scope-of-practice-laws/. For each jurisdiction, chapters on the practice of medicine generally, nurses, or physician assistants were all examined in their entirety for relevant law. Discrepancies were reviewed by a supervising researcher and resolved by further research.

d. Searches were conducted in the current (Multistate Legislative Service - (LEGIS-ALL)) bill libraries of Westlaw. The following searches were used in LEGIS-ALL:

- adv: “advanced practice registered nurse”
- adv: "physician assistant" & delegation
- adv: "physician assistant" & "written agreement"
- adv: “practice of medicine”
- adv: “advanced practice registered nursing” & delegation
- adv: “physician scope of practice”
III. Coding

a. A coding scheme was developed based on review of the identified legal data. Legal texts (relevant excerpts of statutes) were entered into Workbench by state.

b. The two researchers coded the laws in the states they researched. Coding questions were discussed with the supervising researcher in group meetings. As necessary, the coding scheme was altered to accommodate newly identified features of the data, and completed states were recoded as necessary. Below are specific rules used when coding certain answer choices in the dataset:

- For the questions “What activities does the law explicitly allow a physician to delegate to a nurse practitioner/registered nurse/physician assistant?”
  
  I. When physicians were authorized under the law to delegate activities to a medical professional, even when the law was not clear on whether the medical professional could conduct certain other activities wholly unsupervised, the researchers coded the physician may delegate activities to that medical professional.

  II. The researchers coded conducting chart reviews under physician supervision activities when the statutory language indicated some kind of medical record review was required.

  III. When coding that a physician may delegate to a medical professional prescribing, administering, or dispensing medication, controlled substances were not addressed. Medication for this question refers specifically to legend drugs.

  IV. The pronouncement of death and ordering of medical equipment were originally listed as possible answer choices for delegable medical activities. These were scoped out because of inconsistencies and vagueness in the law. These functions were often implied in the law already, making their inclusion in this dataset as specific medical activities potentially misleading.

  V. The researchers coded the answer choice “Any activity in the physician’s discretion the nurse practitioner/registered nurse/physician assistant is qualified to perform” as the law indicated. This response was selected when the law indicated a physician “could” or “may” delegate medical activities. It was also selected when the law indicated that any activity could be delegated without limitation, despite also listing explicit activities that could be...
delegated (e.g., prescribing medicine, performing medical a medical diagnosis, etc.).

VI. “Non-specific general supervision” was coded anytime the word “supervision” was used in describing the relationship between the medical professional and physicians and there was no other specific supervision requirement listed (other than “An alternate supervising physician may supervise the nurse practitioner/registered nurse/physician assistant”).

- For the questions “What supervisory activities does the law explicitly say the physician must perform?”
  I. The researchers coded both “The supervising physician must be available in person” and “The supervising physician must be available via telecommunication” when the law stated that either was sufficient.
  II. The researchers coded “The supervising physician must provide continuous supervision” narrowly, only coding that the physician’s supervision must be continuous when the word “continuous” or “continually” was in the law.
  III. When the law requires the physician to meet with the supervised medical professional as infrequently as once or twice a year, researchers still coded “The nurse practitioner/registered nurse/physician assistant must meet in person regularly.”

- Nurse practitioners are a type of advanced practice registered nurse. This dataset purports to cover nurse practitioners instead of this broader category. However, some states do not make a distinction between nurse practitioners and advanced practice registered nurses.

- Medical assistants were originally included in the scope of the dataset. However, state laws defining medical assistants are unclear, containing inconsistent nomenclature, licensure requirements, and non-standard scopes of practice. As a result, these medical professionals were ultimate excluded from the final scope of the dataset for the sake of clarity and consistency in coding.

c. Quality Control

- Both researchers redundantly coded 100% of all records entered into Workbench. Divergences were resolved in a meeting between all researchers and the supervisor. Ambiguities in coding or systematic errors were identified and the full data set adjusted and recoded as necessary. The overall divergence rate was 24%. All divergences were discussed and reconciled.
- After the researchers completed coding their laws for their respective 25 states, a third researcher who had not participated in any of the research yet
independently coded a random selection of 15% of all the laws. The divergence rate was 30%. All divergences were discussed and reconciled.