

 Council on Licensure, Enforcement and Regulation  
2011 Annual Educational Conference



**Pittsburgh** Pennsylvania

**Public Involvement in  
Scope of Practice  
Legislation and  
Rulemaking**

Presenters: **David A. Swankin, Esq.**  
President and CEO, Citizen Advocacy Center

**Lisa Summers, CNM, DrPH**  
Senior Policy Fellow  
Department of Nursing Practice and Policy  
American Nurses Association

*Promoting Regulatory Excellence*

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**Citizen Advocacy Center**

Citizen Advocacy Center (CAC) is a small non-profit organization whose mission is to Train and Support Public Members on state health professional licensing boards (medicine, nursing, pharmacy, dentistry, physical therapy, psychology, etc.)

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**CAC's Core Values:**

- Transparency
- Oversight and Accountability
- Collaboration
- Meaningful Consumer Representation and Participation

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### CAC's SoP Initiative Mission

To provide independent, third-party, economically disinterested input into processes and criteria for removing unjustified scope of practice restrictions.

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### SoP Affects Everyone

“Scope of Practice affect the deployment and utilization of all kinds of healthcare providers in every kind of setting, addressing every kind of patient need.”

“Scope of Practice laws have direct and significant ramifications for the three metrics we use to assess healthcare delivery: cost, quality and access.”

Barbara Safriet

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### SoP Reform is a Two-Step Process

- **First:** State legislators enact or amend laws
- **Second:** State regulators develop implementing rules and regulations

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### The Consumer Voice is Missing

Washington State Public Hearing Dealing with Optometrists' Scope of Practice:

- 19 Ophthalmologists
- 19 Optometrists
- 0 Members of the Public

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### Challenges:

- SoP is an esoteric concept
- Traditionally, SoP decisions are political “turf battles”

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### SoP is Esoteric:

- To get consumer groups, citizen groups, and their leaders involved, we need to start at square one.
- The term “Scope of Practice” is an insiders term, and it does not resonate.

Here is how we describe “Scope of Practice”:

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**What is Scope of Practice?  
Who Can Do What to Whom, Under  
What Conditions, and in  
What Settings**



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**SoP is “Political”**

“Most scope of practice decisions in the legislatures are not data-driven. They are politically-driven, money-driven, power-driven.”

Barbara Safriet

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**Physicians Got There First**

- Medicine’s all-encompassing scope
- AMA’s Scope of Practice Partnership

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**Where is the Evidence?**

- Practice Restrictions Present a “Catch 22”
- Nursing Can Cite Precedents in Many States
- Less True for Many Other Professions

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**Goal: From a Consumer’s a Point of View:**

“Advanced Practice Registered Nurses should be able to practice to the full extent of their education and training”  
IOM “The Future of Nursing” 2010

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**But,**

**This is Bigger Than Just Nursing.**

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### Shared Scopes of Practice

- Shared or overlapping scopes are inevitable
- Need to overcome professional resistance
- Need an informed public

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### Informed Public

AMA survey asks the wrong question:  
“Do you know who is an MD?”

Consumers/Patients want to know (or should be taught to ask): “Is this professional qualified to provide me with the care I need at the moment?”

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### Nurses:

- More than taking a patient’s temperature and blood pressure.
- More than passing out medications.

### Pharmacists:

- More than putting pills in a vial.

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...and sometimes even more basic communication is necessary:

- Difference between a psychiatrist and a psychologist.
- Difference between a physical therapist and an occupational therapist.
- Difference between an ophthalmologist and an optometrist.

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CAC's Materials about SoP and SoP Decision-making

Consumers and their Advocacy Groups

- Legislators
- Media
- Regulators
- Policy-makers
- Professional Associations

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CAC's Scope of Practice Reports  
(Available from [www.cacenter.org/cac/SOP](http://www.cacenter.org/cac/SOP))

Proceedings from the Scope of Practice sessions at CAC's annual meeting, held on Thursday and Friday, November 11 - 12, 2010, in Washington, DC.

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Reforming Scopes of Practice - White Paper - July, 2010  
Reforming Scopes of Practice - Tool Kit - August, 2010  
Reforming Scopes of Practice - Building a Better Mousetrap - July, 2010  
Why Consumers Need to be Involved in SOP Reform - Points to Consider - August, 2010

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SOP FAQs for Consumers - Advanced Practice Registered Nurses - September, 2010  
SOP FAQs for Consumers - Dental Hygienists - October, 2010  
SOP FAQs for Consumers - Pharmacists - December, 2010  
SOP FAQs for Consumers - Physical Therapists - July, 2010  
DRAFT - SOP FAQs for Consumers - Podiatrists - January, 2011 - DRAFT  
SOP FAQs for Consumers - Psychologists - August, 2010

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**Why Consumers Need to be Involved in Scope of Practice Reform**

- 1) Are you aware that 1 in 5 Americans is affected by shortages of primary care providers?
- 2) Do you know that many health care providers are trained and willing to help meet this need, if only they were permitted to do so?
- 3) Why are we not relying more on “non-physician” professionals to give patients more options and provide more types of services, especially given the shortage of primary care physicians?

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**Why Consumers Need to be Involved in Scope of Practice Reform (continued)**

- 4) Why would SoP laws prevent health professionals from being able to provide services that they are qualified to provide?
- 5) Has having to get a referral from a primary care physician ever interfered with your ability to get timely and affordable care from a specialist?
- 6) What is the difference between Direct Supervision, Collaborative Practice Agreements, and Independent Practice?

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**Why Consumers Need to be Involved in Scope of Practice Reform (continued)**

- 7) How do these different requirements affect the care available to you?
- 8) What does it mean for scope of practice to be *evidence-based*?
- 9) Will reforming SoP laws improve access to care by resulting in a more efficient use of the healthcare workforce?
- 10) What can you do to ensure that quality, affordable health care is available from non-physician providers in your state?

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## THE CAC TOOL KIT

**EMPOWERING NON-PHYSICIAN PROVIDERS TO MEET THE HEALTH CARE NEEDS OF CONSUMERS AND COMMUNITIES**

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The CAC Tool Kit includes the following sections:

- Why Scope of Practice Issues are Important
- Implications for Rural Health Access and Underserved Populations
- Overview of Scope of Practice Issues across Professions
- Current Approaches to Scope of Practice Changes and Why They Do Not Benefit Consumers

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- Experiences of Pennsylvania, Colorado and Other States in Dealing with Scope of Practice Issues
- Stakeholders
- Opponents
- Supporters
- Adding the Consumer Voice to the Discussion
- Getting Publicity
- Communicating with State Legislators and Decision Makers
- etc...

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**Questions consumers, community groups, and legislators should ask about Scope of Practice**

- 1) Access
- 2) Safety
- 3) Quality
- 4) Cost
- 5) Community Development
- 6) Patient Involvement and Cultural Competence

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**“Building a Better Mousetrap”**

<http://www.cacenter.org/cac/SOP>

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**POSITIVE SIGNS**

This is not a partisan issue. SoP reform is supported by:

- The CATO Institute
- The Brookings Institution
- The Center for American Progress
- The Bipartisan Policy Center

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**Other Supporters of SoP Reform include...**

- National Council of State Boards of Nursing
- Federation of State Boards of Physical Therapy
- AARP
- Coalition for Patients' Rights
- Center for the Health Professions
- U. of Wisconsin Population Health Inst.
- Association of Academic Health Centers
- National Health Policy Forum

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**International Academia**

“Promote a new professionalism that uses competencies as the objective criterion for the classification of health professionals, transforming present conventional silos...”

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**Examples of Advocacy Group Involvement**

- Colorado Sunset Review of Direct-Entry Midwives
- Delivering Natural Care for Families and CAC

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### Pilot Project in Oregon

- Oregon Oral Health Coalition
- Oregon Dental Association

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### Collaboration Among Professions

“We believe that patients’ interests are best served by a healthcare system in which many different types of qualified healthcare professionals are available, accessible, and work collaboratively together.”

Lisa Summers  
Coalition for Patients’ Rights

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### This Applies to Legislative Battles

“I would encourage physical therapists to follow the Golden Rule when dealing with other professions about scope of practice issues.”

Dargan Ervin  
Federation of State Boards  
of Physical Therapy

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“It is time - time to abandon our damagingly divisive, politically Pyrrhic, and ultimately unsustainable struggle with advanced practice nurses (APNs). I urge my fellow family physicians to accept - actually to *embrace* - a full partnership with APNs.”

Jeff Susman  
Editor-in-chief of the  
*Journal of Family Practice*

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**Changes in Healthcare Professions’  
Scope of Practice: Legislative  
Considerations**

- Public protection, not professional self-interest
- Changes in scope are inherent in the system
- Collaboration should be the norm
- Overlap among professions is necessary

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 Citizen Advocacy Center

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Ensuring Patients a Choice of Providers  
**COALITION FOR PATIENTS' RIGHTS™**

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**What's at Stake?**

- Healthcare professionals who are not MDs or DOs offer:
  - Necessary care, often reaching underserved populations
  - Quality health and wellness outcomes for patients
  - In most cases, more cost-effective care, for both individual patients and the healthcare system overall

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**What is CPR?**

- The Coalition for Patients' Rights (CPR) consists of more than 35 organizations representing a variety of licensed healthcare professionals.
- It was formed in 2006 for the sake of *patients*
  - Ensure that patients everywhere have direct access to the:
    - Full scope of services offered
    - Quality healthcare providers of their choice

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### Who CPR Represents

- Registered Nurses
- Nurse Practitioners
- Marriage and Family Therapists
- Critical-Care Nurses
- Naturopathic Physicians
- Nurse Anesthetists
- Occupational Health Nurses
- Practitioners of Acupuncture and Oriental Medicine
- Chiropractors
- Nurse-Midwives
- Occupational Therapists
- Physical Therapists
- Psychologists
- Psychiatric Nurses
- Audiologists
- Speech-Language Pathologists
- Nurses in AIDS Care
- PeriOperative Registered Nurses
- Rehabilitation Nurses
- Women's Health, Obstetric and Neonatal Nurses
- Emergency Nurses
- Hospice and Palliative Nurses
- Clinical Nurse Specialists
- Pediatric Nurse Practitioners
- Oncology Nurses
- Foot and Ankle Surgeons

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### Why? Organized Campaign to Limit Patients' Rights

- The **Scope of Practice Partnership (SOPP)**, aims to limit other healthcare professionals' scopes of practice
- If successful, these activities will **limit patient access** to safe, high-quality and cost-effective healthcare.

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### Behind the Campaign to Limit Patient's Rights

- The **Scope of Practice Partnership (SOPP)** includes in its membership:
  - American Medical Association
  - American Osteopathic Association
  - 49 State medical associations and the District of Columbia's medical association
  - 14 National medical specialty societies
  - 19 State osteopathic associations

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### Organized Campaign to Limit Patients' Rights

*"Based upon AMA House of Delegates directives in June 2006, The Scope of Practice Partnership (SOPP) was charged with providing distinguishing qualifications among healthcare providers. In response to that charge, the AMA has developed a series of modules that outline the training, licensure and state regulation of 10 non-physician provider groups."*

*"The SOPP has additional work groups and projects ... to research clinical doctorate education templates and to develop models to rapidly facilitate coalitions against unwarranted scope of practice expansions."*

Edward L. Langston, MD  
June 2, 2008

amednews.com  
— THE JOURNAL OF AMERICAN MEDICINE —

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### Access and Choice are Crucial

- Limiting professional practice places an **enormous and unnecessary burden** on the American healthcare system.
- Patients should **have choices** to suit their individual healthcare and wellness needs.

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### Working Toward Interdisciplinary Care

AMA SOPP

- Places AMA in an unproductive, adversarial position to all other health care professionals
- Drains valuable resources that could be marshaled for the true benefit of the patients we all serve

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**AMA Scope of Practice Data Series Modules**

- “Drafts” now on AMA website
- Already in use by state medical societies
- AMA not expected to withdraw or make significant changes

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**AMA Scope of Practice Data Series Modules**

- Audiologists
- Dentists
- Naturopaths
- Nurse Anesthetists
- Nurse Practitioners
- Optometrists
- Pharmacists
- Physical Therapists
- Podiatrists
- Psychologists

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**Unsafe? Or safe with supervision?**

- Debate is often not about safety of service, but whether professional can function “independently” or whether patient can access care without a referral from a physician.
  - i.e. “direct access” to physical therapy
  - chronic pain management
  - prescriptive authority

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### What do limits on scope of practice mean for patients?

- In the best circumstances, “sham supervision” creates
  - Delays in care
  - Added expense
  - Duplication of services
- In many circumstances, it means going without necessary care

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### TX Regulation of NPs in retail clinics

- Regulations vary according to the regions of the state.
- Generally, for an NP to have prescribing authority, a physician must be at the clinic with the NP 20% of the time.
- However, in medically underserved and rural areas, this rule is relaxed to one oversight visit every 10 business days.

• NASHP, February 2009 Analysis of State Regulations and Policies governing the Operation and Licensure of Retail Clinics

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*I frequently need Home Health services for IV steroid infusion to treat Multiple Sclerosis exacerbations. My inability to certify home health services results in NO TREATMENT for the patient. Therefore, if the patient can not come to clinic between 8 a.m.-4 p.m. Monday through Friday, then they do not receive the Standard of Care. This delay causes loss of brain tissue.*

- A nurse practitioner who is not permitted to certify home health services

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### “Independent”

- “Independent” practice refers to the ability and responsibility of a provider to utilize the knowledge, skills, judgment and authority to practice to the full extent of their education and licensure.
- *Independent* should not be interpreted to mean “in a vacuum.”
- *Independent* practice is also not defined by the place of employment, the business model of the practice, or the method of reimbursement.

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### Professional Collaboration

CPR member professionals, like physicians, collaborate and consult with many other health care providers, often on a daily basis, requesting consultations, and referring patients for specialized care.

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### MD supervision is not a mechanism to ensure quality of care

- All health professionals are expected and entitled to use their education and training to care for patients within their scope of practice and field of expertise.
- As care evolves, there are a number of mechanisms to ensure safe and competent practice:
  - State law and regulation
  - Professional standards
  - Certification
  - Credentialing systems
  - Institutional policies and quality assurance programs

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### The Coalition Continues its Fight for Patients' Rights

- Maintains an online tool to identify, track and respond to coordinated campaigns to restrict patient access to Coalition members across the country
- Develops communications materials to inform the media, lawmakers, policymakers, regulators and the public about key patient care and access issues
- Assembles members in regular meetings to discuss activity, identify opportunities

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### Ongoing Coalition Success

- Continued robust membership from organizations unified to represent more than three million licensed health care professionals
- Developed consensus in a joint letter highlighting Coalition's position
- Coordinated member effort against state level policy to limit scope of practice

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### Ongoing Coalition Success

- Began dialogue with the AMA on creating interdisciplinary teams to treat patients
- Built a comprehensive Web site outlining issue and position, available at [www.patientsrightscoalition.org](http://www.patientsrightscoalition.org)
- Launched efforts to support state-based coalition building

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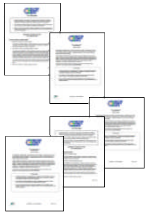
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### Coalition Member Toolkit

•An “infrastructure” of materials and messaging has been developed to support members at a national and state level

- Q&A
- Message summary
- Fact sheet
- Print ready news release



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### Consumer Toolkit

•Patient-focused materials are also in place to support national and state efforts

- Tips for finding/selecting a health care provider
- Template letter to insurance company
- Template letter to your state legislator
- Questions all consumers should ask
- Meet your health care professional



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### Legislative Toolkit

Legislative toolkit supports lawmakers and regulators in fully understanding the range of services and positive impact of health care professionals

- Cover notes to legislators
- Backgrounder on the role of health care providers in lowering costs
- Backgrounder on access to care
- Inclusion of Consumer Materials to help lawmakers answer constituent inquiries
  - Tips for Finding Health Care Providers
  - Questions for New Health Care Providers
  - Meet Your Health Care Professionals



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### Where to Find CPR Resources

You can find consumer toolkit materials at [www.patientsrightscoalition.org](http://www.patientsrightscoalition.org) under "Patient Resources."

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### Views From the Frontlines

*"We believe that patients' interests are best served by a healthcare system in which many different types of qualified healthcare professionals are available, accessible, and work collaboratively with one another."*

Donna P. Jernigan, MS, BSN, RN, CRRN,  
Association of Rehabilitation Nurses

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To learn more about the Coalition for Patients' Rights, visit [www.patientsrightscoalition.org](http://www.patientsrightscoalition.org)

Or contact:

Lisa Summers, CNM, DrPH

- Phone: 301-628-5058
- Email: [Lisa.Summers@ana.org](mailto:Lisa.Summers@ana.org)

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