

Scope of Practice Key Issues and Concepts

Executive Summary

This document provides a brief overview of important concepts related to scope of practice in public health emergency response activities. Additional details on these and other concepts are contained in other documents in the *ASTHO Scope of Practice Toolkit*.

Overview—The “scope of practice” for a regulated profession includes those activities that a person with a specified level of education, training, and competency is authorized to engage in under the laws of the state in which the person practices. Scope of practice can also incorporate conditions that may limit the exercise of authorized activities and procedures. Persons meeting a state’s requirements for that field are issued a license, certification, or some other type of authorization to practice in that state. Practitioners are expected to know what activities they are authorized to conduct and keep their actions within this scope. Should a practitioner exceed the authorized scope of practice, they could be liable for violation of the state’s practice laws, as well as potentially more severe claims such as malpractice.

Modifying SOP—States may find it necessary to modify the scope of practice for some of its regulated professions to meet increased demand for important services during an emergency. Modifying scope of practice can be accomplished by expanding or altering the scope of activities a practitioner is allowed to engage in and by removing or adding conditions on the permitted activities. Overlapping and closely related skills are the foundation for modifying and expanding scopes of practice during emergencies. This practice allows practitioners to conduct activities they are not normally permitted to conduct or alters the conditions under which they practice (e.g., replacing direct supervision requirements with written protocols).

SOP in H1N1 Response—During the 2009 H1N1 influenza pandemic, a number of states authorized or used modified scope of practice, primarily to expand the number of persons eligible to perform vaccinations. These modified scopes of practice were generally temporary measures that were allowed during the duration of a declared emergency or until otherwise permitted by law or order. Other states did not use modified scope of practice during H1N1 because the capacity of healthcare providers was sufficient to respond to the outbreak in the state; some states pursued other strategies, such as the use of volunteer healthcare providers, to supplement their response capacity.

Authorities to Modify SOP—States’ legal authorities and mechanisms for modifying scope of practice for a public health emergency vary. Some states have permanently authorized modified scopes of practice in emergencies for selected professions, either by statute or regulation, which are then activated by an emergency declaration by a governor, health officer, practice regulatory body, or other authorized official. Other states have used orders from a governor, health officer, or practice regulatory bodies during a declared emergency to authorize and specify the modified scope of practice applicable for that emergency. Modified practice authority granted in an emergency generally lasts until the underlying emergency declaration expires or is otherwise cancelled by the health agency or professional regulatory body.

Modified SOP in Emergencies—Modifying scope of practice in emergencies generally involves addressing several factors:

- **Permitted Activities and Practitioners Undertaking Them**—States’ approaches to modifying the types of practitioners and the activities they are allowed to conduct in an emergency vary (e.g., administering drugs and giving vaccinations or other injections). Practitioners with the same or similar skill sets necessary to meet the demands of a specific emergency event are most likely to be considered for modified practice.
- **Medical Control and Supervision**—Medical control or supervision is accomplished through personal oversight or written directions in the form of prescriptions, protocols, or orders. Temporarily modifying medical control and supervision requirements, either by altering, removing, or adding requirements, is a strategy used to change a professional scope of practice during public health emergencies.
- **Training**—Training requirements can apply to practitioners who will be acting under a modified scope of practice, as well as those who are acting within their existing scope but whose daily activities do not include performing the specified activity (e.g., giving injections).

Concerns with Modified SOP—Concerns have been noted that practitioners working under modified SOPs will be performing activities they have little or no prior experience doing and that just-in-time-training will not be sufficient. The use of medical controls and supervision in concert with the modified practice activities is a strategy used to address these concerns. Practitioners operating under a modified scope of practice also voice concerns about potential liability for their actions during a public health emergency. New and existing federal and state legal protections against liability address these concerns.