



Statement for the Record

On behalf of
National Conference of State Legislatures

Hearing on
“VA’s Federal Supremacy Initiative: Putting
Veterans First?”

Provided to
United States House of Representatives
Committee on Veterans’ Affairs
Subcommittee on Health

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The National Conference of State Legislatures (NCSL) is a bipartisan organization representing the legislatures of the nation’s 50 states, five territories and Washington, D.C. NCSL’s mission is to strengthen the institution of the legislatures, provide connections between the states and serve as the voice of state legislatures in the federal system of government. NCSL is pleased to provide the subcommittee with the following statement for the record on state trends regarding scope of practice.

Background

Scope of practice refers to the activities and procedures that a provider or professional with a specific level of education, training or competency is authorized to engage in as defined by state professional regulatory boards, typically with guidance or instruction from the state legislature. All health professionals have a defined scope of practice.

In addition to practice authority, a provider may also have prescriptive authority. In general, practice authority refers to the legally required relationship that each provider must have with a physician or state regulatory board to practice. Prescriptive authority is the ability to prescribe or administer a drug, vaccine or procedure as granted by the state regulatory board, statute and/or delegated by the supervising physician.

States set their own scope of practice standards, which may be informed by factors such as access to care, safety, professional competency, cost and more. Scope of practice requirements may vary widely from state to state. The most reliable source of information on any given professionals’ scope of practice is the corresponding state board or regulatory agency.

Recent State Trends

To date, NCSL has tracked 480 scope of practice-related bills across 13 health professional categories in the 2023 state legislative sessions. Of the 480, 147 bills have been enacted in state legislatures as of September.

2022 & 2023 Legislative Sessions by the Numbers

Health Profession	2022 Enacted	2023 Enacted as of <i>September 2023</i>
Addiction Counselors	3 bills	20 bills



Certified Nurse Midwives	N/A*	13 bills
Community Health Workers	3 bills	15 bills
Community Paramedics	2 bills	8 bills
Dental Hygienists	6 bills	14 bills
Dental Therapists	1 bill	5 bills
Dentists*	2 bills	8 bills
Licensed Professional Counselors	3 bills	6 bills
Nurse Practitioners	14 bills	26 bills
Optometrists	5 bills	5 bills
Peer Support Specialists	7 bills	11 bills
Pharmacists	5 bills	18 bills
Physician Assistants	9 bills	24 bills

Please note that we currently only track dentists' authority to perform teledentistry, and we did not track certified nurse midwives until the 2023 session.

Advanced practice registered nurses and physician assistants continue to be the most common professions that state legislatures look at regarding scope of practice. Most of the legislation regarding these two professions relates to making COVID-19 flexibilities and changes to scope of practice laws permanent. For additional context, 36 states had executive orders addressing scope of practice or out-of-state licensing in 2020. Of those, 17 states expanded the scope of practice of APRNs and PAs using executive orders.

Other legislative trends include establishing certification and licensure requirements for addiction counselors, community health workers and peer support specialists and modifying/defining pharmacists' prescriptive authority.

State Scope of Practice Trends Among Veterans Affairs Occupations

Due to the immense variation in state scope of practice laws and regulation, the following information is intended to be a snapshot of overall trends and does not attempt to capture in full detail all state activity or variation within this area. In particular, the information presented below reflects the most common questions and requests that NCSL receives from state legislators.

Dentistry



Dental Hygienists

Dental Hygienists are licensed health professionals primarily focused on oral disease prevention. Direct access is defined by the [American Dental Hygienists Association](#) as the ability of a dental hygienist to initiate treatment based on his or her assessment of a patient's needs without the specific authorization of a dentist, treat the patient without the presence of a dentist and maintain a provider-patient relationship.

State scope of practice laws within the area of direct access by dental hygienists vary.

- **Nine states** do not allow direct access by dental hygienists.
- **Twenty-six states** require a dental hygienist to have a collaborative agreement with a dentist that outlines certain policies and procedures for direct access, including supervision needed.
- **Eleven states** require dental hygienists to meet certain educational or experience requirements before being granted direct access.
- **Five states** do not require supervision by a dentist when practicing in direct access settings.

Other areas in which state scope of practice laws vary for dental hygienists include:

- Ability to provide dental hygiene diagnosis.
- Prescriptive authority (fluoride, topical medications and Chlorhexidine).
- Administering local anesthesia.
- Ability to supervise dental assistants.
- Formulation of treatment plans.
- Provision of sealants.
- Providing prophylaxis without prior examination by a dentist.

Dental Assistants

Dental assistants operate under the direction of a dentist and/or dental hygienist. In general, they may prepare or sterilize equipment, prepare patients for treatment, assist the dentist during treatment, complete administrative tasks and provide patients with instructions for oral health procedures. Each state varies in the number of tasks that a dental assistant may be delegated to perform, and some states offer differing levels of certification for dental assistants. In general, the higher the level of certification, the more expanded the scope of practice. All relevant state laws may be found [here](#).



Diagnostics

According to the American Society for Clinical Laboratory Science, 10 states currently have laboratory personnel licensure requirements (California, Hawaii, Florida, Louisiana, Montana, Nevada, New York, North Dakota, Tennessee and West Virginia). All other states do not explicitly regulate the scope of practice for clinical laboratory science professions in state statute.

Emergency Medicine

The National EMS Scope of Practice Model, developed in 2007 and most recently revised in 2019, provides a national standard for EMR, EMT, AEMT and paramedic education, certification, licensure and credentialing. All 50 states, the district and the territories have adopted the model as their foundation for state regulatory requirements for EMS clinicians.

Mental Health and Suicide Prevention

NCSL does not currently have any information on the scope of practice of marriage and family therapists or rehabilitation counselors.

Addiction Counselors

Addiction counselors may also be referred to by states as substance abuse counselors, alcohol and drug counselors or chemical dependency counselors. All 50 states credential some type of addiction counselor with varying levels of educational requirements.

- **Twenty-nine states** require a high school diploma or higher.
- **Eleven states** and the district require an associate degree or higher.
- **Ten states** require a bachelor's degree or higher.

Scope of practice can vary significantly depending on the type of credentials offered by the state and the education and/or competencies required to obtain the credential.

Licensed Professional Counselors

According to the American Counseling Association, licensed professional counselors (LPCs) are mental health service providers with master's degrees, trained to work with individuals, families, and groups in treating mental, behavioral and emotional problems and disorders.

Scope of practice laws for LPCs vary in diagnostic authority.

- **Thirty-four states** explicitly outline a licensed professional counselor's ability to diagnose patients in state statute.



- **Fifteen states** do not outline whether a licensed professional counselor is able to provide a diagnosis.
- **One state** does not allow licensed professional counselors to provide patients with a diagnosis.

Peer Support Specialists

According to the Substance Abuse and Mental Health Services Administration, peer support workers are people who have been successful in the recovery process and help others experiencing similar situations. States credential or certify peer support specialists through a variety of different pathways.

- **Eight states** use both state and private entities for certification.
- **Eighteen states and the district** use only a state agency or board.
- **Twenty states** use private entities for certification.

Psychologists

Six states, the Defense Department, U.S. Public Health Service and the Indian Health Service grant prescriptive authority to appropriately trained licensed psychologists. These states include Colorado, Idaho, Illinois, Iowa, Louisiana and New Mexico. All six states have implemented rigorous education and clinical hour requirements for psychologists who wish to apply for prescriptive authority. A few examples of such requirements include a postdoctoral master's degree in clinical psychopharmacology and/or completing a pharmacology residency.

In **44 states and the district**, psychologists do not have any prescriptive authority. They maintain the authority to diagnose, implement psychological and behavioral interventions and establish therapeutic relationships among other duties.

Nursing

Registered Nurses (RNs) and Licensed Practical Nurses/Vocational Nurses (LPN/VNs)

All 50 states have a board of nursing that regulates the practice of registered nurses and licensed practical/vocational nurses and APRNs, often at the direction of the state's legislature. Some states may choose to regulate certified nurse midwives through other boards or departments that are dedicated to the practice of midwifery.

Both RNs and LPN/VNs work autonomously within their scope of practice and level of



competence as part of collaborative teams. In general, LPN/VNs are responsible for assisting RNs in providing nursing care to their patients, which often includes recording a patient's health history, performing physical assessments and measuring vital signs, performing wound care, administering intramuscular, oral rectal and topical medications, providing patient education and more. A registered nurse's scope of practice includes administering and monitoring medications, developing care plans, delegating tasks to other professionals, supervising care provided by LPN/VNs, obtaining vital signs, recognizing abnormalities, wound care and performing basic life support. State statutes for both RNs and LPNs vary in specifically allowable tasks and duties.

Advanced Practice Registered Nurses

Advanced Practice Registered Nurses (APRNs) are licensed nurses with post-graduate education and training in nursing. There are four types of APRNs, including nurse practitioners, certified nurse midwives, certified registered nurse anesthetists and clinical nurse specialists.

States vary in their definitions of nurse practitioner practice authority.

- **Eighteen states and the district** have full independent practice and prescriptive authority.
- **Three states** have full independent practice but require a transition to independent prescribing period.
- **Three states** have full independent practice but require a physician relationship to prescribe.
- **Twelve states** have a transition to independent practice and prescribing period.
- **Fourteen states** require CNMs to maintain a relationship, either collaborative or supervisory, for both practice and prescriptive authority.

Certified Nurse Midwife (CNM) practice authority also varies by state.

- **Twenty-four states and the district** have full independent practice and prescriptive authority.
- **Two states** have full independent practice but require a transition to independent prescribing period.
- **Five states** have full independent practice but require a physician relationship to prescribe.
- **Four states** have a transition to independent practice and prescribing period.



- **Fifteen states** require CNMs to maintain a relationship, either collaborative or supervisory, for both practice and prescriptive authority.

Clinical Nurse Specialists are another category of APRNs that have a defined scope of practice in most state law. According to the [National Council of State Boards of Nursing](#), there are four types of practice authority for a CNS:

- Full independent practice authority: States that have independent practice authority have no requirement for a written collaborative agreement, supervision or conditions for practice. Some may require a period of practice under a collaborative or supervisory agreement before allowing independent practice. **Thirty-four states and the district** fall under this category for CNSs.
- Reduced practice authority: Other states are classified as reduced if a written agreement specifies the SOP and medical acts allowed with or without a general supervision requirement, direct supervision is required or other conditions must be met in order to practice. **Eleven states** are classified as reduced.
- Supervision required: **Pennsylvania** does not grant a CNS any advanced practice authority.
- Unspecified practice authority: **Four states** either do not have data or they do not recognize a CNS as an APRN.

Please note that certified registered nurse anesthetists (CRNAs) will be covered in more detail below.

Pharmacy

NCSL does not currently have information on the scope of practice of clinical pharmacist practitioners or pharmacy technicians.

According to the National Alliance of State Pharmacy Associations, prescriptive authority for pharmacists in all 50 states falls somewhere on the continuum between collaborative prescribing and autonomous prescribing. Collaborative prescribing, or dependent prescribing, indicates that a pharmacist has a collaborative practice agreement (CPA), which is a formal agreement or relationship between a pharmacist and prescriber, usually a physician. These collaborative agreements identify what functions are delegated to the pharmacist in addition to their typical scope of practice and what conditions must be met to prescribe. Autonomous



prescribing, or independent prescribing, usually indicates that a pharmacist’s prescriptive authority comes directly from the state and no delegation is required.

Most often, states have a statewide protocol, which is issued by an authorized state body, based on state statute and regulation that specifies the conditions that need to be met to prescribe a specified medication or the categories of medications included in their authority. Prescriptive authority could include prescribing medications, modifying drug therapy, giving vaccines and/or conducting lab tests.

Prescriptive Authority:

- All **50 states** allow pharmacists to prescribe naloxone.
- **Twenty-eight states and the district** allow pharmacists to prescribe hormonal contraceptives.
 - Two additional states (New York and Maine) have recently passed legislation that will allow pharmacists to prescribe hormonal contraceptives in 2024.
- **Eighteen states** allow pharmacists to prescribe tobacco cessation aids.
- **Several states** allow pharmacists to dispense pre-exposure prophylaxis and post-exposure prophylaxis for HIV prevention without a doctor’s prescription.

Prescription adaptation can be defined as a pharmacist modifying a medication regimen from the original prescriber to improve a patient’s health outcome, either independently or in collaboration with the original prescriber (e.g., physician, nurse practitioner). This can include modifying the quantity of a prescription (e.g., changing a 30-day supply to a 60-day supply) or switching a patient to a different medication that has the same effect as the previously prescribed drug (i.e., therapeutic substitution). The adaptation cannot change the type of medication or the outcome that the original prescriber intended. Some states have used this as a way to help patients in rural areas avoid unnecessary travel to the doctor’s office to modify a prescription.

Prescription Adaptation:

- **Five states** (Colorado, Idaho, Indiana, Maryland and Maine) allow prescription adaptation.
- **Forty-five states** do not allow for prescription adaptation.



Some states have given pharmacists the authority to prescribe additional medications as well, usually for treating minor acute conditions. All **50 states** allow pharmacists to administer vaccinations, but some limit the types of vaccines they can administer and/or restrict their authority by patient age.

Primary Care

All **50 states** allow physicians to broadly practice medicine under the law. This includes diagnosing, treating, correcting, advising or prescribing medication. State law varies on the types of tasks and activities that may be delegated to nurses, physician assistants or other medical professionals.

Physician Assistants

Details on physician assistant scope of practice are included in the section below.

Patient Centered Care & Cultural Transformation

NCSL does not currently have any information on acupuncturist or massage therapists' scope of practice.

Rehabilitation & Prosthetic Services

NCSL does not currently have any information on the scope of practice of art therapists, audiologists, blind rehabilitation specialists, chiropractors, dance/movement therapists, drama therapists, kinesiotherapists, music therapists, occupational therapists, occupational therapist assistants, orthotist and/or prosthetists, physical therapist assistants, recreational therapists or speech language pathologists.

Physical Therapists

All 50 states allow some type of direct access to a physical therapist. This means that physical therapists may see a patient without a physician referral in at least one circumstance. According to the American Physical Therapy Association, **20 states** allow unrestricted direct access, **27 states and the district** have direct access with provisions and **three states** have limited patient access to physical therapists without a referral.

Social Work Services

There are a variety of different types of licensed social workers in each state. In general, there



are bachelor's level-licensed social workers and master's level-licensed social workers (often broken down into Licensed Master Social Workers and Licensed Clinical Social Workers). Each license authorizes the individual to engage in a different scope of practice. In general, only LCSWs may provide independent clinical services to clients in all states. Licensed social workers do not have any prescriptive authority.

Specialty Care

NCSL does not have information on the scope of practice of dietitians, genetic counselors, ophthalmology technicians, podiatrists, perfusionists, respiratory therapists, therapeutic medical physicists or therapeutic radiology technologists.

Optometrists

Doctors of optometry (O.D.s/optometrists) provide more than two-thirds of primary eye health care in the United States. Optometrists are one of three types of eye care providers, alongside ophthalmologists (specialists who focus on more advanced surgical procedures) and opticians (who fit and/or fulfill corrective eye wear at the direction of either an optometrist or ophthalmologists). Ophthalmologists are physicians authorized to perform all the services that optometrists can, with additional authority for other medical tasks and surgery.

As health care providers, optometrists are trained to examine, diagnose, treat and manage eye disorders, diseases and injuries that manifest in the eye. In addition to providing eye and vision care, they may also play a key role in an individual's general health and well-being. Optometrists can detect systemic diseases, provide vaccinations and prescribe medications.

Optometrists can prescribe certain classifications of controlled substances depending on state law and/or rules and regulations. Schedule II controlled substances include hydrocodone only.

- **Thirty-five states** grant optometrists schedule II (Hydrocodone only)-V prescribing authority.
- **Eight states** give schedule III-V authority to optometrists.
- **Seven states and the district** have schedule IV-V authority or no authority to prescribe controlled substances.

States may also grant optometrists injectable authority as part of their overall scope of practice.

- **Twenty-four states** allow optometrists to administer injections, including but not



limited to, the treatment of anaphylaxis.

- **Seventeen states and the district** allow optometrists to administer injections to treat anaphylaxis only.
- **Nine states** do not allow optometrists to administer injections.

Optometrists may have the authority to perform ophthalmic procedures in some states.

- **Seven states** give surgical and/or laser privileges to optometrists.
- **Five states** allow optometrists to remove lumps and bumps.
- **Twelve states** have specific allowable procedures outlined in state statute.
- **Twenty-six states and the district** limit optometrists to examination, diagnosis and treatment.

Scope of Practice for CRNAs and PAs

This section contains scope of practice information on professions that have had a high prevalence of legislation over the last two sessions. Additionally, NCSL has fielded a variety of questions on these professions from state legislators in recent years.

Certified Registered Nurse Anesthetists (CRNAs)

Education

All CRNAs have at least a master's degree from a program accredited by the Council on Accreditation of Nurse Anesthesia Educational Programs and have completed at least 2,000 clinical hours. Anesthesiologists have completed medical school and a four-year anesthesiology residency program, including at least 12,000 clinical hours.

CRNAs must complete at least 100 credits of continuing education every four years to maintain their certification through the National Board of Certification and Recertification for Nurse Anesthetists. Anesthesiologists must complete at least 125 continuing medical education credits every five years. Some states may require more stringent continuing education requirements to maintain licensure.

CRNA Practice Authority & Prescriptive Authority

According to the National Council of State Boards of Nursing, each state may fall under two types of practice authority for Certified Registered Nurse Anesthetists (CRNA):

- 1) States that have independent practice authority have no requirement for a written



collaborative agreement, supervision or conditions for practice (such as Utah). Some may require a period of practice under a collaborative or supervisory agreement before allowing independent practice. **Thirty-four states, the district and CRNAs working in the U.S. military** fall under this category.

- 2) Other states are classified as not independent if a written agreement specifies the SOP and medical acts allowed with or without a general supervision requirement, direct supervision is required or other conditions (such as Indiana which requires supervision by a physician). **Fourteen states** are classified as not independent.

Please note that New York does not currently recognize CRNAs as APRNs.

Thirty-three states allow CRNAs to obtain prescriptive authority for controlled substances. Some states allow CRNAs to prescribe these substances automatically. Other states require an application. Most states with prescriptive authority require additional educational, licensing or oversight requirements to be met for this prescriptive authority.

Regardless of state law, CRNAs in a hospital or ambulatory setting may still require supervision as the Centers for Medicare & Medicaid Services (CMS) have a federal requirement mandating physician oversight to qualify for Medicare reimbursement. As of 2023, 24 states and Guam have chosen to opt-out of this requirement by sending an attestation from the governor that states the boards of medicine have been consulted, it is consistent with state law and it is in the best interest of the state's citizens.

Physician Assistant

Education

Physician assistants (PAs), also referred to as physician associates, are licensed clinicians who practice medicine in every specialty and setting. Most often, PAs work on providing care through patient-centered, team-based medical practice. PAs have obtained a master's degree and have spent over 2,000 hours in clinical rotations. For PAs, supervision requirements include the legally required collaborative or contractual agreements that a physician assistant must have with a physician to provide patient care. This may be determined at the practice level or at the state level by the state medical board or within statute.

Physician assistants are required to take a recertification examination every 10 years and earn 100 continuing medical education credits every two years to maintain certification with the



National Commission on Certification of Physician Assistants. Some states may require more stringent continuing education requirements to maintain licensure.

Practice & Prescriptive Authority

Physician assistants are required to be supervised by a physician in **26 states and four territories**. In **19 states, the district and American Samoa**, PAs may practice in collaboration with a physician. Recent legislation passed in **five states** allows physician assistants to practice independently or have a transition to an independent practice period.

Generally, PAs can prescribe medication with the collaboration or approval of a supervising physician. Some states do not allow PAs to prescribe Schedule II substances or limit the length of prescriptions. Specific protocols and procedures surrounding the ability to prescribe for PAs differ by state.

Additional Resources

- [50-State Scope of Practice Landscape Website](#) and [Legislative Database](#), NCSL
 - This site provides nonpartisan, unbiased and objective policy information about the scope of practice laws in the 50 states, the district and territories. The site and corresponding database include information on the following practitioners:
 - Addiction Counselors
 - Certified Nurse Midwives
 - Community Health Workers
 - Community Paramedics
 - Dental Hygienists
 - Dental Therapists
 - Dentists
 - Licensed Professional Counselors
 - Nurse Practitioners
 - Optometrists
 - Peer Support Specialists
 - Pharmacists
 - Physician Assistants

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