Scope of practice mid-year update: Victories, trends and more with Kimberly Horvath, JD [Podcast]

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AMA Update

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The AMA is working with states to track and defeat hundreds of bills that would lead to inappropriate scope of practice expansions. Kimberly Horvath, JD, a senior attorney with the AMA’s Advocacy Resource Center, shares the AMA’s progress so far this year and key trends to watch in scope of practice expansion, including those involving physician assistants and pharmacists. Learn how the power of organized medicine is working together to protect patients. AMA Chief Experience Officer Todd Unger hosts.

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Speaker

- Kimberly Horvath, JD, senior attorney, AMA Advocacy Resource Center

Transcript

Unger: Hello and welcome to the AMA Update video and podcast series. Today we’re bringing you an update on our work so far this year to combat inappropriate scope of practice expansions. I’m joined by Kimberly Horvath, a senior attorney with the AMA’s Advocacy Resource Center. I’m Todd Unger, AMA’s chief experience officer, in Chicago. Kim, it’s great to have you back on.
Horvath: Great to be back. Thanks for having me.

Unger: The last time we talked, it was about a year ago when the legislative sessions were just getting underway, and you told me you were tracking about 60 different bills across the country. Now that those legislative sessions are coming to a close, what’s your update?

Horvath: So when we last talked, there were about 60 bills and the states’ legislative sessions have been in full swing. We have been tracking hundreds of bills, actually, since that time. The AMA has been involved in many of them, again, working really closely with our colleagues at the state level, providing a national perspective, providing our resources, writing letters as necessary to lawmakers, giving them AMA’s opinion on the issues.

And overall, it’s been really successful. We’ve been pretty much successful in defending the practice of medicine against those inappropriate scope expansions. And in fact, some states have actually defeated all of their scope bills. States like Texas, they had 132 bills this year on scope of practice. Mississippi defeated all of their bills. South Dakota, Indiana as well. So there have been some losses. As you can imagine, tracking that many bills, there’s going to be some.

But for the most part, it’s been a very successful legislative session so far.

Unger: Anything kind of still in motion?

Horvath: Oh, definitely. So there are about a dozen states that are still in session. A couple will adjourn at the end of this month, so just in a couple of days. But many will go on to the end of the year and even into next year. So lots of work to still do and we’re working really closely with those states that are still in session. Again, still tracking those bills, working with states like Michigan, and Pennsylvania, and North Carolina that are still in session.

Unger: I'm curious—first of all, there are a lot of bills based on what you said. And as you look at that over the course of this session, are there any kind of themes that stand out to you?

Horvath: So I think what we have seen—I'll mention two—we have seen an uptick in particularly pharmacist scope expansion bills, and these are bills that would allow pharmacists to diagnose and treat a patient based simply on a CLIA-waived test. This is a little bit of carryover from COVID when pharmacists were allowed to diagnose and treat for COVID—test and treat for COVID. But here, in this space, we’re seeing pharmacists being able to use a CLIA-waived test to, based simply on that test, diagnose a patient for things like strep throat, RSV, the flu, urinary tract infections.

And this is really problematic and concerning to us. Pharmacists are experts in medications and medication management, but they don’t have the education and training to diagnose a patient. They don’t even have the education and training to physically examine a patient, and you simply cannot nor
should be diagnosing a patient based simply on a test. So it's very concerning. We are also seeing a number of bills—a huge uptick in physician assistant scope expansion bills. As an example, last year during the legislative session, there were about 10 states that had PA bills.

This year, 20 states had physician assistant bills, so a big uptick in those bills as well.

**Unger:** What are the other trends that you can't help but notice? Because it seems like the same bills just keep coming back. You can defeated in a year and then they're back the following year. Is this kind of a, wear the legislators down approach? And does this have an impact on how they perceive these things as they just keep coming across their desk, so to speak?

**Horvath:** Yeah. No, definitely. I mean, there's a lot of legislator fatigue for those legislators that have been there for a long time. There's also new legislators, so there continues to be the need to educate about the importance of these bills, and the difference in education and training as an example. I will mention physician assistant bill in South Dakota. I think we've talked about this one before, but they defeated that bill—and the South Dakota State Medical Association defeated that bill in 2021 and again in 2022.

They knew it was coming back again this year, and they were ready, though. They were inspired by campaigns that other states had created using, in part, some of the resources that the AMA can provide like the Scope of Practice Partnership grants, and other things that we can provide to the states. But really inspired by what other states have done, and they turned, and in really a matter of a couple of months, created their very own comprehensive campaign, and they were successful.

They defeated the bill again this year for the third year in a row. Not only did they defeat it, but they did so by a wider margin than previous years. So just a really strong testament to the power of organized medicine working together, and really, a medical association saying, "Look, we've got this. We've got to get our doctors out there talking about this bill." They engage grassroots and they did it. It's a really great example.

**Unger:** What a great example of Scope of Practice partnership, learning from other states, and using the resources that the AMA provides, which there are a lot of different ones. And as we talk about these bills coming back year after year again, I'm sure that you're also innovating in the types of data and resources that you're providing to aid the states in this. Can you talk about what's been particularly effective this year?

**Horvath:** Yeah, so a couple of things. So again, yeah, we do. We continuously update and provide new resources. We have a brand new one-pager series that states like South Dakota were able to use in their efforts. We've also updated things like our physician education and training modules, which show the difference in education and training of physicians to non-physicians. We have a brand new module on pharmacist, again, kind of knowing that was coming this year.
We recently updated our module on physician assistants, and we've got a couple others that are coming here soon that'll be finalized. We've also updated our geomap series, which has been instrumental in refuting the notion that scope expansions increase access to care in rural areas. So we updated those maps. Again, they just came out with new maps at the beginning of this year using 2022 data. And again, those have been instrumental.

We have maps for every single state in the country across four spans of time. And again, those maps are instrumental in showing that despite the promise that non-physicians make, like nurse practitioners, when they want to expand their scope of practice, they say, legislators, lawmakers, please expand our scope of practice. We will go into the rural areas. And what we can tell from these maps is that has not borne out. Nurse practitioners, for example, even in those states where scope expansions have been permitted, they tend to still practice in the same areas of the state as physicians.

And so these maps continue to be very powerful tools in refuting that notion.

**Unger:** So again, back to these new tools, having the facts, being able to share case studies—places where this has worked and where you were able to get out in front of it—these are all really important. The AMA, of course, has made these kinds of scope of practice expansions a key pillar of the Recovery Plan for America's Physicians. Kim, for those folks out there that want to kind get involved and make sure they're ahead of the curve when the time comes to defend against some of these, what should they do?

**Horvath:** One thing that I would say is definitely sign up for AMA's Advocacy Update. That's a great place where we talk about some of the bills that have been introduced, provide examples of where the AMA has engaged and talk about those states where this is a really important issue, and one we're tracking closely, so for sure there. There's also a ton of resources on the AMA website. We have a brand new page there, "Education Matters," which provides some of the difference in education and training of physicians and various non-physicians.

And of course, podcasts like this one.

**Unger:** Absolutely. And we love having you on here because there is so much happening at the federal and state level, and to hear just about the activity about what you're putting together, I'm sure that everyone out there appreciates knowing that we're on it. So thank you so much for being here today. That's it for today's AMA Update. We'll be back with another episode soon. In the meantime, find all our videos and podcasts at ama-assn.org/podcasts. Thanks for joining us today. Please take care.

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