

Scope of practice and patient safety with Michaela Sternstein, JD

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Featured topic and speakers

In today's episode of Moving Medicine, AMA Chief Experience Officer Todd Unger discusses scope of practice and the AMA's ongoing efforts to address this important issue on behalf of physicians with Michaela Sternstein, JD, vice president of the AMA's Advocacy Resource Center.

For over 30 years, the AMA's state and federal advocacy efforts have safeguarded the practice of medicine and defended the belief that patients deserve care led by the most highly educated, trained and skilled health care professionals: physicians. Through research, advocacy and education, the AMA vigorously works to #StopScopeCreep.

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Speaker

- Michaela Sternstein, JD, vice president, Advocacy Resource Center, AMA

Transcript

Unger: Hello, this is the American Medical Association's Moving Medicine video and podcast. Today we're talking with Kai Sternstein, vice president of the AMA's Advocacy Resource Center in Chicago about a very important issue, scope of practice. I'm Todd Unger, AMA's chief experience officer in

Chicago. Kai, thanks so much for joining us again. AMA's been addressing scope of practice at the state and federal levels for over 30 years. Let's begin by getting a little bit of background on the issue and why it continues to be such a challenge.

Sternstein: Sure. Thank you, Todd. And thank you everybody for being here today. Yes, 30 plus years, actually. And in fact, when I started at AMA 20 years ago, I cut my teeth on scope of practice as a young lawyer analyzing laws across the country and proposed pieces of legislation and trying to figure out what was going on. Why are non-physician providers trying to get into the practice of medicine? Everybody goes to school for a specific purpose. Health care team is so critical in the delivery of health care, especially today. We've seen that with the pandemic. And I think, as physicians, the education and training really matters. The level, the depth, the intensity, the time commitment. And physicians as a result are ready to be leader of the health care team. And that doesn't mean that they do everything. It doesn't mean that they hold everybody tight. It just means that you need a leader like you need a quarterback on a football team and physicians are made for that. They're built for that. And so we're extremely passionate about this campaign, making sure that the practice of medicine is well defined so that the patients that physicians treat are most protected.

Unger: Well, you mentioned the pandemic and I think one of the kind of surprises is that this issue around scope of practice has become even more so during the past year and a half. Why is that?

Sternstein: Indeed. Well, I think we've all been through quite an 18 months of something we'll never forget. And I think we all understood that in the height of the pandemic, we needed an all hands on deck approach. And as physicians in the medical community and as leaders, we recognized that and embraced concept. We needed, and because our colleagues are so well respected, we knew the roles that they could play, the non-physician providers that provide health care in this country. And all of us rowing together in one direction was the recipe for success during the pandemic. But we also knew that by allowing for unprecedented activity and scope of practice during an emergency, that it would be likely that many of these non-physician provider groups would then take that and try to extrapolate it outside of the pandemic. And it's exactly what's happened.

Unger: Do you have any particular arenas where that is the biggest kind of issue?

Sternstein: Sure. I mean, we've seen this. You had governors issue executive orders that allowed for things outside of state laws that defined what the scope of practice would be for, let's say, a nurse practitioner or a physician assistant. And so now, and not unexpectedly, seeing things like Governor Baker in Massachusetts extending and making permanent his executive order, allowing for independent practice of nurse practitioners and other advanced practice nurses. So expanding the law, taking it away from the legislature and unilaterally making that decision, very, very frustrating because we liked the laws as they existed. We understood the emergency nature of the pandemic and why we needed the all hands on deck but we so strongly believe in the team-based care approach to health care. So anytime you expand into independent practice and you take away collaboration and

supervision and that role of the physician in the delivery of health care, we think that that's siloing health care and is exactly the opposite of what not only we think is the most high quality way to deliver health care but it's also what patients expect and deserve.

Unger: Kai, one of the arguments that we hear a lot by those that are pushing for scope expansion is that it will expand access to care. I'd like you to talk about why is that issue flawed?

Sternstein: That is a great question. And it's one of the things I'm really proud of. So the AMA back in 2006, developed the Scope of Practice Partnership. It's a collaboration of state and specialty societies and national medical specialty societies coming together, working collectively on scope of practice issues. One of the things we've been hearing anecdotally from physicians for years was that these non-physician providers are claiming that they're the solution to access to care. Just expand our scope of practice and we'll take care of the problems in the rural areas or in the inner cities. And we were hearing from physicians that it wasn't happening, that this was a failed promise, that this was a false premise.

We decided that we needed more than anecdotal evidence. So we undertook an extremely comprehensive review, creating thousands and thousands of what we call geomaps that lay out the practice location of every single physician in the country down to the county level, and then overlaying with that where the non-physician providers are actually practicing. So it's an incredible tool because you immediately visually see what is happening. And in states, for example, where scope has been expanded 5, 10, 15 years now, guess what? The maps still look the same. Physicians and non-physicians are largely practicing in the exact same areas together. And those promises of solving rural health care and access to health care, which is a huge and critically important issue, those issues remain. Those problems were not solved. And so it's just incredibly frustrating, but we love this tool and it is extremely powerful with legislators, policy makers and stakeholders around this issue.

Unger: So that's a really big piece of value that the AMA brings to the table, is that kind of data that moves beyond the anecdotes.

Sternstein: That's right.

Unger: And really clarifies some of these arguments. Can you talk a little bit more about how AMA addressed other scope of practice challenges?

Sternstein: Sure. I mean, in addition to this data set that we talked about, we've created modules that do deep dives into the education training of all the major non-physician provider groups. Not to denigrate their education training, because again, like I said, I think that physicians have deep respect and on the ground work with hand in hand with their non-physician colleagues and understand that they cannot deliver medicine without them. But when you start hearing arguments in the legislature and the legislators coming back to us saying that somebody is claiming that their education and

training is the same as physicians, that there's no difference, we needed to call that on the carpet. And so we did a deep dive and started looking at the hours, the residency programs, all the coursework that physicians take and the training and the subspecialty training that they undergo in order to be able to perform surgery on the eye or prescribe psychotropic medications to the most vulnerable patients.

And I think those were extremely valuable and are also at the heart of our scope of practice advocacy. And of course, none of this would be possible without the physicians on the ground, the advocates that can bring to the table their stories, the students and the residents, when they come and speak to policy makers and legislators about their education and training and what it means to them, the sacrifices that they've made, the time spent, the type of training that they undergo in order to be able to perform a certain procedure or use a certain tool on the human body. I mean, I think that there's nothing more compelling and it's what just I think is the heart of our scope campaign.

Unger: And I know this obviously differs dramatically by specialty but can you give any kind of detail on that? The number of years that we're talking about in terms of education training versus other.

Sternstein: Yeah. It's like over 10,000 hours. It's an anesthesiologist performing a specific procedure thousands of times to get that feeling that they need in order to be able to stand confidently alone. There's a reason physicians go through the residency training and that kind of hands on experience and surprisingly, many of these non-physician providers, they just don't have that kind of training and for good reason because they don't perform or their education training doesn't prepare them to perform those procedures. They have other roles, critical roles in the delivery of health care.

But there's a reason why psychiatrists, for example, spend thousands and thousands of hours around prescribing and understanding what the impact of psychotropic medications are on the human body and understanding the totality of the human body. It's not just about that one prescription, that one drug. It's about all the other issues that are going on with the patient and bringing that whole piece together. And we just believe very strongly that it makes physicians unique and what they bring to the table is unique and valuable. And I believe patients see that too. Our recent focus groups that we've done showcase that to us. Over 95% of patients strongly believe that in order to deliver high quality care, physicians need to be involved in diagnosis. They need to be involved in the treatment of a patient. They expect to it. They think it's happening. So it's our job to make sure that that expectation is delivered upon.

Unger: Now, if I understand this right, based on what you're saying, a lot of the activity around scope is happening at that state level. Can you speak a little bit more directly to how the AMA works then at that state level?

Sternstein: Yeah. Thank you so much. So, my team is the state advocacy team for the AMA and we're a unit of eight attorneys. We are available 24/7 to work with our state and specialty society colleagues on this collective state advocacy agenda, which includes scope of practice. We review

legislation real time and provide feedback. We create model bills and talking points and testimony. We prepare our trustees to testify. We had Dr. Susan Bailey, our immediate past president, testify in South Dakota this year. And oftentimes the attorneys that work for me also testify when the technical expertise is needed by staff that really gets into the nitty gritty of the language and what the words actually mean.

This year, we work with the vast majority of states that were in session on scope of practice legislation. We had significant victories. Again, amazing work by state medical associations and specialties across the country coming together and making the case and winning. We did suffer some losses as well, which is unfortunate. Well, to be expected. Every state is different. Politics are local. And so without our collaborative way and approach of working with states, we wouldn't have the success that we need. And again, the physicians that take the time to advocate on these issues, we wouldn't have the successes that we do year in and year out without them.

Unger: It must be pretty difficult when you have that kind of scope of expansion happening on 50 different fronts.

Sternstein: Yes.

Unger: Speaking of elevating physician voices and helping physicians advocate on behalf of the profession, talk a little bit about how you do that. How do you bring the physician, the leader that you're talking about, that voice, to the front of these discussions about scope expansion?

Sternstein: So critical. Well, first and foremost, we work hand in hand with the state and national medical specialty society. So through our Scope of Practice Partnership, we have an ability and through our Ambassador Program here at the AMA and other incredible groupings of advocate physicians, we are able to activate physicians across the country to reach out to their legislators, to reach out to their policy makers to be present at specific meetings. Again, this is all done in deep, deep coordination with the state medical associations. They are boots on the ground. They know when a hearing is critical and when a hearing is only for show. They know who needs to be spoken to, who's already made a decision, who's on the fence. So we are very strategic. We recognize physicians are incredibly busy, so we're not going to send people off on these wild goose chases. We are targeted in our approach. We use social media to amplify our message. And again, just tight, tight coordination with state medical associations. We couldn't do this work without them.

The national organization, our perspective is really critical. Getting physicians and students and residents on the ground, rowing in the same direction with the same message, that only happens when we have this kind of relationship. And I'm really proud of that relationship that we have with the states. It's what keeps me coming back year in and year out on these issues. Really challenging, like you said, across the country. Red solutions, blue solutions, purple solutions but we're there every step of the way whenever a state medical association needs us. Oftentimes behind the scenes, so we don't

get a lot of credit a lot of times for the work that we do but you can bet if there's a scope bill that's moving, that's active, the AMA's there. The AMA's there.

Unger: You mentioned some wins and some losses over the past year or so as a result of the efforts. Any standout items you'd want to cover?

Sternstein: Yeah. I think we've had the classic situations that we expected. We have optometrists that are trying to perform surgery on the eye. We have physician assistants who are trying to replace physician supervision within their practice to collaboration, like continually kind of watering down the relationship between the physician and the physician assistant. The same thing with nurse practitioners and other advanced practice nurses. They've been at it for much longer. They are very active in completely trying to remove any supervision or collaborative agreements that exist. They are pushing for independent practice. We see physician assistants trying to do the same. We've had, like I said, many defeats. I mean, we've defeated many of these bills most of them across the country. We have, however, seen, for example, when it comes to physician assistants about five states or so, where they move from supervision to collaboration. So this kind of like slow drip, drip, drip away from the collaborative team based care approach. It's very concerning. And then of course, there's the whole title misappropriation issue.

Unger: Yeah. Let's talk a little bit about that.

Sternstein: Yeah.

Unger: What's that mean?

Sternstein: Yeah. So I'll tell you all about it. This is something I could have never anticipated, and I honestly just don't really understand why we're even spending time in this space. You've got nurse anesthetists trying to be referred to as nurse anesthesiologist. We took that on in New Hampshire. Huge collaborative effort with the state medical association and specialty society, the American Society of Anesthesiologists. And we won in the New Hampshire Supreme court where they ruled, the court ruled that anyone using the term anesthesiologist must be licensed by the Board of Medicine.

We have a whole truth in advertising campaign that's related to our scope work that talks about patients needing to know who is providing them their health care. Transparency, a light on who it is that's coming to them in a exam room when you're the most vulnerable that you could be in, sitting in a gown, waiting to be examined. It's important for you to know and be confident about who is providing you your health care. So wanting to be called a nurse anesthesiologist instead of a nurse anesthetist, that's flabbergasting to us.

Also, the PAs are now in this game. The physician assistants once were referred to as physician assistants. Then they decided they wanted to be called PAs. And now they want to be called physician

associates. This has all happened in probably the last four years. And they're ready to spend millions and millions of dollars on this name change. I would just put out a challenge perhaps that money could be spent on actually trying to figure out some of the problems that exist in health care. Let's put our heads together and talk about the access to care issues and figure out how we get health care to those most vulnerable that are in our rural areas or in our inner cities. But while they're spending time there, we'll be fighting them all along the way because we have patients at the center of all of our thinking and know that we need to protect them and make sure that they are very clear on who is providing them their health care.

Unger: Now back in 2006, so this is a little over 15 years ago, the AMA formed what's called the Scope of Practice Partnership.

Sternstein: That's right.

Unger: What is the Scope of Practice Partnership? How's that work?

Sternstein: It's awesome. And I am proud to be one of the steppers that helped develop that in 2006. It is our effort to focus medicine on a collective agenda. When it comes to scope of practice, we focus on the legislative arena, the regulatory arena, the legal arena. We work really closely with the AMA's Litigation Center. When there are issues of courts, we kind of provide information and bring things back and forth between the two areas but really love this collaboration. It speaks, again, to the need to collaborate, to be on the same page. We have about, I think, a little over 105 medical associations as members of the Scope of Practice Partnership. We have a vibrant steering committee made up of 20 state medical associations and national medical specialty societies. We work with them really closely to deliver grants to states and specialties on scope of practice. We have, and I'm proud to say, delivered millions of dollars' worth of these grants to help states do the incredible work that they're doing on the ground to ensure that, again, we protect those patients and protect what it means to practice medicine.

Unger: So as we head into the end of this year, and hopefully a scenario where we can move beyond the pandemic in the coming year, what are you looking for in 2022 as kind of major challenges and opportunities in the scope of practice arena?

Sternstein: Yeah, I think we expect just to be inundated again. It's really challenging when you're dealing with, and I hate calling these folks opponents because, again, on the ground and where health care is delivered, they're teammates but in the legislature, we're dealing with an opposition that is singularly focused on scope of practice. As leaders in health care, physicians and their medical associations, focus on all the issues affecting health care. It's not just about scope of practice. That's one of 50 plus campaigns that we all work on from telemedicine to access to care to, there's just so many. Liability reform and Medicaid expansion and on and on and on it goes. So we expect all the providers to be back, to want more, to expand their scope of practice. And we're already working with

states to align, to make sure our resources are aligned, that they have the tools that they need.

We are really excited to be in this space again because we're the voice of the physician. And we need those voices to be heard loud and strong, patient-centered, high quality care, physician-led team. Those are our messages. We have hundreds of resources. We've got everything ready to go. We are physician's greatest ally when it comes to this issue. We couldn't be more dedicated and enthusiastic about helping elevate physicians' voices and to remind policymakers, legislators, stakeholders about the role of the physician and how important the physician is in the delivery of health care.

Unger: Well, thanks so much, Kai. If you're interested in finding out more about the AMA's activities in scope of practice, check out the AMA website to find those resources that Kai talked about. That's it for today's Moving Medicine episode. We'll be back with more shortly. In the meantime, click subscribe on our YouTube channel, Apple, Spotify or wherever you listen to your podcasts. Find all our videos and podcasts at ama-assn.org/podcasts. Thanks for joining us. Please take care.

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