



Is It or Isn't It?

A Systematic Approach to Scope of Practice Decisions



Physical therapy practice acts are by design, ambiguous enough that the details of the law are fleshed out with the applicable regulations. As many specifics are not found in law, many state physical therapy boards have been approached for a judgment as to whether or not a certain intervention or procedure is within the scope of PT practice in that jurisdiction. Although well within the authority of the board to make these judgments, many do not have a systematic, repeatable procedure established to examine the scope of practice questions.

The Federation has been working to develop a database of research articles, citations of relevant statutes and regulations, and board opinions with regard to interventions/procedures commonly brought before a board. Currently, papers and databases on the hot topics of rehabilitative ultrasound imaging, dry needling, and animal rehabilitation are being developed. Additionally, the Federation has attempted to create a “decision pathway” that jurisdictions may choose to utilize when making scope of practice decisions.

State boards are often faced with opposition when another group claims the activity in question as their own. However, it is very clear that no single profession owns any procedure or intervention. Overlap among professions is expected. The acupuncturists may attempt to make a sole claim on the use of needles just as PTs might want to make a sole claim to ultrasound, but both claims will be difficult to support as explained below.

One activity does not define a profession, but it is the entire scope of activities within the practice that makes any particular profession unique. Simply because a skill or activity is within one profession's skill set does not mean another profession cannot and should not include it in its own scope of practice.¹

In an attempt to assist legislators and regulatory bodies with making decisions about changes to healthcare professions' scopes of practice, FSBPT collaborated with five other healthcare regulatory organizations to publish [**Changes in Healthcare Professions Scope of Practice: Legislative Considerations**](#). These organizations present the argument that if a profession can provide supportive evidence in the four foundational areas then the proposed changes are likely to be in the public's best interest. Those areas are Historical Basis, Education and Training, Evidence, and Regulatory Environment.

The following pathway is suggested for consideration when a board is considering whether or not something should be included in the scope of practice of the profession.

FSBPT as a resource

Over the years, FSBPT has gathered data on many of the most commonly submitted activities. Jurisdictions are encouraged to contact the Federation for background information which may help to answer the questions below.

1. Does the board really understand the activity/intervention in question or is more information needed?

- If yes, then proceed with the decision making process.
- If no, then postpone decision making until more information can be gathered.

2. Does anything in the jurisdiction's practice act specifically prohibit or mention the activity in question?

Does anything in the definition of physical therapy, physical therapist, etc. in the practice act either exclude or mention the intervention/activity in question?

¹ ***Changes in Healthcare Professions Scope of Practice: Legislative Considerations***. Revised 10/2009, page 9.

If there is a specific prohibition that applies to the activity, then the activity is not within the scope of practice of physical therapy in that jurisdiction. If there is no specific prohibition, the board may continue the process.

If the law or regulations do not specifically mention the activity, additional inquiry is still warranted given there is no prohibition. If there is support for the activity in the law or regulations, the board may be able to make a positive decision without investigating further. However, it may feel that additional inquiry is warranted and will continue with the questions outlined below.

Examples:

- If the practice act specifically prohibits puncturing the skin with a needle, dry needling would not be within the scope in that jurisdiction.
- If the practice act allows EMG performance by a PT, there is a precedent to skin puncture with a needle (albeit for a different purpose). Thus, although dry needling is not specifically mentioned, it may be supported within the practice act by the allowance for EMG.

3. Is there a historical basis for adding the activity in question to the scope of practice?

- a. Has there been an evolution of the profession towards the addition of the skill or service?
- b. What is the evidence of this evolution?
- c. How does the skill or service fit within or enhance a current area of expertise?

It is typical for many of the activities in question before a Board to appear to be an advanced or new skill for the profession. However, as educational opportunities for these skills and techniques are developed, offered, and taught on a wider basis, increasing numbers of practitioners will subsequently utilize the skills in practice. This evolution often leads to the intervention or procedure in question becoming an entry-level skill and eventually being included in entry-level curricula.²

4. Is there evidence of education and training which supports the addition of the activity in question to the scope of practice?

² Ibid, page 11.

- a. Does current entry-level education prepare practitioners to perform this skill as their experience increases?
- b. If the change in scope is an advanced skill that would not be tested on the entry-level licensure examination, how is competence in the new technique assured?
- c. What competence measures are available and what is the validity of these measures?
- d. Are there training programs within the profession for obtaining the new skill or technique?
- e. Are standards and criteria established for these programs? Who develops these standards? How and by whom are these programs evaluated against these standards?

5. *What is the evidence which supports the addition of the activity in question to the scope of practice?*

- a. Is there evidence within the profession related to the particular procedures and skills involved in the changes in scope?
- b. Is there evidence that the procedure or skill is beneficial to public health?

6. *What is the regulatory environment in the jurisdiction?*

- a. Is the regulatory board authorized to develop rules related to a changed or expanded scope?
- b. Is the board able to determine the assessment mechanisms for determining if an individual professional is competent to perform the task?
- c. Is the board able to determine the standards that training programs should be based on?
- d. Does the board have sufficient authority to discipline any practitioner who performs the task or skill incorrectly or might likely harm a patient?
- e. Have standards of practice been developed for the new task or skill?
- f. How has the education, training and assessment within the profession expanded to include the knowledge base, skill set and judgments required to perform the tasks and skills?
- g. What measures will be in place to assure competence?

With a systematic approach in place for making scope of practice decisions, a state board can defend its ruling based on the answers to the above questions and the supporting documentation. Complaints of lack of fairness should be minimized when the same questions and considerations are posed of all interventions or procedures to be added to the scope of practice of physical therapists.

If you have any questions regarding scope of practice decisions, the suggested pathway, or the database being developed, please contact Leslie Adrian at ladrian@fsbpt.org or (800) 881-1430, ext 233.

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Leslie's responsibilities at the Federation include interacting with the jurisdictions to provide consultation, technical assistance, and training on a variety of issues. Additionally, she monitors and tracks legislative activity and the potential regulatory implications of current physical therapy issues. Leslie also functions as a staff liaison to support the efforts of the Continuing Competence, Ethics & Legislation, and Foreign Educated Standards Committees.

Prior to joining the Federation in September of 2008, Leslie worked in a variety of outpatient orthopedic settings and held volunteer positions at Shriners' Hospital for Children in Erie, PA and the American Red Cross in Heidelberg, Germany.