

Policy Surveillance: Focus on State Law

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Overview

- Getting Started
- Research Methodology
- Role of the Taxonomy
- Role of Audience/User
- Quality Assurance
- Points of Interest
- Examples

Getting Started

- Goal: Analysis and categorization of legal texts based on pre-selected categories and/or topics
- Selecting an area of focus
- Scoping
 - Narrow vs. broad
 - Longitudinal vs. point in time
 - Comparative vs. descriptive
- Developing a taxonomy

Role of Taxonomy

- Define research parameters
- Define terminology/variants
- Define categories/topics
- Define variables, if any
- Guide research
- Inform audience/user

General Research Methodology

- Based on taxonomy, identify keywords for topic(s) and subtopic(s) if any
- Use keywords to search legal texts for topic specific statutes and regulations using specific state sample (pilot testing); Refine and revise keywords as needed
- Document methodology for keyword selection and state statute/regulation identification
- Scale out to other topics and states
 - Identify keywords
 - Using keywords, identify topic-specific statutes and regulations within time parameters
 - Remove or explain outliers
- Extract identified statutes and regulations from primary source
- Define variables (if any) and apply to statutes and regulations
- Draft summaries and/or additional explanatory texts or graphics
- Populate research template/database with key elements of identified statutes and regulations, including variable analysis (if any), additional analysis (if any), and link to primary text

Example: SHPDR Research Methodology

Data Extraction Method Process Flow – State Health Practices Database for Research (SHPDR)

GW Legal Team

Part 1: Identify Statutes and Regulations

1.1 Identify keywords

1.2 Identify relevant statutes and regulations

1.3 Catalog state statutes and regulations

Part 2: Variable analysis

2.1 Read the text of the statute/and or regulation

2.2 Analyze according to relevant Variable

2.3 Draft the justification

2.4 Add Statute/Regulation, Variable, Justification, and other elements to the data collection template.

SHPDR Project Funded by NIH.

Output

- Database of state statutes and regulations organized by topics and subtopics defined in the taxonomy
- May also include:
 - Federal law
 - Summaries of legal texts
 - Analyses of legal texts
 - Links directly to relevant federal and state law
 - Additional tools and resources

Example from SHPDR: Licensing laws, nurse practitioner prescriptive authority

User Note: Subvariables were derived from the narrative text of the justifications and are state-specific. Users should review the legal source material associated with the primary variable to ensure accuracy and completeness. Variable values of "not identified" mean that the review of statutes and regulations based on the keywords in the User Guide did not return any information. Subvariable values of "not identified" mean that the parent variable's justification did not have material pertinent to the subvariable.

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Show entries
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Year	State	Variable	Variable Value	Justification
2010	AR	Parent Variable: State regulates scope of practice for nurse professionals	Yes	Establishes authority of the Arkansas State Board of Nursing and Prescriptive Authority Advisory Committee to implement regulations relating to prescriptive authority of nurses.
2010	DC	Parent Variable: State regulates scope of practice for nurse professionals	Yes	Education and certification requirements for certified nurse-anesthetists; Scope of practice of nurse-anesthetists; Standards of conduct; Prescriptive authority. Note: Scope of practice set out specifically in CDCR 17-5708.
2010	DC	Parent Variable: State regulates scope of practice for nurse professionals	Yes	Education and licensure requirements for certified nurse-midwives; Scope of practice of certified nurse-midwives; Standards of conduct; Prescriptive authority. Note: Scope of practice set out specifically in CDCR 17-5808.
2010	DC	Parent Variable: State regulates scope of practice for nurse professionals	Yes	Education and certification requirements for nurse-practitioners; Scope of practice of nurse-practitioners; Standards of conduct; Prescriptive authority.
2010	DC	Parent Variable: State regulates scope of practice for nurse professionals	Yes	Education and certification requirements for clinical nurse specialists; Scope of practice of clinical nurse specialists; Standards of conduct; Prescriptive authority. Note: Scope of practice set out specifically in CDCR 17-6008.
2010	AK	Parent Variable: State regulates scope of practice for nurse professionals	Yes	Prescriptive authority for advanced nurse practitioners.
2010	DC	Parent Variable: State regulates scope of practice for physician assistants	Yes	Definitions for all health occupations; "Practice by physician assistants" means the performance, in collaboration with a licensed physician or osteopath, of acts of medical diagnosis and treatment,

Example from Healthinfolaw: Comparative Map

Who Owns Medical Records: 50 State Comparison



This map and table show laws that confer ownership of a medical record to a health care provider, hospital, or patient. We did not include laws that only apply to specific providers other than physicians (such as chiropractors and optometrists) or facilities other than hospitals (such as ambulatory surgery centers, birth centers, abortion clinics, nursing homes, prisons, and schools). Note that there may be court decisions regarding record ownership that apply to providers in a particular state under common law even where there is no statute or regulation (e.g., *McGarry v. J.A. Mercier Co.*, 272 Mich. 501, 262 N.W. 296 (1935) (Michigan case holding that x-ray negatives were the property of the physician who made them, not the patient); *Holtkamp Trucking Co. v. David J. Fletcher, M.D., L.L.C.*, 402 Ill. App. 3d 1109, 932 N.E.2d 34 (2010) (Illinois case holding that medical records were physician's property)). Many states have specific laws addressing how providers must maintain, protect, and dispose of records, as well as laws giving patients, providers, and others access to medical records, regardless of ownership status. In addition, patients in all states have many rights with respect to their medical records under the HIPAA Privacy and Security Rules.

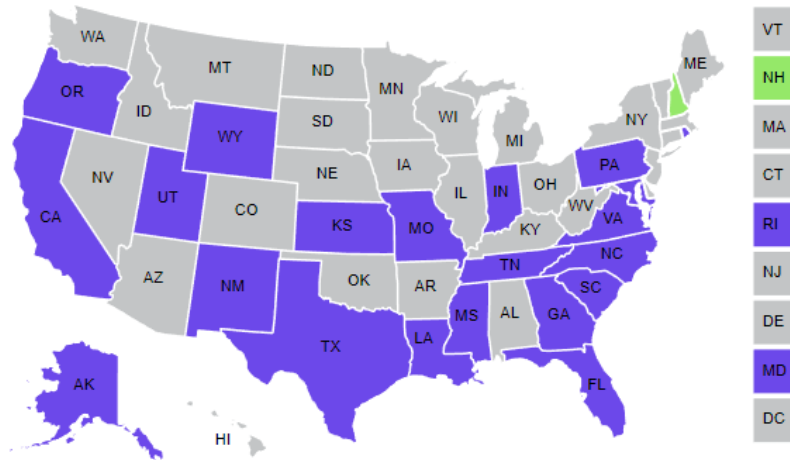
Notes:

* Provider ownership of medical record is referenced in language of law

± Ownership is of the physical conveyance for the medical information

‡ Ownership is of the information contained in the record

[Last Updated 08/20/15]



Click on a state to see more information on **Medical Records Collection, Retention, and Access** in that state

Medical Record Ownership Laws

- Hospital and/or physician owns medical record
- Patient owns information in medical record
- No law identified conferring specific ownership or property right to medical record

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State	Medical Record Ownership Laws	Details
Alabama	No law identified conferring specific ownership or property right to medical record	
Alaska	Hospital and/or physician owns medical record	Alaska Admin. Code tit. 7, § 12.770: The medical records, including x-ray films, are the property of the facility (applies to hospitals and other specified health care facilities).
Arizona	No law identified conferring specific ownership or property right to medical record	
Arkansas	No law identified conferring specific ownership or property right to medical record	
California	Hospital and/or physician owns medical record	Cal. Code Regs. tit. 22, § 70751: Medical records are the property of the hospital.
Colorado	No law identified conferring specific ownership or property right to medical record	
Connecticut	No law identified conferring specific ownership or property right to medical record	
Delaware	No law identified conferring specific ownership or property right to medical record	
District of Columbia	No law identified conferring specific ownership or property right to medical record	
Florida	Hospital and/or physician owns medical record	Fla. Stat. § 456.057: Defines "records owner" as any health care practitioner who generates a medical record after treating patient, any health care practitioner to whom records are transferred by a previous owner, or any health care practitioner's employer.
Georgia	Hospital and/or physician owns medical record	Ga. Code Ann. § 31-33-3: All records are owned by and are property of provider.
Hawaii	No law identified conferring specific ownership or property right to medical record	
Idaho	No law identified conferring specific ownership or property right to medical record	

Role of Audience/User

- Who is your audience(s)?
- What data/information do they need?
- For what purpose(s) will the data be used?
- Disclaimers
- Role of the User Guide

Quality Assurance

- Pre-defined QA methodology
 - Must be understandable, replicable, and scalable
 - Role of primary researchers and secondary reviewers
 - Full oversight review for accuracy and consistency post data extraction
 - Final review of entire dataset prior to launch
- User confidence - Accuracy and accountability
- Describe in User Guide

Points of Interest

- Variation in state statutes and regulations
 - Terminology
 - Organization, including state code changes over time
- Interpretation/communication of data
- Limitations:
 - Other sources of law (e.g., executive orders, case law, Federal)
 - Law in practice
 - Funding
- Statutes/regulations may not reflect policy and neither may reflect practice
- Working with other disciplines

Examples

- State Health Practice Database for Research: Broad, Comparative and Descriptive, Longitudinal (funded by NIH, formerly available at shpdr.org)
- Healthinfolaw.org: Narrow, Comparative and Descriptive, Point in time (initial funding from RWJF)

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A decorative graphic at the bottom of the slide consisting of several overlapping, semi-transparent blue geometric shapes, primarily parallelograms and trapezoids, arranged in a rhythmic, staggered pattern.