



Background & Objectives

In the United States, unlicensed personnel who help disabled people in their homes can be employed by a home care agency or directly by the person requiring assistance.

State-level nurse practice acts and medication aide laws determine who can perform health maintenance tasks such as managing catheters, tube feeding, and medication management. There are distinct laws in each of the 50 states and the District of Columbia.

People needing home care assistance can obtain care two ways:

- 1) **Privately hiring an assistant** and paying them directly
- 2) Obtaining an assistant from an **agency**, which can be paid directly or supported by Medicaid, which is a health insurance program for people with disabilities who are poor

In some states, the Medicaid program allows people to hire assistants directly.

Agencies tend to interpret regulations conservatively, but directly-employed assistants may perform any mutually agreed-upon tasks.

Limitations in the scope of practice for agency workers could mean that some community-dwelling disabled people might not receive the care they need, be placed on restrictive schedules, or be forced into institutional care.

This study examines how state laws and agency policies affect the practice of unlicensed home care assistants.

Study Design & Setting

We selected four states for case studies to obtain a range of restrictiveness and geography. In each state, we interviewed home care agency directors and home care assistants, focusing on their understanding of regulations, what assistants are allowed to do, and how interviewees would address specific scenarios related to the care of disabled people.

- Oregon (unrestrictive, 4 directors & 6 assistants)
- Texas (unrestrictive, 4 directors & 8 assistants)
- Montana (recently less restrictive, 5 directors & 7 assistants)
- Massachusetts (restrictive, 5 directors & 7 assistants)

American Association of Retired Persons ratings of state regulations on home care



Results

Many home care agencies allow UAP to perform fewer tasks than state law allows

One interviewee in an unrestrictive state was allowed to do wound care with one agency but not another.

Some agency directors believe unrestrictive regulations are good policy

"I'm lucky to be in a state where a lot is allowed. Laws facilitate working at a 100% level –if there were more stringent nurse practice acts, it would be a barrier."

Nursing shortages make restrictive delegation rules more challenging

"When there are not enough nurses, people end back up in facilities. If a caregiver could do those tasks, it would make things more efficient."

Some assistants are willing to perform more tasks

"I know how to work inhalers because I was using one for a while for my own asthma. I would not have a problem changing a wound."

"As long as there was a training for most other tasks...I would be comfortable."

Clients often want their assistants to do more

"There is a consistent pressure from certain clients to have caregivers perform certain tasks that they are not allowed to do. Plenty of clients would say that their caregivers are perfectly capable of doing more and would advocate for that."

Agency directors worry about safety if assistants are allowed to do more

"No one else is present if there is a problem. I'm not sure how much you can change without compromising patient care."

Restrictive regulations are perceived as increasing the cost of operating a home care agency

"Restrictions drive up costs because nurses cost more."

"More regulation would increase cost. Also, it would put limitations on the services that are available."

Some assistants can describe specific instances in which clients have moved to institutional care because of restrictive state scope of practice laws

"One had to go to a nursing home when her family left the country – she was not eating properly because of her dementia, and also not taking her meds properly."

Policy Implications

State-level regulations in the United States can create barriers to residing at home for older and/or disabled people who require long-term services and supports. These regulations may increase the cost of care as well as rates of institutionalization. As more people need long-term support, states should examine how to optimize their regulations to ensure community living and balance client preferences with safety.

For more information...

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