



BUILDING A MUSCULOSKELETAL TEAM WITH APPROPRIATE SAFEGUARDS

Position Statement

The musculoskeletal system is a highly complex network of bones, muscles, tendons, cartilages, and menisci that allow our bodies to move.

The New York Legislature recognizes the complex nature of the musculoskeletal system through a series of laws that establish various levels of education and training that are necessary to treat certain injuries, conditions, and diseases.

In some cases, a scope of practice expansion for an allied health provider may not be appropriate because the provider may not have the training and education necessary to provide the service. In other cases, a scope of practice expansion may be appropriate if it is determined that an allied health provider's training and education is adequate to perform that specific service.

Studies confirm increasing patient confusion regarding the many types of health care providers - including physicians, nurses, physician assistants, technicians and other varied providers.

Policies need to support and reinforce greater transparency concerning the credentials of health care professionals to assist the public in making informed decisions concerning the providers from whom they seek treatment.

The New York State Society of Orthopaedic Surgeons believes that **patients should have access to quality, comprehensive and coordinated musculoskeletal care.**

Through improved flow and continuity, **integration has the potential not only to deliver superior health outcomes, but also decrease total costs.** Continued access to a professional team of musculoskeletal providers, working together, will provide this high-quality efficient care.

The **musculoskeletal system is complex and therefore, changes to the scope of practice for providers taking care of this system need to be evaluated comprehensively and not piecemeal.** This will facilitate high-quality patient care through the accurate differential diagnosis provided by an orthopaedist first before treatment or therapies are delivered by allied health professionals.

Expansion of statutory authority of allied health providers inconsistent with education, training and hands-on clinical experience **will compromise care.**

Integration and involvement facilitate a shared decision process that provides the greatest chance of **achieving the "right" amount and type of care** for each individual patient.

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We Support - NYSSOS recognizes and supports that under physician supervision, athletic trainers serve an integral role in the evaluation, management and rehabilitation of care for athletes.

- ***S2023C / A5044B Relates to the licensure of athletic trainers; and adds athletic trainers to the list of persons and officials required to report cases of suspected child abuse or maltreatment***
 - Key takeaway: Sports medicine/team physicians possess special proficiency in the prevention and care of musculoskeletal injuries and medical conditions encountered in sports. These physicians responsibly integrate medical expertise with medical consultants, certified and/or licensed athletic trainers, and other allied health care professionals through an athletic care network. As part of the athletic care network, athletic trainers are well educated and trained on how to evaluate, manage and rehabilitate athletic injuries.

We Oppose - The New York State Society of Orthopaedic Surgeons is concerned these bills will expand the scope of practice of these professionals beyond their training, experience, and oversight.

- ***S2019 / A2294 Makes technical corrections to the practice of podiatry***
 - **Key takeaway:** Direct supervision is necessary for podiatrists learning to perform surgery and wound care should be related to original treatment. We do not support lowering supervision requirements or expanding wound care.
- ***S3923 / A9248 Relates to removing limits on licensed physical therapists treating patients without a referral***
 - **Key takeaway:** Treatment before diagnosis is dangerous to patients. 10 physical therapy visits and 30 days for evaluation is an adequate time for treatment response and does not support removing the limits on duration.
- ***S1319 / A4358 Relates to modernizing the chiropractic scope of practice; repealer***
 - **Key takeaway:** Chiropractors cannot deem themselves to be physicians as the title is protected. Their training does not support the broadening of scope to include extremities.
- ***S7371 / A6035 Regulates the practice of naturopathic medicine; establishes a state board for naturopathic medicine***
 - **Key takeaway:** Allows manipulation of the joints without proper training.

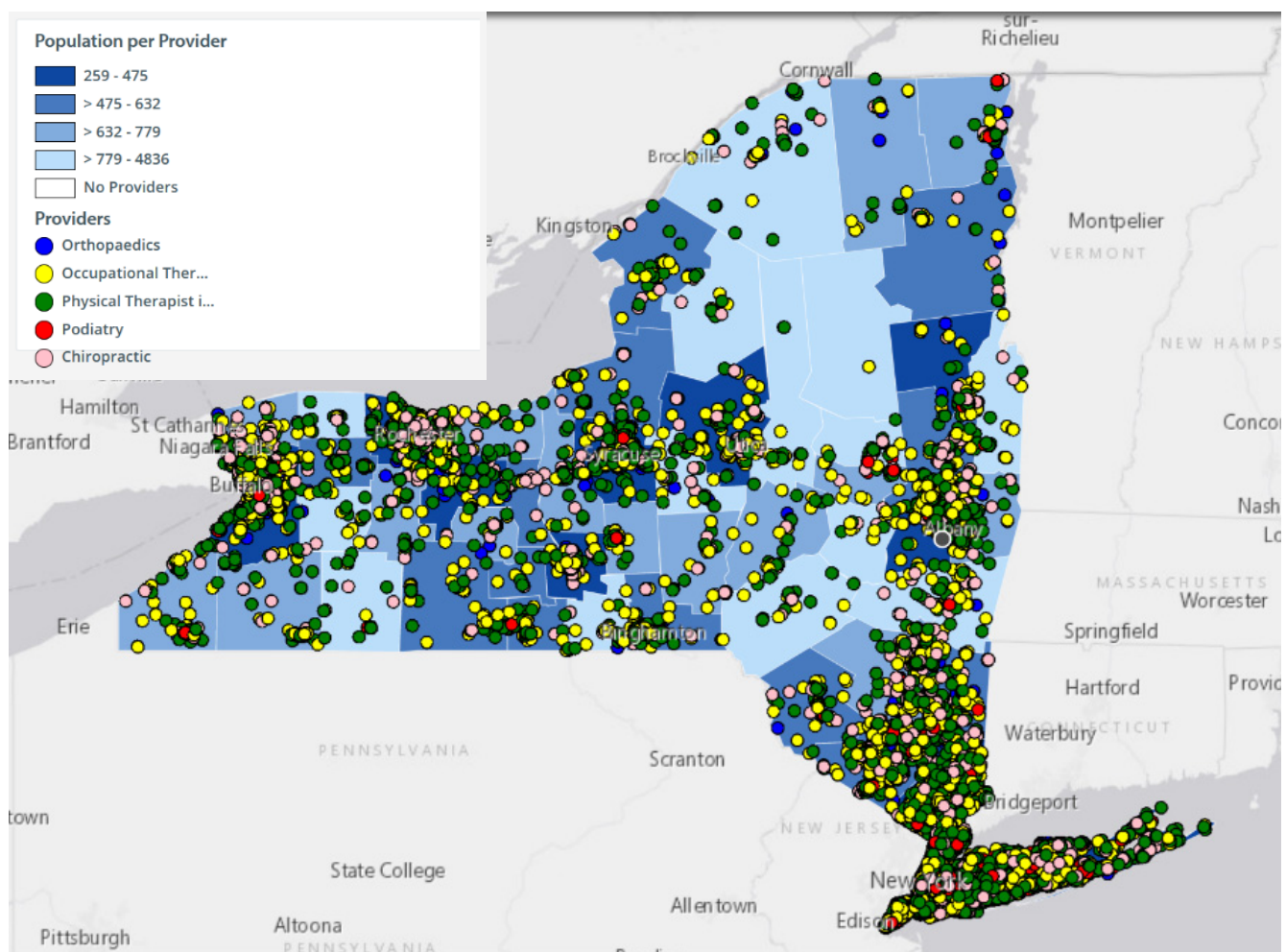
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Expanded Scope of Practice for Non-Physicians Will Not Solve Physician Shortages or Increase Access

Mapping studies conducted by the American Medical Association clearly demonstrate that allied health providers tend to practice in the same geographic areas as medical doctors. These generally include metropolitan and suburban localities where there is a sufficient population to support a health care practice in terms of patient base, hospital availability and income as well as social, cultural and educational opportunities.

Here we see that occupational therapists, physical therapists, podiatrists and chiropractors all practice in similar geographic locations as orthopaedists.



Source: AMA mapping tool: <https://www.ama-assn.org/about/research/health-workforce-mapper>

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ORTHOPAEDICS SUPPORTS LICENSURE OF ATHLETIC TRAINERS

S 2023C (Senator Rachel May) / A5044B (Assemblymember Michaelle Solages)

Sports medicine/team physicians possess special proficiency in the prevention and care of musculoskeletal injuries and medical conditions encountered in sports. These physicians responsibly integrate medical expertise with medical consultants, certified and/or licensed athletic trainers, and other allied health care professionals through an athletic care network. As part of the athletic care network, athletic trainers are well educated and trained on how to evaluate, manage and rehabilitate athletic injuries. *If enacted, this legislation will protect the title and the practice of athletic training, with proper physician oversight, to those who successfully complete licensure requirements and meet continuing education requirements.*

Athletic Training Education

Athletic training is a college or graduate school major program that is accredited by the Commission on Accreditation of Athletic Training Education. The current minimum entry point into the profession of athletic training is the baccalaureate level, however it was recently decided by the AT Strategic Alliance that the minimum professional degree level will be a master's degree which is a change to be implemented by 2026. Currently, more than 70 percent of athletic trainers hold at least a master's degree. Upon completion of a CAATE-accredited athletic training education program, students become eligible for national certification by successfully completing the National Athletic Trainers Association (NATA) Board of Certification, Inc. (BOC) examination.

Professional Education

Professional training education for athletic trainers uses a competency-based approach in both the classroom and clinical settings. Using a medical-based education model, athletic training students are educated to provide comprehensive patient care in five domains of clinical practice: prevention; clinical evaluation and diagnosis; immediate and emergency care; treatment and rehabilitation; and organization and professional health and well-being. The educational requirements for CAATE-accredited athletic training education programs include acquisition of knowledge, skills and clinical abilities along with a broad scope of foundational behaviors of

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professional practice. 1,500 clock hours of supervised clinical or work experience in the practice of athletic training is required for licensure.

Athletic Care Network

Aided by the athletic care network, a physician is able to educate athletes, coaches, parents/guardians, and administrators on the health, safety and on-site medical care of athletes. To accomplish this goal, the physician is actively involved in developing an integrated medical system that includes protocols for athletic trainers in component areas such as preseason planning; game day assessment and implementation; and postseason review.

However, the current practice act specifically prohibits Athletic Trainers from the “reconditioning of neurologic injuries, conditions, or diseases”. This limits their ability to follow through with the orders of a licensed physician to test and rehabilitate those athletes who have sustained concussions. As part of the athletic care network, physicians who diagnose, treat and manage concussions in athletes depend upon athletic trainers to follow out the stated rehabilitation protocols and perform neurologic testing which aids the physician’s decision in return to play readiness. These protocols are not all office based, and therefore physicians enlist the help of professionals such as Athletic Trainers to carry them out. This legislation does not change Chapter 496 of the Concussion Management and Awareness Act of 2011, which specifically requires a written and signed authorization from a physician for a graduated return to activities.

Traveling with Teams

Moreover, athletic trainers travel out of state venues with their teams. With current certification this is not a problem. Licensure presents the same problems visiting team physicians have traveling with their teams.

Therefore, written into this bill is a clause allowing visiting ATCs, credentialed and in good standing with their respective state as athletic trainers, to practice in New York when traveling with their team of employment. Again, with licensure, athletic trainers need the same visiting status that is being put forth for traveling team physicians.

NYSSOS recognizes and supports that under physician supervision, athletic trainers serve an integral role in the evaluation, management and rehabilitation of care for athletes. We lend our support in advancing legislation that acknowledges their versatile and comprehensive skill set.

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ORTHOPAEDICS OPPOSES REMOVAL OF DIRECT SUPERVISION IN ANKLE SURGERY TRAINING PROCEDURES

S2019 (Senator Robert Jackson) / A2294 (Assemblymember Gary Pretlow)

NYSSOS believes that patients are best served if all providers of surgical care of the lower extremities meet uniform education, training, certification standards with proper oversight.

There are several provisions within this bill that are alarming and fall well outside of the originally negotiated and agreed upon language between the professions back in 2012.

This bill:

- **Removes direct supervision** requirements for those seeking either standard ankle surgery or advanced ankle surgery privileges.
- **Expands treatment of wounds outside of the foot and ankle** and extends up to the knee.

Supervision

The bill removes the requirement that a podiatrist seeking either standard ankle surgery or advanced ankle surgery privileges be directly supervised by a podiatrist with an advanced license from the New York State Education Department or a physician and replaces it with only a “supervision” requirement. Providing direct and onsite supervision is not intended to restrict training,

rather enhance it. Being physically present with the podiatrist-in-training and the patient in the room, the supervising podiatrist or orthopaedist can provide effective communication and feedback to the student allowing them to gain the correct surgical skills and techniques necessary for the procedure(s). This builds the podiatrist’s knowledge base and competencies. Unfortunately, this bill removes the current training requirements and allows podiatrists to train themselves on surgical techniques without a supervisor present during the procedure.

Wound Care

This bill would allow all podiatrists to care for any wound on the leg including cancer, trauma wounds, plastic surgery procedures, ulcers (diabetic or otherwise) and potentially is inclusive of all other leg wounds such as treatment of tibial ulcers down to the bone. **The bill further states the treatment does not have to be for a wound that is “contiguous with”, the foot or ankle below the knee. This provision does not restrict treatment on the lower leg in any manner.** Podiatrists would be granted legislative authority to practice dermatology, oncology, plastic surgery, surgery, internal medicine, family medicine and pediatrics. This

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would represent a significant increase in the current scope of podiatric practice.

Certification Changes

Adopting S2019/A2294 would circumvent important provisions contained in the 2012 legislation by lowering the podiatric qualification threshold for education and training. The bill modifies the agreed upon certification requirement for issuance of the advanced ankle surgery privilege from board certification to board qualification. Authorizing a lesser standard will undermine patient quality and care.

While colleges of podiatric medicine have taken steps to develop educational curriculums that parallel medical schools and suggest equivalency, podiatric education does not yet meet the nationally recognized uniform standards for medical (MD and DO) education. There is no national examination uniformly given to all podiatry graduates to allow for appropriate evaluation of their knowledge. *The difference in the scope and depth of training for Orthopaedic Surgeons and podiatrists is very significant.* Orthopaedic Surgeons complete four years of medical school followed by five years of residency training and one year of fellowship training. Podiatrists, by comparison, receive four years of graduate education followed by a three-year residency which varies depending on the certification that they have elected to pursue.

Podiatric education and training today is variable, and a number of boards certify in specific areas of podiatry with standards that continue to evolve. The varying requirements have resulted in a range of limited licensed

practitioners with varied training and skills. This, coupled with the continued push to

legally expand podiatric scope of practice outside of accepted medical education and training standards, creates confusion for patients and the public, including state government officials responsible for oversight for scope of practice and hospitals with responsibility for credentialing and privileging medical providers.

By contrast, in Orthopaedic Surgery, all candidates for licensure must complete an examination administered by the American Board of Orthopaedic Surgery. No secondary or alternate path to certification exists. The standards are uniform for all applicants seeking certification. This model serves to protect the patient's best interests.

Reporting

Unfortunately, patients will have a limited pathway to view or report an incident that occurred at a podiatrist's office. The incident will not be reviewed by the NYS Department of Health's Office of Professional Medical Conduct (OPMC) because OPMC does not have jurisdiction over podiatrists. Instead, complaints against podiatrists are governed by the State Board of Podiatry under the NY State Education Department which has significantly different resources to investigate such matters.

The lack of resources for patients to adequately and appropriately review podiatrists is a very significant concern and until a public accountability system can be established, expansion of the podiatric scope of practice must not be permitted.

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ORTHOPAEDICS OPPOSES TREATMENT BEFORE DIAGNOSIS

S3923 (Senator Tim Kennedy) / A9248 (Assemblymember Sarah Clark)

Removes limits on the duration of treatment by a licensed physical therapist when a patient does not have a referral.

The New York State Society of Orthopaedic Surgeons believes that patients should have access to quality, comprehensive and coordinated care. Through improved flow and continuity, integration has the potential not only to deliver superior health outcomes, but also decrease total costs.

Continued access to a professional team of musculoskeletal providers, working together, will provide this high-quality efficient care. Integration and involvement facilitate a shared decision process that provides the greatest chance of achieving the "right" amount and type of care for each individual patient.

In 2006, the Physical Therapy Practice Act was amended to permit physical therapists to treat patients without a referral with the limitation that the treatment may only last ten treatments or thirty days. This negotiation recognized the importance of the field in developing and implementing treatments to help patients recover after severe injuries.

NYSSOS maintains its position that 10 physical therapy visits and 30 days for evaluation is an adequate time for treatment response and does not support removing the limits on duration.

We Oppose

S3923 (Senator Tim Kennedy) / A9248 (Assemblymember Sarah Clark)

If enacted, this legislation will fragment the coordinated team approach, increase the time for treatment and definitive diagnosis which may result in increased costs and negative impacts on patient safety. Physical therapy is very important, but it should be done in collaboration with a physician.

AVOID THESE COMMON MISCONCEPTIONS ABOUT THIS LEGISLATION

Patient Safety Not Impacted

Truth: Treatment Before Diagnosis is DANGEROUS to Patients.

Access Improved By this Legislation

Truth: Comprehensive Rural Medical Services Currently Meeting Patients' Needs.

This Will Reduce Costs

Truth: Patients Will Pay Out-of-Pocket Because Insurance Will Not Pay Without a Medical Diagnosis.

May Force Higher Costs on Workers Compensation and State Group Insurance.

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ORTHOPAEDICS OPPOSES INAPPROPRIATE SCOPE EXPANSION BY CHIROPRACTORS

S1319 (Senator Jim Gaughran) / A4358 (Assemblyman Dan O'Donnell)

NYSSOS believes that all patients should have access to high quality, comprehensive musculoskeletal care by providers who have met and completed uniform standards for education, licensure, training, and certification. We acknowledge allied health professionals have a vital role to play in restoring and maintaining the health and well-being of patients.

This bill however creates a platform in which **chiropractors would be recognized in New York as “chiropractic physicians”**, creating a level of parity between the professions that is not appropriate for patient safety. The proposed description will **only mislead patients as to the qualifications** of the person taking care of them and does not serve the best interests of patients but is an attempt to legislatively and artificially elevate the status of the chiropractic profession beyond their training and expertise.

Differences in Education and Training

Orthopaedic Surgeon	Chiropractor
4 years of medical or osteopathic medical education	4 years of chiropractic college
5 years of graduate medical education	Basic sciences
Potentially 1-2 years of additional Fellowship and subspecialty training	Focus on spinal manipulation
Covers all organ and other systems in the human body	Does not include pharmaceuticals, surgical or other invasive procedures
Differential diagnostic and pharmacologic applications integrated into every entry level of training	
Training includes a breadth of experience handling oncologic/tumor, infectious, and degenerative problems	

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There are several provisions within this bill that are **alarming in terms of musculoskeletal care and will put patients at risk:**

- **Removes the prohibition** on chiropractors from treating dislocations and providing diagnostic and treatment(s) **involving chemical or biological means.**
- This bill will broaden a chiropractor's scope of practice to include examination and treatment of joints by manual or mechanical means, neuromusculoskeletal conditions, structural imbalance (such as through restoring nervous system integrity) as it relates to "any human disease, pain, injury, deformity or physical condition" – *in addition to the vertebral column.* This expands the scope of practice to allow for extremity treatment without proper education and training.

State Board of Chiropractic

Under existing law, one physician, one educator and at least four chiropractors may be appointed to the State Board of Chiropractic. **This measure would remove a physician's representation on the Board and instead require that at least seven chiropractors serve on the Board.** We are not in support of such change and think this lessening of medical oversight represents a significant deviation from current patient and medical safety.

Reporting

Unfortunately, patients will have a limited pathway to report an incident occurring at a chiropractor's office. The incident will not be reviewed by the NYS Department of Health's Office of Professional Medical Conduct (OPMC) because OPMC does not have jurisdiction over chiropractors. Instead, complaints against chiropractors are governed by the NY State Education Department which has significantly less resources to investigate such matters.

Additionally, while a physician's malpractice history is available for public inspection through NYS's Physician Profile Database, no similar or parallel system exists for patients who would like to review past malpractice history of their chiropractors. **The lack of resources for patients to adequately and appropriately review chiropractors is a very significant concern** and until a public accountability system can be established, expansion of the scope of practice must not be permitted.