The Baldy Center for Law & Social Policy
Podcast Season 2, Episode 9
Podcast recording date: December 10, 2020
Host-producer: Azalia Muchransyah
Speaker: Jessica Castner
Contact information: baldycenter@buffalo.edu

Podcast transcript begins

[Azalia]: Welcome to the season 2 of the Baldy Center for Law and Social Policy Podcast, produced at the University at Buffalo. I'm your host and producer Azalia Muchransyah. This episode I have Dr. Jessica Castner on the phone with me. Jessica is the President and Founder of Castner, Inc. Today she is going to talk to us about her latest co-authored publication with the title *State Laws and Regulations Addressing Nurse-Initiated Protocols and Use of Nurse-Initiated Protocols in Emergency Departments: A Cross-Sectional Survey Study*. This research was funded by the Baldy Center for Law and Social Policy research grant. Jessica can you tell us about your research and what draws you into this topic?

[Jessica]: So broadly my research is about environments for health. As a board-certified emergency nurse and emergency nurse scientist and also a data scientist most of my work is at that nexus of where the environment meets the health emergency. How to prevent that, how to mitigate that. Oftentimes the policy environment is something that impacts the work environment for emergency nurses so that was where this study came about. Clinically quite a bit of my work does focus on asthma being one of the diseases with the greatest proportion attributable to our environment. Whether that's our home environment or the pollutants that we're exposed to outside. So in regard to the Baldy supported work that we just published in Policy, Politics, and Nursing Practice, it has a great back story and I'm happy to take the time to talk to you about that today.

So, in my own career we were a military family, which meant just because of our cohort and our timing, we moved quite a bit in my early career as a registered nurse. I've been a registered nurse in seven states because of this nature of how often we did move. I'm very happy for over a decade now Western New York has been where we've been able to put down roots as a family but that experience as an emergency nurse really taught me and interested me in policy and research because I saw the same problems cropping up in different emergency departments across the country.

But what was really unique and what was really different for me particularly coming from a Western state where scope of practice tended to be very permissive, there were many more health care shortage areas. So if you had the education and the training and you demonstrated competency and that was on you as a professional to stay up to date with the best evidence, work with your employer to make sure that you had documented competencies, you could really practice to the full extent of your training, your education, and your certification. It was a real shock to move to New York state and have all kinds of prohibitions from the policy and regulation level that didn't allow me to practice to the full extent of my training and practice. That puts one in a real ethical

quandary in the emergency department where you have crowding and you know the right thing to do, you're trained to do the right thing to do and yet you have this legal prohibition that puts you in a real ethical, difficult spot, where are you putting the patient first are you putting your concern about legal liability in this prohibitive language first.

[Azalia]: With the ongoing pandemic how do you see these restrictions affect what happened in the emergency department?

[Jessica]: Actually, that was what really motivated us to put this on a pre-print server and publish at this time. This had been a project we had been working on for quite some time in regard to the scope of practice differences for emergency nurses and that ability to put a patient on a protocol right away when they arrive. It went on the back burner compared to some other projects my colleague Dr. Lenore Boris and I were working on and when the pandemic hit and Governor Cuomo put a state of emergency on New York state they were starting to relax some licensing restrictions and w're starting to relax some of those liabilities related to different scope of practice issues because the public health need was so great. With the pandemic really starting in the United States on the coast and watching New York City become the epicenter, this was so important for many reasons. So, I want to just clarify a detail about what this means about a nurse-initiated protocol.

We run on protocols all the time so if I'm caring for a patient after surgery generally the medical surgical team or the advanced practice provider creates a set of orders and then I have some autonomy and some decision making based on what I see with the patient as to perhaps how much of a medication I'm going to give, how often I'm going to give, how often I might be doing a diagnostic test or assessing that patient. But that particular physician prescribing provider that licensed independent practitioner has seen the patient and applied that protocol to that individual patient. What's unique about new York and six other states in the emergency department setting is you've got that licensed independent provider that prescribing provider is really busy with perhaps the most acute patient. They may be intubating patients, which we saw was a key procedure in this pandemic and someone comes in the door. That's what's prohibitive in New York state is I as the registered nurse see chest pain. I know to start an EKG. I might know to administer nitroglycerin given particular you know if there are risk factors that aren't in place or particular clinical course start those vitals start to start those diagnostics, that's really important that that be done in a timely manner. There are prohibitive language to apply those diagnostic tests to a patient that that individual health care provider has not seen the individual patient yet. So that's what the difference is it relies on a lot of trust and teamwork. So I had worked in other states where if you have the training you know you go ahead and you get those prescriptions started based on a facility protocol that everyone's approved.

So how does that hit with the pandemic? Well first of all your provider, you want them working with the most acute patient on the most acute task. And having a policy in place that sort of insists that they be on the front end and see each individual patient before the care gets started, really reduces efficiency and we saw with Covid-19 patients

deteriorated quickly, patients needed, there was a lot more intubation, so your licensed independent provider was doing that task and couldn't be sort of at that front end seeing each individual patient. So you did have a perfect storm where if a nurse was trained and educated there was really not a good reason in New York state to have this kind of prohibition on their practice. The other consideration too is the number of people you're exposing. So, while some facilities got really creative with using telehealth or having that licensed independent provider your physician, your nurse practitioner, your physician's assistant, who can write prescriptions, you know some of them had them see individual patients perhaps through telehealth or remotely but in a lot of cases the person who's seeing the patient first, who's taking on that exposure is your triage nurse and to prohibit that triage nurse from starting the diagnostic care if they're trained and capable and if there's a facility protocol, really could harm patient and create unnecessary backups in the workflow in the teamwork.

[Azalia]: With your experience as a registered nurse in different states what is your opinion of the regulations here in New York state?

(8:11) [Jessica]: So as a board certified emergency nurse there are standards of practice and best practice and evidence based practice that applies everywhere, but yes one of the first things I would do when I would obtain a license in a new state was get to know the regulations, the scope of practice what I could and could not do working in healthcare provider shortage areas. You know I have a great story where our pharmacist was also the mayor of that town and was often not available at certain hours or certain times. Our scope of practice actually enabled us to dispense the starting pack of a medication, you know perhaps it was an antibiotic, perhaps it was a pain medication, we didn't actually do the pharmacist dispensing of an entire prescription but as registered nurses in the emergency department we had a facility protocol in place to help get those patients through until the pharmacy was open again. So we might be seeing them on Friday night, uh the mayor may be away on business you know we had in those shortage areas you really do have more flexibility and you must in those states in order to offer that mutual support. So come to a place like Buffalo, New York where the pharmacist is always available and there's backup and there's teamwork that didn't have to be a part of my scope of practice but learning that was really important and it was quite shocking to see in New York state there isn't the same requirements that I need to have continuing education as I'd had in other states. So there was actually less requirements just to renew my license. Now again I'm board certified so that does require me to continue to be up to date. But this was a real surprise again the dynamic in applying standard practice or standard prescriptions to an individual patient was quite a difference and I struggled with it.

I started talking to my board of nursing and policy makers right away because I didn't see it was what was best for the patient, I did not see best evidence care and I did not see the best patient care possible. I really felt as a nurse that that practice was shackled more in New York state than it is in other states.

[Azalia]: How do you see the tension between different states as well as the federal laws with regards to your profession?

[Jessica]: That's a great question and I think it's a healthy tension between what a state can do and what the federal government can do. We are a huge nation and there is tremendous variation between states. So in many cases it is really important that the state have that primacy over making those decisions. In this case the pandemic has really highlighted some important issues with nurse practice. While it is important for each state to perhaps determine that entry to practice, we've made tremendous progress here in New York requiring that you know one can enter practice with an Associate's degree but then requiring that they have a Bachelor's degree in 10 years. We've seen that that having Bachelor's prepared nurses, it increases patient outcomes and patient safety. So that was really important that as a state we have our education system ready to grandfather those folks in ready to educate individuals in practice in their first decade of practice. That's something that at a federal level the logistics would be quite difficult.

So I do understand there's important reasons for state to state variations but you know what we saw in the pandemic was you had physicians flying in from Utah and nurses used to working in New York state, you've got life or death situation, time after time, right, patient after patient after patient, ambulances are coming in and you have this disconnect in in the moment of saving a life - these are life or death decisions - you've got this disconnect. What we've also seen with the pandemic and this highlighted in some of our other research, we rely on travel nurses quite a bit. We rely on folks who are taking these 12 to 13 week contracts moving from state to state, having to shift their practice accordingly. There may be some opportunity for some again misunderstandings within the team in that life or death situation you are not functioning optimally and so I know at the National Council of State Boards of Nursing there's been some discussion, they have templates and recommendations for scope of practice. New York just has not gotten to adopt that, yet you know other states have been ahead. So among these sort of six or seven states I think we are outliers in updating nursing practice. I think we are outliers in unshackling nursing practice, but there are those national guidelines and standards that exist and the pandemic's opened up that definite need that's always been there under the surface but helped us seeing it as a priority.

[Azalia]: Based on the findings of your research what do you suggest moving forward?

[Jessica]: There are those states that have not updated the practice that actually in a life or death situation and a stressful situation like a pandemic, where you've got emergency life or death emergency after emergency, shackling the nurse from practicing for to their full extent of their scope and training is prohibitive, it's dangerous, it's not ideal. You know if I live in new York state I want to get just as excellent of emergency care as if I lived in New Mexico or as if I lived in Ohio. And this is really important to the teamwork, to the efficiency, to patient safety, especially in these life or death situations when you arrive to the emergency department. On the other end, you know we have some wonderful opportunities to really lift nurses up and ensure that they're continuing that education, that training, really encouraging board certification so that the person you see does have that education and training to apply that best practice to you and they're staying up to date. And I really when we put this on a pre-print server it's like I need the governor's office to see this. You know they're starting to address policy they're

starting to lift some of the regulatory and the liability restrictions in a state of emergency. That's created some things that we need to carry through so that we have the policy infrastructure for nurses to really practice to that full extent of training and education.

There are some decision trees that the national council state board of nursing puts out so that nursing practice can evolve so that as new skills come out or new technology come out, and I'll give you an example the point of care ultrasound in the emergency department - so it's an ultrasound machine that can do sort of a quick look and help with clinical decision making and diagnostics in the emergency department. In a lot of places nurses are starting to get this specialty training and it's something physicians had done quite extensively 10 years ago, you know now nurses are becoming trained in it, pretty soon paramedics and our pre-hospital providers. If at the policy level we don't have the flexibility to expand practice as providers get this best evidence practice and they're able to apply it to provide best patient care, our regulations and our interpretive statements need to have that flexibility for nurse scope of practice to grow, to expand, so that we're not restricted. So that when you come into the patient you know that I can apply the best evidence, the most recent evidence, and not be restricted by antiquated regulation that says only this person can do this or only this person on the healthcare team can do this.

[Azalia]: Is there anything else you would like to add?

[Jessica]: Well I just want to say thank you to everyone who's been so supportive of emergency clinicians in this pandemic, especially from the social policy and the regulatory aspect. Our community has lost a lot of clinicians in the pandemic who were right there at the point of care, delivering the best care, and putting themselves at risk trying not to. I think right now you know all of the support to make sure that they have the personal protective equipment is very important, want to emphasize that that care for one another. I think too on sort of the social policy level is some gratitude for the understanding and the support for the grieving that the emergency clinician community is going through right now.

[Azalia]: That was Jessica Castner, and this has been the Baldy Center for Law and Social Policy podcast produced at the University at Buffalo. Please visit our website buffalo.edu/baldycenter for more episodes and follow us on twitter @baldycenter. Until next time I'm your host and producer Azalia Muchransyah.