

Taking It to the States

James Edwards, DC

We can breathe a huge sigh of relief now that the American Chiropractic Association (ACA) has succeeded in getting the U.S. Department of Health and Human Services to rule that physical therapists cannot deliver the chiropractic benefit under Medicare. More importantly, Secretary Tommy Thompson's *Operational Policy Letter* (www.amerchiro.org/images/jan15_2002_letter.jpg) can be used in state legislatures across the country to help ensure that untrained persons are not allowed to practice chiropractic by correcting subluxations.

The issue of manipulation by PTs has long interested me. While reviewing the subject in 1995, I discovered a flaw in the Kansas Medical Practice Act that resulted in Kansas Attorney General Opinion 96-12, stating that Kansas MDs were not statutorily authorized to perform this service, they, of course, cannot delegate or prescribe the procedure for PTs to perform.

Since that time, I have been contacted by chiropractic representatives from over 30 states requesting assistance in crafting statutory language that would protect the public from untrained persons performing manipulation. As a result, several states have introduced "manipulation" bills; a few, like Tennessee, have successfully enacted good bills into law.

The major problem in crafting legislative language of this type concerns the "manipulation-versus-adjustment" argument. If you preclude others from performing adjustments, PTs will just call them something else and continue thrusting into joints. If you just preclude others from performing manipulation, some in the profession feel you have not really protected the chiropractic adjustment.

Until recently, I didn't think there was a solution to this problem - until I reviewed New Jersey Senate Bill 2693. After reading it, I was truly amazed that the answer was so simple: Preclude others from performing both manipulation and adjustments.

In my opinion, the New Jersey bill is the *Magna Carta* of manipulation/adjustment, and is nothing short of a masterpiece. It allows only MDs, DOs and DCs to perform "manipulation" and allows only DCs to perform "adjustments." Therefore, no matter what you call it, if a person thrusts into a joint, he or she had better be a DC, DO or MD. And if that person represents the thrust as an "adjustment," he or she had better be a DC.

The language in SB 2693 is sheer brilliance. I commend its creators for finally drafting a bill that covers all the bases, and most importantly, protects the public. I also wish them the best in their efforts to get it passed. To assist chiropractic associations at the state level, I have reworded the New Jersey language into the following "model bill" that can easily be modified for individual state use.

The American Chiropractic Association has ensured that physical therapists cannot perform manual manipulation to correct a subluxation under Medicare. It is time to fight this battle at the state level. Should you have any questions, or if I can assist in any way, please contact me at the email address at the bottom of this article.

Model Bill

AN ACT to protect the public from unauthorized, unqualified, incompetent and improper application of spinal adjustments and manipulations of the spine and supplementing (statute references).

1. The Legislature finds that it is in the public interest to protect health care consumers from the unauthorized, unqualified, incompetent and improper application of spinal adjustments and manipulations of the spine. The Legislature declares that the provisions of this act clarify and reemphasize (statute reference), and that this act should be construed in conjunction with that act and reemphasize (statute references).

2.

1. For the purposes of this section:

1. "spinal manipulation" means, "the application of a direct thrust or leverage to move a joint of the spine at the end of passive movement, but without exceeding the limits of anatomical integrity."

2. "spinal adjustment" means, "the application of a precisely controlled force applied by hand or by mechanical device, to a specific focal point on the anatomy of an individual, for the express purpose of creating a desired angular movement in skeletal joint structures, in order to eliminate or decrease interference with neural transmission and correct or attempt to correct a vertebral subluxation; spinal adjustment utilizes, as appropriate, short-lever force, high-velocity force, short-amplitude or specific line-of-correction force to achieve the desired angular movement, as well as low-force neuromuscular reflex technique procedures."

3. "vertebral subluxation" means a complex of functional, structural or pathological articular changes, or a combination thereof, that compromise neural integrity and may influence organ system function and general health.

2. Notwithstanding any other law or regulation to the contrary, no person, other than a doctor of chiropractic, licensed by the (state chiropractic board name), pursuant to (statute reference), or an osteopathic or medical physician licensed by the (state medical board name), pursuant to (statute reference) shall perform a spinal manipulation on an individual.

3. Notwithstanding any other law or regulation to the contrary, no person other than a doctor of chiropractic licensed by the (state chiropractic board name), pursuant to (statute reference), shall perform a spinal adjustment on an individual to correct a vertebral subluxation.

3. A board subject to the provisions of (statute references), after notice and hearing pursuant to (statute or rule references), shall revoke, suspend or otherwise condition a person's license, certificate or registration issued by the board upon proof that the person has violated section 2 of this act.

(Note: Alternatively, section 3 could allow the state medical, osteopathic or chiropractic board to initiate action against those who violate the act. It could also outline the legal penalties for non-health-care providers who violate section 2.)

James D. Edwards, DC
Chairman of the Board
American Chiropractic Association
Arlington, Virginia

jamesedwards@jamesedwards.com

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