

## Prohibitive Insurance Regulation Repealed in Vermont

### VERMONT CHIROPRACTIC ASSOCIATION WAGED DECADE-LONG LEGISLATIVE BATTLE

Report from the Vermont Chiropractic Association

On May 11, Vermont Governor Howard Dean, MD, signed into law House Bill 351, capping a 10-year effort by the Vermont Chiropractic Association to repeal a state insurance regulation that allowed health care plans to exclude coverage for any professional services provided by Vermont chiropractic physicians within their licensed scope of practice.

This saga began in 1980 when the Vermont Department of Banking and Insurance (VDBI) adopted a comprehensive minimum benefits standards administrative rule for health care benefit plans. Unknown to the profession, buried in the 34-page tome was the following chiropractic exclusion that was subsequently interpreted by the VDBI to exclude all chiropractic services, not just spinal manipulation.

"Section 6. Prohibited Policy Provisions. "E. No policy shall limit or exclude coverage by type of illness, accident, treatment or medical condition, except as follows:

"(7) care in connection with the detection and correction by manual or mechanical means of structural imbalance, distortion or subluxation in the human body for purposes of removing nerve interference and the effects thereof, where such interference is the result of or related to distortion, misalignment or subluxation of, or in the vertebral column."

Beginning in 1986, the Vermont Chiropractic Association (VCA) made formal and informal efforts to obtain relief from VDBI's prohibitive policy, but failed to win a hearing. In 1990, the association brought suit against the VDBI.

During the litigation, the VDBI stipulated that the regulation, "...was based on a model law that had been promulgated by the National Association of Insurance Commissioners." The department was able to produce a list of witnesses who attended a public hearing or submitted written comments concerning the regulation before it was promulgated, it could not produce evidence of notice to the state board of chiropractic or licensed chiropractors. Unfortunately, the court held that the VDBI had administrative discretion whether to conduct a hearing as requested. But the trial judge also noted the Vermont legislature's ability to repeal or amend administrative rules. And since the law firm which pursued the court case for the association was selected because it also specialized in legislative and governmental relations, the fight was on at the state House.

It was a ferocious nine-year battle beginning with a handful of legislator sponsors who were chiropractic patients. Fortuitously, the profession's licensing act was scheduled for legislative review and modernization in 1991. Before its opponents in insurance and allopathic medicine were able to organize, we succeeded in passing a clear, supportive modern practice act containing a favorable definition of the profession's scope of practice. Our efforts on that bill also gave us a forum before several legislative committees to tell the chiropractic story. While our repeal bill

failed that year, it brought us a larger group of sponsors in the next legislative session.

Over the following years, we became active on a wide range of health care issues. We raised the profession's visibility and spread the message about the safe, clinically efficacious and cost-effective services we provide to a large number of Vermonters, mostly paying out-of-pocket or paying extra for riders for conditions and treatments mandated as basic services if provided by MDs, DOs, and PTs.

In August of 1991, Howard Dean, a medical doctor internist and then lieutenant governor, became governor when Richard Snelling died in office. In the intervening years of his administration, the managed care "revolution" arrived. There were also a number of timely reports, studies and guidelines that were published that showed the chiropractic adjustment to be efficacious and cost effective: the Manga reports; the AHPACR practice guideline *Acute Low Back Problems in Adults*; the Stano studies, the Meade studies; and the RAND reports. Then came the reorganization of the Vermont Department of Banking and Insurance, which included a health care administration division and passage of chiropractic equality legislation in the neighboring states of Maine and New York. Our legislation passed unanimously in both the House and Senate.

The lesson we learned in Vermont this past decade, as we expect some of our colleagues around the country have also learned, is to energize the profession and our patients. We formed a patient advocacy membership organization: "Vermonters for Chiropractic." We hired a top legislative and governmental relations firm with people who can personally commit to our efforts. Our lead lobbyist and his family are chiropractic patients; his partner is a former Blue Cross Blue Shield plan president. They become regularly involved in a range of health care issues in the state capital with the legislature and state agencies. They got involved politically: supporting candidates and attending fundraising functions of both parties. Next on our agenda is a chiropractor legislator.

We also would like to extend our appreciation to George McAndrews, the American Chiropractic Association, and the Foundation for Chiropractic Education and Research for their unfailingly cheerful assistance to us by providing information and advice over these years. That information enabled us to demonstrate the nature and scope of the conspiracy to suppress chiropractic and its lingering legacy here in Vermont, as well as providing timely reports of studies worldwide verifying what we know -- that chiropractic is safe, clinically efficacious and cost-effective.

As those who have been through this before us know, it is difficult to convey the flavor of the years of frustration: the public hearings where the public was ignored; the changing faces at the state House every year; and how legislative committee chairs and legislative leaders, abetted by the insurance industry and its state regulators, bottled up the legislation time and again. There were moments of excitement and dejection, but our passion and perseverance paid off.

Vermont's chiropractors are proud to join our colleagues in the other 42 states with some form of chiropractic equality law. Through it, we seek to nurture the growth of interprofessional cooperation with medical doctors, not only in practice but in government, insurance, hospital administration, teaching and other health related fields.

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