



NEWS / PROFESSION

Texas Arm of the AMA Strikes Out at Chiropractic

TEXAS BOARD OF CHIROPRACTIC EXAMINERS SUED OVER SCOPE-OF-PRACTICE PROCEDURES

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Hot on the heels of the American Medical Association's adoption of Resolution 8141 and the introduction of H.R.56882 into the U.S. legislature, the chiropractic community is again on the defense following news that the Texas Medical Association (TMA) has filed suit against the Texas Board of Chiropractic Examiners (TBCE). The lawsuit accuses the TBCE of permitting chiropractors to perform clinical needle electromyography (EMG) and spinal manipulation under anesthesia (MUA), medical practices the TMA considers surgical procedures that are outside of chiropractic scope of practice.



"The Board expects to prevail if this case is brought to court," said Glenn Parker, executive director of the TCBE. "[A]ll scope-of-practice rules adopted by the Board are consistent with the Board's authority under its governing statute."

"Chiropractors have been performing needle EMG and MUA for two decades without complaints or a single malpractice case. Further, DCs have been diagnosing patients for a century," added Wade Brandt, DC, president of the Texas Chiropractic Association (TCA). "This is simply the newest version of an arbitrary turf war that has plagued health care for decades. The truth is, competition

is the key to improving quality of care for Texans and reducing health care cost, yet competition is the very thing the TMA fears the most."

This is not the TMA's first strike in the American Medical Association's apparent turf war against chiropractors. Earlier this year, the Texas delegation of the AMA introduced Resolution 814, which questions the standards for the admission, training and testing of non-MD health care providers. This general contention is mirrored in the opinion of the TMA's recent suit: "Chiropractors have no legal right to engage in the practice of medicine," states the lawsuit, filed Sept. 14, 2006, "and allowing them to do so undermines the purposes of the Texas Medical Practice Act."

Regarding MUA and EMG, the two procedures specifically mentioned in the TMA suit, manipulation of the spine under anesthesia was originally performed by osteopaths during the 1950s and 1960s to treat spinal and joint dysfunction. The practice was mostly abandoned in the 1970s and early 1980s, but was reinstated by a group of chiropractors in Texas in the late 1980s.³ By 1989, chiropractors had developed specific adjusting protocols. Recently, at the annual American Chiropractic Association's House of Delegates meeting (click [here](#) to see full story), a resolution was approved to recognize the well-established clinical history of MUA within the chiropractic profession and its appropriateness for select patients when permitted by a state's scope of practice.

The TMA suit argues that, "MUA is a surgical procedure and is the practice of medicine." The basis for MUA, reducing the muscle tone and reflexive reaction for a more effective adjustment, did not sway the opinion of the TMA. "The Board concedes that its Scope of Practice rule does not prohibit chiropractors from performing manipulations under anesthesia even though the practice is considered a surgical procedure, i.e., it is listed under the surgical codes of the CMS CPT codebook ... the Chiropractic statute prohibits chiropractors from performing any type of surgical procedure."⁴

Electromyography, a test that assesses the health of the muscles and the nerves controlling the muscles, also has been brought into question by the TMA. Although certain forms of the procedure are noninvasive, the TMA questions the use of needle EMG by chiropractors, whereby a needle is inserted directly into the muscle: "The Scope of Practice rule expressively and unlawfully authorizes chiropractors to perform electromyography. ... In fact, the rule goes even further in that it allows this diagnostic procedure to be performed by a clinic employee even if a chiropractor is not in the room."⁴

The suit against the TBCE also notes, "[b]ecause the *diagnosis* of medical conditions is the practice of medicine, the term was carefully and intentionally omitted from the definition of chiropractic. Section 75.17(d) of the Scope of Practice rule expressly authorizes chiropractors to diagnose medical conditions and by doing so unlawfully expands the practice of chiropractic into the practice of medicine."⁴

The TCA issued a press release⁵ after the suit was filed, responding to the specific allegations concerning chiropractic utilization of EMG and MUA, as well as affirming the validity of chiropractic diagnosis:

In support of the suit, TMA President, Ladon Homer, MD, states that, "The scope of practice of allied health professionals should not exceed what is safely permitted by their education, training, and skills."

"I couldn't agree more," Dr. Brandt responds. "Not all chiropractors may perform these procedures. Postgraduate education and certification via examination is required to perform both EMG and MUA. It is this process that ensures both requisite training and safety. Incidentally, no such state-mandated requirements exist in the medical profession."

According to Brandon Brock, DC, Coordinator of TCA's Department of Scientific Affairs, "Our doctors who choose to utilize EMG or MUA are highly educated in all aspects of the procedures. This training includes much more than simple procedural instruction. Items such as patient selection, anatomy and physiology, safety, interpretation of results, and management of complications are all a standard part of training."

Perhaps the most perplexing component of the suit is TMA's claim that Texas law prohibits chiropractors from diagnosing their patients. Dr. Brandt says, "In order to properly determine the appropriate treatment options for a patient, the problem must first be identified. This is achieved through a health history, an examination, and other procedures. This is the diagnostic process. Failure to perform this would be failing the patient. All chiropractors, and I emphasize all, receive diagnosis training during their chiropractic education."

References

1. ["AMA Creates 'Partnership' to Limit Other Providers' Scope of Practice."](#) *Dynamic Chiropractic* June 6, 2006. .
2. ["Attack on Chiropractic, Alternative Health Care Continues."](#) *Dynamic Chiropractic* July 30, 2006. .
3. ["'20/20' Examines Manipulation under Anesthesia \(MUA\)."](#) *Dynamic Chiropractic* Nov. 11, 1991. .
4. [Texas Medical Association v Texas Board of Chiropractic Examiners.](#) Suit filed Sept. 14, 2006. .
5. ["Texas Chiropractors Respond to Medical Association Accusations."](#) Received Sept. 30, 2006.

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