



NEWS / PROFESSION

Manipulation Under Anesthesia Within Chiropractic Scope of Practice in California

Tina Beychok

As part of its draft regulations for standard of care when performing manipulation under anesthesia (MUA), the California Board of Chiropractic Examiners' Manipulation Under Anesthesia Committee requested a legal opinion from the legal affairs division of the California Department of Consumer Affairs as to whether or not MUA is within the scope of practice for a licensed chiropractor.

The question was as follows: "Is the performance of MUA on a patient who is sedated by the administration of anesthesia by a licensed physician and surgeon or other health care provider within the scope of practice of a chiropractor?"



The Department of Consumer Affairs responded on Dec. 13, 2007: "The performance of MUA on a patient who is sedated by the administration of anesthesia by a licensed physician and surgeon or other health care provider who is legally authorized to administer anesthesia is within the scope of practice of a chiropractor."

The basis for this decision came from Section 7 of the California Chiropractic Initiative Act of 1922, which reads:

One form of certificate shall be issued by the board of chiropractic examiners, which said certificate shall be designated 'License to practice chiropractic,' which license shall authorize the holder thereof to practice chiropractic in the State of California as taught in chiropractic schools or colleges; and, also, to use all necessary mechanical, and hygienic and sanitary measures incident to the care of the body, but shall not authorize the practice of medicine, surgery, osteopathy, dentistry or optometry, nor the use of any drug or medicine now or hereafter included in materia medica.

From this, the California courts have developed a three-part test to determine if an act or procedure was within chiropractic scope of practice:

1. An act or procedure must be understood as chiropractic in its ordinary and general sense;
2. it must have been taught in the chiropractic schools in 1922; and
3. it does not constitute the practice of medicine.

In looking at each of these three points, the Department of Consumer Affairs determined that the first point was satisfied because the California Code of Regulations reads, "A duly licensed chiropractor may manipulate and adjust the spinal column and other joints of the human body and in the process thereof, a chiropractor may manipulate the muscle and connective tissue related thereof" (Section 302(a)(1)).

The second point was satisfied because "manipulation was taught in the [chiropractic] schools in 1922."

The third and final point was satisfied because "MUA does not constitute the practice of medicine, as the chiropractor is not using, administering or dispensing drugs to a patient."

The issue of MUA has been controversial for a long time. In response to a question during an open meeting from a member of the general public regarding the board's position of MUA as being within the chiropractic scope of practice, then-Chairman Dr . Louis E. Newman, DC, responded, "[T]he opinion of the Board has been that a chiropractic adjustment performed properly is a chiropractic adjustment, whether it is performed under anesthesia or not."

This latest decision is the culmination of what can only be described as a very tumultuous year for the Board of Chiropractic Examiners. This culminated in the abrupt firing of one of the Board's executive officers and the dispatching of five California Highway Patrol officers to keep the peace during one board meeting (www.chiroweb.com/archives/25/10/04.html). One can only hope this decision will put the matter to rest once and for all regarding MUA and chiropractic scope of practice.

FEBRUARY 2008