

Looking Back: 2008

Editorial Staff

As we celebrate our 25th anniversary as the definitive news and information source for the chiropractic profession, we look back at the important events as reported in DC since 1983, while also looking forward to the future. Throughout 2008, we will feature a review of the top headlines in chiropractic for a given year, along with an article on the future of chiropractic authored by an influential member of the profession.

February 2008: Italy Finally Legalizes Chiropractic

Seventeen years after the first proposal to legally recognize chiropractic and 33 years after the founding of the Associazione Italiana Chiroprattici (AIC), the Italian Parliament has officially recognized chiropractic as a primary health care profession. According to the new law, introduced by Sen. Luigi Lusi, "It is to be established within the Health Ministry, without public funding, a register for doctors of chiropractic. The inscription into said register is reserved to those who possess a doctorate degree in chiropractic or equivalent title. The graduate in chiropractic has the title of Doctor of Chiropractic and may freely exercise [their] competencies as a primary contact practitioner in the health care field, according to current regulation. The chiropractor may practice in or be authorized within or with structures of the National Health Care Service in the manner provided for by the established ordinance."

The law finally came about as a result of Sen. Lusi placing the chiropractic amendment within the annual budget law in the middle of an Italian political firestorm. Both the Italian health minister and the Italian Medical Association opposed the amendment. Sen. Lusi stressed the cost-effectiveness of the amendment to the members of the House Budget Committee, who already were dealing with a financially burdened health care system. As a direct result of Sen. Luis's efforts and the progression of the amendment, the AIC organized an impromptu lobbying center in Rome, which was connected to the AIC headquarters in Genoa, to coordinate and promote the passage of the amendment through the bipartisan support of several members of parliament with a favorable opinion of chiropractic.

According to the AIC, Sen. Lusi "almost single-handedly guided it out of the Senate's Budget Committee and assured its acceptance by the Senate itself. In the Camera, which is the lower house of Italy's bicameral Parliament, the amendment's passage was the target of an extensive lobbying attack on the part of the Italian Medical Association that was trying to monopolize nonconventional medicine through their own legislation, and the Italian Health Minister, who was opposed to recognizing chiropractic as a primary contact profession."

Thomas Rigel, DC, a 1970 graduate of National College of Chiropractic who practices in Rome, added, "With a vote of 209 chiropractors for and 380,000 medical doctors against, we got it our way. Chiropractic finally has a solid piece of legislation in this crazy country. We still have an uphill road to climb in establishing our scope of practice within the Health Ministry. The prospects for the profession are daunting and the responsibility for establishing a new method of health care in a major country such as Italy is overwhelming. As a profession in a country of 60 million, we are microscopic; but given chiropractic's tradition to overcome, we will manage to fulfill the need."

February 2008: Neck Pain Task Force Releases Findings

After six years and an exhaustive review of published neck pain research, including almost 32,000 research citations and more than 1,000 relevant studies, the Bone and Joint Decade 2000-2010 Task Force on Neck Pain has released its findings, which address prevention, diagnosis, treatment and management of neck pain, in a special supplement of the journal *Spine*.

The task force also conducted several original studies, including "Risk of Vertebrobasilar Stroke and Chiropractic Care: Results of a Population-Based Case-Control and Case-Crossover Study." According to the task force, their findings suggest the risk of suffering a stroke following a cervical manipulation is attributable to a vertebral artery dissection (VAD) that is already in progress prior to the adjustment. The dissection likely results in neck pain that brings the patient to the chiropractor's office seeking relief.

The study authors documented only a handful of stroke cases following chiropractic cervical manipulation in a massive study population spanning nearly 100 million person-years. Even more impressive, the data suggest that while spinal manipulation may increase the risk of an embolism in those with a VAD in progress, which can then lead to a stroke, the association between the stroke and the office visit was no higher in patients who sought the care of a chiropractor than in patients who sought the care of a general physician.

The task force also developed a new classification system for evaluating the severity of neck pain. The grading system is intended to help in the clinical environment and in the interpretation of scientific evidence.

- Grade I: No signs or symptoms suggestive of major structural pathology and no or minor interference with activities of daily living; will likely respond to minimal intervention such as reassurance and pain control; does not require intensive investigations or ongoing treatment.
- Grade II: No signs or symptoms of major structural pathology, but major interference with activities of daily living; requires pain relief and early activation/intervention aimed at preventing long-term disability.
- Grade III: No signs or symptoms of major structural pathology, but presence of neurologic signs such as decreased deep tendon reflexes, weakness, and/or sensory deficits; might require investigation and, occasionally more invasive treatments.
- Grade IV: Signs or symptoms of major structural pathology, such as fracture, myelopathy, neoplasm, or systemic disease; requires prompt investigation and treatment.

Included in the supplemental issue of *Spine* are more than a dozen papers that provide the clinician with valuable information on the prevention, diagnosis, treatment and management of neck pain. Findings were released confidentially at the May 2007 WFC Biennial Congress in Portugal and then presented at several other venues, such as the FCA National Convention & Expo in August 2007 (Orlando) and the World Congress on Neck Pain (Los Angeles) in early 2008.

August 2008: Congress Preserves Medicare Fee Schedule

In what has been an annual occurrence since 2003, Congress granted a last-minute reprieve to chiropractors and other health care professionals facing proposed Medicare reimbursement cuts. On July 15, 2008, by margins of 70-26 in the Senate and 383-41 in the House of Representatives, bipartisan lawmakers overrode a presidential veto of H.R.6331, the Medicare Improvements for

Patients and Providers Act of 2008. It marked only the third time Congress has overturned a presidential veto under the Bush administration.

The congressional override represents a dramatic turnaround from just over a month ago, when it appeared Medicare cuts were inevitable (See "Medicare Cuts Loom" in the July 15 issue of *DC*). At that time, two similar bills designed to offset the cuts, one introduced by Sen. Charles Grassley (R-Iowa) and the other by Max Baucus (D-Mont.), appeared to have stalled permanently. However, Senate Democrats overrode an attempted Republican filibuster of the Baucus bill, an event that featured the return of Sen. Ted Kennedy (D-Mass.) to the Senate floor for the first time since surgery to remove a brain tumor in June. Although Kennedy did not vote as part of the full congressional veto override, he did state, "It's a great vote and a great day for America's seniors."

According to the Centers for Medicare & Medicaid Services (CMS), some submitted claims may have been paid at the lower reimbursement rate in effect as of July 1 - despite the fact that the Department of Health and Human Services stepped in and froze the MPFS until July 10, allowing Congress time to reconvene following the July 4 holiday and address the issue. CMS says some claims may have been processed at the reduced rate because it sent out the revised fee schedule (reflecting the 10.6 percent cut) before Congressional action took place. However, CMS says discrepancies between the reduced rate and the rate upheld by H.R.6331 will be reprocessed:

"Under the Medicare statute, Medicare pays the lower of submitted charges or the Medicare fee schedule amount. Claims with dates of service July 1 and later billed with a submitted charge at least at the level of the January 1 - June 30, 2008, fee schedule amount will be automatically reprocessed. Any lesser amount will require providers to contact their local contractor for direction on obtaining adjustments. Non-participating physicians who submitted unassigned claims at the reduced nonparticipation amount also will need to request an adjustment."

October 2008: Another Victory Over Managed Care

Following a 21-month investigation, the New Jersey Department of Banking and Insurance (DOBI) has ordered Health Net of New Jersey to pay \$26 million in restitution and interest to 88,000 plan members whose claims

or chiropractic and other health care services were underpaid for nearly 10 years. Including interest, a hefty fine and various other fees, the managed care organization agreed to pay \$41 million for its improper billing practices.

"Health Net waived its right to a hearing and has agreed to resolve the matter with the payment of \$14 million in unpaid claims, \$12 million in interest on those claims, \$2 million in examination fees and a record \$13 million fine, for a total of \$41 million," asserted a press release posted Aug. 26, 2008 on the DOBI Web site.

A 2002 complaint by a Health Net member spurred a DOBI investigation into the managed care organization's reimbursement practices. The member alleged that his prior carrier had paid \$125 for an out-of-network service, while Health Net paid only \$77 for the identical service. That complaint to the DOBI and the department's subsequent investigation ultimately led to an \$800,000 settlement benefiting 4,700 Health Net members who had been underpaid. At the time of the settlement, Health Net claimed the underpayments had only occurred between July 2001 and October 2002.

However, in late 2005, upon learning Health Net had underpaid providers well before July 2001,

the DOBI initiated a second investigation into the company's practices. That investigation, which concluded in May 2008, determined that Health Net and its predecessors, First Option Health Plan of New Jersey and Physicians Health Services of New Jersey, had underpaid its out-of-network medical claims as early as 1996 and out-of-network chiropractic, dental and mental health claims dating back to 1999.

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