

NY Senate Bill Passes -- Only DCs and MDs Can Do Spinal Manipulation

STATE ASSEMBLY WILL LIKELY PASS BILL

Editorial Staff

On June 17, 1999, the New York State Senate passed Senate Bill S06003 to amend Section 6551 of the New York Education Law to allow only licensed DCs and MDs in the Empire state the legal authority to perform spinal manipulation. The vote was 58-1 in favor of the bill.

Ironically, the lone dissenter of S06003 was State Senator James Seward. In February, Seward introduced S02052, a nearly identical bill to that of Senator Velella's legislation. Seward, however, withdrew his support of the bill earlier this year and Senator Velella took up the cause.

S06003 reads:

"No person shall perform manipulation of the vertebral column, joints or adjacent structures unless they are licensed to practice chiropractic or medicine. For purposes of this article, 'manipulation' shall be defined as moving a joint beyond its passive range of motion limit by means of a sudden thrust or impulse, which is usually accompanied by an audible sound.

As we go to press, the NY Senate has ended its session. The bill has been forwarded to the NY Assembly, which has two more weeks to take care of its legislative business. If the assembly passes the bill, which is likely, the bill becomes law in 120 days.

The passage of 06003 in the assembly would clear up a lingering battle between DCs and PTs in New York state. The amendment to the Education Law was prompted by the existing language of Section 6731, Article 136, which defines physical therapy and its scope of practice. The law says that PTs can perform "mobilization." There is no mention of "manipulation."

"There is a clear and distinct difference between mobilization (a PT procedure) and manipulation (a chiropractic procedure)," said A. Alexander Pireno, DC, president of the Chiropractic Federation of New York. "There is a tremendous difference in the two procedures and the expertise required to perform them. The PT community tries to cloud the issue and confuse decision makers by saying manipulation and mobilization are the same thing. Mobilization does not impart a thrust or impulse, but involves bringing a joint through its active and passive ROM. Manipulation involves a dynamic thrust to move the joint beyond its passive ROM without exceeding the joint's anatomical limit."

Earlier this year, Norman Cohen, executive secretary of the New York State Board of Chiropractic, sent a letter to the New York State Education Department asking for a clarification on the scope of practice of PTs under the Education Law. Johanna Duncan-Poitier, deputy commissioner of the Office of the Professions with the NY State Education Department, replied to the chiropractors' concerns in

an April 23rd memorandum, which read in part:

"Section 6731 of Article 136 of the Education Law clearly authorizes physical therapists to perform spinal manipulation and/or mobilization and has done so for at least 19 years."

It was this interpretation of the law by the Education Department that fueled the chiropractic profession in New York to push to amend the Education Law.

Dr. Pireno labeled the department's opinion "flawed and reckless." He said he respected the ability of PTs to mobilize any area of the body, but equated the legal opinion from the Education Department as "allowing an unqualified and unskilled person to practice any other health profession ... with little or no significant education in that profession. The State Education Department would not attempt to do this to medicine, podiatry or dentistry."

The Board of the New York Chiropractic Council were of the opinion that "PTs have very few hours of training in manipulation, as compared to the more than 1,000 hours of training that chiropractors have." The Council warned that chiropractors were forgetting their role of correcting subluxations through the adjustment, and, by trying to increase scope of practice, were losing out on "our nonduplicable and distinct profession."

As New York's chiropractic leaders began to make themselves heard, chiropractic organizations throughout the state began supporting the legislation effort to clarify the definition of spinal manipulation and who would be allowed to perform the procedure.

An initial effort to amend the education law occurred on May 19, 1999, when Senator James Alesi (R-Monroe) introduced Senate Bill S05658. That bill specified spinal manipulation be performed only by DCs, DOs and MDs, and gave a more precise definition of manipulation than the subsequent S06003. S05658 was sent to the rules committee for review, but became bogged down in discussions and stalled before it could reach a vote in the senate.

The NY Senate adjourned on June 18th, leaving S05658 unvoted on and essentially tabled for the year. Senator Guy Velella's bill (S06003), however, was on its way to a passing vote. Velella's bill was essentially the same as Alesi's, but without the reference to DOs and with a more concise and less explicit definition of manipulation.

S06003 has jumped the first hurdle. It now awaits a decision by the assembly. Stay tuned.

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