

The State of Chiropractic in Oregon

AN ASSESSMENT BY THE CAO EXECUTIVE BOARD

Editorial Staff

The chiropractic profession in Oregon has been battered during the past couple of years. Some rumors which have spread from here and reverberated back to us demonstrate how misinformation can become progressively distorted until it doesn't look much like the situation it purports to represent. The profession has made some important strides in the past couple of years, and faced some great challenges. We would like to give the readers of "DC" some accurate information on the state of chiropractic in Oregon.

We are convinced that our experience will prove not to be unique, and that trends which first surfaced here will move to other states as a result of the pressure in legislative and health care management interests to control costs.

One benefit of the turmoil we've endured over the past couple of years in Oregon, has been the growth of an awareness that as the legislature and media do not distinguish between the good, bad, or indifferent of us, but treat us all with a dose of the same medicine, that we must put aside our differences and represent chiropractic with a unified voice to meet the challenges that confront our profession.

Just when the chimera of chiropractic unity was at hand, the profession became the scapegoat of opportunistic bureaucrats in the quasi-public corporation known as the State Accident Insurance Fund (SAIF) Corporation. With pressure building in business and legislative arenas to counter the state's reputation for high workers' compensation costs, a plan was devised to nominate a scapegoat for the multifaceted problems responsible for a workers' compensation system which had come to be widely perceived as antithetical to business interests in Oregon.

Reportedly, SAIF drew from a \$500,000 war chest to fund a PR campaign to "salt the mine" prior to a special session of the legislature designated to address the issue of "reform" in the workers' compensation system. Chiropractic was a primary target of that campaign of disinformation and innuendo. In concert with this, the head of SAIF approached his longtime personal friend, the state's attorney general, with plans for an ethically questionable sting operation to entrap chiropractors using undercover agents posing as patients.

He also brought to the attorney general complaints against a number of Oregon DCs to be prosecuted under the RICO laws (Racketeering Influenced and Corrupt Organizations Act) designed to aid in control of racketeering and organized crime. Some of these were conceivably appropriate, but it appears many were more along the lines of fee disputes of the sort that would normally be handled administratively.

No one disputes that overutilization and billing improprieties have existed in Oregon; few of "DC's" readers would claim their states completely free of this embarrassment and liability to the profession.

Let the issue be put into perspective, however. At a chiropractic standards of practice seminar lunch several years ago, a SAIF administrator voiced concern over ethical problems in our profession, and insisted that if we did not take care of them, those problems would be taken care of for us. When asked what percent of the profession was practicing in this way, she estimated three percent.

While Oregon DCs argued among themselves about how to handle ethics and standards of practice issues, the problem continued, albeit among a small percentage of physicians; sure enough, someone else handled our problem for us.

As usual, the inability of DCs to function in a unified way to address the issues that challenge the profession turned out to be our most dangerous problem. As Walt Kelly's comic strip character "Pogo" said, "We have met the enemy, and he is us."

Chiropractic was not alone in failing to meet its responsibilities in correcting this problem. Protocols were in place which the insurers could have used to deal with problem doctors. Nevertheless, we are the ones who are not stuck with the rebuilding process necessitated by permitting to exist within our profession the kind of liability which opened the door to hostile interests to twist and exaggerate the extent of the problem and make chiropractic look responsible for a failed state workers' compensation system. Sure, we were set up, but we helped.

Many states are now in the position Oregon was two years ago. If our experience can teach others anything, it should be that DCs must put aside their differences and form a consensus on how to face the future challenges rushing toward them and formulate an effective plan of action.

The plan to attack our profession was worked out carefully. The timing of the operation was such that the legislature would make its decisions on workers' compensation reform before the merit of the complaints ever reached the courts. Credit where credit is due: It was quite an elegant plan, however cynical and dishonest. By the time the legislature met, the atmosphere in the state capital approached hysteria. The cattle were goaded into a stampede and ran right off the cliff now known as Senate Bill 1197. That bill originally cast out of the system virtually all non-MD/DO providers.

It was only through the 11th hour efforts of CAO's antecedent professional organization, the OCPA, that our governor intervened, resulting in an offer of compromise. That compromise allowed DCs to remain as attending physicians for 12 visits over 30 days, longer with referral of an MD/DO. Still, the intent of the law to permit authorization of extended chiropractic care (in appropriate cases) is being intentionally frustrated by insurers. Another challenge CAO is working to remedy.

The results of the assault on the profession by the attorney general's office use of RICO law was devastating. For weeks we saw television clips of police raids on chiropractic offices, and pictures in the newspapers of some of our colleagues. For some the response was simply anger or denial, a desperate attempt to recapture the "good old days" if only the right attorney could hit a home run for the profession in the courts; and a desperate need to find someplace outside themselves to lay the blame for the hurt and humiliation that had befallen our profession.

CAO elected to take the high ground. We found the courage to admit the degree to which all of us in the profession have made chiropractic vulnerable to hostile interests by our failure to work cohesively to eliminate unethical methods of practice some doctors. The association took the stand that although we do not support fraud, it is not our place as a state association to take a position on the guilt of innocence of the individual doctor charged under RICO.

All but one of the lawyers representing the accused DCs counseled the association not to take a position on the culpability of the defendants or to assume costs of legal defense for the accused. We sought the advice of attorney George McAndrews who reiterated that opinion. In retrospect, it is fortunate that the association took that advice.

The following chart demonstrates the outcome of each of the 15 cases of doctors charged as of the time of this writing:

15 Charged	Oregon Board of Chiropractic Actions
6 have been convicted or settled	==> lost licenses
2 have been convicted or settled	==> 3 years probation
2 RICO charges dropped, found guilty of "money had and received"	==> no action at this time
5 pending	==> pending

Ironically, it seems that it was in part the attack on chiropractic that brought to a boil the long-simmering efforts toward political unification of the profession which culminated in the formation of the Chiropractic Association of Oregon (CAO) in 1991. A new constitution was designed to facilitate access and input of the field doctor into the decision making process of a truly democratic and representative association. A professionally facilitated strategic planning meeting was used to develop a prioritized set of goals and a clear path to meeting them.

A strong seminar committee has put together an excellent program for the year. The business relations committee is developing an educational slide presentation to take the chiropractic message to every chamber of commerce and rotary in the state. The insurance relations committee is developing an insurance manual to educate the industry. The legislative committee continues to formulate proactive agenda to allow the profession to do more action than reaction.

We are not satisfied with the results of SB1197; although by preserving our attending physician status we survived more intact than any of the other providers targeted in the legislation. The CAO has become strongly proactive in the area of workers' compensation and third-party payer issues.

We lobbied to raise our own license fees to fund a stronger state board of examiners with greater investigative powers. We helped formulate a strong standards of practice manual for the state and create a peer review process mandated by law. The CAO continues to work to rebuild the profession shaken so badly by the draconian legislation passed two years ago.

It is unfortunate that even many doctors in this state are unfamiliar with the facts of what has happened here and they make easy marks for people committed to living in denial, sure the slick moves of the right attorney can restore to them by judicial fiat what was lost on a much larger battlefield.

The truth is that chiropractic in Oregon will be rehabilitated only through ongoing responsible and ethical efforts to hammer away at incremental progress, to support among our doctors' practices which are above reproach, and to make ourselves an indispensable part of the health care system of the future in this state.

Executive Board
Chiropractic Association of Oregon

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