

Summary of Technical Committee Activities

By the

Technical Committee for the Review of the  
Application for Change in Scope of Practice by the  
Nebraska Chiropractic Physicians Association

To the

Nebraska Board of Health

Director of Health

and the

Nebraska Legislature

March 23, 1988

The members appointed by Gregg F. Wright, M.D., M.Ed., Director of Health, to serve on the Chiropractic Physicians Technical Committee are as follows:

Janet Coleman (Chairperson), Teacher, Lincoln East High School (Lincoln)

Raymond J. Breed, P.T., Director of Physical & Occupational Therapy,  
University of Nebraska Medical Center (Omaha)

C. Lee Retelsdorf, M.D., Medical Director, Nebraska Methodist Hospital,  
(Omaha)

Joe Romero, J.D., Executive Director, Western Nebraska Legal Services  
(Scottsbluff)

James Smith, D.C., Nebraska Chiropractic & Nutrition (Sioux City, Iowa)

Helen Weber, R.N., School Nurse (retired) (Lincoln)

Dallas E. Wilhelm, Jr., Ph.D., Associate Professor & Chairman of the  
Biology Department, Hastings College (Hastings)

## INTRODUCTION

The Nebraska Credentialing Review Program, established by the Nebraska Regulation of Health Professions Act is a review process advisory to the Legislature which is designed to assess the necessity of the state regulation of health professions in order to protect the public health, safety, and welfare.

The law directs those health occupations seeking credentialing or a change in scope of practice to submit an application for review to the Director of Health. At that time, an appropriate technical committee is formed to review the application and make recommendations after a public hearing is held. The recommendations are to be made on whether the health occupation should be credentialed according to the three criteria contained within Section 71-6221 Nebraska Revised Statutes; and if credentialing is necessary, at what level. The relevant materials and recommendations adopted by the technical committee are then sent to the Board of Health and the Director of Health for their review and recommendations. All recommendations are then forwarded to the Legislature.

SUMMARY OF COMMITTEE RECOMMENDATIONS  
AND CONCLUSIONS

The committee decided not to recommend approval of the proposed changes in scope of practice at this time. The committee members felt that the applicant group had not demonstrated that there was sufficient harm to the public inherent in the current statutory restrictions on chiropractic to warrant approval of the proposed changes. Some committee members were also concerned about the vagueness of the proposal as regards clinical laboratory procedures and a lack of specificity regarding acupuncture techniques that chiropractors would use in their scope of practice.

SUMMARY OF THE CHIROPRACTIC PHYSICIANS  
PROPOSAL FOR A CHANGE IN SCOPE OF PRACTICE\*

During the review process, two versions of the proposal were submitted to the committee. An amended version of the original proposal was submitted at the fourth meeting. The original proposal called for the addition of clinical laboratory procedures, X-rays of the extremities, and needle acupuncture by special certification of the Board of Examiners to the scope of practice of chiropractic.

The amended version of the proposal struck the reference to acupuncture and substituted the expression "blood and urine analysis procedures" for the term "clinical laboratory procedures."

CRITICAL ISSUES RAISED BY THE CHIROPRACTIC PHYSICIANS  
PROPOSAL FOR A CHANGE IN SCOPE OF PRACTICE

The Committee discussed the following issues during the review process.

Harm to the Public Posed by the Current Practice Situation of Chiropractic

The proponents stated that the current statutory restrictions on chiropractic which prevent chiropractors from taking blood or taking X-rays of the extremities increases the potential for misdiagnosis of patients' health problems. The proponents stated that blood taking and X-raying the extremities are critically important tools for the accurate and timely diagnosis of such health problems as malignant or metastatic diseases, which cannot be properly evaluated without radiologic or laboratory evaluation. The proponents also stated that these restrictions make timely referral to medical specialists by chiropractors more difficult, especially in rural areas.

Increased patient costs arising from unnecessary reevaluation was another problem that the proponents cited as a consequence of the current restrictions on chiropractic scope of practice. Chiropractic patients, who would otherwise receive all the tests they need from their chiropractor, must be referred to other health care providers in order to get a complete battery of tests because of these statutory restrictions. The proponents argue that such a situation not only produces delays in receiving care, but unnecessarily adds to the cost of health care.

The opponents to the proposal stated that the current restrictions on chiropractic are consistent with the protection of public health and safety. The opponents stated that chiropractic practitioners are neither sufficiently trained to perform competently the specific modalities requested in the proposal nor qualified to make diagnoses based upon these modalities.

#### The Nature of the Proposed Changes in Scope of Practice

There was concern among some committee members regarding what they perceived as a lack of specificity in the proposal. These committee members stated that the references to clinical laboratory procedures, electrical and mechanical devices, and acupuncture procedures were too general for the committee to ascertain precisely what the proponents were seeking. Regarding clinical lab procedures and electro-mechanical devices, one committee member stated that the proposal did not clarify either the specific lab procedures or the specific electro-mechanical devices that the applicant group was asking for. The representative of the applicant group attempted to clarify this issue of lab procedures by stating that the chiropractic profession was seeking to do blood taking and urine testing.

Regarding electrical and mechanical devices, one committee member was concerned about the status of such devices in current chiropractic scope of practice. The source of this concern was a letter from the Attorney General's office which expressed the opinion that current statutes forbid chiropractors from using electro-mechanical devices. The representative of the applicant group responded that these letters do not constitute a ruling by the Attorney General's office, but are merely the opinions of an Assistant Attorney General, and such as are

not binding on anyone. This representative went on to state that the opinions expressed in these letters were based upon a misunderstanding of chiropractic scope of practice by an Assistant Attorney General.

Regarding acupuncture, several committee members stated that the committee had not received sufficient information on the specific acupuncture procedures that chiropractors would use. They stated that the lack of such information made an overall evaluation of the safety of chiropractic acupuncture impossible. The representative of the applicant group, at one point, offered to strike these portions of the proposal dealing with acupuncture as a response to committee concerns.

Some committee members were uncertain as to why the chiropractors were seeking these changes in scope of practice. The representative of the Nebraska Medical Association on the committee asked the chiropractic representative on the committee what specific diseases the applicant group seeks to address with the requested diagnostic procedures, and which of these diseases chiropractors would attempt to actually treat. The chiropractic representative stated that chiropractors would not attempt to treat any diseases that required drugs or surgery, and would not attempt to set broken bones or treat cancer. He stated that chiropractors would refer their patients to a physician for ailments such as these. However, some committee members continued to express uncertainty as to the parameters of the proposed chiropractic scope of practice.

#### Is there Potential for Harm Inherent in the Proposal?

Opponents to the proposal stated that the applicant group has not demonstrated that its practitioners possess sufficient training to provide the additional services requested in the application in a manner

consistent with public health and safety. One physician presenting information at the public hearing stated that nothing in the chiropractic literature he read demonstrates that chiropractors receive a sufficient amount of education or clinical lab training to formulate an accurate diagnosis of a patient's condition. Proper diagnostic procedure requires that a medical practitioner appropriately correlate laboratory results of a patient's specimens with other information from the patient including his or her medical history as well as comments from the patient regarding symptoms. This physician went on to state that he saw no evidence that demonstrates that chiropractors are trained to place laboratory results into this kind of medical context. He added that chiropractors also need more training in the area of clinical lab work in order to provide accurate interpretations of lab results. In his judgment, the 140 hours of lab work referred to by the applicant group as the basic lab component of their training is not adequate for a practitioner to competently interpret and apply lab results.

Another physician expressed concern that the proposal seeks to make chiropractors primary care providers. He stated that chiropractors lack the breadth of education, training, and experience necessary to provide comprehensive patient care. This physician expressed specific concerns about those aspects of the proposal pertinent to extremity X-rays. He stated that such procedures can be hazardous to the patient, and that precautions must be taken to protect the patient from harm. He expressed doubt that chiropractors possessed sufficient training to perform such X-ray procedures properly.

Some committee members expressed concerns about those aspects of the proposal pertinent to acupuncture. They were concerned about the lack

of information regarding any potential health hazards that might be associated with this procedure. These committee members felt that it would not be appropriate to add acupuncture to chiropractic scope of practice until more information becomes available on potential health hazards associated with it.

The proponents of the application responded to these concerns by stating that chiropractic education and clinical lab training provide practitioners with the ability to accurately formulate diagnoses of any disease of the human body. One chiropractor stated that the overall curriculum of chiropractic schools and medical schools is essentially the same. He stated that chiropractic students and medical students also study the same basic medical textbooks and take essentially the same examinations. This chiropractor went on to state that chiropractic students are required to take 1,000 hours of internship, in addition to 375 to 600 hours of externship, plus case management. Chiropractic students are taught to take medical histories and to listen to the patients' descriptions of symptoms, so as to place laboratory results in a proper medical perspective. He stated that, all in all, chiropractic students receive six to seven years of formal schooling.

Regarding X-ray procedures, the applicant group stated that their students possess at least as much, if not more, training in the taking of X-rays as medical students do. One chiropractor stated that the evidence he has seen suggests that few medical doctors could meet the standards of competency in X-ray procedures associated with adequate protection of the public health and welfare. Chiropractors should not be required to meet higher standards vis-a-vis X-ray procedures than medical doctors have to meet. The proponents also stated that it is

illogical to argue that restricting chiropractors to X-rays of the spine and neck will protect the public from harm. These procedures are no less dangerous than X-rays of the extremities. If chiropractors are competent to perform one type of X-ray procedure, then they are also competent to perform the other type as well.

The proponents stated that prior to 1983, chiropractors performed all but one of the functions included in the proposed change in scope of practice (needle accupuncture). They stated that no evidence was ever presented which demonstrated that chiropractors who perform the functions in question (X-rays of extremities; blood taking; urine testing) have in any way harmed the public. They added that chiropractic schools have prepared their students to perform these functions for over seventy years. Adopting the proposal would merely be restoring the scope of practice for which chiropractors have always been well prepared to perform.

#### Committee Recommendations and Conclusions

At their fourth meeting, the technical committee members took action on the three criteria of the Nebraska Regulation of Health Professions Act as they relate to the proposal. Criterion one states that the present situation with respect to scope of practice can clearly harm or endanger the health, safety, or welfare of the public, and the proposed change in scope of practice does not create a significant new danger to the public. Regarding the first criterion, a majority of the committee members decided that the proposal did not satisfactorily demonstrate that significant harm is being done to the public as a result of the current statutory restrictions on chiropractic scope of practice. There was a consensus amongst the committee members that this was the weakest part of the applicant's proposal. Several committee members

stated that no evidence was presented which demonstrated that actual harm to the public was resulting from current statutory limitations on chiropractic scope of practice. These committee members also expressed concern about the ability of chiropractors to provide the services in question in a manner consistent with public health and safety. However, one committee member stated that he saw no new potential for harm to the public in the proposed changes in scope of practice.

A majority of committee members agreed that the proposal did not satisfy the second criterion. This criterion states that the public needs, and can reasonably be expected to benefit from, appropriate changes in professional ability commensurate with the requirements imposed by the change in scope of practice. Several committee members stated that the lack of specificity in the proposal regarding the proposed changes made it difficult to evaluate the extent to which the public would benefit from these proposed changes. However, one committee member stated that he was impressed by the education of chiropractors, and felt that the public would benefit from the extension of chiropractic diagnostic services.

A majority of committee members agreed that the proposal did not satisfy the third criterion. This criterion states that the public cannot be effectively protected by other means in a more cost-effective manner. The majority of the committee members felt that they had no choice but to vote against the proposal on this criterion because they had been given so little pertinent information on it from either proponents or opponents.

By virtue of these votes, the committee had decided not to recommend approval of the proposal. However, immediately following these votes the

representative of the applicant group submitted an amended version of the proposal to the committee. The amended proposal excluded acupuncture from the proposed chiropractic scope of practice, and substituted "blood and urine analysis procedures" for the term "clinical laboratory procedures" in the language of the proposal. The majority of committee members voted against this amended proposal. They stated that they had no choice but to oppose it because they did not receive sufficient time to consider all of the ramifications of these changes in the proposal.

After considerable discussion, the committee decided to reconsider this amendment. The committee decided that it would be in the public interest to hold a public hearing on the amended proposal. Accordingly, the committee voted to table the amendment until a public hearing could be convened.

Several days following this action, the Nebraska Chiropractic Physicians Association withdrew their application from review. This withdrawal terminated the committee's proceedings at this point.

## OVERVIEW OF COMMITTEE PROCEEDINGS

The Chiropractic Physicians Credentialing Review Technical Committee first convened on December 18, 1987 in Lincoln at the Nebraska State Office Building. An orientation session given by the staff focused specifically on the role, duties, and responsibilities of the committee under the credentialing review process. Other areas touched upon were the charge to the committee, the three criteria for credentialing contained within Section 21 of The Nebraska Regulation of Health Professions Act, and potential problems that the committee might confront while proceeding through the review.

The second meeting of the committee was held on January 20, 1988 in Lincoln at the Nebraska State Office Building. After study of the proposal and relevant material compiled by the staff and submitted by interested parties between the meetings, the committee formulated a set of questions and issues it felt needed to be addressed at the public hearing. Contained within these questions and issue were specific requests for information that the committee felt was needed before nay decisions could be made.

The committee reconvened on February 24, 1988 in Lincoln at the Nebraska State Office for the public hearing. Proponents, opponents, and neutral parties were given the opportunity to express their review on the proposal and the questions and issues raised by the committee at their second meeting. Interested parties were given ten days to submit final comments to the committee.

The committee met for the fourth time on March 23, 1988 in Lincoln at the Nebraska State Office Building. After studying all of the

relevant information concerning the proposal, the committee then formulated its recommendations.

The committee formulated recommendations by voting on each of the three criteria. The committee voted as follows on criterion one: Romero and Smith voted aye; Breed, Retelsdorf, Weber, and Wilhelm voted nay; Coleman abstained. The committee voted as follows on criterion two: Romero and Smith voted aye; Breed, Retelsdorf, and Wilhelm voted nay; Weber and Coleman abstained. The committee voted as follows on criterion three: Romero and Smith voted aye; Breed, Retelsdorf, Weber, and Wilhelm voted nay; Coleman abstained. By virtue of these votes on the three criteria, the committee decided not to recommend the approval of the applicant's proposal to subsequent review bodies.

The committee members then considered an amendment to the original proposal. Dr. Smith moved to strike the term "clinical laboratory procedures" from the application and substitute "blood and urine" for this term. As part of the same motion, Dr. Smith moved that the request for acupuncture be stricken from the application. Helen Weber seconded the motion.

Voting aye was Dr. Smith. Voting nay were: Breed, Retelsdorf, Romero, Weber, and Wilhelm. Coleman abstained from voting.

The committee members then discussed the idea of reconsidering their previous vote on the motion to amend the proposal. Joe Romero then moved that the committee reconsider this vote. Dr. Smith seconded the motion. Mr. Montgomery called the roll. Voting aye were: Romero, Smith, Wilhelm, and Coleman. Voting nay were; Breed, Retelsdorf, and Weber.

This vote brought the motion to amend back on the floor for discussion. Then Joe Romero moved that the committee table the motion to amend the proposal. Dr. Smith seconded the motion. Mr. Montgomery called the roll. Voting aye were: Breed, Retelsdorf, Romero, Smith, Weber, and Wilhelm. Coleman abstained from voting. This vote tabled the motion in question.

Dr. Retelsdorf then moved that the committee hold a public hearing on the amended version of the proposal. Joe Romero seconded the motion. Mr. Montgomery called the roll. Voting aye were: Breed, Retelsdorf, Romero, Smith, Weber, and Wilhelm. Coleman abstained from voting.