



STATE OF NEBRASKA

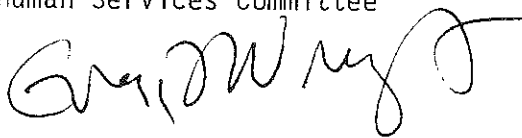
DEPARTMENT OF HEALTH

KAY A. ORR
GOVERNOR

GREGG F. WRIGHT, M.D., M.ED.
DIRECTOR

MEMORANDUM

TO: Senator Don Wesely, Chairman
and Members of the Health & Human Services Committee

FROM: Gregg F. Wright, M.D., M.Ed.
Director of Health 

SUBJECT: Report on the Chiropractors' Request for a Change in Scope of Practice

DATE: March 6, 1989

RECOMMENDATIONS

The current proposal for a change in chiropractic scope of practice represents the applicant group's first completed request to add X-rays of the extremities and clinical laboratory procedures. The Technical Committee decided not to recommend approval of the proposal. The Board of Health voted not to recommend approval of the proposal as written but did recommend in favor of adding X-rays of the extremities and soft tissues to chiropractic scope of practice. The Department of Health concurs with the recommendations of the Board of Health that X-rays of extremities and soft tissues be added to chiropractic scope of practice for a limited purpose, and agrees with both the Board of Health and the Technical Committee that clinical laboratory procedures not be added to chiropractic scope of practice.

DISCUSSION

This is a proposal to change the tests that a chiropractor can use in arriving at a chiropractic diagnosis. At the public hearing, Dr. Randy Hinze, the current president of the Nebraska Chiropractic Physicians Association (the applicant group) stated, "We ask for this expansion not to expand our scope of treatment of the patients, but rather to better serve our patients through the expanded diagnostic procedures."

The current scope of chiropractic practice is defined in 71-177 and includes two parts:

- 1) "The diagnosis and analysis of the living human body for the purpose of detecting ailments, disorders and disease.." This diagnosis can currently be done "by the use of diagnostic X-ray of the axial skeleton excluding the skull, physical and clinical examination, and routine procedures including urine analysis."

Memo to Senator Don Wesely
March 6, 1989
Page Two

and 2) the treatment of human ailments "by locating and removing any interference with the transmission and expression of nerve energy in the human body..." The allowable ways to remove this interference are "chiropractic adjustment, chiropractic physiotherapy, and the use of exercise, nutrition, dietary guidance, and colonic irrigation."

Diagnostic procedures logically serve three different functions in any health professional practice: a) to direct allowable treatment; b) to rule out contraindications to allowable treatment; and c) to allow a correct referral to another health professional when the condition is not amenable to allowable treatment. An expansion of diagnostic practices should be in some way related to one of these functions. In addition, there should be some assurance that the training of the professional is adequate to permit safe and accurate use of the diagnostic procedure for the purposes it is used. The two requested expansions differ somewhat in these dimensions.

Consider first the expanded use of clinical laboratory procedures including the analysis of venous blood. Nothing in this application or in the subsequent public hearing suggests that such tests are necessary to better direct chiropractic treatment directed at removing interference in the transmission and expression of nerve energy. In addition, the connection between analysing venous blood and ruling out contraindications to chiropractic treatment is tenuous and is not demonstrated by this application. Whether or not this diagnostic ability is needed in order for the chiropractor to appropriately refer patients to other health professionals depends on what kind of "portal of entry" chiropractic practitioners can provide. This will be discussed subsequently. The most important consideration is that the application material and subsequent review make it clear that chiropractic training is not comprehensive enough to use this broad range of tests. This is especially true because the expansion of diagnostic tests is very broadly worded and would encompass a very wide range of clinical laboratory examinations.

The situation is somewhat different for the use of X-rays beyond the axial skeleton. The general safety concerns for the use of X-rays would not be different for the axial skeleton, which is already within their scope; and X-rays of the extremities and soft tissue. For both, the practitioner must be aware of the dangers of over-exposure of any tissue and of any exposure of some tissues. The application does not clearly demonstrate appropriate training for the interpretation of these additional types of X-rays, but it is reasonable to assume that the interpretation related to chiropractic treatment would be covered. For these reasons, general training concerns would not rule against broadening the issue of X-ray diagnosis.

In addition, chiropractic treatment is not clearly limited to axial skeleton, but can presumably include the manipulation of other joints in order to remove interference with the transmission and expression of nerve energy. In the application, the current scope is described to include manipulations of "other skeletal joint structures." It is logical that X-ray diagnosis may be useful to direct this type of chiropractic treatment.

Memo to Senator Don Wesely
March 6, 1989
Page Three

It is also easy to see how a broader use of X-rays could be helpful in ruling out contraindications to chiropractic adjustment and in making appropriate referrals. Several examples were provided in the application and in the hearing. It is expected that chiropractors will see many patients with musculo-skeletal complaints and that some of these complaints will be due to causes completely unrelated to the scope of chiropractic practice. Both tumors and fractures were mentioned. In addition, it is easy to see how chiropractic manipulation could aggravate these problems if not properly diagnosed prior to the initiation of chiropractic treatment. For all of these reasons, it is reasonable, and perhaps even important, to allow a broader scope of X-ray diagnosis. For this reason, this report agrees with the Board of Health report in approving this part of the application.

It is important to stress the point made in the first part of the applicant's testimony at the public hearing. Nothing in this expansion of diagnostic procedures should be interpreted as an expansion of the scope of chiropractic treatment. That is specifically not asked for by this application. The treatment of fractures, tumors, and any other complaint not amenable to the "removing (of) any interference with the transmission and expression of nerve energy" is specifically not within the scope of practice of chiropractic in Nebraska and this application does not seek to change this.

What kind of "portal-of-entry" is Chiropractic?

There is much confusion as to what kind of "portal-of-entry" the chiropractic profession provides. On page one of the application, chiropractic practice is defined as a "portal of entry health care profession excluding the use of prescription drugs or surgery.." Later in the application (page 12) it states that "In both rural and urban areas, some health consumers have chosen a chiropractic physician as their sole or primary health care provider.."

It is clear that chiropractors are independent practitioners and that patients are free to choose, for a given complaint, whether to see a chiropractor or a medical physician. In this sense, they clearly are a portal of entry into the health care system, and it is important that when the complaint is not amenable to chiropractic treatment the patient is promptly referred on to appropriate treatment. It is, however, equally clear that since their scope of treatment is limited to the removal of interference to the transmission and expression of nerve energy, that it is not appropriate to consider them a "sole or primary health care provider." There is no justification in giving them a full range of diagnostic tools to correctly diagnose any presenting complaint unless they also have a broader ability to treat. For this reason, a broader range of X-rays, which is logically related to the complaints that present to and the treatments given by a chiropractor, is justified, and a broader range of clinical laboratory tests is not.

School physicals require a special comment. This application does not request that school physicals be added to the scope of practice of chiropractic. The bill drafted to reflect this application does not make specific mention of

Memo to Senator Don Wesely
March 6, 1989
Page Four

school physicals. And yet, the testimony given by the president of the applicant group stated at the public hearing that they are also asking that chiropractic physicians "be able to sign off on school physicals." Later testimony by the chairman of the Board of Examiners in Chiropractic indicated, that even though "it's not worded into the bill, but the bill would include that (school physicals)." This does not appear to be true. School physicals are a specific aspect of practice which should be specifically addressed in a proposal. It is not obvious that even if the extended diagnostic procedures were included that the the clinical examination anticipated by the requirement for school physical examinations would be within the scope of chiropractic practice. At any rate, the Technical Committee did not believe that any of the expansions of diagnostic scope were warranted. This report of the Director of Health agrees that the application did not justify the addition of school physicals.

SUMMARY

The credentialing review set up in 1985 by LB 407 creates a broad technical review of any proposal to change the scope of practice of a health profession. This review is conducted in three distinct forums: a technical review committee; the Board of Health; and the Department of Health. The technical review committee consisted of a chiropractor representing the applicant group, and a physician representing the medical community. The other members were a teacher who represented the Board of Health and chaired the committee, a retired school nurse, a professor of Audiology and Speech Pathology, a lawyer for a clinical laboratory, and a Ph.D. who is chairman of a college biology department. After reviewing the application and hearing comments and answers to questions at a public hearing, this group recommended against the expansion of diagnostic procedures represented by the application. Four members of this committee felt that the proposal did not assure that it would not create "a significant new danger to the health, safety, or welfare of the public." One member disagreed with this statement and the chairman abstained but later voted in favor of the Board of Health's modification. One member was absent from the vote.

The Board of Health agreed with the Technical Committee except that they felt that the part of the proposal which requested an expansion in the use of X-rays should be granted. This review by the Director of the Health Department agrees with the Board of Health.

This particular change recommended by the Board of Health and the Director of Health could be implemented by striking the words "of the axial skeleton excluding the skull" from phrase (1) in 71-177 of the Nebraska Revised Statutes.

GFW/das