

MEMO

TO: Rep. Tina Liebling
Chair, House Health & Human Services Committee

FROM: Kevin P. Goodno, Lead Lobbyist
Minnesota Chiropractic Association

DATE: January 31, 2014

RE: Chiropractic Scope of Practice Legislation
HF 1850 (Fritz, Mack, Lillie, Hilstrom, Abeler, Zerwas)

On behalf of the Minnesota Chiropractic Association (MCA), I am responding to the Legislative Questionnaire for Expanded Scope of Practice of Health Occupations. The MCA has developed legislation over the past six years that would modify the chiropractic scope of practice in Minnesota. The intent of the legislation is to modernize, centralize and strengthen the chiropractic scope of practice provisions in law to add clarity to the current law resulting in ensured fairness in enforcement and a better understanding of professional requirements of the chiropractic profession.

The intent of the legislation is NOT to expand the current scope of chiropractic practice in Minnesota or to limit it. Accordingly, in working with various stakeholders both inside and outside the profession, we have been diligent in analyzing any proposed language or any expressed concerns with those parameters in mind. Although your questionnaire is for those entities that are expanding their respective scopes, the MCA felt it was prudent to respond as some stakeholders have expressed that concern.

Please find the MCA response below. Thank you for this opportunity to respond to your request.

1. How is this profession's scope of practice in the area of proposed change currently defined and what failings or shortcomings are being addressed by the proposed changes to the profession's scope?

The chiropractic scope of practice was first enacted in 1919 with substantial changes in 1927 and 1975. Over the years there have been advances in knowledge, technology, and education practices and requirements. Enforcement has kept pace with these changes, however, the chiropractic scope has not. Parts of the scope are dated, incomplete and in some cases obsolete. The proposed legislation would modernize, centralize and strengthen the chiropractic scope of practice provisions in law to add clarity to the current law resulting in ensured fairness in enforcement and a better understanding of professional requirements by the public and the chiropractic profession.

2. Does specialized skill or training support the expansion of this occupation into the proposed areas of practice? If so, what skills or training?

Current educational training and practices for licensed chiropractors support the current scope of practice as embodied in the current law and in the proposed legislation.

3. How would the public benefit by the occupation's ability to practice in the new proposed areas of practice? Is there any potential detriment to the public? Who would monitor practitioners to insure high quality service?

The MCA does not see any potential detriment to the public, but it does see a public benefit in the proposed changes as they will add clarity to the scope of practice, resulting in a clearer understanding of the professional requirements for chiropractors.

4. Could Minnesotans effectively receive the impacted services by a means other than the proposed changes to scope of practice?

As the proposed legislation does not seek to expand services provided by a chiropractor, this question is not applicable to the MCA proposal.

5. How would the new or expanded services be compensated? What other costs and what savings would accrue and to whom? (E.g., the state, providers, patients)

The legislation does not include new or expanded practices. Professional scopes of practice define what a health care professional can and cannot do under his/her professional license. It does not address payment issues, although payers will not pay for services provided outside a health care provider's scope of practice. However, nothing in the chiropractic scope of practice requires a payer to include a specific service within its benefit set.

6. What, if any, economic impact is foreseeable as a result of the proposed change?

The MCA cannot foresee any economic impact as a result of the proposed chiropractic scope of practice legislation.

7. What other professions are likely to be impacted by the proposed changes?

The MCA, through the proposed legislation, does not intend the chiropractic scope of practice modifications to impact any other health care profession. We have committed time and resources to reach out to those professions that feel they may be impacted to address their concerns. Those efforts are outlined in the responses to questions 8 and 9 below.

8. What position, if any, have professional associations of the impacted professions taken with respect to your proposal?

The MCA has engaged many individuals and organizations over the past six years to discuss the proposed changes, including the Minnesota Physical Therapy Association (MNPTA), Minnesota Medical Association (MMA), Minnesota Radiological Society (MRS), The Acupuncture and Oriental Medicine Association of Minnesota (AOMAM), Minnesota Academy of Nutrition and Dietetics (MAND), Minnesota Occupational Therapy Association (MOTA), and the Minnesota Board of Chiropractic Examiners (MBCE).

Of those organizations all have taken a neutral or no position on the legislation as introduced except for the MPTA and the MRS.

Additionally, in the past, there has been some dissension within the chiropractic profession concerning the proposed changes.

9. Please describe what efforts you have undertaken to minimize or resolve any conflict or disagreement described above.

MBCE

The MCA has been in communication with the executive director of the MBCE concerning an earlier draft of the legislation. They did not have a concern with that draft, but the language has changed since then to address the concerns of other stakeholders. The MCA is in communication with the Executive Director concerning the changes included in the language as introduced and other possible changes that are being discussed with various stakeholders. We intend to address any concerns the MCBCE may have if any (but, we are not aware of any at this time).

MPTA

The MPTA has agreed to take a position of “no position” on the legislation with an amendment to the bill that the MCA has agreed to support. The amendment reads as follows:

Subd. 2.Exclusions.

The practice of chiropractic is not the practice of medicine, surgery, ~~or~~osteopathy, or physical therapy.

MRS

The only organization with which we currently have known disagreement is the MRS. The lobbyists for the MCA and MRS have communicated concerning the positions of the respective organizations and there was a meeting between members of the two associations to learn more about the others’ position. Communications continue between the groups, with the hope that an agreement can be reached on outstanding issues.

Background: In Minnesota, all chiropractors are allowed to refer patients for diagnostic radiological scans, such as MRIs. Additionally, chiropractors who have obtained additional training and certification in chiropractic radiology are allowed to “interpret” the results of those scans. Very few chiropractors have this additional training and practice chiropractic radiology in Minnesota. Those that do practice tend to work for larger entities alongside medical radiologists. In most cases, the employing entity has a medical radiologist “sign off” on the interpretations of the chiropractic radiologist. It is unclear if this is for payment purposes, liability purposes, or because they have all scans read by two radiologists and they only employ one chiropractic radiologist.

The issues identified by the MRS and the MCA position are as follows:

- 1) The MRS stated that it would be okay with specifically listing the American Chiropractic Board of Radiology (ACBR) on line 2.17 rather than having the general reference. Although the ACBR is the only nationally recognized organization currently providing training and certification in chiropractic radiology, the MCA would prefer the more general reference because other groups may provide this training in the future and we do not want to preclude the practice of the chiropractic radiologists trained by them. The issue is currently unresolved.
- 2) The MRS wants chiropractic radiologists to have to comply with the same requirement that medical radiologists have that a referring doctor cannot also be the doctor who interprets the patient’s scan. The MCA has asked for additional information on this requirement. The MCA believes this practice is already prohibited under the Minnesota Provider Conflicts of Interest laws under 62J.23 and/or the federal anti-kickback laws as those laws already apply to chiropractors as health care providers. However, the chiropractic radiologists view that practice as inappropriate as well, so it’s not an issue about allowing it or not, but about whether any additional language is necessary.
- 3) The final issue identified by the MRS is that they would want all interpretations by a chiropractic radiologist to be “signed off” on by a medical radiologist. The MCA position is that there is no requirement under the current chiropractic scope that an interpretation be also be read by a medical radiologist. The language the MCA is proposing mirrors the current enforcement practices of the MBCE. The MRS stated that its concern was that by having actual language in the scope that it would allow chiropractors to seek direct payment for those services. The MCA holds that chiropractic radiologists could seek direct payment from the payers now, but they haven’t because there are so few that actually practice chiropractic radiology and those that do work with larger entities where it is not an issue. The issue is currently unresolved.

Chiropractors

The chiropractic profession contains various factions that differ in philosophy on the practice of chiropractic. The positions of various chiropractors in the state will range from those who want it expanded to include more responsibilities to those who want a very restricted scope. The

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position of the MCA is to maintain the current parameters for practicing chiropractic in Minnesota. This position has offended professionals from both sides of the scope philosophy. In the past two years, the MCA has done its best to engage and address as many viewpoints as possible within the chiropractic profession. The MCA through that engagement has been able to address the concerns of many of those within the profession, but like any professional association we know that we do not speak for all licensed chiropractors in the state on this issue and therefore cannot guarantee that some individual chiropractors will not oppose the proposed legislation as supported by the MCA.