

Blum Cl, **A Survey of State Scope of Practice Laws for Chiropractic - Cranial Therapy and TMJ - 2003**. *Proceedings on the 2006 Conference on Chiropractic Research*, Chicago, Illinois, September 15-16, 2006: 164-6

Introduction

In 1998 Lamm and Pfannenschmidt performed a follow up study, the third in a series of surveys, investigating chiropractic scopes of practice. [1] The first study was published in 1989 [2] and the second in 1995. [3] In this current study, a further attempt was made to get further clarity from each state's chiropractic board regarding the scope of practice of chiropractors in their state with respect to performing temporomandibular joint diagnosis and treatment (TMJ-D/T) or craniopathy or cranial manipulative therapy (CMT) . In the National Board of Chiropractic Examiners 2005 Job Analysis Study they found that in 1991 27.2% of chiropractors used cranial techniques, in 1998 37.3%, and in 2003 38.0%. [4]

While the ultimate goal was to gain information about a state's scope of practice and TMJ-D/T and CMT, of great interest was how each state often arrive at their determinations. There are a multitude of varying chiropractic methods and techniques, so each state licensing board must wade through the information and attempt to fit the data with their state's specific, rules, statutes or acts. Lamm and Pfannenshmidt suggested that, "Ultimately the clearest definition of chiropractic lies within the interpretations of these regulatory agencies." [1]

"Since the late 19th century, state legislatures and professional medical organizations have developed mechanisms to license physicians and other conventional nonphysician providers, establish standards of practice, and protect health care consumers by establishing standardized credentials as markers of competence." [5] State scope of practice laws and credentialing can create a debate that reflects fundamental questions about who determines which therapies will be accepted as safe, effective, appropriate, and reimbursable. Eisenberg et al, note that with regard to complementary alternative healthcare "more nationally uniform credentialing mechanisms are necessary to ensure high standards of care and more generalizable clinical research." [5]

Methods

As a follow up to the 1998 study by Lamm and Pfannenschmidt a letter was sent to each state board which asked about their state's position on TMJ-D/T and CMT, which had replied to the 1998 survey by a: (1) "no", (2) "qualified statement", or (3) had not replied to their survey at all.

	NO	Qualified Response	No Response
Cranial	NJ, TX (2)	DC, IA, MN (3)	NC, NH, DE, IN, IL, MI, VT (7)
TMJ	NJ (1)	MN (1)	AK, NH, DE, IN, IL, MI, VT (7)

The letter stated the following:

"We are attempting to gather information about your state's scope of practice for chiropractors as it specifically might relate to our teaching programs. We want to make sure that we respect your state board's position with regard to teaching any seminars in your state.

"In an article, Lamm LC, Pfannenschmidt K, Chiropractic Scope of Practice: What the Law Allows - Update 1999, *Journal of the Neuromusculoskeletal System*, Fall 1999; 7(3): 102-6, your board had said "no," was not listed as one queried, or your response was qualified regarding whether chiropractors in your state are allowed to perform "Temporomandibular Joint (TMJ) Evaluation and/or Treatment" or "Craniopathy."

"At this time are chiropractors in your state allowed to perform: "Craniopathy" or "Cranial manipulative therapy" or "Temporomandibular Joint (TMJ) Evaluation and/or Treatment?" If so can you please share this information with me?"

A letter with the above information was sent by facsimile and a follow up call was made within two days to confirm receipt of the facsimile by the (thirteen) state-licensing agencies. Some boards would only have voice mail and no confirmation could be made, infrequently some had a number which would ring without being answered, and a few indicated that a different agency was more appropriate to send the request of information.

The state agency was called repeatedly and facsimiles were sent until a response as to the state's position on chiropractors performing diagnosis and treatment of TMJ conditions and/or craniopathy was obtained. With some states it required approximately 50-75 phone calls, the sending of a facsimile 8-10 times, and 20-30 emails. In general all the various states officials were kind and attempted to be helpful. The process of inquiry and final response took approximately 1 year. In communication with Lamm [3] he confirmed all the affirmative responses for craniopathy or TMJ from his prior 1998 study, so assuming that no changes had been made and due to time constraints, inquiries to those states were not performed.

Results

By end of the year after all the final responses were received, almost all states (including the District of Columbia) indicated that craniopathy (cranial manipulative technique) or TMJ diagnosis and treatment was within the scope of practice of chiropractors in their state. Michigan was the only state, which referred to their statutes and would not make a clear affirmative statement. Michigan's board wrote, "Because the scope of chiropractic is statutorily defined, the question whether a given activity is within the scope of chiropractic is one of statutory construction that is within the jurisdiction of the courts and not the Board of Chiropractic."

A few states said that TMJ-D/T and CMT were within their scope of practice, but had certain qualifications. Those who offered qualified statements had concerns because many scope of practice laws, rules, and statutes are unclear to the board of chiropractic examiners in each state. Due to the litigious nature of our society, the state boards were cautious to make statements that might lead to legal action against the state because of a position. Generally these states would

refer to their statutes, acts or rules as a means to not be held liable for any statement they might make in writing.

Indiana's board gave a qualified response in a different manner stating that their board reviewed their doctor's practice "of cranial adjusting and TMJ adjusting." They noted that their "Board has not denied any practitioner to perform these procedures."

While Minnesota pointed to their scope rules to imply that CMT/TMJ-D/T was within the scope of practice of chiropractors in their state. Their board noted that,

"We are not permitted to render an opinion in the absence of a complaint, as to whether TMJ or craniopathy procedures would fall within this rule."

The New Hampshire board discussed the scope issue in their state by referring to their RSA 316-A:1 definition, which states, in part;

"... if procedures for the correction of 'the TMJ and related cranial bones' are currently taught in the majority of accredited chiropractic colleges, then these procedures would not violate the scope of practice act. In addition, post-graduate level courses taught through accredited chiropractic colleges would satisfy the requirement 'at the time of matriculation.'"

The New Jersey board of chiropractic reached a consensus determination after deliberation "that cranial therapy can only be used if it can be related to a spinal component." Those interested "should refer to the N.J.A.C. 13:44e-1.1, scope of practice. A vote was taken and the motion passed with all members present voting in favor."

Discussion

In the review of the prior articles [1-3] on scope of practice the "yes" responses to TMJ-D/T and CMT were consistent. For that reason those states that said "yes" in the 1998 survey, were not contacted during this 2003 specific follow up survey. Not contacting all 50 states again could be a limitation of this survey since there is always the possibility that a state might have changed its position on this issue. However it is clear that responding to these surveys are not a priority for state boards and the time required to follow up with letters, facsimiles, emails and phone calls made contacting all 50 states for this study prohibitive.

As recommended in the Eisenberg et al study a national review of scope issues might be of value. [5] However there is always a mixed concern that scope is not limited while at the same time protecting the public from chiropractors that could be performing harmful procedures. Many states were concerned that their chiropractic board's discussion of scope issues were not to be considered the same as a legislative or judicial action.

Conclusion

Of interest is that some states had no problem stating that the cranial or TMJ care was within their scope while others struggled with wording and were extremely cautious with their

communications. It would appear that this might be due to litigious activities occurring in that specific state or fear of reprisals from various entities directed toward that board of chiropractic examiners. Just because a procedure or method of care is within the scope of a chiropractic practitioner practice they still have the responsibility "to be proficient in its use or application expertise" as noted in Texas' qualification.

Ultimately the main issues of scope should be the protection of the patient, the expertise of the practitioner, and responsibilities of the colleges and postgraduate education providers. Possibly future study could be recommended into a national consensus for chiropractic scope, and a certification process of practitioners that follows accepted standard biomedical standards.

References

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